

In spite of the provisions of the Constitution and also the unanimous demand by the Maharashtra State Legislature, the Union Government have not yet taken action for the formation of Statutory Development Boards. This has resulted in unrest in Maharashtra and demand for separate Vidarbha State has both voiced by the People. I, therefore, request that the Central Government should take immediate steps for fulfilling the demand of the people.

(v) Need to order probe into the securing incident rail accidents

SHRI DATTATRYA BANDARU (Secunderabad): There is a spurt in the railway accidents during the last few years. The frequency with which, the railway accidents have been accruing throughout the country is really mind-boggling. I would like to know what steps the Government have taken to improve the position.

About 13 accidents have occurred during the last ten months this in which about 160 passengers were killed and more than 475 were injured. The number of accidents was more in the State of Andhra Pradesh.

I therefore urge upon the Union Government to order thorough probe into the support of rail accidents and take remedial measures to instill confidence among the traveling public. I also demand that the ex-gratia amount paid to those killed be increased to Rs. 3 lakhs and Rs. 75, 000 to those who are injured.

13.35 1/2 hrs.

**PETITION RE. ENACTMENT OF
CENTRAL LAW IMPOSING BAN ON
COW SLAUGHTER**

[Translation]

SHRI LALIT ORAON (Lohardaga): Sir, I beg to move a petition regarding enactment of a Central Law imposing ban on cow slaughter, signed by Swami Jandaran Dev, Udaseen Ashram, Sidhi Ghat, Patna City, Patna (Bihar) and four other persons.

[English]

MR. SPEAKER: Now, the House stand adjourned to meet again at 2.30 p.m.

13.36 hrs

*The Lok Sabha then adjourned for Lunch
till thirty minutes past Fourteen of the
Clock*

*The Lok Sabha re-assembled after Lunch
at thirty seven minutes past Fourteen of
the Clock*

[MR. SPEAKER *in the Chair*]

**NATIONAL COMMISSION FOR BACK-
WARD CLASSES BILL**

As passed by Ra ya Sabha -Contd

[English]

MR. SPEAKER: I have specially come to the Chamber to request you to see that this Bill is passed because you were not there on that day. We did not allow anything to go on and no discussions could take place. If you do not pass it today, then we cannot take up the Railway Budget and then we have to pass the State Budgets also.

Now, there are very long lists given to me by the whips. Are you really interested in putting up these names of Members?

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 WASNIK): In order to pass this Bill today itself, we can rearrange the list. There will not be any problem in it.

MR. SPEAKER: One or two Members can speak.

SHRI MUKUL WASNIK: We can do that

MR. SPEAKER: Thank you Mr. Ram

Vilas Paswan.

[Translation]

SHRI RAM VILAS PASWAN (Rosera): Mr. Speaker, Sir, I support the National Commission for Backward Classes Bill, 1993. I would also like to offer some suggestions in this regard. As you have said that right now we should not discuss the condition of the backward classes and criteria of declaring creamy layer, instead we should confine our discussion to this Commission only. Now, we have a limited issue, as to how to form the National Commission for Backward Classes. The Bill moved by the Government in this regard provides formation of a committee comprising five members, one of them will be the chairman, another will be a sociologist, and two of them will be persons having special knowledge relating to backward classes and the fifth person will be its Member Secretary, who will be a serving or retired Government official of the Secretary rank in the Government of India. Whatever he has said about the service conditions, I have objection about it. He has said in this regard that Central Government.

(Interruptions)

MR. SPEAKER: Sir Ram Vilas ji, we have to conclude it before 3.30 P.M. Therefore, you should speak in brief.

SHRI RAM VILAS PASWAN: I will conclude myself in 3-4 minutes time.

SHRI SANTOSH KUAMR GANGWAR (Bareilly): It can also be taken up after Private Members Business.

MR. SPEAKER: No we have to finish it by 3.30 P.M.

SHRI RAM VILAS PASWAN: That the condition laid down in the Bill that if the Central Government in its opinion finds that the chairman or its any of the members is misusing their authority in the manner which warrants his removal from the post in the public interest. I think, this clause makes this Backward Classes Commission a puppet in

the hands of the Government. The Government should seriously think in this regard that when it has formed this commission, the Commission should be given full independence to work on its own. It should not be like that we have just seen in creamy layer that in the name of interest of Backward classes, on the question of Creamy Layer, the way they have compelled that a small farmer having 65 percent irrigated land of total ceiling, he also has been excluded in the name of creamy Layer, so this shows the intention of the Government.

Everytime, I reiterate that Government should have a clear intention towards the Backward classes and unless it does so I do not think that the aims of forming the Commission, which you are going to set up under the orders of Supreme Court and that of the Creamy layer expert committee which you have already constituted, will be fulfilled. I want to tell the Government that the issue of preparing a list of Backward Classes is an important one. This question is so important that unless you have a political will and Government have a clear intention, I think the orders of Supreme Court regarding immediately implementing the reservation for backward classes cannot be implemented.

I once again want to tell the Government that as you are going to set up this Commission, have you fixed any time limit to prepare the list of the backward classes. Some States do not have list of backward classes. We have discussed with Kesari ji about the main aim of this Commission and come to some conclusions. One of them is that the Expert Committee has created three categories of Creamy layer, they are Advanced backward and Most Backward, and you have fixed a criterion that these are the people who might have come in Advanced backward classes and they will not get the benefits of the reservation. It also have an important aspect, the people who have still not been included in the backward classes, suppose the list in question has not been prepared in Rajasthan, Himachal Pradesh, Orissa and West Bengal, then what these Governments are going to do? What will be the role of the Commission there? In Bihar,

Uttar Pradesh and in Southern states, the castes which are included in backward classes and now they are in advanced cartage, about whom the creamy. Layer expert committee has given its report to cast them out of the backward classes and not to give them the reservation benefits. What steps are being taken by the State Government, in which the identification work in regard to, these classes has not been completed, will these casts be included in backward classes or not? We have gone through your Bill regarding this commission but it is not clear about this aspect.

Mr. Speaker, Sir, through you I want to state that during our Government we made a declaration on 7th August and our Government issued a Notification in this regard on 13th August and after 2-3 days, may be on 15th August, I do not remember precisely but we immediately sent 14 joint Secretaries to the various States to prepare a common list of the castes which come under Mandal Commission and the State's lists of backward castes so that common list was declared immediately. In addition to it, we had also stated that we would review the position after a period of 10 years and the States which do not have a list of backward classes, an expert committee would go there and we have decided to set up an expert committee for the points left out from the list. The whole Bill does not say clearly anything about it. Therefore, time and again I am repeating that I have every doubt about the very intention of the Government. The way, the Government entwined this case in the Supreme court and attempted to delay it and immediately accepting the report of the expert Committee deprived the genuine people in backward classes of their rights. The Bill being moved by the Government is partly supported by us. This Bill is in line with the verdict of the Supreme Court therefore we do not oppose it. Janta Dal do not oppose it but we want the Government to give a clarification that what steps are being taken to include those caste in the backward classes which so far not have been included in the same? Through you, I want to know from the Government that by when the

reservation policy regarding backward classes will be implemented?

[MR. DEPUTY SPEAKER *in the Chair*]

14.46 hrs.

With these words I want that the Government should remove the defects from this Bill and give more powers to the Commission.

[*English*]

MR. DEPUTY SPEAKER: Shri D.K. Naikar.

PROF. PREM DHUMAL (Hamirpur): Before him, Shri Krishan Dutt Sultanpuri was speaking. Then the Speaker ruled that after him one hon. Member from this side will speak. Now you have called again one more member from the ruling party. (*Interruptions*)

SHRI D.K. NAIKAR (Dharwad North): As a matter of fact, the body created by this Bill will not help the backward class people. The Bill created a National Commission for backward classes. If you look at the functions and powers of this body you will find that there is nothing more to say about the implantation of the backward classes' demands. The duty is according to the Bill, to include and exclude any caste on the basis of an enquiry conducted by this Commission and then give advice to the Government of India. It is just like an advisory body and nothing more than that. What the body has to do is that this caste list should be examined by this body; and those castes should be excluded or included. In the Bill itself, the definition says, what is meant by backward classes, and who is to prepare a list, according to this Bill? Only the Central Government can prepare a list. I don't think there is any power left with the Government of India to prepare such a list. It is only a constitutional body that is appointed under Article 340.

(*Interruptions*)

[Translation]

SHRI SHARAD YADAV: (Madhepura): If the people from treasury benches will speak then how this Bill will be passed. If the members from the opposition speak then it will be passed in no time. Tell the members from the treasury benches not to do so, otherwise it will not be possible to pass this Bill in time.

[English]

SHRI D.K. NAIKAR: Unless the Commission is appointed under Article 340, which is to investigate and prepare a list of those who are coming under the purview of the backward classes advantage, nobody is competent to prepare a list. But I do not know on what basis the Government has taken power to prepare a list, as has been stated in the Bill itself.

The National Commission is a statutory body; whereas the Commission of Backward Classes appointed under Article 340 is a constitutional body. How is it possible that a constitutional body should prepare a list and that be eliminated by this statutory body? Can such a power be vested in that? Therefore, I don't think this is properly done.

As per the direction of the Supreme Court, the caste criterion has been accepted, but, unfortunately, this creamy layer has been introduced.

I do not know what made them introduce this 'creamy layer'. This creamy layer has entirely destroyed the interests of backward classes.

The expert committee has been appointed now and it has examined the criteria or the basis on which the serilly advanced people should be eliminated. They have given four categories.

The first category is of service people. That means, the children of the gazetted officers of Class I and II rank, are not eligible.

Then coming to the land holding people, even the people who are holding land up to ascertain limit in their respective States, they are also not entitled to the benefit.

Then people having an income up to a certain ceiling limit they are not eligible for the benefits.

AN HON. MEMBER: I will come to the Commission I. (*Interruptions*)

SHRI D.K. NAIKAR: I Will come to the Commission later.

(*Interruptions*)

MR. DEPUTY-SPEAKER: The time is short. We have to pass this Bill by 3.30 p.m.

SHRI D.R. NAIKAR: Then the professionals, lawyers, doctors and business people, they are also not entitled. Their children are also deprived of the benefits. If we eliminate all these people of these four categories do not think that any backward class person will be able to compete in the competitive examination and come up. Because, there must be something to help their children. If the people are not capable of giving education to their children, come up to the level of the qualifying examination, who can help them.

I will explain it. Take a lecturer's post. The requirement for a lecturer's post is M.A. II Class. If the children of the backward class people are not coming to that level, then the post necessarily goes to another person on the ground that the candidates are not available. That is what exactly happens in the case of Scheduled Castes and Scheduled Tribes.

Therefore, until and unless educational facilities are given under Article 15 (4), and unless this creamy layer is taken out, nothing would be left for the backward classes. Otherwise, it will only be an eye wash for the backward classes. That is what I say.

Then another thing is I will take only two minutes more- the basic approach to the

subject is wrong. according to my understanding. Because, the Constitutional provisions, under Article 16 (4) says, that if the State is of the opinion that there are backward classes of people, socially backward people who are not adequately represented in the services, under the State then the reservation should be made, Otherwise, there is no reservation at all.

Take the case of the advanced people. They have got a sufficient quota in the Jobs. Why should there be reservation be for them? Those who are not represented adequately they have got reservation. The reservation should be made on caste basis. Because their education improve, they are in a different atmosphere. The upper classes will have better facilities than those of the backward classes. Thus the backward class people cannot compete in the competitive examination with the people of the upper classes. Until and unless there are reservations on the basis of casts, one of them will get a single job. Whereas, when the previous Government was there this subject was approached as a question of solving the unemployment problem. It is not a question of solving the unemployment problem. It is only a question of sharing power.

Thus if there are 4000 Classes & posts in the States, 3000 should be given to the upper classes and the remaining 1000 should be given to the backward class people.

There are 52 per cent backward class people in our State. what is happening today? I am also coming to the reservation given to the Scheduled Castes or other classes. Why is it so? Fifty two percent of the total population will get only 27 per cent. Is it not a reservation for others in stead of backward class? How do you say that reservation should be only 50 per cent on the basis of efficiency? What do you mean by efficiency/ I would like to know whether the marks obtained in the qualifying examination is considered as an efficiency. It is not an efficiency. According to my presumption, the efficiency should be an honest discharge of function, not otherwise. For example, if I am placed, in the same circum-

stances in which the upper class people are placed. I will be more capable to compete with upper class. That is why I say that reservation should be made on caste basis. That is why it has become inevitable for the Supreme court to give a Judgement on caste basis. But the Government have introduced a creamy layer here. It is nothing but killing the interests of the backward calls people. Nobody will get any job. Therefore, I request the hon. Minister, who is sitting here, to eliminate this creamy layer.

I will make a sincere request to the Government that action should be taken alongwith this recommendation to give educational facilities under Article 15 (4). They did not take action. under Article 15(4). Therefore, my sinners request to the hon. Minister is to take immediate action in this regard. even to implement Article 15 (4)

With these words, I conclude.

[*Translation*]

SHRI RUDRASEN CHAUDHARY (Bharach): Mr. Deputy Speaker, Sir, the intention behind the reservation facilities for backward classes has been to give them a respectable position in the society. It has also been the intention of the constitution and probably that of the Government as well to come forward with this Bill today. The august Supper court has also given its verdict with this very objective and this Bill has been introduced here to materialise it., But the sections of this Bill in their present form have been causing apprehension that it will not be possible to achieve this objective. At the time of appointment of the Mandal Commission i.e. in 1979, there was only 4.69 per cent representation of backward classes in class one services and only 10.63 per cent representation in class two services. So long as they do not have their share in the Government and do not have their say in the administration, they won't be able to get a respectable place in society. In view of this situation since the Government is going to appoint a Commission and going ahead to implement it, I would like to have a clear cut information. The percentage of representa-

[Sh. Rudrasen Chaudhary]

tion of backward classes in class one and class two services at this moment and the tune by which the first batch of these classes will join th services after the implication of the reservation policy.

[SRI TARA SINGH *in the Chair*]

Secondly as per the concept and social and economic criterion of cream layer as laid down in the Prasad Committee's report the people falling in this category will be definitely excluded from the category of the Backward classes. With the isolation of these people who are awakened and who can struggle and stand in competition we will not be able to stand up to our resolution to provide them social justice. Therefore, it should be provided in the Bill itself that at any cost the said 27 per cent reserved quote of posts should definitely be filled up with the people belonging to the Backward classes only. It should also be ensured that the commission appointed for the purpose should be duly empowered to enable it to have a watch on and act in the cases of laxity in its implementation so as to ensure the upliftment and development of the backward among he backward ones. While taking a decision in respect of the "creamy layer" the Government should taken into account the fact that as per the economic norms suggested for it, there are also such categoris of people in the society who may be called affluent to some extent, yet they do not have a respectable positions in the society. If such crteories of people is excluded, how many of them will be left out to be benefitted with this provision. It is something worth consideration. It has been suggested that the Government should fix the leandcelling at 65 per cent. It means that the farmer are intended to be deprived of this facility on economic ground. Myself being a farmer, I can as it with surety that with the fixation of land-ceiling at 65 per cent a farmer solely dependent on cultivation for has source of income without any other side business, cannot earn enough money to enable him to send his children for education to a Public School and join services after

having qualified in the competitive examination. This criteria on should be essentially reviewed.

I would also like to submit that unless the Bill itself contains th provisions to ensure that his Commission is duly empowered, we will not be able to do complete social justice to the people of the backward classes. I am of the opinion that this Bill should contain the provisions to that effect so as to include all such sections of people and to give full powers, to the commission with these words, I support this Bill.

SHRI SHARAD YADAV (Madhepura):
Mr. Chairman, Sir while supporting this Bill, I would like to make out certain points. We have been debating this issue for the last 50 years and the suggestions of the people given by them in writing have not been taken care of to this date. The old practive is still continuing. The people think that the Government was asked to appoint two commissions. One of then was the Prasad Commission. Which came out with the concept of creamy layer. It meant that the socially and economically well off people of these classes should be excluded. After a long deliberation on these issues the hon hudgets of the Supreme Court observed that have emphatically if a person has developed socially and not economically, he should be covered under the "creamy layer". To identify this very 'creamy layer', this commission was appointed and it has given report and the Government has accepted its report. Just now Shriil Chaudhary was rightly saying I have forgot the name of that hon. congress Member. In other words the farmers too have been excluded from it. The facilities provided under the Constitutional provision for the backward class people are in fact, meant for the socially and economically backward people. From that angle, the farmers also fall under that category of backward classes. The order of the Supreme Court sought to exclude the people who have been socially uplifted. It meant that the people whose education has been completed may be excluded from it, but today it may be see that the 90 per cent of the farmers are educationally backward and

come under the land ceiling. They are innocent people, and for no fault, their children have been deprived of this reservation facility. Even the education people have been excluded. By laying down four criteria, the Prasad Committee has proved that ultimately it is the line of the Congress party that will be followed. The Chairman and members of this Commission, will act as per the whims and fancies of the Congress. It will determine the future course of action. We do not oppose the appointment of this commission. But his commission should not be an instrument to wipe out all their rights. This commission should act impartially and rise above any controversy because it is with a great difficulty that we have come to have a consensus. The final verdict of the Supreme Court should not be reversed, because in the name of the 'creamy layer' this Government can do justice or the injustice. If injustice is done in this regard it will not be a right thing and this Commission also will meet the same fate as the Prasad Commission have met. It has swept off the Mandal Commission. The Prasad Commission report is going to deprive the people of backward classes of all their rights.

Even the illiterate people have not been included in it and the Government has accepted the report which is pulling these people into the category of "creamy layer". However, inclusion and exclusion of castes in the category of backward class should not be done arbitrarily. I feel that from the very beginning the Government attitude has been to post-pone the issue. This is the Government of those people who have degenerated education, trade, wealth, dignity and every thing in their country. So it is not possible that these people will be given their rights. However it is our duty to make you caution by our submission. The Government had appointed a commission and have accepted its report. Now it is appointing another commission which will be a permanent one. Therefore, only the people of unquestionable integrity with a sympathetic feeling and familiar with the backward classes' sufferings, should be inducted in the commission. If it is not done so, the downtrodden will again rise with an agitated

mood. The Government then will not be able to check it. Therefore, there should be no complexity and manipulation in this regard.

Through the Prasad Commission the Government has turned down all the suggestions and recommendation of the Mandal Commission. This commission should not be treated in the same manner. The Government should appoint only such people as Chairman and members of the commission who want to work with a dedication. Therefore, even after putting it off for 50 year the Government should be determined to implement the report of Mandal Commission.

[English]

SHRI DATTATRAYA BANDARU (Secunderabad): Mr. Chairman, Sir, I welcome this Bill because after 45 years of independence, the socially, educationally backward class people are getting the reservations. Though in the Constitution Article 16 (4) provides reservation for employment, this Bill mainly provides for employment reservations. My submission is that it is pending since long.

In 1950 the Kaka Kalyekar Commission was constituted; in 1953 it gave its report and in 1956 the report was also laid on the table of Parliament. From 1956 to 1977 Congress government was in ruling. And during the 21 years of that period, the Congress could not think of the backward classes people at that time. And from 1980 to 1989 also, the Ruling Party was the Congress and even during the nine years, the Congress could not think of even any reservations for the backward classes people. That is why we doubt the intentions and motives behind the implementation. So, I strongly plead with the Government because as BJP, we want that the reservation of 27 per cent which the Mandal Commission gave, must be implemented in respect of all the B.Cs. The recently appointed Expert Committee has given its Report that there will be a 'creamy layer'. A number of apprehensions have been created by that Committee's Report. Whether the quota of 27 per cent maybe fulfilled or not is the main apprehension in the minds of the

[Sh. Dattaraya Bandaru]

masses of the B.Cs. and other in general. That is why I request that this House should discuss thoroughly the 'creamy layer' conception because as BJP we want the poorest of the poor must get the benefit among the B.Cs. because we want that categorisation to take place. It is because I know that many of the B.Cs., those who are living in the AC rooms should not get the reservation. That is my view, Sir. B.Cs. should get 25 per cent quota of reservations according to the Mandal Commission Report also. But many of the B.Cs. among the upper strata also get the benefit of reservation because I know that in Bihar the upper strata of many communities are enjoying the fruits of reservation given to others. I know many of the instances of this which I will definitely give, where many people are getting reservations.

[Translation]

SHRINITISHKUMAR: In Bihar, there is Anexure to Annexure classification

[English]

SHRIDATTATRYABANDARU: I know. Even the Janata Dal want to take political advantage out of it. But I want that if the Janata Dal is also since, they should accept not only the elite people, but also the poorest of the poor among the B.Cs. Even I speak to the Janta Dal Members about it, Sir.

I am now telling about the intentions of the Government. I appeal to the Government. Sir, that in the Constitution Article 15 (4) is there which provides the educational reservation for the B.Cs. also. Unless you make the B.Cs. sufficiently educated, they cannot stand the competition, they will not come out successful in the competition, they will not get into the other fields because in many of the Central Universities, in many of the medical institutions, in many of the Engineering Colleges and in many other places, they are not finding their place. Even in Andhra Pradesh, there are only two IAS

officers belonging to the B.Cs. In IAS recruitment also BCs could not come up. That is why my earnest appeal, Sir, is that if at all really you want to implement Article 16 (4) of the Constitution in respect of reservations to B.Cs., you must also ensure that Article 15 (4) of the Constitution which has given the educational reservation, is fulfilled. Otherwise the meaning of Article 16 (4) will be disastrous, it will be totally useless. That is why I demand that educational reservations also must be provided particularly to the B.Cs.

I want to highlight other important factors also. One is 'inclusion' and the other is 'exclusions'. I know that this Bill is going to come up with a Committee. In the States, according to this bill, on the opinion of the High Court, or on the opinion of the Supreme Court, the State Government also can form a Committee and the Committee can also make some inclusion. I come from Andhra Pradesh. I belong to a very poorest of the poor backward class community. I know that in Andhra Pradesh there are a number of inclusions that took place. Archakas, those who are supposed to be Brahmins, have been included in the Backward Classes list. Those who are Reddys have been included in the Backward Classes list. Those who are Reddys have been included in the Backward Classes list. That is why you must put an end to such type of people, those who are taking extra advantage of this inclusion.

On 13th August 1990 the V.P. Singh Government issued one G.O. and again the Congress Government in September 1991 issued another G.O. and the State Governments also prepared some lists and the Supreme Court also upheld the decisions as contained in the G.Os. I appeal to the hon. Minister to take the common list. The list of the common men of the caste should be provided; immediately within one month the process of reservation should be started. In the Bill also they mentioned 'the Commission will go for the details of the reservations'. Even within these 45 years, they have not agreed for making reservation for BCs on caste lines. At last, on the Supreme Court decision, now all the parties-no Party has

come out against the Mandal Commission decision are agreed on this. I want to make a specific reference to this.

I welcome this Bill.

I also recommend that particularly the hon. Minister concerned should come with the reservation.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI RAJESH PILOT): Mr. Chairman I wish to share the feelings of the House and support the step which has been pending since long for justice to be meted out to socially and educationally backward classes. This has been the root of the dissatisfaction for many years. I share what my colleague Shri Sharad Yadav has said that it has been a long-awaited decision and I am happy that our Government has initiated the step to move in that direction. They had been talking about it. They had been politically blaming each other on political lines.

I am also happy that today the whole House is agreed that we must go in the direction of giving them justice.

Shri Sharad Yadavji has shown apprehension. I assure him that we have the same feelings and there need not be any apprehension on this account. The Commission is being constituted with the sole intention of meting out justice and it has clear and honest intentions.

You recollect that there had been discussion during the last four or five years. In 1989, I was not a Member of the House when discussions took place at great length.

15.17 hrs

[MR. DEPUTY SPEAKER *in the Chair*]

We had held discussions in our Party also. It is a commitment made in the Congress Party manifesto that we will see that justice is done to the backwards classes. Some of us had reservations on it. But as some of the hon. Members said today, we thought that if this reservation benefit can-

not go to the deserving ones, then we will be failing in our duty to uplift that sector or that section of society for which we are all are fighting. But I agree with Shri Sharad Yadavji that we cannot really put some Clauses here and there to get the benefit for the particular section of the society. I am sure my colleague Shri Thangkabalalu himself comes from backward classes. This intention will be kept in mind but let me share one feeling. When this reservation of backward classes started, different parties had different views and ultimately we have reached one decision that this must be given this criterion. I said that day in some forum that when I was in the backward classes society, I took scholarship. But may be my son does not need it today it could go to my another brother or sister of backward class who is deserving today. That intention was there in the making of our party and that is what late Shri Rajiv Gandhi fought. Today the best advantage of this reservation must go to the deserving ones. But these if and but Clauses should not be brought into the Commission. I totally share this view.

Whatever views have been expressed on this subject during this debate and on various occasions and on various forums. I can assure the House on behalf of the Government that we have very very honest and sincere intention to see that all these concessions and this reservation should reach the deserving classes and the backward classes. There would not be any apprehension in this matter.

Of course my colleague will deal with this matter in detail

I once again congratulate the Department. I request that it should be time-bound and it should move in the time-bound programme. Not that a Commission is set up and it moves in that direction for a few months. Again people will lose faith and they start going to the court. This should not happen.

With these words. I support this Commission and request my colleagues to take quick decision in this regard.

MR. DEPUTY SPEAKER: I am fully aware that this shall have to be passed at 3.30 PM. Time is very short. I request the hon. members to speak for one minute only. Of course, literally it is a technical one. You just concentrate on the technical aspect of it.

[Translation]

SHRI NITISH KUMAR (Barh): Mr. Deputy Speaker, Sir, Government has come forward with this Bill in pursuance of the Supreme Court's decision which has upheld the recommendations of the Mandal Commission. Supreme Court has also upheld the notification issued by the V.P. Singh Government for implementation of these recommendations, and with a view to achieve that objective Supreme Court has issued some directions to the Government. One of their directions was to set up a permanent Commission for the purpose, as it has been provided in this Bill-

[English]

It is under functions and powers of the Commission. It says:

"The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.."

[Translation]

Mr. Deputy Speaker, Sir, following that direction of the Supreme Court the Government has brought this Bill. There is nothing objectionable in it. Government had to brought this Bill but the way in which it has been drafted shows that intention of the Government on this point is not clear. Mr. Rajesh Pilot may say that Government has sincere and honest intention. His own personal intention may be honest, as we have seen just now a Prithish Nandi show which has shown that the (Rajesh Pilot) has progressed a lot and from the position of a door to door milk vendor he rise to his present

high position when he is provided with a buglow and all other things symbolical of high social statutes. We are proud of him. We can understand his feelings and we have nothing to doubt his personal intentions regarding this but as regards the intention of this Government, his assurances won't do. Truth will be known when the Government actually acts in this regard. In this Bill itself the Government has specified the manner in which the Chairman and members of the Backward Class Commission, will be nominated. The Bill has a categorical provision that Government can remove any member at any time. It is altogether a different thing that only such member who has become insane, bankrupt or like that could be removed from the Commission. It is right because in such situations when a man has no the right to vote, how can he continue to become member or chairman of this Commission but the most dangerous clause of the Bill is the following one:

[English]

" (f) has, in the opinion of the Central Government, so abused the position of chairperson or Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest.."

[Translation]

Whenever the Government feels that some member is exceeding its brief he (the member) will be removed from the commission in the plea that his continuance is no longer in the public interest. so just one sentence will do. Just now a report of the expert committee has been mentioned here. It has excluded farmers from the category of beneficiaries on the pretext of creamy layer and has put the things in such a way that none will be able to get the benefits of reservation. Just now one honorable member was talking of Bihar where, according to him, only a particular section of people were getting the benefits of reservation. But he does not know that in Bihar they have such a classification where the extent of benefit of reservation commensurate with the back-

wardness of the individual and it does not benefit anybody at the cost of others. In principle the concept of creamy layer is correct and in this context we should go according to the verdict of the Supreme Court. While on one hand the farmers have been denied the benefit of reservation, on the other hand M.Ps, M.L.As, Ministers and Governors come under the category of beneficiaries of this provisions. It will disrepute the political persons and it will convey a message to the masses that political people have come to provide the benefit of reservation for their words and farmers have been denied the benefit of reservations.

Now no one can speak in this point because the people of backward classes will say that the Government has sought reservation for the children of political leaders. It also shows the intention of the government in its true colour. The Committee which gives a report as per their wishes they approve it where on the other hand it has been provided that those who do not work as per their directions they are removed. This tell indierster your intentions and that is also not honest. I had been a minister of State and I consider them important but for this serious matter a Cabinet minister should have been present here in this House. This indicates how serious is the Government in this issue.

Mr. Deputy Speaker, Sir through you I would like to point out that there is a common list of backward casts according to the Mandal Commission and, at the time of inclusion of a particular caste for the purpose of reservation, Government will influence the commission politically to exclude the castes which have not cast their vote in favour of the Government. Mr. Deputy Speaker, Sir they will do like that. They will try to exclude Yadavs, Kurmis and Kushvahs because the people belonging to these castes in north India did not cast their vote in the favour of the ruling party. This type of political blackmailing has already set in and it will go on like this even in future. If a member of the Commission says that a particular step is against the public interest and against backward classes, then

these people will either remove him or pressurise him. through you I would like to suggest that there are a number of castes among the farmers who are no better than backward classes. These castes should included in the list of backward classes. I would like to appeal in this august House that Jats, Kurmis of Madhya Pradesh, Marathas, Patels, Chases and Khandyats of Orissa should also be included in this list because all these castes to farmers are backward socially and educationally.

This Bill has been brought forward with a malafiede intention. Prasad Committee has harmed the interests of the backward classes and in furture also if you keep on clinging to that line of action, that will create a massive revolt and if it so happens, the Government will not be able to stay any longer. With these words I conclude.

SHRI TEJ NARAYAN SINGH (Buxar):
Mr. Deputy Speaker, Sir, our party also has not been given time to make out its point

[English]

MR. DEPUTY-SPEAKER: I has been agreed that his shall have to be classed by 3.30 p.m. Kindly cooperate wit us. It is an extr-ordinary circumstances. As far as other occasions are concerned, you are at liberty to speak beyond th allotted time.

DR. RAMCHANDRA DOME (Birbhum):
Mr. Deputy -Speaker, Sir, I rise to support this Bill- the national Commission for Backward Classes Bill, 1993. After so many years of acrimony within the citizens of India, at last, the dreams of all backward classes in our society those whore socially and educationally backward, their dreams and their hopes are being materialised. This Commission is being constituted on the bais of the Judgement of the Supreme court given recently on 15th November, 1992. This was a historic judgment and the whole nation welcomed the judgment. In view of that judgment now, the Government has come forward to constitute the said Commission. I have one thing to suggest (*Inter-rptions*).

MR. DEPUTY-SPEAKER: Please wind up. You have understood the death of time.

DR. RAM CAHNDRA DOME: There are so many commissions appointed by the Government after independence. But I have to suggest them that they need the political will to implement it to give the social justice to the down-trodden and backward sections of society. Now they need the political will to implement this.

With this, I conclude and support this Bill. *(Interruptions)*

SHRI SANTOSH KUMAR GANGWAR: Please extend the time.

MR. DEPUTY-SPEAKER: There is no question of extension. This happened to be a very extra-ordinary situation. On many circumstances, time is being extended. This is an extra-ordinary thing. Could you not cooperate with us?

Tej Narayanji, please conclude in one minute. Literally one minute.

[Translation]

SHRI TEJ NAYAYAN SINGH: Mr. Deputy Speaker, Sir, I would like to speak on this subject. I party support this Bill and party oppose it. The truth is that the knowledge which Dr. Baba Saheb Bhimrao Ambedkar had about the backward classes, other people don't have that much knowledge and therefore, he made provision in the Constitution for that purpose. I think that they should get reservation according to these provisions *(Interruptions)*

[English]

THE MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT AND THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI RANGARAJAN KUMARAMANGALAM): Mr. Deputy-Speaker, Sir, the Private Members' Busi-

ness would start at 3.30 p.m. May I make a request that at least till the voting on this Bill, may we keep the Private Members' Business aside for ten minutes?

MR. DEPUTY SPEAKER: Is it the desire of the House, to extend the time by ten minutes, to debate on this Bill?

SHRI RAM NAIK (Bombay North): I will suggest one thing. The Minister will have to reply to this Bill properly. I suggest that those who want to move the Private Members' Bills, they should be allowed to move them and then the debate can continue for five or ten minutes.

MR. DEPUTY SPEAKER: We shall do one thing. We shall extend the timings by ten minutes, since this happens to be an extraordinary case. Shri Tej Narain, you are welcoming the Bill. Now Shri Santosh Kumar Gangwar to speak.

(Interruptions)

[Translation]

SHRI SANTOSH KUMAR GANGWAR: Mr. Deputy Speaker, Sir, though three hours have been allocated for discussion on this subject, yet we are now being asked to conclude it soon. Therefore, I would like to say two-three points *(Interruptions)*

SHRI TEJ NARAYAN SINGH : Mr. Deputy Speaker, Sir, I should also be allowed to speak.

MR. DEPUTY SPEAKER: Your speech has been concluded.

SHRI TEJ NARAYAN SINGH: Now it has not been concluded. You have not allowed me to speak.

MR. DEPUTY SPEAKER: You are welcoming the Bill.

SHRI TEJ NARAYAN SINGH : I was speaking but the hon. Minister intervened in between.

MR. DEPUTY SPEAKER : All right. You may speak.

SHRI TEJ NARAYAN SINGH : Baba Bhimrao Ambedkar had much more knowledge in this regard and he made provisions in the Constitution that reservation should be provided to socially and educationally backward people. Now a new problem has arisen due to which development of backward classes could not be materialised. The development of backward classes could have taken place by implementation of Mandal Commissions Report but now I think that provisions about the 'Creamlayer' would not help in their development - rather it would be detrimental to their interests. The intentions of the Bill introduced here are not right. Therefore, only those persons should be appointed in this Commission, who are pro-reservationists. These persons, Anti-reservationists, should not be given any place in this commission. If the anti-reservationists would find place in this commission, it would certainly defeat its purpose. With these words, I conclude.

SHRI SANTOSH KUMAR GANGWAR (Bareilly) : Mr. Deputy Speaker, Sir, the castes were identified by the Supreme Court and the Mandal Commission. That list was never objected to from any quarter. Inclusion and exclusion of these castes by appointing a commission is an incomplete process. It clearly reveals the intention of the Government. It is the third commission which is being constituted in this regard since 1950 and it will also do limited work. It had been clearly stated in the Mandal Commissions report that

[English]

It is not at all our contention that by offering a few thousand jobs to the other backward candidates, we should be able to make 52 per cent of the Indian population forward. "

[Translation]

We constitute 52 per cent of the population and it has been said that we should be

made forward. I would like that a separate discussion should be held on the report of Prasad Committee and the hon. Minister should immediately implement this thing according to Karpoori Thakur formula for the most backward classes. Hon. Minister should declare that the reservations will be made in the appointments and the same will be mentioned in the advertisements of the posts.

I would like that the hon. Minister should declare clearly that the decision will be taken on the report of Prasad Committee after holding a separate discussion on it in the House.

[English]

THE MINISTER OF STATE IN THE MINISTRY OF WELFARE (SHRI K.V. THANGKABALU) : Mr. Deputy Speaker, Sir, I thank all the Members who have participated in the debate and made their invaluable contributions.

On the whole, I find that his Bill has the approval of the august House in its totality. This Bill is not simply a dry attempt to comply with the direction of Supreme Court but a foundation on for an overall strategy for the development of SEECs.

Sir, for me personally, this is a moment of glory and a sense of great satisfaction of my life. As a person hailing from a Backward Class, I have longed for this kind of a beginning ever since my initiation into the political career.

Sir, I must also on this occasion place on record my deep sense of gratitude on behalf of this august House and also on behalf of the millions of our countrymen, who represent 52 per cent, to the hon. Prime Minister, Shri Narasimha Rao Ji, for his tireless quest for translating the guarantees granted under our Constitution into concrete programmes for the upliftment of SEECs.

This is also a victorious occasion for the congress party which surmounted several

[Sh. K.V. Thangakalalu]

obstacles in redeeming the pledge made by the Congress party to the people of India. With this Bill, another era of socio-economic development has dawned upon this country.

Sir, I must on this occasion, would like the House to recall an historic fact which laid the foundation for reservation to the underprivileged in the society. Pandit Jawahar Lal Nehru tabled a resolution in the Constituent Assembly on 13th December, 1946 in which it was stated that they would frame such a Constitution as would provide adequate security to the minorities, backward classes, tribals and the Scheduled Castes. The importance of this resolution was underlined by Pandit Ji himself. He said and I quote :

"But, at this time, even in the present state, it is desirable that we, for ourselves, for those who have been expectantly looking at this assembly, for millions of countrymen whose eyes are upon us and for the entire world, give some indications as to what we intend doing, what we want to do and where we are going. For this purpose, I have tabled this resolution before the House. It is not just a resolution but it is more than a resolution. It is a manifesto. It is our firm determination. It is a promise and a commitment and I hope that it is a script of dedication for all of us".

This is what Pandit Ji said.

Sir, it is essential that in this context, I must trace briefly the history of reservations in the country. It was for the first time in 1950, the Government passed a resolution indicating its intention to reserve a fixed quota of the total available vacancies in one year for SC&ST candidates exclusively.

The present reservation in services for the SCs and STs owes its origin to this resolution of 1950. However, such reservation for the socially and educationally backward classes was long overdue.

The First Backward Classes Commis-

sion called the Kaka Kalekar Commission was set up by the Presidential Order under Article 340 of the Constitution of India on 29.1.1953 and it submitted its report on 30.3.1955. After a detailed examination of the Commission's Report, the Government laid the Report together with the Memorandum of Action Taken before each House of the Parliament on 3.9.1956 in compliance with Article 340 (3) of the Constitution.

Unfortunately, the Chairman of the Commission turned hostile and while sending the report to the President took a U-turn on the recommendations contained in the Report. In view of the difficulty in working out a rational criterion for identification of backward classes, the Government ultimately took a decision that an all India list of backward classes need not be drawn up. The Home Ministry addressed all the state Governments stating that the state Governments have the discretion to choose their own criteria for defining the backwardness and for drawing up their own lists. The State Governments were asked to prepare their own lists.

Then came the Mandal Commission, the report of which was submitted to the Government in 1980. The Mandal Commission had identified 3743 classes in all the States as backward.

The Office Memorandum of 13th August, 1990 was based on the recommendations of the Mandal Commission. The supreme court while upholding the Office Memorandum of 13th August 1990 directed the Central Government to constitute a permanent Backward Classes Commission. This Bill is in compliance with the Supreme court direction. Many of the state Governments have also constituted Backward Classes Commission as per direction of the Supreme Court. I may mention the states, but due to paucity of time, I will go ahead with that.

Let me now say a few words about the provisions in the Bill. Many hon. Members expressed apprehensions about the Bill. I would like to emphasise one or two points.

One of the main features of the Bill is that it would be a permanent body with the Members holding office for a term of three years. The body would examine the requests for inclusion and hear complaints of over-inclusion and under-inclusion of any class in the backward classes list and also tender advice to the Central Government on these matters.

Section 11 of the Bill - many Members mentioned about this very clearly - makes it mandatory for the central Government to undertake revision of backward classes list at every ten years without fail. This power does not prohibit the Central Government from undertaking such revision as and when the Central Government considers necessary. So, this is amply clear that there will not be any problem for the backward community in future.

The Commission, to have teeth, is sought to be vested with the powers of the civil court so that no obstacles are placed before the Commission.

The advice tendered by the Commission is ordinarily binding on the Government. Where the Government disagrees with the Commission, the reasons for such disagreement will have to be recorded and submitted to the Parliament while the Annual Report of the Commission is laid.

With these statutory provisions, I believe that the Commission would be able to discharge its functions efficiently.

Some of the hon. Members raised certain doubts about Creamy Layer Committee and also about the educational reservation. I would like to mention one or two points here. This is very necessary. The Government earnestly desires that social justice through reservations for the socially and educationally backward classes must reach the needy among the backward classes.

I must quote the late lamented leader Shri Rajiv Gandhi in this connection :

"It is not just a question of taking one item. Both of them, whether it is the Kalekar Commission or the Mandal Commission, they talk of wide ranging sweeping action that needs to be taken. We must remember that. The Congress is for such assistance to socially and educationally backward classes. That is what the Constitution has said....But I would like to emphasise....that such measures go to those groups of people within the SEBCs, who deserve such help most. We are not in favour of having such measures being cornered by one particular group within the SEBCs."

This is what Mr. Rajiv Gandhi said. This is in accordance with our election manifesto. We are maintaining that.

The Supreme Court, accordingly, while upholding the basic principle of reservation in favour of SEBCs, directed the Government to determine the criteria for excluding the socially advanced from the benefits of reservation.

The Government had accordingly constituted an expert Committee for recommending the criteria. The report of the Committee had already been laid on the Table of both the Houses of Parliament.

The Government has accepted the recommendations of the Committee and soon the government would take appropriate action to amend the office memorandum, dated 13th August, 1990 for the purpose of implementing reservation in favour of SEBCs as guaranteed under the constitution and in accordance with Supreme Court judgment.

Since the Government is committed to implement the order for reservation in favour of SEBCs in services, the Government was very fast in constituting the Expert Committee and accepting its recommendations. I must add that those who oppose the Expert committee's recommendations appear to have an oblique objective of blocking the implementation of the order for reservation

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in favour of SEBCs.

Many Members mentioned that Creamy Layer Committee's report should not have been accepted. I humbly submit that we have accepted that Committee's report because we have to comply with the Supreme Court's order. In, we have a very open mind. However, case any difficulty arises in implementation, certainly, we would look into this. Particularly, the Government is open to suggestions from all quarters and if found valid, certainly the appropriate measures will be taken in future for implementing this order.

[Translation]

SHRI NITISH KUMAR : Mr. Deputy Speaker, Sir, don't talk of bell please. He is quoting Rajiv Gandhi, who had spoken in this House for three hours against Mandal Commission. He is quoting him.

[English]

SHRI K.V. THANGKABALU: Sir, I would like to reiterate the assurance given by my senior colleague, honourable Kesriji.

I must lastly add, Sir, that in the annals of Indian Social History, this Bill would go down as an epoch-making measure. However, I must say that in the series of several social measures towards upliftment of the SEBCs, this Bill only makes an humble beginning. This is not an end. The journey would continue.

Finally, Sir, we shall see that in the shortest possible time, we should be able to implement the Office Memorandum dated 18.8.90 with suitable amendments for providing reservation for the SEBCs in central services.

We shall also see that an all-pervasive strategy is evolved for the overall socio-economic development of the SEBCs so that the most cherished goal of Shri Rajiv

Gandhi of taking this country to the next century becomes a bounden reality.

I also mention that the suggestions made by the hon. Members will be taken care of while implementing the reservation policy. The Government and the Prime Minister is very anxious to implement this 27 per cent reservation policy.

[Translation]

SHRI NITISH KUMAR : Mr. Deputy Speaker, Sir, the hon. Minister has made provision in this Bill for the removal of any Member of the Commission after three years. The Government may remove them whenever it likes. In such a situation, no Member can work, freely. They will always be apprehending that they may be removed anytime, if they don't act according to the will of the ruling party. So this provision should be repealed.

[English]

All members will continue for three years. They will not be removed in between.

SHRI K.V. THANGKABALU : This is a permanent Commission. But the office of the Chariman and members are only for three years. Subsequently, new members will be appointed and there will be no problem. There will be a change in composition of commission for every three years.

MR. DEPUTY SPEAKER : The question is :

"That the Bill to constitute a National Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and provide for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY SPEAKER: The House will now take up Clause-by-Clause consid-

eration of the Bill.

The question is:

"Clauses 2 to 19 stand part of the Bill."

The motion was adopted.

Clauses 2 to 19 were added to the Bill.

MR. DEPUTY SPEAKER : The question is:

"That clause 1, the Enacting Formal and the Long title stand part of the Bill"

The motions was adopted.

Clause 1, the Enacting Formula and Long Title were added to the Bill.

SHRI K.V. THANGKABALU: I move:

"That the Bill be passed."

MR. DEPUTY SPEAKER : The question is:

"That the Bill be passed."

The motion was adopted.

15.49 hrs

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

Eighteenth Report

[English]

SHRI P.P. KALIAPERUMAL (Cuddalore) : I beg to move:

"That this House do agree with the Eighteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 24th March, 1993."

MR. DEPUTY SPEAKER: The question is:

"That this House do agree with the Eighteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 24th March, 1993."

The motion was adopted.

15.50 hrs

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL*

(Amendment of Section 30, etc.)

By Shri Yashwantrao Patil

[English]

SHRI YASHWANTRAO PATIL (Ahmednagar): Sir, I beg to move for leave to introduce a Bill further to amend the Representation of the People Act, 1951.

MR. DEPUTY 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 YASHWANTRAO PATIL : Sir, I introduce the Bill.

15.50 1/2 hrs

CONSTITUTION (AMENDMENT) BILL*

(Amendment of Article 371)

By Shri Yashwantrao Patil

[English]

SHRI YASHWANTRAO PATIL (Ahmednagar) : Sir, I beg to move for leave to introduce a Bill further to amend the Constitution of India.