

[Shri Vidya Charan Shukla]

House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

Since the House has agreed to pass this motion without any discussion, I am not making any speech on the Bill at this stage.

MR. DEPUTY-SPEAKER : The question is :

"That the Bill to amend the Commissions of Inquiry Act, 1952, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely :—

Shri N. C. Chatterjee  
Shri Y. B. Chavan  
H.H. Maharaja Pratap Keshari Deo  
Shri C. T. Dhandapani  
Shri Surendranath Dwivedy  
Shri Hem Raj  
Shri V. N. Jadhav  
Shri Bhogendra Jha  
Shri N. Sreekantan Nair  
Shrimati Sucheta Kripalani  
Shri D. K. Kunte  
Shri Bal Raj Madhok  
Shri Dhuleshwar Meena  
Shri P. Ramamurti  
Shri S. S. Syed  
Shri Gajraj Singh Rao  
Shri Bholi Raut  
Shri Rabi Ray  
Shri R. Dasaratha Rama Reddy  
Shri Bishwanath Roy  
Dr. Sisir Kumar Saha  
Shri N. K. P. Salve  
Shri Shantilal Shah  
Shri Viren Shah  
Shri Biswanarayan Shastri  
Shri S. M. Siddayya  
Shri Sart Bux Singh  
Shri S. Supakar  
Shri P. R. Thakur  
Shri Vidya Charan Shukla, and

15 from Rajya Sabha ;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary

Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

*The motion was adopted.*

16.28 hrs.

#### MEDICAL TERMINATION OF PREGNANCY BILL

MR. DEPUTY SPEAKER : We shall take up the next bill. Shri K. K. Shah.

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING; AND WORKS, HOUSING AND URBAN DEVELOPMENT (DR. S. CHANDRASEKHAR) : Mr. Deputy Speaker, I move. . . .

SHRI SRINIBAS MISRA (Cuttack) : On a point of order. He cannot move this bill and he is not Mr. Shah. Rule 76 says :

"No motion that the Bill be taken into consideration or be passed shall be made by any member other than the member in charge of the Bill and no motion that a Bill be referred to Select Committee of the House, or a Joint Committee of the Houses. . . . shall be made by any Member other than the Member-in-charge: except by way of amendment to a motion made by the Member in charge.

So he can do this only by way of an amendment. He cannot just stand up and move this motion on behalf of Mr. Shah. There is a proviso which reads :

"Provided that if the member in charge of a Bill is unable for reasons which the Speaker considers adequate to move the next motion in regard to his Bill. . . . he may authorise another member to move that particular motion with the approval of the Speaker."

Here it is not a question of introduction. It has been introduced in the other House.

DR. S. CHANDRASEKHAR : I was in charge of the Bill in the Rajya Sabha and this is a motion for reference to the Joint Committee. So I shall move that. . . .

**SHRI SRINIBAS MISRA :** There must be a ruling on my point of order.

**MR. DEPUTY-SPEAKER :** I would draw your attention to rule 2 :

"member in charge of the Bill" means the member who has introduced the Bill and any Minister in the case of a Government bill.

**SHRI SRINIBAS MISRA :** My stress was not on that. It must be by way of an amendment of the motion.

**MR. DEPUTY-SPEAKER :** I have given my ruling. The rule says 'any Minister in the case of a Government Bill.'

**DR. S. CHANDRASEKHAR :** I move:

"That this House do concur in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto, made in the motion adopted by Rajya Sabha at its sitting held on the 8th December, 1969 and Communicated to this House on the 10th December, 1969 and do resolve that the following twenty-two members of Lok Sabha be nominated to serve on the said Joint Committee, namely :—

Shri Vidya Dhar Bajpai  
Shri Gangacharan Dixit  
Shri Ganesh Ghosh  
Shri Kameshwar Singh  
Shri S. Kandappan  
Dr. Karni Singh  
Shri Kinder Lal  
Shri P. Viswambharan  
Shri N. R. Laskar  
Hazi Lutfal Haque  
Shri M. R. Masani  
Shri Mohammad Yusuf  
Shri B. S. Murthy  
Shrimati Shakuntala Nayar  
Dr. Sushila Nayar  
Shri Pratap Singh  
Shri Ram Swarup  
Dr. M. Santosham  
Shrimati Tara Sapre  
Shri M. R. Sharma  
Shri Babunath Singh  
Shri Jageshwar Yadav."

16.31 hrs.

[**SHRI M. B. RANA** in the Chair]

**SHRI SRINIBAS MISRA :** Sir, I rise on a point of order. This Bill is beyond the competence of this House. This House cannot go into this question nor legislate upon this subject, because it is beyond the competence of the House. Kindly look to entry 1 of List III which says :

"Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval ..."

That is, whatever is included in the Indian Penal Code minus all matters with respect to the matters specified in List I or List II.

Kindly turn to List II. Entry 6 in List II is, "Public health and sanitation; hospitals and dispensaries." Here, obviously, the Statement of Objects and Reasons says that this is not a birth control measure. They have openly said so because they do not want to bring in all that nasty measure and so they say it is not a population control measure. It is only a measure to preserve the mental health according to Dr. Chandrasekhar's theory of biological emancipation. Why don't you straightaway say that you want to legalise abortion? According to his theory of biological emancipation of families, he wants abortion to be legalised. It is a health measure according to him, and if it is so, Parliament has no power because, item 6 of List II is very clear. Therefore, why is it necessary to discuss this and why should it go to a Joint Committee?

To add to this, please look to article 23, which deals with fundamental rights. Dr. Chandrasekhar would not claim that committing abortion is a fundamental right. Article 23 reads thus :

"Traffic in human beings and *begar* and other similar forms of forced labour are prohibited. . ."

Sub-clause (2) says :

"Nothing in this article shall prevent the State from imposing compulsory service for public purpose. . .," etc.

[Shri Shrinibas Misra]

Then, according to the definition in our criminal laws, the foetus, when it becomes quick, is equalised to a human being. Here, murder is sought to be committed and legalised. (*Interruption*) In another disguise, abortion is sought to be legalised by this Bill.

I want to substantiate this point from Dr. Chandrasekhar's own observations in the Statement of Objects and Reasons which say :

"The provisions regarding the termination of pregnancy in the Indian Penal Code which were enacted about a century ago were drawn up in keeping with the then British Law on the subject. Abortion was made a crime for which the mother as well as the abortionist could be punished except where it had to be induced in order to save the life of the mother. It has been stated that this very strict law has been observed in the breach in a very large number of cases all over the country. Furthermore, most of these mothers are married women, and are under no particular necessity to conceal their pregnancy".

What is being sought is, the pregnancy of unmarried women is being sought to be concealed by this Bill. Under the powers of this Bill, they want to conceal it.

I would draw attention to entry 64 of List II. (*Interruption*). Mr. Nambiar forgets that the States which wanted to be very kind to unmarried mothers have given legitimacy to the illegitimate children. Here you want to kill people but you have not got the courage to face society by saying that the child will be treated as a legitimate child and will have all the rights in the property of the parents. In 1968, the USSR has even banned it.

Now I come to entry 64 of List II :

"Offences against laws with respect to any of the matters in this list".

Therefore, all offences regarding matters in List II are also included in List II. If this is really a health measure, because doctors are now being enabled to do it, offences against that also comes under List II. How can Parliament legislate on it? It does not come under List III or List I.

SHRI N. K. P. SALVE (Betul) : Are you arguing before the Supreme Court?

SHRI SRINIBAS MISRA : I want to bring you out into the open. You want to legalise abortion. If that is so, why not say so ? If you want family planning, why not start a war and kill people?

Article 39 says :

"The State shall, in particular, direct its policy towards securing—

(c) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

"(f) that childhood and youth are protected against exploitation and against moral and material abandonment."

What is being sought to be achieved by this Bill is this. Because we are living, for the benefit of our life, because we want more food, etc., we want that other souls should not come into being and we want to kill them. So far as morality is concerned, it has been said in the articles of Dr. Chandrasekhar in the magazine in which he writes—it is a Government-publication—that it is immoral. He says it is for the purpose of health, for preventing mental injury, etc. For the reasons I have pointed out, I submit that Parliament has no competence to enact this legislation and therefore this House should not concur in the motion for referring it to a Joint Committee.

SHRI CHENGALARYA NAIDU (Chittoor) : It was agreed by the leaders in the Business Advisory Committee that this will be adopted without discussion. Now is being discussed.

SHRI S. M. BANERJEE (Kanpur) : In the order paper it is put down as Medical Termination of Pregnancy Bill. They do not say abortion. I believe in family planning. I also believe there should be no illegitimate children. That is a different matter. But why don't they call a spade a spade? Why not call abortion as he abortion? Suppose I can terminate it without medical help, what will happen? (*Interruptions*).

SHRI NAMBIAR (Tiruchappalli) : Shri Banerjee should not be given the power or authority of the House to prevent

that without medical aid. That would be illegal.

**DR. S. CHANDRASEKHAR :** Sir, I would like to inform the hon. Member, Shri Misra that I have taken his objection in good spirit, but it is only his view which I maintain is absolutely untenable. This House has complete competence to discuss this matter. I would have welcomed a total discussion lasting many hours, because we have all the knowledge on the subject today and we are prepared to answer every hon. Member. The hon. Member showed his profound ignorance when he said just now that it is not legal in Russia, which is not true. This hon. Member has spoken, with all due respect to him, without any basis, without any knowledge, not even about the terminology, what the title means.

**SHRI SURENDRANATH DWIVEDI (Kendrapara) :** Knowledge is not his monopoly. Let him confine himself to the competence of the House to consider this Bill. We are not having a debate on knowledge and experience.

**DR. S. CHANDRASEKHAR :** I still have the right to say that the statement made by Shri Misra about the Soviet Union happens to be an absolute error. I have every right, for the sake of correct record of the proceedings of the House, to say that. Therefore, I say with some knowledge of the matter that he happens to be misleading us. I hope he will correct me if he can.

**SHRI SURENDRANATH DWIVEDI :** He can say that something mentioned by an hon. Member is not correct. But he cannot say that he has no knowledge of the subject. He has to be careful while using expressions in the House.

**DR. S. CHANDRASEKHAR :** I still maintain that if somebody says something which is not correct, which is misleading, I have the right to refer to it.

Secondly, for want of time, the Business Advisory Committee has decided that it should be referred to the Joint Committee without any discussion and we have agreed to this.

Thirdly, Government is of the opinion that we have competence to pass this Bill. If any hon. Member wants to raise any objection, after all, we are only referring

it to the Select Committee, where it could be discussed. Also, it would be coming back to the House when also it could be discussed. So, nothing is lost by adopting this motion. I commend it for the acceptance of the House.

**MR. CHAIRMAN :** The point of order is rejected.

**SHRI HEM BARUA (Mangaldai) :** Sir, if you want time to give your ruling, you can do it in the next session.

**SHRI RANDHIR SINGH (Rohtak) :** He has already stated that the point of order has been rejected.

**MR. CHAIRMAN :** The question is : "That this House do concur in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto, made in the motion adopted by Rajya Sabha at its sitting held on the 8th December, 1969 and communicated to this House on the 10th December, 1969 and to resolve that the following twenty-two members of Lok Sabha be nominated to serve on the said Joint Committee, namely :—

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- (2) Shri Gangacharan Dixit
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- (4) Shri Kameshwar Singh
- (5) Shri S. Kandappan
- (6) Dr. Karni Singh
- (7) Shri Kinder Lal
- (8) Shri Viswambharan
- (9) Shri N. R. Laskar
- (10) Hazi Lutfal Haque
- (11) Shri M. R. Masani
- (12) Shri Mohammad Yusuf
- (13) Shri B. S. Murthy
- (14) Shrimati Shakuntala Nayar
- (15) Dr. Sushila Nayar
- (16) Shri Partap Singh
- (17) Shri Ram Swarup
- (18) Dr. M. Santosham
- (19) Shrimati Tara Sapre
- (20) Shri M. R. Sharma
- (21) Shri Babunath Singh
- (22) Shri Jageshwar Yadav."

*The motion was adopted.*