

BUSINESS ADVISORY COMMITTEE

Fortieth Report

THE MINISTER OF PARLIAMETARY AFFAIRS, AND SHIPPING AND TRANSPORT (SHRI RAGHU RAMAIAH) : I beg to move :

"That this House do agree with the Fortieth Report of the Business Advisory Committee presented to the House on the 19th November, 1969."

MR. CHAIRMAN : The question is :

"That this House do agree with the Fortieth Report of the Business Advisory Committee presented to the House on the 19th November, 1969 "

The motion was adopted.

14.33 hrs.

COMMISSION OF INQUIRY
(AMENDMENT) BILL*

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : I beg to move for leave to introduce a Bill to amend the Commissions of Inquiry Act, 1952.

MR. CHAIRMAN : The question is.....

SHRI SHRI CHAND GOYAL (Chandigarh) : Sir, I went to oppose it.

MR. CHAIRMAN : I may say from my long experience of legislatures that normally the introduction of a Bill is not opposed. Because, in that case, no private Members' Bill can be introduced.

श्री मधु लिमये (मुंबई) : अपना निराय देने मे पहले मुझे भी व्यवस्था के प्रश्न पर सुनियेगा।

MR. CHAIRMAN : We should establish good conventions so that Private Members' Bills can be introduced.

श्री मधु लिमये : कन्वेंशन के उपर ही मुझे बोलना है ।

SHRI SHRI CHAND GOYAL : This Bill violates certain constitutional provisions and it is the right of every member to oppose such a Bill at the introduction stage. I have already given in writing the reasons for my opposing the Bill. I shall not go into the merits of the Bill at all. I shall deal only with the infirmities from which this Bill suffers. Section 4 of the Bill says :

"In section 5 of the principal Act, in sub-section (2), the word and figures' and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 of the Indian Penal Code" shall be inserted at the end."

This provision contemplates that if the Commission instructs any person to supply any information, that instruction of the Commission will be binding on him and there is no way out for a person from whom it has sought information to withhold it. This provision is opposed to article 20(3) of the Constitution.

Clause 3 of Article 20 says :

"No person accused of any offence shall be compelled to be a witness against himself."

That is what our Constitution guarantees. Nobody can be compelled to despose against himself and give either oral or documentary evidence. The adoption of this clause will mean violation of clause (3) of article 20 of the Constitution which is one of the fundamental rights of a citizen not to be compelled to give evidence against himself or furnish documents against himself.

In this connection I will refer you to Basu's Commentary on the Constitution which says at page 54 of volume II under the heading "Effect of contravention of article 20, clause (3)" :

"If a statute directly authorises the extraction of answer or the production of documents from an accused which will incriminate him, it is obvious that the statute will be void."

So, according to Basu, if a particular provision of a Bill authorises the production of evidence against the person himself, to that extent it will be void.

*Published in Gazette of India Extraordinary Part II, section 2, Dated 21.11.69.