

[Mr. Deputy Speaker]

system and to put a ban on expression of caste after the name"

The motion was adopted

श्री बलुना प्रसाद लखन में विधेयक पुरस्वापित करता हूँ ।

15.32 hrs

CONSTITUTION (AMENDMENT) BILL

(Amendment of Ninth Schedule)

SHRI C K CHANDRAPPAN (Telli-cherry) I beg to move for leave to introduce a Bill further to amend the Constitution of India

MR DEPUTY-SPEAKER The question is

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

The motion was adopted

SHRI C K CHANDRAPPAN I introduce *the Bill

15.33 hrs.

CONSTITUTION (AMENDMENT) BILL

(Amendment of Ninth Schedule)

SHRI C K CHANDRAPPAN (Telli-cherry) I beg to move for leave to introduce a Bill further to amend the Constitution of India

MR DEPUTY-SPEAKER Motion moved .

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

SHRI VARKEY GEORGE (Kottayam) . I oppose the motion mainly on three grounds I am sorry to say that the statement of objects and reasons attached to the Bill by my hon. friend is false, baseless and misleading (*Interruptions*)

SHRI N SREEKANTAN NAIR (Quilon) He must withdraw the word 'false'

SHRI DINEN BHATTACHARYYA (Serampore) He may say 'inaccurate'.

MR DEPUTY-SPEAKER I do not think the word 'false' is unparliamentary

SHRI DINEN BHATTACHARYYA It is not proper

MR DEPUTY-SPEAKER That has gone on record That should be enough

SHRI N SREEKANTAN NAIR He is going to make all false statements

SHRI VARKEY GEORGE The real purpose of this Bill is to infringe the fundamental rights of the minorities granted to them by the Constitution under art 30 I shall quote

AN HON MEMBER No, no

MR DEPUTY-SPEAKER His submission is that the Bill cannot be taken up for consideration At the moment, we are confined to the very limited question whether the Bill can be introduced or not, whether there is any bar under the Constitution to that The merits cannot be gone into at this stage

SHRI VARKEY GEORGE I am trying to say that it cannot be introduced because it is against the Constitution

SHRI H N MUKERJEE (Calcutta—North-East) : On a point of order. This matter regarding admissibility from the point of view of the Constitution of a private members' Bill has conceivably been gone into by the Committee we have got here to consider private Bills and Resolutions, who surely examine the question on the face of the constitutionality of a particular measure If the measure is to be attacked on the ground, that should take place, as you said at the state of consideration of the measure

At this point, no objection can be taken on ground of constitutionality.

MR. DEPUTY-SPEAKER : What Prof. Mukerjee has said is correct. In the first place, the Private Members' Bills Committee has gone into the question and has seen it fit to allow the member to introduce the Bill. He would have opposed the Report of the Committee at the time the motion for its adoption was moved. Now the House has agreed to the decision of the Committee that the Bill may be introduced. Therefore, the question does not arise now. You cannot oppose it now. (*Interruption*)

SHRI K. NARAYANA RAO (Bobbili) : I think that what you said cannot be taken as the correct proposition. Because, if it is not opposed at the Committee level, it does not preclude us from opposing it here. The fundamental point is you cannot oppose a Constitution (Amendment) Bill on the basis of the Constitution. The object of the Constitution (Amendment) Bill is to modify the Constitution itself. Therefore, no Constitution (Amendment) Bill can be opposed on the ground that it opposes the Constitution, because the very purpose is to modify the Constitution.

SHRI S. M. BANERJEE (Kanpur) : Sir, I have several times opposed such Bills, and everytime I was told by the Chair that the question was one on which the merits of the case could not be entered into and the Chair always has said that "I am not the proper persons to give a ruling on this and it is for the Attorney-General and others to give an opinion." Now, the Committee has found no objection to this Bill coming up. So, the hon. Member has missed the bus; he cannot object to it now.

SHRI SOMNATH CHATTERJEE (Burdwan) : The question of legislative competence is not relevant at the stage of introduction of the Constitution (Amendment) Bill, because if this Bill is passed the

Constitution itself is amended. So, there is no question of legislative competence.

Regarding his other objection, I may point out that everybody is not represented on the Committee on Private Members' Bills and Resolutions. Therefore, if the Member is not present there to oppose it, when the consideration of the Bill comes up, that is the appropriate stage, not only in respect of the Constitution (Amendment) Bills but in respect of other Bills also, when objections can be raised.

SHRI DINESH CHANDRA GOSWAMI (Gauhati) : Sir, I do not agree with the point made by the hon. Member that the Bill cannot be opposed on the basis of legislative competence. I feel that that stand will not be correct, because if Parliament has no legislative competence to enact a law amending the Constitution, there is no other body to do it. (*Interruption*)

MR. DEPUTY-SPEAKER : Order please. If it is a subject under the purview of the State legislature, obviously we do not have that power. But the report of the Committee on Private Members' Bills and Resolutions was presented to the House on Wednesday. It is in the know of all the Members. A motion was moved just now that it be adopted by the House, and it has been adopted. Therefore, I do not think the question arises at this stage. Mr George, unless you have anything new to say, I will put the motion to the House.

SHRI VARKEY GEORGE : I could not oppose it in the Committee of Private Members' Bills and Resolutions, because I was not a Member of that Committee.

MR. DEPUTY-SPEAKER : This question does not arise. The report of the Committee was presented to the House on Wednesday last. You have got a copy of that. If you had a special interest, you should have looked into that. And now, the motion to adopt the report was put to

[Mr. Deputy Speaker]
the House and the House has accepted it. Therefore, you cannot raise that question. If you have any new ground, I am prepared to allow you.

SHRI VARKEY GEORGE : Yes; I oppose the motion on the ground that this Parliament has no competence to discuss it.

MR. DEPUTY SPEAKER : Then I will put that proposition of yours to the vote.

AN. HON. MEMBER : Let somebody move it.

SHRI VARKEY GEORGE : It is purely a State subject. It is about education in Kerala. It is about the Kerala University Act. It is a State subject.

MR. DEPUTY SPEAKER : Because it is a State subject and therefore this Bill cannot be brought here, that question does not arise. If you have read article 31B, any piece of legislation which a State legislature has passed can be included in the Ninth Schedule according to that article. That is all that is sought to be done. I do not think you have any new reason. I will put the motion to the vote of the House.

The question is :

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

The motion was adopted.

SHRI C. K. CHANDRAPPA : I introduce* the Bill.

15.40 hrs.

CONSTITUTION (AMENDMENT) BILL
—Contd.

[Amendment of article 74]

by Dr. Karni Singh

MR. DEPUTY SPEAKER : We shall take up further consideration of the Bill

to amend the Constitution of India moved by Dr. Karni Singh on 26th May, 1971. He has authorised Mrs. Godfrey to pilot the Bill on his behalf. Two hours were allotted for this Bill; 35 minutes were taken and one hour and 25 minutes remain. Shri Bhandare has taken five minutes on the last occasion; he may continue.

SHRI R. D. BHANDARE (Bombay Central) : Mr. Deputy Speaker, when the Bill was introduced even then I raised the question as to what was the ground on which the learned Dr. Karni Singh wanted to introduce this Bill. In his introductory speech, he says he is afraid that the High Courts and the Supreme Court would be packed by judges who would always give decisions favourable to the Executive or government. He was afraid that this was likely to take place during the course of years to come. At that time I asked whether Dr. Karni Singh would like to change the polity that we have under the Constitution. Under the Constitution, we have the Parliamentary form of Government even though we have a Federal polity. By this Bill he wants to add an explanation to article 74 of our Constitution; if this Bill is accepted, it would change the very polity that has been existing in our country. I do not know if Dr. Karni Singh would like to introduce the Presidential Form of Government or whether he would be satisfied with the Parliamentary Form of Government which exists under our Constitution. I do not know what is in his mind. Unwittingly in order to forewarn against future dangers or to safeguard against future dangers, he himself has landed in a serious danger; he would like the country to run into a serious danger of the introduction of the Presidential form of government.

15.42 hrs.

[SHRI K. N. TIWARY in the Chair].

The Founding Fathers of our Constitution in their wisdom accepted the Parlia-

*Published in Gazette of India Extraordinary, Part II, Section 2, dated 4.3.72.