

Why did not the Government find out the mistake when the Criminal Procedure Code was amended. If the hon. Member agrees, I would rather like to suggest that this Bill be stayed till such time as Government take the views of the local Governments. I would urge that so far as private Members' Bills are concerned, their Bills should be treated in the same way as the Government Bills.

Shri Datar: I have no objection to accept the suggestion of my hon. friend. This Bill may be stayed over till the next session; meanwhile we shall get the opinion of the State Governments.

Shri Raghunath Singh: I agree to it.

Pandit Thakur Das Bhargava: I beg to move:

"That the debate on the Bill be adjourned till the next session."

Mr. Deputy-Speaker: We cannot fix any date now. The question is:

"That the debate on the Bill be adjourned."

The motion was adopted.

INDIAN REGISTRATION (AMENDMENT) BILL

(Insertion of New Section 20A)

Shri S. C. Samanta (Tamluk): I beg to move:

"That the Bill further to amend the Indian Registration Act, 1908, be taken into consideration."

The section that I intend to put in runs thus:

"Any document which mentions cast and religion of the parties shall be refused for registration by the Registrar or Sub-Registrar and such officers shall not enquire about them while registering documents."

The main object why I am bringing this Bill before the House is this. We in villages very often encounter some difficulties. I have seen with my own eyes so many documents refused by

Sub-Registrar in the Registrar's Office simply because one was not ready to mention one's sub-caste or religion. All castes and religions should be written in the documents. The time has now come when Government should come forward to deal with these things. We have experienced so many calamities on account of caste. Swami Vivekananda, Mamatma Gandhi and other great personalities of India—all spoke against the present system of caste because it has spoiled us and we are going to do penance for it. At this hour, should not the Government bring a full-fledged Bill to do away with the caste system? Should they not accept this simple amendment which will be much beneficial to the people?

In section 20, there is provision for refusal of registration of documents. The question may be asked: is there any provision in the Indian Registration Act of 1908 that the caste or religion should be mentioned in the documents? There is none. If you go through the whole Act, there is no mention of it anywhere. Still the Sub-Registrar can demand that there should be mention of caste and sub-castes and religion and when he asks anybody as to what caste or religion he belongs, he must give an answer; or else his document will be refused; it will not be registered. Then the man who is presenting the document may go to a court. But there are other provisions which make the Sub-Registrar safe.

Section 34(3) (b) says:

"No document shall be registered under this Act unless the persons executing such documents or their representatives or assignees or agents authorised aforesaid appear before the register office within the time allotted for presentation under sections 23, 24, 25 and 26. The registering officer shall thereupon enquire whether or not such document was executed by the persons by whom it purports to have been executed, satisfy himself as to the identity

[Shri S. C. Samanta]

of the persons appearing before him and alleging that they have executed the document."

So, there is one provision with regard to identification. Then according to section 84(2) every person shall be legally bound to furnish information to such registering officer when required by him to do so. Again, section 86 says: no registering officer shall be liable to any suit, claim or demand by reason of anything done in good faith or in his official capacity. If you go to the court he will say: "In good faith, to make his identity more clear to me I asked him for his subcaste and religion". Therefore, I would request the Government at this hour to prevent this sort of things and to take care in accepting the amendment that I am proposing.

Sir you may say that at present there is no rigidity of caste system. But there are even now in mofussil villages the rigours of caste system. Why should we be so much fond of keeping these things in the statutes of Government. About this caste Shri Tribhovandas Mangaldas Nathubhai in 1903 wrote in this book *Hindu Caste Law and Custom* that each caste has been as it were a separate.....

An Hon. Member: A separate nation.

Shri Kamath (Hoshangabad): In 1903? That was 50 years ago.

Shri S. C. Samanta:.....centre of national life isolated from the whole world and what do we find at the root of all this mischief? It is the false theory of birth-right which is accepted by caste as well as by the courts also.

Shri Kamath: Not so bad now.

Shri S. C. Samanta: This system arose from the social order. The old social order may become corrupt.

Sardar A. S. Saigal (Bilaspur): Must be revived.

Shri S. C. Samanta: But, why should not the Government look to the courts and statutes where those things are still existing?

Mr. Deputy-Speaker: Why has the hon. Member chosen only registration of documents?

Shri S. C. Samanta: Because our registrars are so much fond of caste and sub-castes to be written in the documents and that is why I am pointing it out.

Mr. Deputy-Speaker: In the census also there is column for caste and sub-caste.

Shri N. B. Chowdhury (Ghatal): That is for a definite purpose in order to ascertain the number of persons belonging to Scheduled Caste and Scheduled Tribes.

Mr. Deputy-Speaker: Why should other castes be given? Wherever it is necessary only Scheduled Castes may be mentioned.

Shri N. B. Chowdhury: Later on difficulties may arise as to whether a particular person belongs to Scheduled Caste or not.

Mr. Deputy-Speaker: Even now it may arise. Every man may call himself a Scheduled Caste to get some scholarship.

Shri Sarangadhar Das (Dhenkanal—West Cuttack): There may be only Scheduled Castes and non-Scheduled Castes.

Shri S. C. Samanta: Then there is another angle from which we can look at the question. If there has been no mention of caste or religion in a document, in what way it may become invalid? The identity of the person is required. When that identity is proved by villagers, witnesses and other things, mention of caste is an additional thing. Hereafter that should not be written. That is my contention.

This is also a concurrent subject. I have come to know that in some States they have issued instructions that caste and sub-castes need not be written in the documents.

Shri Kamath: In Bengal.

Shri S. C. Samanta: No. It is not Bengal but it is in Uttar Pradesh and some other States.

The Minister in the Ministry of Law (Shri Pataskar): In U. P. they have abolished it.

Shri Kamath: Abolished caste?

Shri S. C. Samanta: They have issued instructions to the effect that the documents should not be rejected or refused for registration simply because there is no mention of caste or religion in it. So, there is something which is being done by some State Governments. In order to bring uniformity throughout the length and breadth of the country I may request the hon. Minister to consider my amendment which is just and which is already being done by some States.

Mr. Deputy-Speaker: Is there any provision under the Indian Registration Act which makes it obligatory on any party to a document to mention his or her caste?

Shri Pataskar: Sir, I will explain the legal position. The legal position is that under section 58 of the Registration Act it lays down:

"On every document admitted to registration other than a copy of decree or order or copies sent to registering officer under section 89, there shall be endorsed from time to time the following particulars:"

In the particulars mentioned are

"(a) Signature and addition of every person admitting the document."

The word "addition" is defined in clause 2 of the Indian Registration Act. It says:

"Addition means the place of residence and the profession, trade, rank and title of the person described and in the case of an Indian his caste, if any, and his father's name."

So, whenever a document is brought forward under section 58.....

Mr. Deputy-Speaker: So, this has to be amended, that is all.

Shri Pataskar: That is what I was going to say. What is to be done will be to change this "addition".

Mr. Deputy-Speaker: "And in the case of an Indian his caste, etc." will have to be omitted.

Shri Pataskar: Even now, supposing a person comes and says: "I have no caste", I do not think his document will be rejected.

Mr. Deputy-Speaker: He may have a caste for his personal purpose. He need not say that.

Shri Pataskar: That is a matter to be considered and that can be done.

Mr. Deputy-Speaker: That can be done if the Government is agreeable.

Sardar A. S. Saigal: They can bring a Bill.

Shri Pataskar: I only wanted to point out at this stage the provisions so that I may hear the hon. Member.

Mr. Deputy-Speaker: What is the attitude of the Minister with regard to this Bill?

Shri Pataskar: My attitude is that I agree with the motive underlying the Bill, but, so far as the present amendment is concerned I do not think it will serve the purpose.

Mr. Deputy-Speaker: But if the hon. Member is prepared to have an amendment of this section and the House accepts it then this may be dropped.

Shri Pataskar: Then also there is difficulty. The whole conception of the amendment proposed is that any document which mentions caste and religion shall be refused.

Mr. Deputy-Speaker: He has put it strongly; there is no insistence.

Shri Pataskar: That is going beyond the object of it.

Mr. Deputy-Speaker: If there is no insistence then nobody will give.

Shri Pataskar: What the Government would like to do is that instead of accepting the Bill in this form—it is not possible to do so and it will not serve any purpose—they could consider the question of amending section 2 of the Indian Registration Act.

Mr. Deputy-Speaker: Or, after section 4, clause (2), you may substitute the words.

Shri Pataskar: The caste may be dropped, but in that case also, there will be a difficulty. The form of the Bill will be different. This subject being under the concurrent list, naturally, we would like to consult the State Governments also. As I said, only one State, namely, Uttar Pradesh, has issued some order with respect to documents generally, and I think it will carry out what the intentions of my hon. friend are in this matter. We would like to consult the State Governments and do what we can, so far as the amendment of the definition is concerned.

Shri S. C. Samanta: In view of the reply of the Government, I would not press my Bill for being taken into consideration. My sole intention is that this mention of caste, religion, etc. should go.

Mr. Deputy-Speaker: My difficulty is this, and that will be the difficulty of the House also. So long as the definition of the clause stands, one cannot be inconsistent with another. In one portion it is stated that there is an addition to the definition, and in another portion, it is said, "And in the case of an Indian, the caste shall be noted". So long as it is not amended, it will continue. If the House accepts the amendment moved by Shri S. C. Samanta, it will mean that the Registrar will be dismissed even if a document is received with the mention of

the caste in that document. In one case, the Registrar is bound to ask the person to give his caste and in another case he is asked to reject the document showing the caste. In between the two, what has the poor Registrar to do? Therefore, unless clause 2 is amended, there would not be any purpose in pushing through this Bill.

Shri S. C. Samanta: I would have been glad if the hon. Minister had agreed to this amendment also, but as he is feeling a difficulty—he wants to consult the State Governments also in this matter because this is a concurrent subject—I would be glad if I am informed by the hon. Minister that such action will be taken in the near future. Then, I have no objection to it.

Shri Pataskar: I would like to explain the position. No doubt Members will be aware that this question might be raised in some form or other and with respect to some other Acts also. There was a committee known as the Diwaker Committee which was appointed as a result of a resolution passed by this House. That committee was appointed to go into the question as to what extent and how far caste need not be mentioned in any document or forms which Government have to maintain. That committee submitted its report, I think, in 1949 or so; I am not sure of the year. Then suddenly it was found that the abolition of caste in documents etc., is not such an easy matter, because the Constitution gives certain privileges to certain backward people besides the Scheduled Castes and Scheduled Tribes. In fact, as the House is aware, last time, when we were considering the Delimitation Commission (Amendment) Bill, this question arose. You also know that the trouble arose this way: when the census was taken, Government rightly issued an order that no caste should be mentioned. The result was that at the time when reserved seats were to be found for particular castes, there was hardly any record. There were complaints that the records were incorrect.

Naturally we found that the position was not so simple. It is difficult to say, with one stroke of the pen, that all castes should go and not be mentioned in any document or anywhere. The Diwakar Committee's report is now kept pending. Ultimately, it appears that the Uttar Pradesh Government have issued instructions to their officers, not with respect to this Act but with respect to other documents coming before them, that except in cases where for the purposes of voting, etc., caste should be given, the caste need not be given in all documents. So, the problem is solved as far as the Uttar Pradesh Government is concerned.

With respect to other State Governments also, there had been some correspondence, especially with the Bihar Government, but ultimately nothing seems to have happened.

When this Bill came up, I looked into the matter and I found that the position, so far as the Government is concerned, is pending consideration, since the Diwakar Committee's report is still pending consideration. In the meantime I found that the amendment which is now proposed is very laudable in its motive, but naturally, as the Chair has rightly pointed out, if we accept it, it would be inconsistent with what is laid down already in the Act. There is an addition to the definition in the Act. So, on the one hand we will be telling the Registrar that he should record the caste and on the other hand we will be telling him not to do so.

Another significant point, which can be said to be in justification of this amendment, is this. I have found in villages that certain Governments have insisted on the mention of caste in the documents, not with the point of view of accentuating the caste distinction but to distinguish the persons who possess the same names. In villages it does happen occasionally that there are two persons with the same name, say, Tukaram Ekanath. So, for the purpose of distinguishing the persons of the same name, it will be useful to mention

the castes. Sometimes the age of two persons of the same name may also be the same and in that case also, the mention of caste would be useful.

Mr. Deputy-Speaker: Sometimes, the father is also named Tukaram Ekanath!

Shri Pataskar: Yes; though the grandfather's name may differ.

Mr. Deputy-Speaker: Therefore, we must refer to the third generation.

Shri Pataskar: So, I am in entire agreement with the object of the Bill and I think caste should not be mentioned, because it indirectly accentuates a sense of distinction that one belongs to such and such a caste and another man belongs to such and such a caste. So far as the object of the Bill is concerned, we are in entire sympathy but I must tell the hon. Member that there will be no useful purpose served by pushing on with this Bill. I have no reluctance in accepting the Bill simply because it is sponsored by a private Member, but I find that it is not consistent with the existing provisions. I can give him only one assurance, and say positively that we shall consult the State Governments and do whatever is possible to amend the Registration Act, in proper time. I cannot say that it will be done within a particular time. We will consult the State Governments and put the subject before the Central Government. I am sure the Government will sympathetically consider the matter and do whatever is necessary.

Shri B. K. Das (Contal): I want to know whether Government have given effect to any of the recommendations of the Diwakar Committee. The hon. Minister pointed out that there are difficulties in doing away with the caste altogether and that certain constitutional provisions come in the way. That may be so. But barring this, there are cases where the caste need not be mentioned, as in the present case. But has the Government given effect to any of the recommendations of the Diwakar Committee so far?

Shri Pataskar: I think I have made it perfectly clear that the Diwakar

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Committee's report was a general one, and was applicable to all sorts of government documents. The Government found in the case of the census that because caste was not mentioned they were launched into trouble. There has been so much of discussion and Government is still considering what part of the recommendations is to be implemented. We accept the principle of this Bill. There is no doubt about that matter. Nobody wants to accentuate the caste. I think the Law Commission the formation of which was announced today will now go into the matter. All these things will be considered in detail.

Even now, the wording of clause 2 is such that a man may refuse to give his caste. I know of eminent people having done so. For instance, the late Justice Madgaonkar, when he was asked to mention his caste, refused to mention it and said "I do not believe in caste and I belong to no caste". Suppose that is the feeling, any man may refuse to give his caste and nobody can compel him.

Mr. Deputy-Speaker: With all respect, I must say that if a particular man, belonging to a caste refuses to give out his caste, the Registrar must refuse to register his document, if necessary.

Shri Pataskar: Public opinion now is also gathering. If a person says that he does not belong to any caste, the document will have to be registered.

Mr. Deputy-Speaker: This is for a limited purpose and it is not going to interfere with the Constitutional aspects or rights or privileges

Shri Pataskar: The State Governments may enact suitably.

सरकार के दफ्तरे सक्षम : हर से अच्छा है कि कानून को संशोधित कर दिया जाए ।

Shri Pataskar: Is there any difference between what the hon. Member is saying and what I am saying?

Shri Dabhi (Kaira North): May I take it that the Central Government after consultation with the State Governments will bring in an amendment to the effect that no caste or sub-caste should be shown?

Shri Pataskar: The only point is that the purpose should be served; it does not matter whether the Central Government does it or the State Governments do it.

Shri A. S. Saigal: May I know how many State Governments have introduced this in their States?

Shri Pataskar: So far as I am aware, there is only one State Government which has introduced this.

Shri S. C. Samanta: I have come to learn that Government is at one with the object I have indicated in the Bill and that there is some technical difficulty. The hon. Minister on behalf of Government is giving an assurance that he will try to rectify this defect in the Registration Act.

Mr. Deputy-Speaker: The hon. Minister says he will do it positively.

Shri S. C. Samanta: In view of the assurance given by the hon. Minister on behalf of the Government, I beg for leave to withdraw the Bill.

Shri Sarvagadhar Das: I want a clarification. Government are determined to establish a classless and casteless society; classes will never be abolished under their regime, but as far as caste is concerned, five years have elapsed since the Constitution was adopted, and yet no attempt has been made to remove the caste system. May I ask the hon. Minister if this matter will come up before the Law Commission or whether it can be taken up before that?

Shri Pataskar: I do not think that we should go to the Law Commission so far as the object of the present Bill is concerned.

Mr. Deputy-Speaker: The hon. Minister has said already that it is in the concurrent list and therefore he wants to consult the various State Governments. So far as the Central Government is concerned, it does not find any difficulty in accepting the limited purpose of the Bill. So far as the Indian Registration (Amendment) Act is concerned, this need not go before the Law Commission. It is only a question of time. Under the circumstances, the hon. Member moves for leave to withdraw the Bill. Is the House agreeable to leave being granted to withdraw the Bill?

Hon. Member: Yes.

The Bill was, by leave, withdrawn.

FACTORIES (AMENDMENT) BILL

(Substitution of section 59)

Shrimati Renu Chakravarty: I have got permission from Shri A. K. Gopalan not only to introduce this Bill, but also to pilot it in this House. I request that I may be allowed to introduce the Bill.

Mr. Deputy-Speaker: The practice has been that if any hon. Member is not able to be present to move for leave to introduce a Bill, he can authorise any other Member to do so, but on one condition, namely, that the subsequent stages of the Bill are also entrusted to that particular person who is authorised to make the motion. In this case, the authorisation is there and there is no difficulty.

Shrimati Renu Chakravarty: I beg to move for leave to introduce a Bill further to amend the Factories Act 1948.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Factories Act, 1948".

The motion was adopted.

Shrimati Renu Chakravarty: I introduce the Bill.

WORKMEN'S COMPENSATION (AMENDMENT) BILL

(Insertion of new section 3A)

Shrimati Renu Chakravarty: I beg to move for leave to introduce a Bill further to amend the Workmen's Compensation Act, 1923.

Mr. Deputy-Speaker: The Bill is in the name of Shri A. K. Gopalan.

Shrimati Renu Chakravarty: I have already obtained permission.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the workmen's Compensation Act, 1923".

The motion was adopted.

Shrimati Renu Chakravarty: I introduce the Bill.

CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL

(Amendment of sections 2 and 4)

Pandit Thakur Das Bhargava: I regret very much that advised as I am I do not want to make this motion today.

Shrimati Renu Chakravarty: Should he not withdraw the Bill?

Mr. Deputy-Speaker: The hon. Member cannot be compelled to make the motion. He should move for leave to withdraw the Bill only if he has moved the motion for consideration. Though he has given notice, he has not moved it. It is as good as his being absent.

BENARES HINDU UNIVERSITY (AMENDMENT) BILL

(Amendment of section 17)

Shri Raghunath Singh (Benares Distt.—Central): I beg to move:

"That the Bill further to amend the Benares Hindu University Act, 1915 be taken into consideration."