

Prime Minister of India who can get us out. He is our only hope and he is our only friend; the Maharashtrian people are behind him and they have faith in him. Nobody should have any doubts about it.

Everybody in this country should consider the situation in Maharashtra very seriously. We form nearly one-tenth of the population and if anybody is going to create the impression in the mind of the Prime Minister that things are safe in Maharashtra, it is not true. Dissatisfaction is there. It is very widespread, and it is going deeper and deeper. I would like to enlighten this hon. House on the causes of it and how it can be removed tomorrow because I quite see that the time for today's debate is over. I would, with your permission, Sir, continue tomorrow.

Mr. Deputy-Speaker: The hon. Member might continue tomorrow. Now we will take up private members' business.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

FIFTY-SIXTH REPORT

Shri Altekar (North Satara): I beg to move:

"That this House agrees with the Fifty-sixth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 25th July, 1956."

This is in connection with the categorisation of the Bill of Shri S. V. Ramaswami to enforce monogamy in India and to punish people indulging in polygamy. So far as that Bill is concerned, it is given Category B because it is not so urgent or important as to be put in category A.

The next question is whether the Bill sought to be introduced by Shri K. K. Basu to amend the Constitution should be allowed. He wants to amend the Constitution so that preventive detention can be retained only for the purpose of taking action against enemy agents. He says that

only that provision should be retained and the rest of article 22 should be deleted. In this connection, the recommendation made by the Committee on Private Members' Bills and Resolutions in its Forty-second Report was that this should await the decision on the discussion of the working of the Preventive Detention Act, which was to come in the next session. In the next session it was discussed and the House has resolved that the Act should continue till the end of 1957. Now, in view of the decision of the House, the Committee recommends that there is no necessity to introduce this Bill at this time.

On the question of making the directive principles justiciable the Committee is of the opinion that in view of the present circumstances and the financial condition we cannot make them justiciable because at this time we cannot give work to everybody or maintain everybody. Of course, every attempt is being made to do so but the time is not ripe to make them justiciable.

So far as the allotment of time is concerned, I commend that the House should accept this Report.

Mr. Deputy-Speaker: Motion moved:

"That this House agrees with the Fifty-sixth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 25th July, 1956."

There is an amendment to this Report by Shri Basu.

Shri K. K. Basu (Diamond Harbour): I beg to move:

That at the end of the motion the following be added:

"Subject to the modification that permission be granted to Shri Kamal Kumar Basu to introduce his Bill to amend the Constitution."

My amendment is very simple. I find that article 368 of the Constitution, which deals with the manner

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in which a Bill to amend the Constitution should be moved, says that an amendment can be initiated only by the introduction of a Bill in either House of Parliament and that the Bill should be passed in the House in a certain manner, which we all know. I am also fully aware that under the rules of our House we have certain provisions which describe the functions of the Committee, which the Speaker was pleased to appoint, on broader principles. According to the rules, the functions of the Committee shall be to examine every Bill seeking to amend the Constitution, notice of which has been given by a private member, before a motion for leave to introduce the Bill is included in the list of business. The second clause, which relates to Bills other than those to amend the Constitution says:

"to examine all private members' Bills after they are introduced and before they are taken up for consideration in the House and to classify them according to their nature, urgency and importance into two categories, namely, category A and category B."

Therefore, my argument is that so far as this provision is concerned, it applies only to Bills other than Constitution (Amendment) Bills and there the scope of this particular Committee has been specifically put down; first to examine and then to classify. The examination of the Bill seeking to amend the Constitution should be a minor one. As it seeks to amend a sacrosanct document, our Constitution, they have to see whether the Bills are properly drafted and whether some other legal difficulties are there—some clauses which should also be put in ancillary to the particular amending provision,

I feel, and I am sure the House will agree with me, that the right to amend the Constitution is the right of every member, which is given to us

by the fundamental rights, which even all the rules which you might have adopted cannot modify. Then, in the democratic set up of Government that we have adopted it is absolutely necessary that private members must have an opportunity to introduce a Bill to amend the Constitution.

The position seems to be mistaken by this Committee. The Committee thinks that unless the Committee recommends, no leave should be granted so far as the right to introduce a Bill to amend the Constitution is concerned. The position seems to have been taken that since the resolution that the Preventive Detention Act may continue, as provided, till 1957 was passed in the House, there is no necessity for that Bill. But I have tried to amend it in a particular way as I feel that in the present context of things the time has come when we should restrict the scope of the Preventive Detention Act. Even if the House has considered and adopted a resolution, still every member has a right to introduce a Bill to restrict the scope of the working of the Act.

Regarding article 37, I want the directive principles.....

MR. Deputy Speaker: According to the rules the hon. Member can take only five minutes.

Shri K. K. Basu: I feel that it is duty of every member to come forward before the country and say that the time has come when the directive principles should be made justiciable. Naturally, the Parliament will in its wisdom decide whether the time is opportune. The Government party will always say that the time has not come. With regard to primary education, for instance, they have said that the time has not come.

Therefore, I urge upon the House that the fundamental right of the member should not be taken away and every member must have the right to introduce a Bill to amend the

Constitution. At a later stage, if the House has time to discuss this particular Bill, it will have ample opportunity to decide whether such amendment should be allowed. Therefore, I submit that the motion may be accepted with the amendment which I have moved.

Mr. Deputy Speaker: Amendment moved:

That at the end of the motion, the following be added:—

"Subject to the modification that permission be granted to Shri Kamal Kumar Basu to introduce his Bill to amend the Constitution."

Shri Kamath (Hoshangabad): I rise to support the amendment moved by my hon. friend Shri K. K. Basu. This involves an important point as regards the rights and privileges of Members of this House in regard to introduction of Bills in this House. I fail to understand how or why the Business Advisory Committee has said with regard to this Bill.....

An Hon. Member: Committee on Private Members' Bills and Resolutions.

Shri Kamath: I am sorry. There are so many Committees presided over by you. It is not a reflection on the Committee.

I believe the Committee has exceeded its powers in making this suggestion or recommendation. It is the inherent right of a member of this House to introduce any Bill and if the House so desires it can refuse leave to that member to introduce the Bill. There have been precedents in this House for that. When I sought leave to introduce a Bill in the last Parliament, this House, certain members of this House opposed its introduction. Ultimately, of course, the then Speaker said that the convention was that the Bill should be introduced and at a later stage, if necessary, it may be thrown out. It is an inherent right, a fundamental right, I may say.

If a member is prevented from introducing a Bill by this Committee, that is a very serious interference with the rights of members of this House.

There is another point in this respect. It appears from what my friend Shri Altekar said that it is almost the monopoly of the Treasury Benches to amend the Constitution. I seriously contest that proposition. Perhaps, my hon. friend means that the Constitution should not be trifled and tinkered with time and again. But the Government itself has set an example in this respect. An amending Bill has been introduced even with regard to quorum in the House. There is a Bill pending which seeks to amend the Constitution in that respect. Government has gone out of its way to toy to trifle with the Constitution and to tamper with the Constitution, and then it seeks to arrogate to itself the monopoly of amending the Constitution. I would, therefore, request you and the House to ensure that this right of a Member to introduce a Bill, even to amend the Constitution, is not curtailed or abrogated in any manner.

Shri Altekar: I cannot accept this amendment that has been tabled by my friend Mr. Basu. The point is, as he says, that every Member has got a right to amend the Constitution and to bring a Bill to that effect. Nobody denies that right to an hon. Member. The Rules of Procedure lay down, according to rule 44(1)(a), that the Committee shall "examine every Bill seeking to amend the Constitution notice of which has been given by a private member, before a motion for leave to introduce the Bill is included in the list of business." When such a Bill is brought to amend the Constitution, it comes before the Committee on Private Members' Bills and Resolutions. They examine the Bill and discuss the pros and cons and they make only a recommendation to this House. It is for the House to decide the matter. The Bill is before the House; the recommendation of the Committee is there; and whether to

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allow it or not, it is for the House to decide. The Committee does not go to the length of what it does in the case of other Bills which do not relate to the Constitution; they are classified and allotted a particular category. The Committee does not do that in the case of Constitution Amendment Bills. It only examines the Bill and places it before the House to decide whether it should be allowed to be introduced or not. That is the situation.

Under that position the Bill was examined and the recommendation in that respect has been placed before the House. I beg to point out that the right of a Member to introduce a Bill or to bring a Bill for the purpose of amending the Constitution is not altogether taken out. Even if the Bill does not go to the Committee and comes straight to the House for being allowed to be introduced, the House may accept it or reject it. From that point of view, the only preliminary ground of looking to all the aspects of the Bill, has been covered by the Committee, and the Bill is before the House with that recommendation. The right of an hon. Member to bring a Bill to that effect has not in any way been taken away. Therefore, I submit that the right, which is conferred by article 368 of the Constitution is not in any way affected. It is only a matter of procedure, and the preliminary particulars are placed before the House by the Committee. The Committee has not exceeded the powers conferred on it by rule 44(1) (a). They only make a recommendation to that effect and they do not go to the extent of classifying it as they do in the case of other Bills.

I have already stated why and in what respects and for what reasons the Committee thinks that this Bill should not be allowed to be introduced. I will not reiterate the same over and over again. The question is whether this amendment which seeks to amend the article relating to preventive detention should be allowed.

We have already discussed this matter fully during the last Session, and the decision of the House is already there. It has been resolved to continue the Preventive Detention Act up to the end of 1957, as it is. So, another discussion by way of this amendment is unnecessary, and it is unnecessarily taking the time of the House. So far as that point is concerned, that is the recommendation of the Committee.

With respect to making the Directive Principles justiciable, I have already made a long statement last time, and again I am prepared to meet the argument of making them justiciable at this stage by taking article by article of Chapter IV of the Constitution. To go on with such a discussion at this time is quite inopportune. From that point of view also I submit that the whole amendment which is sought to be made by my hon. friend Shri Basu cannot be accepted, and I recommend that the House should reject it and accept the original recommendation of the Committee.

Shrimati Bena Chakravarty (Basirhat): May I just make one or two points? Earlier, when we discussed the report of the Committee on Private Members' Bills and Resolutions, I had reason to point out that we wanted no curbs or fetters in the introduction of any Bill, but rather that such a Committee should only be for the purpose of easing the procedure, how best to carry on the procedure. Here a very serious position has arisen where the Committee has taken upon itself to tell the House what it thinks is necessary and what it thinks is unnecessary. I feel that that is not something which should stand between the Member who wants to introduce the Bill and the House. The Committee can only advise us as to the classification and about the number of hours to be allotted. But to prevent a Member to introduce a Bill, a right which was conceded at that time when we were told that the

right was not being taken away, that, I think, would not be right. It would be infringing upon the right of Members in a sort of indirect way, putting the weight of the Committee against the House passing such a measure. And as such I think we should not allow the Committee to put before us this particular aspect whether they think it is necessary or unnecessary. It is only for the House to decide that, after the entire thing has been argued on the floor of the House.

Shri H. N. Mankarjee (Calcutta North-East): Could I ask Mr. Altekar for a clarification?

My difficulty is, he seems to think that if the House passes its verdict in regard to a certain matter, then any legislation in connection with that will not normally be permitted to be introduced. Because preventive detention was discussed in this House and accepted as a necessary provision we are told that this particular amendment of the Constitution is unnecessary.

Now, on that analogy all kinds of wrong things might happen. For example, the Industrial Disputes Act has recently been amended in a particular way, and we had a fairly full discussion. I am sure there are Bills pending in this House where certain matters relating to industrial disputes which were collaterally discussed during the proceedings of that Bill would have to be considered by the House. It is, therefore, not a question to be considered by the Committee, of which Mr. Altekar is in charge, as to whether a particular matter has already been adjudicated upon by the House. It is a question as to whether the Member concerned has a right under the Constitution and under the Rules to introduce the Bill. In regard to the amendment of the Constitution, Members have a right, which is perhaps of a higher quality than the right of moving ordinary, private Members' Bills. Therefore, I think that in regard to this

matter we should proceed very circum-spectly, and the implications of what Mr. Altekar has said as being the grounds motivating the Committee's decision are very important. And that is why I venture to intervene in the proceedings and to point out that perhaps something wrong is being sought, unconsciously, to be done by the Committee.

Mr. Deputy-Speaker: The position is that an hon. Member, Mr. Basu in this particular case, wishes to introduce a Bill; he wants the permission of the House to introduce it. There is a Committee on Private Members' Bills and Resolutions, appointed by this House. It has not taken any decisions. It is not that the Committee has exceeded its powers or transgressed any constitutional provisions or done anything improper. The House has appointed the Committee to facilitate its procedure in this House. We cannot say that a Member has an absolute right to introduce a Bill in this House. But the first stage that comes is that he asks for permission of the House to introduce that Bill. It is for the House to decide it may refuse that permission or it may grant that permission. In order to facilitate and help the House in coming to a decision, that Committee is there to make any recommendation. It is not that that decision of the Committee is binding on the House. It is not that their decision is to be brought here as an appeal to the House. Only, it has made a recommendation for the House to consider. And now it is before the House, whatever decision it takes. It would not make much difference whether Mr. Basu is allowed to say formally, "I may be granted permission of the House to introduce this Bill" or the House considers it in the Committee first and then in this House whether the permission should be given in this case or not.

Shri Kamath: That makes all the difference.

Mr. Deputy-Speaker: I do not think there is any difference. Even if the vote has to be taken, and Shri K. K. Basu insists that it must be in that form, ultimately it would come to the same result. There would be no difference.

Shri K. K. Basu: It all depends.

Mr. Deputy-Speaker: This argument that the Committee has exceeded its rights, that it has infringed any provisions of the Constitution, that any right of the Members is being taken away by this procedure, I think, has no substance and is not of any great value. Only the recommendation has come before the House. It is for the House to decide whether this permission is to be given or not. This is all what it amounts to, so far as I can see. The only difference that is sought to be made,—Shri H. N. Mukerjee has stressed this point and though I have tried to make it clear, I want to repeat—is that it is a right of the Member to introduce a Bill. As I pointed out, so far as I can make out, it is not his right to introduce a Bill, but it is his right to ask for permission. That is where, I think, the difference lies. Nobody can object to Shri K. K. Basu going to the Committee. It is our own procedure that we have agreed among ourselves to adopt. Therefore, Shri K. K. Basu also went there and discussed with the Committee. It is by mutual agreement. If this House so desires or the Members so decide that it would be no use to have a Committee, we can scrap it out. The House can do it. The ultimate sovereignty lies with the House. If the House thinks that this recommendation should not come, it can do without it. Ultimately the House shall have to decide, whether permission should be given or not. I think that question is going to be decided now when I put it to the House.

Shri Kamath: On a point of clarification Sir, what harm would have accrued if Shri K. K. Basu's motion for introduction of the Bill had appeared on the Order Paper, and then

the House considered the motion and refused leave for introduction of the Bill? That would have been much better.

Mr. Deputy-Speaker: Absolutely no harm would have accrued. I agree. But, we have decided among ourselves to proceed like this. We have appointed a Committee and it shall be put before the Committee first. The Committee shall make a recommendation and that recommendation shall come before the House. We are following a course that we have laid down for ourselves. Nothing beyond that.

Shri A. K. Gopalan (Cannanore): It is true that the House has given the power to the Committee to make the procedure easier. But, is it not also the duty of the Committee to see that, as far as the right of the Members to introduce a Bill is concerned, he is allowed to go before the House to seek the permission of the House? Not that we are questioning the right of the Committee. As far as this matter is concerned, the Committee would not allow him to go before the House. There may be difference of opinion also. On this question of introducing the Bill and asking for permission to introduce, I think the Committee should have allowed, at least when there was discussion with Shri K. K. Basu in the Committee, him to ask for the leave of the House and left it for the House to decide. Not that we always agree with what the Committee says. This is a very important thing.

Shrimati Rewa Chakravarty: You have said that leave or permission is to be granted by the House. One point I want to bring to your notice. Up till now, as far as Private Members' Bills are concerned, there has not been one single instance—I may stand corrected—where leave has been refused by the House when it has come directly to it. This is the sort of convention that, we have built up. Whenever leave was asked, it was given.

Shri Kamath: In my case, one Member objected; but leave was not refused.

Mr. Deputy-Speaker: I have no example to give to Shrimati Renu Chakravarti where leave was refused to a Private Member's Bill. There is this difference. Shri Kamath says that leave was not refused. I think it was the House which refused leave.

Shri Kamath: It was opposed by a Member. The Speaker Shri Mavalankar said that it was a convention and it should not be opposed.

Mr. Deputy-Speaker: It was here refused in this House. There was no recommendation of the Committee. I recollect the permission was not granted when he asked for leave.

Shri Kamath: My recollection is otherwise.

Mr. Deputy-Speaker: Here is another instance also.

Shri K. K. Basu: If the House refuses to give me leave, that is one thing. I remember distinctly there was a Bill by my hon. friend Shri Madhao Reddy about privy purse. Some Member opposed. The Speaker Shri Mavalankar was there. The Prime Minister also said that leave should be granted. Naturally when the Prime Minister said so, the other Benches granted leave. The practice has been to grant leave. Then it comes to the House. Of course, nobody can get through a Bill.

Mr. Deputy-Speaker: That the Prime Minister said in a certain case that leave should be granted is a different thing. It is for the House to decide whether leave should be granted or not. This is before the House now.

The question is:

That at the end of the motion, the following be added:

"Subject to the modification that permission be granted to Shri Kamal Kumar Basu to introduce his Bill to amend the Constitution."

Those in favour will please say 'Aye'.

Several Hon. Members 'Aye'.

Mr. Deputy-Speaker: Those against will please say, 'No'.

Several Hon. Members: 'No'.

Mr. Deputy-Speaker: I think the 'Noes' have it. The motion is negatived.

Some Hon. Members: The 'Ayes' have it.

Mr. Deputy-Speaker: I would request the Members in favour to stand in their places.

Shri Kamath: Under the rules of the House, the bell has got to be rung.

Mr. Deputy-Speaker: All right, let the bell be rung.

4 P.M.

The question is:

That at the end of the motion, the following be added:

"Subject to the modification that permission be granted to Shri Kamal Kumar Basu to introduce his Bill to amend the Constitution."

Those in favour will kindly say "Aye".

Some Hon. Members: "Aye".

Mr. Deputy-Speaker: Those against will kindly say "No".

Some Hon. Members: "No".

Mr. Deputy-Speaker: The "Noes" have it.

Shri K. K. Basu: The 'Ayes' have it.

Mr. Deputy-Speaker: Then I request the hon. Members in favour to stand up in their seats. There are 20. Those against. There is an overwhelming majority. The amendment is lost.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Fifty-sixth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 25th July, 1956."

The motion was adopted.

SADHUS AND SANYASIS REGISTRATION AND LICENSING BILL*

Shri Radha Raman (Delhi City): I beg to move for leave to introduce a Bill to provide for the registration and licensing of Sadhus and Sanyasis in India.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the registration and licensing of Sadhus and Sanyasis in India."

The motion was adopted.

Shri Radha Raman: I introduce the Bill.

INDIAN ADOPTION OF CHILDREN BILL

Mr. Deputy-Speaker: The House will now resume further discussion of the motion moved by Shrimati Jayashri Raiji on the 18th May, 1956:

"That the Bill to provide an adoption procedure to safeguard the interests of adopted children and the rights of their natural and adoptive parents, be taken into consideration."

Out of the two hours allotted for the discussion of the Bill one hour and 35 minutes were taken up on the 18th May, 1956 and 25 minutes are still available.

Shri M. D. Joshi may now continue his speech, but I may remind

the hon. Member that the hon. Minister has to reply and then the hon. Mover has to give a reply. Therefore, all these stages have to be gone through within 25 minutes. He will condense his remarks as much as possible.

Shri M. D. Joshi (Ratnagiri South): Last time when I was on my legs I pointed out certain inconsistencies in the Statement of Objects and Reasons. I do not want to go into that question again because my time is very limited, but I shall now turn to the object proper of the hon. Mover of the Bill.

What is the object? The object is humanitarian. It is not facilitating the satisfaction of parents or people who have no children, satisfaction such as Hindu childless parents had when they adopted children, but the satisfaction of having helped a poor child or an indigent child or a child without any means of livelihood or which was uncared for. That is the moral and higher motive which has actuated the Mover to bring this Bill.

Under the Hindu law, childless parents only—childless parents is a misnomer—childless people only can adopt, but under this Bill people who have got children can adopt. Under the Bill people of any religion can adopt children of any religion. Persons of any sex can be adopted. So, this Bill is very wide in its scope. Then, if the parents of the child which is proposed to be adopted are alive, their consent will be necessary. Then, if the child is above the age of ten, its own consent will be necessary. And further on it contemplates adoption through the intervention of the court. If the court passes a decree allowing the adoption, then the adoption will take place. A child over 18 years of age cannot be adopted. That means a major person cannot be adopted. All this is with the best of motives and I think the Bill should be assented to by Government. I do not know what the attitude of the

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