

[Mr. Chairman]

think that they cannot exercise their right to vote intelligently. If the hon. Member wants, I can put it to the vote of the House at some other time, at least so far as this motion is concerned.

**Shrimati Renu Chakravarty:** I would request you to do so because I really think it would be much more reasonable for the simple reason that we have not heard Shri Altekar as to why they have categorised this in "B". I am sure many of the Members, just because it is coming from us, will say "No" without going into its merits.

**Mr. Chairman:** We are not going to hear Shri Altekar now. The Report has already been presented, and the House has accepted the Report and is committed to it. Now, it is the House that can change the decision, if it wants.

I am not disposed to take the vote now in view of Shri Punnoose's objection that the House does not remember what the Bill is about. Therefore, I adjourn discussion on the Report and the motion to the next Session.

#### INDIAN PENAL CODE (AMENDMENT) BILL

(Amendment of Section 497)

**Shri Dabhi (Kaira North):** I beg to move for leave to introduce a Bill further to amend the Indian Penal Code, 1860.

**Mr. Chairman:** The question is:

"That leave be granted to introduce a Bill further to amend the Indian Penal Code, 1860."

*The motion was adopted.*

**Shri Dabhi:** I introduce the Bill.

#### INDIAN CONVERTS (REGULATION AND REGISTRATION) BILL

**Shri Jethalal Joshi (Madhya Saurashtra):** I beg to move for leave to introduce a Bill to regulate conversion and to provide for registration and licensing of persons aiding any person to become a convert.

**Shri Pocker Saheb (Malappuram):** I beg to oppose this motion.

**Mr. Chairman:** Let me place the motion before the House.

Motion moved:

"That leave be granted to introduce a Bill to regulate conversion and to provide for registration and licensing of persons aiding any person to become a convert."

**Shri Pocker Saheb:** I would like to know whether the mover of the motion has to make a statement first or whether I have to give my grounds for opposition. Under the Rules, the mover has to make a statement first, and then I have to give my objection.

**Mr. Chairman:** Which Rule? Will the hon. Member kindly quote the Rule?

**Shri Pocker Saheb:** It is Rule 89, which reads:

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question:"

**Mr. Chairman:** Before the hon. Member proceeds, with his objection, I would like to know whether he is objecting to leave being granted under the proviso to Rule 89, that is, in respect of the legislative competence of the House, or for some other reason.

**Shri Pocker Saheb:** It is under the proviso that I am putting it mainly.

**Mr. Chairman:** So, the objection is raised on the proviso?

**Shri Pocker Saheb:** Yes. It is opposed to the fundamental rights declared by article 25 of the Constitution.

**Mr. Chairman:** I will just ask the hon. Member who seeks to introduce

the Bill, in accordance with Rule 89, to give a brief explanatory statement about it.

**Shri Jethalal Joshi:** It is really wonderful that this Bill is being opposed at the initial stage, I mean at the introduction itself. I feel that there is some misapprehension in the mind of the Member opposing it.

As a matter of fact, this Bill is not designed to put a stop to any freedom which has been granted by the Constitution, nor does it seek to curtail any freedom. The Constitution of India amply guarantees that freedom. I will read out article 25(1) which reads:

"Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion."

I grant this, but in the Statement of Objects and Reasons of this Bill you will find it mentioned:

"There is at present no machinery available to furnish correct statistical information on this subject."

In the Union List of subjects, Entry 69, there is mention of census. So, this Bill of mine also comes under that entry.

We have a number of registers. We maintain a register for births and deaths. We maintain registers for marriages and divorces. We maintain registers when we have to float some company. This Bill also seeks to maintain a register for those who want to change their religion. There is no bar, nor is there any hindrance, to any person professing or changing his religion.

**Shri Pocker Saheb:** I find that according to the mover, the object of the Bill is only to furnish statistics, but if you look into the provisions of the Bill, you will find that it is only one of the minor objects of the Bill. The real object of the Bill is

to control conversion from one religion to another. As a matter of fact, if you will just have a look at.....

**Shri M. D. Joshi (Ratnagiri South):** On a point of order. The Bill is not before the House. It is being sought to be introduced, and the hon. Member is discussing, going into the Statement of Objects and Reasons and the provisions of the Bill. The House has not before it the contents of the Bill. So, this discussion is premature at this point.

**Mr. Chairman:** In regard to all Bills that are sought to be introduced, at this stage I do not think the copies are provided to the Members. Copies are given after the Bills are introduced. At this introduction stage, copies of the Bill are never in the hands of the Members. Therefore, this discussion is a kind of preliminary discussion, and we will not be able to go definitely into the merits of the Bill in detail. We will not be able to consider the Bill, it is quite clear, and therefore, the Rules provide that a short discussion may be allowed, to start with, and after I have heard, I will put it to the vote of the House.

**Shri M. D. Joshi:** But he has referred to the provisions.

**Mr. Chairman:** Surely a detailed reference to the provisions is not permissible at this stage.

**Shri Pocker Saheb:** I am not at all intending to go into the provisions of the Bill. I am only saying that the Bill substantially provides that no one can be converted except under a licence granted by the District Magistrate, after such enquiry as he deems fit and he is authorised to put such conditions as he deems fit on such an application. It will be open to him also in his discretion to reject the application for conversion. I submit that this is really a denial of the fundamental right granted to the citizens of this country under article 25, which my hon. friend the Mover has conceded. When such conditions are put, then it means that the conversion of a man from one religion to another

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is dependent upon the discretion of the District Magistrate, which, I submit, is a virtual denial of the right. What article 25 says is this:

"Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion."

That freedom freely to profess and propagate religion is certainly obstructed by the conditions that are sought to be imposed by this Bill, namely, that nobody shall be converted unless he gets a certificate from the District Magistrate, to whom it is open either to allow or reject the application for conversion from one religion to another. It is also open to the District Magistrate to impose such conditions as he may deem fit. I submit that this is really a denial of the fundamental right freely to profess, practise and propagate religion. Therefore, I submit that it is not within the competence of this Parliament to pass this Bill.

I would also request you to just look into the Bill, having regard to the nature of the objection that I have raised, namely, that it affects the fundamental rights guaranteed by the Constitution and therefore it is not within the competence of this Parliament to pass this Bill. So far as the Statement of Objects and Reasons....

**Mr. Chairman:** Order, order. The objection must be stated in brief and a reference to the provisions of the Bill at this stage is not allowed as the hon. Members are not in possession of the Bill. The hon. Member has said enough to illustrate his point and I would request to give any further points and not to repeat his arguments.

**Shri Pocker Saheb:** I submit that this being a question relating to fundamental right, it is open to you..

**Mr. Chairman:** I need not be guided in this matter. I have already seen the article referred to. Therefore, I invited a full discussion on the

point. If the hon. Member has finished, I will ask other Members who wish to participate in this discussion or otherwise I will put the motion to the House.

**Shri Pocker Saheb:** So far as the Statement of Objects and Reasons and the nature of the Bill are concerned, it is not only intended to enable the authorities to have statistics. It is not a Bill for the purpose of taking statistics at all as stated by the hon. Mover. If that is so, it will stand on a different footing. It is not so and it is for you to see whether the Bill is only for statistical purposes and not for the object of controlling conversion from one religion to another.

**Mr. Chairman:** Rule 89 says:

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question:

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon."

Under this proviso, I am ready here to permit any Member to say anything he has to say on this.

**Shri Tek Chand (Ambala—Simla):** I carefully heard the observations of the last speaker and I have also before me the provisions of article 25, clause (1) of the Constitution of India. A careful perusal of this article will indicate that the Bill in no way encroaches upon the limits imposed by this article. What is said is:

"Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion".

So far as I am aware, this Bill in no way stands in the path of any citizen who desires to profess, practise or propagate any religion. The regulatory provisions of the Bill are in no way to be deemed to violate any one of the injunctions laid down in the Constitution of India. Because certain persons who wish to change from one religion to another are required to register themselves, it does not follow that it contains any prohibition so far as profession, practise or propagation of any particular religion is concerned. The Bill, in its essence, is a regulatory measure. That being so, it does not prevent the preaching or profession of any particular religion. Furthermore, the Bill to register such conversions will also be desirable from more points of view than one, namely the question of census will arise. Another thing will be that in the case of minors and small children being taken away and then converted, if there is this limit that no conversion is recognised unless it is registered, you will be in a position to save a number of small minor children who have not reached the age of discretion, who are not in a position to differentiate between one faith and another, as a result of some temptation or some sort of bait, being converted. That being so the Bill is neither unconstitutional nor such to which anybody can raise any objection.

**Sardar Hukam Singh (Kapurthala—Bhatinda):** From what we have heard from the previous speakers, there seems to be a scope for difference of opinion. Mr. Pocker told us—we have not got the Bill before us—that the Bill provides that whenever any person wants to change his religion he shall have to put in an application, to the proper officer and the officer shall go into it and shall have discretion—for reasons to be recorded by him in writing—to say whether he allows that conversion or whether he refuses it, whether he attaches certain conditions to it. The previous speaker referred only to one part of the Bill and said that it is

only for census to be taken, that the regulatory provision is contained here. He did not refer to that provision which was mentioned by Mr. Pocker that some officer is appointed, who shall have this authority and discretion to find out whether it is proper and meet to allow that conversion or not. If that provision is there, clearly it is a clog on the authority and freedom which are provided in article 25 of the Constitution, and therefore, it will be *ultra vires*.

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Moreover, I have to say—I do not know well because I am not in possession of the Bill—that if it really provides for the appointment of an officer, then it would entail certain expenditure as well, for which the consent of the President is required. So, even on the ground that the consent of the President has not been obtained, it would not be possible for the Bill to be introduced here.

**Shri Tek Chand:** The Bill cannot be *ultra vires*; a particular clause may be.

**Shri M. D. Joshi:** As I said, it would be premature to discuss what is contained in the Bill itself, namely the provisions of the Bill. But in order to see whether the objection taken by the hon. Member Shri Pocker Saheb is tenable, we have to see the Title of the Bill. If the Title and the object do not go against the Constitution, then, I submit that the Bill deserves introduction. We are merely at the point of introduction of the Bill now, and we are not here to discuss the provisions of the Bill. If we were to discuss what is contained in the Bill, then the discussion would be, as I said, premature.

With your permission, I would like to read the Title of the Bill, only, which is as follows:

"A Bill to regulate conversion; and to provide for registration, and licensing of persons aiding any person to become a convert." Further, the Preamble reads:

"Whereas it is expedient to regulate conversion and to provide for registration of conversions

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and licensing of persons aiding any person to become a convert, and for matters incidental thereto;

Be it enacted....."

I submit, therefore, that there is nothing in the Title itself to suggest that the Bill is opposed to the spirit or the letter of the Constitution. And since the provisions are not before us, it would be premature to discuss the provisions of the Bill. This Bill does not object to conversions or the freedom of conversion; the conversion may be free or unfettered. There is nothing in the Title to suggest that it is restricted or fettered. So, I submit that the Bill is not opposed to the spirit of the Constitution.

**Mr. Chairman:** Now, I shall put the question.

**Shri Pocker Sahab:** I understand there are other hon. Members who want to speak.

**Mr. Chairman:** It is for the Chair to decide what amount of discussion is necessary. After all, we are not passing the Bill; we are not considering its provisions either. Even supposing the Bill is introduced, the House will get another opportunity for considering whether it is in accordance with the Constitution, or even if it is in accordance with the Constitution, whether it is necessary or proper to pass it. I am only putting the question for leave being granted to introduce the Bill, and it is for the House to say whether it grants leave or not. Further discussion in my opinion is unnecessary. I shall put the motion to the House.

The question is:

"That leave be granted to introduce a Bill to regulate conversion and to provide for registration and licensing of persons aiding any person to become a convert."

*The motion was adopted.*

**Shri Jethalal Joshi:** I introduce the Bill.

#### WOMEN'S AND CHILDREN'S INSTITUTIONS LICENSING BILL

**Mr. Chairman:** The House will now resume further consideration of the following motion moved by Shrimati Uma Nehru on the 10th December 1954, namely:

"That the Bill to regulate and licence institutions caring for women and children be taken into consideration."

The Mover and nine other Members have already spoken and concluded their speeches. Shri Dhulekar had not concluded his speech when the House adjourned for the day. The total time taken so far in the consideration of this Bill is 59 minutes, and 61 minutes are available for its further discussion.

Shri Dhulekar will resume his speech.

श्री धुलेकार (जिला भांसी-द्विज): जब मैं पहले बोल रहा था तो मैं कह रहा था कि यदि हमारा ला मिनिस्टर महोदय इस बिल पर विचार करने के बाद यदि इसका सरकार की ओर से अपनने हाथों में लें और इसको एक सिलेक्ट कमेटी के पास भेज दें तो अधिक अच्छा होगा। मैं ने यह भी बतलाया था कि हमारा भारतवर्ष में स्त्रियों और बच्चों की रक्षा बहुत कम की जाती है और इसलिए इस प्रकार का बिल यहां पर उपस्थित करने का प्रयास होना बहुत ही आवश्यक है। प्राइवेट मैसेज के बिलज बहुत से जाते हैं। उनको पहले तो बिल में ही जाने का मौका नहीं मिलता और बिल में भी अगर कोई आ जाता है तो भी बिल पेश करने वालों को उन के शरित कयने में बहुत कठिनाई होती है। इस लिए मंत्री निवेदन है कि ला मिनिस्टर महोदय इन सब बातों पर विचार करें।