

[Shri S. N. Mazumdar], Minister replied that he would send a report of his speech in the House of the People to hon. Members. This is the Council of States, and I submit that when the agreement involves a constituent State of the Union, this House should be allowed an opportunity to discuss and debate the Agreement.

SHRI K. B. LALL : May I know if notice has been taken of my submission ?

MR. CHAIRMAN : Yes, yes. The matter is under consideration.

**ELECTION TO COMMITTEE
THE ALL INDIA COUNCIL FOR TECHNICAL
EDUCATION**

THE MINISTER FOR PARLIAMENTARY AFFAIRS (SHRI SATYANARAYAN SINHA) : Sir, I beg to move :

That this Council do proceed to elect, in such manner as the Chairman may direct, one member from among themselves to be a member of the All India Council for Technical Education for a term of three years ending the 29th April 1955.

MR. CHAIRMAN : The motion is :

That this Council do proceed to elect, in such manner as the Chairman may direct, one member from among themselves to be a member of the All India Council for Technical Education for a term of three years ending the 29th April 1955.

The question is :

That this motion be adopted.

The motion was adopted.

MR. CHAIRMAN : So 31st July 1952 will be the last date for receiving nominations and 4th August 1952 for holding elections, if necessary, to the All India Council of Technical Education. The nominations will be received in the Council Notice Office upto 12 noon on the 31st of July. The election which will be conducted in accordance with the system of proportional representation by means of a single transferable vote will be held in the Secretary's Room No. 29, Ground Floor, Parliament House, between the hours of 10-30 a.m. and 1 p.m.

THE SPECIAL MARRIAGE BILL

T952 THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS) : Sir, I beg to move for leave to introduce a Bill to provide a special form of marriage in certain cases, and for the registration of such and certain other marriages.

9 a.m.

MR. CHAIRMAN : The question is:

That leave be granted to introduce a Bill to provide a special form of marriage in certain cases, and for the registration of such and certain other marriages.

JANAB M. MUHAMMAD ISMAIL SAHEB (Madras) : Sir, I oppose the motion for leave to introduce the Bill. Am I to give my grounds for objection now or at the stage after the hon. Minister has made his statement on the motion?

MR. CHAIRMAN : There will be many occasions when the Bill is taken for consideration and when there is a detailed consideration of the clauses and also at the final stage—third reading. But generally at this stage, opposition is not made because Members will have ample opportunities of expressing their views at a later stage.

J.* NAB M. MUHAMMAD ISMAIL SAHEB : I am fully aware, Sir, that it is a convention that generally such motions are not objected to at the stage of introduction. But, however, Sir, on rare occasions it is permissible for Members to oppose such motions and on such occasions they are under the rules allowed to make a statement with the Chair's permission. It is only a convention, Sir, not ordinarily to offer opposition and I intend to object to this motion on vital grounds. And my objection, Sir, is based on general grounds as well as constitutional ones.

With regard to the general grounds, Sir, I beg to say that this Bill, which is the subject matter of the motion, interferes with the fundamental rights of the citizens conceded and guaranteed by the Constitution. Article 25(1) grants the right to the citizens freely to profess and practise their respective religions. Marriage,

divorce, inheritance, adoption and such other matters are all matters of religion in our country. Therefore any interference with the law laid down by any religion on these matters and followed by the followers of the respective religion will constitute a violation of the right and also the freedom of the citizens to exercise and profess their religion, which freedom and right have been guaranteed by the Constitution. This Bill is intended, Sir, for legalising inter-communal marriages which are not sanctioned or countenanced by any one of the religions practised in our country.

After legalising such marriages, Sir, this Bill seeks further to change the law of inheritance laid down by the various religions to which the parties to the marriage belong and it goes further, Sir, to introduce not only a new system of inheritance but also seeks to introduce a new prohibition of.....

SHRI TAJAMUL HUSAIN (Bihar): On a point of order, Sir. My point of order is this, Sir. Some marriage Bill is being discussed. We have not seen the Bill. We do not know what is inside it. The Minister in charge has not said anything about it. Therefore, I submit, Sir, that any discussion on the merits of the Bill is hopelessly Irrelevant at this stage.

JANAB M. MUHAMMAD ISMAIL SAHEB : Sir, under the rules it is quite relevant to make a statement.

MR. CHAIRMAN : Under the rules it is laid down that if a motion for leave to introduce a Bill is opposed, the Chairman, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may put the question. Therefore he is entitled merely to make a short explanatory statement.

SHRI KISHEN CHAND (Hyderabad) : After the Minister's explanation? 27 C. S. Deb.

MR. CHAIRMAN : Not necessarily.

JANAB M. MUHAMMAD ISMAIL SAHEB : As I was saying, even the system of the degrees of prohibited relationship, Sir, with regard to marriages is being sought to be changed by the Bill which is sought to be introduced in this House.

MR. CHAIRMAN : All those things may be taken up at a later stage. Just now you indicate on what principle you oppose it and leave it there.

JANAB M. MUHAMMAD ISMAIL SAHEB : Sir, this Bill, if enacted, will interfere with the fundamental right of the people freely to profess and practise their religion which is guaranteed under Article 25(i)(a). Sir, I make the statement on the ground that the Bill seeks to change not only the law of marriage, Sir, but also seeks to change the law of inheritance that obtains in the country.

It seeks to change various other matters. If it is only a question of individual option, then there is the Special Marriage Act of 1872. But, as we see, very few people take advantage of it. If such marriages are popular, if people want to take advantage of the Special Marriage Act. There seem? to be no demand on the part of the people for a measure like this. This will only enable people to contravene the law laid down by their own religion and at the same time they will be in a position to say under this Act that they are in fact following their own religions. This is very anomalous and will lead to many complications of a very inequitable nature. This is not fair to the other individuals of the respective communities. It will, instead of creating harmony among the communities, add to their misunderstandings. Sir, inter-communal marriages are not necessary for communal harmony. This view has been expressed by no less a person than Mahatma Gandhi, the Father of the Nation. Far from leading to harmony, this will produce a lot of disharmony. As I have already pointed out, Sir, my objection means no

[Janab M. Muhammad Ismail Saheb.] j restriction on individuals. Individuals] are free to take advantage of the Special Marriage Act of 1872.

In this connection, I would also refer you to Article 117(1) of the Constitution where it says that certain Bills are not within the competence of the Council of States. I request you, Sir, to consider that Article and read it along with Article no, particularly sub-clauses (c) and (d). This Bill involves expenditure on such matters as appointment of Marriage Registrars, maintenance of books of notices, maintenance of Marriage Registers, etc. Therefore, Sir, this can be taken as a sort of Money Bill and taken to come under the purview of the clauses I have quoted. This is for you to judge, Sir.

Then, I come to a point of procedure. I know that the present procedure is that-copies of Bills are not circulated before leave to introduce the Bill is granted. In this connection, I would request you to consider the question whether it will not be very reasonable to allow the Members to look through the Bill which is being sought to be introduced in the House. When they are asked to vote on whether leave should be granted or not to introduce the Bill, it only stands to reason that Members should be enabled to exercise their votes after they know what it is that they are being called upon to do. There is nothing in the rules which prevents copies from being circulated before such a motion is brought before the House. The rule makes it peremptory for the Bill to be circulated among the Members after the introduction of the Bill, but that does not preclude copies being circulated to Members before leave is granted.

MR. CHAIRMAN : Mr. Ismail, you have seen the Bill and that is why you are objecting to it. Then, remember that Article 44 of the Constitution says:

"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."

SHRI C. C. BISWAS : Sir, I will make a brief statement as contemplated under the rules. I shall take the last objection the hon. Member has raised. I will only invite his attention to rule 49. If he was so anxious to get a copy of the Bill, he need only have made a request to the Chairman. Rule 49 says:

"The Chairman on a request being made to him may order the publication of any Bill (together with the Statement of Objects and Reasons and the Financial memorandum accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill."

There' is a reason why normally copies of the Bill are not supplied to Members before it is formally introduced. It will encourage the kind of criticisms that we have heard, not from one Member but from a number of Members, making the first reading of the Bill almost as long as the third reading.

The other objection was that this is a Money Bill. If the hon. Member had nothing better to put forward in support of his objection, I need only state to show how very fantastic it is. It is fantastic to say that because provision has been made for the appointment of Registrars, etc., the Bill becomes a Money Bill.

The other point which he made was this : that it contravenes the Fundamental Rights. In answer to that, Sir, you have drawn his attention to Article 44. This Bill is only the first attempt in the sphere of marriage law towards achieving that ideal. That cannot be done overnight or in a single day. We have got to feel our way up to it and this is only the first step in that direction. There is no question of interfering with Fundamental Rights. This is only a permissive measure. We are not encouraging or compelling anybody to contravene the tenets of his religion. If any person desires to have an inter-communal marriage, he is at liberty to do so. There is no compulsion. There is no attempt here to provide* that any person professing a particular religion should be debarred from observing

that faith. But the House will do well to remember that a stage may come when it will compel people to abjure their faith in respect of certain matters. I say that day may come much sooner than many of us expect, because that will only mean the fulfilment of the ideal which the Constitution has set before us. But I think it will take some time. So far as this Bill is concerned, it does not contravene the Fundamental Rights, however strict a view you may take of Fundamental Rights.

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Then, Sir, I may inform my hon. friend that it is proposed to make a motion for the circulation of the Bill for eliciting public opinion. That will be the next motion that I shall move possibly at the end of this week, at any rate before the session concludes. That, Sir, should satisfy my hon. friend. The House may discuss the Bill more carefully when all the comments are received.

MR. CHAIRMAN : The question is:

That leave be granted to introduce a Bill to provide a special form of marriage in certain cases, and for the registration of such and certain other marriages.

The motion was adopted,

SHRI C. C. BISWAS : Sir, I introduce the Bill.

INDIAN COMPANIES (AMENDMENT) BILL, 1952 —(continued)

MR. CHAIRMAN : Further discussion of the motion moved by Shri C. D. Deshmukh on the 22nd July 1952 ;

That the Bill further to amend the Indian Companies Act, 1913, as parsed by the House of the People, be taken into consideration.

Shri Bhupesh Gupta was in the middle of his speech the other day. There is a scriptural injunction to the effect "avoid vain repetition".

SHRI P. SUNDARAYYA (Madras) : Sir, I want to make a statement. Just now I have seen some detenus being brought with handcuffs and ropes and

they have been brought like this from Hyderabad jail upto the gates of the Supreme Court. I want to bring to the notice of this House and of the Ministers concerned that this treatment of the detenus is against the canons of any civilized administration and I wish that the Ministers concerned can just now go out and see how they are handcuffed and how they are roped and how they are being brought. This is an indignity not only on the detenus but also on the general civilization itself and. I hope the Government will take immediate steps to see that such things are not repeated.

SHRI TAJAMUL HUSAIN (Bihar) :
On a point of order

MR. CHAIRMAN : Mr. Bhupesh Gupta will continue his speech,

SHRI B. GUPTA (West Bengal) : Sir, I shall try to keep in view your injunction on repetition." As I was trying to explain to the House the other day, the exemption sought here in this amending Bill is unmistakably in line with the concessions first demanded by the Americans and Britishers and then echoed by their friends in the business world in our own country. These concessions amount to a sort of capitulation to the Anglo-American interests and it is there that I have the strongest objection against this amending Bill.

I would like to refer to the reactions that were in evidence in the Anglo-American circles after the agreements had been reached. I would like to start with the reactions of no other than the American Ambassador in this country, Mr. Chester Bowles. Here I have got an article written by him in the "New York Times" in which he says :

"Another source of capital development is private enterprise. Recently the Indian Government guaranteed American and British private interests against nationalisation of their projected oil refineries for a twenty-five year period, and offered other inducements which would scarcely have been expected a year ago."

Mark the words 'other inducements'. We don't know the details but I suppose