

**Title: Consideration of the Constitution (Amendment) Bill, 2000(Substitution of new schedule for Seventh Schedule)(contd.)**

**SHRI VAIKO (SIVAKASI):** I beg to move:

**"That the Bill further to amend the Constitution of India, be taken into consideration. "**

Mr. Chairman Sir, I express my gratitude for this golden opportunity conferred upon me today in this august House of Parliament. Sir, I would ever remember today, Friday, the 23<sup>rd</sup> November, 2001 and I would cherish this day as a day of remembrance in my public life because I have the honour to belong to a movement called the Dravidian Movement.

**SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL):** Is it necessary to mention Dravidian Movement?

**SHRI VAIKO :** It is necessary. You have to listen from the Marxian ideology. It is because we do not change our views like you.

Sir, therefore, it is the cardinal principle to which we are wedded to. Shri Varkala Radhakrishnan, you may kindly listen and understand what I am going to tell here.

**MR. CHAIRMAN:** Shri Vaiko, please address the Chair.

**SHRI VARKALA RADHAKRISHNAN :** But why should you bring in Dravidian Movement here?

**SHRI VAIKO :** Is the very pronouncement of Dravidian an anathema to you? You are a Dravidian. Do not forget that. You are an Indian and at the same time, a Dravidian too.

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So, Sir, I have the honour of belonging to a Movement which was brought to the forefront by our great lamented *Aringar Anna* who founded the DMK Party.

Sir, this Bill will throw light on a major subject which is dealt in Schedule VII of the Constitution of India. I already pointed out that I cherish this opportunity. The cardinal principle of my Party, the Marumalarchi DMK, is decentralisation, giving more powers to the States, and having a true federal country. So, we are for real federation. There were days when the late lamented *Aringar Anna* demanded a separate country. It was called *Dravidastan* or *Dravida Nadu*, to which my friend, Shri Varkala Radhakrishnan may be allergic. But it is part of history.

Until Chinese invasion – who were applauded by my Marxist friends when the cannons of Chinese rode in the Himalayan peaks – Anna gave up the idea of a separate State. At the same time, when he became the Chief Minister of the State of Tamil Nadu, he stressed the point that the reasons or causes for which he demanded a separate State do continue.

Sir, Preamble to the Constitution of India reads like this:

"We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens Justice, Liberty, Equality and Fraternity. In our Constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this Constitution."

This very concept itself is against truth. It is because the Constituent Assembly did not really represent the population of the country. Mr. K.C. Wheare, in his *Modern Constitution* mentions this. Let me quote:

"In India the people enact the Constitution in our Constituent Assembly. But the Assembly was composed of representation elected by a minority of the people of India and the Constitution itself was never submitted to the people directly."

Until 1733, there was no such thing as Central Government so far as the British Empire was concerned. People are advocating for a strong Centre. I hear the voice of many political parties for a strong Centre and a strong India. We are for a strong India and I would like to stress and emphasise this point in no uncertain terms that we are for the unity and integrity of India. On this question, our *bona fides* are clear, and whether we belong to MDMK, or DMK or

ADMK or Telugu Desam or National Conference or Akali Dal, or any other regional party are second to none.

We are for the unity and integrity of the country. But before the British came, was there really a united India? I would like to crave the indulgence of the hon. colleagues, belonging to various political affiliations, both from the Opposition Benches and the Treasury Benches, without any ill-will towards anybody, without any bitterness, without any rancour and without any partisan approach, as a student of history, I would like to put forth the views before the House. Let them lend their ears and weigh in their hearts as to what I am going to put forth here because I belonged to a party which demanded a separate country from this landscape. We demanded a separate country. We have given up that demand hundred per cent. Today, we are not for any separate country. We are for a united India. But at the same time, we should not forget the fact that there are many religious groups, languages and cultures. Some of my friends may not agree but I think the Marxist friends would definitely agree to my perception that it is a multi-national State. There are many nationalities in the country. Today any citizen of India can walk with pride, raise his head high in the streets of any Capital of the world because he belongs to a democracy, the tallest democracy and a democracy which is 100 times better than the United States of America. The words 'unity and diversity' are coined by Pandit Jawaharlal Nehru. With these diverse, plural, ethnic, linguistic and religious groups, five decades have passed; Governments have come and gone. But today we stand as the tallest democracy.

My point was this. Was there a united India before the British came? People say that there should be a strong Centre. Mauryan Empire was there with a strong Centre. Could they survive forever? Then, Gupta Empire came. Some of the historians had glorified the Gupta Empire as the golden age. There was a strong Centre. Did they survive the fall? Later, Chengez Khan was there; the Mughal empire was there.

I do remember and recall the words of Shri Sanjeeva Reddy, who was the President of India. In one of the speeches as the President of India, he said that neither during the days of Ashoka nor during the days of Aurangzeb, this landscape was united. The *lathis* of the British; the guns of the British united this country. There were three Presidencies, namely, Calcutta, Bombay and Madras. Centralisation, with all powers at the Centre, was at its peak when Lord Curzon was there. Then, Lord Morley was the Secretary of State for India in London during the British Empire when Lord Minto was the Viceroy here. Lord Morley appointed a Royal Commission. That was the first step towards decentralisation. Reforms of Montego-Chemlsford of 1919 introduced "Federalism in embryo".

These are the words of Granville Austin. He has made a thorough research on the Indian Constitution. In one of the Constituent Assembly debates, Shri K. Santhanam said:

"The small dose of provincial autonomy injected into the Indian political system by the Montague Chelmsford Reforms created a strong appetite in the country for a substantial expansion of the area of provincial self-government. We may take it that in 10 years or 15 years time, the entire Concurrent List would automatically become the Central List."

Sir, in the year 1999, when we had a Conference on 'State Autonomy' at the birth place of Arignar Anna, Kancheepuram, the present Home Minister, Shri L.K. Advani was kind enough to come to that Conference and in his speech, he clarified this point. He said that decentralisation is the need of the hour. So, he is also for a strong Centre, but at the same time he feels that decentralisation should take place in the country. I think, my hon. friends will also throw some light on this Bill as to what they feel and what they think about the need for decentralisation and particularly about the Seventh Schedule.

Sir, earlier there was a discussion on a Private Member's Resolution on this subject, but according to my little memory, – I have gone through the books in the Library – this is the first time that a discussion on a Private Member's Bill is taking place on reallocation of items of the Union List, the State List and the Concurrent List under the Seventh Schedule of the Constitution.

Sir, to put it in a nutshell, in my Bill, I have listed four items which are to be lifted from the Union List and added on to the State List. The first one is, Entry No. 84 relating to duties of excise on tobacco and other goods manufactured or produced in India except (a) alcoholic liquors for human consumption, (b) opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry. The second one is, Entry No. 87 relating to estate duty in respect of property other than agricultural land. The third one is, Entry No. 88 relating to duties in respect of succession to property other than agricultural land and the fourth one is very important and that is, Entry No. 97 relating to any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists. This is called residuary powers.

Sir, when we speak about Federal Constitution, we always refer to the United States of America, Australia, Canada and, to some extent, Ireland. As far as the Constitution of the United States of America is concerned, residuary

powers have gone towards the State. In Australia also, they have gone to the States, but in the case of Canada, residuary powers are vested with the Centre.

In India, this debate over the allocation of residuary powers became very significant because there were two lobbies. One powerful lobby was demanding that the residuary powers should be vested with the States. There was another very powerful lobby. I do not want to give any communal colour. Those who are interested in knowing about that, they can go into the pages of history and see who were demanding for the States and who were demanding for the Union.

There was a powerful group demanding that these powers should be vested with the Union List. Then, what had happened? The founding fathers of the Constitution very cleverly created a new device, that is, the Concurrent List. So, they divided all the items in their knowledge into the Union List, the State List and the Concurrent List. They did not want to give any room for any problem. They carefully put:

"Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists."

According to the present Constitution, this is Entry No. 97 in the Union List.

I have given this Amendment. This should be vested with the State List. They may not agree. But this is the forum for debate, discussion and putting forth different points of view. Therefore, I wish that these 10 items should be deleted from the Concurrent List and added to the State List:

"1. Transfer of property other than agricultural land; registration of deeds and documents. (Entry No. 6).

1. Actionable wrongs. (Entry No. 8).

2. Education including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List-I; vocational and technical training of labour."

'Education' is very important. I will dwell on it because it has become a very controversial subject. This should be vested into the State List. Previously, it was with the State List. During the days of Emergency, according to the 42<sup>nd</sup> Amendment, this was taken away from the State List and handed over to the Concurrent List. It was a glaring encroachment on democracy when the voice of the Opposition was stifled. Many of them were languishing into the dark dungeons of the prison. Most of the Members of Parliament also were there. The 42<sup>nd</sup> amendment simply wished away this item from the State List to the Concurrent List.

I am pained. In the name of bringing everything under one umbrella, if you want to Sanskritise it, if you want to bring Vedas or any other concept, if you want to thrust it upon the people of India all over the country under this umbrella of education, we are totally opposed to that. Even 'astrology' is being discussed. That is one of the important items of the curriculum for schools and colleges. As a rationalist, I am totally opposed to it. Therefore, education is important. ...(*Interruptions*)

SHRI K.A. SANGTAM (NAGALAND): But you support the Government. ...(*Interruptions*)

SHRI VAIKO : That is a different matter. We agree to disagree on certain issues.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): As a rationalist, you are supporting '*saffronisation*'.

SHRI VAIKO: No, no. I am always with this black scarf. Some of my friends, who believed in astrology and superstitious things, came to me and advised me: "Dear Vaiko, you change this black colour to yellow or blue or some other colour. You can capture power." I told them: 'No'.

No, I will not change my colour, I will not change my ideology. I am consistent on certain principals and issues. So, we now deviate the subject.

"Charities and Charitable Institutions, Charitable Religious Endowment and Religious Institutions", now is in the Concurrent List. It should be taken to the State List.

"No.5, Vital Statistic including registration of birth and death - entry No.30.

No.6, ports, other than those declared by or under law made by Parliament or existing law to be major," be called minor ports.

'No.7, Archaeological sites and remains other than those declared by or under law made by Parliament to be of national importance - entry No.40". This also has to be vested with the State List.

"No.8, Custody, management and disposal of property including agricultural land declared by law to be evacuee property. - entry No.41.

No.9, Acquisition and requisitioning of property. - entry No.42.

No.10, Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty."

Sir, what are the items for the States? This is a ridiculous list. What powers the States have got? They have more or less become the go-getting partners of the country. Most of the time they have to be here with a begging bowl as if they are going to get some doles from the Centre. These were the words expressed by Shri Hanumanthia. These were the words of the Shri Virendra Patil, the then Congress Chief Minister of Karnataka, "We are treated even not like Municipalities." These were the words of the Chief Ministers.

What are the items that have been given to the States?

"Pounds and the prevention of cattle trespass.

Protection of rural animals and birds.

Markets and fairs.

Treasure trove.

Weights and measures except establishment of standards.

Betting and gambling.

Pilgrimages.

Burials and burial grounds"

It is worth mentioning. These are the items in the State List.

"Preservation and protection and improvement of stock and prevention of animal diseases; veterinary training and practice.

Relief of the disabled and unemployed.

Charities and charitable institutions.

Vital Statistics including registration of birth and death.

Minor ports.

Mechanically propelled vehicles."

Sir, most of the items to which the States have been entrusted are mostly responsibility based. They are not any powers but the Central Government has played with the fate of the State Governments all these years.

Even in the first general election, in my State, at that time, it was composite Madras, when the flag of Pandit Nehru was flying sky high, actually Congress lost the election. Only through the backdoor with the help of the Governor, Congress captured power. So, all these years, we inherited the legacy from the British colonial regime and fought for their having the Governors under the control of the Viceroy.

These Governors acted to suit the needs of the party in power at the Centre. So, the first mischief took place in Madras Presidency. Congress was put to power. From that date onwards, how many times the State Governments have been dismissed? Is it a healthy trend in our democracy?

We have to continue and march very fast along with other countries for centuries ahead. Therefore, a strong federal set up is the need of the hour.

**18.00 hrs.**

Then only, Sir, the unity and integrity of the country could be protected. What had happened even in my State? When DMK was ruling, my AIADMK friends demanded the dismissal of DMK Government. I stoutly opposed it. Of course, I have to settle my scores politically with DMK but in principle I opposed the demand of the dismissal of DMK Government. Similarly, I am opposing AIADMK politically. That is different. But if there is a demand to dismiss

AIADMK Government, I will be the first man on the floor of this House to oppose the demand. ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN: What about the unity of the Dravidian Parties? ...(*Interruptions*)

SHRI VAIKO : You are not able to unite the Communists for a long time. Particularly in Kerala, even your Marxist Party is in doldrums. First of all, you have to build the unity of your Party in your State. ...(*Interruptions*)

MR. CHAIRMAN : Please address the Chair.

SHRI VAIKO : Therefore, Sir, all these years the Union Government had played with the fate of the State Governments.

MR. CHAIRMAN: Shri Vaiko, you can continue your speech next time.

SHRI VAIKO : Okay, Sir. I have given the preamble for my Bill. Thank you.

MR. CHAIRMAN: The House stands adjourned to meet again at 11 a.m. on Monday, the 26<sup>th</sup> November, 2001.

**1801 hrs.**

*The Lok Sabha then adjourned till Eleven of the Clock on  
Monday, November 26, 2001/Agrahayana 5, 1923 (Saka).*

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