

MR. CHAIRMAN : The result* of the division is : Ayes : 61; Noes : 115.

The motion was negatived

17.22 Hours.

CONSTITUTION (AMENDMENT) BILL

(AMENDMENT OF ARTICLES 32 AND 226)

MR. CHAIRMAN : The House will now take up the Constitution (Amendment) Bill by Shri Tenneti Viswanatham.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : Sir, I beg to move :

"That the Bill further to amend the Constitution of India, as reported by Select Committee, be taken into consideration."

In so doing, I would like to say a few words in support of the Bill. When this Bill was first introduced, there was a discussion upon the general principles. Then it was referred to a Select Committee. The Government also supported its reference to Select Committee

The Bill has got a very limited purpose. Article 32 has a very unique clause, clause (1), a provision generally not found in other Constitutions. It says :

"The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed."

I want to lay particular emphasis on this portion. The fundamental rights are generally enumerated in many constitutions but it is only in our Constitution that it has been specifically stated that the right to move the Supreme Court for the enforcement of the fundamental right is itself a fundamental right. As justice Raja-

gopala Ayyangar has stated in one of the cases decided in 1964 :

".....once it is proved to the satisfaction of this court that by State action the fundamental right of a petitioner has been infringed it is not only the right but the duty of this Court under Art. 32 to afford relief to him by passing appropriate orders in that behalf. The right given to the citizens to move this Court under Art. 32 is itself a fundamental right and the same cannot be circumscribed or curtailed except as provided by the Constitution. It is inappropriate to equate the duty imposed on this Court to the powers of the Chancery Court in England or the equitable jurisdiction of the American Courts."

In England there is a Court of Chancery where there are discretionary remedies given because it has no written Constitution. In India the position is different. There is no question of discretion here. The rights are stated in the Constitution. The courts do not get any rights beyond what is stated in the Constitution and no one has got the right to curtail any of the rights given to the courts under this Constitution. Therefore, the attempt by certain judges to equate the discretionary jurisdiction of equity courts with the constitutional obligation of the courts in India is wrong. This is what justice Rajagopala Ayyangar says :

"It is inappropriate to equate the duty imposed on this Court to the powers of the Chancery Court in England or the equitable jurisdiction of the American Courts. A duty imposed by the Constitution cannot be compared with discretionary powers. Under Art. 32 the mandate of the Constitution is clear and unambiguous and that mandate has to be obeyed. It must be remembered, as emphasized by several decisions of this Court that this Court is charged by the Constitution with the special responsibility of protecting and

*The following Members also recorded their votes:—

AYES : Shrimati Suseela Gopalan and Sarvashri S. M. Banerjee, Mohammad Ismail and B. K. Gudadinni;

NOES : Shri Shashi Bhushan.

[Shri Tenneti Viswanatham]

enforcing the fundamental rights under Part III of the Constitution. If I may with respect, borrow the felicitous language employed by Chief Justice Patanjali Shastri.....that as regards fundamental rights this Court has been assigned the role of a Sentinel.....The anxiety of this Court not to whittle down the amplitude of the fundamental rights guaranteed has found expression in several of its judgements."

MR. CHAIRMAN : He may continue his speech during the next session.

SHRI TENNETI VISWANATHAM : May I request the government to give me some time during next week ?

17.29 hrs.

HALF-AN-HOUR DISCUSSION RE :
PRODUCTION OF INDIAN
TOBACCO COMPANY BEYOND
INSTALLED CAPACITY

MR. CHAIRMAN : The House will now take up the half an hour discussion.

SHRI JYOTIRMOY BASU (Diamond Harbour) : Within the brief time at my disposal I shall show how important it is for the Indian economy to stand on its own foot. I will also show how in the case of a single item of consumer goods the monopoly giants eat away the Indian consumers, the tobacco growing peasants, the workers, the exchequer and the tax collectors by showing the profit elsewhere and make us lose foreign exchange by export of raw materials which can be made finished goods here by small Indian entrepreneurs.

My main demand is, at the beginning I must say, immediate thorough probe in to the entire cigarette industry; its Indian and foreign monopolies, its ownership, capital structure and family control or coterie control; cost structure from the point of view of the consumer; interest of the tobacco growers; and the possibility of export of finished goods. Finally, this

whole industry needs to be nationalised at once.

I am quoting the names of the producers from a reply given to starred question No. 1671 dated the 13th May, 1969 in which they gave ten names. They are : Imperial Tobacco Co. Ltd., Calcutta (today they have taken the garb of Indian Tobacco Company); Vazir Sultan Tobacco Co., another interlocking subsidiary sister concern; Godfrey Phillips, Golden Tobacco Co.; National Tobacco Co.; D. Macropolo; Masters Tobacco; Crown Tobacco; Hyderabad Deccan Cigarette Factory and International Tobacco Company.

The Golden Tobacco Company is an Indian family concern. I am told it has about Rs. 28 lakhs of capital. It is a family monopoly. There are 14 persons holding about Rs. 20 lakhs each. This also has to be looked into because we cannot encourage such family monopolies in this country. This is a purely Indian company, still from the point of view of discouraging monopoly we must look into the matter.

Then I come to another giant combine. This has the same control, management and cleverly done interlocking of ownership. One is Indian Tobacco Company—there is very little Indian in it—Vazir Sultan Tobacco Company and Indian Leaf Tobacco Co. There cousins are Molins, Triveni Issues and India Foils—all controlled by British American Tobacco Company Limited of United Kingdom.

SHRI K. NARAYANA RAO (Bobbili) : In the case of Vazir Sultan Tobacco Company, the Government of Andhra Pradesh has shares in it. How can you say that it is controlled by the British ?

SHRI JYOTIRMOY BASU : Are you a spokesman of Indian Leaf Tobacco Company.

SHRI K. NARAYANA RAO : No.

SHRI JYOTIRMOY BASU : I come to the composition. The Indian Licensing Policy Inquiry Committee says at page 113 that the country of origin of the Imperial Tobacco Company is UK and the holding