

Massive vote for Constitution Amendment Bill

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NEW DELHI, August 4.

AMID cheers—and a walk-out by a lone Swatantra member—the Lok Sabha tonight passed the Constitution (24th Amendment) Bill, 1971, which will make it explicit that Parliament has the power to amend all parts of the Constitution, including the Fundamental Rights.

The voting was 384 in favour and 23 against, with five abstentions.

There was a sense of history-in-the-making in the packed House, and the Prime Minister, Mrs. Indira Gandhi, herself referred to the "high order of the speeches as befits this momentous occasion."

She assured the critics of the Bill, notably Mr. Frank Anthony (Nominated), that "we are committed to the upholding of the fundamental freedoms—the freedom of speech, freedom of assembly and freedom of worship—and our commitment to secular democracy is non-negotiable."

The Bill now goes to the Rajya Sabha.

After it has been passed by that House by the requisite two-thirds majority, it will be referred to the State legislatures.

At least half of these legislatures will have to ratify the measure by resolutions to that effect before it becomes law.

As for the President's assent, the Bill lays down that he "shall give his assent."

"NOT CURTAILED"

The Jana Sangh member, Mr. A. B. Vajpayee, inquired why the assent of the President had been made mandatory, thereby depriving him of his discretionary powers. To that, the Law Minister, Mr. H. R. Gokhale's answer was that the powers of the President were not being curtailed. The Government—or the Council of Ministers—had in fact, divested themselves of the role of aiding and advising the President in this particular instance. He did not explain why.

This is one of the few occasions when a Constitution amending Bill has sought to alter even the marginal notes of articles and clauses. The marginal note regarding Articles 368 now says: "Procedure for the amendment of the Constitution."

When the present amendment be-

comes effective, the marginal note will read: "Power of Parliament to amend the Constitution and procedure therefor." This has been introduced to meet the criticism that Article 368 is only a procedural one.

The Opposition made a fight of it till the end. There were ten divisions, including the final one, when the Bill was declared passed by the requisite majority of at least half the total number of members and not less than two-thirds of those present and voting.

Most of the 41 amendments were to Clause 3 of the Bill which is the operative part of it. All of them were rejected.

Much of the criticism, particularly from Mr. Frank Anthony, was that once Parliament acquired the power to alter the Fundamental Rights, the rights of the minorities might be curtailed by Parliament itself.

VESTED INTERESTS

To that, Mrs. Gandhi's answer was that, if one lost faith in the people and in Parliament which represented them, there was not much that anybody could do. In this connection, she quoted from the Bible: "Ye are the salt of the earth. When salt hath lost its savour, wherewith shall it be salted?"

Replying to the debate, the Minister for Law, Mr. H. R. Gokhale, pointed out that in 99 out of 100 cases in the Supreme Court where fundamental rights had been invoked, it was

in respect of the property rights of the vested interests.

Nobody, Mr. Gokhale said, liked a confrontation between the Supreme Court and Parliament. In a democratic society, the legislature, judiciary and executive had to perform their proper functions. While the judiciary performed its functions, the legislature must perform its, including the amendment of the Constitution, so that "the difficulty pointed out by the Supreme Court is overcome."

The member who withdrew from the House while voting was in progress was Mr. Piloo Mody (Swa.).

The Speaker, Dr. G. S. Dhillon, did not allow his point of order to be recorded. But he gave a ruling that the preamble, short title and enacting formula of the Bill did not require a two-thirds majority.

DIVISION PROCESS

P.T.I. adds: The process of division was spread over more than two and a half hours with members rushing in and out as the division bells rang from time to time.

Mr. P. K. Deo and Mr. Piloo Mody insisted on the clearance of the lobbies every time before a division was called. This kept the tellers and lobby staff busy.

There were also moments of mirth when the electric board showed a number of members having recorded their vote wrongly. The erring members included Mr. Jagjivan Ram, Dr. Karan Singh and Mr. H. N. Bahuguna.

A crescendo of "Shame, shame" went up as the House rejected by 378 votes to 25 Mr. Vajpayee's amendment suggesting a reference of the Bill to the Supreme Court for opinion.

Equally deafening cheers and thumping of desks greeted the final voting on the Bill around 1930 hours.

Details on Page 11