

# 12th Constitution Amendment Bill important for nation

The Jatiya Sangsad resumed its sitting at 10.30 am Tuesday with Speaker Abdul Rahman Biswas in the chair, reports BSS.

The day's proceedings began after 15 minutes with the Speaker taking the floor to give a message of condolence to the bereaved families of those who were killed in the assassination of the late President Ziaur Rahman.

Taking the floor, Hajji Rashed Mosharraf (AL-Jamaat) said he had an important privilege notice. The Speaker told Mosharraf that he would give his decision on the notices today (Wednesday).

Rising on a point of order, Mohammad Abdul Awal Mia (AL-Kushtia) said he had given 13 amendments but only one had been allowed.

The Speaker told the House that amendments for a clause-wise discussion had been admitted according to the decision of the Business Advisory Committee. He said some other amendments had been rejected by the committee as those were related to other articles, not concerning the present bill.

At this stage, some members from the Opposition Bench tried to draw the attention of the chair. The Speaker told the members that they would be allowed 10 to 15 minutes time during the later part of this sitting.

The Speaker said general discussion on the Constitution (12th Amendment) Bill, 1991, concluded Monday. He said clause-wise discussion would be held Tuesday.

Biswas said Law and Justice Minister Mirza Goham Hafiz had introduced the 12th

Constitution Amendment Bill on July 29. Discussion on the bill began on July 31 and continued till Monday. He said there were some amendment notices for sending the bill for eliciting public opinion, and some other for sending it to the Select Committee. Discussions on these amendments had been completed, he said, adding that now they would be put to vote.

The amendments for eliciting public opinion were rejected by the House by voice vote. The Speaker said the amendments for sending them to the Select Committee, which had already submitted its report on them, was not proper, and so they stand rejected.

There after, the Constitution (12th Amendment) Bill, 1991, was placed for immediate consideration by the House in the form as resented by the Select Committee.

The House accepted the bill unanimously for immediate consideration.

**Sajeda Chowdhury**  
Begum Sajeda Chowdhury took the floor on a point of order and said certain newspapers were trying to tarnish their image. She pointed out a news item published by Kal-Bela stating that she (Sajeda) got a cassette recorder by one Moinuddin and gave it to Begum Matia Chowdhury.

The Speaker said the newsmen should make objective reporting. He also urged the editor and owner of the paper to take action in this regard.

### Matia Chowdhury

The chair then gave the floor to Begum Matia Chowdhury (AL-Sherpur) to move her amendment.

Begum Matia Chowdhury said Bangladesh would have a President who should be elected through secret ballot.

Begum Matia said once secrecy of vote was violated, the trend would spread to other fields. She said secrecy of vote should be maintained to ensure right of franchise. She said the Select Committee had made a lot of improvement in the bill but it could not fully amend it. This provision could be incorporated through simple majority.

### Rashed Mosharraf

The next speaker Rashed Mosharraf (AL-Jamalpur) supported the contention of Begum Matia Chowdhury. He said vote is a sacred trust and its secrecy should be maintained.

Rising on a point of order, Law and Parliamentary Affairs Minister Mirza Goham Hafiz drew the attention of the Speaker to Rule 82 of the Rules of Procedure and urged him to hold single discussion on the series of inter-dependent amendments to save time and repetition of arguments.

He said the 12th Constitution Amendment Bill has been placed before the House through consensus reached between the Opposition and the Treasury Bench. He said the pattern of voting for the election of the President would be decided later through a different bill. He said

the members of the House would get enough time to give their opinion then.

He said as the 12th Constitution Amendment Bill was very important for the nation and democracy, saving of time at the moment was necessary.

Disagreeing with the suggestion of the Law Minister, that discussion on the system of election of the country's President could be held later, following introduction of a bill on the matter, Tofael Ahmed said this would make the present amendment bill incomplete.

### Delwar Hossain

The Chief Whip Khandaker Delwar Hossain then stood up to point out that on the basis of the understanding the Chief Whip of the Opposition was supposed to furnish a list of the speakers on the amendments to save time.

Sengupta said the nature of arguments to be put forward by the members in support of their amendments might differ although the amendments are on the same matter.

### Nazir Hossain

On being asked by the chair Nazir Hossain (CPB-Sunamganj) moved his amendment on the 12th Constitution Amendment Bill in which he proposed to incorporate secret voting for the election of the President.

### Shamsuddoha

Moving his amendment on the same issue, Shamsuddoha (CPB-Nilphamarj) said if the election of the President was

made through secret voting, democracy would be put on a firm footing in the country.

Tabling his amendment on the election of the President through secret ballot, Suranjit Sengupta said the President of the country is the symbol of unity and his election should be held through secret ballot.

### Salahuddin Quader

Moving his amendment for election of the President through secret ballot, Salahuddin Quader Chowdhury said the highest post in the Constitution was the office of the President. He said he would withdraw his amendment if the Law Minister could cite the example of a single country in the world where the President is not elected through secret ballots.

Mohiuddin Ahmed (AL-Bakerganj) who also moved similar amendment on the 12th Constitution Amendment Bill, said it was not proper that the members of the Parliament would exercise their right of franchise openly after being elected through secret ballots. He said it would be a mockery if the election of the President was done through open vote.

### Abdul Mannan

Tabling a similar amendment seeking presidential election through secret ballot, Prof Abdul Mannan (AL-Meherpur) said the President is the symbol of dignity and identity of a nation. He said it would not be proper to elect the President through open vote, in this age, the end of the 20th century.

AKM Jahangir Hossain (AL-Patuakhali), Mosharraf Hossain (AL-Mymensingh with (Hetrokna) Rahmat Ali (AL-Gazipur), Tabibur Rahman (AL-Jessore), and Kazi Abdul Rashid (AL-Gopalganj) also moved similar amendments seeking election of the President through secret ballots.

### Suranjit Sengupta

In his amendment to Article 48 of the bill under discussion, Suranjit Sengupta (OP-Sunamganj) suggested that the executive power of the republic should be vested in the President and the Prime Minister shall exercise the power as the President's representative.

To drive his point home, he said if all powers are vested in the hands of a single person, there is a chance of his becoming corrupt.

Referring to the 1972 Constitution, Gupta said under that Constitution the Prime Minister was given sweeping powers. At that time the framers of the Constitution had to take cognizance into the situation obtaining in the country and the towering personality of Bangabandhu Sheikh Mujibur Rahman, the then Prime Minister, he added.

He further said, when we are going to pass this bill, we shall not only change the system of government but also appoint a Prime Minister, concentration of all powers in one hand would not be fair in the interest of democracy, he said, adding there should be a balance of power.

### Moving his amendment,

Salahuddin Quader Chowdhury (NDP-Ctg) said Article 48 of the present bill is the carbon copy of the 1972 Constitution. He told the Speaker that the Opposition Chief Whip Md Nasim had criticised him (Salahuddin) during his absence from the House Monday for saying that the 1972 Constitution could not be described as magna carta of freedom. The Speaker urged Salahuddin to confine his statement to his amendment.

Salahuddin agreed that the 1972 Constitution was framed under special circumstances and special historical perspective. In this context, he pointed out that no Constitution in the world gave so much power to the Prime Minister as has been proposed in the present bill. His amendment aimed at further enriching the Constitution and further democratising it. He suggested amendment to the bill to elevate the office of the President and to show respect to this office, he added.

### Shahduzzaman

Shahduzzaman (Jamaat-Bogra) said his amendment sought to keep the judiciary free from the influence of the executive so that people get justice.

In his amendment, Maulana Azizur Rahman Chowdhury (Jamaat-Dinajpur) also spoke in the same vein. AM Riasat Ali (Jamaat-Sathkira) said fundamental rights of the people would be ensured if the judiciary was separated from the executive. The amendment of Maulana Abdus Sobhan

(Jamaat-Pabna) was similar to that of his party members.

### Shahjahan

Shahjahan Chowdhury (Jamaat-Chittagong) said in his amendment that both the President and the Prime Minister should jointly appoint the Chief Justice and other judges to ensure the appointment of right men to right place.

Moving his amendment, Salahuddin Quader Chowdhury (NDP) said the Chief Election Commissioner should be appointed by the President in consultation with the Prime Minister.

### Sheikh Hasina

At this stage, Leader of the Opposition Sheikh Hasina took the floor and drew the attention of the chair to a seemingly confused situation in Article 57 of the bill vis-a-vis Article 57 of the Constitution as regards the power by the President to grant clemency.

She said the President either in parliamentary or in presidential system—enjoyed the power of clemency and this was contained in the Constitution but was not clearly spelt out in Article 57 of the bill.

Sheikh Hasina wanted to know how the relevant articles in the bill and the Constitution would be harmonised.

The Speaker said it ascertained after going through the details of the bill.

### Incomplete

suggested.

### Aminul Huq

Mr Aminul Huq (BNP) moved two amendments on the timeframe of the return of the Acting President to his old post and taking over of power by the new president.

The member agreed to further study his amendments at the advice of the Chair who said his amendments could be taken up later.

Mr AKM Jahangir (AL) moved his amendment on certain formalities on the vacancy of the presidency but agreed to further study his amendment as advised by the Chair so that his formulation of the amendments became more explicit.

### Salauddin Yusuf

Mr Salauddin Yusuf (AL) moved his amendment to add just certain expressions in some clauses so that the formulation became more clearer.

Mr Harun-ur-Rashid and Mr Khalilur Rahman withdrew their amendments as they found that these were now redundant.

Law and Justice Minister Mirza Goham Hafiz said it was discussed in details in the Select Committee when the Acting President would go back to his original position as the Chief Justice.

The Deputy Speaker wanted to know from the Law Minister if it was necessary to make any provision for ratification of the deeds of the Acting President from the date of giving his assent to the 11th Amendment to the Constitution till he goes back to his original position after election of the new president.

The Law Minister explained that the Acting President would continue to work till the election of a new president. He said it did not find any vacuum anywhere.

The LGRD and Cooperative Minister agreed to the suggestion given by Moudud Ahmed. He said it would be alright if the amendment was made inclusive of both the days.

The House then rejected all the amendments except the one proposed by Maulna Huq (BNP-Rajshahi) to the effect that legal cover should be given to all actions of the Acting President till the appointment of a new president under the constitution.

Some amendments were also withdrawn. The Deputy Leader of the House Prof Badruddoza Chowdhury withdrew the one proposed by Mirza Abbas.

Disagreeing to the suggestion of Salahuddin Yusuf, Deputy Speaker Sheikh Razzak Ali said according to the rules of procedures every bill must have to be put to vote.

He said, if the bill is passed unanimously it would amply demonstrate our respect to the Acting President.

The Speaker then said the Eleventh Amendment Bill was now ready for passage in the House. But he said it would not be passed today according to the consensus reached by the members of the Select Committee to pass both the 11th and 12th Bill simultaneously in the House.

He said 'I hope we will be able to pass the two bills simultaneously' Tuesday.

The Deputy Speaker then adjourned the House at 11 pm till 10 am Tuesday.

# Zia changed one-party system introduced by AL

Following is the remaining part of Monday's Jatiya Sangsad proceedings.

### Mohiuddin Ahmed

Mohiuddin Ahmed (AL-Bakerganj) said there was no democracy during the last 16 years and the country was ruled by the autocrats. Awami League, he said, was on movement during this period for the establishment of parliamentary system.

Referring to the provision for bringing technocrats in the cabinet, he said a party which won election and formed government never felt dearth of experts in any field. If needed, the technocrat taken in the cabinet could be brought to this House through election within six months of his inclusion in the cabinet.

Mohiuddin Ahmed said any provision imposing wishful decision of leader on the members of a party would be unwise. On the issue of losing membership, he said it should not be fair to refuse a member his defence for remaining absent from the House on an occasion he is directed to be present in the House by the party.

Termining the Jatiya Sangsad as a sovereign body, the Awami League member said all the members of this House were elected by the people. Then why any bill passed by this House should be put to referendum, he asked.

Ahmed said this House is the fruit of a mass upsurge. He said people wanted to see all black laws repealed. He also demanded removal of all obstacles to freedom of the press.

### Jahangir Hossain

Taking the floor next, A K M Jahangir Hossain (AL-Patuakhali) said this House is the outcome of a mass movement for which Awami League had to wage a long movement. He said people are about to get back the parliamentary system through a great hurdle. The passage of the bill would amount to returning power back to the people.

He, however, said there are some provisions which needed to be amended.

Referring to the provision of emergency, which provides that in declaring emergency the signature of the Prime Minister would be needed, he said this provision should be changed by providing that the President would call the Jatiya Sangsad to session and get approval of the House.

Hossain said after the killing of Bangabandhu Sheikh Mujibur Rahman on August 15, 1975 all executive powers had been vested in the hand of the President. But under the 12th Constitution Amendment Bill this power had been proposed to be given to the Prime Minister, yet this section had been excluded from the referendum. He wanted to know from the chair why this had been done.

The Awami League member said democracy could not be full-fledged without ensuring rule of law. For ensuring rule of law, he called for taking steps for the passage of the Indemnity Bill submitted by the Chief Whip of the Opposition so that killers of the Bangabandhu could be put on trial.

### Shahjahan Siraj

Participating in the discussion on the 12th Constitution Amendment Bill, Shahjahan

### Mohammad Nasim

Rising on a point of order, Chief Whip of the Opposition Mohammad Nasim, said Siraj had spoken nothing on the 12th Constitution Amendment Bill till now. On the other hand, he was passing only remarks against some leaders which are indecorous.

Nasim said Siraj had contested the 1986 elections and was defeated by a big margin. He said Siraj also contested the 1988 elections and his election result was declared after two days.

Speaker Abdul Rahman Biswas said he was in a difficult situation as the Chief Whip of the Opposition had suggested the time to be allocated to most of the members, but in some cases he did not mention the time. He, however, urged the members to speak on the relevant issue.

Continuing his speech, Siraj said he supported the provision of referendum in the bill, saying that it would mean taking the people into confidence. Siraj said the 10 per cent quota for the technocrats should be maintained but with the provision that they should get themselves elected within six months. He also supported the Opposition members' contention of incorporating the provision, in the amendment, for the posts of the Deputy Prime Minister and the Vice President.

The Speaker then gave the floor to A S Feroz (AL-Patuakhali) to take part in the discussion on the Constitution Amendment Bill.

Feroz said he disputed the contention of Shahjahan Siraj that Bangabandhu had to die because of the introduction of the one-party system and said Sheikh Mujib did not introduce one-party system in 1975.

What he did was formation of a political forum, he said adding that he had done this for economic uplift of the masses.

The Awami League members said Bangabandhu had to die because of the international conspiracies against his bold move and many BNP ministers might have been involved in the conspiracies.

### Kh Delwar Hossain

At this stage, Chief Whip Khandaker Delwar Hossain took the floor and drew the attention of the chair to irrelevant and objectionable comments being made by some members in the House in the context of the discussions on the Amendment Bill.

Such comments and counter-remarks tended to vitiate the healthy atmosphere in the House, he said and requested all to refrain from such practice, particularly when the House was a setz with an important issue.

### Mohammad Nasim

The chair said he would examine the remarks made by different members and see to it that objectionable comments were expunged.

Chief Whip Khandaker Delwar Hossain again took the floor and urged the Speaker to expunge the comment of Feroz that some BNP ministers were involved in the 'international conspiracies'.

The chair reiterated that he would carefully examine all the objectionable remarks. Continuing Feroz said the armed forces or the people of Bangladesh were involved in the killing of the Bangabandhu, and added that only a handful of persons were involved.

### Tofael Ahmed

After Feroz had completed his speech, Tofael Ahmed (AL-Bhola) drew the attention of the chair to the situation in the Chittagong University, he said the Vice-Chancellor of the university was now a 'hostage' and a telegram was sent to the Prime Minister in this regard. Quoting from a newspaper, he said the situation in the Chittagong University had deteriorated further. He said the Prime Minister is in charge of the Home Ministry and so she could speak something on this.

### Matiur Rahman Nizami

Matiur Rahman Nizami (Jamaat-Pabna) said different newspapers published different kinds of reports and at times these reports were not authentic.

Some newspapers publish reports from their particular angle. The leader of the opposition Sunday questioned the veracity of newspaper reports when she spoke of a report on her own statement, Nizami said.

He said Chittagong University was not isolated from Bangladesh and the situation there was like many other troubled educational institutions.

As such, it would not be prudent to draw a conclusion based on a single newspaper report, he said and called for eliminating terrorism from the campuses all over the country.

### Shamsul Islam

After Prof Chowdhury speech State Minister for Telephone and Telegraph Shamsul Islam, on a point of personal explanation, said he or some other ministers or members of the Treasury Bench had not obstructed the speech of Leader of the Opposition Sunday as reported in the 'Banglar Bani', quoting Suranjit Sengupta.

### Niamatullah

Niamatullah (BNP-Manikganj) also denied press reports that he was not involved in such incident Sunday.

The Speaker adjourned the House at 1.42 pm to meet again at 4 pm.

### House reassembled

The House reassembled at 4.30 p.m. with the Speaker, Abdul Rahman Biswas, in the chair.

### Joinul Abedin

On a point of personal clarification Joinul Abedin Farooq (BNP-Noakhali) drew the attention of the chair to a report published in the vernacular daily 'Banglar Bani' which quoted Awami League leader

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### Tofael Ahmed

Tofael Ahmed as having said that Feroz had come running towards the Opposition Bench in the House Sunday.

He said this statement by Tofael Ahmed was not true and had tarnished his image.

### Ziaul Huq

On a similar point Ziaul Huq (BNP-Laxmipur) said a report published in the newspapers said he had gone to attack the Opposition members in the House Sunday which he said was not true.

The Speaker told the House that these newspapers would be asked to publish objective reports as well as to publish necessary corrigendum.

### Tajul Islam

The Speaker then gave the floor to Tajul Islam M Farooq (AL-Rajshahi) for discussion on the 12th Constitution Amendment Bill.

Farooq said it did not reflect in full the joint declaration of the three alliances. He also said inclusion of non-members in the cabinet was undemocratic.

### Motia Chowdhury

Speaking next, Begum Motia Chowdhury (AL-Sherpur) said we should see now how far the joint declaration of the three alliances had been implemented.

Referring to the remarks made by Law and Justice Minister Mirza Goham Hafiz that the Indemnity Bill submitted by Awami League had very complicated knots she said it was the responsibility of the Law Minister to open the knots.

In connection with the killing of Bangabandhu Sheikh Mujibur Rahman and his family members she referred to the killing of Col Jamil and wanted to know why court martial was not held when he was killed by some ousted army officers. She said 'now the army must say whether they want trial of the killers of Col Jamil who was on duty at that time.'

Begum Motia Chowdhury said though BNP did not change its manifesto and want to bring the 12th Constitution Amendment Bill the party has to yield to the demand of time. She said the bill was introduced late but why there was such a hurry now to pass it.

She said the bill did not bring unalloyed democracy and in every line there was distrust levelled against the Sangsad members, even those from the ruling party. Even the Deputy Leader of the Opposition by agreeing secretly can not make the bill and unalloyed one, she added.

Criticising the inclusion of 10 per cent non-elected members in the cabinet, she said it was an utter dishonour to the elected Parliament members.

He said Awami League was blamed for its past deeds but no step had so far been taken to repeal these black laws including the Indemnity Ordinance.

The Awami League, however, called for giving institutional shape to democracy on the basis of national unity.

The House was adjourned for the 30 minutes for the Magrab prayer.

### Mirza Goham Hafiz

Before putting the 11th

### 'historic' as the nation stood

on the brink of a new political and constitutional era.

He said the history of the people of this country was one of struggle but it was equally correct that victory achieved through struggles could seldom be preserved.

Moudud Ahmed said the Constitution of a country contained both theoretical and practical aspects but tragedy of Bangladesh was that seldom we could strike a balance between the two.

However, he said, it was heartening that a new self-realisation had now emerged and it was desirable that this awareness yielded positive results.

Tracing the history, Moudud Ahmed said it took long seven years for erstwhile Pakistan to frame a Constitution which was a mixture of parliamentary and presidential systems although it was widely described as parliamentary.

But this Constitution, when put into practice in 1956, proved infructuous as the country came under frequent spells of martial laws, he said.

Moudud Ahmed said in 1969 a formal document like a Constitution was framed by experts from erstwhile East Pakistan when Ayub Khan said that Pakistan could not function as a unitary state if he accepted the six-point programme of Sheikh Mujibur Rahman.

But Ayub Khan found the document unacceptable and chose to dissolve parliament and handed over power to Yahaya Khan, he said.

### Mosharraf Hossain

Mosharraf Hossain (AL-Faridpur) said people expect that this House would fulfil their hopes and aspiration as it is the fruit of a mass upsurge.

He said he had shifted from the joint declaration which embodied commitment of the three alliances to repeal all black laws and ensure autonomy to radio and television.

Referring to the referendum provision, Hossain said Awami League was not afraid of going to the people. The people, he said, had voted for them and sent them to this House. Why a bill passed by two thirds majority of this House should be put to referendum, he asked.

### Mostafa Rashidi

Taking the floor next, Most