

[Shri H. M. Patel]

Bill is now before a Joint Select Committee. There is no particular reason why the revision of the Cr.P.C. should precede the I.P.C. In fact, it ought to follow.

PROF. MADHU DANDAVATE (Rajapur) : Sir, I am rising on a point of order. This Bill before the House was processed by a Joint Committee of both the Houses. The report of the Joint Committee clearly indicates that there is no minute of dissent as far as clauses 10, 11 and 12 are concerned. Already Government has accepted these clauses. That Bill as reported by the Joint Committee went to the Rajya Sabha and there, violating the accepted procedure and convention, when the Joint Committee has unanimously accepted certain provisions. Government on its own or at the request of some members, agreed to the deletion of clauses 10, 11 and 12 and they have been dropped. Since the Joint Committee consists of members of both Houses, without the consent of this House, the Home Minister had no right to agree in the other House to the deletion of these provisions. Therefore, I submit this is a gross violation. Personally I feel that it is also a breach of privilege. I have given notice to the Speaker that I should be permitted to raise this privilege issue.

श्री भद्रु लिवडे (बाका) उपाध्यक्ष महोदय, यह बात जो श्री दंडवते जी ने कही है उसके बाद यह बहस धागे नहीं चल सकती। उन्होंने बहुत धरुछा मुद्दा आपके सामने रखा है—ज्वाइंट कमेटी जो दोनो सदनों की कमेटी थी, उसके निर्णय को लोक सभा को विश्वास में लिये बिना इन्होंने कैसे वापस ले लिया। राज्य मन्त्रा के मेम्बरो को प्राजादी थी, लेकिन सरकार को प्राजादी नहीं थी। मिर्षा साहब चाहे इस सदन के सदस्य हो, या उस सदन के सदस्य हो लेकिन वे इस सदन के प्रति उत्तरदायी है इमलिये दंडवते जी ने जो मुद्दा रखा है, उस पर पहले सोच समझ कर व्यवस्था दीजिए यह ज्वाइंट कमेटी की गरिमा का सवाल है, इस पर पहले निर्णय दीजिए, उसके बाद बहस चलाना हो तो चलाइए।

MR. DEPUTY-SPEAKER : I cannot, obviously, give a ruling.

SHRI K. RAGHURAMAIAH : So far as Criminal Procedure Code *vis-a-vis* the Indian Penal code is concerned, my colleague dealt with it yesterday.

PROF. MADHU DANDAVATE: Sir, I have raised a very important point. If you want to give us your considered opinion, I can understand that. There is nothing which the Minister can say on this. If you want more time to consider this, you can say so. I would like this point to be clarified.

MR. DEPUTY-SPEAKER : As far as the constitutionality or legality of the Bill is concerned, whether it can be taken up or not, it should have been raised at the beginning, before the House gave permission to the Mover to move the Bill for consideration. Now it is rather too late. I find from what you say that it is a complicated matter. I cannot give my ruling off-hand. It has to be considered. If the idea is to stop or postpone the discussion, I think it is too late because the House has already given permission for the discussion to take place. As far as the motion to postpone the debate is concerned, that is a different question. The Minister has made certain suggestions and the Members have expressed themselves on it. Now that the Minister is on his legs, I would like to listen to him. If Shri Chavda insists on moving his motion, as I have already given my consent, I cannot go back on that.

PROF. MADHU DANDAVATE : There are a number of precedents where in the course of the discussion also such points of orders have been raised. It is not as if such matters can be raised only at the beginning. At any stage of the discussion it can be raised.

SHRI H. M. PATEL : Merely to say that this point of order was not raised at the beginning and so permission was given for this discussion is not enough. Suppose at a particular point of time you notice

that something wrong has been done, then could it not be raised?

MR. DEPUTY-SPEAKER : The difficulty is that I have not been able to discover it. And you cannot expect me to discover it right now. I have to study it. But on that ground alone I cannot postpone the discussion.

SHRI H. M. PATEL : The point is of sufficient importance to postpone the discussion, because it says that a very important right of this House has been breached. The Joint Committee came to certain conclusions but in the Rajya Sabha the Minister gave up certain things without obtaining the permission of this House. This, I think, was improper and the point raised must be considered and until it is decided it is only right that we postpone the discussion.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PERSONNEL (SHRI RAM NIWAS MIRDHA) : Two or three points have been raised. The first point about the Indian Penal Code was raised by Shri Dinesh Joarder. He raised it yesterday also and I submitted that the two things need not be linked together. It will take a long time for the joint Committee which is considering the Indian Penal Code to finalise its Report and, moreover, it is not necessary to withhold consideration of this Bill till that Joint Committee finishes its work. The Chair was pleased to accept that and directed that the House proceed with the consideration of the Bill.

As regards the other point that because the Joint Committee made certain recommendations and the Rajya Sabha disagreed with that and it is contended that a point of privilege has arisen, with respect thereto, I do not think a point of privilege can be raised as a point of order. But I will not go into the technical point. The hon. Member has referred it to you and, if you like, Sir, you can deal with it in whatever way you like.

PROF. MADHU DANDAVATE : It is not that the Rajya Sabha did not accept it. But you as the Government agreed to accept deletion of those clauses.

SHRI RAM NIWAS MIRDHA . The point is, when a Joint Committee makes a Report, is it not open to the House, whichever House it is, to make any amendment thereto?

SHRI MADHU LIMAYE : Not open to the Government.

SHRI RAM NIWAS MIRDHA : Can you make a distinction, it is open to the House and not open to the Government. . . . (Interruption). The basic point is, if we accept the hon. Member's contention, whatever the Joint Committee says will not be varied in any case by the House. Anyhow, that is not the point to be discussed now.

As regards the point to adjourn the discussion on the Bill, as was decided earlier, we might finish the consideration stage now and postpone the clause-by-clause consideration to the next session. I agree the time is too short. In any case, we are postponing the Bill to the next session. Personally, I am not averse to the consideration stage being also taken to the next session. So, the general discussion on the Bill may continue upto 4 O'clock and then it may be taken to the next session.

PROF. MADHU DANDAVATE : As regards the particular procedural point I have raised, you may take time but some ruling has to be given for further guidance. It is a very important procedural point.

MR. DEPUTY-SPEAKER : I do not want to precipitate matters by giving a hurried ruling on this matter. Of course, *prime facie* it appears to me that the Government is very much a part of the House. Whatever the Report comes from any Committee, it is for the House to accept or to reject it. The House is supreme. But I do not want to give any ruling.

[Mr. Deputy-speaker]

I understand, there is another point connected with this. At 4 O'clock, we have to take up some other item.

SHRI K. RAGHU RAMAIAH : The debate on the Bill will continue upto 4 O'clock and then it will be adjourned to the next session.

SHRI DINESH JOARDER : If we are going to postpone it, what is the use of carrying the debate till 4 O'clock ?

MR. DEPUTY-SPEAKER : I think, from the suggestion made by the Minister of Parliamentary Affairs, it is quite clear that the Government is prepared to postpone even the general discussion to the next session. It is only a very technical point now that at 4 O'clock, we are to take up some other item. Why not we continue the general discussion till 4 O'clock and then adjourn it to the next session?

SHRI PILOO MODY (Godhra) : Let us have lunch hour today.

MR. DEPUTY-SPEAKER : I think, it is a very fair suggestion made by the Government

Mr. Chavda, in view of this, there is no meaning in moving this motion.

SHRI PILOO MODY : To ask for lunch is unfair at our own cost ?

SHRI DINESH JOARDER : Sir, on the Order Paper it is written :

"To be taken up at 4 P.M. or as soon as the preceding items of business are disposed of whichever is earlier.

MR. DEPUTY-SPEAKER : You have misread the whole thing.

" 'as soon as the preceding items of business are disposed of' means soon after this Bill has been disposed of, which cannot be done "

SHRI PRIYA RANJAN DAS MUNSI (Calcutta South) : I seek one clarification from the hon. Minister.

While I am not opposed to the discussion to be continued, I want to submit that certain complications have been pointed out by the hon. Members and the Parliamentary Affairs Minister and the Home Minister accepted that the clause-by-clause discussion will be continued in the next session . . .

MR. DEPUTY-SPEAKER : Even the general discussion.

SHRI PRIYA RANJAN DAS MUNSI : Yes, even the general discussion will be continued in the next session. My submission is that when the basic complications are still to be cleared to the House, I feel that even if Members participate in the general discussion—not to give any speeches but to suggest some things by way of remedy—it will be of no use and I suggest that without that clarification it will not come into effect.

Unless the Home Minister himself or the Parliament Affairs Minister is clear about the issue which may come up in the next session and because the complications are not cleared, if you allow a discussion—no matter, one can participate—but what is the use? I want to know from the Minister as to what useful purpose will such a discussion serve when a majority of the problems of the Bill are still to be discussed.

SHRI PILOO MODY : I would like to suggest to the House that the suggestion that I have made about breaking for lunch to-day as a special case is the most eminent one, for the simple reason, that any continuation of the discussion on this Bill, as has just been pointed out, is meaningless and because we have to fill in an hour and a half, it has no meaning that a lot of meaningless things should be said. If you want we can ask Mr. Mohan Kumaramangalam to make a speech for an hour and a half and he can fill the time. Otherwise, no purposeful discussion can take place.

The ruling you gave just now regarding the Order Paper about the next item being at 4 p.m. means that after the item before has been disposed of. Now, the disposing of takes place when we, as a House, decide that we should adjourn or postpone the discussion on the subject.

MR. DEPUTY-SPEAKER: If it is the general consensus that we have decided to do so. But where is it?

SHRI PILOO MODY: We have decided that the general discussion also takes place next session . . .

MR. DEPUTY-SPEAKER: Will be continued.

SHRI PILOO MODY: Now I will give you a very recent precedent on this. Just a few days ago in this House, in this session, where for some strange reason, the Call Attention notice was postponed to 3 or 4 in the afternoon and the rest of the Order Paper continued as it was and, therefore, if you do not want to get into that tangle which I consider wrong, then I suggest that you look up, smile and then say, 'Go ahead boys, have lunch'

SHRI K. S. CHAVDA (Patan): May I move the motion, Sir?

MR. DEPUTY-SPEAKER: Well, it is upto you . . . (Interruptions).

SHRI K. S. CHAVDA: Under Rule 109 of the Rules of Procedure and Conduct of Business in the Lok Sabha, I beg to move that the debate on the Code of Criminal Procedure Bill, 1972 be adjourned . . . (Interruptions).

SHRI PILOO MODY: What are you doing. They will oppose it.

SHRI PRIYA RANJAN DAS MUNSI: I think he has already moved.

SHRI K. S. CHAVDA: I want to make two things clear . . . (Interruptions) I have understood. As the Minister has

agreed, I am not going to move. I would like to submit two things for the consideration of the House. I am not moving the motion.

MR. DEPUTY-SPEAKER: But you have already moved it.

SHRI PRIYA RANJAN DAS MUNSI: He has already moved it by saying 'I beg to move. . .'

SHRI PILOO MODY: The best testimony was that he started to move it, but he did not tell you what he was to move. Unless he tells you what he has moved, it cannot be considered that he has moved it.

MR. DEPUTY-SPEAKER: I do not know what you have said at the beginning, but I will take the spirit of the House. Whatever you have said, I will take the spirit of the House. I would like to again ascertain from you whether in view of what has been expressed, you still say that you are moving the motion.

SHRI K. S. CHAVDA: I want to submit something more.

MR. DEPUTY-SPEAKER: You do not want to move but you only want to submit.

SHRI K. S. CHAVDA: Yes, Sir, I do not want to move. I want to submit.

My submission is this. All the offences under the Indian Penal Code are investigated, inquired into and tried under the Code of Criminal Procedure and now, the Indian Penal Code . . .

MR. DEPUTY-SPEAKER: So, I take it that you are making a speech on the Bill.

SHRI K. S. CHAVDA: No, No. I am making a submission.

MR. DEPUTY-SPEAKER: You are at liberty to make a speech.

SHRI K. S. CHAVDA: My point is that it should be adjourned, postponed until

[Shri K. S. Chavda]

the consideration of the Indian Penal Code. I am submitting, I am not moving the motion. The Indian Penal Code is a substantive law and the Criminal Procedure Code is a procedural law. Clause 4 of the Indian Penal Code says:

"The General Clauses Act, 1897 shall apply for the interpretation of this Code (Indian Penal Code) as it applies for the interpretation of an Act of Parliament."

Now, this Bill says in clause 2 :

"(1) words and expressions used herein and not defined but defined in the Indian Penal Code have the meanings respectively assigned to them in that Code."

That means that that clause must be amended accordingly. Otherwise, there is contradiction. Therefore, my point is that instead of adjourning to the next session, it should be adjourned until after the consideration of the Indian Penal Code is over.

My second submission is that Mr. Madhu Limaye raised a point of order and asked for a comparative table containing the sections of the Code of Criminal Procedure, 1898 and the corresponding clauses of the Code of Criminal Procedure, 1972. For the first time the Minister said it was not possible and time was short. Therefore, it should be circulated

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MR. DEPUTY-SPEAKER: It has been circulated.

SHRI K. S. CHAVDA: Not circulated uptill now, though promised.

SHRI RAM NIWAS MIRDHA: We have sent it to your Secretariat.

MR. DEPUTY-SPEAKER: They are in the Publications Counter.

SHRI K. S. CHAVDA: But not circulated.

SHRI PILOO MODY: You must circulate.

MR. DEPUTY-SPEAKER: You can go and collect it.

SHRI K. S. CHAVDA: The direction from the Chair was that it should be circulated.

MR. DEPUTY-SPEAKER: One form of circulation is to put it at the Publications Counter wherefrom the Members can collect.

SHRI K. S. CHAVDA: It should be circulated to all Members. My two points should be taken into consideration by the House.

SHRI B. R. SHUKLA (Bahraich): There is enough time, I want to raise one point.

MR. DEPUTY-SPEAKER: No, please. There is no need for further discussion. The consensus has been arrived at. Even the Member who has given notice of the Motion has said that he does not want to move it. Therefore, the matter ends there. Let the House continue with this discussion till 4 P.M. Shri Nawal Kishore Sharma.

श्री रामावतार शास्त्री (पटना) : मैं यह जानना चाहता हूँ कि उस पर नक़्त सेशन में बहस होगी या जैसा चावडा जी ने कहा कि प्राईं-पी-सी-के माथ उस पर बहस होगी ।

MR. DEPUTY-SPEAKER: I think the understanding is that this discussion will continue in the next session. Shri Nawal Kishore Sharma.

श्री नवल किशोर शर्मा (दौसा) : उपाध्यक्ष महोदय, सदन के सामने जो विधेयक विचारार्थ है इस विधेयक के सम्बन्ध में मुझे इतना निवेदन करना है कि बहुत सालों बाद इस बिल को एक ऐसा विधेयक मिलने जा रहा है जिसके जरिये से उम्मीद की जा सकती है कि न्याय लोगों को जल्दी मिलेगा, न्याय की प्रक्रिया सरल