

14.18 hrs.

Title: Consideration of the Disapproval of the Indian Council of World Affairs (Second) Ordinance, 2001 and the Indian Council of World Affairs Bill, 2001. (Consideration postponed)

MR. SPEAKER: The House will now take up items No. 7 and 8 together, namely, Statutory Resolution regarding disapproval of Indian Council of World Affairs (Second) Ordinance, 2001 and Indian Council of World Affairs Bill.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, I beg to move:

"That this House disapproves of the Indian Council of World Affairs (Second) Ordinance 2001 (No.3 of 2001) promulgated by the President on 8 May 2001."

THE MINISTER OF URBAN DEVELOPMENT AND POVERTY ALLEVIATION (SHRI JAG MOHAN): On behalf of Shri Jaswant Singh, I beg to move:

"That the Bill to declare the Indian Council of World Affairs to be an institution of national importance and to provide for its incorporation and matters connected therewith, be taken into consideration."

MR. SPEAKER: Motions moved:

"That this House disapproves of the Indian Council of World Affairs (Second) Ordinance 2001 (No.3 of 2001) promulgated by the President on 8 May 2001."

"That the Bill to declare the Indian Council of World Affairs to be an institution of national importance and to provide for its incorporation and matters connected therewith, be taken into consideration."

SHRI SHIVRAJ V. PATIL (LATUR): Sir, I am on a point of order. There are three points which I would like to submit to you in respect of my point of order.

MR. SPEAKER: What is the rule under which you are raising your point of order?

SHRI SHIVRAJ V. PATIL : It is raised under the Constitution, under the rules and under the conventions. I am raising this point of order according to the rule which is provided in the Rules of Procedure and Conduct of Business in Lok Sabha. I am saying that the Ordinances were wrongly promulgated. Secondly, the Bill was introduced, withdrawn and again submitted.

My third point of order is that this Bill cannot be considered by this House without it having been considered by the Standing Committee as per the rules.

MR. SPEAKER: Under what rule are you raising this point of order?

SHRI SHIVRAJ V. PATIL : Sir, my point of order is in three parts. One is that this Ordinance is wrongly promulgated. The second is that the Bill is introduced, withdrawn and again introduced. What is the fate of the Bill which has been withdrawn and again introduced? The third part of point of order is that the Bill of this nature has to go to the Standing Committee. The procedure requires that the Bill is introduced in this House. Then, first reading takes place and then it is referred to the Standing Committee. Then, it has to come back with the report of the Standing Committee.

If you want the rule, I can tell that. The rule is 331 E. It provides that the Bill which is introduced in the House shall be referred to the Standing Committee and when the Report comes back from the Standing Committee, it is considered. It is not always necessary to refer to a rule when a point of order is raised. The points of order are raised under the Constitution, under the rules and under the conventions. These conventions are not written in the rule book. The Constitution does not refer to the rules.

I am taking one point after the other. I am just reading from *Kaul and Shakder*, IV Edition, page 548. It says:

"The procedure of the promulgation of the Ordinances is inherently undemocratic. Whether an Ordinance is justifiable or not, the issue of a large number of Ordinances has psychologically, a bad effect. The people carry an impression that Government is carried on by Ordinances. The House carries a sense of being ignored, and the Central Secretariat perhaps get into a habit of slackness which necessitates Ordinances, and an impression is created that it is desired to commit the House to a particular legislation as the House has no alternative but to put its seal on matters that have been legislated upon the Ordinances. Such a state of things is not conducive to the development of the best parliamentary

traditions."

Now, in this case, the Government has issued, not one, but three Ordinances. First, the Ordinance was issued. It could not be turned into a law. Then, the second Ordinance was issued. It could also not be turned into a law. Then, the third Ordinance was issued. They, then introduced the Bill. The Bill was passed in the Rajya Sabha.

They withdrew that Bill. Again, they have now come before this House with a new Bill....(*Interruptions*) It was passed in Lok Sabha. It is again more objectionable because of the following fact. The Bill was passed by the Lok Sabha. It was then withdrawn in the Rajya Sabha. Again, they have come forward with another Bill before this House. They are saying that the first Bill which was passed by the Lok Sabha was different from the Bill which they are now moving for consideration. The Lok Sabha had already passed the Bill. Excepting that the provisions contained in the Ordinance can be turned into a law, again the Government is asking that this new Bill should be considered by this House. Is this a correct practice which a democracy, a parliamentary system like ours should follow? Ordinances had been issued three times. The Bill had been passed by this House. It was then withdrawn by them in the other House. ...(*Interruptions*)

I am raising a point of order. I am objecting to this kind of interruption. My first point of order is this. If the Bill was passed by this House, excepting the provisions given in the Ordinance, can a second Bill of this nature be introduced and can it be considered in order to see that the Ordinance is made into a law? I would seek a ruling from the Chair on this point.

My second point is this. I will read Rule 331E (b). This Rule provides what kind of functions the Departmentally-Related Standing Committees would discharge. The first function is to consider the Budget proposals given by the Government and come back with a report. I will now read the relevant portion for the benefit of all of us who are here. I quote:

"(b) to examine such Bills pertaining to the concerned Ministries/Departments as are referred to the Committee by the Chairman, Rajya Sabha or the Speaker, as the case may be, and make a report thereon;"

I see the Law Minister is here in the House. Probably, he is going to stand up and plead on behalf of the Government. One cannot have objection to his pleading. But what is not known to the Law Minister or many of us in this House is that when this Rule was being considered, the question was discussed whether the discretion should be left with the Presiding Officer to refer such a Bill to the House or not. In that Committee, while framing the Rule, it was discussed and it was also decided that almost all the Bills which are introduced in the House after the first reading, should be referred to the Standing Committee, and only those Bills should not be referred to the Standing Committees which are of technical nature. Supposing the dates have to be changed. It will not be necessary to refer that Bill to the Standing Committee. Supposing there are grammatical mistakes. It is not necessary to refer that Bill to the Standing Committee. This kind of provision was made in order to see that a Bill of this nature would be considered thoroughly. Of course, Ordinances and things of this nature are considered. Of course, the Finance Bill is introduced. It is not to be referred to the Standing Committee. That is why, discretion was left with the hon. Speaker of this House and with the hon. Chairman of the other House. So, it is the responsibility of the Presiding Officer to decide whether such a Bill should be referred to the Standing Committee or not. Therefore, a Bill which is of technical nature shall not be referred to the Standing Committee. But a Bill, which has some substance, should be referred to the Committee. There are many other provisions which are to be considered. In such a case, the Bill has to be referred to the Standing Committee.

If the records of this House are scrutinised, almost of this nature, as far as my information goes, at least up to 1996, it has been referred to the Standing Committee. The Members who are sitting in this House may not be aware of the discussion which had taken place in the Rules Committee. It was specifically decided that the Bills of technical nature shall not be referred to the Standing Committee but the Bills of other nature shall be referred.

Now, I am making a submission that the Government is finding it very difficult to come to a conclusion as to what kind of law should be passed with respect to this Council. So, they had to issue three Ordinances. Not only three Ordinances, but they had to introduce the Bill. The Bill was passed and they had to withdraw the Bill. These Standing Committees have been created only to give opportunity to the Members sitting on all sides - Members belonging to all parties - to put their heads together, consider as to what kind of law should be made. Why should this opportunity be denied to the Members who are sitting in this House? We are not saying that do not pass this Bill. You give an opportunity to the Members sitting on all sides to consider this. The question is that time is not available. Why time is not available? Time is available. It is not necessary that the Standing Committee should take a week or one month to consider this Bill. The Bill can be referred to the Standing Committee and the Standing Committee can come back within one or two days saying that these provisions are acceptable, these provisions should be modified and these provisions should not be there in the law. Why should this opportunity not be given? Why should the Executive take the Members of the Legislature so lightly? Three Ordinances were being passed

and one Bill was passed by this House. Now, they are again coming to this House and not allowing an opportunity to the Members to put their views together and come back to this House.

My submission is a very humble submission. It is with you, Mr. Speaker, Sir. You have to decide as to whether this is a Bill of a technical nature or not. If you think that this Bill is of a technical nature, please do not refer it to the Standing committee. Now, if you think that the submission I am making on the Floor of this House is not in consonance with the discussions which had taken place in the Committee, you can refer to the proceedings of the Committee.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): The discussions of the Committee cannot be referred in the House. ...(*Interruptions*)

MR. SPEAKER: Dr. Vijay Kumar Malhotra, I would come to this side also. Why are you in a hurry?...(*Interruptions*)

SHRI SHIVRAJ V. PATIL : Shri Mahajan, this is a law-making provision. When the Committee on Subordinate Legislation are making a law, they have the powers, which are enjoyed by this House also, because the rules are made by the Rules Committee.

SHRI PRAMOD MAHAJAN: I am not on any point which you are saying. I am only saying whether the discussions that took place in the Rules Committee in 1996 can be referred to here....(*Interruptions*) Nobody knows about it. ...(*Interruptions*)

SHRI SHIVRAJ V. PATIL : They are binding on you, Shri Mahajan. When you make a law and when you challengeâ€¦! ...(*Interruptions*)

SHRI PRAMOD MAHAJAN: The rules are binding on me but not discussions.

SHRI SHIVRAJ V. PATIL : Discussions are also binding. That is exactly what I am saying. Your Law Minister is here. When you make a Constitution and when you challenge the provisions of the Constitution, you refer to the discussions in the Constituent Assembly. When you make a law and when you challenge the law in the High Court or the Supreme Court, you refer to the discussions in the House in order to find out the real intentions of the law-makers. ...(*Interruptions*)

DR. VIJAY KUMAR MALHOTRA (SOUTH DELHI): Where are the records of the Rules Committee? ...(*Interruptions*)

SHRI SHIVRAJ V. PATIL : I will submit it. ...(*Interruptions*)

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND MINISTER OF SHIPPING (SHRI ARUN JAITLEY): They can only be an aid to an interpretation when there is an ambiguity in the law.

SHRI SHIVRAJ V. PATIL : That is right. That is exactly the point. You mean to say that the rules are not the law. I will take my seat, you please enlighten me on this point. This is not ambiguity. When there is 'may', you read it 'shall'. In many cases, when there is 'may', you read it 'shall'. What does this rule say? You please very carefully read it. It says:

"to examine such Bills pertaining to the concerned Ministries/Departments as are referred to the Committee by the Chairman, Rajya Sabhaâ€¦!"

You have no distinction. You have no authority to say that it should be or should not be referred to the Standing Committee. It is only the Presiding Officer who has to use his discretion. I am making a humble submission that this discretion has to be used to facilitate the discussion rather than obstruct the discussion. What is the proposal given by the Members sitting on the Opposition benches? You offer an opportunity to the Members to come, discuss and come back. You can come back tomorrow; you can come back day-after-tomorrow; you can come back in four days time. This is the submission we are making. My submission is that opportunity should be given to the Members to discuss it properly in this case because three Ordinances have been issued in this case in which a law was passed and withdrawn. In this case, two Bills have been produced and the same should be discussed.

SHRI JAG MOHAN: Firstly, the Resolution, which has been moved by the hon. Members, says 'disapproval of the Ordinance'. They themselves are calling it an Ordinance and not a Bill.

Secondly, three Ordinances had to be issued because this august House passed the I.C.W.A. Bill but the Rajya Sabha was repeatedly adjourned. The law is that if the Ordinance is not passed within six weeks of the assembly of the Parliament, it lapses. So, it had to be reissued. This is rather a technical requirement. We have explained it in the Statement of Objects and Reasons.

Thirdly, we went through Rajya Sabha and sought its permission. The Rajya Sabha made its recommendation to

the Lok Sabha. The Lok Sabha accepted that recommendation. Then, on that basis, I was given permission to move the Bill and in my moving the Bill, we said that this is the Ordinance and this is the broad-based composition and the number is increased because they themselves want that the number should be increased. We explained it in the Memorandum that this is the slight change made. Now, this Ordinance is there. If you do not pass it within a short time, it will lapse. On the merit of this, whatever observations they have to make, they can make it. There is nothing in it. We will discuss it and finalise it today.

SHRI SHIVRAJ V. PATIL : If you do not pass the Bill, you issue Ordinances one after the other. ...(*Interruptions*)

SHRI ARUN JAITLEY: Three submissions have been made by Shri Shivraj Patil. Firstly, the Ordinances, by the very nature, are undemocratic. Article 123 of the Constitution very clearly permits Ordinances. It says that when the House is not in Session, when there is a matter of such urgency that requires an enactment, an Ordinance may be issued. Then, there is a further procedure that Ordinance is required to be approved within a particular period of time or on expiry of six weeks from the date of laying the Ordinance in Parliament. When it is laid there, it ceases to operate. There have been several precedents. Take for example, the Ordinance on Livestock and the Ordinance on FCI. These are all Ordinances which were not of technical nature but which have substantive points in it, which have been approved by the hon. House after discussion. These are not Ordinances which were necessarily referred to the Standing Committee. In this very Session, they have been referred to the Standing Committee. This very Bill when it was passed on earlier occasions, was not referred to the Standing Committee. Rule 331E is not a provision of the rules which makes mandatory that every time there is a Bill or an Ordinance, particularly an Ordinance, it should be referred to a Standing committee in the context of an Ordinance. There is also an element of urgency because an Ordinance has to be approved and then made into a Bill within six weeks. Therefore, on account of that urgency, an Ordinance is normally not referred to the Standing Committee. That has been the past practice that this House has been following.

In fact, during the argument, only last week when the Lok Pal Bill was introduced in the House, the hon. Deputy Leader of the Opposition got up and said: It is a very important Bill, please pass it in this Session, without referring it to the Standing Committee. So, this cannot be an argument which applies in one case and does not apply in some cases.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): One sentence which you said was wrong. He said that please pass it in this House but he did not say - without referring it to the Standing Committee. ...(*Interruptions*) Do not mislead the House. ...(*Interruptions*) Standing Committees meet during Parliament Session also. ...(*Interruptions*)

MR. SPEAKER: Let him speak....(*Interruptions*)

SHRI ARUN JAITLEY: Both the Houses of Parliament have to approve it within two weeks. Therefore, the time constraint is also one of the factors why it may not be referred to the Standing Committee.

SHRI SHIVRAJ V. PATIL : Mr. Speaker, Sir, you have been giving time to the Members to raise issues which may or may not be pertinent to the subjects before us. Now, what is the argument of the Government? The argument of the Government is non-performance. They do not issue the Ordinances and get them approved in the House. They bring the Bill before the House, get it passed and withdraw it and again they expect all other Members to cooperate. When we are here to cooperate in a proper manner, they are not doing it. They are trying to steam-roll it. If the law is steam-rolled in this fashion and even the time of one or two days is not given, well, they should not expect the cooperation where they would be in a difficult situation.

SHRI PRIYA RANJAN DASMUNSI : Mr. Speaker, Sir, I am on a point of order. You can hear me also and then give your ruling

SHRI PRAMOD MAHAJAN): Under what rule?

SHRI PRIYA RANJAN DASMUNSI : Sir, the Parliamentary Affairs Minister cannot dictate to the Members of the Opposition.

SHRI PRAMOD MAHAJAN: I am not dictating. You are dictating.

SHRI PRIYA RANJAN DASMUNSI : Sir, you are the Guardian of the House, not the Parliamentary Affairs Minister. He cannot dictate us till he assumes the office of the Speaker. He cannot dictate us from his Chair.

MR. SPEAKER: Do not take it seriously.

On the first point of order raised by Shri Shivraj V. Patil, I think, discretion has been given to the Presiding Officer. So, I shall apply my mind and come to the House. Till that time, I am reserving my ruling on this issue and I will decide the matter later....(*Interruptions*)

MR. SPEAKER: Now, we will take up item no.9. Shri Nitish Kumar....(Interruptions)

MR. SPEAKER: On his behalf, somebody else can move the Bill....(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Mr. Speaker, Sir, is this the way the House should be treated by the Government everyday? ...(Interruptions)

The concerned Minister is not present in the House. â€¦! (Interruptions) How can the House be treated like this? ...(Interruptions)

MR. SPEAKER: Shri Priya Ranjan Dasmunsi, please take your seat....(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Sir, how can the House be treated in this fashion? ...(Interruptions) This is Parliament. The Government cannot treat the House in this fashion.

श्रीमती कान्ति सिंह (बिक्रमगंज) : इन्होंने सदन को मजाक बनाकर रखा है। यहां सदन के साथ मजाक किया जा रहा है। मंत्री का नाम लिया जाता है और मंत्री यहां नहीं हैं।â€¦!(व्यवधान)

SHRI PRIYA RANJAN DASMUNSI : Sir, you have to protect the honour of the House. The Treasury Benches have been treating the House in this way for the last so many Sessions now. There is a limit to it. ...(Interruptions) Is this the way they treat Parliament? ...(Interruptions) Sir, this is not the job of the Spokesman of the Party. ...(Interruptions) आप इतने खुशामदी मत बनिये, यह सदन की मर्यादा की बात है। यहां कोई मिनिस्टर नहीं है।

डॉ.विजय कुमार मल्होत्रा (दक्षिण दिल्ली) : इसमें दो घंटे लगने थे, इसलिए मिनिस्टर को दो घंटे के बाद ही आना था।â€¦!(व्यवधान)

श्री पवन कुमार बंसल (चंडीगढ़) : आज मंत्री एक के बाद एक हाउस में नहीं हैं। हाउस को सीरियसली नहीं लिया जा रहा है।â€¦!(व्यवधान)

MR. SPEAKER: Shri O. Rajagopal has come now. Please take your seat....(Interruptions)

SHRI VARKALA RADHAKRISHNAN: Sir, I may be permitted to speak on the Statutory Resolution that I have moved....(Interruptions)

MR. SPEAKER: Now, Shri O. Rajagopal....(Interruptions)

SHRI VARKALA RADHAKRISHNAN : I have moved the Statutory resolution....(Interruptions)

MR. SPEAKER: Shri Radhakrishnan, I am always telling you to use earphones. The problem is that you are not using the earphones. That is why there is the problem. ...(Interruptions)

DR. VIJAY KUMAR MALHOTRA : Sir, his Resolution of disapproval is not to go to the Standing Committee. What is this?... (Interruptions)

MR. SPEAKER: Now, Shri O. Rajagopal....(Interruptions)

SHRI PRIYA RANJAN DASMUNSI: Sir, has he given the notice to take your permission?

MR.SPEAKER: Yes, I have given the permission. He has given the letter also.
