

12.15 hrs.

MULTI-STATE CO-OPERATIVE SOCIETIES BILL

THE MINISTER OF STATE IN
THE MINISTRY OF COMMERCE
AND CIVIL SUPPLIES AND CO-
OPERATION (SHRI KRISHNA KU-
MAR GOYAL): I beg to move:

"That this House do suspend the first proviso to Rule 74 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motion for reference of the Bill to consolidate and amend the law relating to cooperative societies with objects not confined to one State and serving the interests of Members in more than one State, to a Joint Committee of the Houses."

SHRI VASANT SATHE (Akola): On a point of order. Kindly see Rule 74 as well as Article 110. Rule 74 says:

"When a Bill is introduced, or on some subsequent occasion, the Member in charge may make one of the following motions in regard to this Bill, namely:—

(ii) that it be referred to a Select Committee of the House; or

(iii) that it be referred to a Joint Committee of the Houses with the concurrence of the Council; or

Then comes to the proviso.

"...Provided that no such motion as is referred to in clause (iii) shall be made with reference to a Bill making provision for any of the matters specified in sub-clause (a) to (f) of clause (1) of Article 110 of the Constitution."

Then comes the Article 110, which says—this is a Constitutional requirement—

"Definition of 'Money Bills'—
(1) For the purposes of this Chap-

ter, a Bill shall be deemed to be a Money Bill, if it contains only provisions dealing with all or any of the following matters, namely:—

Then comes (a) to (f). Now therefore, wherever there is a provision that a matter connected with the definition of Money Bill.....

MR. SPEAKER: It is a financial Bill and it comes under Article 117 and not Article 110.

SHRI VASANT SATHE: This question of this proviso being suspended is redundant. What is this Bill? Kindly see the motion. The motion is, that this House do suspend the first proviso to rule 74. I would like to know why is the first proviso being suspended. They themselves are apprehensive that there are certain matters which may be covered under article 110 and hence it may have the character of Money Bill. There are certain provisions in this Bill which have to do with property, etc. Kindly read it.

MR. SPEAKER: I follow.

SHRI VASANT SATHE: You have to give your consent to this motion. I beg of you to consider whether you have given your consent under rule 388. This is not to be taken lightly. Rule 388 says, any member may with the consent of the Speaker move that any rule may be suspended in its application to a particular motion before the House and if the motion is carried, the rule in question shall be suspended for the time being. Technically speaking, if it talks of a rule, can you take away the proviso in a rule alone? Rule will mean rule 74. Technically it would mean that under rule 388 the whole of rule 74 will have to be suspended. We cannot take away one proviso and say that the proviso will not apply. That is not permissible under rule 388. Therefore, my submission is that we cannot bypass or circumvent a provision in the Constitution by suspending a rule, if it is a mandatory provision. The proviso

[Shri Vasant Sathe]

says, "Provided that no such motion as is referred to in clause (iii) shall be made with reference to a Bill...." Therefore, it is a mandatory provision that cannot be taken away by suspending the proviso. As I pointed out, why is this proviso being suspended if it is not a Money Bill? If you come to the conclusion that it is not a Money Bill, this motion is not required. You should not give your consent to move it. The House cannot be treated lightly.

SHRI HARI VISHNU KAMATH (Hoshangabad): On a point of order, Sir, on a slightly different ground. I do not agree with my friend, Mr. Sathe, that the proviso to a rule cannot be suspended.

MR. SPEAKER: He says, if the rule cannot be suspended, proviso is part of the rule and so proviso also cannot be suspended.

SHRI HARI VISHNU KAMATH: But the main point, in my judgment, is: article 109 referred to by my hon. friend says,

"(1) Money Bill shall not be introduced in the Council of States."

(2) is more important:

"(2) After a Money Bill has been passed"—Please note the word "after"—"by the House of the People, it shall be transmitted to the Council of States...."

I am not a lawyer.....

MR. SPEAKER: In the matter of rules, You are more than a lawyer!

SHRI HARI VISHNU KAMATH: I have been a law-maker. I have also been a law breaker. If I am wrong, please correct me. Therefore, my plea is that the spirit and the letter of the Constitution is that this House is supreme with regard to Money Bills. Money Bills shall not be introduced in the Council of States. Only after the Bill is passed by this

House, it will be transmitted to the Council. It is a legal axiom, perhaps a legal maximum, that what is illegal if done directly, will be illegal if done indirectly. The Rajya Sabha, the Council of States, can take cognizance and take notice of such Bills only after they are passed by this House. What is sought to be done by this motion is that the Rajya Sabha is being inducted into this business of a money bill even before the House has considered this Bill. That is my main objection.

MR. SPEAKER: The constitution uses three expressions—introduction of the Bill, consideration of the Bill and passing of the Bill. The Constitution uses these three independent expressions. Article 109 (1) merely prohibits stating that Money Bill simply shall not be introduced in the Council of States. The consideration and other aspects do not come. So, the introduction must be in this House. Both the Houses can consider the matter unless it is a Money Bill. The essential question is: Is this a Money Bill or only a Financial Bill?

SHRI HARI VISHNU KAMATH: Sir, you give your ruling whether it is a Money Bill.

MR. SPEAKER: The real question for decision is: Is this a Money Bill or is this a Financial Bill? These are two different things. All Money Bills are Financial Bills but all Financial Bills are not Money Bills. So, if it is Money Bill, it cannot be there so far as Rajya Sabha is concerned. If it is a Financial Bill, different considerations arise. The question which Mr. Sathe raised is, if it is a Financial Bill, the proviso need not be suspended, it is superfluous. If it is a Money Bill, it cannot be suspended.

SHRI HARI VISHNU KAMATH: The motion itself refers to the proviso. The proviso to that rule says that no such motion as is referred to in clause (iii) shall be made with reference to a Bill making provision....

MR. SPEAKER: That is a Money Bill. I have dealt with Money Bill.

SHRI HARI VISHNU KAMAT: It is Article 110. That is a Money Bill.

MR. SPEAKER: You are quite right. The crucial question is: Is it a Money Bill or a Financial Bill? If it is a Money Bill or a Financial Bill? If it is a Money Bill, the proviso says, it cannot be suspended. If it is a Financial Bill.

SHRI HARI VISHNU KAMATH: By this motion, I submit that what this House is being asked to do is not to suspend a rule only, but suspend the provision of the Constitution. That cannot be done by this House.

SHRI B. SHANKARANAND (Chikodi): We cannot do it.

SHRI HARI VISHNU KAMATH: They themselves agree that it is a Money Bill by introducing the motion. You can suspend the rule, I can agree. But the House has no power—it is *ultra vires*—to suspend any provision of the Constitution.

SHRI A. BALA PAJANOR (Pondicherry): As the hon. Member, Mr. Kamath also said, the attempt by the Government through this motion is to amend the Constitution. It amounts to that. If you are not able to define what is a Money Bill, if you are not able to clear the position whether it is a Money Bill or a Financial Bill... (Interruptions) If they consider that it is a Money Bill, then it amounts to the amendment of the Constitution. But so far, my understanding is that they have not considered that it is a Money Bill.

वाणिज्य तथा नागरिक प्रति और सहकारिता मंत्रालय में राज्य मंत्री (श्री कृष्ण कुमार गोयल) : मैं इस सम्बन्ध में बहुत ही स्पष्ट करना चाहूंगा कि इस को टेक्नीकली मनी बिल नहीं कहा जा सकता है। लेकिन...

MR. SPEAKER: It is a constitutional provision. It is not technical, it is a constitutional provision.

THE MINISTER OF INFORMATION AND BROADCASTING (SHRI L. K. ADVANI): It is for you to decide whether it is a money Bill or not.

SHRI VASANT SATHE: No; it is for the Government.

MR. SPEAKER: I believe the satisfaction of the Speaker is final.

SHRI L. K. ADVANI: So far as proviso of rule 74 is concerned, the embargo is on any money bill, under Article 110, being referred to a joint committee, it is a provision under the rules of procedure. So, it is for you to decide. If it is a money bill, then it cannot ordinarily be referred to a joint select committee, unless the House suspends that proviso which says:

“Provided that no such motion as is referred to in clause (iii) shall be made....”

and clause (iii) refers to the joint committee of the Houses, with the concurrence of the Council. I would understand that the rationale behind this is that normally, Rajya Sabha does not participate in matters pertaining to money bills. This is going to be a joint select committee of the two Houses. Therefore, this embargo has been provided in the two rules. If, you, in your wisdom, decide that it is a money bill, then it can be referred to a joint select committee, only by suspension of the proviso. (Interruptions)

So far as the proviso is concerned, it is not a part of the Constitution. Requirements of Article 110 say that the money bill has to be introduced in this House. This cannot be suspended by so lightly, but so far as the rules of procedure are concerned, they can be suspended with the concurrence of the House, and all that depends upon you. There is nothing irregular, and there has been a precedent in the past, I am told.

MR. SPEAKER: Please take a stand. What is your contention: is it a money bill or a financial Bill? Of course, the final decision is mine.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): Our understanding is that it is a financial Bill.

MR. SPEAKER: Then why do you want a suspension?

SHRI RAVINDRA VARMA: For the sake of caution. If you rule that it is not so, we will go by your ruling.

MR. SPEAKER: I am told that there is only one clause which can be said to attract the money bill provisions: only one clause, viz., guaranteeing the re-payment of the principal and payment of interest on the debentures issued by multi-State cooperative societies... But the definition of money bill says that it must be i.e., the entire thing must be a money bill not one clause alone. Article 110 says:

"(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India...."

Please remember: "if it contains only provisions". This has been interpreted by the courts. And again:

"(c) the custody of the Consolidated Fund...."

(d) the appropriation of moneys.

(e) the declaring of any expenditure....

(g) any matter incidental....

The bill must contain only these matters.

SHRI L. K. ADVANI: This is a financial bill.

MR. SPEAKER: This is only a financial bill. Therefore, suspension is not necessary.

SHRI L. K. ADVANI: If we go by both the Bills in respect of which the motion has been moved by my colleague that it be suspended, both of them, in all propriety, could have been introduced in either House also, because basically they are financial bills. (Interruptions) If we read Article 110, it makes it very clear that it is only in respect of (a), (b), (c) and (d). But here, it is not 'also'. There are so many provisions.

SHRI A. BALA PAJANOR: May be they are not sure whether it is a money bill or a financial bill; but they cannot take rule 388 so lightly and suspend the rule in this fashion.

SHRI VASANT SATHE: I would not mind your declaring that it is not a money bill: and, therefore, rule 388 need not be suspended. But for Heaven's sake, don't suspend the proviso like this.

MR. SPEAKER: In my opinion, this is not a money bill.

SHRI L. K. ADVANI: If you rule that it is not a money bill....

MR. SPEAKER: It is not a money bill.

SHRI KRISHNA KUMAR GOYAL: With your permission, I seek to withdraw the Motion. I beg to move the Bill.

[At this stage, there was throwing of leaflets and shouting by a visitor from the galleries.]

MR. SPEAKER: Yes; let us go on

SHRI KRISHNA KUMAR GOYAL:
I beg to move:

"That the Bill to consolidate and amend the law relating to co-operative societies with objects not confined to one State and serving the interests of Members in more than one State, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely: (1) Shri Ahmed Hussain, (2) Shri Chhabiram Argal, (3) Shri Pradyumna Bal, (4) Shri Rajagopal Rao Boddapalli, (5) Chaudhury Brahm Prakash, (6) Shri Motibhai R. Chaudhary, (7) Shri Dajiba Desai, (8) Shri Sushil Kumar Dhara, (9) Shri Mohan Dharia, (10) Shri Iqbal Singh Dhillon, (11) Shri A. C. George, (12) Shri Annasaheb Gotkhinde, (13) Shri Krishna Chandra Halder, (14) Shri Hukam Ram, (15) Shri Sambhajirao Kakade, (16) Shri R. Kelanthaivelu, (17) Shri Jawala Prasad Kureel, (18) Shri M. R. Lakshminarayanan, (19) Shri M. V. Chandrasekhara Murthy, (20) Shri S. H. Naik, (21) Shri Ahmed M. Patel, (22) Shri Ram Lal Rahi, (23) Shri K. A. Rajan, (24) Shri Ramdeo Singh, (25) Shri Rampati Singh, (26) Shri Ram Dhari Shastri, (27) Shri Tej Pratap Singh, (28) Shri Dharma Vir Vasisht, (29) Shri Hargovind Verma, (30) Shri Krishan Kumar Goyal

and 15 from Rajya Sabha,

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to

Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

MR. SPEAKER: The question is:

"That the Bill to consolidate and amend the law relating to co-operative societies with objects not confined to one State and serving the interests of Members in more than one State, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely: (1) Shri Ahmed Hussain, (2) Shri Chhabiram Argal, (3) Shri Pradyumna Bal, (4) Shri Rajagopal Rao Boddapalli, (5) Chaudhury Brahm Prakash, (6) Shri Motibhai R. Chaudhary, (7) Shri Dajiba Desai, (8) Shri Sushil Kumar Dhara, (9) Shri Mohan Dharia, (10) Shri Iqbal Singh Dhillon, (11) Shri A. C. George, (12) Shri Annasaheb Gotkhinde, (13) Shri Krishna Chandra Halder, (14) Shri Hukam Ram, (15) Shri Sambhajirao Kakade, (16) Shri R. Kelanthaivelu, (17) Shri Jawala Prasad Kureel, (18) Shri M. R. Lakshminarayanan, (19) Shri M. V. Chandrasekhara Murthy, (20) Shri S. H. Naik, (21) Shri Ahmed M. Patel, (22) Shri Ram Lal Rahi, (23) Shri K. A. Rajan, (24) Shri Ramdeo Singh, (25) Shri Rampati Singh, (26) Shri Ram Dhari Shastri, (27) Shri Tej Pratap Singh, (28) Shri Dharma Vir Vasisht, (29) Shri Hargovind Verma, (30) Shri Krishan Kumar Goyal

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that the Committee shall make a report to this House by the last day of the first week of the next session;

[Mr. Speaker]

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

The motion was adopted.

16.34 hrs.

MENTAL HEALTH BILL

स्वास्थ्य और परिवार कल्याण मंत्रि (श्री राज नारायण) : मैं प्रस्ताव करता हूँ :

"कि मानसिक रूप से बीमार व्यक्तियों के उपचार और उनकी देख-रेख से सम्बन्धित विधि का समेकन और संशोधन करने के लिए, उनकी सम्पत्ति और कार्यकलापों की बाबत बेहतर उपबन्ध करने के लिए और उससे सम्बन्धित या उसके आन्तरिक विषयों के लिए विधेयक को दोनो सभाओं को एक संयुक्त समिति को सौंपा जाए, जिसमें 45 सदस्य हों, इस सभा के 30 अर्थात् :—

(1) श्री सुभाष चन्द्र बोस अल्लुरी, (2) डा. बलदेव प्रकाश, (3) श्री के. वी. चौधरी, (4) श्री अनन्त दवे, (5) श्री राज किशन डान, (6) चौधरी हरी राम मक्कासर गोदरा, (7) श्री हरिकेश बहादुर, (8) श्री एस० जगन्नाथन, (9) श्री. कचरलाल हेमराज जैन, (10) श्री हुकम चन्द कठवाय, (11) श्री राम चन्द्रन कडनापल्ली, (12) डा० बापू कालदत्ते, (13) श्री राज शेखर कल्लूर, (14) डा० सरोजिनी महिषी, (15) श्री मल्लिकार्जुन, (16) डा० विजय मंडल, (17) श्री एस० जी० मृगन्थन, (18), डा० सुशीला नायर, (19) श्री टी० ए० पाई, (20) श्री के रामामूर्ति, (21) श्री रुडोल्फ रोडरीस, (22) डा० सरदीश राय, (23) श्री शक्ति कुमार सरकार, (24) श्री श्री कृष्ण सिंह, (25), श्री एच० एल० पी० सिन्हा, (26) श्री सूरज भान, (27) श्री एन० टोम्बी सिंह, (28) श्री जगदम्बी प्रसाद यादव, (29) श्री युवराज, (30) श्री राज नारायण और राज्य सभा के 15;

कि संयुक्त समिति की बैठक गठित करने के लिए गणपति संयुक्त समिति की कुल सदस्य संख्या की एक तिहाई होगी,

कि समिति आगामी सत्र के पहले दिन तक इस सभा को प्रतिवेदन कर देगी ,

कि अन्य मामलों में संसदीय समितियों से सम्बन्धित इस सभा के प्रक्रिया नियम ऐसे परिवर्तन तथा रूपभेदों के साथ जैसा कि अध्यक्ष करें, लागू होंगे, और

कि यह सभा राज्य सभा से सिफारिश करती है कि राज्य सभा उक्त संयुक्त समिति में सम्मिलित हो तथा जसंयुक्त समिति में राज्य सभा द्वारा नियुक्त किये जाने वाले 15 सदस्यों के नाम इस सभा को सूचित करे ।"

MR. SPEAKER: The question is:

"That the Bill to consolidate and amend the law relating to the treatment and care of mentally ill persons, to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely:—(1) Shri Subhash Chandra Bose Alluri, (2) Dr. Baldev Prakash, (3) Shri K. B. Choudhari, (4) Shri Anant Dave, (5) Shri Raj Krishna Dawn, (6) Ch. Hari Ram Makkasar Godara, (7) Shri Harikesh Bahadur, (8) Shri S. Jaganathan, (9) Shri Kacharulal Hemraj Jain, (10) Shri Hukam Chand Kachwai, (11) Shri Ramachandran Kadannappalli, (12) Dr. Bapu Kaldate, (13) Shri Rajshekhar Kolar, (14) Dr. Sarojini Mahishi, (15) Shri Mallikarjun, (16) Dr. Bijoy Mandal, (17) Shri S. G. Murgaiyan, (18) Dr. Sushila Nayar, (19) Shri T. A. Pai, (20) Shri K. Ramamurthy, (21) Shri Rudolph Rodrigues, (22) Dr. Saradish Roy, (23) Shri Sakti Kumar Sarkar, (24) Shri Shrikrishna Singh, (25) Shri H. L. P. Sinha, (26) Shri Suraj Bhan, (27) Shri N. Tombi Singh, (28) Shri Jagdambi Prasad Yadav, (29) Shri Yuvraj, (30) Shri Raj Narain

and 15 from Rajya Sabha;