

12.13½ hrs.

AMENDMENTS TO RULES OF LIBRARY COMMITTEE

Secretary: Sir, I also lay on the Table a copy of the amendments to rules 1 and 4 of the Rules of Library Committee made by the Speaker.

12.13½ hrs.

RE: PRESIDENT'S ASSENT TO BILLS

Shri Hari Vishnu Kamath (Hoshangabad): Sir, I seek a clarification with regard to the Bills laid on the Table which were assented to by the President during the interregnum. The bulletin dated the 14th May reached us containing the following information:

It says that the two Bills were returned by Rajya Sabha on the 13th and 14th of May, after the Lok Sabha had been prorogued or adjourned sine die. Of the two Bills, one was the Kerala Appropriation Bill and the other one was the Representation of the People (Amendment) Bill. Both were returned by Rajya Sabha without amendments to this House.

Now, Sir, may I invite your attention to Rules 97 and 103. Rule 97 which deals with Bills other than Money Bills and Rule 103 which deals with Money Bills. May I read, by your leave, Rule 97? It says:

"If a Bill other than a Money Bill passed by the House and transmitted to the Council is passed by the Council without amendment, the message received from the Council to that effect shall be reported by the Secretary to the House."

Rule 103 is on similar lines, that the message received should be reported to the House by the Secretary.

Now, this House was not in session. The House had adjourned on the 11th May. The Bills received back from the Rajya Sabha on the 13th and 14th were submitted to the President for assent without having been duly passed finally by this House according to the Rules of Procedure which this House has made for itself, and because the lacuna is that the message received from the Rajya Sabha was not reported to this House in accordance with Rules 97 and 103 of the Rules of Procedure, I believe that the Bills that have been assented to by the President and become Acts are not in order, if I may use that expression, or have been passed into law *ultra vires* of the Constitution and the Rules adopted by the House.

श्री रामेश्वरानन्द (करनाल) : अध्यक्ष महोदय, मेरा निवेदन है कि जितने भी बिल प्रादि राष्ट्रपति से स्वीकृत होकर आते हैं वे सभी अंग्रेजी में आते हैं तो मैं आप से यह जनना चाहता हूँ कि क्या कभी कोई दिन ऐसा भी आयेगा जब हिन्दी में भी बिल राष्ट्रपति से स्वीकृत होकर आयेंगे। हिन्दी में भी बिल स्वीकृत होकर आयें क्या इस के लिये भी कोई व्यवस्था होने वाली है ?

अध्यक्ष महोदय : अच्छा, ठीक है।

श्री बागड़ी (हिसार) : जवाब तो दे दो।

अध्यक्ष महोदय : जवाब मेरे पास है नहीं।

श्री रामेश्वरानन्द : अब आप जवाब नहीं देंगे तो फिर कौन जवाब देगा ?

अध्यक्ष महोदय : वह दिन जरूर आयेगा अब आप बैठ जाइये।

श्री रामेश्वरानन्द : उसकी कोई तारीख भी है ? वह कांग्रेस के रहते आयेगा या जब यह बने जायेंगे तब आयेगा ?

Mr. Speaker: There are certain rules made by the President. Of course, when the House is in session that report is to be made to the House, but when the House is not in session, the procedure to be followed is shown in the rules made by the President.

Shri Hari Vishnu Kamath: Where are those rules?

Mr. Speaker: I am reading that. Rule 11(2) says:

"Whenever the House or the Council to which a message is sent is not in session, a copy of the message shall, as soon as it is received by the Secretary of the House or the Council, be forwarded by him to every Member of the House or the Council, as the case may be."

Shri Hari Vishnu Kamath: Can they supersede the rules of the House?

Mr. Speaker: Now, the other thing is that because it has not been reported to the House, Shri Kamath's contention is that the Bill has not been regularly passed. It will not be for me to hold that it has not been regularly passed. If really there is something that he doubts, that must be for the courts to decide. We have these rules and according to them we say that the House was not in session, it was put down in the bulletin, the information was conveyed to the Members and it is according to the rules made by the President. Therefore, there is nothing.

Shri Hari Vishnu Kamath: Sir, I submit that you have not answered

the point that I raised. Can the rules made by the President supersede the rules of the House?

Mr. Speaker: They do not supersede, but they can add, supplement and explain (*Interruption*).

Shri H. N. Mukerjee (Calcutta Central): The rules of the House are necessarily an expression of the autonomous sovereignty of the House in regard to that sphere. The President may be an exalted personality, but he has nothing to do with the House in the regulation of its conduct. Therefore, under the rules of our House, it is necessary for the report to come from the other House. The President had no business to intervene in the matter.

An hon. Member: He was ill-advised.

Mr. Speaker: The President is authorised, under the Constitution, to make rules so far as the communication between the two Houses is concerned. Under that provision of the Constitution, he has made certain rules. If the contention is that some rule is not according to the Constitution, then I am not here to give the decision.

Shri Hari Vishnu Kamath: Then our rule should be amended.

Shri H. N. Mukerjee: The communication to individual Members by some kind of process is no communication.

Mr. Speaker: If someone has doubts, he can get it cleared from the judiciary, not from me.

[Mr. Speaker]

I have to inform the House....

Dr. L. M. Singhvi (Jodhpur): I have a submission to make... (Interruption).

Shri Nath Pal rose—

Mr. Speaker: This matter is closed. I have told the hon. Member that there is a rule made by the President. If the contention is that that is not according to the Constitution or that supersedes any rule of the House which the President is not empowered to do, that is not for me to decide or to give any decision.

Shri Hari Vishnu Kamath: I submit in all humility that other Members also want to make a submission. My colleague Shri Nath Pal is also standing up. Why are you shutting them?

Dr. L. M. Singhvi: If it is inconsistent with the rules of this House, certainly it impinges on our rights and powers. As such, it is our right to examine this matter and scrutinise it. We should find out whether the President's rules are in order. If they are not in order, we shall not be any party to any law being enacted. It is our right, as a matter of fact, to emphasise that a rule which has been made by the President under the constitutional power cannot be repugnant or inconsistent with the rules of this House. We must emphasise this point. It is a question of our own powers.

Shri Nath Pal (Rajapur): My plea is limited to only this pronouncement made by you that the matter is closed. You will, rightly, concede that there are matters in the Constitution like that of ours which cannot easily be dealt with because all such eventualities are not foreseen by the fathers of the Constitution. I do not want to cast any aspersion or use any strong language for what the President has done—may be, he was

not properly advised—but for you to say that the matter is closed will not be helping us very much when we feel concerned about certain rights. I would say, therefore, that it is not enough for us to point it out to the High Court or to the Supreme Court and seek the remedy. In a matter like this, we will have to follow up the consultations with you and, perhaps, to see how a lapse like that does not take place. We should not say that the House is helpless and that the only remedy is to go to the court. I am afraid that is the impression at least I got from the ruling which you were pleased to give earlier.

Shri Narendra Singh Mahida (Anand): May I request you to refer this matter to the Law Minister?

An hon. Member: No, no.

Shri Kapur Singh (Ludhiana): I would like to suggest that the matter may be referred to the Rules Committee for examination.

Mr. Speaker: I do not think there is any need to refer it to the Rules Committee at this moment. It has been said by more than one Member that they do not agree with me that we should express our helplessness. The only thing probably they want is that either I should at this present moment declare it... (Interruption). The point is that the Bills that were passed have been placed on the Table of the House. I have told the hon. Members that it is in accordance with the rules made by the President. It is contended that this rule, made by the President, is in conflict with the rules that are there. Now can I sit in judgement and declare that a particular rule, made by the President, is in conflict with the rules that are here or would it be for the courts to decide whether one part, one rule... (Interruptions).

Order, order.

My present reaction remains the same. I cannot sit in a judgement and say that this rule is repugnant to the rules that are already here.

Shri Hari Vishnu Kamath: We follow our rules and not the President's.

Mr. Speaker: I do not see any conflict. The President has made these rules in consultation with the Speaker and the Chairman of the Rajya Sabha. They must have been consulted at that moment. Therefore, their agreement is also there—maybe, I do not know; it was not I who was consulted; the consultation had taken place and all of them had agreed that this rule should be there. Now that rule is there. It is in accordance with the rule that this report has been made and information given to the members. The Bill has been laid in the House. Now if some one contends that that rule contravenes or is in conflict with any of the rules of the House, then I do not think—my predecessor has given his consent also—I can declare it as invalid.

Shri Hari Vishnu Kamath: After hearing the words of wisdom that have fallen from your lips, Sir . . . (Interruption).

Mr. Speaker: When he is contending my wisdom, he cannot say that. That rather looks awkward. Give me credit for wisdom and then . . . (Interruption).

Shri Hari Vishnu Kamath: Wisdom may not always be infallible. Now, may I request in all humility and in all earnestness that, whatever might have happened in the last three months or even earlier, the question should be taken up for the future. After all, the President is only a titular head of State, and it is the Parliament which is supreme. I need not impress this fact on you. Kindly

take up this matter with the President to ascertain as to why, how and when this conflicting rule, this repugnant rule, was made by the President. I think the rule will have to be amended.

Mr. Speaker: Mr. Mathur wanted to say something.

Shri Harish Chandra Mathur (Jalore): Mr. Speaker, Sir, I think we have been acting according to the rules which are at present in our hands and nobody is objecting that it should not be laid on the Table of the House as it has been laid down now. But a difficulty has arisen and there is no reason why we should not examine that. We clearly understand that the President has made rules in consultation with you and the Chairman, Rajya Sabha, but when a certain thing has been pointed out, namely, that the rules are in conflict with the rules that we have made, we must examine whether our rules should be amended or whether the President may be advised to change the rules to bring them in conformity with our rules rather than leaving the question in a vacuum and waiting for the matter to be taken up by somebody in the court of law. I do not think there is any difficulty in this. All that I request you is to examine the present difficulty and either in consultation with the Rules Committee we amend our rules or advise the President to examine the matter in consultation with you and the Chairman, Rajya Sabha, and change the rules.

Mr. Speaker: All right. I shall yield. I shall examine them.

12.30 hrs.

RESIGNATION OF MEMBER
 (SHRI NITYANAND KANUNGO)

Mr. Speaker: I have to inform the House that Shri Nityanand Kanungo.