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*ON THE ASSEMBLY PROCEDURE

Dr. B. R. Ambedkar (*Bombay City):* Sir, with regard to this amendment I would like to draw your attention, first of all, to section 73, sub-clause (2), in the Government of India Act and my first submission is that this rule, in view of section 73 sub-clause (2) would be *ultra vires* of this House. Section 73 says thus :

> "(1) Subject to the special provisions of this Part of this Act with respect to finance Bills, a Bill may originate in either Chamber of the Legislature of a Province which has a Legislative Council.
>
> (2) A Bill pending in the Legislature of a Province shall not lapse by reason of the prorogation of the Chamber or Chambers thereof."

I submit, therefore, in view of the provision contained in sub-clause (2) of section 73, it is not competent for this House to make a rule that a Bill shall lapse after two Sessions or even after the lapse of one year, as has been suggested by the amendment suggested by my honourable friend Mr. Gupte. That is my first submission with regard to this rule.

My second submission with regard to this rule is that this rule is inconsistent with rule 19 already passed by this House. Rule 19 says : —

> "On the prorogation of a Session, all pending notices shall lapse except those in respect of questions, statutory motions, motions for amendment of Rules, motions the consideration of which has been adjourned to the next Session, under Rule 34, and Bills which have been introduced."

Therefore, motions with regard to Bills have been saved by rule 19, Rule 19 does not apply and my submission is that in view of the fact that the House has already passed rule 19, it cannot now proceed to adopt either rule 103 or the amendment that has been suggested.

My third submission is that assuming that this House has the authority to pass this rule and the amendment proposed, notwithstanding the fact that there is a clear provision of sub-clause (2) of section 73 of the Government of India Act and notwithstanding the fact that this House has already passed rule 19, it seems to me that this rule is really unnecessary. This rule says that "if no motion is made"; I find no definition of the word

*B.LA. Debates, Vol. 4, pp. 1062-65, dated 10th September 1938.

"motion" anywhere here. What I would like to submit is that no person would be in a position to make another motion unless the Bill is called on by the Secretary. That means that the Bill must be on the agenda. Secondly, it must be on the order paper; and thirdly, it must be called on by the Secretary. My submission is that no member who is in charge of a Bill should be penalised by this motion as be would be unless the Bill has been called on by the Secretary ; otherwise my submission is that there would be no default.

The Honourable the Speaker: That would be more or less an argument upon the merits of the rule.

Dr. B. R. Ambedkar: That is what I said. This was the third consideration. The first two were .....

The Honourable the Speaker: I think I may first dispose of the first two and then the honourable member may address his argument with regard to the difficulties as an argument on merits.

Two points have been raised, the first of which is that it is not competent for this House to frame a rule of this type in view of the provisions of section 73 of the Government of India Act. I had considered this aspect because this objection was suggested by the Honourable the Prime Minister when rule 103 was taken up for consideration last time. Sub-clause (2) of section 73 provides that a Bill pending in the Legislature shall not lapse by reason of the prorogation of the Chamber or Chambers. It is undoubtedly provided that it shall not lapse by reason of prorogation, but it does not mean, therefore, that a Bill can never lapse for reasons other than prorogation. What the rule purports to provide is that after a certain period, irrespective of prorogation or otherwise, a Bill shall lapse. There may have been possibly some room for doubt if the phraseology had been "two complete Sessions". But when a specific period is sought to be provided, namely, a period of one year, as under this rule, as is now proposed, a Bill may lapse even while the Session is going on. So prorogation of a Session is not the reason for the lapsing of a Bill under the rule as proposed.

I am not dealing with the merits. I am only dealing with the constitutional aspect. The rule as proposed requires that although a Bill may be shown on the agenda and the House may be in Session, still the moment the period of one year is completed, it will automatically lapse without the Session being prorogued. Therefore, to my mind, sub-clause (2) of section 73 of the Government of India Act, is not a bar to the making of a rule as proposed by the amendment.

Then the second objection is raised as regards—

Dr. B. R. Ambedkar: May I draw your attention to one fact, Sir ? My submission is, if the word "only" was there, then the construction you propose to put upon it would be proper.

Dr. B. R. Ambedkar: Sir, with regard to the amendment proposed, what I would like to submit is this. I have not heard any particular reason

as to why there is a necessity of making this rule 103. What harm would there be if a Bill did remain on the agenda without it having been discussed ? If it could be shown that some harm or some inconvenience would be caused by the Bill remaining on the books of the House without it being discussed, then I can quite understand that some necessity was there for a provision such as the one that is contained in rule 103, but I have not heard anything as to what harm and inconvenience would be caused. And my second submission is that this rule as it is framed, and also the amendment, takes away the right of a member to continue the Bill although there is no default on his behalf. The wording is "if no motion is made". That is what the wording is. But my submission is that a member may not be in a position to make a motion because the Bill has not been reached, because the Bill has not been on the agenda or because it has not been called out or for various other reasons, and I think it would be a great hardship if a member was deprived of moving a particular piece of legislation simply because by reason of other exigencies and other reasons he has not been able to make a motion with regard to the Bill. And, therefore, I think that unless some such further amendment is added such as "even though called on by the Secretary", I think this rule would involve a great deal of hardship and I, therefore, oppose the amendment in the terms in which it has been moved.

The Honourable Mr., B. G. Kher: Sir, the situation is rather complicated because the honourable member was not here either when the rule was moved or when the amendments, including the one which he now wishes should be adopted, were fully discussed in a committee. Before, therefore, I apply myself to reply to his objections, I should like to know what those who have discussed this rule with me have to say because only last night the amendment was agreed upon by all. The honourable member Mr. Ali Bahadur Khan was there and he had put before the House an identical amendment, namely, add the words "though called upon to do so". That is the honourable member Ali Bahadur Khan's amendment and we all discussed the merits of the several proposals and came to the conclusion that ultimately this was the best solution. The constitutional objection which the honourable member pointed out was also present to our minds. Our misfortune is that the honourable member comes to the House only occasionally and then not knowing of the situation he is not in a position to take up the thread of the events that have happened before. I do not, therefore, propose to address myself to the merits of what he has suggested by way of adding to the amendment that has been moved. I would only give him the principle which has made it necessary to include this rule in the present rules and also point out that, in the old rules as they stand, we had a similar provision. It says :

> "If the member in charge makes no motion with regard to the same

during two complete sessions, the Bill shall lapse, unless the Assembly on a motion by that member in the next session makes a special order for the continuance of the Bill.".

Dr. B. R. Ambedkar: Does the Honourable the Prime Minister remember that that was consistent at the time, because there was no such provision as I have pointed out in the old Government of India Act ?

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