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16.30 hrs.

Title: Regarding Ban on cow slaughter (Moved by Shri Prahlad Singh Patel on 26 July 2002). (Resolution adopted).

MR. SPEAKER: Hon. Members, before further discussion on the Resolution moved by Shri Prahlad Singh Patel regarding Ban on Cow Slaughter is resumed, I would like to inform the House that on the last occasion, Shri Prahlad Singh Patel indicated that he was not willing to withdraw his Resolution.

Before the Resolution could be put to vote, the House had to be adjourned due to continuous interruptions. I would now like to know again from Shri Prahlad Singh Patel whether he would like to withdraw his Resolution.

श्री प्रहलाद सिंह पटेल (बालाघाट) : धन्यवाद, अध्यक्ष महोदय। मैंने जो संकल्प इस सदन में पेश किया था, पुनः मैं आपके माध्यम से निवेदन करता हूँ कि:

'इस सभा की राय है कि सरकार सम्पूर्ण देश में गौ और गोवंश के वध पर पाबंदी लगाने हेतु एक उपयुक्त विधान लाए'

मैं निवेदन करता हूँ कि उस पर तत्काल मतदान कराया जाये।

...(Interruptions)

MR. SPEAKER: Shri Prahlad Singh Patel, you are not withdrawing.

SHRI BASU DEB ACHARIA (BANKURA): Mr. Speaker, Sir, I have a point of order.

MR. SPEAKER: Shri Banatwalla is before you.

SHRI G.M. BANATWALLA (PONNANI): Sir, I have a point of order. ...(Interruptions) I have also written to you about that point of order. Please allow me.

...(Interruptions)

MR. SPEAKER: I have permitted Shri Banatwalla to raise the point of order.

SHRI G.M. BANATWALLA : Sir, this Resolution cannot be put to vote for two important reasons...(Interruptions)

SHRI V. DHANANJAYA KUMAR (MANGALORE): There is a ruling by the Chair. Only voting is pending.

DR. VIJAY KUMAR MALHOTRA (SOUTH DELHI): It was already put to the vote. How can there be point of order now?

SHRI G.M. BANATWALLA : I have quoted all the rules also. My note is in the hands of the Speaker. So, I should be allowed to formulate my point of order.

SHRI V. DHANANJAYA KUMAR : Discussion has already been concluded.

MR. SPEAKER: Please listen to him.

SHRI V. DHANANJAYA KUMAR : The point of order would be raised under a particular rule. What is that rule? Under what provision is he raising his point of order?

श्री शिवराज सिंह चौहान (विदिशा) : अध्यक्ष महोदय, इस पर मतदान करवाइये, इसमें बहस की कोई आवश्यकता नहीं है।

श्री किरिट सोमैया (मुम्बई उत्तर पूर्व) : इस विषय पर चर्चा हो चुकी है। पिछली बार इस पर मतदान होना था, लेकिन टैक्निकल ऑब्जेक्शंस लेते-लेते इन्होंने छः बजे का समय पूरा करवा दिया था। अन्त में सभापति जी ने निर्णय दिया था कि मतदान की प्रक्रिया प्रारम्भ की जाये, वह प्रक्रिया प्रारम्भ हो चुकी है।

SHRI G.M. BANATWALLA : Sir, I should be allowed. Please allow me to formulate my point of order. ...(Interruptions) Mr. Speaker, Sir, there are two important reasons which must be noted.

SHRI KHARABELA SWAIN (BALASORE): What is the rule under which he is raising his point of order?

MR. SPEAKER: Shri Banatwalla, will you please quote the rule under which you are raising the point of order? Please quote the rule.

SHRI G.M. BANATWALLA : I have already given the rule to you. The rule is, rule 376 read with rule 186 (xiii) of the Rules of Procedure and Conduct of Business read with article 246 clause (3) of the Constitution. So, I have quoted two rules. ...(Interruptions)

SHRI KHARABELA SWAIN : It is not a substantive point of order. How the point of order is to be raised only is

narrated there. How can you quote rule 376?...*(Interruptions)*

DR. VIJAY KUMAR MALHOTRA : The Resolution has already been put to vote. How can he raise the point of order now?

श्री शिवराज सिंह चौहान : अध्यक्ष महोदय, आसन से रूलिंग दी जा चुकी है, इसलिए अब मतदान करवाइये।

SHRI G.M. BANATWALLA : I am quoting rule 186 clause (xiii) of the Rules of Procedure and Conduct of Business and article 246 clause (3) of the Constitution. The subject matter of this Resolution is not within the power of the Central Government. Secondly, the legislation, which is being asked in the Resolution, will be a Bill and it is not within the competence of the House. ...*(Interruptions)* I have not finished. You please allow me to finish and then you give your ruling.

MR. SPEAKER: I am not giving my ruling. I am going to allow you to speak. The hon. Members may please try to understand that last time before the voting started, the point of order was raised by one hon. Member in the House. The ruling was given on that, but it does not stop me from allowing other Members to raise their points of order.

I feel that you must have some patience. Let the points of order be disposed of and then we can go for the voting straightway.

...*(Interruptions)*

SHRI G.M. BANATWALLA : Sir, I have two submissions to make. ...*(Interruptions)*

DR. VIJAY KUMAR MALHOTRA : Sir, last time, the Motion was being put to vote. A voice vote was taken and division was going to be taken. At that time could there be a point of order on merit? The Motion was already put to vote and voice vote was taken. ...*(Interruptions)*

SHRI G.M. BANATWALLA : A point of order could be raised at any point of time.

DR. VIJAY KUMAR MALHOTRA : Then, people came into the well of the House and the Chair said, 'Because of unruly situation in the House, I cannot proceed.' ...*(Interruptions)*

MR. SPEAKER: I will examine this point whether the voice vote was taken and then come back to you.

...*(Interruptions)*

SHRI G.M. BANATWALLA : Mr. Speaker, Sir, the subject matter of the Resolution is not within the powers of the Government and the Bill would not be within the competence of this House.

Even at the time when Pandit Jawaharlal Nehru was the Prime Minister, on this subject, the Attorney-General came to the House and told the House that the subject matter is in the State List. Cow slaughter, preservation of stock and such matters are in the Seventh Schedule, State List, under Item 15. Therefore, the subject matter is exclusively within the jurisdiction of the States. The Centre cannot intervene. Even the Attorney-General had come to this House and given this opinion here in this House itself. Therefore, I say that this Resolution should be really thrown out and should not be allowed. There can neither be a voting on this Motion nor is this Motion admissible for the purpose. It is totally a State subject within the exclusive jurisdiction of the States.

Even now, we have been having a discussion on federalism, the federal spirit and the Centre encroaching upon the jurisdiction of the States. This was the subject we were discussing and now we are having another example of this here.

I appeal to you, after hearing all the points of order, to please say that there can neither be a voting nor admissibility of this Motion.

SHRI KHARABELA SWAIN : Sir, the same point was raised earlier also and this has been disposed of. He is raising the point of non-competence of this House. We found that we have got the competence to pass legislation on anything. ...*(Interruptions)*

MR. SPEAKER: For the information of hon. Members, I would read what happened in the last meeting. Let there be no misunderstanding. I do not want to do any injustice. उस समय श्री रघुवंश प्रसाद सिंह जी पीठासीन थे। उन्होंने कहा कि इस पर बहस हो चुकी है, डिवीजन को नहीं रोका जा सकता। But thereafter no division was taken.

...*(Interruptions)*

DR. VIJAY KUMAR MALHOTRA : The voice vote was taken but the division was not there.

MR. SPEAKER: Dr. Vijay Kumar Malhotra, let me go according to this.

Thereafter, कई लोगों ने यहां व्यवधान किये, इसलिए सभापति महोदय ने कहा कि अब सदन घोर अव्यवस्था की स्थिति में है, सदस्य वापिस नहीं जा रहे। Probably, they must have come into the well. So, the Chair said: "घोर अव्यवस्था की स्थिति में सदन की कार्यवाही कल तक के लिए स्थगित की जाती है।" इसका मतलब यह नहीं होता कि वोटिंग शुरू हुई थी।

...(व्यवधान)

SHRI KIRIT SOMAIYA (MUMBAI NORTH EAST): Sir, the process was started. ...(*Interruptions*)

MR. SPEAKER: Fortunately, the Lok Sabha proceedings are before me. I have read the proceedings for your information.

Now, it is up to the Speaker whether to allow the points of order or not. I have allowed one point of order. If hon. Members want to speak for two minutes on the point of order, let them have the satisfaction. It does not matter to me.

...(*Interruptions*)

SHRI KIRIT SOMAIYA : Sir, in the same note it has already been mentioned ' वॉइस वोट से यह बिल पास हो गया'। उसमें लिखा है।

MR. SPEAKER: It was not passed by voice vote. That is not in the record. You can show me the record.

...(*Interruptions*)

MR. SPEAKER: I am allowing Shri E. Ahamed. Shri E. Ahamed, is your point of order different or the same?

...(*Interruptions*)

SHRI E. AHAMED (MANJERI): Sir, I will take only two minutes. ...(*Interruptions*)

MR. SPEAKER: Please sit down. Please bear with me. You will save the time of the House.

...(*Interruptions*)

SHRI V. DHANANJAYA KUMAR : Sir, I may be allowed to speak on the same point. I would like to draw your attentionâ€¦! ...(*Interruptions*)

MR. SPEAKER: Shri Dhananjaya Kumar, are you supporting his submissions or opposing?

SHRI V. DHANANJAYA KUMAR : Sir, I am opposing. ...(*Interruptions*)

MR. SPEAKER: Shri Dhananjaya Kumar, just one minute because there are some Members who want to support.

...(*Interruptions*)

SHRI E. AHAMED : I would just like to substantiate the point of order raised by Shri G.M. Banatwalla. ...(*Interruptions*)

MR. SPEAKER: I am not going to allow all the Members to speak continuously.

...(*Interruptions*)

SHRI E. AHAMED : Sir, I would take only one minute. â€¦! (*Interruptions*)

MR. SPEAKER: The rule is very clear. Shri Basu Deb Acharia, may I read the rule for you? You know the rules.

...(*Interruptions*)

SHRI E. AHAMED : Sir, may I just read out clause (3) of Article 246 of the Constitution? I quote:

"Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule

(in this Constitution referred to as the "State List") "

Here, clause (1) and (2) are referring to the Union List and the Concurrent List and clause (3) is exclusively with respect to the State List of the Constitution. So, here the Constitution has given the mandatory duty to a State Legislature to make laws in respect of the items or the matters referred to in List (II) or the State List and this House shall not abrogate the powers of the State Legislature. As this is included in the State List, as mentioned in item number 15 in the State List, the Union Government has absolutely no power to make laws. ...*(Interruptions)*

MR. SPEAKER: Please let me listen to Shri V. Dhananjaya Kumar.

...*(Interruptions)*

SHRI E. AHAMED : Sir, I appeal to you that a ruling may be given in this matter. ...*(Interruptions)*

श्री विनय कटियार (फैजाबाद) : नौवीं लोक सभा में एक बार इस पर बहस हो चुकी है। उस समय व्यवस्था का प्रश्न नहीं उठा था तो आज ये विषय जो उठाए जा रहे हैं, उसका कोई औचित्य नहीं है क्योंकि नौवीं लोक सभा में एक बार इस पर वोटिंग हो चुकी है। अभी केवल इतना विषय है कि इस संकल्प को स्वीकार किया जाए या न किया जाए। अब इसमें सदन का समय बर्बाद न किया जाए। आपसे आग्रह है कि तत्काल इस पर वोटिंग करा दी जाए। (व्यवधान)

SHRI V. DHANANJAYA KUMAR : Sir, I would like to draw your attention to rule 184 of the Rules of Procedure and Conduct of Business in Lok Sabha. I quote:

"Save in so far as is otherwise provided in the Constitution or in these rules, no discussion of a matter of general public interest shall take place except on a motion made with the consent of the Speaker."

Now, this is in answer to the query raised by hon. Member, Shri G.M. Banatwalla. He referred to article 246 and he referred to rule 186.

Now, rule 184 makes it abundantly clear that once the motion is made with the consent of the hon. Speaker, then that is perfectly in order.

Now, I would like to draw your attention to rule 191. I quote:

"The Speaker shall, at the appointed hour on the allotted day or the last of the allotted days, as the case may be, forthwith put every question necessary to determine the decision of the House on the original question. "

So, once the matter is conclusively presented before the House, there is no other alternative but to put all those questions for the vote of the House. This is mentioned in rule 191. Now, the Motion, which is before this House, is perfectly in order. ...*(Interruptions)*

Now, the Motion, which is before this House, is perfectly in order. It was brought for a discussion with the consent of the Chair.

SHRI E. AHAMED : No rule can overrule the provisions of the Constitution.

SHRI TARIT BARAN TOPDAR (BARRACKPORE): It is optional for a Private Member's Resolution.

SHRI V. DHANANJAYA KUMAR : Secondly Sir, all the parties have been heard so far as the Motion is concerned. Now, it is finally for taking the opinion of the House by voting, and it is mandatory that every such question shall be put to the vote of the House, and there is no other provision. So, this is what I would like to bring to the notice of the Chair, and I would request that since the discussion has conclusively concluded, now we will have to go in for voting.

SHRI G.M. BANATWALLA : They cannot override the Constitution. ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : Sir, I would request you to read together article 48 as well as article 246. Sir, why I say to read together is because the question is whether this Parliament is competent ...*(Interruptions)*. Should I not speak? Is this the way of doing it? ...*(Interruptions)* I am on a Point of Order. Sir, is this the way the House should be conducted? It is always their duty to ...*(Interruptions)*

श्री विनय कटियार : नौवीं लोक सभा में जब माननीय शिवराज जी पाटिल चेयर पर थे, उस समय व्यवस्था दी जा चुकी है। बार-बार इस प्रश्न को उठाना औचित्यहीन है। सदन का समय बर्बाद किया जा रहा है। केवल यह कहना है कि आप गोहत्या करना चाहते हैं या बंद करना चाहते हैं। इस पर वोटिंग करा लें। हम लोगों को जाना है (व्यवधान) शिवराज पाटिल जी को अगर आपत्ति है तो वह प्रोसीडिंग निकलवा ली जाए। (व्यवधान)

SHRI SHIVRAJ V. PATIL (LATUR): We are not wasting the time of the House. It is they who have wasted the time. They are the ones who are not allowing the House to function. ...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : We have patiently heard Shri V. Dhananjaya Kumar. Why are they not hearing me patiently?

SHRI SOMNATH CHATTERJEE (BOLPUR): They are there to speak, and they are not allowing us to speak. What is happening in this House? ...(*Interruptions*)

SHRI PRAVIN RASHTRAPAL (PATAN): Why are their microphones put on without your permission? ...(*Interruptions*)

श्री शिवराज सिंह चौहान : पिछली बार भी सारे मुद्दे उठाए गए थे। इस पर अब बहस की आवश्यकता नहीं है। अब मतदान कराया जाए कि कौन पक्ष में है और कौन विपक्ष में है।

श्री बसुदेव आचार्य : कोई वोटिंग नहीं होनी चाहिए।

SHRI PRAVIN RASHTRAPAL : What is the hurry? Why are you in such a hurry? ...(*Interruptions*)

MR. SPEAKER : Please sit down.

...(*Interruptions*)

SHRI TARIT BARAN TOPDAR : They are not competent to vote.

अध्यक्ष महोदय : मैंने बार-बार कहा है कि व्यवस्था के प्रश्न के बाद मैं बताऊंगा। मैं केवल दासमुंशी जी के बाद एक और व्यवस्था का प्रश्न सुनूंगा, पांच मिनट और लगेगे, फिर मैं रूलिंग दूंगा। Please sit down. Only one more Member after him, and then I will give the ruling.

...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Mr. Speaker Sir, I am only here to raise the Point of Order under articles 48 and 246, and simply to defend the views expressed by the Government, that is, the Treasury Benches. Sir, article 48 makes it clear that "The State shall endeavour" -- the word is "State". I know the meaning of the State, both Union and the State.

Article 246 makes it clear that unless issues are linked with Concurrent List and Union List, this Parliament is not competent to bring any legislation on matters within the State List. Sir, in support of that, and in reply to the debate, I draw your kind attention to the proceedings of Lok Sabha of 13 December. In that debate, the hon. Minister Shri Hukumdeo Narayan Yadav -- who is present here -- replied :

"माननीय सदस्य से मैं आग्रह करता हूँ कि यह राज्य का विषय है। राज्य सरकार के पशुपालन मंत्रियों से चर्चा करने के बाद जो केन्द्र सरकार की राय हो, उसके साथ मिलजुल कर इस पर आवश्यक रूप से जो करना होगा, वह करूंगा। माननीय सदस्य की भावना को और अन्य सदस्यों की जो राय है, उनको भी राज्य मंत्रियों के सम्मेलन में रखेंगे।

सबकी सम्मति से जो कुछ बनेगा और आज ही राय बनेगी। (व्यवधान) इसलिए मैं माननीय सदस्यों से आग्रह करता हूँ कि इस संवेदनशील प्रस्ताव पर सदन में मतदान न कराएँ। यह राज्यों का विषय है। It is a commitment and a confession of the Government. Mr. Speaker, Sir, I am not speaking out of context. Today, in your presence, the distinguished Parliamentary Affairs Minister sought the cooperation from all of us for not insisting on a vote on another Bill. We did stand by the word of the Minister and the request for a vote was withdrawn. In the reply, when the Minister made the view of the Government very clear that it is a State subject, why should you compel the Parliament to vote on it, in contravention of article 246? This is my appeal to you. ...(*Interruptions*)

DR. VIJAY KUMAR MALHOTRA : We want to make it a Central subject. ...(*Interruptions*) यह स्टेट का सब्जेक्ट होगा, संविधान संशोधन से इसको सेंटर का सब्जेक्ट बनाया जा सकता है।

MR. SPEAKER: The rules are quite clear on this.

SHRI SOMNATH CHATTERJEE : Now, the Spokesman and the Super-Minister has agreed to make it a Central subject! ...(*Interruptions*)

SHRI BASU DEB ACHARIA : We will also raise a point of order on this. ...(*Interruptions*)

MR. SPEAKER: Please keep silence in the House. It is in the interest of all of us to keep silence in the House.

श्री शिवराज वि.पाटील : अध्यक्ष जी, मैं बड़े अदब के साथ करना चाहता हूँ कि जब भी पाइंट ऑफ आर्डर रोज किया जाता है तो संविधान के मुताबिक यहां पर काम चल रहा है या नहीं चल रहा है, यह देखा जाता है। हमने जो रूल्स बनाए हैं उनके मुताबिक काम चल रहा है या नहीं चल रहा है, यह देखा जाता है। हमारी जो परम्पराएं हैं उनके मुताबिक काम चल रहा है या नहीं चल रहा है, यह देखा जाता है। अगर वह संविधान के खिलाफ हो तो वह पाइंट ऑफ आर्डर कंसीडर किया जाता है और उसके मुताबिक जो भी आप रूलिंग देंगे, जो भी पीठासीन अधिकारी रूलिंग देंगे, वह हम सभी के लिए बंधनकारी रहेगी। मैं संविधान के मुताबिक पाइंट ऑफ आर्डर रोज करने जा रहा हूँ, सदन के सामने संविधान के प्रावधान रखने जा रहा हूँ। संविधान के आर्टिकल 246 (3) मैं आपके सामने पढ़ रहा हूँ।

MR. SPEAKER: Shri Patil, is your point of order different from the point of order raised earlier?

SHRI SHIVRAJ V. PATIL : Yes, Sir. मैं आपके सामने पढ़ रहा हूँ। यह कहता है कि -

"(3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "State List")."

और मैं फिर पढ़ूंगा।

"(3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "State List")."

सर, यह आर्टिकल कहता है कि जो सब्जेक्ट स्टेट लिस्ट में है उसके ऊपर कानून बनाने का अधिकार एक्सक्लूसिवली स्टेट को है।

श्री शिवराज सिंह चौहान : अध्यक्ष जी, जब ये चेयर पर बैठे थे पहले भी इस पर वोटिंग हो चुकी है। (व्यवधान)

अध्यक्ष महोदय : मैं निर्णय करूंगा, आप बैठ जाइये।

श्री शिवराज वि.पाटील : अब मैं आर्टिकल 156 पर आता हूँ।

श्री विनय कटियार : इसमें कोई नयी बात नहीं है। (व्यवधान) संकल्प में यह बात आती नहीं है, कानून बनाने के वक्त यह बात आती है। (व्यवधान)

श्री शिवराज वि.पाटील : दूसरे किसी सब्जेक्ट पर को-आपरेट करने के लिए मत बोलिएगा। (व्यवधान) आप समझ भी नहीं पा रहे हैं और हमको बोलने भी नहीं दे रहे हैं।

अध्यक्ष महोदय : मैंने आपको इजाजत दी है, आप बोलिए।

श्री शिवराज वि.पाटील : मैं लिस्ट-2 की एन्ट्री संख्या 15 पढ़ना चाहता हूँ। (व्यवधान)

श्री विनय कटियार : सदन का समय बर्बाद हो रहा है।

श्री शिवराज वि.पाटील : सदन का समय बर्बाद हो रहा है - इस पर मुझे आब्जेक्शन है। आप ऐसा कर रहे हैं, बोल रहे हैं, तो समय बर्बाद नहीं हो रहा है। (व्यवधान)

अध्यक्ष महोदय : समय बर्बाद होने का प्रश्न नहीं है।

श्री शिवराज वि.पाटील : महोदय, मैं लिस्ट-2 की एन्ट्री संख्या 15 पढ़ना चाहता हूँ। जिसमें लिखा है -

" Preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice."

इस एन्ट्री के नीचे 20 साल पहले स्टेट गवर्नमेंट ने कानून बनाए हैं। वेस्ट बंगाल, गोवा और नार्थ ईस्ट के राज्यों को छोड़कर तथा महाराष्ट्र ने भी कानून बनाए हैं। इन बातों को आप भी जानते हैं।

अध्यक्ष महोदय : मैं जानता हूँ।

श्री शिवराज वि.पाटील : यह एक्सक्लूसिवली स्टेट का राइट है। (व्यवधान)

अध्यक्ष महोदय : आप बैठिए।

...(व्यवधान)

श्री शिवराज वि.पाटील : मैं पूछता हूँ, एन्ट्री संख्या 15 के नीचे काउन्सिलर पर कानून बनाने का अधिकार स्टेट लैजिस्लेचर का है या नहीं? अगर स्टेट का एक्सक्लूसिव राइट है और हम यहां पर रिजोल्यूशन पास कर रहे हैं, मैं जानता हूँ कि यह रिजोल्यूशन है, कानून नहीं है, अगर हम इस हाउस में बैठकर रिजोल्यूशन

पास करेंगे, तो यह संविधान के स्पिरिट और बडर्स के खिलाफ नहीं जाएगा? स्पैसिफिकली कान्स्टीचुशन कहता है कि इस हाउस को कानून बनाने का अधिकार नहीं है। अगर हम रिजोल्यूशन पास करेंगे और वोट देकर इस हाउस को कानून बनाने का अधिकार देंगे, तो क्या इस प्रकार रिजोल्यूशन पास किया जा सकता है? (व्यवधान)

MR. SPEAKER: Please conclude now.

SHRI SHIVRAJ V. PATIL : Please be kind to me. I am not speaking anything irrelevant. मैं कहना चाहता हूँ, क्या रिजोल्यूशन द्वारा वोट करके कानून बनाने का अधिकार दे सकते हैं, जबकि यह अधिकार कान्स्टीचुशन नहीं देता है। क्या इस प्रकार से सब्जेक्ट लाकर वोटिंग कर सकते हैं?

महोदय, मेरा दूसरा सवाल है, जब यह रिजोल्यूशन इन्ट्रोड्यूस हुआ, उस वक्त हम लोग यहां नहीं थे। यह डिस्मिशन तो आफिस ने लिया होगा। यह डिस्मिशन तो रिटायरिंग आफिसर ने लिया होगा। जब हम लोग यहां नहीं थे, तो यह कहने का चांस नहीं था कि यह कान्स्टीचुशनली नहीं है। हमें अभी यह कहने का चांस है कि यह कान्स्टीचुशनली नहीं है।

17.00 hrs.

Sir, I am not speaking on irrelevant things.

MR. SPEAKER: I have not said that you are speaking on irrelevant things.

SHRI SHIVRAJ V. PATIL : But let me complete, Sir,

MR. SPEAKER: But if you repeat the same points, how can I allow? You cannot go on repeating. You are repeating the same thing.

Now, Shri Somnath Chatterjee.

SHRI SHIVRAJ V. PATIL : I am not repeating, Sir. I am saying that if this House does not have an authority, can you, by voting, against the Constitutional spirit, give that authority? We would like to have your ruling on this point; and then do whatever you want to do, and we will do whatever we want....(Interruptions)

MR. SPEAKER: Now, Shri Somnath Chatterjee.

...(Interruptions)

श्री विनय कटियार : क्या शाहबानो केस में कानून बदलने का सदन को अधिकार हो सकता है? (व्यवधान)

SHRI SHIVRAJ V. PATIL : Sir, you shall have to stop him. (Interruptions) If you do not stop them, they will not allow others to speak....(Interruptions)

MR. SPEAKER: Hon. Members, please sit down. Please cooperate with the Chair.

...(Interruptions)

MR. SPEAKER: After listening to Shri Somnath Chatterjee, I am going for voting. Please cooperate with the Chair. His point of order is the last point of order. Thereafter, I am going for voting.

SHRI G.M. BANATWALLA : Sir, how can you say that you will go for voting? Wonderful, Sir!

MR. SPEAKER: If the ruling is in favour of voting, then I am going for voting.

...(Interruptions)

SHRI BASU DEB ACHARIA : Sir, you have to give your ruling first whether we can go for voting or not....(Interruptions)

SHRI SOMNATH CHATTERJEE : Mr. Speaker, Sir, one should have thought that after the reply of the hon. Minister, there would be an end to this debate. The Government's own decision is that it is a matter for the State Governments to decide. This is an official reply.

If there is a Government at all...(Interruptions)

Sir, unless you control the so-called super speakers in this House, it will be very difficult

MR. SPEAKER: Shri Somnath Chatterjee, you can make your points. I am listening to you. Please go ahead.

SHRI SOMNATH CHATTERJEE : Sir, it is a joint responsibility. It is a Cabinet form of Government. On behalf of the Government, in the Parliament of India, a reply had been given clearly admitting that it is a State matter. So, one should have thought, that was the end of the debate.

But we do not know. It is almost like as if it has been said that they have a right to decide whatever they like, because they happen to be in a temporary majority. ...(*Interruptions*)

You are not in majority on your own, Shri Malhotra.

DR. VIJAY KUMAR MALHOTRA : Majority has the right.

SHRI SOMNATH CHATTERJEE : Yes, we know that.

DR. VIJAY KUMAR MALHOTRA : Parliament goes by majority and not by minority....(*Interruptions*)

SHRI TARIT BARAN TOPDAR : But you cannot do anything and everything by majority...(*Interruptions*)

श्री मदन लाल खुराना (दिल्ली सदर) : कांग्रेस की मैजॉरिटी से ही देश में एमर्जेन्सी लगी थी। अरे! (ब्यवधान)

SHRI SOMNATH CHATTERJEE : You better get a majority support on your own party, Shri Madan Lal Khurana!

श्री विष्णु पद राय (अंडमान और निकोबार द्वीप समूह) : आप कोई नई बात नहीं कह रहे हैं। अरे! (ब्यवधान)

SHRI SOMNATH CHATTERJEE : Nobody has read the text of the Resolution....(*Interruptions*).. मेरी बात सुनिए। आपको क्या हो गया है?

MR. SPEAKER: Please keep silence in the House.

Yes, Shri Somnath Chatterjee, please go ahead.

SHRI SOMNATH CHATTERJEE : Sir, are we at their mercy?

MR. SPEAKER: Not at all. You can please go ahead.

SHRI SOMNATH CHATTERJEE : As to whether we shall be allowed to speak or not to speak, will be decided by the Vinay Katiyar and company and not you, Sir!...(*Interruptions*)

MR. SPEAKER: Shri Somnath Chatterjee, please speak.

SHRI SOMNATH CHATTERJEE : If you ask me to sit down, I will sit down....(*Interruptions*)

श्री विनय कटियार : मैंने कुछ भी नहीं कहा लेकिन आपने मेरा नाम ले लिया और मुझे कोट कर दिया।

SHRI SOMNATH CHATTERJEE : I have referred your name because of the affection I have for you.

MR. SPEAKER: Shri Somnath Chatterjee, you can make your point. You need not reply to him.

SHRI SOMNATH CHATTERJEE : Sir, kindly see the Resolution. It says:

"This House is of the opinion that the Government should bring forward a suitable legislation to ban slaughter of cow and its progeny throughout the country. "

...(*Interruptions*)

MR. SPEAKER: Shri Somnath Chatterjee, please speak. I have permitted you to speak. Every word of yours will go on record.

SHRI SOMNATH CHATTERJEE : I was drawing the attention of the hon. Members, particularly yours, that this will almost be a matter of mandate on the Government. If the House takes a decision, the Government should bring a legislation and such a legislation would be a valid one. They may like to change the Constitution which they have been trying all the time to do.(*Interruptions*)

All right, you follow the Congress. If Congress is your idol, follow them....(*Interruptions*)

MR. SPEAKER: Hon. Members, if you do not interrupt him, he will complete in two minutes. Shri Somnath Chatterjee does not take time unnecessarily.

...(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Sir, may I draw your attention to article 245 of the Constitution? This is the first article of part XI, about Distribution of Legislative Powers. ...(*Interruptions*) I requested you to hold some classes for them. Article 245 says:

"Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State."

Then, there is article 246. The Constitution obviously has the supervising authority. I am sure, nobody, not even Madan Lal Khurana, will grudge that.

Now, the Minister has admitted; the Government has admitted that the Constitution of India, which is binding on everybody in this country, under this Parliament, will have no authority....(*Interruptions*)

Now, Sir, a peculiar argument has been given. The super Minister - he could not be made a Minister, but he has been given a Ministerial rank and on every matter he stands up on behalf of the Government....(*Interruptions*) You know my love for him. I am trying to espouse his cause. He says, well, before bringing that legislation, in the House, the Constitution may be amended! Wonderful, Sir! This is not a mandate to amend the Constitution. Under the present Constitution, this Bill has to be brought. Therefore, Dr. Vijay Kumar Malhotra, the great super Spokesman of BJP has managed to keep all their allies away. Their shameless irresponsibility has been disclosed....(*Interruptions*)

DR. VIJAY KUMAR MALHOTRA : Sir, he is calling names. Should we also call him names? He is calling names....(*Interruptions*)

MR. SPEAKER: I will expunge these words, if they are unparliamentary.

...(*Interruptions*)

MR. SPEAKER: Somnathji, have you completed your point?

SHRI SOMNATH CHATTERJEE : Within a minute, I will finish my speech, Sir....(*Interruptions*)

MR. SPEAKER: Hon. Members, please sit down. He will finish his speech within two minutes.

SHRI SOMNATH CHATTERJEE : I am reading article 246....(*Interruptions*)

MR. SPEAKER: Hon. Members, please sit down.

...(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Sir, I do not have to argue before you the importance of article 246, the importance of List I, List II and List III. This is not a List III matter where the Central Government, irrespective of a State law, could have come forward....(*Interruptions*)

(*Interruptions*) *

SHRI SAMIK LAHIRI (DIAMOND HARBOUR): What is this going on, Sir?

SHRI MOINUL HASSAN (MURSHIDABAD): Sir, what is this? * (*Interruptions*)

SHRI BASU DEB ACHARIA : What is this going on here? * (*Interruptions*)

* Not Recorded

MR. SPEAKER: Please take your seats.

Except what Shri Somnath Chatterjee says, nothing is going on record.

...(*Interruptions*)

SHRI SUNIL KHAN (DURGAPUR): Sir, what is this? ...(*Interruptions*)

MR. SPEAKER: I have permitted him to speak on the point of order.

17.10 hrs.

(At this stage, Shri Samik Lahiri came and stood on the floor near the Table.)

MR. SPEAKER: Please sit down.

...(*Interruptions*)

MR. SPEAKER: Please go back to your seat.

...(Interruptions)

17.10-1/2 hrs.

(At this stage, Shri Samik Lahiri went back to his seat.)

MR. SPEAKER: I will expunge the words which are unparliamentary. Please take your seats.

...(Interruptions)

MR. SPEAKER: Have you completed, Shri Somnath Chatterjee?

...(Interruptions)

SHRI SOMNATH CHATTERJEE : Sir, I could not complete one sentence without interruption. I have not been able to complete one sentence. Otherwise, we can go away from this House. Are we at their mercy?

MR. SPEAKER: Please go ahead.

SHRI SOMNATH CHATTERJEE : Sir, we want to know this. This is not a new phenomenon. Every day it is happening. ...(Interruptions) Every day it is happening. Sir, I have some humble experience in this House, but I have never seen anything like this. ...(Interruptions)

MR. SPEAKER: Please keep silence in the House. Let Shri Somnath Chatterjee complete his statement.

SHRI SOMNATH CHATTERJEE : We are not here at their mercy.

MR. SPEAKER: Please complete, Shri Somnath Chatterjee.

SHRI SOMNATH CHATTERJEE : Sir, you may reject our submissions. The House has majority, maybe temporary, and contrived majority, which will prevail. What can I do? At least let me have the satisfaction that I am also representing some people in this country. These are our views. You may kindly consider them.

MR. SPEAKER: Please conclude.

SHRI SOMNATH CHATTERJEE: This running commentary and the 'super-Speakership' – I am saying repeatedly in this House, in the 13th Lok Sabha – are going on nowadays. We cannot function because, even if the Chair allows us, they interrupt us. ...(Interruptions)

MR. SPEAKER: Please keep silence in the House.

SHRI SOMNATH CHATTERJEE : What sort of behaviour is that?

MR. SPEAKER: You may ignore that and complete your argument.

SHRI SOMNATH CHATTERJEE : Senior Ministers are sitting here and they cannot control their Members. Where is the Prime Minister?

MR. SPEAKER: You can speak now.

SHRI SOMNATH CHATTERJEE : How can they say that? After all, these are important issues facing the country. ...(Interruptions)

MR. SPEAKER: Let there be no occasion for me to be very strict.

...(Interruptions)

अध्यक्ष महोदय : विपक्ष भी जरा शांति बनाए रखे। ये आप अच्छा नहीं कर रहे हैं।

...(व्यवधान)

SHRI SOMNATH CHATTERJEE : Therefore, my respectful submission before you is that in view of the clear provisions of Article 245 of the Constitution, in view of the clear provisions of Item No. 15 of the State List where the Centre has no authority to legislate, in view of the clear statements made by the hon. Minister on behalf of the Government that this is a State matter and also in view of another submission made on behalf of the Ruling Party that after suitable amendment of the Constitution, this can be brought forward, it may be treated that this House has

no legislative competence on this.

MR. SPEAKER: Shrimati Sushma Swaraj, do you want to speak on the point of order?

स्वास्थ्य और परिवार कल्याण मंत्री तथा संसदीय कार्य मंत्री (श्रीमती सुमा स्वराज) : अध्यक्ष जी, यहां जो संवैधानिक मुद्दे उठाए गए हैं, मैं केवल उनके ऊपर आपको एसिस्ट करने के लिए कुछ कहना चाहती हूँ। यहां सबसे पहले लैजिस्लेटिव कंपीटेन्स का मुद्दा उठाया गया। केन्द्र सरकार के पास संविधान के मुताबिक इस तरह का कानून बनाने की लैजिस्लेटिव कंपीटेन्स नहीं है, इसलिए यह प्रस्ताव यहां से पास नहीं हो सकता, यह पहली बात कही गई। **â€(व्यवधान)**

श्री प्रियरंजन दासमुंशी (रायगंज) : आपके मंत्री ने कहा है। **â€(व्यवधान)** I am telling what the Minister has told. ...*(Interruptions)* As she is assisting you, Mr. Speaker, Sir, I want to assist my hon. Parliamentary Affairs Minister. The other Minister has said that this is a subject under the State List.

श्रीमती सुमा स्वराज : मैं उसका जवाब दे रही हूँ। अगर प्रियरंजन जी दो मिनट सुनें तो मैं उस बात का जवाब दे रही हूँ जो हुक्मदेव नारायण जी ने यहां कही। मैंने कहा कि यह प्रश्न उधर से आया कि लैजिस्लेटिव कंपीटेन्स नहीं है।

सबसे पहले मैं आपके माध्यम से सदन को कहना चाहूंगी कि लैजिस्लेटिव कंपीटेन्स का मुद्दा केवल विधेयक के संदर्भ में उठाया जा सकता है, रिजॉल्यूशन के संदर्भ में नहीं क्योंकि रिजॉल्यूशन प्रस्ताव भावना का प्रकटीकरण ही करता है।

श्री बसुदेव आचार्य : आप प्रस्ताव को पढ़िए।

श्रीमती सुमा स्वराज : अध्यक्ष महोदय, मैं उस प्रस्ताव को जरूर सुनूंगी और जो-जो चीजें यहां कही गई हैं, मैं उन सबका उत्तर दूंगी। आप मुझे केवल पांच मिनट सुन लीजिए।

SHRI PRIYA RANJAN DASMUNSI : Sir, I am on a point of order. Is she speaking on behalf of the Government or on behalf of the Member? If she is speaking on behalf of the Government, as per article 75, it is a matter of collective responsibility, and Shri Hukumdeo Narayan Yadav, the hon. Minister has already replied to the House that it is a State subject. Therefore, the Minister of Parliamentary Affairs is either violating the collective responsibility or defending the Member and not the Government. This issue should also be resolved. Under article 75, it is the collective responsibility of the Government and the Minister in charge of the Resolution has already replied to the House that it is a State subject. Is she confronting the Minister? Is she representing the Government? If that is so, she must disown the Minister who responded to the debate....*(Interruptions)* You have to give a ruling on that.

MR. SPEAKER: I will give the ruling.

श्रीमती सुमा स्वराज : मैं उसका भी उत्तर दूंगी। **â€(व्यवधान)**

श्री विनय कटियार : अध्यक्ष महोदय, ये तो कुछ सुनना ही नहीं चाहते हैं। **â€(व्यवधान)**

MR. Speaker: Let her complete.

...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : Sir, she is misleading the House. Tobacco is in the Concurrent List....*(Interruptions)*

श्रीमती सुमा स्वराज : अध्यक्ष महोदय, मैं पहले उसी बात का जवाब देती हूँ। मेरे सहयोगी मंत्री श्री हुक्मदेव नारायण यादव, जो कृषि राज्य मंत्री हैं, उन्होंने सदस्य विशेष से आग्रह किया कि वे इस प्रस्ताव को वापस ले लें क्योंकि इसका कानून बनाने की लैजिस्लेटिव कंपीटेन्स स्टेट की बनती है तथा कानून की मौजूदा स्थिति यह है कि यह स्टेट सब्जेक्ट है।

अभी थोड़ी देर पहले जब मैं एक दूसरे विषय पर बोल रही थी, तब मैंने पहले वाले खंड में बताया था कि हर विधेयक और हर प्रस्ताव पर मंत्री की ओर से यही आग्रह होता है सदस्य विशेष से, चाहे वह सत्ता पक्ष के हों या विपक्ष के, कि वे अपने विधेयक को वापस ले लें और उसके ऊपर सरकार आश्वासन देती है, लेकिन मंत्री के आग्रह को माननीय सदस्य मानें या नहीं, यह उनका अधिकार है और केवल सदस्य का अधिकार नहीं, बल्कि यदि सदस्य मान भी ले, तो उसे वापस लेने देने का अधिकार सदन का होता है। यदि सदन चाहे, तो वह उसे वापस ले सकते हैं और यदि सदन ऐसा न चाहे, तो वे उसे वापस नहीं ले सकते। जो परम्परा चली आ रही है, उसको देखते हुए मंत्री ने अपने कर्तव्य का पालन करते हुए माननीय सदस्य से आग्रह किया कि वे इसे वापस ले लें। अब गेंद माननीय सदस्य के पाले में है। वे चाहें तो मंत्री के आग्रह को स्वीकार करें और न चाहें, तो अस्वीकार करें। मंत्री का आग्रह उन्होंने स्वीकार नहीं किया और उन्होंने निवेदन किया कि वे इस पर मत विभाजन चाहते हैं। अब जब वे मत विभाजन पर जोर दे रहे हैं, तो आपका बार-बार यह कहना कि मंत्री ने उनसे कहा, यह ठीक नहीं है। **â€(व्यवधान)**

महोदय, दूसरी बात श्री शिवराज पाटिल ने कही और संविधान का आर्टिकल 246 पढ़कर सुनाया। उन्होंने यह कहा कि यह एक्सक्लूसिवली स्टेट सब्जेक्ट है। इस पर केन्द्र सरकार कानून नहीं बना सकती। मैं माननीय शिवराज जी से कहना चाहूंगी कि पहली बात तो यह है कि जो एक्सक्लूसिवली स्टेट के सब्जेक्ट हैं, वे भी इसी संविधान की धाराएं हैं। जिन विशेष परिस्थितियों में केन्द्र सरकार कानून बना सकती है उनका उल्लेख भी संविधान में किया गया है।

महोदय, मैं उदाहरण स्वरूप अभी कल की ही बात बताना चाहती हूँ। कल हमने राज्य सभा में एक एंटी-टोबैको बिल पास किया। सिगरेट यूनिशन लिस्ट में था, लेकिन टोबैको प्रोडक्ट यूनिशन लिस्ट में नहीं था, लेकिन संसद की एक स्थायी समिति ने केन्द्र सरकार से कहा कि फलां-फलां एंटी के तहत केन्द्र सरकार कानून बनाने का अधिकार रखती है। इसलिए केन्द्र सरकार इस पर कानून बनाए। इसी बात को दृष्टिगत रखते हुए राज्य सभा में कानून बना और पारित हुआ। इसलिए यह कहना कि एक्सक्लूसिवली यह राइट स्टेट का है, ठीक नहीं है। इस संविधान में कई चीजें हैं। सवाल यह है कि उनको लेने का स्वरूप कैसा हो।

अध्यक्ष महोदय, मैं तीसरी बात यह कहना चाहती हूँ कि बार-बार बनातवाला जी ने कहा, **â€(व्यवधान)**

श्री तरित बरण तोपदार : स्पीकर साहब, जिस विषय के ऊपर मंत्री महोदया राज्य सभा में कानून बनाने की बात कह रही हैं, वह कन्करेंट लिस्ट में है। **â€¦** (व्यवधान)

श्रीमती सुमा स्वराज : अध्यक्ष जी, बनातवाला जी, संविधान को बार-बार कोट कर रहे थे। **â€¦** (व्यवधान)

अध्यक्ष महोदय : सोमनाथ जी, विपक्ष के लोगों को भी कहिए कि वे डिस्टर्ब न करें।

SHRI SOMNATH CHATTERJEE : Our feelings have been throttled here. Of course, I am not saying that we should interrupt....(Interruptions)

श्रीमती सुमा स्वराज : इसमें जो कुछ होना चाहिए, संविधान के मुताबिक होना चाहिए। मैं संविधान की धारा 48 आपको पढ़कर बताती हूँ। यह रेजोल्यूशन केवल संविधान का नहीं बल्कि जब भी राजनीतिक शास्त्र के लोग भारतीय संविधान को पढ़ते हैं तो सबसे पहला चैप्टर मौलिक अधिकार यानी फंडामेंटल राइट्स का आता है। वह सबसे प्रमुख अध्याय है। उसके तुरंत बाद डायरेक्टिव प्रिंसिपल ऑफ स्टेट पालिसी यानी नीति निर्देशक सिद्धांत आते हैं। नीति निर्देशक सिद्धांत की धारा 48 में आपको पढ़कर सुनाना चाहती हूँ। इसमें कहा है कि—

"48. The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle."

यहां स्टेट का अर्थ यूनियन है। यह शिवराज पाटिल जी जानते हैं। हर जगह संविधान में जब स्टेट शब्द लिखा गया है तो वह केन्द्र है। यह प्रस्ताव केवल उस भावना का प्रकटीकरण कर रहा है जो संविधान निर्माताओं ने हमें दिया है। अब मैं जिस बात पर आ रही हूँ, वह यह है कि यह सदन नियमों से भी चलता है और परम्पराओं से भी चलता है। इस सदन में हमेशा प्रीजिडेंट कोट किये जाते हैं। अभी श्री सोमनाथ जी भाग पढ़कर सुना रहे थे कि इसकी भाग कैसी है। श्री सोमनाथ जी, मैं आपकी जानकारी के लिए बताना चाहती हूँ कि इसी सदन में 17 अगस्त, 1990 को एक प्रस्ताव पर मतदान हुआ। उस प्रस्ताव की भाग क्या थी ? आप अपना कागज उठाइये और मैं अपना कागज उठाती हूँ, उसे मिलाते जाइये।

"This House is of the opinion that the Government should bring forward a suitable legislation to ban slaughter of cow and its progeny throughout the country."

एग्जैक्टली वही भाग है जो आपने पढ़ी है। मैं और जानकारी के लिए बता दूँ कि इस प्रस्ताव पर जब सदन में मतदान हुआ, उस समय चेयर पर श्री शिवराज पाटिल जी डिप्टी स्पीकर के तौर पर बैठे थे। **â€¦** (व्यवधान) श्री शिवराज पाटिल जी पीठासीन थे। वे उस समय सदन के उपाध्यक्ष थे। इस सदन में मतदान हुआ और यह प्रस्ताव गिर गया। इससे पहले 12 अप्रैल, 1979 को इसी सदन में मतदान हुआ। इस प्रस्ताव के ऊपर ऐसी ही भाग पर, जहां 43 पक्ष में और 8 खिलाफ में थे। दो बार इस सदन में प्रस्ताव पर मतदान हो चुका है। एक बार स्वयं श्री शिवराज पाटिल जी की अध्यक्षता में और एक बार 1979 में। एक बार प्रस्ताव गिरा है और एक बार प्रस्ताव पारित हुआ है। यह कहना कि आज कुछ अजूबा घट रहा है और ऐसा कोई रेजोल्यूशन आ गया जो असंवैधानिक है, अनैतिक है और जिस पर वोटिंग नहीं हो सकती, यह बात सरासर गलत है। चूंकि मैं दूसरे सदन की सदस्या हूँ इसलिए मतदान की मांग आपसे नहीं कर सकती। मैंने आपसे कहा कि मैं केवल संवैधानिक टिप्पणियों का उल्लेख करने के लिए खड़ी हुई हूँ। मैंने उन संवैधानिक टिप्पणियों का जवाब आपको दिया है।

MR. SPEAKER: Shri Shivraj Patil was referred to while speaking by Shrimati Sushma Swaraj. He is only on his personal explanation because his name was referred to.

SHRI SHIVRAJ V. PATIL : My explanation is this. Supposing a wrong decision has been taken in the House, will it change the Constitution?**â€¦** (Interruptions). I do not know whether I was there or not at that time...(Interruptions)

MR. SPEAKER: She takes the responsibility.

...(Interruptions)

SHRI SHIVRAJ V. PATIL : Her colleague has said that this House has no legislative competence in this regard. I am asking you, do you still hold that this House has the legislative competence just because I was sitting there?... (Interruptions) I do not remember and I do not have any recollection that I was there ... (Interruptions) But simply because I was sitting there and a decision was taken, I want to ask whether she holds that this House has the legislative competence. On that basis, do you hold that this House has the competence?... (Interruptions)

SHRIMATI SUSHMA SWARAJ: Sir, this time the issue before the House is not of the legislative competence. This time, the issue before the House is whether this House can vote on this Resolution or not.

MR. SPEAKER: Shri Somnath Chatterjee is on a personal explanation because Smt. Sushma Swaraj has taken his name. Shri Somnath Chatterjee, only to that extent you can offer your personal explanation.

SHRI SOMNATH CHATTERJEE : No, Sir. We have to answer this. She has taken my name. ... (Interruptions)

SHRI SHIVRAJ V. PATIL : We are not against prohibiting cow slaughter. I am repeating it. We are not against prohibiting cow slaughter. What we are saying is that this House has no competence.

श्री वी.धनञ्जय कुमार : सोमनाथ जी का नाम तो नहीं लिया।**â€¦** (व्यवधान)

MR. SPEAKER: No, Shri Dhananjaya Kumar. She had taken his name. She did take his name.

SHRI V. DHANANJAYA KUMAR : That was only in reference to what he had submitted. ...(*Interruptions*)

SHRI SOMNATH CHATTERJEE : The most respected Minister of Parliamentary Affairs has made some submission in her self-appointed capacity as *amicus curie*. She was not speaking on behalf of the Government. She wanted to assist the Chair and that is why she stood up. Very well. Whether her assistance was good or bad, Sir, you have heard her.

SHRIMATI SUSHMA SWARAJ: That is the responsibility given to me by the Prime Minister of India.

SHRI SOMNATH CHATTERJEE : Only the Chair can appoint you as *amicus curie*.

SHRIMATI SUSHMA SWARAJ: As the Parliamentary Affairs Minister, I am supposed to assist the Chair. ...(*Interruptions*)

SHRI SOMNATH CHATTERJEE : I am only repeating what she had said. She stood up only to assist the Chair.

THE MINISTER OF EXTERNAL AFFAIRS (SHRI YASHWANT SINHA): You are also assisting the Chair.

MR. SPEAKER: You are right. He is also assisting me.

श्रीमती सुमा स्वराज : वह बात मैंने इसलिए कही थी क्योंकि जो मैंने अंत में कहा कि यहां सवाल वोट का है और मैं दूसरे हाउस की सदस्या हूं। मैं वोट नहीं मांग सकती, न उसकी मांग कर सकती, इसलिए मैंने आपसे कहा था कि मैं केवल संवैधानिक टिप्पणियों का उत्तर दे रही हूं। (व्यवधान)

SHRI SOMNATH CHATTERJEE : Yes, on that '*samvidhanik tippani*' I want to make a '*tippani*'. What is that '*samvidhanik tippani*'? She does not controvert the Minister's statement. ...(*Interruptions*)

SHRI KIRIT SOMAIYA (MUMBAI NORTH EAST): He has to speak only on the personal explanation. Now he cannot go on touching the whole issue. On other issues he has already spoken. Therefore, he has to speak only on the personal explanation and nothing more than that.

MR. SPEAKER: I agree with you. Shri Kirit Somaiya, thank you for assisting the Chair!

SHRI SOMNATH CHATTERJEE : I am assisting the Chair not as a Minister. She is a Minister. She gets her authority from the Prime Minister, not under the Constitution of India, it seems. But, she has also taken oath to preserve the Constitution of India. What is her constitutional *tippani*?

Firstly, in the other House some Bill has been passed with regard to tobacco and therefore this House has the competence. Secondly, Shri Shivraj Patil made a decision – right or wrong; let us take it as the right decision at that time because nobody questioned that decision – and therefore it becomes constitutionally permissible. Thirdly, another Resolution had been moved earlier and therefore it becomes constitutional.

Why am I raising it? ...(*Interruptions*) Even when a very learned and intelligent person like Shrimati Sushma Swaraj had to take up a bad case, she makes a mess of it. I am again saying that this is a pure and simple question of legislative competence. The Resolution is directing the Government, if it is passed, to bring a suitable legislation on cow slaughter. If that legislation cannot be taken up by this House, how can there be a Resolution today? There cannot be a Resolution unless of course there is an amendment, as Shri Vijay Kumar Malhotra hopes to get one.

MR. SPEAKER: Your personal explanation is over. A number of Members raised points of order today in the House.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT, MINISTER OF SCIENCE AND TECHNOLOGY AND MINISTER OF OCEAN DEVELOPMENT (DR. MURLI MANOHAR JOSHI): This is the most extraordinary explanation ever given to this House!

SHRI TARIT BARAN TOPDAR : Will you allow me one minute?

MR. SPEAKER: No, please.

SHRI TARIT BARAN TOPDAR : Why not?

MR. SPEAKER: Because it is the prerogative of the Chair whether to permit or not. Please sit down.

Shri G.M. Banatwalla, Shri E. Ahamed, Shri Dhananjaya Kumar, Shri P.R. Dasmunsi, Shri Shivraj V. Patil and Shri Somnath Chatterjee have raised points of order on the legislative competence of the House and also regarding the conventions.

I have heard all the Members very sincerely. I have gone through the provisions of the Constitution also. The question of legislative competence of the House regarding the subject of the Resolution was thoroughly discussed.

I am thankful to the hon. Members including hon. Minister, Shrimati Sushma Swaraj, for assisting me in giving this important ruling.

I find that the Resolutions regarding ban on cow slaughter had been admitted on three occasions in the past. Once it was adopted by the House. On another occasion, it was negated and the third time, the Resolution was listed but not moved. The question of legislative competence of the House is required only in the case of Bills. As a Resolution is merely an expression of opinion of the House, the question of legislative competence of the House on the subject does not arise.

In view of the legal position and past precedents, I rule that the Resolution is in order.

...(Interruptions)

SHRI SHIVRAJ V. PATIL : Sir, we are not going to cooperate with you in this matter as this is not within the legislative competence of the House. So, we are walking out in protestâ€¦...(Interruptions)

17.32 hrs.

*(At this stage, Shri Shivraj V. Patil and some other
hon. Members left the House.)*

MR. SPEAKER: The question is:

"That this House is of the opinion that the Government should bring forward a suitable legislation to ban slaughter of cow and its progeny throughout the country."

The motion was adopted.

MR. SPEAKER: Now, we shall proceed with item No. 32.

...(Interruptions)

MR. SPEAKER: What Shri Banatwalla says should not go on record.

(Interruptions) â€¦*

* Not Recorded