

PROF. MADHU DANDAVATE (Rajapur) : Those who raised the issue are not permitted to say something.

MR. SPEAKER : I am not allowing anybody to say anything.

PROF. MADHU DANDAVATE : It is a very serious procedural point.

MR. SPEAKER : Kindly resume your seat ; this matter stands closed.

PROF. MADHU DANDAVATE : It was pointed out by the hon. Member here that the *Indian Express* had given a certain version. I want to bring to your notice that on a number of occasions some remarks are made with a sense of humour ; sometimes they are made in a particular mood and it is for the Press, to interpret the mood of the Speaker and also the mood of the Member and the same mood may be interpreted differently. On one occasion when I referred to the West Bengal Chief Minister and his wife and said something with a sense of humour, the Press said, the Speaker frowned upon Prof. Madhu Dandavate's suggestion. It was done with a sense of humour. The same thing is interpreted differently. We should not cast aspersions on the Press.

SHRI PILOO MODY : Shri Raj Bahadur did not understand it at all.

श्री शशिभूषण : अध्यक्ष महोदय.....

अध्यक्ष महोदय : आप बैठिए । यह जो आप करते हैं यह अपना झगड़ा किया करिए, लेकिन चेयर के साथ झगल मत किया करिए ।

Now, Shri Jyotirmoy Bosu.

12.37 hrs.

RE PROBLEMS OF STUDENTS OF SILCHAR MEDICAL COLLEGE

SHRI JYOTIRMOY BOSU (Diamond Harbour) : Silchar is a far away place in Assam. I have received numerous telephones and telegrams that the students of the Silchar Medical college have not been well looked after. They have gone on strike since the 24th of July and the medical college and the medical hospital both have gone more or less

defunct. They have pointed out that the present teaching arrangement is such that the condition required when they appear for the examination will not be fulfilled, that is, for their recognition as full-fledged doctors. The total number of beds including that of various departments as at present existing comes to 154, whereas the minimum number of beds required for recognition of medical college by the IMC is 500 beds, for imparting proper training of the students. Now, this is a funny thing. It is unique in this country, and may I say, in the world ? In one hostel, boys and girls are forced to live. These are my points. I request you to direct the Government about this matter. The hon. Minister of Health is here. Let him make a statement that the students' demands will be fulfilled.

MR. SPEAKER : They will look into it. Prof. Mukerjee on the next item.

12.39 hrs.

DIPLOMATIC RELATIONS (VIENNA CONVENTION) BILL—Contd.

SHRI H. N. MUKERJEE (Calcutta—North-East) : You have called me on what, Sir ? Are we to understand that the procedure is somewhat different these days ? Mr. Jyotirmoy Bosu referred to something which appears to be totally different . . .

MR. SPEAKER : I called you for the next item ; you were on your legs.

SHRI H. N. MUKERJEE : I was confused because you permitted a particular Member to raise a matter without any kind of reference to it in the Order Paper but which referred to something else.

MR. SPEAKER : I always come with one mental attitude but all of them try to confuse me and I will have to stand that too ; some of us must be ready for that, because, no one knows.

SHRI INDRAJIT GUPTA (Alipore) : Mr. Jyotirmoy Bosu should have been allowed to raise this matter before taking up the Legislative Business. After Legislative Business is taken up, how can he be allowed ?

[Shri Indrajit Gupta]

Shri K. R. Ganesh has just introduced a Bill. That comes under legislative business. After the introduction of the Bill, you are again allowing mention of other matter . . .

SHRI PILOO MODY (Godhra) : The zero hour has slipped today because of the cipher . . .

SHRI INDRAJIT GUPTA : Shri Jyotirmoy Bosu should have been permitted to raise it before the legislative business was taken up.

MR. SPEAKER : This is item No. 13, and that was item No. 12 before.

SHRI INDRAJIT GUPTA : The heading for that also was 'Legislative Business' The heading for both items Nos. 12 and 13 is 'Legislative Business' . . .

MR. SPEAKER : That is a wrong thing.

SHRI INDRAJIT GUPTA : Introduction of Bill is also legislative business.

MR. SPEAKER : I think that that should have been put earlier. I shall see how it has happened. I am told that there is no mistake on the part of the office. It is coming up according to the priority for the business given in the Directions. So, there is nothing wrong about it. It can come up only after the Bills mentioned for introduction. The order given is :

"(xxvi) Motions for leave to make a motion of no-confidence in the Council of Ministers,

(xxvii) Bills to be withdrawn,

(xxviii) Bills to be introduced. . .",

and then we have the explanatory statements.

SHRI INDRAJIT GUPTA : I did not raise that point. I was wanting to know under what rule Shri Jyotirmoy Bosu was raising this.

SHRI JYOTIRMOY BOSU : Under rule 377.

MR. SPEAKER : No. I made it very clear to him, but he came to me with the precedent in regard to the Pataliputra Medical College.

SHRI INDRAJIT GUPTA : I am not objecting to it. I am on another point if he has raised it under rule 377 ; you have permitted him, and you can certainly permit him to raise it by all means. But that should not be allowed to be raised after the legislative business has been taken up.

MR. SPEAKER : The arrangement of business is already given in the Directions. . . .

SHRI INDRAJIT GUPA : It is a mistake that has been made. He should have been allowed to raise it before legislative business was taken up. That was my point.

MR. SPEAKER : The hon. Member may kindly see the Directions and he will see that it is correct.

Anyway, we pass on now to the next item. Shri H. N. Mukerjee.

SHRI H. N. MUKERJEE (Calcutta, North-East) : I believe I have been called upon to continue my speech in the course of the further discussion of the Diplomatic Relations (Vienna Convention) Bill, 1971. I hope that that is correct.

MR. SPEAKER : Very much correct.

The House will now resume further consideration of the following motion moved by Shri Surendra Pal Singh on the 4th August, 1972, namely :—

"That the Bill to give effect to the Vienna Convention on Diplomatic Relations, 1961, and to provide for matters connected therewith, as reported by the Select Committee, be taken into consideration".

SHRI H. N. MUKERJEE : I had indicated last time that I was supporting this Bill and it was a good thing that it had been sent to a Select Committee so that it could be rectified to a certain extent and certain omissions could be made good.

I had said also at the same time that I was not very sure whether this legislation was absolutely necessary, particularly when our time is so scarce that we cannot find time for discussion of matters like the rising prices of sugar and so many other things or even the question of the emergency which is not being withdrawn

by Government for whatever reason ; we do not seem to find time for this sort of thing, but we have found time for legislation in order to put in our own statute the Vienna Convention in regard to diplomatic relations.

I said also last time that it was a good thing that India always behaved correctly in the international sphere, and from that point of view, it might be desirable that after having ratified the Convention in 1965, we put it on our statute-book in 1972, even though there are many instances of countries, very respectable countries on our computation, which have not decided to put this Convention on their own statute-book.

I was beginning to point out last time, however, that what disturbed me was the habit which we seemed to have developed of trying to appear before the world as a very well behaved country in international relations, even though we got no applause for it, but on the contrary we got brick-bats in plenty. We are accused over Goa, over Kashmir, over our scuffle with Pakistan and so many other things as a country which does not abide by international conventions even though, I believe for myself and the world should know if the world was really fair, that India does try to observe all the international conventions. I am not suggesting that, therefore, we should try to behave badly on the international scene and by refusing to put on our statute book the convention on diplomatic relations we would try to have our own bat in this matter—I am not suggesting that at all. I am supporting this Bill. I like the idea of our statute including this convention on diplomatic relations.

But in regard to this matter of diplomatic immunity, it is good that the Select Committee has put in certain changes to make sure that recalcitrant countries nastily behaving to us are not treated in the same way and are not allowed the privileges which they claim under international law. But I find that there is on our part a desire to appear to some countries as an extremely well-behaved state. There is no reason for it. Turning the other cheek does not always pay dividends. It is no good merely trying to behave as a good boy in international relations. Let us behave correctly ; at the same time, let us try to pull our weight in international relations on the basis of what we are at home, the kind of country which we have at home, so that our respect in the world would be assured.

I said last time that I do not for the life of me understand why our External Affairs Ministry and the Government of the country have not in the past taken steps which are warranted under international law to see that our diplomats are not treated as shabbily as they have been treated from time to time. In 1965, when the Pakistan trouble arose, and again last year, our High Commission in Pakistan had been treated in a manner which defies description. Apart from the insult to the High Commission in Islamabad, the insult to the National Flag of our country was also there implied, if not explicit. Insult in so many other ways to our diplomatic personnel from the High Commissioner downwards was always there. But we noticed also in the 1971 India-Pakistan conflict that the Deputy High Commissioner in Dacca and his wife had been treated in a manner which is almost a record of ugliness in international law. But our behaviour was always so terribly correct that it was sometimes almost impossible to make any sense out of it. We have noticed that our Government has hardly ever—perhaps never—in its history declared any one person from recalcitrant countries like Pakistan in 1965 or 1971 as *persona non grata*. In this House, reference was made to a particular person who was Military Attache in the Pakistan High Commission, against whom the accusation was—rightly or wrongly, I cannot be sure—that he had been a participant in the torture of Mujibur Rehman in the Agartala Conspiracy case, but not a word was said by our Government nor even an assurance given in this House that steps would very likely be taken. And when the war was going on in Bangla Desh, we discovered in the matter of the diplomatic immunity something terrible. We found that Gen. Niazi on the eve of his surrender was treated with cordiality. The man whose name appears in the list of war criminals should have been treated correctly but coolly, but our Generals behaved in a fashion which that point of time made a very bad impression in Bangla Desh. It all happened because we have an idea that we have to behave as extremely correct persons in international law.

SHRI INDRAJIT GUPTA : That was the old-school tie.

SHRI H. N. MUKERJEE : The general picture is very clear in so far as our conduct in international relations is concerned. Whether it is Pakistan or any other country which treats

[Shri H. N. Mukerjee]

us shabbily, we take these things lying down. Only yesterday, there was a calling attention matter, the answer to which has not, unfortunately, come to our notice yet, which showed how many of the diplomatic representatives of certain European countries are engaged in illicit operations in the bringing into this country of all sorts of things which are banned under our customs law and that sort of thing. We have never had the guts perhaps to call the American Ambassador to the External Affairs Ministry and seek an explanation when week after week in the *American Reporter* he writes things which are virtually an intervention in the political affairs of this country.

In relation therefore, to diplomatic immunity and to the respect which is due to diplomatic representatives of other countries, we certainly should behave always very correctly, and we should expect that our diplomatic representatives are treated correspondingly. But in order to make sure of that, we have to show that we do have certain guts from time to time, that we can pull our weight and that we depend basically upon the strength of our country, the strength of our independent, consolidated economy, and it is only after that that we can make sure about the treatment that our diplomatic representatives are going to have in other countries.

Therefore, my main point was that in view of the history of the last 20 years or so when, diplomatically speaking, we have been treated shabbily, where we have turned the other cheek and have gone forward to behave in the most decent manner possible, my suggestion is that we behave correctly—there is no doubt about it—we behave in the most righteous possible manner, but, at the same time, we do not take insults lying down and that we try to put our diplomatic personnel on a pedestal where they would count upon the strength of our Government.

That is why I would like Government to explain why it is that the powers that we enjoy under international law and the conventions of international law in regard to diplomatic immunities being observed by countries other than ours, why it is that those powers have not been exercised, why it is that the practice of declaring some people *persona non-grata* has not been invoked by us from time to time; why it is that we merely try to behave decently

on our own, a sort of unilateral virtuosity? I believe that this kind of attempt at unilateral virtue would not be very highly successful. But that does not mean that I am opposing this Bill. On the contrary, I believe that we should put this matter on the statute, and in the Select Committee we did have certain satisfactions in regard to the questions which were there in the minds of Members, but I wanted to say this, because, in the conduct of our foreign policy, in the day-to-day administration of our foreign personnel, we have discovered on many occasions, a sort of pusillanimity; discovered on many occasions a lack of the right kind of courage.

I do hope that the Ministry of External Affairs, particularly now that we are entering upon a new phase of our foreign policy in the Silver Jubilee year of our Independence, it is important that the Ministry of External Affairs behaves more spiritedly, correctly, righteously, and, at the same time, more spiritedly with a view to asserting the self-respect of our country.

I support this Bill, but I wish Government gives some satisfaction to the House in regard to the manner of its conduct of foreign policy.

DR. H. P. SHARMA (Alwar) : Mr. Speaker, Sir, every sovereign and independent nation has what is called the right of legation which confers on the nations the right to receive and exchange envoys, and the nations have for the most part conducted their intercourse through the exchange of these accredited representatives. Furthermore, if these relations are to be fruitful, the first essential condition is that the inviolability of these representatives must be assured and that these envoys must be placed beyond the civil and criminal jurisdiction of the receiving States.

From this imperative of assuring the inviolability of the envoys has started the practice of diplomatic privileges and immunities. It has been sanctioned by international custom, by judicial decisions and domestic legislation. Apart from the Vienna Convention of 1961, many other attempts were made from 1815 to 1961 at codifying these privileges; furthermore, with all the ideological and political tensions that have erupted into the international scene after the World War II, the necessity to codify these privileges and immunities became even more pressing and the United Nations appointed the International Law

Commissioner and the result of these deliberations has been the Vienna Convention of 1961.

It might be relevant to mention in passing that there have been other attempts like the Havana Convention of 1928, the Harvard Law School Draft of 1932, but the essential point that has emerged from these drafts and conventions has been that the inviolability of accredited envoys has been further re-affirmed. I do not think it is essential to go into the theoretical formulations behind these privileges but in passing I might mention that even though the theoretical foundations come from three entirely different theories, the conclusions at which they arrive are surprisingly the same. The three most important theories are : the theory of personal representation, of extritoriality and of functional necessity. The International Law Commission in Vienna came to the conclusion that a happy blending of the theories of personal representation and of functional necessity would provide the theoretical basis.

Throughout the comity of nations the practice has been almost uniformly followed that the envoys have been extended the required immunities and privileges, that is as far as the diplomatic agents are concerned. The problem really starts when it comes to non-diplomatic agents, economic, scientific, cultural or military attaches or when we come down further to the level of domestic servants and other members of the mission.

Sometimes these immunities are violated by the receiving State itself. A moment ago Prof. Mukerjee mentioned the Pakistani case of 1965 when the receiving State itself violated the rights and privileges of our envoys. Sometimes these are violated through stage-managed mobs, just the way it was done in Peking when our relations with that country were at a low ebb. I need not repeat these things. The mobs jeer, wave placards and so on.

Sometimes, it may not be the fault of the receiving State ; other States or other people are responsible for creating difficult situations. We had a similar instance in 1959. A Chinese was employed in the export-import corporation of his country in its Bombay branch. He defected and stayed for one night with the American legation people. He changed his mind the next day and was brought to the Chinese Embassy in the company of a U. S. Sergeant,

The sergeant at this stage was kidnapped and was kept in custody there for six hours. So, that started a diplomatic wrangle. It is not the receiving State which is always responsible in such cases ; other States create the problem but they put the responsibility on the receiving state to protect the rights of their mission personnel.

There is then the case involving our Ambassador G. L. Mehta in the United States. It happened not because the State Department wanted to violate his rights and privileges but due to something in the social fabric of that country. He was our ambassador there and he was moved away from the main dining room in the international airport to a smaller room in the rear. The ambassador did not quite realise it was due to racial discrimination that he had been so moved. Even the Mayor of that city, after two days, assured him through a statement that it was designed to show him honour that was due to a dignitary. A couple of days later in the newspapers came the statement of the manager of the restaurant that the Indians looked very much like niggers and the "law is law" and had to take its course and so they took him to a rear room. Of course, later there were profound apologies starting from the Houston Mayor up to the Secretary of State, Dulles. So, sometimes the rights, immunities and privileges of the envoys are violated not because the receiving State wants to do so, but it is because there are problems in the social structure of the receiving country that these situations develop.

In the Vienna Convention, while codifying, it has come out very clearly that Envoys will enjoy absolute immunity from criminal jurisdiction . . .

MR. SPEAKER : Will you finish shortly or continue after lunch ?

DR. H. P. SHARMA : I have just started...

SHRI INDRAJIT GUPTA : After lunch, discussion on floods will start.

MR. SPEAKER : He may continue on the next day.

13 hrs.

*The Lok Sabha adjourned for
Lunch till Fourteen of the Clock.*