

LOK SABHA

SYNOPSIS OF DEBATES (Proceedings other than Questions & Answers)

Friday, December 28, 2018 / Pausha 7, 1940 (Saka)

STATUTORY RESOLUTIONS

(i) *Re: Approval of Notification No. 67/2018- Customs*

THE MINISTER OF FINANCE AND MINISTER OF CORPORATE AFFAIRS (SHRI ARUN JAITLEY): moved that in pursuance of section 8A (1) of the Customs Tariff Act, 1975, read with sub-section (3) of section 7 of the said Act, this House hereby approves Notification No. 67/2018-Customs, dated 26th September, 2018 [G.S.R.927(E). dated 26th September, 2018] which seeks to increase the basic customs duty (BCD) on the below mentioned goods:

Tariff Head/ Sub-Head/ Item	Description	From	To
3922	Baths, shower baths, sinks, wash basins, bidets, lavatory pans, seats and covers, flushing cisterns and similar sanitary ware of plastics.	10%	20%
3923	Articles for the conveyance or packing	10%	15%

	of goods, of plastics; stoppers, lids, caps and other closures, of plastics.		
3924	Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics.	10%	15%
3926	Other articles of plastics and articles of other materials of headings 3901 to 3914 (other than bangles of plastic, plastic beads and feeding bottles, goods falling under tariff item 3926 90 91 and 3926 90 99 attract 15% BCD).	10%	15%
4011 10 10	Radial car tyres	10%	15%
6401	Waterproof footwear with outer soles and uppers of rubber or of plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes.	20%	25%
6402	Other footwear with outer soles and uppers of rubber or plastics.	20%	25%
6403	Footwear with outer soles of rubber, plastics, leather or composition leather	20%	25%

	and uppers of leather.		
6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials.	20%	25%
6405	Other footwear.	20%	25%
7113	Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal.	15%	20%
7114	Articles of Goldsmith or Silversmith wares and parts thereof of precious metal or of metal clad with precious metal.	15%	20%
8414 30 00	Compressors of kind used in refrigerating equipment.	7.5%	10%
8414 80 11	Gas compressors of a kind used in air-conditioning equipment.	7.5%	10%
8415 10	Air Conditioning machine of a kind designed to be fixed to a window, wall, ceiling or floor, self-contained or "split-system".	10%	20%
8415 20	Air Conditioning machine of a kind used for persons in motor vehicles.	10%	20%
8415 81	Air conditioning machine incorporating a refrigerating unit and a valve for reversal of the cooling or heat cycle	10%	20%

	(reversible heat pumps).		
8415 82	Other air conditioner incorporating a refrigerating unit.	10%	20%
8415 83	Other air conditioner not incorporating a refrigerating unit.	10%	20%
8418 10 90	Combined refrigerator-freezers, fitted with separate external doors.	10%	20%
8418 21 00	Household type refrigerator of compression type	10%	20%
8418 29 00	Other household refrigerator	10%	20%
8450 11 00	Fully automatic washing machine with dry linen capacity not exceeding 10 KG	10%	20%
8450 12 00	Other washing machine with built in centrifugal dryer with dry linen capacity not exceeding 10 KG	10%	20%
8450 19 00	Other washing machine with dry linen capacity not exceeding 10 KG	10%	20%".

The Resolution was adopted.

(ii) **Re: Approval of Notification No. 74/2018- Customs**

SHRI ARUN JAITLEY: moved that in pursuance of section 8A (1) of the Customs Tariff Act, 1975, read with sub-section (3) of section 7 of the said Act, this House hereby approves Notification No. 74/2018-Customs, dated 11th October, 2018 [G.S.R.1027(E). dated 11th October, 2018] which seeks to increase the basic customs duty (BCD) on the below mentioned goods:

Tariff Head/ Sub-Head/ Item	Description	From	To
8517 61 00	Base Stations	10%	20%
8517 69 90	Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network)	10%	20%".

The Resolution was adopted.

(iii) Re: Approval of Proclamation by the President in relation to the State of Jammu and Kashmir

THE MINISTER OF HOME AFFAIRS (SHRI RAJNATH SINGH)

moved that this House approves the Proclamation issued by the President on the 19th December, 2018 under Article 356 of the Constitution of India in relation to the State of Jammu and Kashmir.

The Resolution was adopted.

DR. SHASHI THAROOR *initiating said:* As we know that the President's Rule was imposed under Article 356 without doing even a basic floor test to see if the National Conference, PDP and Congress Alliance in Jammu and Kashmir has a majority. This is a gross violation of the Supreme Court's judgement in S.R. Bommai vs. Union of India case in which it was held that the proper course for testing the strength of the Ministry is holding the test on the floor of the House and the assessment of the strength of the Ministry is not a matter of private opinion of any individual, be he the Governor or even the President. I wish to ask the hon. Home Minister, whether the Governor has provided written reasons specifying constitutional grounds for not holding a floor-test. The second point I wish to make is that the action of the Government is also a violation of the guidelines laid down by the Report of the Sarkaria Commission on Centre-State Relations. In addition, the Governor, in statements to the media, said that he had not accepted the claim of

the Congress, National Conference and PDP to form the State Government on the grounds that parties with ideological variance cannot form a Government. How can the Governor make such a political determination? I would request the hon. Home Minister that he should give us in writing the reasons of the Governor for not holding the floor-test. I, on behalf of my party, oppose the Statutory Resolution which has been passed confirming the proclamation of President's Rule in Jammu and Kashmir.

PROF. SAUGATA ROY: I oppose the Proclamation issued by the President on the 19th December, 2018 under Article 356 in relation to the State of Jammu and Kashmir. After the collapse of the Government of Jammu and Kashmir in June, 2018 there was an effort by all the secular parties to form a Government and the PDP, National Conference and Congress agreed to form a Government. But the Centre did not allow a majority Government to be formed by major parties in the State just because the BJP had their limited communal agenda. By imposing President's Rule in an unconstitutional way, going against the judgement in the Bommai Case, the Governor violated the Constitution and the Centre colluded with the Governor's effort. I urge that since the Proclamation is already passed, the Government should immediately announce holding of elections in Jammu and Kashmir so that democracy returns to this troubled State.

SHRI BHARTRUHARI MAHTAB: We are all aware that Jammu and Kashmir is a troubled State and that this trouble is growing in the State for quite sometimes very recently. Also, a consensus was built and subsequently, the Supreme Court also came up with an opinion that when Article 356 is imposed, then it has to be approved by the Lok Sabha or by the Parliament with immediate effect when the House will meet. That is why, the Proclamation of Article 356 in Jammu and Kashmir is before this House today. I would also insist that we should strengthen the Panchayati Raj System in Jammu and Kashmir, so that people's leadership can also be established through Panchayati Raj system. I am of the opinion that today, it has become necessary to impose President's rule in Jammu and Kashmir. I would also request the Government to hold Jammu and Kashmir assembly elections along with next Lok Sabha elections. Accordingly, the Election Commission should be apprised. I support the imposition of Article 356.

DR. P. VENUGOPAL: On behalf of our party, AIADMK, we are always against the imposition of Governor's Rule or President's Rule in any State of our country. It is against the principle of federal structure and democratic setup of our country. The elected Governments are supreme; and the Centre should not dismiss any elected Governments. In the case of Jammu and Kashmir, it may be different situation. The Government would have considered all the circumstances, pros and cons of such an imposition. The Government may explain the situation, which

warranted it to taking this extreme step. In essence, we are against the imposition of President's Rule in any State of our country.

SHRIMATI SUPRIYA SADANAND SULE: Jammu and Kashmir is in turmoil for the last several years. I want to ask the hon. Home Minister as to what is really the reason of imposing the President's Rule there? The Governor must have reports about the status of Jammu and Kashmir, which is going through one of its most difficult times. If Sarpanches elections can be held so well, why do we need Article 356? So, why are we not going for elections there? I would urge you that this is not the time for bullets; we need a good election. What was the reason of this imposition when the elected Members were trying to form a Government? The faster the people of Jammu and Kashmir have their own Government, the better is the stability for us and the entire nation.

THE MINISTER OF STATE OF THE MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION, MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE, MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS, MINISTER OF STATE IN THE DEPARTMENT OF ATOMIC ENERGY AND MINISTER OF STATE IN THE DEPARTMENT OF SPACE (DR. JITENDRA SINGH) *intervening said:* I do not know what curse has fallen upon the State of Jammu and Kashmir that we had to undergo this traumatic

experience in the last 20 to 25 years. This will be determined by the history as to who is responsible for it. But as far as the BJP is concerned, there has been no lack of commitment and dedication towards the cause of Jammu and Kashmir. In fact, the history of the Bhartiya Janta Party is linked with the State of Jammu and Kashmir. The inspiration of formation of the Bhartiya Janta Party or its earlier version Jansangh was drawn from the sacrifice of Dr. Shyama Prasad Mukharji who laid down his life on the soil of Jammu and Kashmir. Therefore, I feel that there is no scope for any more discussion on this count. In the year 2015, a Government was formed. This was the mandate of the people that we come together and form a Government. Had we not done it, the people would have blamed us for defying the mandate. Kashmir today is an outcome of series of blunders committed by successive Congress Governments starting from Nehruvian blunders. You should appreciate us that we tried to run the Government together despite having different political ideologies. We followed the tradition of India and democracy. We also had the Common Minimum Programme. But after three years passed by, our people started complaining that our party is not able to follow the agenda of alliance in the manner it should have been followed because there was no smooth coordination between the two alliance parties. Therefore, it was decided on 19th June that the Bhartiya Janta Party would come out of the Government. In fact, other parties are not able to understand and comprehend the

culture of the Bhartiya Janta Party because it is different from theirs. Thereafter, the Governor's Rule was imposed. During those six months, Panchayat elections were also held. There was no violence in those elections. As many as 40,000 *Panchs* have been elected in the State. Some political parties got exposed in these Panchayat elections. The National Conference and the PDP had boycotted these elections. Now these same parties are clamouring for the assembly elections in the State. Nobody is able to understand as to what is their stand. These three parties have nothing in common as far as political ideology is concerned and are sworn political enemies. Still, these parties came together fearing that the Bhartiya Janta Party may come to power. In fact, the outcome of local body elections has scared them to the extent that they see the image of state assembly all around. I would say that the so called mainstream political parties in Kashmir may be playing a more dangerous role than the separatist lobby because the separatists are at least identified. As far as assembly elections are concerned, the rigging of the year 1987 elections was a turning point in the history of Jammu and Kashmir. Today, those who are supporting the separatist's movement were contesting the elections at that time. The BJP has earnestly endeavoured to give true democracy to the State of Jammu and Kashmir. Ever since the Proclamation of the President's Rule in the State of Jammu and Kashmir, the pace of development process has improved and people are largely satisfied that they are free from the chaotic conditions of the

past. The BJP is always ready for elections but we will never contest or conduct elections the way the Congress Party has done in the State in the past.

SHRI MOHAMMAD SALIM: The issue of Kashmir is a political one. When local body elections were held there, the participation of people decreased. The Government has already imposed President's Rule there and now we are discussing this issue in Parliament. Sometime or the other almost in every State Article 356 has been imposed and that has not solve any problem. Our party is opposing Article 356 since 1957. This is not the issue of one or the other Government. There is 72% increase in the martyrdom of our security forces during the last 4 years. Civilians are being killed there. India stands for ballots, not for bullets.

SHRI MULAYAM SINGH YADAV: When I was the Minister of Defence, I visited Jammu and Kashmir and stayed there for 10 days to solve the problem. Snow fall occurs there almost daily and our Army is doing their job in that situation. When people of Jammu and Kashmir met me during my visit, they all wanted that the problem be solved. If sincere efforts are made by the Government to solve this issue, the problem can be solved.

SHRI ARVIND SAWANT: It is very painful that we are imposing the President's Rule in Jammu and Kashmir by using Article 356 of the Constitution, whereas Dr. Baba Saheb Ambedkar was of the view to use it scarcely. It is also

very painful that we have not been able to bring back Kashmiri Pandits even after so many years. We were hopeful that after formation of the BJP-PDP coalition Government, steps will be taken in this regard. Today there is President's Rule, therefore, I would demand from hon. Minister that he is competent and can solve the problem; kindly abolish Section 370 and bring back those people in the mainstream.

SHRI BHAGWANT MANN: It will be very dangerous for our federal structure to harass an elected Government through the Governor. Jammu and Kashmir is heaven of India and therefore I want that Article 356 should not be misused there.

SHRI JAI PRAKASH NARAYAN YADAV: Imposing the President's Rule in Jammu and Kashmir is unconstitutional and parliamentary democracy has been bulldozed there. I believe that majority has been negated, parliamentary democracy has been suppressed and opportunity to prove majority has been denied. There must be a floor test of majority. I request hon. Minister of Home Affairs to restore democracy and to protect constitutional rights of the people in Jammu and Kashmir.

SHRI N.K. PREMACHANDRAN: I rise to oppose the Statutory Resolution, which has already been passed. The pertinent question to be discussed

in this House regarding the Statutory Resolution is as to what is the political situation prevailing in Jammu and Kashmir. Is there a chance to form an alternate Government? Country is highly concerned about the political situation in the State. Three major political parties of the State have given in writing that they are ready to form a coalition government. The constitutional responsibility of the Governor is to go for a floor test or give a chance to have a coalition government. I would like to know from the hon. Home Minister whether the Governor has given in writing as to why the floor test was not possible in the State of Jammu and Kashmir.

DR. FAROOQ ABDULLAH: The State of Jammu and Kashmir is going through a great turmoil. We still have terrorism, there is no doubt about it. But the solution does not lie in the hands of Army or the Police. Without discussing the issue with the people, we will arrive nowhere. In President's Rule, it becomes a direct Rule from the Centre. That is also not a solution to the problem of Jammu & Kashmir. The Government will have to hold elections there. I request the Government of India that something has to be done immediately. I am sorry to say, no solution of terrorism can be found, till some way is found to talk to Pakistan. My request is that we should move forward together without hatred. I request all Members to please help us get the State back to normal, not by killing people but by winning hearts.

THE MINISTER OF HOME AFFAIRS (SHRI RAJNATH SINGH)

replying said: The Governor Rule in Jammu and Kashmir was imposed in June 2018. The then Governor of the State had sent a detailed report to the hon. President about the situation prevailing there. In the report, he wrote that no political party or coalition of parties in Jammu and Kashmir is in position to stake claim for forming the government in the State. In such circumstances, Governor's Rule was imposed in the State in June 2018. When the term of the Governor's Rule was about to expire on 19th December 2018, I contacted the hon. Governor and asked whether any party is ready to form the government. He replied that no one has even staked claim for this purpose. In such circumstances, the Governor had no option other than forwarding his report to the hon. President. No one, therefore, should doubt the intentions of this Government. As regards the Kashmir problem, I would like to say that this is an old and serious problem. During the last four and a half years, I have said again and again that we are ready to discuss this issue with any party. When an all party delegation had visited Jammu and Kashmir, some people expressed their desire to meet the separatists. I told them that I am not going to meet them though they are free to do so. There was a time when the situation in the State was very explosive. We have been making consistent efforts to normalise the situation. We have also made efforts to strengthen the grass root democracy. We have conducted elections to the urban

local bodies and panchayats and accorded administrative and financial powers to them. We have taken many steps to provide employment opportunities to the local youth. We have granted approval to the formation of 5 new India Reserve Battalions at the expense of Rs.255 crore, 2 Border Battalions and 2 Women Battalions. We have created more than 90000 employment opportunities under UDAAN Scheme. We have granted approval to the appointment of about 10000 SPO's in Jammu and Kashmir police department. The Jammu and Kashmir education department sends about 9000 students of class 9 to 12 to the different parts of the country under the students exchange programme. As far as elections in the State are concerned, it is the responsibility of the Election Commission. We are fully committed to the democratic process.

OBSERVATION BY THE DEPUTY SPEAKER

HON'BLE DEPUTY SPEAKER: Now item No. 174 that is about the Rights of Transgender Persons Bill, 2014, was passed by Rajya Sabha. In this regard, I am to inform that a Government Bill, namely, the Transgender Persons (Protection of Rights) Bill, 2018 was passed by this House on 17th December, 2018. As per sub-Rule (2) of Rule 112, a Bill pending before Lok Sabha shall be removed from the Register of Pending Bills in case a substantially identical Bill is passed by the House. Bill introduced in and passed by Rajya Sabha and laid on

the Table of Lok Sabha falls within the definition of pending Bill. However, this definition is silent with respect to cases where Bill from Rajya Sabha after laid on the Table of Lok Sabha is under discussion by Lok Sabha. In the past, Private Members' Bills introduced and pending in Lok Sabha have been removed from the Register of Pending Bills if their objective was achieved consequent upon passing of Government Bills. There appears to be no past precedent as to the course of action to be followed with respect to a Private Member Bill passed by Rajya Sabha and under discussion in Lok Sabha, if a Government Bill on the same subject is passed by Lok Sabha. As the Bill is part-discussed in Lok Sabha, the Lok Sabha alone can decide on the course of action to be followed with respect to this Bill. I am of the opinion that we should not further proceed with this Private Member's Bill, as passed by Rajya Sabha in view of the provision laid down in sub-Rule(2) of Rule 112 read with third part of the explanation thereto. Therefore, if the House agrees, the Bill may be removed from the Register of Pending Bills as its object has been achieved with the passing of the Government Bill on the same subject.

The House agreed.

The Bill was removed.

PRIVATE MEMBERS' BILL

SIXTH SCHEDULE TO THE CONSTITUTION (AMENDMENT) BILL, 2015 –

Contd.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI KIREN RIJJU): I would like to submit that this discussion is the longest discussion held on any Bill in the history of our parliamentary democracy. And now I have got the opportunity to give a concluding reply on this Bill. If I sum up, the entire objective of the Constitution (Amendment) Bill, I can categorise it in three parts. One is the demand to increase the number of members in the District Council from 30 to 40 as originally envisaged in the Constitution of India. Second is to bring traditional occupation of tribals relating to mines and minerals under the legislative competence of the District Council. Third is to protect the customary practices and interest of the tribals. These are the three broad demands made by the hon. Member. Now, let me first of all admit that merely creation of Autonomous Council do not meet the entire aspiration of the people. But, through you, I would like to convey a positive message to this House that our Government has prepared a Cabinet Note to mitigate the lacunae of Autonomous Councils and I would like to assure the House that we will come up with amendment proposals with regard to Autonomous Councils at the earliest. In this regard, demand was made that number of elected members of Autonomous

Councils should be increased particularly in Meghalaya and Assam States. Cabinet Note has been prepared and final decision is likely to be taken. I would like to say that we have agreed to increase the number of members of two Autonomous Councils namely Karbi Anglong Autonomous Council and Dima Haso Autonomous Territorial Council in Assam. Secondly, very soon we will bring a Constitution Amendment Bill in Parliament to increase the number of members of Garo Hills Autonomous Council, Khasi Hills Autonomous Council and Jaintia Hills Autonomous Council in Meghalaya also. Again, it has been demanded that authority pertaining to management of mines and minerals should vest with Autonomous Council Body. Again, we want that women should be given adequate representation in the council. So, one of the most remarkable points I would like to submit here is related with special financial provisions. Many a times State Government does not release fund to them on time. So, we are bringing an amendment to streamline this process. From now on, State Finance Commission will decide the amount to be allocated to District Autonomous Council. Similarly, keeping in view the present security scenario, North East, Jammu and Kashmir and left wing extremism are three areas of concern which pose great security challenge for India. So, there is need to handle these three challenges firmly to keep the territorial integrity of India intact. Today, a number of militant organizations are active in North Eastern States. I would like to ask what caused this situation? This situation has come up due to the shortcomings of successive governments. So, we have extended the purview of

dialogue process and we are engaging all the groups, be it small or big. We are adopting soft and hard approach simultaneously. This has changed the whole scenario and I would like to assure the hon. Members that we will include their suggestions in the government policies. Together we will bring North East into the mainstream of India.

SHRI VINCENT H. PALA *replying said:* I express my gratefulness to all the Members who have participated in the discussion. I am proud to say that this is the longest ever discussion on a Private Member's Bill. I am grateful to the Minister as well. It has been said that the Cabinet Note has been prepared and most of the proposals which have been put forward not only by me but by many other Members will be incorporated. The people of Meghalaya expect the Bill to be brought in this Session. The election for the Council has been announced and will be conducted in February. If the Bill is passed in this Session, the election can be fought on the basis of the new law in which so many things will be incorporated. I want to stress that in the Sixth Schedule, on the issue of mines, there is a bit of a clash because of the land tenure system. The land belongs to the tribal people. It cannot be purchased or auctioned by the Government. This being the case, when you bring the Bill for amendment, that has to be taken care. Under the present land tenure system, all the major minerals, coal, limestone, and uranium have to be auctioned by the Government. The land belongs to the tribal

people as per the latest Supreme Court ruling and so the mines also belong to the tribal people. Therefore, the law has to be made in such a way that there is no clash. Most of the tribal people from Khasi and Jaintia communities are good at handicrafts and efficient in the textile industry. Therefore, the Government should set up an autonomous research centre here instead of setting up such centres in Kolkata or Mumbai. That way North-East will be greatly benefited. As 90 per cent of the North-East is surrounded by the international border, Land Custom Stations along the border can be worked out. All the Land Custom Stations which have already been under construction have been delayed because of different reasons. This needs to be reviewed. Our Constitution clearly says that Para 12 (a)(b) is just like a Constitution within the Constitution which empowers the Government to recommend to the President of India to give notification in favour of the District Council. I think this Para 12 (a)(b) can be implemented for mines and other regulations also. As an assurance has been given here that the Bill is going to be passed, I do not have any problem in withdrawing the Bill.

The Bill, by leave, was withdrawn.

TELEVISION BROADCASTING COMPANIES (REGULATION) BILL,

2015

SHRI PRAHLAD SINGH PATEL *moving the Motion for Consideration of the Bill, said:* Media should have a blend of thought and information. I regret to say that the enterprise which had been set up and commenced for the primary purpose of causing awareness has been severely limited to commercial purposes only. Media channels are registered under Companies Act and action should be initiated under the relevant provisions of the Act. Prasar Bharati and the other Agencies are not empowered to take action. There should be a framework to ensure social security for the workers engaged in the channel in the event of its being closed down. Social responsibility of channels should be ensured. The exaggeration with which things are presented has a serious adverse impact on society at large. Given that, presentation of doctored facts and dissemination of misleading information must be kept under severe check. As on one hand, we talk of social security for the labourers, on the other hand, we must also take care of these educated employees here. There should be a framework in place to ensure that multinational companies do not act in deviation of the objects and purposes they are supposed to stick to. There should be a cap on the cost of advertisement and a rationalized benefit arising out of advertisement to the company must go to all the employees. Media is expected to predominantly cover the whole gamut of

activities taking place and being carried out in the social sphere. Last but not the least, the anchor of the channel must have comprehensive knowledge of the subject which he is conducting a debate on.

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SNEHLATA SHRIVASTAVA
Secretary General

**Supplement covering rest of the proceedings is being issued separately.

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NOTE: It is the verbatim Debates of the Lok Sabha and not the Synopsis that should be considered authoritative.

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