



RULING OF THE CHAIR

INCONSISTENCY IN RULES

This ruling has roots in the following facts:

- (i). That the "The COMSATS University Islamabad Bill, 2017", was introduced in the Senate on 10th January, 2017. In terms of rule 98, Rules of Procedure and Conduct of Business in the Senate, 2012, (hereinafter referred as 'the Rules, 2012') the Bill upon introduction was referred to the Standing Committee concerned i.e. the Standing Committee on Science and Technology.
- (ii). That the Standing Committee on Science and Technology considered the Bill in its three meetings and presented its report before the House on 21st March, 2017.
- (iii). That on 28th March, 2017, the Minister for Science and Technology gave a notice under paragraph (c) of sub-rule (1) of rule 100 of 'the Rules, 2012', that the Bill be referred to a Select Committee.
- (iv). That apparently the notice is in line with 'the Rules, 2012', however, *prima-facie* an anomaly has surfaced regarding paragraph (c) of sub-rule (1) of rule 100 of 'the Rules, 2012'.
- (v). That in the Senate Sitting held on 11th April, 2017, the following question was formulated for seeking assistance as to the inconsistency, if any, in rule 100 of 'the Rules, 2012' :-

"Whether there is inconsistency in paragraph (c) of sub-rule (1) of rule 100 of the Rules of Procedure and Conduct of Business in the Senate, 2012, regarding referral of a Bill, reported back by the Standing

Committee, to a Select Committee and does it amount to undermining the recommendations/report of a Standing Committee?"

- (vi). That the following members were asked to assist the Chair on the question:-
- i. Senator Aitzaz Ahsan, Leader of the Opposition
 - ii. Senator Syed Muzaffar Hussain Shah
 - iii. Senator Javaid Abbasi
 - iv. Senator Muhammad Ali Saif
 - v. Senator Saifullah Khan Magsi
 - vi. Mr. Zahid Hamid, Minister for Law and Justice
- (vii). That in the Senate sitting held on 13th April, 2017, following members and Minister for Law and Justice assisted the Chair on the question raised:-
- (i) Senator Syed Muzaffar Hussain Shah; arguments are reproduced as under:-**

"Senator Syed Muzaffar Hussain Shah: Sir, now in formulating the point for determination in this particular case, in fact, to what we have referred to for our views, is that whether there is any inconsistency in paragraph (c) of sub-rule (1) of rule 100 of the Rules of Procedure and Conduct of Business. Sir, let me quote in the first instance paragraph (c) of sub-rule (1) of Rule 100. Paragraph (c) in relation to Rule 100 and I would read Rule 100 that "on the day on which a Bill is to be set down under Rule 99 or on any subsequent day to which the matter might have been adjourned, the member-in-charge may make any of the following motions in regard to his Bill:- (a) that it be taken into consideration at once; or (b) that it be taken in to consideration on a date to be fixed forthwith. The relevant portion is (c). (c) that it be referred to a Select Committee. Now before determining, let us come down to Rule 98 and then 99. Sir, Rule 98 says that "upon introduction, a Bill shall stand referred to the Standing Committee concerned with the subject matter of the Bill. Provided that the member-in-charge may move that the requirement of this rule be dispensed with and, if the motion is carried, the provisions of rule 99 shall apply to the Bill as if it was received back from the Standing Committee on the day on which the motion is carried. Now Rule 99 states that "when a Bill has been received back from the Standing Committee, or when the time fixed for the Standing Committee to send it back has expired, the Secretary shall cause copies of the Bill, as introduced, together with modifications, if any recommended by the Standing Committee, to be supplied to each member within seven days after the receipt back or, as the case may be, and shall set down the Bill on the Orders of the Day. Sir, after expiry of seven days, now this is very important from my point of view. It is referred to a Standing Committee, the Standing Committee makes a recommendation. Once the recommendation has been received back from the Standing Committee or the time fixed for the Standing Committee to send it back, has been expired, the Secretary shall cause copies of the Bill, as introduced, together with modifications, if any recommended by the Standing Committee, to be supplied to each member and it may be listed within seven days on the Orders of

the Day Now here the motion that has been made by the Minister concerned, concerning the reference to a Select Committee. Now I don't understand because, sir, if you would be pleased to see the Rule 100 "on the day for which a Bill is set down under rule 99." Now this whether the Bill was set down under rules, on a day for which the Bill is set down under Rule 99, I don't know, because this was fixed under Rule 99 It was not fixed. Then this would not apply No. 1. No. 2, that the Minister must make some grounds available to the House and to the Chairman as to why should the report of the Standing Committee be rejected or should be bypassed. The House made a reference to the Standing Committee and the Standing Committee has made a detailed order. I would bring to your notice that the operative portion of the Standing Committee's recommendations/directives of the Committee, 1, 2, 3, 4 and 5. Finally, the Committee recommends that the COMSAT's University, Islamabad Bill, 2017, as reported by the Committee, may be passed by the Senate. Now I feel sir, that after the Standing Committee has been able to give an exhaustive and a definite finding, there must be reasons for rejecting the recommendations of the Standing Committee. There must be cogent reasons laid down that why should a reference be made to the Select Committee after the Standing Committee has been able to make its recommendations. This matter was not actually laid down on the Orders of the Day. Sir, I would very humbly submit that where the Standing Committee which is one of the Constitutional Committee, is laid down in the Rules of Procedure and Conduct of Business, which apply this mind and which deliberates upon clause by clause discussion and makes detailed recommendations. There must be cogent reasons submitted by the member-in-charge or by the Minister concerned, why should the report of the Standing Committee be bypassed, why should it be rejected and what are the compelling circumstances or reasons which warrant a reference to a Select Committee. There must be compelling reasons, therefore, what are the circumstances and the reasons, why the recommendations of the Standing Committee should be bypassed, why should be rejected? and what are the circumstances and reasons, why the recommendations of the Standing Committee, which should be bypassed or rejected after all, then Rule 99 would become totally redundant if this interpretation is given to Section 100. If you read 98 and 99, the sequence of events is, when the Bill is introduced, it is automatically referred by the House to a Standing Committee. The object of the law makers of that time was that the Standing Committee would apply its mind, would have deliberations and then make detailed report in relation to the contents of the Bill. There is a provision laid down. I would draw your attention to Rule 99 which states;

"When a Bill has been received back from the Standing Committee, or when the time fixed by the Standing Committee to send it back has expired, the Secretary shall cause copies of the Bill, as introduced, together with modifications, if any, recommended by the Standing Committee, to be supplied to each member....,"

There is a provision here that amendments could also be made to the recommendations of the Standing Committee. Now, why did the Government not take the opportunity of making those amendments or introducing those amendments when the recommendations of the Standing Committee were placed before the House? Then, sir, I would say that automatically Rule 100 would not come into play. There must be compelling circumstances, there must be speaking reasons. Why does the minister want to be in a position to send it to the Select Committee and why should the recommendations of the Standing Committee be rejected or bypassed. In fact, there are no reasons given out, why should it be referred to a Select Committee? Why the provisions of Rule 100 are being invoked

when 98 and 99 have been complied with? Therefore, sir, I would personally feel that certainly there is a conflict, as you have said inconsistency in terms of paragraph "c" of sub-Rule (1) of Rule 100 of the Rules of Procedure. It is my point of view."

(ii) Senator Javaid Abbasi; submitted written arguments which are reproduced as under:-

- a) "Provision for Select Committee has been defined in Rule 203 of Rules of Procedure and Conduct of Business in the Senate, 2012, (herein referred to as RPCBS).
- b) When a Bill initially has not been referred to a Select Committee and a report by the Standing/ Functional Committee alongwith recommendations/ amendments has been presented bill can be moved under rule 105 of RPCBS 2012.
- c) If under rule 99, RPCBS 2012, the concerned Standing/ Functional Committee has not been able to present the report on the Bill referred to it, within the prescribed time, Rule 100 (1) (c) and (d) can be invoked by the member-in-charge/ Chairman Senate with the leave of the House.
- d) Therefore, referred a "Reported" Bill to the Select Committee again for improvement/ amendments amounts to undermining the recommendations/ report of the Standing/ Functional Committee which has put in the precious time, expertise and dedicated efforts of the honorable Members of the Committee, government functionaries as well as experts invited to contribute to the Committee on the subject matter/ Bill.

In view of the position explained above I would recommend that rule 100 (1) should be amended by adding a proviso after 100 (1) (d) that Rule 100 (1) (c) and (d) shall be applicable only when the Standing/ Functional Committee, to which the Bill was referred to, has been unable to report upon in the House within the prescribed time."

(iii) Senator Col (R) Syed Tahir Hussain Mashhadi; arguments are reproduced as under:-

"The process would normally be served by Rules 98 and 99. The collective wisdom of the Standing Committee would have studied the Bill, have discussion on it and passed it or rejected it, based purely on merit and on the available thing. Rule 100 has been specifically put in, to give that extra protection and to ensure that it is the best possible Bill which is passed by this august House. It is not a Rule, it is exception. By exception, I mean that if somehow or the other, the Standing Committee in its wisdom has failed to give expert advice as it is required. So, we have the provision to send it for expert advice by sending it to a Select Committee. If we have to elicit a public opinion, we have this Rule in the

statute so that we can send it to a Select Committee and they can elicit public opinion, hold a public hearing on this. The whole purpose of the framers of the rules at that time was to ensure that the maximum opportunity is given to the members incharge and the best possible outcome from this whole process of 98 and 99, therefore, 100 is the exception to the Rule and not the Rule itself. It is additional safeguard to ensure the best possible legislation."

(iv) Senator Muhammad Azam Khan Swati; arguments are reproduced as under:-

"when we read Rule 98 and 99 and then we take Rule 100 and it says on the day which a Bill set down under Rule 99, I think in the present working as to how the Bill is moved from one stage to the other and final to the other under Rule 100 I think (c) has not place whatsoever. This is what I read otherwise the practice we have already applied under Rules 98 and Rule 99 will become redundant. Then what you are doing is that the collective wisdom of 5, 10, 15 people whosoever is going to be comprising of the Senate Committee then you are challenging that particular wisdom again, to me it just become novel that once the process and Select Committee, always we have seen it that during the Standing Committee they always call the professionals, experts and take their opinion. Even today we have the same situation where we call the President of Bar Association of Islamabad and took his position as to how the alternative resolution that we are bringing in, to his satisfaction we should take his opinion. I think in this Rule 100 because Rule 100 is connected with Rule 99. You cannot read Rule 100 without Rule 99."

(v) Rana Tanveer Husain, Minister for Defence Production; gist of arguments is as under:-

- Every system provides a forum for review; the Senate rules 2012, provides a provision for referral of a Bill to a Select Committee. Furthermore, every piece of legislation provides provisions like saving clauses and removal of difficulties.
- Rule 100 (1) (c) is very much part of the Senate Rules, therefore, by invoking the said rule we cannot assume that rules 98 and 99 will become redundant.
- Select Committee are constituted by the House, therefore, by making a recourse to the said provision cannot amount to making any clause redundant.

(vi) Senator Abdul Qayum; gist of arguments is as under:-

- Standing Committees and Select Committees both are the products of the Senate Rules, therefore, by making a recourse to anyone of them cannot be termed as inconsistent.
- Any Member moving that a Bill, as reported by the Standing Committee, be referred to the Select Committee, shall provide and explanation and if the House is satisfied that cogent grounds exists, the Bill can be referred to a Select Committee.

(vii) Senator Osman Saifullah Khan; arguments are reproduced as under:-

"I realize it's a legal issue, it's not related to the particular case but just I believe that as Chairman of the Standing Committee perhaps, I do the courtesy at least of just explaining a little bit of the background.

Sir, this was the third meeting on this particular bill and the Minister sahib is absolutely right, he is very regular and I am grateful that he attends all meetings very regularly and while I would love to be a member of a Select Committee with the Minister and the honourable Minister of Law. It would be a privilege and honour for me. Sir, three times this Committee met. When during a Committee meeting I tried to ensure, not only, of course, that the quorum of the members is there but also that we have people from the Opposition and the Government. On this particular day, if I am mistaken, we had at least two out of five from the government. I as Chairman of course sir, don't vote, we had people from the Opposition also. The Chairman of the Higher Education Commission was also there and was there in the previous meetings as well and he was specifically asked that it will be done and the reasons for doing this were conveyed to him.

So, the Committee's view was that because COMSATS is the body that has given birth to this institution. Therefore and this post was accepted by all that it is ceremonial position, therefore let us honour them by giving the ED COMSATS, not anyone particular individual but the ED COMSATS, this role of Pro-Chancellor. In fact that I asked the Secretary, he opposed it.

The Hon'ble Minister met me and after presentation of the Report and raised the said issues, I had already sought a ten days extension. I said, now it is either up to the House or you can make an amendment or the National Assembly can make an amendment. The fact was that there were experts there. The Chairman HEC was there, he was involved in this decision. Three times the text of the bill was reviewed and only then decided."

(viii) Senator Taj Haider; arguments are reproduced as under:-

"Syed Muzafar Hussain Shah has made a very important point which I think should be given due consideration. Which is that after the Standing Committee has placed its report and after a notice for consideration has been given there is a provision that the member incharge or for that matter any Senator can move an amendment and the House can debate on that amendment. Secondly, as Senator Muhammad Azam Khan Swati sahib pointed out the member-in-charge has all the opportunity to present his view point before the Standing Committee and to request that the experts may be called. Appointment of Select Committee undermines the prime importance of the Standing Committee and I believe there arises a conflict which should be resolved. There should be only one Committee which gives a report and then of course the House being supreme. Any member or the member-in-charge can move an amendment and the House can consider that amendment. I believe the point made by Syed Muzafar Hussain Shah should be given due importance that of the provision of making an amendment."

(ix) Minister for Law and Justice; arguments are reproduced as under:-

"I am glad you have also clarified that the distinction between what is there in the rules and what you think should be there because if this much, at least in my reading of the four relevant rules and these are 98, 99, 100 and of course 203 dealing with Select Committee. If you look at the scheme of the legislative process, that seems to be very clear. There is no question of any undermining so to speak, this is what the rules intent, 98 says: "Upon introduction, a Bill shall stand referred to the Standing Committee concerned with the subject matter of the Bill." That's fine, it goes to the Standing Committee automatically. ...99 says when a bill has been received back from the standing committee, so if the report has obviously comeback or I won't read the rest, so, you have referred to the standing committee and it has come back to the House. Now, what 100 says; it says; On the day for which a bill is set down under Rule-99 or any subsequent day to which the matter might have been adjourned, the Member Incharge may make any of the following motions in regard to the bill, that taken into consideration at once or on a date to be fixed for to it or referred to the select committee or circulated for elicit public opinion. So, the scheme that is there and I think, it is same scheme in the National Assembly as well. The legislative process envisages that a referral, even it goes to the standing committee when the report comes before the House, anyone of these four motions can be made. If the House then approves anyone of the four even if it is Select Committee, it will go to the Select Committee and these will be the members of the Select Committee. So, whether the argument that there is different procedure in the House of Common sir, frankly I did not have time to look at that.

we have to follow our scheme, what is there in these rules and that, with great respect, allows this referral of a Standing Committee report to a Select Committee. I share this view that there it does not mean any undermining, I think, this is the primary purpose 58 of this august House, legislation. We must see that right legislation takes place. When honourable Minister spoke to me yesterday that this is the issue involved, I told him exactly what you have just advised that shorter course would have been to move an amendment on the floor of the House and if the honourable Members of this august House were agree, it would be passed and so on. There would be much shorter than referring to a Select Committee and going through all that and again pleading the case there. But since this way has been adopted and since you have raised the legal issue then, in my view at least, and my humble view, the legal answer to your question is that the procedure, the legal scheme envisaged under the rules, provides that it can be referred, the report of a Standing Committee can be referred to a Select Committee, in my humble view, the more that a particular legislation is discussed by various forums so much the better it can only lead to a better discussion and a better law. Therefore, in my humble view no question arises of undermining of the position of the Select Committee."

2. I will now proceed to examine 'the Rules, 2012' in this regard:-

- (i) Rule 98 of 'the Rules, 2012', provides procedure regarding mandatory referral of Bill to the Standing Committee at the introduction stage. The said rule is reproduced as under:-

"98. Reference of Bills to Standing Committees.— Upon introduction, a Bill shall stand referred to the Standing Committee concerned with the subject matter of the Bill:

Provided that the member-in-charge may move that the requirement of this rule be dispensed with and, if the motion is carried, the provisions of rule 99 shall apply to the Bill as if it were received back from the Standing Committee on the day on which the motion is carried."

- (ii) Rule 99 of 'the Rules, 2012', provides a procedure when a Bill is reported back from the Standing Committee or when the time fixed for the Standing Committee to send it back has expired. The said rule is reproduced as under:-

"99. (1) When a Bill has been received back from the Standing Committee, or when the time fixed for the Standing Committee to send it back has expired, the Secretary shall cause copies of the Bill, as introduced, together with modifications, if any, recommended by the Standing Committee, to be supplied to each member within seven days after the receipt back or, as the case may be, expiry of time and shall set down the Orders of the Day. If it is a private members' Bill for a day fixed for private members' business and if it is a Government Bill then for a day meant for Government business for a motion under rule 100.

(2) At least two clear days shall intervene between the day of supply of copies of the Bill to members and the day for setting down of the Bill for a motion under rule 100:

Provided that it shall not be necessary to supply copies of the Bill, where the requirement of rule 98 has been dispensed with or where the Standing Committee has not recommended any modification in the Bill or where the Standing Committee has failed to send back the Bill before the expiry of the time for it to send it back.

(3) In case of urgency, if the Chairman permits, the member-in-charge may move that the requirement of sub-rule (2) be dispensed with and, if the motion is carried, the provisions of that sub-rule shall stand suspended in regard to that Bill and the member-in-charge may forthwith make any of the motions in rule 100."

- (iii) Pursuant to the requirements of rule 99 of 'the Rules, 2012', a member in-Charge may move any of the following motions in terms of rule 100 of 'the Rules, 2012':-

- (a) that it be taken into consideration at once; or
- (b) that it be taken into consideration on a date to be fixed forthwith; or
- (c) that it be referred to a Select Committee; or
- (d) that it be circulated for the purpose of eliciting opinion thereon.

- (iv) If the motion that a Bill be referred to the Select Committee is carried the Bill shall be referred to the Committee. The composition and *modus operandi* of the Select Committee is provided in rule 203 of 'the Rules, 2012'. The said rule is reproduced as under:-

*"203. (1) The Minister-in-charge of the Ministry to which a Bill relates, the Chairman of the Standing Committee concerned with the Bill, the member-in-charge and the *[Minister for Law and Justice] shall be *[the ex-officio members of] every Select Committee and it shall not be necessary to include their names in any motion for election of such a Committee.*

(2) The members of the Committee shall be elected by the Senate when a motion that the Bill be referred to a Select Committee is adopted.

(3) At the time of election of the members of a Select Committee the number of members whose presence shall be necessary to constitute a sitting of the Committee shall be fixed by the Senate.

(4) If the Chairman of the Committee is not present at any sitting, the Committee shall choose one of its members present to act as Chairman for that sitting.

- (v) Rule 101 of 'the Rules, 2012', provides procedure after presentation of report of the Select Committee. The said rule is reproduced as under:-

"101. (1) Where a Bill has been referred to a Select Committee, the member-in-charge may, after the presentation of the final report by the Select Committee, move,—

(a) that the Bill as reported by the Select Committee be taken into consideration; or

(b) that the Bill as reported by the Select Committee be referred to the same Committee again either-

(i) as a whole, or

(ii) with respect to particular clauses or amendments only, or

(iii) with instructions to make some particular or additional provision in the Bill, or

(c) that the Bill as reported by the Select Committee be circulated or re-circulated for the purpose of eliciting opinion or further opinion thereon.

(2) If the member-in-charge moves that the Bill as reported by the Select Committee be taken into consideration, any member may object to its being so taken into consideration, if a copy of the report of the Select Committee has not been made available for use of the members at least two days before the motion is made, and the objection shall prevail unless the Chairman allows the report to be taken into consideration. If it is allowed the procedure laid down in rules 103 to 115 shall be applicable."

3. In view of the aforementioned rules, the present position is,-

- Upon introduction, a Bill shall stand referred to the Standing Committee concerned with the subject matter of the Bill;
- When a Bill is reported back from the Standing Committee or when the time fixed for the Standing Committee to send it back has expired, the Secretary shall place the Bill on the Orders of the Day in terms of rule 99 of 'the Rules, 2012';
- The member in charge may move, amongst other motions, that the Bill, as reported by the Committee be referred to a Select Committee;

- Where a motion that a Bill be referred to a Select Committee is carried the Bill shall be referred to the said Committee to report within a specified period and after the receipt of report the House may consider it under rule 104 of ‘the Rules, 2012’;
- Composition of the Select Committee is provided in rule 204 of ‘the Rules, 2012’, which is as under:-
 - The Minister-in-charge of the Ministry to which a Bill relates (ex-officio member);
 - The Chairman of the Standing Committee concerned with the Bill, (ex-officio member);
 - The member-in-charge, (ex-officio member);
 - The Minister for Law and Justice, (ex-officio member);
 - Members of the Committee to be elected by the Senate when a motion that the Bill be referred to a Select Committee is adopted.
- After the presentation of report by the Select Committee, the member-in-charge may move that the Bill as reported by the Select Committee be taken into consideration; or that the Bill as reported by the Select Committee be circulated or re-circulated for the purpose of eliciting opinion or further opinion thereto; or that the Bill as reported by the Select Committee be referred to the same Committee again either-
 - (i) as a whole, or
 - (ii) with respect to particular clauses or amendments only, or
 - (iii) with instructions to make some particular or additional provision in the Bill.

4. I will now look at the International Parliamentary practices regarding Select Committees:-

United Kingdom—Westminster

In the House of Commons a “Public or Private Bill Committee” is appointed for each Bill introduced in that House. The House of Lords meet as a “Grand Committee” away from the chamber (like the Committee of the Whole House) and consider the Bill in that committee. When the Public or Private Bill Committee in case of House of Commons and Grand Committee in case of House of Lords completes consideration of the Bill, the same is taken up by the concerned House and is not referred again to any committee. Those Houses may differ from the Committee and may make amendments in the Bill but at their own and without involving any committee.

Canada

In the Canadian Parliament, the Bill is generally debated in the House at second reading stage and is referred to a committee for clause by clause study. However, a Minister may move that the Bill be referred to a committee for study before second reading. In such case the Bill is mostly referred to the corresponding committee. However, the House may choose to refer a Bill to a "legislative committee" created on ad hoc basis solely to undertake the consideration of that Bill only. The legislative committee is similar to that of Select Committee in the Parliament of Pakistan. So, in Canadian Parliament also the Bill is not referred more than one time to the Committees.

India

In the Lok Sabha it has been provided vide rule 74 that when a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill namely:-

- (i) that it be taken into consideration; or
- (ii) that it be referred to a Select Committee of the House; or
- (iii) that it be referred to a Joint Committee of the Houses with the concurrence of the Council; or
- (iv) that it be circulated for the purpose of eliciting opinion thereon:

Rule 77 of the Rules of Procedure and Conduct of Business in Lok Sabha provides that after the presentation of the final report of a Select Committee of the House or a Joint Committee of the Houses, as the case may be, on a Bill, the member-in-charge may move -

- (a) that the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, as the case may be, be taken into consideration; or
- (b) *that the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, as the case may be, be re-committed to the same Select Committee or to a new Select Committee, or to the same Joint Committee or to a new Joint Committee with the concurrence of the Council, either-*
 - without limitation, or*
 - with respect to particular clauses or amendments only, or*
 - with instructions to the Committee to make some particular or additional provision in the Bill, or*

(c) that the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, be circulated or re-circulated, as the case may be, for the purpose of eliciting opinion or further opinion thereon.

Almost similar position is of the Rules of Procedure and Conduct of Business in Council of States (Rajya Sabha). Rule 69 of those rules provides that when a Bill is introduced, or on some subsequent occasion, the member-in-charge may make one of the following motions in regard to his Bill namely:-

- (i) that it be taken into consideration; or
- (ii) that it be referred to a Select Committee of the Council; or
- (iii) that it be referred to a Joint Committee of the Houses with the concurrence of the House; or
- (iv) that it be circulated for the purpose of eliciting opinion thereon:

Rule 93 of Rajya Sabha rules deals with the motions to be moved after presentation of report of the committee on the Bill. It has been provided vide that rule that after the presentation of the final report of a Select Committee of the Council, or a Joint Committee of the Houses, on a Bill, the member-in-charge may move-

- (a) that the Bill as reported by the Select Committee of the Council, or the Joint Committee of the Houses, as the case may be, be taken into consideration: or
- (b) that the Bill as reported by the Select Committee of the Council, or the Joint Committee of the Houses, as the case may be, be re-committed either-
 - (i) without limitation; or
 - (ii) with respect to particular clauses or amendments only; or
 - (iii) with instructions to the Committee to make some particular or an additional provision in the Bill; or
- (c) that the Bill as reported by the Select Committee of the Council, or the Joint Committee of the Houses, be circulated or re-circulated, as the case may be, for the purpose of obtaining opinion or further opinion thereon.

5. The international parliamentary practices regarding Select Committees can be encapsulated in the following terms:-

- (i) A Select Committee is constituted/appointed to examine a Bill whereas a Standing Committee examines department/Ministry related matters;
- (ii) A motion for referral of Bill to a Select Committee is usually moved at the introduction of the Bill and not after a Standing Committee has duly considered the Bill and presented its report on it.
- (iii) After the presentation of report, the Bill can be recommitted to the same Committee either-
 - without limitation; or
 - with respect to particular clauses or amendments only; or
 - with instructions to the Committee to make some particular or an additional provision in the Bill

6. The most important function of a Standing Committee of the Senate of Pakistan, as provided in 'the Rules, 2012' is the consideration and examination of a Bill. Rule 166 of 'the Rules, 2012', provides that a "*Standing Committee shall examine a Bill*", "*the Committee shall also examine whether the Bill violates, disregards or is otherwise not in accordance with the provisions of the Constitution.*" It is in this context that in my ruling dated 8th March, 2017, sub-rule (3) of rule 166 of 'the Rules, 2012' was operationalized by providing a forum of the Committee of Whole for consideration of a Bill upon which a Committee could not report back within the stipulated time period.

7. There is no denial of the fact that 'the Rules, 2012' provide a forum of Select Committee, after a Bill has been reported back by the Standing Committee, however, the question arises that whether providing a parallel forum of Select Committee undermines the functions and findings of a Standing Committee? Whether this provision is inconsistent with international practices? In international Parliamentary practices, the Department Related Committees (DRCs) deal only with the subject matter of their respective ministries and are not empowered to examine a Bill, therefore, when a Bill is introduced it is referred to a Select Committee which is constituted for that purpose. Once that Select Committee which in our case is the Standing Committee, passes the Bill, there is no second forum of appeal except the House itself where the Bill goes.

8. In view of the rules position and international Parliamentary practices, the question mentioned at para 1 (v) is answered in the following terms:-

- (i) Paragraph (c), sub-rule (1) of rule 100 of 'the Rules, 2012', in its present form, is inconsistent and amounts to undermining the recommendations/report of a Standing Committee;
- (ii) Keeping in view that Parliaments strive for providing quality legislation to the public to address their social issues and drawing from the principles of review from the Supreme Court, the composition of a Select may be changed to make it a forum for review in order to add meaningful input in the legislative proposal without undermining the recommendations/report of a Standing Committee. The composition of a Select Committee shall be,-
 - a. The Minister-in-charge of the Ministry to which a Bill relates (ex-officio non-voting member);

- b. The Chairman of the Standing Committee concerned with the Bill, (ex-officio non-voting member);
- c. The member-in-charge, (ex-officio non-voting member);
- d. The Minister for Law and Justice, (ex-officio non-voting member);
- e. Members of the Standing Committee, which examined the Bill
- f. Members to be elected by the Senate (equal in number as that of members of the Standing Committee concerned)
- g. Ten Members to constitute the quorum, wherein, five Members shall be from Treasury Benches and five Members from Opposition Benches

(iii) It has further been observed that the provision of eliciting opinion is wrongly placed as the more suitable place to elicit public opinion should be after the introduction stage and not when the Committee has already deliberated upon and has presented its Report, which makes the entire exercise of seeking public opinion meaningless. Therefore, in rule 98 the following provision shall be added namely,-

Provided that the Member in-Charge or any other Member may move as an amendment that the Bill be circulated for eliciting public opinion;

Provided further that if the Motion that the Bill be circulated for eliciting public opinion is carried the Standing Committee concerned will adopt procedure prescribed in rule 187 (3)

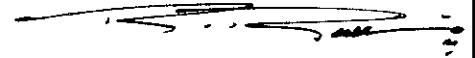
Accordingly, paragraph (d), sub-rule (1), rule 100 of 'the Rules, 2012' shall be omitted.

9. In the instant case three alternatives are available to the Minister-in-Charge of "The COMSATS University Islamabad Bill, 2017",-

- (i) To press his notice dated 28th March, 2017, given in terms of paragraph (c) sub-rule (1), rule 100 of 'the Rules, 2012'; or
- (ii) To withdraw the aforesaid notice and give a fresh notice under paragraph (a) sub-rule (1), rule 100 of 'the Rules, 2012' for consideration at once of the Bill as reported by the Committee and move amendments during second reading of the Bill; or

- (iii) To withdraw the notice dated 28th March, 2017 and make a request that the Bill be referred back to the Standing Committee concerned for reconsideration.

10. The Senate Secretariat is directed to amend rules 98, 100 and 203 of the Rules of Procedure and Conduct of Business in the Senate, 2012, accordingly.



MIAN RAZA RABBANI
NI
Chairman Senate

Dictated in Chamber
Announced in the House on 18th April, 2017
261st Session