

[Mr. Speaker]

jects and it is more appropriate to discuss them together because they are all interlinked in a way.

Your complaint is that the Police are not behaving in the manner in which they should. That is why one incident will not do and that is why all incidents have to be discussed together.

(Interruptions)**

MR. SPEAKER: Don't record. Which is the rule that is broken? I am not allowing a debate or argument. You tell me which is the rule that is broken, I will allow.

श्रीमती चन्द्रावती (मिथानी) :

अवकाश महोदय, मेरा प्वाइन्ट आफ़ आर्डर है, मैं कहना चाहती हूँ कि ला एंड आर्डर स्टेट सवर्जेंट है.

MR. SPEAKER: It is not a point of order. What is the rule.

SHRIMATI CHANDRAVATI: I can say anything on a point of order.

MR. SPEAKER: No. No. Not at all. You are mistaken. You can only say under what rule. Please sit down. She has no right. You are not allowed. Don't record

(Interruptions)**

SHRI K. P. UNNIKRISHNAN (Badagara): I am on a point of order. My point of order is this. The Agricultural University, Pantnagar is heavily subsidised by the Central Exchequer. (Interruptions).

MR. SPEAKER: This is point of order. I am asking which rule. Why don't you take note of my responsibility? I am asking the rule or the law which is broken.

SHRI K. P. UNNIKRISHNAN: The Pantnagar Agricultural University is

heavily subsidised by the Central Exchequer. It is not merely a matter of law and order of the State but it is also a matter of concern for this House how the Central Exchequer's finances are being disbursed. Now, the operations and all the projects subsidised from the Central Exchequer have come to a standstill. That is why, you know, I had sent a separate motion to you to consider the situation arising out of this. It happened because of a massive offensive launched by the police at the instance of certain people in Delhi. This is the point. (Interruptions).

MR. SPEAKER: What he says is that it is a Central subject.

SHRI K. P. UNNIKRISHNAN: It is not only law and order. Of course, partly law and order is there. But there are other issues which are involved.

MR. SPEAKER: I have considered that also. It has not appealed to me. Merely because Central Government is giving the money, it does not become a Central subject.

(Interruptions)**

MR. SPEAKER: Do not record.

12.15 hrs.

RE. POINTS OF ORDER (PROCEDURE)

PROF. P. G. MAVALANKAR (Gandhinagar): Mr. Speaker, Sir, I am rising on a point of order under Rules 376 (1) (2) (3) (4) (5) (6); (a) (b) (c) (d) (e) and under Rule 377 and under Rules 56, 57 and 58. Under these five rules I am raising the point of order. We have been watching for the last week and this week that the Chair—not only you but even the other people who sit in the Chair—ask for the Rule. Sir, whenever we

raise a point of order obviously we raise the point of order under Rule 376. There is no other rule under which we can raise a point of order. Now, Sir, from last week and this week, I have been watching, and I must say with great respect, that you are asking this question from us "which rule is broken"? I would like to ask you under which rule the Chair asks us that we must give the rule which is broken. Sir, you will kindly see Rule 376(1). I will read out that and then I will come to Rule 58.

"376(1) A point of order shall relate to the interpretation or enforcement of these rules or such Articles of the Constitution as regulate the business of the House and shall raise a question which is within the cognizance of the Speaker."

My point is that there are a number of things which are not specifically regulated by this or that rule but by conventions which come under the cognizance of the Speaker and if, therefore, I, as a Member of this House, feel that a particular matter comes under the cognizance of the Speaker, then I am within my right to get up under 376 (1) and invite your attention. If you think that I am abusing the point of order by raising a matter through a point of order which you have rejected, then by all means you can interrupt and ask me "sit down" and I must sit down and I must not even go on record. But before I fully raised the point of order on a particular matter which I may consider to be within your cognizance, I do not understand how the Chair can ask a Member by saying "which rule is broken"? (Interruptions).

Secondly, You will find that in regard to this Rule Book, howsoever intelligent and good one may be at all these things, many things happen on the spur of the moment and the debate takes place and we are not

thorough with the Rule 1 to Rule 389. But we know definitely that several rules are broken and discussion is needed. Therefore, I would request you please do not use this blanket technique of preventing us from raising a point of order. And, during the week-end I did some quiet study. Sir, I could not find any rule in this Book which tells the Speaker "you have a right to tell the Member to quote the rule which is broken or sit down"! There is no such rule in this Rule Book. We could not get it from this Book.

(Interruptions)

THE PRIME MINISTER (SHRI MORARJI DESAI): May I say a few words? I am surprised that my hon. friend Shri Mavalankar should have raised an omnibus issue. He seems to consider himself to be a defender of all the people who raise points of order. In this House it is common knowledge that anybody who wants to rise immediately to speak says: "On a point of order". It is a common thing. Now, is the Speaker going to allow everybody to do that? Then there will be nothing except points of order and even bogus points of order, if I may say so. Many a time, you insist that when it is within the cognizance of the Speaker he should allow it. The fact that he does not allow it means that he does not take cognizance of it. Why is that not accepted? We are bound by our pledge to the Speaker that we will accept the decision of the Speaker. But the hon. Member had the courage to ask the Speaker "under what rule you say this, will you tell me?" (Interruptions) I am afraid we are exceeding our rights. (Interruptions) I do not agree with this. (Interruptions).

SHRI SHYAMNANDAN MISHRA:
rose—

MR. SPEAKER: Your point of order is on this issue....?

SHRI SHYAMNANDAN MISHRA (Begusarai): Now, Sir, the hon.

[Shri Shyam Nandan Mishra]

Member, Mr. Mavalankar, has raised the question whether the Chair is in order to ask for reference to the Rule which has been breached. I think the Chair is perfectly in order to ask which rule has been violated or breached.... (Interruptions).

MR. SPEAKER: Mr. Mavalankar has raised a point of order that the Speaker has no right to ask.... (Interruptions).

SHRI SHYAMNANDAN MISHRA: So far as that position of the Chair is concerned, I have absolutely no doubt in my mind that the Chair is perfectly in order to ask for the rule which has been violated or breached. But the point is that the Chair also has to be governed by certain rules and therefore the Chair also will have to say, whether in giving ruling, the Chair is doing so according to certain rules. The Chair also is not beyond the rules, so if there is any order or ruling of the Chair that can be challenged on the basis of the Rules of Procedure of the House, that could be done. In this matter I should like you to take fully into account whatever observations you have made in the past on this subject and correlate them to whatever hon. Member Shri Mavalankar has said. I think that if it comes simply to this that the Chair cannot ask a Member to refer to rules then of course the hon. Member's position would be completely out of order. But, if there have been certain observations of the Chair with regard to the points of order raised in the past which may not be in conformity with the rules, that can form a different category altogether.

SHRI JYOTIRMOY BOSU (Diamond Harbour): My point of order is under rule 376.

MR. SPEAKER: Are you speaking on the point of order of Mr. Mavalankar?

SHRI JYOTIRMOY BOSU: I also speak on that. Rule 376(1) says that the point of order shall relate to the interpretation or enforcement of the rules. Para 2 enables a person to raise a point of order during the interval between the termination of one item of business and commencement of another if it relates to the maintenance of order or any arrangement of business before the House. The Question Hour is over and you are about to take up the laying of the papers. Now points of order have been raised and we have been quite right to do so under the rule. Para 3 says, subject to sub-rules 1 and 2, a Member may formulate a point of order and the Speaker shall decide whether the point raised is a point of order and if so, he shall give a decision thereon which shall be final. The point of order under this rule which I wanted to bring before you is this: can you kindly educate me why the hon. Home Minister is visiting....

(Interruptions)**

MR. SPEAKER: That is not a point of order; I am not aware of it. Under the guise of a point of order, you mention something. It will not be recorded.

(Interruptions)**

MR. SPEAKER: It is not recorded. We are now on a point of raised order raised by Mr. Mavalankar about the authority of the Speaker.

SHRI JYOTIRMOY BOSU: My point of order is different.

MR. SPEAKER: If it is a different point of order, do not raise it now.

SHRI K. LAKKAPPA (Tumkur): I want to say this on behalf of the Opposition.

MR. SPEAKER: If you are not speaking on the point of order now under discussion, it will not be recorded.

(Interruptions)**

**Not recorded.

MR. SPEAKER: Do not record it.

श्री श्रीराम शंकर राय (गाजीपुर) :

मान्यवर, . . .

MR. SPEAKER: Are you supporting Mr. Mavalankar's point of order?

श्री श्रीराम शंकर राय मान्यवर, मैं निवेदन करना चाहता हूँ कि यह दुर्भाग्य है इस सदन का, जैसा माननीय प्रधान मंत्री जी ने कहा कि इस सदन में जो प्वाइंट ऑफ ऑर्डर उठाये जाते हैं उनमें 95 प्रतिशत प्वाइंट ऑफ डिस-ऑर्डर होते हैं। इस सम्बन्ध में आपको विभिन्न दलों के लोगों से मिलकर इस सदन में एक कन्सेन्सस बनाना होगा। इस में हमारी एक टेक्नीकल मजबूरी है और इस के लिये सारे हाउस का कन्सेन्सस बनाना होगा। मेरा यह निवेदन है कि जब आप कहते हैं कि किस रूल के मुताबिक प्वाइंट ऑफ ऑर्डर उठा रहे हैं तो इस में यह समझ लिया जाना चाहिये कि इस में रूल और कन्वेन्शन दोनों लागू हैं। केवल रूल के आधार पर ही प्वाइंट ऑफ ऑर्डर नहीं होता है। इस में प्रोसीजर, कन्वेन्शन और दूसरी चीजें भी जुड़ी होती हैं।

But no chair can ask everything before raising the point of order.

प्वाइंट ऑफ ऑर्डर उठाने का राइट तो इस सदन को मिला हुआ है। इसलिये आप इस सिलमिले में सब की राय लें। रूल के अलावा कन्वेन्शन, प्रोसीजर और सर्वप्रधानिक अनियमिततायें भी होती हैं, जिन के लिये प्वाइंट ऑफ ऑर्डर उठाना पड़ता है। इस लिये इस पर सोच-समझ कर कोई रास्ता निकालना होगा।

SHRI NARENDRA P. NATHWANI (Junagadh): Mr. Speaker, Sir, there is no point in the point of order raised by my friend, Mr. Mavalankar. Rule 376 (1) is very explicit. There can be a point of order as regards the interpretation and enforcement of rules. I would proceed on that basis. Sub-rule (1) expressly states that if there is any question that of interpretation or enforcement of any rule of business, a point of order may be raised. If

any member deviates from, infringes or breaks any rule, another member can point out that that particular rule is broken and may be enforced. Therefore, you are well within your rights....

SHRI K. GOPAL (Karur): He is supporting you.

MR. SPEAKER: That is alright.

SHRI MORARJI DESAI: I want to draw your attention to Rule 389, which is very specific, which is about the residuary powers of the Speaker. All matters not specifically provided for in these rules and all questions relating to the detailed working of these rules shall be regulated in such manner as the Speaker may from time to time direct and we have to accept the directions.

MR. SPEAKER: Mr. Prime Minister, specifically there is a rule here.

SHRI RAM JETHMALANI (Bombay North-West): I rise to support what the distinguished Prime Minister has said and to oppose the point of order which my friend, Mr. Mavalankar has raised. Mr. Speaker, we must base our decision on correct principle. Rule 376 (1) on which Mr. Mavalankar is relying contains the word 'and' and therefore, both conditions are to be read conjunctively whereas he seems to read them disjunctively. He seems to think that merely because a matter relates to something which the Speaker can take cognisance of, that by itself satisfies the conditions, which it does not. Both the conditions must be satisfied and therefore, you are entitled to ask a Member, "which is the rule that is broken?"

SHRI K. GOPAL: Mr. Speaker, Sir, as far as I understood my friend, Mr. Mavalankar, I do not think that he challenged your authority.

PROF. P. G. MAVALANKAR: Not at all.

SHRI K. GOPAL: There are certain things in this House like conventions and precedents. Not only here—you have occupied the highest post

[Shri K. Gopal]

in the judiciary—there also we have precedents and conventions. You would like to take note of the feelings of the Members; the mood of the House is the mood of the Nation and it cannot be the other way round. While I completely agree with you in the matter of regulating the House, discipline should be there, in instances like this, in exceptional cases, where a specific matter has been brought, I wish that you could have stuck to the conventions which are there in this House where the Speaker has allowed the Members to....

MR. SPEAKER: No, No, Mr. Gopal.

Having done that, now, Mr. Mavalankar has raised a question which has been probably raised many times and Mr. Mavalankar is more interested in it because he is one of those persons who constantly raise points of order. It is necessary therefore, to decide it finally.

The main rule is 376. The main provision is sub-rule (i) which governs all other rules. Sub-rule (i) says: A point of order shall relate to the interpretation or enforcement of these rules or such articles of the Constitution as regulate the business of the House and shall raise a question which is within the cognisance of the Speaker. Two things are relevant. The first is, it must raise a breach of a rule or an Article of the Constitution which regulates the business of the House and second, it must be one which is within the cognisance of the Speaker. These are the two things. The question is, as soon as a matter is raised, is there a breach of rule, is there a breach of any Article of the Constitution, is there a breach of any other law, and further whether the point raised is within the Cognisance of the Speaker? for this, again it is regulated by a

Direction of the Speaker given earlier. The procedure he has laid down is that while formulating a point of order, a member should quote the specific rule or the provision of the Constitution relating to the procedure of the House which might have been ignored, neglected or violated. This is the Direction given earlier and I am merely following that Direction. Nothing more has been done. This Direction is fully in accordance with the rules. The other remaining provisions are further limitations and they do not confer any further rights under Rule 376. Otherwise, if that is not the position, under the guise of point of order, we will raise many disorders in this House. That is what has been happening in the House. I am not going to allow it. I am sticking to the rule for the benefit of the House, not for my benefit. I am perfectly in agreement with you that I am as much bound by the rules as any member is. But what the rule is, finally you should leave it to the decision of one person and that person can be no other than the Speaker of the House. It is more by convenience, not because I have greater knowledge than you. My knowledge need not be greater than yours, but my authority must be final for the benefit of the House.

SHRI JYOTIRMOY BOSU: What happened to my point of order? Under rule 376, the point of order I want to raise is this. I again reiterate that this House is not competent to discuss law and order issues relating to a State. That is clearly defined and we are quite prepared for that. Here I am trying to understand. The Home Minister of the Union Government is visiting

MR. SPEAKER: Again you are going into the merits. I am not going to allow. I have disallowed your point of order.

SHRI JYOTIRMOY BOSU: I have not finished.

MR. SPEAKER: I have disallowed your point of order.

SHRI JYOTIRMOY BOSU: Let me finish. You can give your ruling or you may push me out.

MR. SPEAKER: No; I am not going to do it. The House will be poorer if I push you out.

SHRI JYOTIRMOY BOSU: That is very kind of you. I am trying to understand. You educate me. The Union Home Minister.....

MR. SPEAKER: I am not going to allow that. Don't record.

(Interruptions)**

SHRI KANWAR LAL GUPTA (Delhi Sadar): On a point of order, Sir. You rightly said while giving your verdict on Mr. Mavalankar's point of order that one has to quote the rule which has been violated and you again rightly said that just as we are bound by certain rules, the Chair also is bound by certain rules.

MR. SPEAKER: What is your point of order.

SHRI KANWAR LAL GUPTA I am coming to that.

MR. SPEAKER: You must first come to that.

SHRI KANWAR LAL GUPTA: Rule 380 is there. You ask us to state which rule is violated. Secondly, you say that nothing will go on record. My question is about the second one, that is, "nothing will go on record." You can expunge certain words if you like but so far as the rules are concerned, I do not see anywhere any rule giving the power to the Speaker to say, "nothing will go on record."

MR. SPEAKER: I have understood your point. The rule provides that no one can speak in the House without the permission of the Speaker. That is the rule. When

you speak without the permission of the Speaker, that is where my power comes in.

SHRI K. P. UNNIKRISHNAN (Badagara): We have not come here on account of your countesy or any one else's. You would be violating the spirit of the Constitution and the Rules of Procedure if you take up this position. If I utter anything unparliamentary, you can expunge it you can certainly have the power to expunge and we shall not question it and those expunged portions shall not form part of the record. But you cannot say that nothing of what I say shall go on record.

MR. SPEAKER: Not at all.

SHRI K. P. UNNIKRISHNAN: Unfortunately that is the precedent you have laid down, and you remember that on the last day we had to take recourse to certain things which unfortunately happened in this House. So, if you persist, it is total violation of the Constitution. You cannot just do it.

SHRI VAYALAR RAVI (Chirayinkil): Sir, I am on a point of order. I was patiently listening to your ruling that nobody should question the authority of the Speaker.

(Interruptions)

MR. SPEAKER: Mr. Ravi, I had given a ruling, may be right or may be wrong.

SHRI VAYALAR RAVI: I am not questioning that. But I am raising a very relevant point which you have to consider. We speak everything in this House only with your permission. Rule 350 very clearly says that. You are the authority and if you believe that everything of what those who speak with permission should go on record, it means, Sir, that all the decisions that you take—we move some urgent matters under Rule 56. Rule 56 says that I

**Not recorded.

[Shri Vayalar Ravi]

can do only with your permission, I can move any motion with your consent. So, in your wisdom you decide whether my motion is relevant or serious or important or not. All the doors are completely closed for raising my voice in the House if you go strictly by Rule 350.

MR. SPEAKER: That is why I don't simply do it.

SHRI VAYALAR RAVI: So, my point is that when you stick to your interpretation regarding the point of order, it means that it may or may not benefit the House, but it will only benefit the Ruling Party.

MR. SPEAKER: Not necessarily.

SHRI VAYALAR RAVI: You are the custodian of the House to protect the interests of both sides. But you go strictly by Rule 350 or you say 'Don't record'.

MR. SPEAKER: When I think it is not in the public interest, I do not give permission.

SHRI VAYALAR RAVI: Sir, raising the voice of the people in the House against butchering of hundreds of people....

MR. SPEAKER: Now we go to Paper, Laid.

SHRI K. LAKKAPPA: Under Articles 355 and 356 of the Constitution of India, it is very clear that the State Government should run in accordance with the provisions of the Constitution of India. Article 355 says that it shall be the duty of the Union to protect every State against any external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution. That is why, the Members on this side have been urging for the last six months that in many States including U.P. the constitutional machinery has completely

broken because of internal disturbance....

MR. SPEAKER: Do not record. (Interruptions)**

MR. SPEAKER: Under Article 355, it requires every State to run according to the Constitution. That is also so far as the Union is concerned. You will find that it also provides that the Union as well as the State Government must run according to the Constitution.

SHRI K. LAKKAPPA: Sir, if the Member is allowed to quote the relevant provision of the Constitution, has he not to express himself fully to satisfy the House and the Speaker and can the consent not be given to him to express on the provisions which are in conformity with the Constitution? Before I submit to you, kindly hear me.

MR. SPEAKER: I am hearing you all the time.

SHRI K. LAKKAPPA: Under Article 355, the constitutional machinery has completely broken down. That is why there are internal disturbances.

MR. SPEAKER: Mr. Lakkappa, have you given a notice that the Constitutional machinery has broken down?

SHRI K. LAKKAPPA: Yes.

MR. SPEAKER: Where?

SHRI K. LAKKAPPA: In U.P.

MR. SPEAKER: Which is the motion you are referring to?

SHRI K. LAKKAPPA: The adjournment motion.

MR. SPEAKER: Your adjournment motion does not say that the constitutional machinery has broken down in U.P. and President's rule should be declared. That is under article 356. No Member has given me much notice. Of course, if the notice is there, I will consider it. That is another matter.

No Member has given me notice that there has been a breakdown of the Constitution, and that President's rule should be promulgated. Therefore, those questions under article 355 do not arise.

SHRI K. LAKKAPPA: My submission is that in such situation....
(Interruptions)

SHRI K. P. UNNIKRISHNAN: On a point of order, Sir, I have sent you two notices of motions of privilege against the Minister of External Affairs, Mr. Vajpayee and yet another motion of privilege against Shri H. M. Patel. I would like to know whether you have considered them.

MR SPEAKER: It is under consideration. We will inform you.

Now, Papers to be laid.

12.46 hrs.

PAPERS LAID ON THE TABLE
ANNUAL REPORT OF GUJARAT STATE
FOREST DEVELOPMENT CORPORATION
LTD., VADODARA FOR THE YEAR ENDED
30-9-1977 AND CERTIFIED ACCOUNTS OF
ANIMAL WELFARE BOARD, MADRAS FOR
1974-75 WITH STATEMENT FOR DELAY

THE MINISTER OF AGRICULTURE AND IRRIGATION (SHRI SURJIT SINGH BARNALA) I beg to lay on the Table:—

(1) A copy of the Annual Report of the Gujarat State Forest Development Corporation Limited, Vadodara for the year ended 30th September, 1977 along with the Audited Accounts and the Comments of the Comptroller and Auditor General thereon, under section 818A of the Companies Act, 1956. [Placed in Library. See No. LT-2101/78].

(2) (i) A copy of the Certified Accounts (Hindi and English versions) of the Animal Welfare Board, Madras, for the year 1974-75 and the Audit Report there-

on, under sub-rule (4) of Rule 24 of the Animal Welfare Board (Administration) Rules, 1962.

(ii) A statement (Hindi and English versions) showing reasons for delay in laying the documents mentioned at (i) above. [Placed in Library. See No. LT-2102/78].

MR. SPEAKER: Mr. Ravi wanted to raise on abjection Mr Ravi ..

SHRI VAYALAR RAVI (Chirayankul): This is a matter often raised in the House. Sir, you have also warned the Government once that it is not a fair practice to delay the reports so much. Item 2 (2) (i) is about 1974-75. Reports are yet to come for 3 years.

MR. SPEAKER: We have got the explanation.

SHRI VAYALAR RAVI: What about other years? You have got the explanation only for 1974-75. What happened to the rest of the years? It is not this alone. You must give a severe warning, that Government should see that....

MR SPEAKER: You know how many times ..

SHRI VAYALAR RAVI: And it is the same thing about Dr. Chunder also. Mr. Barnala has put in an explanation only for 1974-75....what about the rest of the years? Do you think that a person can give the report at any time and get away with it?

MR. SPEAKER: I will send it to the Committee....Now item 3.

CERTIFIED ACCOUNTS OF INDIAN INSTITUTE OF TECHNOLOGY, KHARAGPUR FOR 1975-76 WITH STATEMENT FOR DELAY AND STATEMENT RE. NOT LAYING THE ANIMAL REPORT ETC. OF RASHTRIYA SANSEKRIT SANSTHAN, NEW DELHI FOR 1976-77.

THE MINISTER OF EDUCATION,
SOCIAL WELFARE AND CULTURE
(DR. PRATAP CHANDRA CHUNDER):