

को हिसाब में लेने के बाद निर्धारित की जाती है। राज्य सरकारों को दिए जाने वाले अधिकांश ऋणों पर 5 1/2 प्रतिशत वार्षिक की दर पर ब्याज वसूल किया जाता है और समय पर वापसी भ्रदायगी की सूरत में 1/4 प्रतिशत की छुट दी जाती है यह रियायती दर है और अन्य पार्टियों को दिये जाने वाले केन्द्रीय ऋणों पर वसूल किए जाने वाले ब्याज की दर से कम है। इसके अलावा, राज्यों को दी जाने वाली आयोजनागत सहायता, प्रांशिक रूप से ऋणों के रूप में और अधिकांश रूप से अनुदानों के रूप में होती है, आयोजनागत सहायता के ऋण भाग पर ब्याज की प्रभावी दर 5 1/4 प्रतिशत से कम होगी क्योंकि यह इस बात पर निर्भर करती है कि सहायता में अनुदान का अंश कितना है।

### Treatment of Khan Abdul Gaffar Khan in India

S.N.Q. 1. PROF. SAMAR GUHA: Will the Minister of EXTERNAL AFFAIRS be pleased to state:

(a) whether he has received many requests for making early arrangement for medical treatment of Khan Abdul Gaffar Khan, who was popularly known as 'Frontier Gandhi';

(b) whether the 'Frontier Gandhi' himself expressed his desire;

(c) if so, whether he has received any communication either from the friendly Government of Afghanistan regarding his expressed willingness for rendering medical aid to Khan Abdul Gaffar Khan;

(d) if so, facts thereabout; and

(e) whether Government will make renewed effort for giving early medical aid to Badshah Khan as desired by him?

THE MINISTER OF EXTERNAL AFFAIRS (SHRI ATAL BIHARI VAJ-PAYEE): (a) to (e). I have received letters expressing concern over the health of Khan Abdul Gaffar Khan and regarding provision of adequate medical facilities to him.

It has been conveyed to him that Government of India is prepared to send Indian doctors to examine and treat him or, if agreeable to him, to provide him necessary treatment in India.

The Government of Afghanistan have also been informed about our willingness to provide him with medical treatment. If Badshah Khan decided to come to India, Government would welcome him and provide him all possible facilities for treatment.

12 hrs.

RE. ALLEGED DELAY IN GIVING MEDICAL AID TO LATE SHRI SURYA NARAIN SINGH, M.P.

(Interruptions)

MR. SPEAKER: If the hon. Members speak one by one, then I can hear.

श्री शरद यादव (जबलपुर): अध्यक्ष महोदय कल रात को श्री सूर्य नारायण सिंह, संसद-सदस्य को 3 बजे हार्ट अटैक हुआ। जिस डाक्टर ने उनको अटैक किया, उसने कहा कि उनको सिवियर हार्ट अटैक है और उनको साढ़े 4 बजे बिलिंग्टन अस्पताल में ट्रांसफर किया और एमर्जेंसी वार्ड के बरामदे में उनको साढ़े 4 बजे से लेकर साढ़े 7 बजे तक रखा रहे। वहां किसी बड़े डाक्टर या हाटे स्पेशलिस्ट ने उनको अटैक नहीं किया। साढ़े 7 बजे उनको एक कमरे में ले गये, तब तक उनकी मृत्यु हो चुकी थी।

अध्यक्ष महोदय, मेरा यह कहना है कि संसद-सदस्यों के मामले में आप बहुत उपेक्षा का रख बरत रहे हैं। कल से कार्लिंग अटैशन नोटिस दिये गये हैं, उनके बारे में आपको स्वास्थ्य मंत्री से बयान देने के लिये कहना चाहिये था, या अभी आप कहिये लेकिन इस मामले में मैं निश्चित तौर पर बहुत जिम्मेदारी से कहता हूँ कि श्री सूर्य नारायण सिंह की मृत्यु सिर्फ उपेक्षा से हुई है। जो डाक्टर वहां थे, उन्होंने यह कहा कि संसद-सदस्य हैं तो क्या हुआ?

मैं एक बात अध्यक्ष महोदय, और कहना चाहता हूँ कि इस लोक-सभा में जब से आप अध्यक्ष हैं, तब से लोक-सभा के संसद-सदस्यों के प्रति आपका बहुत उपेक्षा का रवैया है। (व्यवधान)

MR. SPEAKER: When I went yesterday to the house of the deceased person, complaints were made to me about serious lapses on the part of the doctor who is attached to the South Avenue as well as the doctors in Dr. Ram Manohar Lohia Hospital. I have asked them to give the facts because I want to request the Prime Minister to direct an inquiry into the matter. The charges, complaints, given to us are very serious matters. I am requesting the Prime Minister, after getting

the facts and passing them on to him, to direct an immediate inquiry into the matter because the facts brought to my notice are of a very serious character. Therefore, it is a matter for inquiry. It is not a matter of privilege or of any such thing....

**SHRI MADHU LIMAYE (Banka):** They have given a calling-attention notice....

**MR. SPEAKER:** It is not a matter for call-attention; it is a matter for immediate inquiry.

**SHRI MADHU LIMAYE:** Let us have a statement from the Health Minister.

**AN HON. MEMBER:** There is no Health Minister. (*Interruptions*)

**SHRI MADHU LIMAYE:** How does he say that there is no Health Minister? Technically he is handling it.

**MR. SPEAKER:** I am requesting the Prime Minister to hold an immediate inquiry into the matter. Therefore, calling-attention or any other discussion can be after the inquiry report reaches us. (*Interruptions*)

**SHRI P. VENKATASUBBAIAH (Nandyal):** Mr. Speaker, Sir, it is a serious thing. When you went to the hon. Member's house, they made serious allegations. (*Interruptions*)

**SHRI NIRMAL CHANDRA JAIN (Seoni):** Has the report been seized or not? It was an indication that the report had been altered. Therefore, we requested that the report be seized at once. Has that been seized or not?

**MR. SPEAKER:** Mr. Jain, did you not promise me to give the material immediately yesterday itself?... I have not got it. If I had got it, I would have passed it on to the Prime Minister.

**SHRI NIRMAL CHANDRA JAIN:** I have written a letter to you.

**MR. SPEAKER:** I have not yet received it.... (*Interruptions*)

**SHRI P. VENKATASUBBAIAH:** There is a lapse on the part of the Government. They should have come up with a statement before the House when the Speaker has asked them....

**MR. SPEAKER:** I have not asked. I have asked them to collect the facts and give them to me.

**SHRI P. VENKATASUBBAIAH:** That is true. I agree with what you say. At least in order to remove the misapprehensions from the minds of the hon. Members, on their own accord, they should have made a statement on the floor of the House. This is a serious lapse on the part of the Government.

**SHRI C. M. STEPHEN (Idukki):** Is it a matter which has got to be channelised only through you? I am just asking them. This is a matter concerning a Parliament Member. Of course, the Prime Minister also must have gone to his house — you went to his house. You got the matter. You thought that there must be an inquiry into this matter. Now I am very sure that complaints about this must have gone to the Prime Minister by now. It is not as if he is not aware of these complaints. Unless there is a direction from you, is it that the Prime Minister will not tell us something about it? Is it not his duty to come and tell us...

**SHRI P. VENKATASUBBAIAH:** That is what I say.

**SHRI C. M. STEPHEN:** ... that there are these complaints and this is what has happened. But he is remaining like a Sphinx, who does not hear anything, see anything and he does not seem to be bothered about anything. Is he to wait until a directive comes from you? I ask the Prime Minister. There are complaints and very serious complaints placed before the House and to the Speaker and presumably also to the Prime Minister and he must have made some inquiries about it. Why cannot he give us a statement as to what has really happened? And if he has not made an inquiry as such, what is the explanation for not having made an inquiry? This is a direct question the House is entitled to put to the Prime Minister who is in charge of the Health Ministry. Therefore, this is not ne-

cessarily a matter which should be channelised through you. I am directly putting the question to the Prime Minister to come out with a statement as to how is it that a member of the House has died as a result of negligence presumably at the hands of an employee under your administration. Will you give an explanation from you.

**THE PRIME MINISTER (SHRI MORARJI DESAI):** As Member after Member got up and spoke, I could not intervene and say anything. I do not know why the Leader of the Opposition tries to attack me on a matter like this. I cannot understand it.... (Interruptions) That is what you are doing. That is how you are doing. What else is being done is something about which I am not saying anything. If I am sitting like a Sphinx, what am I to do? I am not getting excited by what he says and I will never get excited by what he says or by what anybody says. Then I cannot do my work.

I had got some complaints. Then I inquired from my colleague who is not here, Shri Jagadambi Prasad Yadav. He has gone to Manipur. He gave me a report yesterday evening about it. In that he gave a different version from that of the doctor. I am, therefore, now making further inquiries to find out the real truth in the matter. Then I can say definitely what my view is or what the finding is. I cannot say just now because there are two conflicting versions.

**SHRI HARIKESH BAHADUR (Gorakhpur):** There should be a judicial inquiry into this matter.

**श्री राजनारायण (रायबरेली) :** श्रीम. मुझे तीन बात कहनी हैं। पहली बात यह है कि तीन बजे शोर में परसों वह अपने कमरे में बीमार पड़े तो जो साउथ एवेन्यू का डाक्टर है वह उनको देखने गया। उस ने कहा कि इन को सीवियर हार्ट अटैक है। उस पर वह राम मनोहर लोहिया अस्पताल, एमर्जेंसी वार्ड में ले जाए गए। एमर्जेंसी वार्ड में मामूली सी बात समझ में आनी चाहिए कि क्या वह वहां में रखे गए या उन को कोई रुम दिया गया? वहां जाने के बाद जो हार्ट से सम्बन्धित डाक्टर है वह कितनी देर बाव देखने आया। हमारी जानकारी यह है कि जो डाक्टर हार्ट को देखता है वह उन को देखने बहुत देर बाद सात साढ़े-सात बजे आया।

तीन बजे वे गए और सात, साढ़े सात बजे डाक्टर आया इस तरह से साढ़े चार बंटे हो गए। आप समझ लीजिए कि यह किमिनल नेग्लिजेंस प्राफ इयूटी है। इसमें जुडिशियल इन्क्वायरी की जरूरत नहीं है। स्वास्थ्य मंत्री को या दूसरे को भेजने की जरूरत नहीं है; जितनी ही इसमें देर होगी वह ठीक नहीं है क्योंकि की हालत की जानकारी हम सभी को है कि वहां पर किस तरह से मैनिपुलेशन होता है। वहां एडमिशन का समय बदल दिया जायेगा, डाक्टर कब पहुंचा उसका समय बदल दिया जायेगा, पहले किसने देखा उसको भी बदल दिया जायेगा। डॉ० राम मनोहर लोहिया का अपरेशन किसने किया यह आज तक इन्क्वायरी कमिशन ने सिद्ध नहीं किया कि किसने किया। यह है अस्पतालों की स्थिति इसलिए यह बहुत सीरियस मामला है कि एक मेम्बर इस तरह से मर गया। आप स्वास्थ्य मंत्री को डायरेक्टिव दीजिए कि इसकी रिपोर्ट कल सदन में आये या आज शाम तक ही आ जाये।

**श्री श्याम नन्दन मिश्र (वेगुसराय) :** इसमें ज्यादा जांच करने की जरूरत नहीं है? कल घटना घटी है, आज शाम पांच बजे तक रिपोर्ट आ जाये। इसमें देर क्यों होनी चाहिए? रिपोर्ट आज ही आनी चाहिए।

**PROF. SAMAR GUHA (Contai):** All the concerned papers should be seized immediately.

**SHRI VAYALAR RAVI (Chirayinkil):** Already they have manipulated everything.

**श्री राज नारायण :** इसमें दो चीजें हैं। जब साउथ एवेन्यू का डाक्टर पा गया कि हार्ट अटैक सीवियर है तो एम्बुलेंस में उनको क्यों नहीं ले जाया गया?

**श्री श्याम नन्दन मिश्र :** उसने शायद माइल्ड हार्ट अटैक कहा।

**श्री राज नारायण :** इसमें साउथ एवेन्यू के डाक्टर भी आते हैं और डॉ० राम मनोहर लोहिया अस्पताल के डाक्टर भी आते हैं।

**MR. SPEAKER:** That you have mentioned.

**SHRI K. LAKKAPPA (Tumkur):** There is another complaint.... (Interruptions)

**MR. SPEAKER:** Mr. Ravi.

**SHRI VAYALAR RAVI:** What I am submitting is that Mr. Raj Narain has made a very relevant point. The hon. Prime Minister has promised very rightly that he would look into the matter. But, Sir, he can only go

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through the records of the doctors who made them. They can easily manipulate. The Health Minister himself knows how they can be manipulated. My point is this. Our friend, our colleague, who died and his family have no animosity. They have given the facts before the House. It is a fact that the Members of Parliament do not get their treatment in time. That is the point. (*Interruptions*).

MR. SPEAKER: I am quite sure that the Prime Minister takes the matter very seriously.

SHRI K. LAKKAPPA: Another point is this. I was staying in 154 South Avenue. You will be surprised to learn that the food supplied there in South Avenue Canteen is not good. (*Interruptions*).

MR. SPEAKER: One by one please.

SHRI K. LAKKAPPA: I am giving you another point. Let the hon. Prime Minister know it. The South Avenue Canteen for the last so many years has supplied bad food. The person who takes the food immediately gets a disease. There was a complaint. I have received a number of complaints regarding the South Avenue Canteen that the concerned member took the food and had vomitted. He should make an enquiry into that also.

MR. SPEAKER: This is a very serious matter.

SHRI P. VENKATASUBBAIAH: There is a calling attention with regard to the killings of harijans in Bihar successively yesterday and day before yesterday.

SHRI VAYALAR RAVI: There is an adjournment motion.

SHRI P. VENKATASUBBAIAH: There is my calling attention. This is a very serious matter. We have brought it to your notice through the calling attention. My friend has given

an adjournment motion. I would like to know what has happened to them? (*Interruptions*).

MR. SPEAKER: I know Mr. Ravi has given an adjournment motion. Others have given calling attention. I have called for an immediate report from the Minister. Uptill now we were acting on the press reports. The report has just now come. I have not been able to study it because the report has just now come. The matter will be given its importance. This is a very serious matter. I have just now got the report. I am looking into the matter.

#### RE. QUESTION OF PRIVILEGE

SHRI EDUARDO FALEIRO (Mormugao): Mr. Speaker, Sir, I have given this morning a notice of breach of privilege against the Prime Minister and office bearers of Janata Parliamentary Party for procuring a decision on party basis in the case of Mrs. Indira Gandhi and for leading the Prime Minister to amend his motion before the House accordingly. The Prime Minister is reported to have said that my personal opinion will not count. I will subordinate my personal opinion in the case of punishment against Mrs. Indira Gandhi and others to the opinion of the party. Now, I say that this is a matter of serious breach of privilege because a party decision cannot be procured and, therefore, I have moved and given you notice of breach of privilege both against the Prime Minister and against the office bearers of Janata Parliamentary Party who are trying to make this thing a political fight which is completely destroying the very law of privileges. (*Interruptions*)

MR. SPEAKER: Your notice came to me at 10.54 a.m. I have immediately asked for ...

**SHRI VASANT SATHE (Akola):**  
Sir, I am also rising under Rule 234 (A) on this very matter. The rule says:

"A notice shall not be given publicly by any member or other person until it has been admitted by the Speaker and circulated to members."

And see Rule 334(2). I quote:

"A notice or other paper shall be deemed to have been made available for the use of every member if a copy thereof is deposited in such manner and in such place as the Speaker may, from time to time, direct."

Now, Sir, this substitute notice came to us in today's morning dak. Yesterday's evening papers and today's early morning's papers have already carried the headline news of that substitute motion. Now, this is a direct breach of Rule 334A that the publicity has been given in advance and this is a breach of privilege. I request you to take note of this and take appropriate action.

**MR. SPEAKER:** If you have you give me in writing so that I may call for ... (Interruptions)

**SHRI VASANT SATHE:** I am giving this notice and will give in writing.

**SHRI MANORANJAN BHAKTA (Andaman and Nicobar Islands):** Sir, I have given notice of an adjournment motion to you about recent happenings in the Union territory of Andaman and Nicobar islands. There the poor villagers and refugees who have settled down near the dense forests the hostile Jarva tribals from the dense forests enter the villages and kill the villagers. This is an important matter.

**MR. SPEAKER:** If you are making a statement now then your statement under Rule 377 is not necessary. So, if you want to make a statement now on this subject then I will not allow you to make mention of it under Rule 377.

**श्री युवराज (कटिहार):** अध्यक्ष महोदय, बिहार में जहरीली शराब से 272 आदमी मर गये और 500 आदमी अस्पतालों में पड़े हुए हैं, जिन में से 150 आदमियों की हालत बहुत नाजुक है। मैं आग्रह करना चाहता हूँ कि इस सम्बन्ध में तुरन्त कालिग-एन्क्वाय मोशन लिया जाय, जो मैं ने पिछले दो दिनों से दिया है। इस तरह की दुकानें कोल-माइन्ज बेल्ट में चलाई जाती हैं उन से पुलिस द्वारा पैसा लिया जाता है, एडमिनिस्ट्रेशन के आफिशियल्स उन लोगों से पैसा ले कर अवैध दुकानें चलाने देते हैं और इस तरह से उन गरीबों को लूटा जाता है। मैं चाहता हूँ कि मेरे काल-एन्क्वाय को तुरन्त एडमिट किया जाये।

**श्री हुकम देव नारायण यादव (मधुबनी):** आप इस पर काल एन्क्वाय मंजूर न कीजिएगा तो क्या कीजिएगा? वहाँ सैकड़ों आदमी मर गये हैं।

**MR. SPEAKER:** He is raising the same subject. Shri A. K. Roy.

**SHRI A. K. ROY (Dhanbad):** Sir, Dhanbad is in my constituency. Last time I went there to enquire into the incidents there. Mr. Speaker, Sir, you will be sorry to know that a horrible situation has been created there. There is nobody to receive the dead bodies and various post mortem reports. Heaps of dead bodies were there; they were rotting there. I enquired from the Superintendent of Police about the cause of these things. He answered me that the Administration has not yet been able to find out what is the cause of all these poisoning cases. Mr. Speaker, Sir, I tell you that in Dhanbad this type of illegal distillation has become one of the major cottage industries there, under the tacit approval and encouragement of the local administration. Sir, you must have seen newspaper reports that 250 to 272 persons have died. My information is this. This number is small. The actual number has gone much beyond 500. Sir, more than 500 people are still there in the different hospitals. Sir, through you, I appeal to the Prime Minister. The Prime Minister is there. The Prime Minister is one of the strong advocates of prohibition. You would be surprised to

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know that all the Adivasi organisations and Harijan organisations there have demanded complete prohibition in Dhanbad area where nearly 50 per cent of the population consists of adivasis and harijans.

MR. SPEAKER: It is a major policy.

SHRI A. K. ROY: I would like to mention this. I wrote to you. I have also given a Calling Attention Notice on that, but you have no time. The Prime Minister is there. Through you I would like to appeal to him. It is a very serious thing. He has been a great advocate of prohibition. I demand that immediately a team of good doctors should be sent from Delhi to that place and to all those places. I say good doctors, not like those doctors who treated our colleague; but different type of doctors. I say, experts must go, who will analyse and investigate, who will go into the causes of poisonous deaths. Simply saying that it is due to methylated spirit and so on is not enough.

MR. SPEAKER: I have understood the point. You have mentioned the point.

SHRI A. K. ROY: Will you kindly allow me? I do not want 500 people to die in my constituency...

MR. SPEAKER: For that you need not speak for five hundred minutes.

SHRI A. K. ROY: I say that a team of doctors must be sent from Delhi. They should go into the causes of these poisonous deaths and give necessary treatment to these patients in the different hospitals. Also, a delegation of MPs. must go there to investigate into the matter, and a report must come. We must get an answer from the Prime Minister.

MR. SPEAKER: You have mentioned that.

SHRI A. K. ROY: We demand...

MR. SPEAKER: You have mentioned your point.

SHRI A. K. ROY: I demand this. We demanded in a meeting held only 15 days back. I tell you, it is a revelation to you. The great adivasi leader was there. The harijan leaders were also there. They say...

MR. SPEAKER: Mr. Roy, you are making a speech. You have made your point all right.

SHRI A. K. ROY: I demand that the entire Dhanbad area must be declared a Dry Area...

MR. SPEAKER: You don't know the point of limitation.

SHRI A. K. ROY: We should not allow people to die there in this manner.

MR. SPEAKER: Please understand the Constitutional limitation. It is not you, but somebody else who has to declare.

(Interruptions)

SHRI A. K. ROY: It is not a small thing. Never before in India in one district so many people died because of this... (Interruptions).

MR. SPEAKER: You have been repeating this for the last fifteen minutes.

SHRI A. K. ROY: You will not allow a calling attention; you will not allow a discussion on this and no Minister will say anything. They will sit there deaf and dumb. What shall we do? It is not a deaf and dumb school.

PROF. P. G. MAVALANKAR: (Gandhinagar): Sir, I wish to add to what my friends Shri Faleiro and Shri Sathe have said a little while ago. Shri Sathe has quoted Rule 334A and I do not want to repeat that point, and Shri Faleiro has already given you a notice for privilege. My point is, as you will recall, in the last session, advance publicity was given to certain notices and at that point of time, the Lok Sabha Secretariat had issued

a bulletin to all of us saying that advance notices must not be given to the press and we were reminded of this again at the beginning of this session. I want to know, whether a motion comes from the Government side or from Private Members, why should it be given a separate discriminatory treatment, if it is a Government motion? This is all the more so, when the subject is more important. Moreover, you are telling us that we should write to you. What is the point in writing? The Secretariat must be able to take action themselves *suo motu* in this matter. Let not Members write to them. Apart from that, when you allowed Shri Faleiro and Shri Sathe to speak, it is as good as writing by them. I hope, you will kindly look into this and see that such serious lapses do not take place in future.

MR. SPEAKER: It is not a lapse of my Secretariat; I can assure you of that. The notice given by the Prime Minister was kept by me and nobody else had any access to it.

PROF. P. G. MAVALANKAR: How did it leak out to the press?

MR. SPEAKER: If there is any leakage, it is from other sources and not my Secretariat; I can assure you about that. So far as my Secretariat is concerned, the only two persons who knew about it were Secretary and myself and nobody else.

SHRI K. A. RAJAN (Trichur): Mr. Speaker, Sir, through you, I would like to call the attention of the Minister of Energy to the serious situation in Uttar Pradesh arising out of one lakh power workers strike. The power generation there has been paralysed... (Interruptions)

SHRI SHYAMNANDAN MISHRA: My submission is that I have not seen in any of the newspapers the exact text of the amendment published. It may well be that while drafting an amendment I am also consulting a number of friends about. If, therefore, something about the substance of the amendment gets into the press, for that

the responsibility cannot be foisted on any person. In no paper, I have seen the text of the amendment published. So, there can be no objection to it.

SHRI K. LAKKAPPA: Mr. Speaker, Sir, I have given a notice under Rule 222 of my intention to move a motion for breach of privilege against the Prime Minister, Cabinet Secretary, Chief Justice of the Supreme Court, Mr. Justice Y. V. Chandrachud, Mr. Justice P. N. Bhagwati, Mr. Justice V. R. Krishna Iyer, Mr. Justice R. S. Sarkaria, Mr. Justice N. L. Untwalia, Mr. Justice Murtaza Fazl Ali, Mr. Justice P. N. Singhal, Attorney-General of India, Shri S. V. Gupte and Shri Ram Jethmalani, M.P.

Under Rule 65 of the Rules of Procedure and Conduct of Business in Lok Sabha.....

MR. SPEAKER: This question was raised by Shri Stephen on an earlier date. I had given an elaborate order in that matter. Under the Constitution, a reference to the Supreme Court can be made by the President at any time. When the reference is made, it is upto the Supreme Court to give an advice or not to give an advice and the advice given by the Supreme Court is purely advisory and it is not binding on this House and it is not binding on the courts also. It is merely an advice tendered. This has been ruled earlier by the Supreme Court itself.

SHRI VASANT SATHE: Article 143 cannot contain the rights of this House.

MR. SPEAKER: I have already given a ruling.

SHRI VASANT SATHE: There is not a single precedent on this. You hear us. (Interruptions).

SHRI K. LAKKAPPA: This is not the case which the hon. Leader of the Opposition had raised; but this is a case where Bill No. 155 of 1978, of Mr. Jethmalani who is a Member of Parliament, is pending for discus-



[Shri K. Lakkappa]

sion and the hon. House has to discuss and take a decision, including the constitutional propriety of the measure and other things. Rules 66 and 67 of the Rules of Procedure and Conduct of Business clearly provide... (*Interruptions*).

SHRI VAYALAR RAVI: I am on a point of order, about Mr. Lakkappa's motion itself. It is that the decision of the Supreme Court has been the subject of privilege.

MR. SPEAKER: The conduct of the judges cannot be the subject matter of discussion.

SHRI VAYALAR RAVI: The Supreme Court has taken up this matter according to a reference by the President of India. The action of the President of India was to refer this matter to the Supreme Court. My point is simple: can the action of the President of India be the subject of a question of privilege? (*Interruptions*).

SHRI VASANT SATHE: It is not an action by the President of India.

SHRI VAYALAR RAVI: Can the action by the President be an issue of privilege?

MR. SPEAKER: Mr. Lakkappa, please hear me. The conduct of the judges of the Supreme Court or the High Court cannot be discussed in this House, excepting by a motion for impeachment.

SHRI VASANT SATHE: It is not a question of censure.

MR. SPEAKER: No. To say that they should not have considered it, and it is judicially wrong...

SHRI K. LAKKAPPA: With all respect to judiciary... (*Interruptions*).

MR. SPEAKER: No. I cannot allow that discussion. Mr. Ravi, your point of order requires detailed examination.

SHRI VASANT SATHE: It is only the Cabinet.

MR. SPEAKER: I am deciding only the other thing. I have not decided that point. Anything said further on this is not to be recorded. I am not allowing any further discussion.

(*Interruptions*)\*\*

MR. SPEAKER: Under the Constitution, I cannot allow. Don't record. (*Interruptions*)\*\*

MR. SPEAKER: Don't record. (*Interruptions*)\*\*

SHRI VASANT SATHE: You are forcing us to bring an impeachment.

MR. SPEAKER: If there is an impeachment, we will consider that.

SHRI SHYAMNANDAN MISHRA: (Begusarai): May I rise on a point of order?

MR. SPEAKER: I have disallowed it.

SHRI SHYAMNANDAN MISHRA: You have disallowed.

MR. SPEAKER: I have disallowed it.

SHRI SHYAMNANDAN MISHRA: I am on a point of order. If any judge, whether in the Supreme Court or anywhere, casts a reflection on the proceedings of the House, then would the House be entitled to bring up a motion of breach of privilege?

SHRI K. LAKKAPPA: That is exactly my point.

SHRI SHYAMNANDAN MISHRA: I am concretizing the case further. If any judge casts an aspersion on me as a Member of Parliament, am I entitled to bring up a motion?



MR. SPEAKER: That is an academic thing. It has not arisen. When the question arises, we will decide it.

SHRI SHYAMNANDAN MISHRA: Since you have given a blanket ruling...

MR. SPEAKER: No blanket ruling. I am only giving a ruling on motion. Nothing more than that.

SHRI SHYAMNANDAN MISHRA: How is it? In this case, you will kindly remember that I had brought up this matter to your notice earlier; and on that occasion, you were pleased to say that you would go into it, after I submitted the matter to you. That I have not been able to do—I confess. But the point is that this matter will have to be gone into by the Chair if any Bill got held up, a private Bill got held up because a reference is made to any court for an advisory opinion. Now, it is my privilege to give notice of a Bill for the consideration of the House; and it is the House's privilege to discuss that Bill. No extraneous authority can be allowed to come in between my Bill and its consideration by the House. It is now a very difficult and delicate matter. Government had referred the matter to the Supreme Court. Who is responsible for delaying consideration of the Bill? That is a matter which will have to be gone into by the Chair. But if the President has done it, the President cannot be discussed in the House, but the executive government which had been responsible for advising the President to refer the Bill for an advisory opinion of the Supreme Court can be hauled up in this House for that matter. It is a very important matter into which the Chair must go and then give a ruling in this House.

MR. SPEAKER: The question raised by Mr. Lakkappa is not as large...

(Interruptions)

MR. SPEAKER: I am not giving a ruling on Shri Mishra's point of order. The question raised by Mr. Lakkappa is not as large as the one raised by Mr. Mishra. Therefore there is no need to go into that matter at the present stage.

SHRI SHYAMNANDAN MISHRA: I had raised this matter earlier for a ruling from the Chair.

MR. SPEAKER: Not in the abstract. Only when there is a question any decision is taken.

SHRI SHYAMNANDAN MISHRA: The Bill of the hon. Member was pending before the House.

MR. SPEAKER: The Supreme Court has not stayed it.

SHRI SHYAMNANDAN MISHRA: That Bill has not come up for consideration for quite a few months. It is our charge that it was referred to the Court for an advisory opinion.

MR. SPEAKER: The Supreme Court has not stayed the proceedings at all.

SHRI SHYAMNANDAN MISHRA: Who has?

MR. SPEAKER: You can find out.

SHRI SHYAMNANDAN MISHRA: Somebody must be held responsible.

MR. SPEAKER: You find out who he is.

SHRI SHYAMNANDAN MISHRA: No court can give an opinion on my Bill.

SHRI K. LAKKAPPA: My respectful submission is that I do not want to drag in the judges of the Supreme Court, Rules 66 and 67 of the Rules of Procedure clearly provide, in effect, that once a Bill is pending before the House, another Bill which is wholly or partly dependent on or is identical with it cannot be ordinarily taken up or even introduced as matter of courts during the pendency of the first Bill. Mr. Jethmalani has introduced the Bill No. 115 of 1978. He has called

[Shri K. Lakkappa]

it the Emergency Courts Bill, 1978. A copy of the Bill is here and in the Statement of objects and Reasons he Says:

"The establishment of special courts to try special classes of offences has been resorted to by the legislatures in this country and the validity of these laws has been upheld by the highest court. Even the Law Commission has recently recommended..."

An identical Bill has been quoted in the Supreme Court when the reference was made by the President of India under article 143 and it is on the records of the Supreme Court. From 19th September, 1978 the hearing of the reference commenced before the Supreme Court. The statement was made by the Attorney General of India and the Solicitor General of India that the Government of India has decided to support the hon. Member's Bill No. 115 of 1978 after considering the Supreme Court opinion on the question referred to. The reference was to another Bill which was identical to the Bill of Shri Jethmalani a Member of this House, who has also appeared in that case. It is all on record. It has been stated before the Supreme Court that the advice tendered by the Supreme Court will be reflected in the Bill before the Government supports it. These statements are all recorded by the Supreme Court. The decision purported to have been taken by the Union Cabinet on 31-7-1979 regarding the reference to be made to the Supreme Court by the President seeking advisory opinion in respect of the Bill in question and the hearing by the concerned Judges including the Chief Justice of the Supreme Court of the Reference by the President clearly constitute a reach of privilege of the Lok Sabha. Because taking cognizance of the question of validity of the concerned Bill, conducting proceedings in this regard, adjudicating the issue and giving a final opinion on the matter constitute a

direct interference in the right of this hon. House and the Members thereof to discuss freely the entire Bill including its constitutional validity. In fact, the Supreme Court has by its above said actions preempted and prevented this hon. House from discharging its legitimate functions. The Supreme Court has preempted what we are going to say on this important Bill which is pending regarding special courts. Therefore, it definitely violates the privileges of this House. The Government has interfered with the privileges of this House to discuss that identical Bill. Before that identical Bill could be discussed by the House and before the House could come to a conclusion, it has been preempted by the Supreme Court. It is a reflection on the domain of the supremacy of Parliament to discuss the Bill. It violates rules 66 and 67 of the Rules of Procedure of the House and it is also a breach of privilege of this House.

To consolidate my position, I would like to submit that the privileges, powers and immunity of the Legislature have long since been recognised in India. The absolute right of the House of the People to debate without outside interference or influence has been recognised in a recent case relating to privilege in India. In 1965, the Supreme Court traced the history of this privileges as being based on Section 1, Article 9 of the Bill of Rights, 1688 as under:

"It would be relevant at this stage to mention broadly the main privileges which are claimed by the House of Commons. Freedom of speech is a privilege essential to every free council or legislature and that is claimed by both the Houses as a basic privilege. This privilege received final statutory recognition after the Revolution of 1688..."

MR. SPEAKER: Should we go back so long?

**SHRI K. LAKKAPPA:** Amongst the other privileges are the right to exclusive cognizance of proceedings in Parliament, the right of each House to be the sole judge of the lawfulness of its own proceedings. At page 468 of the Report, the Supreme Court in terms recognized the following May's Parliamentary Practice.

**MR. SPEAKER:** I have gone through them.

**SHRI K. LAKKAPPA:** I quote:

"The control of each House over its internal proceedings is absolute and cannot be interfered with by the courts..."

On the question of parliamentary privileges vis-a-vis a pending matter before it in between the two cases referred to above namely, one that of the Federal Court and another that of the Supreme Court—AIR 1951 All 228—there have been quite a few cases in India where pending matters were sought to be brought before the court by parties. Uniformly the court declined jurisdiction on the ground that legislative process in the legislature was not complete and therefore the court had no jurisdiction. Some of these cases have been marginally noted in the note appended to my notice.

**MR. SPEAKER:** I have understood your point.

**SHRI K. LAKKAPPA:** The sovereignty of the legislature vouchsafed by articles 194, 208 and 212...

**MR. SPEAKER:** I have carefully gone through it.

**SHRI K. LAKKAPPA:** So far in India ten references have been made to the Federal Court and Supreme Court by the Governor General and the President (excluding, of course, a reference made in 1978 to the Supreme Court) but never was a Bill pending before the House of

legislature and of which it was seized was lifted from the legislative forum and referred to the court.

**MR. SPEAKER:** I have understood your point. No further explanation is necessary.

**SHRI K. LAKKAPPA:** This is a very vital issue. I request you to kindly see that this matter is referred to the Privileges Committee. It is worth studying. Mr. Speaker, being very judicious you must see that this point raised by us is not lost sight of. Therefore, I would request that it should be referred to the Privileges Committee.

**SHRI VASANT SATHE:** Under rule 352 you were pleased to observe, when Shri Shyamnandan Mishra was pointing out to you, that no reference can be made either to the President...

**MR. SPEAKER:** I did not say that at all. Why not consult the record?

**SHRI VASANT SATHE:** What did you say?

**MR. SPEAKER:** I merely said that that question requires examination; the question whether the President can be referred to, that question requires examination.

**SHRI VASANT SATHE:** I am pointing out that you said that we cannot discuss...

**MR. SPEAKER:** No; I merely said that the conduct of Judges cannot be discussed here.

**SHRI VASANT SATHE:** Now kindly see rule 352.. Sub-rule (v) says:

"reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms."

Here is a substantive motion, drawn in proper terms, in terms of rule 222, against the persons concerned for

(Shri Vasant Sathe)

having taken cognisance of the matter. Then, kindly see sub-rule (vi) which reads:

"use the President's name for the purpose of influencing the debate;"

Kindly see the whole basis of this rule. You cannot use the President's name to influence the debate. In fact, our whole case here is that when the Bill was pending in this House, you approached the President to make a reference under article 143 to get an opinion or advice, whatever you may call it, from the highest tribunal of this land, that is, the Supreme Court, which is bound to influence, whether you like it or not, the opinion and the views and the discussion in Parliament on the Bill. So, this is the extraneous view approach; that is one approach. Whether it is the Supreme Court or not, in terms there is not a single case in parliamentary democracy in the world—in England no cases have been reported that have been cited; in India no Bill pending before any Legislature has been referred to the Supreme Court up till now.

MR. SPEAKER: That is not a point of order. You have not raised a point of order.

SHRI VASANT SATHE: I am saying in terms a breach of privilege has been mentioned.

MR. SPEAKER: You have mentioned it.

SHRI VASANT SATHE: You have given your ruling that it cannot be done because the President's name is mentioned, or the Judge's conduct comes in. On these grounds, I beg to submit that under rule 352 also, it cannot be out of order. Now I would like to know on what grounds you are ruling it out of order.

SOME HON. MEMBERS rose—

MR. SPEAKER: No, this is not a debate.

I see no reasons to revise my order. I have given the detailed reasons for my order on this matter earlier. So, I see no point of order in Mr. Sathe's objection.

SHRI SHYAMNANDAN MISHRA: What about Mr. Lakkappa?

MR. SPEAKER: So far as Mr. Lakkappa's point is concerned, I have not examined the matter.

SHRI SHYAMNANDAN MISHRA: He has made his submission to you.

MR. SPEAKER: I have already dealt with it in my order.

SHRI VASANT SATHE: If you have made the order...

MR. SPEAKER: You cannot go on debating while I am deciding. Up to that point I have dealt with in my order. I have sent the order.

SHRI VASANT SATHE: He is not aware of it.

MR. SPEAKER: He need not be. I have sent it to him. I have referred to the matter in the order.

SHRI VASANT SATHE: In response to his notice, if he had got the order, probably he would have read it.

MR. SPEAKER: You have mentioned it, Mr. Sathe. You cannot go on.

Now, Papers to be Laid on the Table.

12.50 hrs.

#### PAPERS LAID ON THE TABLE

ANNUAL REPORT OF INDIAN AIRLINES  
FOR 1977-78

THE MINISTER OF TOURISM AND CIVIL AVIATION (SHRI PURU-SHOTTAM KAUSHIK): I beg to lay on the Table a copy of the Annual Report (Hindi and English versions) of the Indian Airlines for the year