

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

The Bill, as amended with the amendments agreed to, is passed by the requisite majority in accordance with the provisions of article 368 of the Constitution.

The motion was adopted.

THE MINISTER OF EDUCATION, SOCIAL WELFARE AND CULTURE (DR. PRATAP CHANDRA CHUNDER) : Sir, please allow me to thank the hon. Members for supporting this Bill and record my sense of appreciation of my colleague, Shri Shanti Bhushan, the Minister of Law, who has so successfully piloted this Bill in this House and in the other House.

12.36 hrs.

MOTION RE. THIRD REPORT OF THE COMMITTEE OF PRIVILEGES

MR. SPEAKER : Item No. 8A. The Prime Minister to move the motion...

SHRI HARI VISHNU KAMATH (Hoshangabad) : Sir, on a point of order. I am rather reluctant to raise this point of order because it concerns two motions standing in my name—one of them standing in the names of several of my colleagues also, besides myself.

You will see, Sir, the House will see, that we have got today the Revised List of Business plus the Supplementary List of Business which was received by us after the Revised List of Business was received. Now, item No. 8A is a verbatim copy of item No. 9 in the Revised List of Business. Item No. 9A is a verbatim copy of item No. 10 in the Revised List of Business. I feel flattered, I feel honoured, and several of my colleagues also—in whose names item No. 9 in the Revised List

of Business stands—must be feeling honoured, that the Leader of the House, the Prime Minister, has appropriated—had it been some one else, I might have said 'misappropriated', but he is the Leader of the House—both the Motions...

MR. SPEAKER : You made the constitution, and we have appropriated the Constitution itself.

SHRI HARI VISHNU KAMATH : I wonder whether this has been treated as 'Government business'. Please turn to page 15 of the Rules of Procedure; Rule 25 reads :

"On days allotted for the transaction of Government business...."

It is all right; 'today' is allotted for Government business.

"...such business...."

The words used are 'such business', that is, Government business.

"...shall have precedence...."

If you have treated this as 'Government business', then there is no problem. But there is one little hurdle in the way. The Committee of Privileges is not the exclusive preserve of the Government, because Rule 315(1) says :

"After the report has been presented, the Chairman or any member of the Committee or any other member...."

Of course, the Prime Minister is also a Member; we do not dispute that.

"...may move that the report be taken into consideration whereupon the Speaker may put the question to the House."

My contention is that this motion No. 9 in the Revised List standing in my name as well as seven of my colleagues in the House and No. 10 are not strictly government business in the sense in which Rule 25 construes government business. Therefore, gov-

[Shri Hari Vishnu Kamath]

cedence should have been given to motions Nos. 9 and 10 as listed in the Revised List of Business.... (Interruptions)

Motion No. 11 is untouched.

I would request you to kindly enlighten the House on this point whether you treat this matter as government business—whether the report of the committee is government business and if so, in that light, whether you have given precedence to this matter over the motions that have been listed already in the list of business.

SHRI SHYAMNANDAN MISHRA (Begusarai): May I speak on this point of order?

My submission is that the functions of the Leader of the House, unfortunately, have not been described in the Rules of Procedure and Business of this House. But it so happens that in the United Kingdom it is the Leader of the House who brings up a motion before the House on a recommendation of the Committee of Privileges. I have always been insisting in this hon. House that the Leader of the House should be requested every time to bring up such a motion because it happens to be an affront to the House. It is the Leader of the House who should represent the entire House in this matter in bringing up a motion before it.

So it would be quite in order and in keeping with the practice in the House of Commons whose procedures, privileges, immunities and the rights, according to our Constitution, happen to be ours also. So, it is quite in keeping with the procedure that follows from the Constitution.

SHRI SAUGATA ROY (Barrack-pore): I support the contention made by Shri Hari Vishnu Kamath that item No. 9, the motion listed in the name of Shri Hari Vishnu Kamath

and seven other hon. Members of this House including myself, as Mr. Kamath has rightly pointed out, has been appropriated by the Prime Minister. With due respect to the Leader of the House, let me point out that Rule 315(1) does not give any special preference to the Leader of the House. It mentions that the Chairman or any Member of the Committee or any other Member.... Had it been a case of the Chairman of the Committee which is specifically mentioned in rule 315(1) or any other member of the committee, I would have been ready to give the precedence over the other members who are moving. But, in this case, 315(1) does not specifically mention the Prime Minister. I also draw your attention to the Lok Sabha proceedings of August 8, 1971 where the Privileges Committee's report against R. K. Karanjia, Editor, *The Blitz* was discussed. There the motion 'That Shri R. K. Karanjia, Editor, *The Blitz* be in attendance in this House....' etc. was moved by Sardar Hukam Singh who was then the Deputy Speaker in the House and also Chairman of the Privileges Committee. Pandit Nehru was the Leader of the House at that time and he was also present in the House but he did not move the motion. I think it would have been a normal procedure if Samar Babu, as the Chairman of the Committee, could have moved the motion but I think it is not fair to the Members concerned that the motions are the same and that when a motion is standing in the name of Shri Hari Vishnu Kamath, the Leader of the House should bring in another motion and that it should be added in the Supplementary List of Business and added after 11 O'clock and then he should move the motion. I do not think this is proper since it has not been prescribed in the rules.

SHRI K. MALLANNA (Chitradurga): Sir, I gave notice....

MR. SPEAKER: That would be only subject to the discussion. You can have it in the debate. That does not raise a point of order. Your note

does not give rise to any point of order.

SHRI K. MALLANNA: My point of order is that in this Resolution....

MR. SPEAKER: You go into the merits of the matter. We may give you the opportunity.

SHRI K. MALLANNA: Not the merits of the matter. Before introducing the motion, I want to speak.

MR. SPEAKER: That is on the matter and you can speak on the motion and oppose it. You are entitled to do that.

Now, our Rules of Procedure relating to the motion relating to the privilege matters are only those contained in Rule 315. When the Chairman of the Privilege Committee or any Member of the Privilege Committee does not move any motion, according to the rules, any other Member can move the motion.

When a similar motion is given notice of by more than one person, one of whom being the Leader of the House naturally, the Leader of the House has preference over others. That is the prevailing practice in Britain and, I think, it is an appropriate practice.

I overrule the point of order raised.

The Prime Minister.

THE PRIME MINISTER (SHRI MORARJI DESAI): Sir, I beg to move:

"That this House do consider the Third Report of the Committee of Privileges presented to the House on the 21st November, 1978."

MR. SPEAKER: You want to speak.

SHRI MORARJI DESAI: I do not want to speak on that. What about the suspension of the rule re. time limit?

MR. SPEAKER: There is a motion for suspension of the rule because, under the rule, only half-an-hour can be allowed. But all parties want to have more time. Now, item No. 9A.

SHRI MORARJI DESAI: I beg to move the following:—

"That this House do suspend that part of sub-rule (2) of Rule 315 of the Rules of Procedure and Conduct of Business in Lok Sabha which reads 'not exceeding half an hour in duration', in its application to the motion that this House do consider the Third Report of the Committee of Privileges."

MR. SPEAKER: Do you want to speak, Mr. Bosu?

SHRI JYOTIRMOY BOSU (Diamond Harbour): There is my motion, Sir.

MR. SPEAKER: Let him move the motion. He says that it is slightly enlarged suspending the rule.

SHRI JYOTIRMOY BOSU: I beg to move:

"That this House do suspend that part of sub-rule (2) of rule 315 of the Rules of Procedure and Conduct of Business in Lok Sabha which reads 'not exceeding half an hour in duration, and such debate shall not refer to the details of the report further than is necessary to make out a case for the consideration of the report by the House', in its application to the motion that this House do consider the Third Report of the Committee of Privileges".

MR. SPEAKER: Mr. Kamath, you have got a similar motion.

SHRI HARI VISHNU KAMATH (Hoshangabad): You must first of all put this suspension motion.

MR. SPEAKER: Yes, I have to put the Motion. Do you want to move your motion? Already there are two persons who have moved the motion.

SHRI HARI VISHNU KAMATH:
I have the honour to move:

"That this House do consider the Third Report of the Committee of Privileges...."

MR. SPEAKER: I am referring to item No. 10.

SHRI HARI VISHNU KAMATH:
May I repeat the identical motion which the Prime Minister moved? This is a verbatim copy.

MR. SPEAKER: That is all right.

SHRI HARI VISHNU KAMATH:
These motions 8A and 9A are interlopers.

MR. SPEAKER: Mr. Stephen, do you want to speak about the suspension of rules?

SHRI C. M. STEPHEN (Idukki):
On suspension of rule I do not want to speak.

MR. SPEAKER: Now, I will put the motion under item No. 9A:

"That this House do suspend that part of sub-rule (2) of Rule 315 of the Rules of Procedure and Conduct of Business in Lok Sabha which reads 'not exceeding half an hour in duration'...."

SHRI HARI VISHNU KAMATH:
If No. 11 is carried, then this will not be necessary.

SHRI JYOTIRMOY BOSU: The canvas of my motion is much wider.

SHRI HARI VISHNU KAMATH: It is much wider. (Interruptions).

MR. SPEAKER: I shall now put Shri Bosu's motion to vote.

The question is:

"That this House do suspend that part of sub-rule (2) of rule 315 of the Rules of Procedure and conduct of Business in Lok Sabha, which reads 'not exceeding half an hour in duration, and such debate shall not refer to the details of the report

further than is necessary to make out a case for the consideration of the report by the House', in its application to the motion that this House do consider the Third Report of the Committee of Privileges."

The motion was adopted.

MR. SPEAKER: Mr. Bosu's motion under item No. 11 is carried. In view of that the other motions are barred. 9A is barred and 10 is also barred.

AN HON'BLE MEMBER: What happened to item No. 8A?

MR. SPEAKER: Item No. 8A need not be put.

(Interruptions)

SHRI VAYALAR RAVI (Chirayinkil): Mr Speaker you had just now given the ruling that the Leader of the House has got precedence over other members and it is a convention. On that basis the Leader of the House moved a motion on item No. 8A. After moving the motion you allowed Mr. Jyotirmoy Bosu to move his motion and it was carried. So, what is the standing of your ruling given just now? (Interruptions)

MR. SPEAKER: May I explain the position? There seems to be some amount of confusion on the part of some of the members. Prime Minister's motion 8A need not be put to vote. So far as item No. 9 is concerned there are three different motions given—one by the Prime Minister, one by Mr. Kamath and the third by Mr. Jyotirmoy Bosu. The motion given by the Prime Minister and Mr. Kamath are identical. Mr. Jyotirmoy Bosu's motion is wider in its implication. If a wider motion is accepted then the narrower motions do not come up for voting.

(Interruptions)

SHRI C. M. STEPHEN: As you rightly said, Mr. there was a confusion in the House as to what exactly was being put. The Prime Minister had

given notice of a motion; that was on the understanding given in the Business Advisory Committee also that half an hour part of it we are waiving. That part we are waiving. In that manner the notice came and the Prime Minister also gave notice on that. We on this side thought that as a result of that understanding the notice comes and we must support the Prime Minister and his motion. That is why I declined to say anything when you asked me whether I have got anything to say. Now, if the other is to be put in then I would submit, Sir, there is a vital point of order which comes in here. The entire voting took place—after all no division was called—and 'ayes' and 'noes' were said. Everybody was under the confusion. (Interruptions) The point is this. Under the Rules of Procedure there are two stages. The first stage is considering the motion, that is to say, that such and such thing may be taken into consideration.

MR. SPEAKER: That should be passed.

SHRI C. M. STEPHEN: Yes. Once that is passed, then, we go on to the next stage, that is, as to whether it must be adopted, it must be amended or it must be rejected and so on. These are the stages.

Now, Sir, very advisedly comments about the contents of the report are reserved to that stage,—I may say, entirely to that stage. Therefore, Sir, these cannot be clubbed together. So, it is reserved to that stage, with this result, that somebody who is speaking on the first motion, that is to say 'that the matter may be taken into consideration' will not be barred from speaking on the second motion also. This position is absolutely clear. My submission is this. From the very start, is it patent that we go on, as if both the motions are mixed up together? I would certainly plead with you, plead with the Government, not to throw to the winds all sorts of provisions which

are advisedly incorporated into this. There is need to give up this half-an-hour provision because of the amplitude of the motion before us, the bigness of the report and the issues involved. That is there. But that does not mean that we must take away everything and that from the very start, on the substance this discussion must begin. But, if that is the position I have no objection to that. But that is not correct. That is what I am saying. I am also saying, it is not right. Sir, when the Leader of the House has given notice of a motion, it is not right that that motion is not stuck to. There is a certain understanding on which we are functioning. When the Leader of the House gives notice of a motion, when the Business Advisory Committee took up a decision and all that, and everybody knows about it and party leaders know about it. Well, Sir, for the proper functioning, it is necessary that the Leader of the House stands by his motion and moves it and the House accepts it. The other thing can come only as an amendment. That is what I am submitting. The other can come in only as an amendment, because, the substance of the matter is that this part be suspended to what extent it is to be suspended. It is not a question of a wider thing. It is a question of widening the motion, which has got a precedence. The Leader of the House has got a precedence. The motion of the Leader of the House has come before the other motion. That motion has been moved first. Once that motion is moved, then, the other thing can come in only as an amendment to this motion. You cannot put it to vote differently. Sir, the position is this. The Leader of the House moved the motion what has happened to that motion? Once moved, it can only be withdrawn. That motion is there. Something else can be moved as an amendment only. This motion must be put first. Then the amendment can be put.

Therefore, my submission is this. As you said, there is a misunderstanding.

[Shri C. M. Stephen]

and a confusion. Whatever opinion you have collected, we are certain, we did not want a division. I request you to put the motion of the Prime Minister to vote. If certain extension of that is needed, the other one may be treated as an amendment to that. That can be considered that way. And when we do that, let us consider the totality of the picture and the totality of the discussion, the line that the discussion has got to take. This is the submission which I have got to make, Sir. Thank you.

SHRI MALLIKARJUN (Medak) : Sir, I rise on a point of order.

SHRI SAUGATA ROY : Both can't be clubbed. There is no necessity to call Mr. Basu and Mr. Kamath. Why do you confuse the whole thing unnecessarily?

MR. SPEAKER : I am not confused; if somebody else is confused, I cannot help it.

SHRI SAUGATA ROY : The whole House is confused.

MR. SPEAKER : You are making a mistake. There are two motions. The main motion is to take the report into consideration. That is the motion of the Prime Minister. It was taken up and agreed to by the House.

The Second Motion is to suspend the rule regarding the limitation of duration.

SHRI SAUGATA ROY : What about 9A?

MR. SPEAKER : Unless somebody asks for it...

(Interruptions)

SHRI K. LAKKAPPA (Tumkur) : Who moved the motion first?

(Interruptions)

PROF. P. G. MAVALANKAR (Gandhinagar) : Sir, I have a point of order.

(Interruptions)

SHRI C. M. STEPHEN: Sir, in the Business Advisory Committee, they came to an understanding that only this part of the Rule would be suspended.

MR. SPEAKER : We will take it up afterwards. The House stands adjourned till 2 O'Clock.

13 hrs.

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

The Lok Sabha re-assembled after Lunch at two minutes past Fourteen of the Clock.

[MR. SPEAKER in the Chair]

MOTION RE. THIRD REPORT OF THE COMMITTEE OF PRIVILEGES—Contd.

MR. SPEAKER: Prof. Mavalankar, you wanted to raise a point of order

PROF. P. G. MAVALANKAR (Gandhinagar): Mr. Speaker, Sir, my point of order relates to the situation that prevailed before lunch. I felt that it would have been much better if the motion which was moved by the hon. Prime Minister had come in a regular way in the normal printed revised list of business. Apart from that, I accept the right of the Prime Minister to move the motion. My point of order relates to the specific situation which I submit gave rise to some kind of confusion. What had happened was this. Originally, in the printed revised list of business, motion at No. 9 is in the name of Shri Hari Vishnu Kamath and other hon. Members, motion at 10 is again in the name of Shri Hari Vishnu Kamath and motion at No. 11 is in the name of Shri Jyotirmoy Bosu. Now, item 9 was preceded by item 8A, the motion by the Prime Minister, and item 10 was preceded by item 9A, again the motion by the Prime Minister. What should have happened was that after the hon. Prime Minister had moved his motion at Sr. No. 8A, before he was asked by you, Sir, to move the motion at No. 9A, my submission is,

that the Leader of the House having moved the motion, the Chair should have put motion at 8A to the vote of the House. Having got the vote of the House, you should have then taken up item 9A and 11. Because the motion at item 11 was wider than at No. 9A, obviously, the chair would have said that item 9A is governed by item 11 of Shri Jyotirmoy Bosu, and, therefore, the motion at 9A falls through automatically, and because the motion at 8A has been passed, the House now takes up the motion at 11. But, I submit that the motion at 8A was not put to the vote of the House. This motion says that 'this House do consider the Third Report of the Committee of Privileges', and motions at 9A and 11 were to dispense with the requirement of discussing it within half an hour and not bringing in any extraneous matter. I submit that in order to set the procedure correct, kindly put motion at 8A moved by the Leader of the House to the vote of the House. After the House has said 'yes', then you can put item 11 of Mr. Bosu; and then we proceed and the discussion starts.

SHRI VAYALAR RAVI (Chirayinkil): On a point of order. I have read the rules. The rule is very clear. Rule 315(1) says:

"After the report has been presented, the Chairman or any member of the Committee or any other member may move that the report be taken into consideration whereupon the Speaker may put the question to the House."

Rule 315(2) is very clear. It says:

"Before putting the question to the House, the Speaker may permit a debate on the motion, not exceeding half an hour in duration, and such debate shall not refer to the details of the report further than is necessary to make out a case for the consideration of the report by the House".

So, before putting the question, you have to permit a debate for not more

than half-an-hour. Thereafter, the whole debate may be for 7 or 8 hours.

MR. SPEAKER: Yours is not a point of order. You are opposing Mr. Mavalankar's point of order.

SHRI VAYALAR RAVI: No, Sir. I want a clarification. Please look at rule 315(3). Item 11A, i.e. the motion of the Prime Minister comes, according to rule 315(3), only after the debate. Please look at the rule carefully.

SHRI MALLIKARJUN: My point of order relates to the basic concept of the Constitution itself and one of its Articles. Prior to bringing to the notice of the House the vital Article of the Constitution, I would like to refer you to the Rules of Procedure, i.e. to rule 255 which says:

"Where an objection is taken to the inclusion of a member in a Committee on the ground that the member has a personal, pecuniary or direct interest of such an intimate character that it may prejudicially affect the consideration of any matters to be considered by the Committee, the procedure shall be as follows:"

Here, prior to the constitution of the Privileges Committee of the 6th Lok Sabha, one of the hon. Members, Mr. Sathe has objected to the reference to the Committee of Privileges of the 6th Lok Sabha, of a matter which related to a Member belonging to the 5th Lok Sabha—as the Privileges Committee of the 6th Lok Sabha has no jurisdiction to consider matters relating to a Member who belonged to the 5th Lok Sabha.

I will further come to the constitutional interpretation of Article 105 of the Constitution. It deals with the powers and privileges of the Members. So, in spite of the objection raised by Mr. Sathe, the Privileges Committee was constituted and a Member of the Privileges Committee has misused the powers under Article 105—the powers

[Shri Mallikarjun]

were misused and then the report has been prepared. How is this august House competent now to take up the motion? Therefore, since the report of the Privileges Committee itself is *ultra vires* of the Constitution—of Article 105—the motion which has been moved by the Prime Minister or other friends cannot be taken up by this august House.

MR. SPEAKER: I have understood your point.

SHRI MALLIKARJUN: Mere understanding is not enough. Kindly give the ruling as to how the motion can be taken up in this august House.

MR. SPEAKER: I am giving the ruling. It is not for the Speaker to decide whether a particular motion is valid or invalid. No such power is conferred on the Speaker either under the Constitution or under the rules. Please sit down. It is for the House to decide the question of validity of the motion. It is for the Member concerned to persuade them that the Report is invalid. The Speaker cannot interfere in the matter. Therefore, the point of order raised is over ruled.

(Interruptions).

SHRI MALLIKARJUN: I have objected to.....

(Interruptions).

MR. SPEAKER: That does not arise at this stage.

(Interruptions).

SHRI MALLIKARJUN: How can you overlook the point of order I am unable to understand? You are a constitutional expert and you are the custodian of the August House, how you are supposed to go into this matter. The motion cannot be taken up. Suppose I move a motion against the present Prime Minister when he

was the Finance Minister and the Deputy Prime Minister, how is it going to be relevant to the matter.....

(Interruptions).

You are the custodian of the House. You kindly give your ruling.

MR. SPEAKER: I have given my ruling. Mr. Nathwani.

(Interruptions)**

MR. SPEAKER: Do not record anything.

(Interruptions).

SHRI NARENDRA P. NATHWANI (Junagadh): That the Report be taken into consideration, that motion is moved by the hon. Prime Minister under sub-rule 1 of the rule 315. On that, you, Mr. Speaker, have to decide whether to put it to the vote of the House or not. At that stage, the discussion takes place and sub-rule 2 permits a debate for half an hour only in respect of that question whether the motion, namely, the Report be taken into consideration or not. Suppose some Members want to say: do not move this motion in this session, move it in the next one. For that, whether the motion, namely, that Report be taken into consideration, should be debated or not. For that, sub-rule makes a provision and for that there is time restriction and that time restriction is for half an hour only. In order to remove that time restriction, Mr. Jyotirmoy Bosu's motion has already been accepted. Therefore, at this stage, the House is seized only of this motion whether the motion to take Report into consideration should be made or not. Only for that purpose, this debate will ensue. Once on putting that question if leave is granted and the permission is given by this House, yes, that Report be taken into consideration, sub-rule 3 will come into force. Contingent motions can be moved at that stage. The position is, therefore, clear. What the House has done is this, namely, to extend time

**Not recorded.

limit under sub-rule 2. We are at this stage only.

SHRI RAM JETHMALANI (Bombay North-West): I want to make an appeal to the distinguished Leader of the Opposition as well as to Mr. Jyotirmoy Bosu. (Interruptions).

SHRI K. LAKKAPPA: Under the rules, there are no appeals from any Member.

(Interruptions).

SHRI RAM JETHMALANI: I am sorry, people just get up without understanding it.

MR. SPEAKER: I think he is appealing on the very point on which Mr. Stephen had appealed. He is appealing that Mr. Stephen's contention may be accepted.

SHRI RAM JETHMALANI: I want to suggest that we, in fact, adopt a course which does not operate unfairly to any of the three persons against whom the Report is directed.

(Interruptions).

You never had a sense of patience. You will never understand this thing. This is the appeal which I want to make to both of them. A way must be found to go back upon this motion which has accepted. If today this House goes into more details than are necessary for the purpose of merely including consideration of the Report, I am afraid, things may be said in the House which are going to operate unfairly to the three persons before us. Before the Privileges Committee, Mrs. Gandhi, for example, has not opened her mouth and said anything.

SHRI B. SHANKARANAND (Chikodi): What is this?

(Interruptions).

MR. SPEAKER: Let us not go into that.

SHRI RAM JETHMALANI: I find from the Prime Minister's motion that they are going to be given an opportunity to say what they have to say. I appeal to the House today not to do anything which might prejudice that hearing, let us first hear them tomorrow and then the House can go into details if it wants to. Today I appeal to all of them not to persist in going into the details of the report at this stage.....**

(Interruptions)**

MR. SPEAKER: Don't record.

SHRI SAUGATA ROY: Let the motion for consideration be taken up first....(Interruptions). You start calling speakers instead of dilly-dallying.

MR. SPEAKER: I have got to deal with the points of order?

SHRI VASANT SATHE (Akola): You are proposing to suspend on the motion of Shri Jyotirmoy Bosu sub-rule 2 of rule 315. Firstly, the point is this: can you suspend a part of sub rule 2? Is it the intention to suspend the other part also?

MR. SPEAKER: In other words you are supporting Mr. Bosu's motion?

SHRI VASANT SATHE: I am opposing.

MR. SPEAKER: Mr. Bosu's motion suspends practically the whole thing.

SHRI VASANT SATHE: By suspending sub rule 2, are you also suspending the other part in sub rule (2)....

MR. SPEAKER: You were not present.

SHRI VASANT SATHE: I am waiting for clarification.

**Not recorded.

MR. SPEAKER: I am giving clarification. There seems to be a lot of confusion about the understanding of rule 315. For a better understanding of that rule, it is better to refer to it:

"315. (1) After the report has been presented the Chairman or any member of the Committee or any other member may move that the report be taken into consideration where upon the Speaker may put the question to the House".

Sub-rule (2) is an exception to sub-rule (1), it says:

"(2) Before putting the question to the House the Speaker may permit a debate on the motion, not exceeding half an hour in duration, and such debate shall not refer to the details of the report further than is necessary to make out a case for the consideration of the report by the House.

(3) After the motion made under sub-rule (1) is agreed to, the Chairman or any member of the Committee or any other member, as the case may be, may move that the House agrees, or disagrees or agrees with amendments, with the recommendations contained in the report".

In accordance with sub-rule (1) or rule 315, the Prime Minister has moved that the report be taken into consideration. I have not put that question to the House because there are motions under sub-rule (2). Therefore, before putting that question I took up for consideration sub rule (2). Under sub-rule (2) there were two types of motions, one by the Prime Minister and Mr. Kamath and the other by Mr. Bosu. So far as the former category is concerned, they merely wanted to suspend the duration prescribed under sub-rule (2). Whereas in Mr. Bosu's Motion he has not only asked for the suspension of period prescribed but also the limitation. So far as the discussion is concerned, obviously, the House has got

the implication of that because normally the dispensation should have been only for half-an-hour. But it is not up to me to prescribe that. This is how the Motion came there. When there are two or more motions on the same subject, it is the duty of the Speaker to take the major motion which covers the larger area. This is the well established convention of not only this House but of others also. That is why I did so. But I do feel that the Members have not fully understood the implications of Mr. Bosu's Motion. Therefore, if Mr. Bosu agrees and the House agrees, I shall subject to the agreement of the two, if necessary....

(Interruptions).

A reconsideration may be done because the discussion at the initial stage is a limited discussion. Half-an-hour may not be sufficient for that. But there is a larger discussion at the later stage when the Report is taken into consideration. Therefore, if Mr. Bosu's Motion is agreed to, there will be double discussion covering the same area. It is up to the House to reconsider the matter. If you so reconsider, you may limit it to the Prime Minister's Motion in which case it will be only dispensing with the limitation of half an hour and we will have the full discussion at the second stage of the matter. On the other hand if you accept Mr. Bosu's Motion, there will be two discussions—one at the initial stage and another at the later stage.

Now, Mr. Bosu, are you willing for that course?

(Interruptions).

SHRI K. LAKKAPPA: One minute.

MR. SPEAKER: I have called Mr. Bosu and none else. I will hear him only.

SHRI JYOTIRMOY BOSU: To-day, the House has a very special duty to perform. It is not a gathering of politicians. Strictly, it has to assume the power of a court of law.

(Interruptions).

MR. SPEAKER: Are you insisting on your Motion?

(Interruptions)**

MR. SPEAKER: Are you willing to revise it?

SHRI JYOTIRMOY BOSU: I must tell the House why I did this. I am not a fool that you twist this way or you twist that way.

I had given this with the object of bringing to light the background of the person who is now standing as an accused person before us to-day.

MR. SPEAKER: That will come at the second stage.

SHRI JYOTIRMOY BOSU: That is the reason.

(Interruptions)**

MR. SPEAKER: All that I want to know—are you willing to reconsider it?

SHRI JYOTIRMOY BOSU: Mr. Stephen, I will take my own decision. I am not one of you.

In deference to the wishes that have been expressed in this House, I withdraw my Motion.

The Motion was, by leave, withdrawn.

MR. SPEAKER: I put the Motion of the Prime Minister for consideration.

The question is:

"That this House do suspend that part of sub-rule (2) of Rule 315 of the Rules of Procedure and conduct of Business in Lok Sabha which reads 'not exceeding half an hour in duration', in its application to the motion that this House do consider the Third Report of the Committee of Privileges."

SHRI C. M. STEPHEN: Which Motion are you moving.

MR. SPEAKER: Motion from the Prime Minister.

SHRI K. LAKKAPPA: I have moved an amendment to Shri Morarji Desai's amendment. It should be circulated to the Members. I have moved an amendment, not to the main motion, but to this motion.

MR. SPEAKER: I will read out. Mr. Lakkappa's motion.

That for the original motion, the following be substituted, namely:—

"That this House having considered the Third Report of the Committee of Privileges presented to the House on the 21st November, 1978, disagrees with the findings and recommendations contained in the Report and do resolve that no question of breach of Privilege is involved in the matter against Shrimati Indira Gandhi and that no further action be taken by the House in the matter in view of the views expressed in the notes appended in the Report".

I put the Motion 9A moved by the Prime Minister to the vote of the House.

The question is:

"That this House do suspend that part of sub-rule (2) of Rule 315 of the Rules of Procedure and Conduct of Business in Lok Sabha which reads 'not exceeding half an hour in duration', in its application to the motion that this House do consider the Third Report of the Committee of Privileges".

The motion was adopted.

MR. SPEAKER: The Prime Minister may move the motion.

SHRI MORARJI DESAI: I have already moved the motion for consideration. I will speak on the other motion

**Not recorded.

[Shri Morarji Desai]

at item 11A, that is on the contingent motion. Rather than speak twice, I would like to speak then and not now. Now it is only for taking it into consideration.

MR. SPEAKER: I will have to put that motion to the House whether the House accepts it. Now that part of sub-rule (2) has been suspended, there will be a debate. If you want to speak now, you can.

SHRI SAUGATA ROY: Please specify how long the debate will take place on the motion for consideration.

SHRI SOMNATH CHATTERJEE (Jadaipur): The Prime Minister moved for suspension of part of sub-rule (2) and that has been accepted. Now sub-rule (2) comes into operation. Let there be a debate on this

MR. SPEAKER: Now the debate is only on item 8A.

SHRI MORARJI DESAI: I want to speak later on item 11A.

MR. SPEAKER: Any other hon. member who wants to speak on this?

SHRI C. M. STEPHEN: Sir, I rise to oppose this motion.

SHRI A. BALA PAJANOR (Pondicherry): Rule 315(2) has been suspended. Now we are fixing up the time. I am not able to understand you because of the confusion created here. Everybody is interested in quoting some rule or the other. It becomes the privilege of every member and every member is entitled to know the time you are going to give for this.

MR. SPEAKER: It is up to the House to decide the time.

SHRI VAYALAR RAVI: The rule has been suspended. We want to

know for how many hours you want this motion to be discussed.

SHRI A. BALA PAJANOR: It is a matter concerning every member of the House. I want all the 542 members to express their personal views.

MR. SPEAKER: The B.A.C. has not gone into the time for the first stage, second stage and third stage. The total number of hours fixed is 6 hours.

SHRI C. M. STEPHEN: Let us see how it proceeds.

MR. SPEAKER: It is up to the House to decide. I suggest that so far as the first stage is concerned, it is merely the introduction stage and if the House so desires, we can fix 1 hour.

SHRI VASANT SATHE: No time-limit should be fixed, for Heaven's sake. If we are going to act as a judicial or quasi-judicial body, let us not do anything that will not be fair and just. Even in a court of law, on preliminary points you hear all the parties fully. You cannot here say that the vital arguments that will be advanced on preliminary points of jurisdiction etc. should be restricted for all members here to one hour. What can all of us say in one hour? It is impossible. I myself will need one hour. No time can be fixed.

(Interruptions)

MR. SPEAKER: I am not giving any time, I am leaving it to the House.

SHRI VAYALAR RAVI: The Business Advisory Committee is to discuss and present a report to the House. And we are guided by the report of the Business Advisory Committee. According to your own Statement, Sir, six hours have been allotted by the Business Advisory Committee. If six hours are allotted, let us stick to that and fix the time. (Interruptions)

MR. SPEAKER: Any one can move for fixation of time.

DR. SUBRAMANIAM SWAMY
(Bombay North-East): I move:

"That one hour be sufficient if the House considers the question of sub-rule 2".

SHRI VASANT SATHE: If you suspend sub-rule 2 about half-an-hour, are you going to substitute it? He did not move at that time asking for one hour in place of half-an-hour. Once it is suspended no timelimit can be fixed now. Kindly do not impose the timelimit and curtail our right.

SHRI MORARJI DESAI: For the whole thing six hours have been fixed by the Business Advisory Committee. That will include the consideration of this and also the substantive motion which comes after that. These six hours are for both. For the consideration stage you cannot take more time than for the other one. Therefore, more time should be fixed for the other one. If they want more than one hour, let two hours be fixed for this and four hours for the other.

SHRI C. M. STEPHEN: As far as this side is concerned, a motion was moved suspending the half-an-hour provision. There could have been a motion along with the amendment stipulating what time that part of the debate must take. Nothing happened. Now, the motion is before the House, the discussion will have to begin. May I submit that as far as I could see it is at the preliminary stage that considerable arguments will have to be advanced—not that on the other side, nothing will have to be done,—the question of jurisdiction comes up at the preliminary stage; the question as to whether the report is the same that was asked for, comes up at this stage? Very fundamental questions come up at this stage which may set a precedent for the Parliament. This is not a party matter, for allotment of time on party basis. Any Member who wants to put the arguments forward—relevant arguments—will have to be permitted to put his arguments forward.

subject to the provision that the details of the report and the substance of the report cannot be gone into.

Therefore, it can only be that we start the debate and see how things are going on. After all, you have got the majority. You can put the curtain down at any stage you choose. What I am saying is that I do not agree to the suggestion that the consideration stage can have four hours, and the other can have four hours. I do not agree at all. It cannot be restricted at all. I appeal let the debate start. As is known to everybody, this is one of the important debates, not necessarily because of the persons involved but because of the issues involved. The fundamental issues are involved and, therefore, such a full House with such an interest is sitting on that. Let there be no curtailment of this. Irrelevance, you have got the power to stop. Relevant observations you shall not stop. What I am saying is that let us proceed with the debate and see how it is proceeding. Let us cooperate with one another so that we may bring out the salient points. Let no restriction be imposed about this.

SHRI SAUGATA ROY: Already the rule 315(2) limiting the discussion to half-an-hour, has been suspended. You have suggested that for consideration two hours should be sufficient. At the consideration stage; the merit of the case and the report do not come into question. There is already a motion by the Prime Minister on this issue. There is another motion printed in the list of business in the name of 8 members on this issue that the report be taken into consideration. At this stage we will only judge the preliminary things, as Mr. Stephen has pointed out, including the jurisdiction of the House. So, may I submit that the debate should start? Since it is not a party matter, let the people who have given the motion be allowed to speak first on the motion and others be al-

[Shri Saugata Roy]

lowed to speak later, within that time.

श्री सधु लिमये (बांका): दृश्यत महोदय, मैं भावस्था का प्रश्न उठाना चाहता हूँ। मेरी यह समझ में नहीं आ रहा है कि हम लोग कितनी प्रक्रिया को यहाँ पर स्वीकार रहे हैं—इस मामले में फैसला करने के लिये ?

I do not know what procedure we are adopting. We have three motions. One has already been adopted and that is the motion suspending the rule. The second is consideration of the motion. I would like to know whether you are going to entertain amendments to this motion because all motions can be amended. Are you going to entertain amendments?

MR. SPEAKER: Surely. There is a motion saying that it should be considered.

SHRI MADHU LIMAYE: There can be amendments to this motion.

MR. SPEAKER: Yes, nobody has moved the amendment.

SHRI MADHU LIMAYE: I have given notice of the amendment....

MR. SPEAKER: I do not know.

SHRI MADHU LIMAYE: Because the motion was circulated only some time ago.

MR. SPEAKER: The amendment says....

(Interruptions).

SHRI MADHU LIMAYE: First of all, let us decide whether amendments to the motion moved by the Leader of the House are going to be entertained.

MR. SPEAKER: No, no. Amendments in the sense that it should not be considered?

SHRI MADHU LIMAYE: Negative amendments anyway need not be considered.

MR. SPEAKER: If you do not vote for the consideration, then it is negative. So far as the procedure in a privilege motion is concerned....

SHRI MADHU LIMAYE: I do not know whether the substitute motion or amendment is in order. I want to know whether you are going to adopt this procedure or not.

MR. SPEAKER: I will tell you what the procedure is. As far as the privilege motion is concerned, the rules have not prescribed any procedure. The procedure is prescribed by the House itself in each one of the cases as it arises. There are no fixed procedures so far as consideration is concerned. There is no rule bearing on the point. All that, at this stage, we are considering is whether we are going to consider this motion or not. Nothing more than that.

SHRI MADHU LIMAYE: That is not my point at all. The motion is before the House. I would like to know whether the honourable Chair is going to entertain amendments or substitute motions. That is the question on which I want your ruling.

MR. SPEAKER: At this stage only two questions arise—whether the House will accept the consideration of the motion or whether it will not consider the motion. These are the two aspects. No other aspect arises at this stage. So far as any negative motion is concerned, it will become irrelevant because the House can always say...

SHRI MADHU LIMAYE: Mine is not a negative motion. It is an amendment which is strictly within the rules. Negative amendments are not entertained by the Chair. My amendment is not negative. It is a positive amendment. I want to know whether you are going to entertain amendments or not.

MR. SPEAKER: If it is within the rules, I am accepting it. If it is outside the rules, I am not accepting it. That is all that I can say at this stage.

SHRI MADHU LIMAYE: I have to move the amendment because the motion has been moved. There is going to be a debate.

MR. SPEAKER: You can move the amendment.

SHRI MADHU LIMAYE: I am not making any speech. So, you must say that the motion is moved and then my amendment will come in.

MR. SPEAKER: I shall say that after disposing of the objections raised. When you suspend the time fixed under sub-rule (2), it is always open to the House to fix its own time because the House is the master of the entire proceedings. That being so, the time may be fixed at that stage or at a later stage. Now that you have suspended the motion it is open to the House to fix the time. There are two motions before the House. One is by the Prime Minister.

SHRI C.M. STEPHEN: Sir, it cannot be put like that—two hours and four hours. Is it the spirit in which you are going with the debate? There is nothing like that. We want a full debate at the introduction stage.

MR. SPEAKER: I am dealing with that matter.

SHRI VASANT SATHE: You are dictating an order. Listen to me before that.

MR. SPEAKER: I have listened to you. How many times am I to listen to you?

SHRI VASANT SATHE: If you fix two hours and then you ask how many Members want to speak, suppose there are 20 Members; then, you will divide two hours by twenty, and say that

each Member will get five minutes. How are you going to regulate the debate?

MR. SPEAKER: Just as in other debates.

SHRI VASANT SATHE: A judicial matter cannot be argued like that.

MR. SPEAKER: Don't record.**

SHRI VAYALAR RAVI: Even if you fix the time, please extend it by two or three hours, to eight or nine hours.

DR. SUBRAMANIAM SWAMY: Under sub-rule (2) I just cannot understand how they can ask for four hours for a mere consideration whether the House should debate this or not? So, you must cut this short and get on with the consideration of the main motion.

MR. SPEAKER: Let us not waste time on this small point.

DR. SUBRAMANIAM SWAMY: In my case you never bothered.

MR. SPEAKER: Your case is not before us now.

In view of the appeal made by them, let us have three hours for the preliminary discussion. They want to go into the question of jurisdiction.

SHRI C. M. STEPHEN rose—

MR. SPEAKER: I am not deciding it, I am leaving it to the House.

SHRI C.M. STEPHEN: The whole point of the matter is that there must be a full debate in the House, and for that the only restraining factor must be that as the Presiding Officer you should regulate and stop irrelevant interventions and irrelevant observations. A full debate to the satisfaction of the different parties is necessary, because the rights of the parties

**Not recorded.

[Shri C. M. Stephen]

are involved the rights of the Members are involved. The leaders of the different parties will have to make their submissions. I will make my submission, replies may have to be given. Therefore, it depends on how the points are being put forward, how they have to be met, how the needs of the House will be satisfied. This alone must be the consideration. The House is the master of the situation. Any time the House may move for a closure. Any time, the House can say that we want more time. Let us start the debate. What you are now going to do, you can do it afterwards also. Let us start the debate. That is what I am saying.

MR. SPEAKER: If necessary, we may extend the time later. For the time being if the House so agrees, we shall have three hours for this. Those who are in favour of three hours, say 'Ayes'.

SEVERAL HON. MEMBERS: 'Aye'.

MR. SPEAKER: The 'Ayes' have it.
... (Interruptions)

SHR C. M. STEPHEN: About what?

MR. SPEAKER: If necessary, later on we may extend it. Mr. Stephen.

SHRI C. M. STEPHEN: Mr. Speaker, Sir,...

SHR B. P. MANDAL (Madhepura): I rise on a point of order. (Interruptions) You asked to say 'Aye' or 'No'. You did not decide whether the 'Ayes' have it.

MR. SPEAKER: I have said "the Ayes have it." I did say.

SHRI K. LAKKAPPA: When he has moved a motion, we have got a right to move amendments. What Mr. Madhu Limaye has stated, I have said the same thing earlier. Where is the time for us to move amendments?

MR. SPEAKER: Your amendment is to the main motion.

SHRI K. LAKKAPPA: I am not talking of mine only.

MR. SPEAKER: All amendments have been admitted at the appropriate time. (Interruptions)

Mr. Lakkappa, amendments will come only when the consideration motion is accepted by the House and not until then. Mr. Stephen.

SHRI C. M. STEPHEN: Mr. Speaker, Sir,...

SHRI A. K. ROY (Dhanbad): I am on a point of order. The whole trouble started with the appropriation of time and appropriation of this right by them Prime Minister at the late hour

MR. SPEAKER: What is your point of order?

SHRI A. K. ROY: I am coming to that. I do not want to show a rule book and confuse you. Let us come straight to the point. As pointed out by Mr. Madhu Limaye, if we want to give amendments to the main motion, then, as we did not get it earlier, we could not give it. We have all given our notices of substitute motions to the original motion, which we received earlier. But now we are to face a new motion and we did not get enough time to think or to give substitute motions. You give us your ruling on this point as to whether our substitute motions to the original motions which were supplied to us earlier, will remain valid in view of the new motion which is coming into operation.

MR. SPEAKER: It remains there. There is no difficulty. There is not point of order.

Mr. Stephen.

SHRI C. M. STEPHEN: (Idukk): Mr. Speaker, Sir, rise to oppose the motion moved by the Prime Minister. I propose to follow strictly the provisions of the rule, which was read out

by you, Rule 315 and to divide the debate into two.

The objections to the Report according to me are partly based on two counts, viz. the Constitutional and the preliminary ground that this House shall not take this report into consideration and the other part of it is the merit of it, the recommendation part of it. I would like to avoid commenting on the recommendation part of it at this stage.

Regarding the first part of it, I would, echoing the appeal made by my friend, Mr. Jethmalani, make an appeal to the other side also that the Parliament is of today at the moment if I may say so, truth because very basic questions are involved. Any decision or decisions that we may take will bind the Parliament in future and the posterity also. I would, therefore, request you to approach this question in that spirit.

We have before us a Report, not a unanimous Report but a Report to which four notes have been appended. I do not want to go into the merits of those notes so far as the substance of the Report is concerned. But in the note by three members, Dr. V.A. Seyid Mohammed and others, there is one objection raised which I would invite the attention of the House to. The objection raised is that the Report now submitted to the House is not on the matter referred to the Committee. This is a very serious matter. This is what they have stated:—

"The Lok Sabha adopted Shri Madhu Limaye's motion on 18th November, 1977 which has been referred to this Committee and which empowered the Committee to enquire into the matter."

Further, it is stated:

"Further, Shri Madhu Limaye's question was answered on 12th March, 1975.... Moreover, it is not the case that these 4 officers were collecting information to answer his question. The evidence is that they were collecting information to

answer the question of Shri Jyotirmoy Bosu on 16th April, 1975. Therefore, even if obstruction or harassment is proved to have been caused, it were in relation to Shri Bosu's question. This matter was not referred to the Committee. Hence on this ground also the Committee has no jurisdiction."

Now, the important matter is, what exactly was the matter referred to the Committee and whether the Committee has considered this is a question which we will have to take into reckoning. The Committee commenting on this dissenting note have given a note which appears on p. 194(A). You will find that all objections, many substantial objections, raised are referred to there. But they have not referred to this basic objection raised. According to me, it is because this objection is irrefutable.

Let us see what was the matter referred to the Committee. The matter referred to the Committee is given on p. 9. It was Shri Madhu Limay who brought this matter before the House. The Committee itself traces the background. It says:

"Shri Madhu Limaye, MP, gave notice of a question of privilege dated the 10th October, 1977 against Shrimati Indira Gandhi, former Prime Minister and Shri D. Sen, former Director, Central Bureau of Investigation....

Shri Madhu Limaye, in his notice of question of privilege, stated *inter alia*, as follows:

The Maruti question referred to before the Shah Commission was my question. I faced a number of difficulties in getting it admitted. Finally, it was put down for answer in a terribly mutilated form in the winter session of 1974. When I protested, it was again put down for answer in the Budget session of 1975.....

Now, it is clear that when the officers of the Industry Ministry were

[Shri C. M. Stephen]

trying to collect information for the purposes of preparing an answer to my question, the then Prime Minister ordered the searches of the Officers' houses.... This is gross contempt of Parliament and must be punished as a breach of privilege of the House."

Shri Madhu Limaye moved the motion. There was a motion by Shri Kanwar Lal Gupta. Shri Kanwar Lal Gupta's motion was a general motion. The House considered the two motions and Shri Madhu Limaye's motion was accepted.

There was something much more important. There was an amendment to Shri Madhu Limaye's motion saying that the words "and others" be dropped and that the persons must be specified. This was put to vote. This was negatived. Shri Madhu Limaye's argument was that persons involved were not these people only and that there were other persons also. He mentioned certain names and that it also must be gone into.

This was the basis on which Shri Madhu Limaye took up the objection and opposition to the amendment. Therefore, it is clear. And there was a letter written to you, and that letter is appended herewith. In regard to that letter, I raised an objection saying 'let me know what exactly is being discussed'. Then you said the notice will be made available. I made a demand that the notice must be made available. Then the whole thing went to the Privileges Committee. Therefore it is clear that what was referred to the Privileges Committee was about collection of information to answer Shri Madhu Limaye's question—whether the officers involved in collection of information to answer Shri Madhu Limaye's question were interfered with. This was the matter

which the Committee was required to go into.

Let us remember that the Committee has no inherent jurisdiction in the matter of privileges: it has absolutely no inherent jurisdiction in this matter. They can take note of only such things as are referred to them—only such matters. Rule 314 says:

"The Committee shall examine every question referred to it and determine with reference to the facts of each case whether a breach of privilege is involved and, if so, the nature of the breach...."

This is Rule 314(1). So, my objection to this Committee's Report is two-fold on this score. One is that they enquired into matters not referred to them and, secondly, they refused to go into matters which they were asked to go into. These two things come in here. From the Privileges Committee's report you will find that they discussed this matter as to whether Mr. Madhu Limaye's demand that allegations of breach of privilege against certain other officers must be gone into, should be considered. They discussed the matter and said 'We are going to confine ourselves to this: we are not going to go into that'. Therefore, this Report is vitiated on two counts: instead of going into Madhu Limaye's question about hindrance caused in the collection of information, they went into the question of Shri Jyotirmoy Bostu, which was given long after. One was posted for answer on the 12th March and the other was posted for answer on the 16th April. There is a long gap coming in. Although Mr. Limaye appeared before the Committee and gave evidence before the Committee, the whole thing was by-passed, and they went ahead with the other matter. This is a most fundamental thing which I want to bring to your notice.

Now, let us see what exactly is the finding of the Committee. The

finding of the Committee is given on p. 122.

"The Committee are of the opinion, therefore, that Shrimati Indira Gandhi committed a breach of privilege and contempt of the House by causing obstruction, intimidation, harassment and institution of false cases against the concerned officers for preparing an answer and a Note for Supplementaries for Starred Question No. 656 tabled by Shri Jyotirmoy Bosu"

SHRI JYOTIRMOY BOSU: Every time you mention my name, you pay me royalty.

SHRI C. M. STEPHEN: I do not want to labour on the point further. I would appeal to the House to consider whether the Privileges Committee considered the matter referred to them. My submission is that they did not. They did not care to consider it at all, and they did not give a reply to the objection raised by the three Hon. Members who have appended a note. Although they answered many other points, they have not answered this point at all. Throughout you will find that, while it started with Shri Limaye in the House in the Privileges Committee they started and ended with Shri Jyotirmoy Bosu.

A matter not referred to them cannot be considered. That is my first objection. Therefore, this report must be repelled; it must not be taken into consideration at all.

15 hrs.

The second question which I am raising is the question of jurisdiction, whether the Sixth Lok Sabha can go into the question of breach of privilege with respect to the Fifth Lok Sabha. Here there are positions where the jurisdiction of the House is clear beyond doubt. There are also occasions when it is not clear from doubt, Here is a case in which the

jurisdiction of the House is not clear from doubt. The opinion so far available is that this Lok Sabha has no jurisdiction to go into this matter.

I will begin with the Attorney-General. The Attorney-General was invited to come before the Committee. The Attorney-General has given his written opinion. The Attorney-General was examined by them. What did the Attorney-General say? I am quoting from page 978, the bottom-most line:

"In fact, I think, every new Parliament is a new Parliament. I will refer to your provisions. My view is this. In my opinion, the new Parliament has no jurisdiction."

Then I come to page 982:

"I have read the proceedings on which the present motion is founded. The motion moved by Shri Madhu Limaye is founded on certain facts. The charge was that officers of the Government were obstructed . . ."

Then I come to page 983.

"Shri Ram Jethmalani: Each House is competent to punish a breach of its privileges, it is not Parliament which does it as a whole.

"Attorney-General: I am wondering whether there is any continuity between the earlier Lok Sabha and the new Lok Sabha.

"Shri Ram Jethmalani: Then, an anomaly will be that the Rajya Sabha will be able to punish a breach of privilege even if it had taken place 15 years ago.

"Attorney-General: But, unfortunately, anomalies do not create jurisdictions or destroy them . . .

"Prof. P. G. Mavalankar: It is a breach of privilege of the earlier Lok Sabha continuing to the present Lok Sabha.

"Attorney-General: I don't think that would be the position."

[Shri C. M. Stephen]

In his written opinion, the Attorney-General is leaning heavily on this side, and he has stated that this Lok Sabha has no jurisdiction. As far as the Attorney General is concerned, this is what he has stated.

Now, I would invite the attention of the House to a ruling of the Supreme Court given in 1960 in *Sharma vs. Sinha*. They considered the question as to whether a privilege matter pending in the House at the time of prorogation would survive, and they ruled that it would survive, but then they added that, on the question as to whether the matter would survive dissolution, they were not concluding by this, they were leaving it as an open question. They drew a distinction between the two.

In Basu's Commentary on Constitution, he has very emphatically stated that the new Lok Sabha cannot go into the question of privilege with respect to the former Lok Sabha.

Now, the point is this. May be, arguments can be advanced both ways. But I am only emphasizing that this is not as if it is a concluded question. And when the Attorney-General has said, 'if the jurisdiction is challenged' and this is quoted in the report itself, '... then the Supreme Court will have jurisdiction to go into the matter and decide.' And I should add that if it is challenged that such a privilege exists at all, the Supreme Court would have jurisdiction to consider the question..

AN HON. MEMBER: What is the page?

SHRI C. M. STEPHEN: Page 348. This is one of the subjects on which specifically the Supreme Court comes into the picture whether this House has got a jurisdiction. This is a matter where the Supreme Court has the jurisdiction (*Interruptions*) I am referring to 1965 Supreme Court page 767. The Supreme Court considered whether this House is the ultimate or

the only authority to decide whether it has got the jurisdiction to decide on the existence of the privileges. The Supreme Court stated there, 'When a statute is challenged on the ground that it has been passed by the legislature with an authority or otherwise unconstitutional trespass on fundamental rights, it is for the courts to determine the dispute and decide whether the law passed by the legislature is valid or not. Adjudication of such a dispute is entrusted solely and exclusively to the jurisdiction of the court and so we feel no difficulty in holding that the decision about the construction of Art 194(3) which was similar to 105(3); must ultimately rest exclusively with the judicature of this country. That is why we must overrule Mr. Scervai's argument that the question of determining the nature, scope and effect of the powers of the House cannot be said to lie exclusively within the jurisdiction of the court.'

Therefore, the point I am emphasizing is: here is a question with respect to which the Supreme Court has said that it is an open question. Secondly, if a dispute arises, 'We will be the ultimate and exclusive authority to decide on it.' Here is a matter on which the Attorney-General, appearing before the committee, said, 'You have no jurisdiction'. Here is a matter where Basu's Commentary says, 'You have no jurisdiction.' This is the position.

With respect to privileges, there are two concepts. One is the existence of the privilege as on that date, that is to say, the date on which the Constitution was passed. What ever existed there, we have got the authority to amend, to codify, to specify. Now there are two aspects: (1) whether the privilege exists and (2) whether the privilege is enforceable. Even assuming that the privilege existed, then the question arises whether the privilege is enforceable and there, we have got to go to Rule 222 which is absolutely very clear. We can proceed even with respect to all privilege matters only under this Rule because this rule was pro-

mulgated as per our power under Art 118. This has got the force of law and it says, 'A member may with the consent of the Speaker raise a question involving a breach of privilege either of a member or of the House or of a committee thereof.' Therefore, enforceable privilege is limited to the condition adumbrated under rule 222. Even if under the House of Commons Rules there was a privilege, question arises whether we can enforce it. We can enforce it only under rule 222 and this spells out that what exactly is the privilege that can be brought out and they say 'only with respect to a member in relation to the House.' 'In relation to that House—Shakdher is very clear about it. Once it is done, the Sponage is passed and the curtain is drawn. Shaikdher's commentary is absolutely clear about that page 164. "All business pending before the parliamentary committees of the Lok Sabha lapses on the dissolution of the Lok Sabha...." Anyway it is a long passage, I do not want to read it. They say, completely the curtain is drawn.

A new Parliament comes in—a new Lok Sabha comes in; a new House comes in.

Therefore, if this really does not relate to this House even though a privilege has existed, there is no enforceability under Rule 222. It does not come in. This is my submission. That is why I made an appeal that this matter be referred to the Supreme Court for their opinion. Now that appeal has not been accepted although on a Bill which was pending here, that matter was sent. Here is a question of fundamental jurisdiction which could have been sent which they avoided to send because, they knew that sending it may bring in a verdict that this House has no jurisdiction. This is one matter on which I am raising my objection.

The third matter is that here is a very strange situation arising over Parliamentary Committee's functioning on the basis—I do not say unanimity—of consensus. Consensus must not

mean that it is just a majority and the parties cooperate with you on that basis.

Now, we have before us the Committee in which a substantial section has raised an objection—not on minor issues but on the basis of jurisdiction. Shri Hitendra Desai, Dr. Muhammad, Shri Mohanramangam, and Shri Shankaranand—four of them—raised their objections on the basis of which how are we going to deal with?

How, is it going to be the practice? And are we going to adopt that practice that whoever may object or which ever party may object, by the rule of thumb, by the majority, it will be got through?... (Interruptions) I went through.... (Interruptions) All right, we are prepared to take it. Don't bother about it.

Sir, there is a difference between the Privilege Committee functioning and the *ad hoc* Committee with respect to a conduct of a member's functioning. I do not want to elaborate further about it. I find that there are five Committee reports as far as I could see where dissenting notes were attached—dissenting notes not only on very substantial matter—and it so happens that none of those were taken into consideration by this House. I would ask the Secretariat to examine it whether in any report there is a substantial dissenting note and whether the House took that into consideration is a matter....

MR. SPEAKER: Mr. Stephen, there is a Direction from the Speaker that there can be no dissenting notes but only notes.

SHRI C. M. STEPHEN: I understand it. Dissenting notes there cannot be but notes there can be. And notes speak for themselves. The proceedings of the Committee have stated that three Members differed from the finding. This is stated in the proceedings. Whether there is a dissenting note or

[Shri C. M. Stephen]

the other note, the point is that the Committee has not come unanimously before the House.

The point I am putting to you is that if this Privilege Committee could function that way, it can happen that the margin between one party and the other is only marginal—one or two (*Interruptions*)

SHRI JYOTIRMOY BOSU: Sir, there is a breach of Rule 315(2).

MR. SPEAKER: What is the point? And what is the breach?

SHRI JYOTIRMOY BOSU: Sir, under 315, sub-rule 2, I have moved an amendment and later on I had withdrawn it. It clearly states that 'such debate shall not refer to the details of the report further than is necessary to make out a case for the consideration of the report by the House.' (*Interruptions*) He cannot go into details. How can he? Why can't he withdraw?

MR. SPEAKER: I do not think there is any point of order because 'for consideration' includes 'against consideration'.

SHRI JYOTIRMOY BOSU: In order to assist the Chair, in order to assist the House, I have withdrawn the motion thinking that they will misuse it. And now how are you allowing them?

MR. SPEAKER: The point of order is over-ruled. There is no point of order.

SHRI C. M. STEPHEN: Therefore, Sir, we are on the point of laying down a precedent and the precedent in this respect is: how should the parliamentary committees function? The implications of it may kindly be examined. It can happen that the two parties are equally powerful with some difference of one or two. It can be possible that the Privileges Committee can be used as an instrument. A report can be

obtained and somebody can be thrown out or expelled. These things can happen. If this is the way that the parliamentary committees are to function there is absolutely no sense in the minority party participating in these committees. (*Interruptions*)

Then, Sir, I am saying that this is the first time in the history of this Parliament that a Privileges Committee report with a substantial dissent and which does not represent consensus is brought in and taken into consideration and used as an instrument for the purpose of inflicting punishment. Sir, this precedent once established the matter which all parties should consider is a particular party which is in majority today can be in minority tomorrow and if somebody is in minority today it can be in majority tomorrow. (*Interruptions*)

Therefore, it is my objection that taking into consideration a privileges committee report which obviously is not a unanimous or even a consensus report is a step without any precedent and as such, the report must not be taken into consideration on that single ground.

Sir, there are two more points and I am finishing. The other point is about the basis of reference. (*Interruptions*)

Sir, you will remember at the time of the discussion of this matter a question was raised and you gave the ruling. This is quoted on page 14 of the report. Two questions were raised by Mr. Sathe. One was about this matter being of recent occurrence. The other was that the matter was pending before the Shah Commission and, therefore, it should not become a subject-matter of privilege and your ruling on the second point was:

"I have gone through the terms of reference of the Shah Commission. They are confined to Emergency excesses and matters connected with them. This even has taken place much earlier than the declaration of

.the Emergency. Therefore, I thought it was not necessary to go by that consideration."

May I plead with the members to consider the implication of the ruling. The objection was raised that this matter is before the Shah Commission and, therefore, do not refer. You said that I have examined it. This matter is not before the Shah Commission because it happen much earlier than the Emergency and that is the consideration which prevailed upon me and hence I agreed to refer the matter to this House and admitted it as a matter of privilege. Now, subsequently it happens that the Shah Commission goes into this matter. Immediately, Mr. Sathé, wrote to you that this has happened. I would say that the moment the Committee knew that this had happened they should have referred the matter back to you under the rules of our Rules of Procedure. They did not do it. They went ahead with it. Now, Sir, what is happening is this. Something worse has happened. You will kindly see this in pages 300 to 306 of this report. We find the entire FIR pertaining to this. It is mentioned sentence by sentence. What is now before us? What was before the committee? That is before the Magistrate's court and that is on the basis of the findings of the Shah Commission. Well, I am submitting to you that if inclusion of this matter in the reference of the Shah Commission would have stood in the way of acceptance of the privilege motion, should it not be applicable in this case, should it not be adjudged as operating in a manner rendering this reference *ab initio* void? If it could not have happened, if it is on a mistaken notion that you accepted this, then, the moment the mistaken notion is established, should we not say that we have nothing more to do with it, and let the judiciary decide it? If consideration by the Shah Commission will stand in the way, then should not consideration of the magistrate court stand in the way? This is the plea that I am taking. I am submitting this. The Shah Commission being

seized of the matter is the ground on which we must say we do not take this question into consideration.

The last point is this and I have done. What is the subject matter? I am not going into the details of it, that some officers were proceeded against etc. Now the question is whether the officers are officers of the House I am not going into the other question as to whether they were proceeded against and all that. Privilege means any interference or harassment of any member or of the office of the House, or obstruction of the officers of the House whatever that might be. But the point is, was officer of the House. Are these people officers of the House? The Attorney-General is absolutely clear on this matter. He was examined. He give his opinion. He is absolutely clear saying that they are not officers of the House at all. This is what he says:

"The second question on which my opinion is sought is whether the persons who were collecting information and who were harassed or impeded or obstructed could be regarded as officers and servants of the Lok Sabha. It was really the responsibility of the Minister concerned to collect the required information so that he could answer the question put in the Lok Sabha. I do not see how any agency employed by the Minister or public servants or persons entrusted with the work could be regarded as servants or officers of the Lok Sabha. In my opinion, the persons who suffered harassment were neither officers and servants of the House nor were they employed by, or entrusted with the execution of the orders of, either House."

This is a very clear opinion given by the Attorney-General of India. Let us think of the implications of the position we may be taking. This is an exclusive protection, given to a selected class of people, namely, elected members of the Parliament and identi-

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fiable persons who are known as officers of the Parliament, who are executing orders of Parliament. Two elements are necessary. One is, they must be officers of the parliament Number two is, they must be executing the orders of parliament. Now these two are not here. If anybody is assisting in collecting information, in drafting Bill, in giving legal opinion, in assisting Parliament and so on, is to be treated as servants of Lok Sabha, then, lakhs and lakhs of people will be covered but that. What happened here? Somebody here asked somebody there, phoned somebody further, collected something and you go into the farthest extent and say that he is an officer executing the orders of this Parliament.

MR. SPEAKER: You have made your point.

SHRI C. M. STEPHEN: I am concluding. Are we throwing the net or are we going to probe into it so widely? The protection is meant for the Members of Parliament for those who immediately assist the Members of the Parliament and the House and identify themselves as officers of the House, are we going to say that anybody in the peripheral area in the farthest end of the country will have the protection of this. It is a matter that I plead with the House to consider very seriously. Therefore, that is not the privilege and as the report is against the opinion given by the Attorney-General, it cannot be taken up. That is what I wanted to submit. May I submit, Sir, again, echoing the spirit in which some appeal was made here, let us remember the importance of the issues that we are considering and considering the importance of the issues, let us for one moment convert ourselves as objective parliamentarians taking the whole perspective the future of this institution and how it is to function.

This is all I have got to say. You have tried everywhere, everything else. Let it not be that this Parliament is used, that this Parliamentary Committee is used in absolute defiance and in disregard of the norms and procedure, let it not be said that this Parliament and the Parliamentary Committee is used as an instrument of political victimisation. It that is there. (Interruptions) Forget about Mrs. Indira Gandhi. In other two people who have no voice, they cannot answer. They are absent here. Let us not proceed against them further. Let us not do that. That is the thing. Now, as far as we are concerned, we have that sort of an onslaught from that side. I am absolutely sure we have the strength to stand against that onslaught. But let us remember that that may not be correct to the Institution where we are working. Therefore, on the basis of the Committee having done something which they were not asked to do, on the basis of by-passing and brushing aside the minorities and trying to use the majority to have an infliction of political victimisation and vendetta, I say this is not the report this House had asked for, on the basis of lack of jurisdiction** and of lack of regularity** This is, failure to refer the matter to you as the Speaker, and the objection was raised. This report cannot be treated as a report of the Privileges Committee and therefore must be rejected. It must not be taken into consideration. I oppose the Motion of the Prime Minister.

SHRI JYOTIRMOY BOSU: Sir, this itself constitutes breach of privilege. (Interruptions)**

PROF. SAMAR GUHA (Contal): Sir, I would like to draw your attention that the hon. Member, Mr. Stephen, has questioned the whole character and the composition of the Privileges Committee and naturally its way of functioning and the very integrity....

**Brought as ordered by the Chair.

MR. SPEAKER: Mr. Guha, normally, the Members of the Committee do not speak.

PROF. P. G. MAVALANKAR: Sir, on a point of order. When the Committee Report is on the Table of the House, sometimes it is the duty of the Committee Members to defend that Report.

PROF. SAMAR GUIIA: Sir, I want to make it clear that if this kind of accusation, insinuation, challenging the *bona fides* of the whole Committee is there, then it will be difficult for me to function as the Chairman of the Privileges Committee. (Interruptions)

SHRI JYOTIRMOY BOSU: He must withdraw it. (Interruptions)

PROF. SAMAR GUHA: If you allow this here, there should not be any Privileges Committee or any other Committee nominated by the Speaker.

Although the Members function in this House in the capacity of representatives of certain parties, but as soon as they are nominated to the Committee of Privileges or to some other Committee by the Speaker, they undergo a qualitative change in their character and identity of function. (Interruptions)**

MR. SPEAKER: Mr. Guha, kindly hear me for a minute. He has not attacked the *bona fides* of the Committee.

PROF. SAMAR GUHA: If you permit me to speak for two or three minutes, I will show you that.

In the Committee of Privileges the Members have no partisan identity, they function as a team. There is no scope for any party to issue any whip. If any party issues any whip to their Members with regard to their functioning in the Committee, that whip itself will be a breach of privilege and

contempt of the House. The Members do not function in these Committees with the identity of their party affiliations, but they function as free members and with their free conscience. This is what happens always in the Committee of Privileges and happened exactly on this issue also. Members belonging to the same party differ diametrically in the committees. Here, on this issue also, Members belonging to the same Party differed with one another. But if you allow this kind of attributes that the Committee functioned in a partisan way, what would happen? Sir, I would like to draw your attention to the fact that on the final day when this report was adopted, all the fourteen Members of the Committee complimented that the Chairman of this Committee had functioned impartially, objectively, fairly and without any kind of partisan attitude. What does it mean? I belong to a party in this House, but as Chairman of a Committee, I function completely without any identity of party, but I function only with the identity of the Lok Sabha as a whole.

Shrimati Indira Gandhi had by using the same logic cast reflections on the Committee and for that reason also, the Committee held her responsible for breach of privilege of the House. This is an additional case of the contempt of the House. A Member who will argue in that way, he will himself be subject to the contempt of the House. In future, if this characterisation of the Committee is allowed here, it will be impossible for me to function. As Chairman of the Committee of Privileges, I had to curtail by political activities. I did not participate in a single debate in this House which related to Shrimati Indira Gandhi. I did not utter a single word outside about Shrimati Indira Gandhi as I had to function as Chairman of this Committee, before which the privilege issue concerning her was there. I did not go to Chikmagalur or any

**Not recorded.

[Prof. Samar Guha]

other place for election campaign. If you allow this kind of accusation on the character of the composition of the Committee and the character of the Members functioning there, it would be impossible, nay almost well-nigh impossible in future for any conscientious Member to function in any Committee constituted by you.

PROF. P. G. MAVALANKAR: My point of order is only one. It is precise. Mr. Speaker, Sir, I am completely with the Leader of the Opposition in his right to speak whatever he wants to speak, on this matter. He has every right to criticize every single aspect and every single matter of this report. He can say that the whole report is bad or wrong; or whatever he likes, but he has no right to use the word—I am objecting to only one word—when he said that he could not accept the *bona fides* of this Committee. (Interruptions)

PROF. P. G. MAVALANKAR: As a member of this Committee, it is not my function to say... (Interruptions)

MR. SPEAKER: Please hear me. I agree, I will go through the matter. If there is anything against the *bona fides* of the Committee, I will expunge it. Now Mr. Madhu Limaye.

(Interruptions)

DR. MURLI MANOHAR JOSHI (Almora): I move....

MR. SPEAKER: You can separately move it. It is a different matter.

SHRI JYOTIRMOY BOSU: Sir, I thought you were going to give me two minutes.

श्री मधु लिमये (बांका) : अध्यक्ष महोदय, इस प्रस्ताव पर बोलने का मेरा इरादा नहीं था, लेकिन विरोध-पक्ष के नेता ने कानून के बाल की खात्र निकालने का जो हास्यास्पद प्रयत्न किया है और पूरी समिति के ऊपर जो असम्भावना का आरोप

लगाया है, उसके लिये मैं जवाब देने के लिए मजबूर हो गया हूँ।

मैंने जितनी दलीलें दी हैं, यह लीजल विवरणालय के अलावा कुछ नहीं। ध्राप देखिये, पहले यह कहते हैं कि प्रिविलेज का जो प्रस्ताव ध्राया और जा निर्णय हुआ दोनों में कोई सम्बन्ध नहीं है, यह इनका मुख्य प्वाइन्ट है। लेकिन प्रिविलेज कमेटी ने मेरे प्रस्ताव पर इस प्रश्न पर विचार किया। प्रस्ताव क्या है :—

"That the question of breach of privilege and contempt of the House against Shrimati Indira Gandhi and others be referred to the Committee of Privileges, with instructions to report within a period of six months."

यह प्रस्ताव था। तो क्वेश्चन ध्राफ प्रिविलेज पर विचार करना था। नोटिस में एक शब्द क्या है, दूसरा शब्द क्या है, तीसरा शब्द क्या है, इस पर कमेटी ने विचार नहीं किया, क्वेश्चन ध्राफ प्रिविलेज पर विचार किया। क्या है सन्स्टैंटिव क्वेश्चन—कि पार्लियामेंट में पूछे गये प्रश्नों के निचे जो अफसर जानकारी इकट्ठी कर रहे थे, उनको तकलीफ दी ?

श्री ज्योतिर्मय बसु : पार्लियामेंट के लिये।

श्री मधु लिमये : पार्लियामेंट में किस के लिए प्रश्न पूछे जाते हैं ? सार्वजनिक हित में होते हैं, तभी पूछे जाते हैं और तभी स्वीकारे भी जाते हैं। इसलिए सन्स्टैंटिव क्वेश्चन यह था—कि क्या इन अफसरों को तंग किया गया या नहीं ? अगर उनको तंग किया गया है तो क्या पार्लियामेंट की कार्यवाही में यह बाधा नहीं है ? और अगर यह बाधा है तो विशेषाधिकार का भंग हुआ है या नहीं ?

अगर आपके टैक्निकल प्रश्न को भी लिया जाये तो ध्राफको पता चलैगा कि श्री ज्योतिर्मय बसु का प्रश्न और मेरा प्रश्न एक काण्टीन्पुद्ग क्वेश्चन है।

Can you deny this? I will read out now. He has referred my question. It is a follow-up question. It is because of your evasions that he was compelled to ask a follow-up question.

श्री इम कमेटी के बारे में भी मुझे यह कहना है कि कमेटी ने अपना काम पूरा नहीं किया। मैंने स्पेसिफिक भाग की भी कि मेरे प्रश्नों को क्या स्पूटिलेट किया गया, मेरे प्रश्नों का इवेसिव रेप्लाई क्यों दिया गया। अगर हमकी जांच होती, जिन जो मज्जनों का मैंने जिक्र किया था, अगर उन्हें पूछा जाता, तो बहुत से रहस्य खुल जाते।

मैं किसी व्यक्ति से व्यक्तिगत दुष्मनी नहीं करना चाहता हूँ, श्रीर इस दृष्टि से मैंने यह प्रिविलेज का प्रश्न नहीं उठाया। मैं चाहता हूँ कि हमारे देश में जो संसदीय संस्थाएँ हैं, उनका गौरव और इज्जत बड़े, श्रीर अगर कोई गंभीर इन संस्थाओं में झाँपे है, तो उस की भी सफाई हो, श्रीर इन संस्थाओं की सफाई में लोक सभा सेक्रेटेरियट की सफाई भी मर्निहित है। सार्वजनिक हित में जब प्रश्न पूछे जाते हैं, तो उन्हें मायब क्यों किया जाता है, उन्हें स्पूटिलेट क्यों किया जाता है, श्रीर उनके इवेसिव रेप्लाई क्यों दिए जाते हैं ?

जहाँ तक इस कमेटी का सम्बन्ध है, मुझे पूछना है कि उन्होंने श्री टी० ए० पाई को इस प्रश्न पर क्रास-एग्जामिन क्यों नहीं किया। तब बहुत से रहस्य खुल जाते। मैं इसके बारे में आपके सामने तथ्य रखना चाहता हूँ।

18 नवम्बर के मेरे पहले प्रश्न को जान-बूझकर स्पूटिलेट किया गया, ताकि नकारात्मक उत्तर दिया जाये। क्या पार्लियामेंट सेक्रेटेरियट को यह अधिकार है ? इसकी जांच होनी चाहिए। बहुत झगड़ा करने के बाद मैंने उस प्रश्न की दोबारा रिपोर्ट किया।

एक माननीय सदस्य : प्रश्न क्या था ?

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श्री मधु लिमये : वह रिपोर्ट के पेज 19 पर दिया हुआ है :

It says on page 19 of the Report as follows:

"On the 18th November, 1974, Shri Madhu Limaye, MP, gave notice of the following question regarding import of plant, machinery and equipments for Maruti Limited:

Will the Minister of Industry refer to the Maruti Ltd., Annual Report and Accounts for 1973-74 filed with the Registrar of Companies, Delhi, and state:—

(a) whether a part of the plant, machinery and equipments installed and in the process of installation, referred to at pages 16-17 of the said report has been imported from abroad;

(b) if so, the details of the imported items of plant, machinery and equipments; and

(c) the magnitude of the imports as a percentage of the total value of the plant machinery etc. mentioned in (a)?"

एक माननीय सदस्य : इसका उत्तर क्या मिला ?

15.44 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

श्री मधु लिमये : मेरे प्रश्न से सारी बातें खुल जातीं। इसलिए उसे स्पूटिलेट करके दे दिया गया। ये बहुत इन्टेसिजेंट लोग हैं। वे हूँब इन इट बरी इटेलीजेन्टली। मेरे प्रश्न को इस प्रकार बचल दिया गया :—

"Will the Minister of Industry and Civil Supplies be pleased to state:

(a) whether according to the Maruti Limited Annual Report and Accounts for 1973-74 filed with the Registrar of Companies, Delhi, a part of the plant, machinery and equipments installed and in the pro-

[श्री मधु लिमये]

cess of installation, referred to at pages 16-17 of the said report has been imported from abroad".

इसमें पूछा गया है कि क्या मारुति की रिपोर्ट में यह बात कही गई थी। मारुति की रिपोर्ट में यह सब बात कैसे घानी?—आ ही नहीं सकती थी। इस म्यूनिशियन की वजह से ही यह नकारात्मक जवाब मिला :

"(a) No such statement has been made in the Annual Report and Accounts, referred to above.

(b) and (c). Do not arise."

इसके बाद लम्बा-चौड़ा पत्र-व्यवहार चला। सदन में भी मैंने मामला उठाया। चूंकि मैं इमर्जेंसी में भी ऐसे मामले उठाता रहता था, इसलिए रूल को एमेंड किया गया था। अगर हम इमर्जेंसी एक्सिसिज का खत्म करना चाहते हैं, तो इस रूल को खत्म करके प्रोरिजिनल रूल को रेस्टोर करना चाहिये। यह भी मैं इन्सिडेंटली कहता हूँ, यह इमर्जेंसी में किया गया था। उसके बाद मैंने दोबारा इस प्रश्न को पूछा। उसको ऐडमिट किया गया तो उसका जवाब अब रेवेसिव आया। मैंने लाइसेंस बर्ररह के बारे में कुछ नहीं पूछा। केवल यह पूछा कि जो मशीनरी लगायी गयी है उसमें से देश में कितनी बनी है और विदेशी मेक की कितनी मशीनरी है। यह सिंपल सवाल है। उनका क्या जवाब आता है? ए टू सी—ब कम्प्लाइड करने हैं। कई बफा स्पीकर ने इसके ऊपर क्लियर दी है। मुझे पता नहीं कि इन दिनों में भी ऐसा चल रहा है या नहीं, लेकिन यह गलत है। देखिए, लोक सभा रेक्रेटरिएट की स्वच्छता और बुद्धता के लिए आपकी भी लड़ना पड़ेगा। यह है आन्तर—

"(a) to (c). Messrs. Maruti Limited did not seek any import licence for importing machinery....."

मैंने पूछा ही नहीं था इम्पोर्ट लाइसेंस के बारे में।

एक माननीय सदस्य : कौन सेक्रेटरी थे उस वक्त ?

श्री मधु लिमये : सेक्रेटरी जनरल प्रकधर साहब थे।

"...nor were they given any such permission. Some of the machinery installed by Messrs. Maruti Limited have been purchased by the firm from within the country from the dealers in machine tools who are allowed to sell them on stock and sale basis."

मतलब विदेशी मार्का मशीनरी कितनी थी और देशी कितनी थी इस प्रश्न का जवाब ही है। मैंने इम्पोर्ट लाइसेंस के बारे में कुछ नहीं पूछा था। मैं भी जानता था कि इम्पोर्ट लाइसेंस नहीं दिया गया। इन्होंने कार की क्या की ?

SHRI VASANT SATHE: On a point of order. The debate is being restricted under rule 315(2), to the question as to whether the report should be taken into consideration or not. My friend may be perfectly relevant when the matter comes on merits but at this stage it is not relevant to the debate.

MR. DEPUTY-SPEAKER: He is only replying to Mr. Stephen.

श्री मधु लिमये : उपाध्यक्ष महोदय, मैं आपकी मार्फत विरोध पक्ष से प्रपील करना चाहता हूँ कि इस मन्थीर मसले पर वह चुपी लाधेगे तो उसमें उनका भी कल्याण होगा और देश का भी कल्याण होगा। (अध्वजान) . . . आपको बोलना ही नहीं चाहिये। . . . (अध्वजान) . . . बंलिये, मेरा क्या जाता है ? आप बंलते रहिये, टोकते रहिये।

मैं यह कह रहा था, अब अ्योतिर्मय बसु का प्रश्न देखिए, यह कहते हैं क्या सम्बन्ध था ? अ्योतिर्मय बसु का प्रश्न यह है—

SHRI JYOTIRMOY BOSU: Will the Minister of Industry and

Civil Supplies be pleased to refer to the reply given to unstarred question 2980 on 12 March 1975....."

जो मेरा प्रश्न था,

It was my question:

तां रे नीनों प्रश्न : इन का टीनू शः है । जब मेरे प्रश्न का जवाब ही नहीं आया तो फालां प्रश्न कश्चन इनका आया । यह जो इनका टैकनिकल प्वाइंट था कि प्रिविलेज मांगन किस प्रश्न पर उठाया गया और कमेटी ने विचार हिन पर किया यह मेरे ख्याल से उसका निर्णायक जवाब है ।

SHRI C. M. STEPHEN: What is the question? What is the relation between this question and the former question?

श्री मधु लिमये : बिल्कुल है सम्बन्ध । वही है, मशीनरी के बारे में ही है ।

SHRI C. M. STEPHEN: This question, has it any relation with your question?

SHRI MADHU LIMAYE: Yes, it has; it is in continuation.

अगर आप बौद्धिक लाइट चाहते हैं तो मुझ से मिलिये, मैं आपको इसके ऊपर रज्जा-इटमेंट देने के लिए तैयार हूँ :

SHRI C. M. STEPHEN: I do, not want to meet you in confidence and be enlightened on this matter or on other matters which are happening there.. (Interruptions) Merely because you say, 'with reference to such and such question', it will not be a continuation of that question; if you read it this question is entirely different question which even indirectly does not refer to the previous question. You read; you will find out; if you do not want, then you need not.

श्री मधु लिमये : उप.व्यक्त महोदय, यः इनके पले प्रश्न का जवाब है ।

दूसरी बात इन्होंने कही कि यह पुराना सवाल है, पुराना मामला है तो उसके बारे में इतना जवाब काफी है कि इस बारे में जो

तथ्य है वह शाहू कमीशन के सामने सितम्बर के आखिर में आया और उसके बाद नवम्बर में सदन का सत्र हुआ और उसके पहले ही मैंने नोटिस दी थी । तो रहस्य का उद्घाटन होने के बाद इस प्रश्न को उठाने में कोई समय नहीं बीता है क्योंकि जो पहला सेशन आया उसमें मैंने इस प्रश्न को उठाया । इस तरह से रीसेन्ट अकरेन्स वाली जो बात है उसको, जब तथ्य सामने आया, उससे जोड़ा जाना चाहिए । यह मामला पिछली लोकसभा का है—एसा कह कर इसको टाला नहीं जा सकता ।

अब दूसरा सबसे बड़ा मुद्दा यह है, डिन ने भी इसके बारे में दिया है, कि पुरानी लोक सभा का जो अपमान हुआ है, उसकी जो भव्हेलना हुई है क्या उसकी सजा नयी लोकसभा दे सकती है—तो कई अखबारों ने इसके बारे में सम्पादकीय लिखे हैं और यह प्रिविलेज कमेटी के साथ अन्याय है क्योंकि प्रिविलेज कमेटी ने इस प्रश्न का बिल्कुल स्पष्ट और ठोस जवाब दिया है । उन्होंने सिद्ध किया है कि लोकसभा में, पार्लमेंट में सातत्य, कंटिन्यूटी रहती है और प्रागे चलकर उन्होंने कहा है कि चूंकि हमारे प्रिविलेज वही हैं जो हाउस आफ कामंस में 26 जनवरी, 1950 को ये इसलिए केवल यह देखना है कि हाउस आफ कामंस को यह अधिकार था या नहीं । इसके बारे में ऐतिहासिक उदाहरण दिए गए हैं, कुछ अखबारों ने 18वीं और 17वीं शताब्दी के उदाहरण दिए हैं और मेरे ख्याल में नेशनल हेराल्ड ने भी दिए हैं, उन्होंने बहुत रीसेन्ट उदाहरण दिए हैं । मैं ज्यादा पढ़ना नहीं चाहता, केवल ध्यान केंद्रने के लिए पेज 107 को पढ़ता हूँ ।

Page 107—

"The three cases cited by May occurred during the 16th and 17th centuries. But there has also been a recent case in the House of Commons, U.K., where a Member has been found guilty of a contempt committed during a previous Parliament. This is the case of Mr.

[Shri Madhu Limaye]

John Cordle, whom a Select Committee on Conduct of Members, reporting on 13th July, 1977, found had been guilty of a contempt in taking part in a debate in 1964 without declaring an interest."

(व्यवधान)

मैं कहता हूँ कि किसी भी हलिंग से संविधान की दफा 105 सर्वोपरि है।

All rulings may be subject to this over-riding Article which lays down what the privileges of this House are. इसलिये उसमें कोई दम नहीं है।

अब मैं कोई लंबा भाषण नहीं करना चाहता, केवल कांग्रेस (आई) के मेम्बरों से एक बात कहना चाहता हूँ कि जिन चार अफसरों के साथ अन्याय हुआ है उनमें एक मिसेज काबले मेरे पास आकर रोई हैं और उन्होंने कहा कि हमारी नौकरियाँ चली गईं और इंस्योरेंस पालिसी भी। दूसरे अफसरों ने भी जो यातनायें भोगी हैं वह भी इस कमेटी ने आपके सामने रखी हैं, शाहू कमीशन में भी आई हैं। मैं उम्मीद करता था कि राज पञ्चातापदण्ड होकर एक विनय के साथ ये लोग सदन के सामने पेश होंगे। अगर ऐसा होता और अभी भी हो तो मैं यह कहेगा कि हम लोगों को बिडिकिटव नहीं बनना चाहिए। अगर श्रीमती इन्दिरा गांधी और जिन दो अफसरों को दायी पाया गया है—ये लोग यदि भक्तवालीफाइड एपलोजी सदन के सामने देते हैं तो मैं यह कहेगा कि सदन फिर आपके कार्यवाही न करे."

SOME HON. MEMBERS: No, no.

श्री मधु लिमये : ठीक है, आप को जो करना हो करिये। मैं अपनी राय दे रहा हूँ, किसी के कहने पर मैं नहीं जाता हूँ, मुझे अपनी राय देने का अधिकार है।

इसलिये मैं कहता हूँ कि इस बात पर कांग्रेस (आई) के जंग गंधीरतापूर्वक सीधे

और जिस से इस लोकतंत्र और इस लोक सभा की गरिमा को ठेस न लगे, ऐसा काम करे। श्रीमती इन्दिरा गांधी ने कई दफा कहा है कि I always accept the supremacy of Parliament.

कहा है—न ? Then you submit yourself to the collective judgment of this House.

तब देश में एक स्वस्थ परम्परा कायम होगी।

इतना ही हम अबसर पर मुझे कहना है।

SHRI JYOTIRMOY BOSU: Sir, Mr Stephen has talked about jurisdiction May's Parliamentary Practice i page 161 says:

"Offences in former Session—

Either House will punish in one session offences that have been committed in another.

On 4 and 14 April 1707, it was resolved by the Commons:

"That when any person ordered to be taken into the custody of the Serjeant at Arms shall abscond from justice, the order for commitment shall be renewed at the beginning of the next session of Parliament and that this be declared to be a Standing Order of the House".

Not only that. Much more serious than that is the following:

"It also appears that a contempt committed against one Parliament may be punished by another and libels against former Parliaments have often been punished. In the debates on the privilege of Sir R. Howard in 1625. Mr. Selden said: "It is clear that breach of privilege in one Parliament may be punished in another succeeding."

I come to a very recent case of this House. In the case of Shri Tulmohan Ram, the Fifth Lok Sabha

referred to the Committee of Privileges on 8th June 1971 a case which was under consideration of the Committee of Privileges of the Fourth Lok Sabha and had lapsed on the dissolution of the Fourth Lok Sabha. The power to deal with a breach of privilege and contempt of the House committed against an earlier Lok Sabha was thus exercised by the Fifth Lok Sabha in that case. Mr. Stephen said many things which are unbecoming of a member of the House, much less of the Leader of the Opposition. It is said in this Report:

“Never before a Leader of the House having enjoyed the Office of the Prime Minister of a country for 11 years has been charged with causing obstruction, intimidation and harassment of Government officials who are assisting in the performance of the functions of the Parliament.”

AN HON. MEMBER: He is going into the merits of the case.

SHRI JYOTIRMOY BOSU: I am not. This is what the *Deccan Herald* has written:

“Mrs. Gandhi is only a symbol, albeit a portentous symbol, of what can happen to the democratic system if a supine Parliament and an apathetic public acquiesce in the unscrupulous use of power by those in authority and their hangers-on”.

I do not want to say anything more. She should be condemned the way in which it should be done.

SHRI SAUGATA ROY (Barrack-pore): Today the House is debating the limited question whether the report of the Committee of Privileges should be taken into consideration. At this stage, there is little scope for us to go into merits of the case nor to discuss the inhuman sufferings inflicted on the four officers who were collecting information for giving it to Parliament.

I shall confine myself mainly to the aspects that have been raised by Mr.

Stephen as to the question of jurisdiction. Two questions arise at this stage when we argue whether the report should be considered by the Parliament. The first question is the question of jurisdiction as has been pointed out and the second question is whether the matter may be taken into consideration; whether it is important enough to be taken into consideration considering the fact that so many reports come before the Parliament--reports of the Public Accounts Committee, reports of the Public Undertaking Committee—; whether the report should engage the attention of the House. These are the two questions to which I shall attempt to give the reply.

I listened to Mr. Stephen's speech very carefully. But I am sorry to say that it is not necessary to go into all the details of Mr. Stephen's speech, the contentions made by Mr. Stephen were made by Mrs. Gandhi in her letter dated June 16, 1973 to the Privileges Committee. In her letter, she raised the following questions:

(a) That the composition of the Privileges Committee majority of whose Members belong to Janata Party, has created a reasonable apprehension in her mind that the Committee is hostile to her and cannot, therefore, mete out justice to her.

(b) That rule 222 of the Lok Sabha Rule supported her earlier contention that this Lok Sabha was not competent to take cognisance of a contempt committed during the tenure of the Fifth Lok Sabha.

(c) That the matter of the Privilege motion was not a specific incident of recent occurrence within the meaning of Rule 224.

(d) That Shri Madhu Limaye's question has already been answered on 12th March, 1975 and the officers could not be collecting information for the purpose of that question.

[Shri Saugata Roy]

(e) That the Shah Commission had gone wrong in having reached a finding that the officers concerned were collecting information.

(f) That the proceedings of the Shah Commission and the evidence recorded by it and the conclusion arrived at by the Commission should not be relied upon by this Committee.

(g) That Mrs. Gandhi was likely to be prosecuted in a criminal court on the same facts. She was, therefore, entitled to the protection of Article 20 (3) of the Constitution of India.

(h) That the Shah Commission has unjustifiably ordered her prosecution."

Sir, if you have listened to Mr. Stephen carefully, you will find that it is just an expansion of these ideas which were earlier submitted by Mrs. Gandhi before the Privileges Committee and the same questions have already been replied to by the Privileges Committee. In page 118, the Committee has observed:—

"The Committee observe that Starred Question No. 656 tabled by Shri Jyotirmoy Bosu, M.P., referred specifically to Unstarred Question No. 2980 by Shri Madhu Limaye, M. P., answered in Lok Sabha on the 12th March, 1975., seeking information regarding the imported items of plant machinery and equipment installed in the Maruti Car Factory in Gurgaon District, Haryana. Shri R Krishnaswamy, Director, Department of Heavy Industry, Shri A. S. Rajan, Development Officer, Directorate General of Technical Development, Shri L. R. Cavale, Chief Marketing Manager and Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation, were officially collecting this information under the orders of their senior officers, for preparing an answer to Starred Question No. 656 and a Note for Supple-

mentaries for the Minister of Industry and Civil Supplies."

This point has been made clear that as far as harassment to officers is concerned, it started on 15th of April whereas the question was to be replied in Parliament on 16th of April. It has also been made clear that Mr. Jyotirmoy Bosu's question was linked to the question earlier asked by Mr. Madhu Limaye embryonically.

On the question of privileges, Article 105 (3) which has already been pointed out, says:

"In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined, by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution."

The founding fathers of the Indian Constitution did not find it necessary to codify the privileges of Parliament. As far as we are concerned, we are pursuing the directives given by the House of Commons. If that is so, we should also go by the precedents set by the House of Commons.

The privileges of the House of Commons came as a matter of fight between the Parliament and the royalty on the question of the royalty making inroads into the power of Parliament. It started right from the Bill of Rights stage, it started against royalty's inroads and later on it transcended to the privileges of a collective nature, not an individual nature but of a collective nature.

Reference has already been made to Poulson's famous case in this connection. Then, in 1964 John Cordell refused to testify before the House about his business connections in

Gambian and we know that in 1977 John Cordell resigned from the House of Commons.

Now the whole question is whether Parliament is a continuing process or whether every time Parliament is dissolved for a new election there is a vacuum in the country and there is no Parliament. I may point out that there is an Assurances Committee of Parliament, of which I had the privilege to be a Member earlier. This Assurances Committee goes into the assurances given by Ministers in earlier Lok Sabhas. Assurances given in the Fifth Lok Sabha are taken up by the Assurances Committee of the Sixth Lok Sabha. Even assurances given in the Fourth Lok Sabha are taken up by the Assurances Committee of the Sixth Lok Sabha. The same principle applies to other Parliamentary Committees like the public Accounts Committee, the Committee on Public Undertakings and the Estimates Committee; the earlier reports are taken up by the later Committees.

The reason for this is very simple. In our country, so far as the States are concerned, there can be President's Rule and so there is scope for filling up the vacuum; but, so far as the Centre is concerned, there is no scope for filling up the vacuum at the Centre. That is why even after the Lok Sabha is dissolved, the Speaker continues to be in office and receives his emoluments, because the Parliament has to be a continuing process. That is why I would like to say at this stage that this is the first time this question has come up before Parliament whether this is specifically a continuing process, and it is high time that we clarified and codified the position that Parliament is a continuing process, not only as far as the assurances are concerned, but also as far as the privileges are concerned.

A question has been raised whether this Parliament can take cogni-

sance of something that happened during the Fifth Lok Sabha, whether a contempt of the Fifth Lok Sabha can be judged by the Sixth Lok Sabha. Here I may point out that this question of contempt was not raised in the Fifth Lok Sabha, because the facts did not come to light during the tenure of the Fifth Lok Sabha. The facts came to light only after the Shah Commission hearing began and only after Shri T. A. Pai submitted before the Shah Commission certain facts relating to this question. So, it is a question which could be taken cognisance of only in the Sixth Lok Sabha; the earlier Lok Sabha had no time. The Speaker has clearly ruled on this point in reply to a point of order raised by Shri Vasant Sathe on that day.

That is why I want to say at this stage that this is not only a matter which is legally within the jurisdiction of this Parliament, but we have also to consider the other aspect whether politically this matter is of sufficient importance to be raised before Parliament. Here we have to keep in mind the fact that this matter relates to the violation of the privileges of Parliament by the chief executive of the country, by a person who was the Prime Minister of the country.

Now the question before the House is whether the House will take cognisance of violation of privileges of only small people, or also of big people, whether we will set an example before the country that this Parliament can take cognisance of violation of privilege by anybody, however high or mighty or powerful he may be. That is why this Report of the Committee of Privileges needs to be taken into consideration.

It has also been pointed out that the Shah Commission is seized of the matter and it has ordered the launching of prosecution and under sections 167, 182, 186, 189, 211 and 448 IPC the Delhi Special Police Establishment has registered cases on 10-7-78.

[Shri Saugata Roy]

The fact is that on the same set of facts as were presented before the Committee of Privileges, there is another sort of prosecution going on outside this Parliament. But the question is that though the set of facts are the same, the offences are not the same. Whereas in one case the offences relate to violation of particular sections of IPC, here the crime is breach of privilege of the House disturbing the sovereignty of the House, infringing the sovereignty of the House. So, on the same set of facts the Parliament has a right to proceed and as has been pointed out in May's *Parliamentary Practice* and in other cases, when the question of prosecution of offenders arises: "In cases of breach of privilege which are also offences at law, where the punishment which the Commons have power to inflict would not be adequate to the offence, or where for any other cause the House has thought a proceeding at a law necessary either as a substitute for, or in addition to its own proceedings, the Attorney General may be directed to prosecute the offender."

May has opined on page 134 that not only has the Parliament the right to take cognizance of a breach of privilege, but the Parliament can ask the Attorney General to launch prosecutions in certain cases. Here it has happened that before Parliament took cognizance of this Privileges Committee Report, prosecutions have been launched under the Delhi Special Police Establishment Act in other cases.

Sir, today the Parliament is on test before the people of this country. It is to be judged whether small people who have been harassed, who have been prosecuted, who have lost their jobs and whose families have undergone suffering will receive protection from this Parliament or not. Instead of going into the technical question of

whether they were strictly officers of Parliament, it is quite clear that Mr. Krishnaswamy, Mr. Cavale, Mr. Rajan and Mr. Bhatnagar had no business to enquire about Maruti other than for collecting information for a question asked in Parliament. These people have been harassed. Their rights have been violated, and their families have been put to victimisation. The Parliament has to take cognizance of this Report and it must take the Third Report of the Committee of Privileges into consideration. That is my submission.

डा० मुरली मनोहर जोशी (इ.स.सं.डा.)
श्रीमान, मैंने बहुत ध्यान से विरोध पक्ष के नेता के भाषण को सुना, और मैं यह समझता था कि शायद वह कुछ गंभीर प्रश्न इस विशेषाधिकार सभित के प्रतिबन्धन से संबंधित उठावेंगे। लेकिन जो प्रश्न उन्होंने उठाये उसमें से कुछ का उत्तर तो श्री मधु लिमये ने दिया, उनको मैं दोहराना नहीं चाहता। लेकिन उन्होंने एक सवाल यह उठाया है कि इस सम्मानित सदन को कोई प्रधिकार नहीं है कि वह पांचवीं लोक सभा के समय में क्रिये गये विशेषाधिकार के मामलों को उठा सके। मैं यह कहना चाहता हूँ कि भारत में संसद लोक सभा और राज्य सभा इन दो हिस्सों से मिल कर बनती है। राज्य सभा एक सतत प्रक्रिया है, वह कभी समाप्त नहीं होती, वह चालू रहती है। It is a continuing body लोक सभा के स्पीकर महोदय एक लोक सभा से दूसरी लोक सभा तक जाते हैं। इसलिये जहां तक लोक सभा का प्रश्न है, जहां तक सदन का प्रश्न है यह चालू प्रक्रिया है। यह कहा जाता है कि जो कुछ पांचवीं लोक सभा में हुआ वह नये आम चुनाव के बाद नष्ट हो जाता है, स्लेट साफ कर दी जाती है। लेकिन जिस आजा में किसी लोक सभा को भंग करने का आदेश दिया जाता है उसी आजा में, परिपक्व में दूसरी लोक सभा के निर्वाचन का भी आदेश दिया जाता है। ऐसा नहीं होता कि आजा एक ही

के लोक सभा भंग हो गई और फिर दूसरे आदेश से निर्वाचन कराया जाये। एक ही आदेश राष्ट्रपति द्वारा प्रसारित होता है उसी में दोनों प्रक्रियाओं का जिक्र होता है। इसलिये यह कहना कि यह लोक सभा भंग है और पिछली लोक सभा में हुए कार्यों का यह नहीं देखा सकती, या जब पहला लोक सभा का सत्रावसान हो गया तो इस लोक सभा को उसके विषय में कुछ कहने का अधिकार नहीं है, मैं सम्झता हूँ कि यह तथ्य गलत है, ठीक नहीं है। फिर जैसा श्री सींगल राय ने बताया कि अनेक सर्तियाँ हैं जिनका कार्यकाल चालू रहता है, यह लोक-सभा और यह सदन एक मतत प्रक्रिया है, कंटीन्यूइंग प्रासेस है, यह कभी नष्ट नहीं होता, निर्वाचन के द्वारा अपना न-निर्माण कर लेता है। फिर कहा गया कि रूल 222 में लिखा है—

a Member of the House

यह ठीक है कि लिखा है, लेकिन "दी हाउस" के मायने हैं लोक-सभा अथवा राज्य-सभा। हम जिस सदन के बारे में विचार कर रहे हैं, यदि वह लोक-सभा है तो यहां "दी हाउस का" मतलब लोकसभा है और अगर राज्य-सभा में विचार होगा तो "दी हाउस" मायने राज्य-सभा होगा। इसका यह अर्थ नहीं है कि इस समय 5वीं कार्यवधि है या छठी या कौन सा इसका सत्र है। इससे इसका सम्बन्ध नहीं है, बल्कि वह कौन सा सदन है, लोक-सभा है या राज्य-सभा। यह नियम लोक-सभा में कार्य-संचालन से संबंधित है इसलिये "दी हाउस" शब्द का प्रयोग किया है। इसलिये वह तथ्य भी कोई मायने नहीं रखता है।

फिर यह कहा गया है कि एक मामला गाहू कमीशन के सामने पेज किया गया है और तबक उन मामलों के आधार पर कुछ मुकदमें चलाये जा रहे हैं। इसलिये एक ही अभियोग दो स्थानों पर नहीं चलाया जा सकता और एक ही अपराध के लिये दो स्थानों पर सजा नहीं दी जा सकती। लेकिन सवाल यह है कि

प्रिविलेज कमेटी ने अपने रिपोर्ट के पृष्ठ 103 पर लिखा है। उसमें स्पष्ट लिखा है कि—

"Shrimati Indira Gandhi has neither been prosecuted nor punished so far at a former trial by a court of competent jurisdiction or a judicial Tribunal for the same offence, namely, the offence of breach of privilege and contempt of the House against Shrimati Indira Gandhi and others which is under consideration of the Committee."

यह लोक-सभा है, यह सदन है, यह कोई सामान्य कोर्ट आफ ला नहीं है जो किसी लोक-सभा के बानून के मुताबिक बनती है। यह कोई ट्रिब्यूनल कोर्ट नहीं है। इसलिये यह कहना कि वहां पर कोई अभियोग चल रहा है, वहां पर प्रोसीडिंग हो रही है, इसलिये इस लोक-सभा में नहीं लाई जा सकती, यह बात नहीं है।

यह भी कहना कि एक ही अपराध के विषय में दो स्थानों पर विचार नहीं हो सकता, भले ही लोक-सभा हो, यह भी यथार्थ नहीं है। इसके विषय में संविधान की, और संविधान के ज्ञाताओं की स्थिति बिल्कुल स्पष्ट है। हाउस आफ कामंस में स्थिति स्पष्ट है। इसलिये यह सदन सक्षम है इस बात पर विचार करने के लिये और विशेषाधिकार के प्रश्न पर अपनी राय जाहिर करने के लिये और उसको यहां पर उठाने के लिये। फिर यह कहा गया है—

Privilege must exist and must be enforceable.

अब यह क्या बात हुई, यह कहना कि विशेषाधिकार अस्तित्व में होना चाहिये और उसे लागू करने की क्षमता होनी चाहिये। इसका अर्थ मैं समझ नहीं पाया कि कौनसा तर्क विरोधी दल के नेता ने दिया। विशेषाधिकार का अस्तित्व संविधान की धारा 105(3) से स्पष्ट है। उन तर्कों कायलों पर जिसमें कि विटिंग का हाउस आफ कामंस, जिनकी क्षमताओं के सम्बन्ध में

[डा० मु० ली० मनोहर जोशी]

जिनको प्रिविलेज समझा जाता है, वहाँ परम्परा स्पष्ट है। वही स्थिति हमारे विशेषाधिकार की यहाँ है

सदन अस्तित्व में रहता है, यह सदन उनको लागू कर सकता है, एन्फोर्स कर सकता है और मैं समझता हूँ कि यह सदन उसको एन्फोर्स करेगा।

यह बहुत गम्भीर मामला है और इस बात से संबंधित है कि क्या यह सदन उन तमाम भारत के नागरिकों को, जिन्होंने संविधान की मर्यादाओं को सुरक्षित रखने के लिये इस सदन को निर्वाचित किया है, और उनके अधिकारों को संरक्षण दे सकता है या नहीं? मैं अपने मित्र श्री सौगत राय से शत-प्रतिशत सहमत हूँ जब वह यह कहते हैं कि यह सदन इस पर विचार नहीं कर रहा है, बल्कि यह सदन ऐसे गम्भीर मामले पर विचार कर रहा है कि भारत के एक सामान्य नागरिक के जो अधिकार हैं, उन अधिकारों का हम संरक्षण भी कर सकते हैं या नहीं। यदि उनका संरक्षण करते समय किसी भी प्रकार की, बाधा, चाहे भारत के भूतपूर्व प्रधान मंत्री के द्वारा ही क्यों न लाई गई हो, चाहे तत्कालीन प्रधान मंत्री के द्वारा ही क्यों न स्थापित की गई हो, उसके विरोध का मुकाबला यह सदन डटकर कर सकता है और करेगा।

यह सदन अपनी मर्यादा, अपने अधिकार और अपने कर्तव्य के प्रति बिल्कुल किसी हालत में भी सच्चा नहीं होगा, यदि वह इस समस्या पर विचार नहीं करेगा।

मेरे विचार में इस समस्या पर गंभीरता से विचार करना चाहिये, सदन इसके लिये पूर्व-रूढ़ि सक्षम है, और मैं आग्रह करता हूँ कि इस प्रतिवेदन पर पूरी गंभीरता के साथ विचार किया जावे।

MR. DEPUTY-SPEAKER: Mr. Bala Pajanor,

AN HON. MEMBER: I have given my name.

MR. DEPUTY-SPEAKER: There are several Members who have given notice. It does not mean that everybody will be called. (Interruptions) I am sorry. I know whom to call and whom not to call. There is a list here and I will call a few of them. (Interruptions) I cannot call everybody. It is only at the consideration stage. There is the other stage also.

Mr. Bala Pajanor.

SHRI A. BALA PAJANOR (Pondicherry): Mr. Deputy Speaker, Sir, I thank you for giving me this opportunity for participating in this discussion on the consideration of the motion on this privilege issue. As it has been expressed in the beginning itself, it is a matter concerning every Member of this House to give his views on this matter. But naturally, when there is a consensus on the views expressed by other Members, I am sure that they need not express it. But here I am taking a new line. I am not saying that it is entirely a legal matter and I am not going to argue this matter, as Mr. Stephen did, though I agree with the last portion of his speech that it need not be taken into consideration. It is for this simple reason that when they started the discussion, we were able to witness certain facts, which we cannot deny. If it has already been decided, about the decided motive, we express our feelings through making noise here and at times with certain words which may be unparliamentary also. When it is a question of decided matter, then it is not a question for consideration as privilege here. This is a kind of court in toto also. That is my view. When you say that democracy is going and parliamentary democracy is to take every note only from May's Parliamentary Practice or by the notes put forward by Mr.

Shakdher or any other author including Basu, I am not one who argues this on those lines. It is a matter that is before the House and I humbly and honestly request every Member to read the writ large on the walls in this country. It is a fact that Mrs. Gandhi was defeated in the General Elections and I feel that that was the greatest punishment if there was any breach of privilege....

AN HON. MEMBER: No. (*Interruptions*)

SHRI A. BALA PAJANOR: That is the reason why I said, if you are going to shout down me on a partisan attitude, I am not going to bow down to that. Now, I am going into this matter not as a party Member, but as an individual Member having full rights and I am not going to bow down to your shouts because you are all prejudiced on this issue. If you are all prejudiced on this issue. I would not be surprised when Mr. Stephen made that comment attributing certain motives to a person whoever he may be and whatever office he might have held. What is the reason why I said that you are creating an atmosphere for it. Now you must all remember that, sitting here immediately after the General Elections, I did say that we are happy to see that those persons who were occupying the treasury benches, including Mr. Chavan and Mr. Subramaniam and others, are sitting with me here and also that those who were sitting with me in the Fifth Lok Sabha are now having the honour to occupy the treasury benches now. I did congratulate you then. Is it not a fact? But there were certain things in the Emergency. There was discipline in this country (*Interruptions*) But I was not party to the excesses of Emergency. But you must also understand as I said....

SHRI ABOKE KRISHNA DUTT (Dum Dum): You have not felt the excesses of Emergency. (*Interruptions*)

SHRI A. BALA PAJANOR: You know only about Bengal, whereas I know about the entire South and other parts of the country also; Don't say that I had not borne the brunt of it. I was not a party to praise or exonerate the excesses of Emergency. But at the same time, you cannot disown the fact, as every-body in this country starting from the common man to the top is saying, there was discipline in this country during Emergency and you cannot deny that fact. I will go on record repeatedly (*Interruptions*)

SHRI NIRMAL CHANDRA JAIN (Seoni): I am on a point of order. There is a particular canvass under Rule 315 and I think that the speech given by Mr. Bala Pajanor is going beyond that. He is propogating for Emergency. He has only to say whether the motion before the House can be taken into consideration or not.

SHRI A. BALA PAJANOR: I am not yielding; that is no point of order. I would request you to give me protection. Nobody can teach me how to argue in the court here. I know much better than many of the members here. If it is a point of law, let him point it out as to under what Section. I am violating it. I am not yielding on that score. I will not be cowed down or pulled down by the people who are fit for something else.

There was discipline which you cannot deny during the Emergency.. (*Interruptions*)

MR. DEPUTY-SPEAKER: Let us not get into any emotions, either from this side or that side. It applies to both sides.

SHRI A. BALA PAJANOR: I will abide by your decision.

What I want to impress upon the House, through you, Sir, when it is convenient and palatable to you, you pamper me and say, "It is the correct thing you have said" and if it is not convenient and palatable, and it is

[Shri A. Bala Pajanor]

truth, you do not relish it. The truth will prevail. You cannot claim that you are the sons and the daughters of Gandhi who experiment with truth. It is a matter of conscience; it is a matter that you have to speak from your uttermost bottom, not on your party lines. I was very happy, when the Prime Minister moved the motion and many of the members on the other side said, "We have not given a party whip." The same thing we have done; we have not given a whip to our party members. I was happy to learn from Mr. Chavan that he has also not given a party whip. I suppose, Mr. Stephen also has not given a whip to his party members. I can find from Mr. Chavan's party that different views have been expressed. Mr. Alagesan has given a different view; Dr. Seyid Muhammed has given a different view. That is the attitude here.

In that respect, let me have the right to put forward my case; let me have the right to submit to you to see what is writ large on the walls of this country. It is a fact that in 1977 Mrs. Indira Gandhi was punished for the privileges, whatever it may. But it is a fact that the people from South voted for her party and now, once again, she is inside the House. That is the reason why I say there is no necessity for considering this Report at all. That is my argument. If you are going to substantiate your argument, I am prepared to take it up.

My submission is that the people outside are thinking entirely differently. Once again, I submit to you that I am well within the limit of the consideration of this motion because I want to say that this House is going to decide a very vital issue. There is no precedent for this issue. You cannot take any shelter or citation from the *May's Parliamentary Practice and Procedure*. I too have burnt the midnight oil. I have also studied a number of books. A clever lawyer can argue this way or that way. But I

have followed the layman's argument. I can also substantiate it; I can cite hundreds of decisions. It is very easy for a lawyer to do it. But for a man with commonsense and conscience which has connections with lips, he must come forward with the truth. That is my attitude. If you have already pre-judged it, it is not going to help.

The people outside are thinking entirely differently. The people who expected many things from the Janata Party, the people who expected much more from the Prime Minister Shri Morarji Desai and his colleagues and companions, are thinking that it is in order to circumvent all that, that this matter is being taken up in this august House. The people outside are thinking that these are the people who cannot do anything, who cannot deliver the goods. The people outside are judging you, saying that these are the people who cannot deliver anything, these are the people who cannot maintain law and order, these are the people who cannot find fault with theirs for the past two years and these are the people who are trying to do it indirectly and surreptitiously to circumvent all that. This is the opinion of the people outside. That is the reason why I today voted for the Constitution amendment. If that is the case, under article 368, let us go in for referendum and put Mrs. Indira Gandhi on the platform of the people. Let the people of this country judge her. Let us not argue today very technically; let us not argue with all the technicalities and apply your legal brain.

With regard to Mr. Stephen's point, whether there is a jurisdiction in this matter for the House to consider or not, you people will go into the legalities of it. I can also go into the legalities of it. Don't underestimate me. I will be much more legal than you so far as the jurisdiction is concerned. Sir, you were the Deputy Chairman of the other House. Can you go and preside over the other House today? The jurisdiction ~~scope~~

the moment you get elected to this House, I want to appeal to the common man with my legal acumen, not the legal acumen of the books. Can you go and preside over the other House and pass a ruling? What happened to the decision that was taken by the Rajya Sabha in regard to the commission of inquiry that they wanted to appoint to go into the allegations of corruption? You must remember that it is I who said that there was no point in talking of these things unnecessarily, casting aspersions, and saying things about the correspondence between the Prime Minister, Mr. Morarji Desai, and the Home Minister, Mr. Charan Singh. It is I who said that there was no point in making vague allegations. On those days, you started pampering me saying what I said was all right. And today it is the other way about I say, please wait for a moment; you think and think and judge. Don't come forward with this Motion. I can also do that, but we are not emotional I am afraid the people outside are asking 'Why are these people so much agitated? What is the gain these people are going to get'.

I followed the argument of Shri Saugata Roy. The poor officers have been punished; I do understand, and my sympathies are with them. But I understand that so many anomalies took place, but nobody is perfect: imperfection is the essence of human beings. We are not eternal beings: so perfection cannot be there. There are many other forums to punish a person. But if you want to punish a person for violating a privilege of the House or committing contempt of the House, the House must look into it. That is the reason that the House must consider it from an entirely different angle. If you are going to read the lines only in black and white, if you are not able to read the lines in between, if you are not able to understand the wishes of the people, if you are not going to reflect the opinion of the people outside, I am sorry. It was entirely different earli-

er. I did agree with you in March 1977, but it is not so in December, 1978. It is entirely different now; there is a change of opinion. The change of opinion is due to the various misfortunes and due to the omissions and commissions you have made. That is the reason why this House must take the onerous responsibility. It cannot be judged by adopting an acutely technical line in this matter. We cannot say that so and so should be punished but so and so's case should be considered. We must have long deliberations. You will remember that when this matter was taken up, I asked for more time for considering this matter. Every Member has a right to express his views as he understands this matter. The Report consists of two volumes but I wonder how many have gone through even the first one. I am not casting any aspersions, but I can challenge that it is not so simple that you can decide the matter so soon. You have to consider the matter as to whether this action should be taken or not. You have to see whether there is a *prima facie* case for considering this or not and, for the House to come to a conclusion we must have longer time. I must have time at least to go through the bare lines of the entire Report. Every Member has a right in this House. Every Member has a right to have a word in this privilege issue; so he must go through the entire thing. Why should you argue on technical lines or come to a technical judgment? Mr. Madhu Limaye has said that if so and so comes forward and apologises, that means it has come to a conclusion. I am not going into what type of punishment should be given or whether the question should be left like that, but my submission is that it is better for us and it is high time for this august House to consider various issues other than this privilege issue. I am not dubious about my point: I am quite clear. That is what I feel personally.

With these words, I submit that this Motion for consideration need not be taken up.

SHRI NIRMAL CHANDRA JAIN (Seoni): I congratulate Mr. Stephen as a very able advocate of a very bad case of the worst type of client he has. In his advocacy, there are many things which are very conveniently overlooked.

I take the first charge that he has made. Kindly see pages 9 and 10 of the Report. Mr. Madhu Limaye brought a Motion and subsequently there was another question put by Mr. Jyotirmoy Bosu which refers to the first question of Mr. Madhu Limaye. Kindly see page 10, "It is clear that when the officers of the Industries Ministry were trying to collect information for the purpose of preparing an answer to my question, the then Prime Minister ordered searches of the officers' houses.

The next one is:

"My charge of contempt of the House is against the following persons:—

- (1) Mrs. Indira Gandhi, who directed raids against the officers for collecting information for Parliamentary questions."

The word 'questions' is in plural. A certain question was asked, and that question was followed by another question by Mr. Jyotirmoy Bosu. Therefore, it is very apparent that it was the entire matter, the entire charge, which was given to the Privileges Committee to look into. Therefore, there is no substance in the argument that this particular charge was not sent to the Privileges Committee, only the charge in respect of Mr. Madhu Limaye's question was sent. As I have said, the word 'questions' is in plural.

Secondly, the question of jurisdiction has been raised, whether the Sixth Lok Sabha could deal with the matter. If, for instance, five or six months before the term of a Lok Sabha expires somebody commits a breach of privilege, will that person

be immune for ever? I do not think that that is the correct interpretation. These two cases, those of Cordel and Tulmohan Ram, decide this point.

About the Shah Commission and the matter being pending in a criminal court,—objection is this regard has also been taken. I can do no better than refer to the Attorney-General's argument in this respect. Mr. Stephen has very great reverence for the Attorney-General; he said that the Attorney-General's opinion must be relied upon. Kindly see what he says at page 313:

"In my opinion, offences under Sections 167, 182, 186, 189, and 211 and 448 are distinct from the offences pending consideration before the Privileges Committee."

Further he says:

"It is alleged that the officers of the Ministry of Industry, who were collecting information for the purpose of preparing an answer to a question, were intimidated and harassed in the discharge of their duties towards the Lok Sabha and that such acts constitute obstruction of the Lok Sabha in the performance of its functions and/or obstruction of a member or officer of such House in the discharge of his duties. None of the sections of the Indian Penal Code mentioned in the First Information Report have anything in common with the charge before the Lok Sabha or the Privileges Committee."

I think, this answers his point.

Another point which he has taken is that they are not the officers of the House, and for this, he has relied upon the opinion of the Attorney-General on page 348. But he has, very conveniently, ignored the latter portion of page 349 where the Attorney-General says:

"It seems to me that, while persons whom the concerned Minister asked to collect information cannot

be regarded as officers or servants of the House, the question would remain whether the acts or omissions, namely, the orders made by certain persons to carry out raids or arrests, obstructed or impeded the Lok Sabha in the performance of its functions."

Therefore, I think, under these circumstances, the objections that he has taken are absolutely untenable.

There was another counsel, a slightly bad counsel for Mrs. Indira Gandhi, my friend Mr. Bala Pajanor. He wanted to justify the Emergency....

SHRI A. BALA PAJANOR: No; I never justified the excesses in Emergency. He is misquoting me.

SHRI NIRMAL CHANDRA JAIN: I never said 'excesses'.

SHRI A. BALA PAJANOR: There were good things also during Emergency. Many of my friends were telling me outside. (*Interruptions*)

SHRI NIRMAL CHANDRA JAIN: The point is this. Mr. Bala Pajanor was very happy with the Emergency because of discipline. I could not understand his argument. If 'danda' can be discipline, then it can fall even on his head if it is to fall. The question is this. When it is thought that this Parliament is supreme, we are going to take the decisions on the basis of the acts that have been committed in respect to these four officials....

SHRI A. BALA PAJANOR: It is before the emergency.

SHRI NIRMAL CHANDRA JAIN: The only thing was that they wanted to collect information about Maruti..

SHRI A. BALA PAJANOR: When he refers to me, it is before the emergency. I have gone through every line of the report.

SHRI NIRMAL CHANDRA JAIN: Maruti is another name for Hanuman

which has got a very long tail. Naturally, the persons concerned wanted to inquire from one, then they were directed to another and that person directed them to a third man who directed them to a fourth person, coming upto Batliboi. Thereafter, there was a mandate from the then Prime Minister's house to raid their houses. Was it in consonance with the discipline which was then said to be maintained or a step which ultimately came to the discipline? It was purely a harassment of these officers coming from the highest authority, the Prime Minister who had all the reverence she could claim. Under these circumstances, the offence which is there is aggravated more and more. I think let us consider these facts from these angles; technicalities apart which Mr. Stephen has raked up. I will request Mr. Stephen not to cover up Mrs. Indira Gandhi under the umbrella of technicalities but let us face the situation as it is. Was it or was it not a fact that she interfered and caused harassment to these persons who were collecting information in respect to her son's activities, her son's Maruti Ltd.? Under these circumstances, I would submit that we should consider and we should very very seriously consider and should not be led away by the plea now that she and her party have been defeated at the poll and therefore let us forgive her.

SHRI M. N. GOVINDAN NAIR (Trivandrum): A very very serious responsibility has been left on our shoulders by the Privileges Committee. I cannot remember one instance when a Privileges Committee has failed to make a recommendation regarding punishment. The House may accept or reject or modify it. That is the right of the House. But there was no one instance, according to any knowledge, when the Privileges Committee has failed to make some recommendation regarding punishment.

Secondly it is the normal practice that when a motion is moved, it is the Chairman of the Privileges Committee

[Shri M. N. Govindan Nair]

who has the first priority. We would expect that when he introduces the motion, he will give us some idea about the common or collective understanding of the Privileges Committee. We were denied even that. So, even though somebody dissented, when Shri Jyotirmoy Bosu said that this is a court of law, you may not take it in the juridical sense, but, unfortunately, we are asked to perform the responsibility of a court, if you have to award the punishment. Then another problem is the report, then notes which are dissenting notes which are not called dissenting notes. . . . Difference of opinion, the evidence before the Committee, all these things we have to go into. Everyone has to keep his cool head. We are all jurists in a court; we have to behave like that. Here too much emotion on either side will not help for us to come to a reasonable conclusion.

Now, for example, there was a dispute about emergency excesses or otherwise. You can discuss them elsewhere. Here it is a question of harassment. All this took place not during the emergency but even earlier. Therefore, we should confine our discussions to those points which are relevant in deciding whether we should take this question for our consideration or not. Therefore, I am not going into the merits of the case. But, when I heard the Leader of the Opposition and when I heard some other people also I told that you should not behave like that. They should be cool. This is what I said. *(Interruptions)* When I heard him and when I heard some other lawyers also, I felt how sometimes natural justice becomes a casualty at the hands of very efficient lawyers.

Therefore, here the question is: whether this comes within the purview of the Privilege Committee to look into the question. That is the main thing. About the legal things I am not worried. I am firmly of the opinion that this is the proposition

which we must discuss here in this House and it must be taken into consideration because we are experimenting with democracy only for the last thirty years and so, we have to evolve practices by which the Parliamentary democracy is not undermined. Here the question is: whether it was Shri Bosu's question that was referred to or it was Mr. Limaye's question that was looked into or whether there was a link between the two. That is not the issue as far as Parliament is concerned. Well, all these points are valid ones to argue in the Supreme Court. But, here, even the Supreme Court has said that Parliament and the Privilege Committee are not the courts of law. Therefore, here, what are we to consider? Was there a harassment of the officers who wanted to collect information to answer a question in Parliament? That is the main question. The answer is: 'Yes'. The only argument of Shri Stephen was. . . .

SHRI C. M. STEPHEN: We have not come to the other question.

SHRI M. N. GOVINDAN NAIR: At that stage, I will also have an opportunity to speak.

Here, the point is this. According to reference, it was Mr. Limaye's question that is coming. Shri Bosu's question is not there. So, you cannot question by legal understanding. What is the position? I am not a lawyer. You take it up before the court. If anybody who is collecting information for answering a question in Parliament is harassed or obstructed or threatened, it is a matter of privilege as far as this House is concerned.

Therefore, I will request my friend, Mr. Stephen, that all his points are valid and useful when the case comes before the court.

(Interruptions)

Now, I have to remind the Deputy Speaker that this is not a regular business of the House that time be

allotted according to party's strength. So, there be no belling.

MR. DEPUTY SPEAKER: You should also be conscious that the House has decided to allot three hours and no single member can consume... I will give you reasonable time but your remark is unwarranted.

SHRI M. N. GOVINDAN NAIR: I withdraw that remark.

Therefore, Sir, all these arguments can be valid in the court of law. Now, no case is before any court regarding privileges. I respect of harasing the officers or injuring them there may be a case before the court but is there any case before any court regarding privileges of the House. We are discussing only the privileges of the House. Therefore, all his legal arguments do not have much weight. He referred also to certain other points, I agree that in the Privileges Committee it is the normal practice to make the report unanimous or near unanimous.

(Interruptions)

It should be the endeavour of a Privileges Committee to arrive at a decision which is almost unanimous, if possible. Unfortunately, it has not happened. It is not that all those people differ with the main recommendation. For example, I do not know what my friend's position is, in a way at that time he was more with Janata.

SHRI A. BALA PAJANOR: Not at all. No doubt, we welcomed the Emergency but did not approve of the excesses. We ourselves were the victims. This is my stand and the stand of my leader on this issue. I have repeatedly said that it is a matter for this House to consider. We are very clear. We are reading the pulse of our people and reflect it in the House and not like this brute majority.

(Interruptions)

SHRI M. N. GOVINDAN NAIR: The representatives of AIADMK. I am quoting as an impartial member.

At that time he was not part of Congress (I). His position was different.

Sir, all these things will be further weighed when you discuss the merits of the privilege issue. And you cannot oppose consideration on these grounds. Let us see to what extent Mr. Mohanarangam was correct or to what extent Mr. Mavalankar was correct at that time.

Therefore, Sir, I am strongly for taking up this issue into consideration and I appeal to the honourable Leader of the Opposition: It is better that you don't press your point too much! Thank you.

SHRI RAM JETHMALANI: Mr. Deputy Speaker, Sir, I have heard with great interest and with a much reverence as I could muster the arguments of the distinguished Leader of the Opposition.

SHRI JYOTIRMOY BOSU: Did you say 'distinguished' or 'extinguished'?

SHRI C. M. STEPHEN: That term 'extinguished' belongs to you.

MR. DEPUTY SPEAKER: All these remarks have no relevance.

SHRI RAM JETHMALANI: One of the arguments which he made was based on the fact that the report of the privilege committee is not a unanimous report but a divided one. On that ground he claims that the report being unprecedented in its nature must be thrown out and not considered by this House at all. Mr. Deputy Speaker, on a previous occasion, in this House, the Privilege Committee made a report which was not a unanimous report.

SHRI C. M. STEPHEN: Recommendations were unanimous.

SHRI RAM JETHMALANI: You know what I am talking about.

SHRI C. M. STEPHEN: I say that recommendation was unanimous.

SHRI RAM JETHMALANI: It was a divided report but the difference between then and now is that that report exonerated Mrs. Gandhi and this report does not. I remind this House of what Mr. Stephen the Leader of the Opposition had to say on that occasion, because, if the Leader of the Opposition—and a distinguished Leader of the Opposition at that—blows hot and cold within a span of six months, I am afraid, his credibility, even on points of law is reduced to nil.

This is what he said then and I quote him:

"This is not the way. The report of a Committee of Parliament is treated with the utmost respect by the House, because the Committee is mini House. A committee represents the House. In the Committee's discussion of all the matters in detail, different points of view, come in. In this particular matter, therefore, there is a difference of opinion, which is reflected in a dissenting note given by four hon. Members, who have said that it does not constitute a breach of privilege. Well, I am inclined to accept that view. But, in view of the fact that the convention is that a report presented by a Parliamentary Committee is treated with respect and accepted, I do not want to press for the acceptance of that particular dissenting note, although I am in agreement with it. I am only submitting, let us not contravene this convention. The Committee has considered all aspects and it has found that there is a breach of privilege, strictly speaking, technically speaking, but it has said, taking all things into consideration, the matter may be dropped."

17 hrs.

SHRI C. M. STEPHEN: Sir, I rise on a point of personal explanation.

The point I made there was that there are two aspects in a report, one is the findings and the other is recommendations. In the matter of the recommendations, that report is unanimous. Therefore, we were considering a report which was unanimous in the operative part of it and, therefore, I said that although there are differences of opinion with respect to certain findings, the operative part being unanimous, let us not go into the details of it and break the convention and let us accept the report. Here, the position is entirely different. That is the difference between that report and this report.

SHRI RAM JETHMALANI: Like goldsmith's village school master though vanquished, he could argue still.

I repeat the very words of Mr. Stephen. I plead with this House and I particularly plead with those distinguished gentlemen opposite that the report of a Committee of Parliament is treated with utmost respect by this House. I want you to treat the report of the Privileges Committee with respect and not with the contumacy with which Mrs. Gandhi has treated it or with which you are today treating it just because it happens to be a report which is against Mrs. Gandhi and two of her compatriots in crime. I plead with this House that the Committee of Privileges is a mini House, as such a mini House as it was on the day on which Mr. Stephen last spoke in this House. A Committee of this House does not cease to be a mini House merely because it renders a report, which the Leader of the Opposition or his leader outside the Parliament does not like. The hon. Members in the Committee have considered all aspects of the matter, pros and cons of the matter, they have recorded evidence extending over a year. They have heard the interrogation of the witnesses, they have marked the demeanour of the witnesses, they have recorded a whole volume of evidence.

I mean no disrespect to this House at all; I speak with great humility. If a report came from the Privileges Committee of this volume, even I would not have the patience to go through all the recorded evidence and the documents and arrive at conclusions different from those the Committee has arrived at. I would not be able to sift through the evidence and the arguments, and more than that I would not have the advantage of seeing the witnesses actually giving evidence and watching the demeanour of those witnesses as we do in courts. And, therefore, this House by the very fact of its constitution is not equipped to challenge the findings of facts by the Committee. Of course, if you want to go into question of law, Mr. Stephen will have plenty of law. All that he has done in this matter—a matter of personal regret to me—he has raised a number of technical arguments. The charge was not against an illiterate person; the charge was against a person who for a decade was the Prime Minister of this country; she claimed to be the only leader of this country and *ex-hypothesi* she must be wiser, she must be more understanding, she must be more intelligent and she must be more educated than the gentlemen who now presume to defend her. The charge was against an intelligent ex-Prime Minister of the country, she understood what was being said, she was capable of defending herself, I would have expected that she in consonance with the dignity of the office, which she once held, would have said: 'I want to grapple with the substance of the charge against me and I will not seek shelter under these technicalities behind these super-technicalities' with which the distinguished Leader of the Opposition has treated this House.

Shri Stephen has relied upon the Attorney-General's opinion. I had a look at that. I am sorry that the distinguished Leader of the Opposition has forgotten the relevant parts and he has quoted out of context.

And I say this, and I say it with the greatest sense of responsibility, that he has been less than candid, and less than fair to this House, because he has kept back from the House and read to the House half sentences which are out of context and which have no bearing on the problem at hand. When the Attorney General appeared before the Privileges Committee.... (Interruptions).

SHRI JANARDHANA POOJARY (Mangalore): I am on a point of order Mr. Jethmalani was a member of the Privileges Committee. How is he allowed to speak?

MR. DEPUTY SPEAKER: He is not a member any more. Please take your seat.

SHRI RAM JETHMALANI: The Attorney General had been before us to advise us on some problems of law which we had specifically noted down in the letter of invitation, which we wrote to him. Because we did not want the opinion of the Attorney General on the problem viz., whether this Lok Sabha was competent to and can take cognizance of the contempt of the House committed in the earlier Lok Sabha, we expressly refrained from asking him to express his opinion on this issue. And yet it is a matter which has aroused my curiosity, which has not yet been satisfied, that when he appeared before us, he told the committee that though this question was not referred to him, "I am prepared to answer, if you want" Naturally some other Members in the Committee were very anxious. And the answer which he gave was this. Again I speak with very great humility, because outside the House, he is the official leader of the Bar in his capacity as the Attorney General. He ventured his opinion; but within 10 minutes he had to revise his opinion which was *ex tempore* and ill-considered; it should not have been vouchsafed to the Privileges Committee, because we are also lawyers and we know our law and we do not allow ill-considered opinions to go unchal-

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lenged... (Interruptions). On page 979, that is, on the same day on which he appeared, this is what he ultimately had to tell the Committee:

"In my opinion, the new Parliament has no jurisdiction".

The distinguished Leader of the Opposition would stop there, as if there is a full stop. There is no full stop. He proceeded further. That is why I am charging Mr. Stephen with being guilty of unfairness. The Attorney General said:

"In my opinion, the new Parliament has no jurisdiction, unless such jurisdiction itself could be claimed as one of the privileges of the House of Commons at the date of the Commencement of the Constitution."

Mark the words. Mr. Stephen should ponder over what is recorded at the foot of page 979, on the right-hand side column. It is said there:

"and for that you would have to make research and make more material available to me. That is the short answer. (Interruptions)

SHRI C. M. STEPHEN: You are misquoting me. I read page 979, the top portion. You are now charging me with suppressing facts. when you make such a charge, namely that I have suppressed a certain part of it, it is a very serious charge.

MR. DEPUTY-SPEAKER: Any way, you have made it clear.

SHRI C. M. STEPHEN: Page 979 is before you I refer you to it. It is said:

"In my opinion, the new Parliament has no jurisdiction."

That is the only thing. Nothing more is there.

SHRI RAM JETHMALANI: It is in page 979. Whether Mr. Stephen deliberately kept it back from the House, is not important. I would not say he did it deliberately. But this is not the fact.

SHRI C. M. STEPHEN: I am the person to say which part I read; I am saying that I read from the left part of page 979, top part of it. He is making a serious charge; I am saying that I read the entire part of it; nothing is left unread.

SHRI RAM JETHMALANI: Mr. Stephen, elsewhere you would have been guilty of suppressing something, not so in this House. On the same day, a little later on after further questioning the Attorney General was pleased to say, page 986, left hand corner, 'Perhaps it would be better if you can send these extracts to me for examination, I will give a written opinion, if you can kindly send material to me as to what the practice in the House of Commons is I can look into it.' He is the Attorney General appointed by the Janata government and therefore I do not wish to use strong language. But article 105 of the Constitution says that the privileges of this House are the same as the privileges of the House of Commons on the date of the commencement of the Constitution. No Attorney General therefore has the right to come before the Privileges Committee and tell the Privileges Committee: I have not yet found out what the privileges of the House of Commons are but I am prepared to give an opinion that this House has no jurisdiction. I am sorry that the Attorney General said something which he ought not to have said and why he said it is a matter which requires investigation by those who appointed him.... (Interruptions)

Another point which Mr. Stephen has kept back from this House is this: the Attorney General told us that we required more research. In fact we required no more research at all because May's Parliamentary Practice was very clear, as clear as any book can be to any lawyer who reads. Nevertheless, after the Attorney General said: 'you make a little more research', we made more of it and we got in touch with the House of Commons and asked them to write to us on what the latest position is in the House of Commons... (Interruptions).

The House of Commons was pleased to inform us of that. I do not see why Mr. Stephen did not tell the House that the Privileges Committee assiduously made some research and the result of that research was this: the House of Commons said that only in the year 1877 in the month of July, they have punished a person for breach of privilege of the House of Commons, and the breach of privilege took place in 1964; 13 years had intervened in between.

A charge has been made of partiality against us, sometimes lukewarmly, some times otherwise, typical of the attitude of those who are willing to wound but do not have the moral courage to strike. I want to tell Mr. Stephen something which he ought to know, which his colleagues on that side must know. I have got three eye witnesses, and the three witnesses are: distinguished Mr. Shankaranand, distinguished Gandhian Mr. Hitendra Desai and the distinguished lawyer, Dr. Seyid Muhammad.

SHRI B. SHANKARANAND: On a point of order.

MR. DEPUTY-SPEAKER: What is your point of order?

SHRI B. SHANKARANAND: Before disclosing what is my point of order, can this House be addressed in terms of defence, prosecution, investigation, etc? What is this?

SHRI RAM JETHMALANI: On a previous occasion, there was another charge of breach of privilege against Mrs. Gandhi before the same Privileges Committee. Some of my colleagues in the Privileges Committee argued that she was guilty. Mr. Shankaranand, Dr. Seyid Muhammad and Shri Hitendra Desai would kindly bear me out that I argued before the Privileges Committee for hours and hours that she is not guilty of breach of privilege....

SHRI C. M. STEPHEN: There I am on a point of order.

SHRI RAM JETHMALANI: It is a matter of record.

SHRI C. M. STEPHEN: Generally members of the Privileges Committee are not permitted to participate in the debate on the report on the salutary principle....

MR. DEPUTY-SPEAKER: There is no bar. (Interruptions).

SHRI C. M. STEPHEN: It is a very sacred and inviolable principle governing committees that what happens within the committees must not be divulged at all except what is placed on the Table of the House. Now, which member took what stand during the deliberations is a matter which is not permitted to be divulged and what Mr. Jethmalani now does is, revealing the position that was taken up in the committee by the various members, which cannot be allowed. That is a breach of privilege of the Privileges Committee and I will give notice of breach of privilege of the Privileges Committee for the revelation that he is making.

MR. DEPUTY-SPEAKER: I have heard the point of order. Mr. Jethmalani, you need not refer to the deliberations of the Privileges Committee. (Interruptions).

SHRI RAM JETHMALANI: The report of the proceedings of the Privileges Committee are a part of the proceedings of this House because they have been laid on the Table of the House already and I am quoting from them.

SHRI C. M. STEPHEN: What each member pleaded for is not stated in the report of the Privileges Committee.

MR. DEPUTY-SPEAKER: Do not refer to any deliberations in the committee.

SHRI RAM JETHMALANI: You have accused us of being biased. I do not wish to retaliate. I could have retaliated and said that those who have taken the minority view are themselves biased, but I do not wish to retaliate because we are a judicial body

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and we ought to recognise the fact that there will be contrary opinions (*Interruptions*). I am entitled to attack the report on its merits. The great Shri Hitendra Desai in his dissenting note.... (*Interruptions*).

SHRI C. M. STEPHEN: Sir, I am rising on a point of order. When I spoke and when I used the words "lacking in dignity" or something like that, objection was raised that it is an objectionable reference to the Committee, and the Speaker ruled that if I have referred to the Committee in those terms, he will look into the records and expunge them. Now there is a Note Appended to the Report of the Privileges Committee. The hon. Member is charging that member with bias, which is the same as *mala fide*. If the use of the word "*mala fide*" with respect to certain aspects of the Committee is objectionable, the use of the same word "*mala fide*" with respect to the members of the Committee in relation to the discharge of their duties is equally objectionable, it is violating the privileges of the Committee and I submit that something must be done about it.

MR. DEPUTY-SPEAKER: We shall look into it and whatever is objectionable will be removed.

SHRI RAM JETHMALANI: I am sorry that Shri Stephen always supports an argument with his lung power; I wish he supported them with facts.

SHRI B. SHANKARANAND: Whose case is he arguing? The House is entitled to know whose case it is... (*interruptions*) He is arguing the case and referring to investigation etc.... (*interruptions*) He cannot speak in those terms.

MR. DEPUTY-SPEAKER: You should not speak in those terms.

SHRI B. SHANKARANAND: The House is entitled to know....

MR. DEPUTY-SPEAKER: You listen to what he says. If there is anything objectionable, we will look into it.

SHRI B. SHANKARANAND: He is arguing as if it is a court of law. This is not a court of law.

MR. DEPUTY-SPEAKER: Please take your seat. There is no point in what you are saying. I would request Shri Jethmalani to wind up in five minutes.

SHRI RAM JETHMALANI: Only for the benefit of my learned friend. Shri Shankaranand, may I say that when this House is exercising the privilege jurisdiction as a High Court of Parliament, it is superior to any other court. It is historically in the capacity of the successor of the House of Commons, the House of Commons in its capacity as the successor of the House of Lords, which was the highest court in the realm, that these privileges have descended upon us, and we are the court. If you do not recognise that we are the court, you are welcome to that, but I will proceed on the footing that I am before the highest court.

SHRI B. SHANKARANAND: The courts do not argue the case.

SHRI RAM JETHMALANI: As I said, I will not talk about bias. But Mrs. Indira Gandhi in a solemn letter, written to the Privileges Committee, has accused the Privileges Committee of bias, and it is that charge of bias which I am going to meet. As I have told you once, it is supported by the proceedings which have been laid on the Table of the House that we have tried to exonerate her in the earlier proceeding. The charge of bias cannot be levelled against anybody in the Janata Party, because we could have made many people who are her supporters stew in their own juice.

Let us look at the Report. Her friend, Shri Hitendra Desai, when he

deals with the problem whether this body has the right to take cognisance of a contempt committed earlier, mentions a rule of procedure in our rules book, but he refuses to mention what the practice of the House of Commons is; he refuses to make any allusion or reference to the fact that the House of Commons exercises that power; he refuses to make any reference to the fact that in Tul Mohan Ram's case, this House has actually and expressly punished him for breach of contempt, though it had taken place in the life time of the earlier House. He only refers to that which he thought would support his argument. This is some kind of way of interpretation or discovery of law that every material which stares you in the face you choose to ignore by putting your head into the sand like an ostrich and then say that nothing else exists. There was a volume of evidence from some dozen witnesses who appeared before the Committee, and Mr. Hitendra Desai starts his report by saying that there is only one piece of evidence, and that is the evidence of Mr. Pal. How can you deal with a report which contains so many mis-statements, which contains so many untruths, which contains so many suppositions, so many that if they existed in the prospectus of a limited company, the directors would be prosecuted for issuing a false prospectus, but he is my colleague and therefore he is not subject to these penalties for suppressing the truth in his report.

It was said that the officers in question were not officers of this House. Mr. Stephen, while relying upon the Attorney-General's opinion, forgot that on this point even the Attorney-General gave the opinion that it does not matter at all whether they are technically officers of the House so long as they were busy collecting some information under the instructions of their own employer and superior, official superior, the Minister, and that information was of use to the House.

Anybody who rendered them incapable of finding out that information for the use of the House must be guilty of contempt. Interference with the express and clear-cut employees of the House is a separate branch of contempt, but there is a general contempt which consists of doing anything or being guilty of any illegal action which has a tendency directly or indirectly to obstruct the working of the House.

It is said that the answer was given on the 12th April. The answer was given on the 16th April because the officers on the 9th, 10th and 11th approached Maruti for a reply to the question which was to be given on the 16th, but up to—the 12th evening Mr. Rege of Maruti refused to supply the information, and he told the officers that he was going to supply the information the next day. The result was that due to Parliamentary procedure and expediency, the officers recorded the draft answer by the evening of the 12th because interference had already taken place, and it is clear that the capacity of the House to get this information was impaired by the action of Mrs. Gandhi because on the 15th Baliboi brought a letter containing the information and delivered it. . . . (Interruptions)

MR. DEPUTY-SPEAKER: You can talk about the merits of the case tomorrow. Please wind up now. (Interruptions)

SHRI B. SHANKARANAND: I have to point out . . .

MR. DEPUTY-SPEAKER: I cannot see what your point is, I just cannot see.

SHRI B. SHANKARANAND: He is going into the merits of the case.

MR. DEPUTY-SPEAKER: But you cannot go on saying that this is not a court, defence, argument etc. It does not make any sense.

SHRI B. SHANKARANAND: Please listen to me. What is wrong if I bring these things to your notice?

MR. DEPUTY-SPEAKER: Do you have a point of order? No. Then please take your seat.

SHRI B. SHANKARANAND: But that is not the day.

MR. DEPUTY-SPEAKER: One or two interruptions I can understand, but I cannot understand repeating the same thing over and over again and wasting the time of the House. I have taken enough notice of what he has stated.

SHRI RAM JETHMALANI: An argument has been made that people have voted for her in an election, that people have shown some confidence in her, and so we must forget all about it. I only wish to say this, and let me say with the greatest emphasis that I am capable of that today she represents one constituency in the country; but at a time when all of you said she was the only leader of the country, she was the Prime Minister of the country, and she was a goddess who had been enconced in the hearts and minds of the people of the country, at that time there was at least one voice if not more, and that was my voice which said that she was guilty of ordinary crimes. When I said it then, I cannot be deterred from saying that now.

MR. DEPUTY-SPEAKER: I will call the next speaker. Mr. Chatterjee.

SHRI RAM JETHMALANI: Crime, after all, has to be punished by the ordinary courts or the highest court of Parliament. The poor people of this country are not equipped to go into this issue. They can always be misled. You can mislead some people for all time, and all people for some time, and that is what she has succeeded in doing.

MR. DEPUTY-SPEAKER: Please end now. Mr. Somnath Chatterjee. You must be conscious of time. Unfortunately, the members are not conscious of time. The House has allotted only 3 hours. There are still many members who want to speak, important members like Dr. Subramaniam Swamy. I do not know what to do. I would suggest them that they can speak on the substantive motion.

SHRI SOMNATH CHATTERJEE (Jadavpur): Mr. Deputy-Speaker, Sir, with your permission, I would like to devote two minutes to what the hon. Member for Pondicherry has said. He was saying that the hon. Member for Chikmagalur having been elected has been exonerated of all her crimes. But he should remember that although the great leader was equated with the whole country, Indira is India, she had to transform herself into a small child and crawl down to Chikmagalur under the patronage of one of her proteges to get herself elected. She fled away from her own State. When she had to take a verdict of the people in her own State, the recent results have shown it.

We understand why the hon. Member for Pondicherry is so much eloquent about the new member who made her maiden speech the other day. He was talking about discipline in this country during the Emergency. I would like to ask him, the arrest of people, the arrest of Members of Parliament, under the MISA, without any charge, and keeping them without trial for years, for months together, was that discipline? Taking away the rights of workers taking away the democratic rights of the people, was that discipline? Therefore, my respectful submission and my request to the hon. Members here and, particularly to the hon. Member for Pondicherry who has spoken so much in her favour and in favour of discipline during the Emergency is that today the Parliament is

on trial, whether this Parliament will fail in the discharge of its solemn duty to the people of this country who had been made to crawl and groan under her feet when the people lost their minimum human dignities and their democratic rights, when the four individuals, the officers, who were doing their duty, who in the discharge of their official duties were collecting the information required by the Parliament, as public servants, were harassed and victimised and their families were subjected to untold and unheard of tyranny.

Now, the technicalities are being taken advantage of. We know, being a practising lawyer, the take recourse to technicalities when hardly there is any merit in the case so far as the clients are concerned. When there are no merits, the lawyer has to take recourse to technicalities. With the kind permission of the House and with your permission, Sir, if you will kindly give me a few minutes more, I would try to make my submissions on those technicalities.

The first point that has been made is that the Committee has gone beyond its jurisdiction. Mr. Stephen has referred to the motion of reference by this House which is at p. 9 of the Report. Today, we are devoting so much time to this matter. I believe, this is the first time that this august House is devoting so much time to find out whether the Privileges Committee has exceeded its jurisdiction or not. The reference to the Committee was the question of breach of privilege and contempt of the House against Shrimati Indira Gandhi and others be referred to the Committee of Privileges with instructions to report, etc. What has been referred to is the question of breach of privilege. What was the question of breach of privilege? That appears on p. 10 of the Report. It says, whether there was any interference with the officers of the Industry Ministry who were collecting information for

the purpose of preparing an answer to the question of Mr. Madhu Limaye. That is the most important thing, namely whether the channel of communication between the Minister who was to get information through his officers and House has been disrupted by reason of the actions of the former Prime Minister. Therefore, the issue or the question that was referred is whether there has been any obstruction there has been any harassment, there has been any disruption in the channel of communication. That was referred, and what the Hon. Committee has come to a decision on is at p. 122. It is very important. There is no expansion of the authority so far as the House is concerned. It says:

"The Committee are of the opinion, therefore, that Shrimati Indira Gandhi, former Prime Minister has committed a breach of privilege and contempt of the House by causing obstruction, intimidation, harassment and institution of false cases against the concerned officers . . . who were collecting information for preparing an answer and a Note for Supplementaries for Starred Question No. . . ."

Now, Sir, Mr. Stephen, the Leader of the Opposition, is indulging in hair-splitting arguments, that this was a question put by Mr. Madhu Limaye and it is not a question by Joytirmoy Bosu, but the number of the question is not important. The question is the nature of the fact complained of, namely that you are taking steps by which Parliament is being deprived of getting correct information and the Minister, who is answerable to Parliament, has chosen his own agency for the purpose for getting it—and that agency is nothing but Government officials. Therefore, there is no question of the Committee going beyond the jurisdiction. This is obvious and I am sure the House will have no hesitation in rejecting the contention.

[Shri Somnath Chatterjee]

The other point is that a good deal was sought to be made out of the fact that this is the Sixth Lok Sabha, so how can it go into a question relating to the Fifth Lok Sabha. If I may say so, the conception is not of a breach of privilege of a particular House, but a breach of privilege of the Parliament. Now, our Constitution says in Art. 79 that 'there shall be a Parliament for the Union'. Parliament is a continuous concept, although an attempt was made, during the Emergency, to give a new meaning to the Parliament. An attempt was made to make this Parliament a captive organisation of a dictatorial leader. Although that attempt was made, the glory of the Constitution is that there is a Parliamentary democracy enshrined in it, that there shall be a Parliament of India. It is a continuing process; there cannot be an interruption. May be, in the process of having Parliament you have to choose members from time to time and have to hold elections to find out the view of the people and get the views of the people, under the Constitution, as to who will rule the country. But that does not mean that the concept of Parliament comes to an end. As and when the House is dissolved, it is dissolution of the House and not dissolution of Parliament. Members may change. Members may come and go. She had gone and she has come, and the country will decide what will happen hereafter, but it does not mean that Parliament is a new Parliament. If that is so, as and when there is a by-election and a new Member comes, it is a new House! That is an un-heard of concept. Therefore, it is continuation of the same institution which is Parliament and the continuity of the Parliament as an institution nobody can dispute and doubt.

In any event the facts were brought to light during the life of this Lok Sabha. Whether a question of privilege should be taken up or not cannot

be decided in ignorance without facts being made known to the House, there is no question of taking it up.

Kindly see, if I may say so, the unreality of the contention. If on the last day of the House any Member can say anything and commit any breach and get away with it because it is the last day of the House and the new House cannot take any action, it is unthinkable.

Apart from the precedents that have been referred to by this Committee in its Report, there is a very recent precedent of this Parliament itself. In the Fifth Lok Sabha, the first Report of the Fifth Lok Sabha dealt with a matter of the Fourth Lok Sabha. Not only it was the Fourth Lok Sabha's matter, but the evidence taken by the previous Privileges Committee was also considered by the new Privileges Committee of the Fifth Lok Sabha, and the documents filed during the Fourth Lok Sabha before the Privileges Committee were used by the Privileges Committee of the Fifth Lok Sabha. Nobody took up that point. In 1969 there was the case of a Member, Shri Tulmohar Ram; this was a different matter of privilege, not of Pondicherry. He had been alleged to have been molested or interfered with in the discharge of his duties by some police officer. That was in 1969. The reference was made in 1971, although there was a previous reference, but the Fifth Lok Sabha decided that.

Mr. Stephen referred to the convention about consensus. I commend the decision of the Privileges Committee. In view of the unfortunate notes which had been appended—'unfortunate' in the sense that they have been carried to the extent of being expressed—, three different notes, the Privileges Committee, in their wisdom, have not suggested any particular punishment and has left it to the House to decide as to what punishment should be imposed. That was

very properly done because there had not been any unanimity of opinion so far as that aspect was concerned. Consensus is ideal, but because of lack of consensus, nobody can get away with committing clearest breaches of privilege of the House or Parliament.

The next point is about the officers, that these persons were not officers of the House. My respectful submission is this. The learned Attorney-General has given his opinion in this regard, as Mr. Jehmalani has rightly quoted. Mr. Stephen quoted it a little out of context. Now, please refer to page 111 of this Report. There is a quotation there from May's Parliamentary Practice; it says what are acts of contempt:

"It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty....."

Let us not go into the technically whether they were officers of the House or not. But anybody doing any act which obstructs or impedes either House of Parliament in the performance of its functions..

MR. DEPUTY-SPEAKER: Please conclude.

SHRI SOMNATH CHATTERJEE: I will conclude in a minute.

There is the clearest finding of the Privileges Committee on page 113:

"It is contempt because in the oath words of May these are ways which directly or indirectly obstruct or impede Parliament in the performance of its functions."

Parliament had the right to obtain information, the right to get the correct information. The passage of truth, the channel of communication by which the truth was to come before the House—it was the right of the Members to get at the truth—was

disrupted deliberately. Therefore, there is no doubt that, in the performance of the duties and functions of this House, there had been the clearest interference which prevented the Members of this House from getting the correct information.

As Mr. Saugata Roy has very correctly said, this is not a matter which should be looked at from a narrow point of view. After all, Parliament is going into a matter of great importance, and because an ex-Prime Minister is involved, we cannot fail to do our duty. We have to do our duty. The people of this country know what happened; there have been the disclosures made by the Shah Commission; the people have realised because they themselves were the citizens....

MR. DEPUTY-SPEAKER: Please conclude.

SHRI SOMNATH CHATTERJEE: We are surprised when a person who calls herself a responsible leader, a leader of the Opposition, is trying to take refuge under technicalities....

MR. DEPUTY-SPEAKER: I am sorry; you will have to conclude now.

SHRI SOMNATH CHATTERJEE: Defying the authority is in her habit, in her blood. She has defied courts of law, she has defied the Shah Commission, she has deliberately defied the Committee of Privileges. Not only interference in the discharge of duties by those officers, she has committed contempt by refusing to take which is itself an act of contempt....

MR. DEPUTY-SPEAKER: When are you going to conclude? I am sorry.

SHRI SOMNATH CHATTERJEE: She has cast aspersions on the Committee of Privileges which is also a breach of privilege. The Committee had jurisdiction to go into the matter and their report should be taken into consideration.

MR. DEPUTY SPEAKER: I am very sorry I am very lenient with the Members. Mr. Jethmalani took more time than he should have taken and I could not stop. Mr. Chatterjee also took more time than he should have. I was asking him repeatedly to wind up. Hereafter don't expect me to wait. I will just cut your speech abruptly if you do not stop. That would be very unfortunate because you would not be able to end your speech properly. That is why I have been telling you to please wind up.

Mr. Banatwalla—he is not here.

Mr. Raj Narain—only ten minutes.

श्री राजनारायण (रायबरेली) : श्रीमान् मुझे बहुत ही अफसोस के साथ कहना पड़ता है कि हमारे मित्र स्टीफेन साहब ने अपने बौद्धिक चमत्कार का दुरुपयोग किया है। अनासक्त ढंग से एक लीगल क्विजिंग में फंसना और सदन के समय को बरबाद करना अच्छा नहीं है। मेरे ऊपर श्रीमती इंदिरा नेहरू गांधी ने प्रिविलेज मुव किया है। मैं ने खड़े हो कर कह दिया है कि मैं टेकनिकलिटीज का नेल्डर नहीं लूंगा। प्रिविलेज का मुवाबल हमारे ऊपर उठाया गया है, इसलिए सदन खल कर के बहस करे और अगर मैं दोषी पाया जाऊं तो मुझे सजा दी जाय। यह स्पिरिट होनी चाहिए। यह स्पिरिट होती है डेमोक्रेट को और मैं चाहता हूँ कि यही स्पिरिट श्रीमती इंदिरा नेहरू गांधी की भी हो। (ध्वजवाज) . . .

अच्छा, अब अच्छे तरीके से इसको देखा जाय कि क्या इस में अबमान सदन का दुष्प्रभाव है या नहीं? क्या अफसरों के कार्य में बाधा पड़ी है या नहीं? क्या जो सूचना सदन को मिलनी चाहिए थी वह सूचना देने में विवकल पेश की गई या नहीं? यह सारी की सारी चीज साफ है कि हाँ, बाधा डाली गई, उन को सजा दी गई, फंसवाया गया, उन को धमकाया गया, डरवाया गया, तमाम क्षुराफसत की

गई। मैं भाई स्टीफेन से नम्रतापूर्वक जानना चाहता हूँ कि क्या किसी भी प्रधान मंत्री का यही काम है?

एक बात मैं और कह दूँ कि मोरारजी भाई को तो घायल लोग जानते हैं, हम से ज्यादा समय से जानते हैं। मैं तो उन को कम समय से जानता हूँ। एक ही बात समझ लें। वह रामायण के भी बड़े भक्त हैं, गांधी ज के भी भक्त हैं।

अरणागत कहें जे तजहि निज अर्नाहत-
अनुमानि ।

ते नर पायर पाप मय तिनहि बिलोकत हानि ॥

अगर श्रीमती इंदिरा नेहरू गांधी बिना अपने साथियों की मदद लिए सीधे आ जाय और कहे कि मैं करबद्ध प्रार्थी हूँ इस सदन से कि हे सदन तुम सबोंपर हो, मेरे अपराध को क्षमा करो। सदन की जरण में आएँ तो समझता हूँ कि मोरार जी भाई शायद क्षमा कर दें। मैं न चाहूँगा तो भी क्षमा कर दंगे। मैं ने अपनी राय उन को दे दी है, यह मैं बता दूँ।

हमारे मित्र स्टीफेन साहब लाइवर हैं। देखिए, श्रीमती इंदिरा नेहरू गांधी का यह एक जुमं नहीं है। अगर मुझे पूछा जाय तो तो मैं ने आवरणीय थी जब प्रकाश नारायण भी को एक पूरी सूची दे रखी है कि इंदिरा जी क इन इन कामों की जर्रा जांच करावें जब कि मोरार जी भाई हम से असहमति प्रकट करते हैं कि तुम भी सूटें ही इधर से उधर खोज करत हो, अगर अब मैं देखता हूँ कि अब हमारे ही रास्ते पर सब आ गए। (ध्वजवाज)

मैं जो आर्डर पढ़ रहा हूँ वह 12 जून, 1975 का है :

"The Respondent No. 1 that is, Shrimati Indira Nenu Gandhi, has been found guilty of having committed a corrupt practice under Section 123(7) of the Representation of the People Act by having obtain-

ed the assistance of the Gazetted Officers of the State Government of U.P. viz., the District Magistrate Rae Bareilly, the Superintendent of Police, Rae Bareilly, the Executive Engineer, P.W.D. Rae Bareilly, Engineer, Hydel Department, Rae Bareilly, in furtherance of her election prospects in the manner indicated in my finding on Issue No. 2. She has further been found guilty of having committed another corrupt practice under Section 123(7) of the Representation of the People Act by having obtained the assistance of Shri Yashpal Kapur a Gazetted Officer in the Government of India, holding the post of Officer on Special Duty in the Prime Minister's Secretariat, for the furtherance of her election prospects in the manner indicated in my finding on Issue No. 1 (Interruptions).

SHRI R. V. SWAMINATHAN (Madurai): How is it relevant?

SHRI P. O. VENKATSUBBAIAH (Nandyal): In a point of order. We object to this. It is not at all relevant. Please discipline him.

MR. DEPUTY-SPEAKER: How is it relevant here? Please be relevant to the motion.

श्री राज नारायण : श्रीमती इन्दिरा नेहरू गांधी की यह धारदा है कि वे सरकारी कर्मचारियों के काम में हस्तक्षेप करती हैं, उनसे बराबर अपना काम लेती रहती हैं और बराबर इल्लीगल तथा धनकांस्टीट्यूशनल काम करवाती हैं। इसीलिए उन्होंने कह दिया कि मैं इनके एलेक्शन को वायट डिक्लेयर करता हूँ और 6 साल के लिए डिबार करता हूँ। स्टीफन साहब, यही वह जजमेंट है 12 जून, 1975 का जिसने इमर्जेंसी लागू करवाई। (अवधान) :

श्री स्टीफन साहब इतना पीड़े हैं, वहां से यहां और यहां से वहां, उन्होंने भीतकी हाथ मारा है और अब हम उनके प्वाइन्ट का ही

जवाब दे रहे हैं। अब ये क्यों परेशान हो रहे हैं? घरे भाई, हम क्या नये हैं? हम तो सन् 1952 से इनको देख रहे हैं। हम तो बराबर अपोजीशन में रहे हैं और इनका बारीकी से अध्ययन किया है। हम जानते हैं किसे प्रिविलेज बनता है और किसे नहीं बनता है। हम जानते हैं कहां प्वाइन्ट थाफ़ धार्डर उठता है और कहां नहीं उठता है। इस मामले में श्री थाफ़ प्रिविलेज का मामला ठीक ठीक बनता है और श्रीमती इन्दिरा जी को सख्त से सख्त सजा मिलनी चाहिए।

यह जो कहा गया है कि जनता ने सजा दे दी तो जनता ने जो सजा दी वह तो उन्हें जनता के साथ जो बुराई की थी, पीपुल्स का जो कंटेम्प्ट किया था उसके लिए पीपुल्स ने सजा दी लेकिन पार्लेमेंट का जो कंटेम्प्ट किया गया उसके लिए यहां सजा दी जानी चाहिए। (अवधान) यह मैं केवल स्टीफन साहब का जवाब नहीं दे रहा हूँ बल्कि उन धनमैन लोगों को भी जवाब दे रहा हूँ जोकि यहां नहीं हैं। इसलिए थाप जो यह कहते हैं कि जनता ने सजा दे दी तो जनता ने सजा दी है उनके पुराने पापों की, जनता ने तीस साल तक इस मुल्क में जो मुसीबत भोगी उसकी सजा दी। लेकिन जो इस सदन का प्रवमान हुआ है उसके लिए यह सदन सजा क्यों न दे? हम को स्टीफन साहब बतलायें क्यों न दें— स्टीफन साहब थाप पढ़े लिखे हो, अच्छे बकील हो, हम भी बकालत पास हैं। मैं कचहरी नहीं गया हूँ, क्योंकि हमें मालबीय जी ने कहा कि तुम जनता की बकालत करना, पैसा पैसा करने वाली बकालत नहीं। इसलिये मैं कह रहा हूँ स्टीफन साहब ईमानदारी से खड़े हो कर बतलायें—मान लीजिये, 4 साल के बोद चुनाक हो और दूसरा सदन भा जायें, दूसरे मेम्बरें भा जायें और उस समय प्रवर मालूम हो कि जो 1977 मार्च में चुनाव हुआ था, उस समय राज नारायण ने सदन का कंटेम्प्ट किया था, तो उस समय क्या मेरे खिलाफ कंटेम्प्ट चलेगा या नहीं?

कृष्ण बालगोपी स्वस्वयः चलेगा ?

श्री राज नारायण : जल्द चलेगा और हमारे स्टीफन साहब को मौका मिलेगा, बड़े जोर से चिल्लायेंगे कि हमें मालूम हुआ है, मैं प्रलियेस्ट प्रपार्चमिटी प्रवेज कर रहा हूँ, इस लिये सदन के सामने चिल्ला रहा हूँ गला फाड़कर बोलेंगे—हांलाकि मुझे मालूम नहीं है कि वह उस समय यहां होंगे भी या नहीं—लेकिन वह जरूर चिल्लावेंगे।

बिना किसी बात के तर्क करना मेरी श्रादत नहीं है। इसी लिये आप ने देखा है कि कभी कभी मैं अपने दल के लोगों को भी क्रिटिसाइज कर देता हूँ, कर्ष: वकी प्रधान मंत्री जी के बारे में भी बोल देता हूँ, क्योंकि यह हमारी श्रादत है कि सब बात बोलो, सब बोलो, ज्यादा दिन जिन्दा नहीं रहना है, झूठ बोल कर क्या करोगे अमत्य के मार्ग का अवलम्बन कर के चलने में कोई फायदा नहीं है।

SHRI C. M. STEPHEN: This conciliation talk can be outside. Why have it here?

श्री राज नारायण : इस सब का मतलब यही है कि इन्दिरा नेहरू गांधी बच जाये। जो भाई लोग चाहते हैं, हम भी यह चाहते हैं कि इन्दिरा जी रियलाइज करें कि जब वह प्रधान मंत्री थी, उन्होंने बहुत भयंकर गलत काम किये, उन्होंने अफसरों के काम में बाधा डाली और उन्होंने इस सदन को सत्य तक पहुंचने नहीं दिया। इस से बढ़ कर इस सदन का कन्टेम्प्ट बूसरा कोई नहीं है और उस व्यक्ति के द्वारा जो देश का प्रधान मंत्री रह चुका है— 11 वर्ष तक। इस के बाद भी यदि इस सदन का कोई सदस्य कहता है कि यह कन्टेम्प्ट नहीं है या सदन इस पर विचार न करे—तो यह बात मेरी समझ में नहीं आती है।

हां, एक बात मैं प्रिवलेज कमेटी के बारे में भी कहना चाहता हूँ। प्रिवलेज कमेटी ने अपने कर्तव्य का पालन नहीं किया। क्या कोई कोर्ट

सारी गवाही ले लें, सारा मामला समझ लें और कहे—हम समझते हैं कि अपराधी हैं, लेकिन सजा मोरारजी देसाई देंगे—जाह रे, प्रिवलेज कमेटी की अकर्मण्यता, शिथिलता? प्रिवलेज कमेटी ने अपने को इतना प्रलय क्यों समझा? इसलिये मैं प्रिवलेज कमेटी पर दोषारोपण करता हूँ कि जब प्रिवलेज कमेटी पाती है कि फलान व्यक्ति दोषी है, अपराधी है, इतने हाउस का कन्टेम्प्ट किया है, तो उनको हिम्मत के साथ कहना चाहिये था कि इन को यह-यह सजा दी जा सकती है। सदन उस को मानना है या नहीं मानता है— यह अलग बात है। लेकिन उन्होंने हाउस पर छोड़ दिया—यह उबारता क्यों? प्रिवलेज कमेटी ने अपने कर्तव्य को पूरा नहीं किया, इसके लिये मैं प्रिवलेज कमेटी को बहुत निन्दा तो नहीं करता हूँ, मगर हमारे दिल में ठेस है, हमारे दिल पर चोट लगी है कि प्रिवलेज कमेटी को ऐसा काम नहीं करना चाहिये था। उन को मुक्त कंठ से सही राय देनी चाहिये थी कि हमारी यह राय है, क्योंकि उन्होंने सारे माहौल को देखा था, सारी गवाहियां ली थी, सारे लोगों को सुना था और सब को सुनने के बाद उन्होंने उन को दोषी पाया था, इसलिये उन को सजा भी बतानी चाहिये थी। दोषी पावें हम और सजा दें—प्रयामनन्दन मिश्र—यह क्या तमाशा है। हम को तो सजा देना नहीं है, लेकिन अगर मुझ को सजा देनी हो और यह सदन मेरे ऊपर छोड़ दे, तो मैं यह कहूंगा—इन्दिराजी, आप थोड़ा तिहाड़ जेल की सैर कर लो। तिहाड़ जेल की सैर से पता लग जायगा कि एमरजेन्सी में संसद् सदस्यों को जेल में रखने का मजा क्या है, यह यात्रा कितनी लाभदायक और स्वास्थ्य-वर्धक रहती है। जहां पर रानी जयपुर थी, राजमाता ग्वालियर थी। वहां हमको एक दिन अचानक गेट पर राजमाता ग्वालियर मिल गयीं। इस पर घर निवास से अबाव-उलख कर लिया गया। हमारी अचानक उन से मुलाकात हो गयी थी। हम ने जयप्रकाश जी के लिए घर मंत्री और स्वास्थ्य मंत्री को चिट्ठी लिखी थी कि उनके स्वास्थ्य की जांच करें। इस पर

यह कहा गया कि राज नारायण का तिहाड़ जेल में रहना खतरनाक है, उन्हें हरियाणा सरकार अपने यहाँ रखने को तैयार है, इसलिए उनका तबादला कर दिया जाए। इमीडियेटली ही शुद्ध बी ट्रांसफर। हमारा ट्रांसफर विद्वान 24 आवर्स कर दिया गया। (अवधान)

18.00 hrs.

हम कहते हैं कि इंदिरा जी इस सदन में आयें और सही भायनों में इस सिचुएशन की सेबिटी को समझें। अगर वह ऐसा करती हैं तो एक ही रास्ता उन के पास है। जैसा राम ने विभीषण के साथ किया था—

शरणागत कहें जो तजहि निज अनहित अनुमानि ।

जो अपनी शरण में आ जाये, उस के बारे में यहाँ सोचें कि इस को अगर हम छोड़ देंगे तो हमारा नुकसान होगा। ऐसा कायर सोचते हैं, बीर नहीं सोचते हैं लेकिन उन्हें इस सदन में आ कर धना मांगनी चाहिए। यह सदन बीर है, सदन मक्षम है, वह उन्हें छोड़ सकता है अगर वह यहाँ आ कर कहें। (अवधान)

जिस प्रकार से यहाँ हल्ला करने वाले हैं उसी प्रकार से लोगों ने राम से भी कहा था कि विभीषण को ठुकरा दो। लेकिन राम ने कहा कि विभीषण मेरी शरण में आया है, वह

मेरा शरणागत है और इसको मैं अपनी शरण में रखूंगा। अगर इंदिरा गांधी शरण में आती हैं (अवधान)

मेरा कहना वह है कि हल्ला करने से कोई फायदा नहीं है। अगर वह सदन की शरण में आयें तो सदन विचार करे। यह हमने राम की परम्परा आप को बता दी है। (अवधान) वरना उन को तिहाड़ जेल भेज दो। (अवधान) अच्छा लेनिन की बात सुनों। आप कहते हैं कि लेनिन को कोट करों। रेबोल्युशन के बाद एक महिला जेल में डाल दी गयी। उस ने एक चिट्ठी उन के पास भिजवायी। चिट्ठी में लिखा था कि हम ने तुम्हारी जिन्दगी बचायी, तुम्हारे प्राण बचायें हैं, इस लिए हमारे प्राण भी बरखा दो। इस पर लेनिन ने कहा कि इस ने राज्य के साथ विश्वासघात किया है, इसलिए इस को फांसी होनी चाहिए। यह लेनिन ने कहा था। अगर हम लेनिन नहीं हैं, हम गांधी है और लेनिन और गांधी में फर्क है।

18.05 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Friday, December 8, 1978/Agrahayana 17, 1900 (Saka)