giving military aid either directly or indirectly through the third powers on sale or as free gift. In the early Fifties and Sixties, America was busy arming Pakistan to the teeth ostensibly against the Communist aggression; but later on it was found that the arms and ammunitions supplied by America to Pakistan were used neither against Peking nor against Moscow, but against New Delhi. In spite of that we find America operating its submarine Ghazi in the Indian ocean as a proxy though it is loaned to Pakistan, which America is doing, for maintaining its influence in the Indian ocean. The U. S. S. R. happens to be the main supplier of ammunitions and arms to Pakistan till last year and we find that the Deputy Chief of Soviet Navy, Vice-Admiral Smirnov visited Pakistan and Russia is assisting in modernising and equipping the port of Gwadur. We find that though Pakistan is not starved of military equipments, there are other nations also like Czechoslovakia which have entered the fray. And recently we find that Czechoslovakia has supplied plenty of these armoured personnel carriers to Pakistan. In addition to that also, Sir, West Germany has also entered into collaboration with Pakistan producing Anti Tank Cobra Missiles in complete contravention of Bonn's declared policy of 1967, not to inject arms inside the areas of tension. Recently we find that the Defence Minister gave an answer on the floor of this House on the 26th of March that a British ship carrying arms for Pakistan has left French port. The point is this, that any assistance given to Pakistan by any country is bound to react on the sovereignty and integrity of India.

So, since this particular matter is under consideration and is now being finalised, I would like to know what prevents the hon. Minister from flying direct to Washington and in reflecting the opinion of the Indian people there and telling them that India no longer has any faith in its declaration of friendship with America and in finding out whether Washington is really concerned with the security and integrity of India and also telling them that India will react sharply as it will jeopardise the realationships between the two countries? In addition, it will be a monument of brinkmanship of American policy and it will be more or less tantamount to handing over South-East Asian countries on a platter to our comrades?

The second point that I would like to know from the hon. Minister is that since the Tashkant Declaration at the initiation of U. S. S. R. Pakistan has taken advantage of it but only India has been observing the provisions of the agreement. Pakistan is continuing to flout this. The Indian security is also being threatened by Pakistan's collusion with China.

SHRI SURENDRA PAL SINGH: The main question which the hon. Member posed was whether we took any special steps to bring this to the notice of the American Government. The Foreign Minister conveyed our views to the U. S. Government. Our view with regard to the supply of military equipments to Pakistan which, we feel, will endanger our security and also create instability in the whole of this region has already been conveyed to the U. S. Government on a number of occasions. In 1969 alone this matter was raised with the U. S. authorities four times and the Foreign Minister, when he was visiting U. S. A. in connection with the U. N. General Assembly meeting also took that occasion to explain this to Secretary, Rogers and the same thing has been explained to the U. S. Govt. through our Embassy. Our views were noted by them. I am sure that before they take this particular decision, they will take our viewpoints into consideration.

SHRIMATI SUSHILA ROHATGI: What about China? Our security is now in jeopardy.

SHRI SURENDRA PAL SINGH: This is about the supply of tanks from Turkey to Pakistan.

12.53 hrs.

QUESTION OF PRIVILEGES RE: SUPREME COURT NOTICES TO CERTAIN M.P's.

MR. SPEAKER: Now this is about the privilege issue by Shri Madhu Limaye and Shri S. M. Banerjee.

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय मझे पता चला कि इस सदन के पांच सदस्यों के खिलाफ जिन के नाम हैं, संजीव रेड्डी, नरेन्द्र कुमार साल्वे, एस एम बानर्जी, वाई

[श्री मधु लिमये]

बी० चव्हाण और शंकरानन्द पर सुप्रीम कोर्ट के द्वारा नोटिस जारी किया गया है शंकराचार्य वाले मामले में। इस नोटिस में यह कहा गया है :

> "Notice is hereby given to you that if you wish to contest the appeal, you may enter appearance within thirty days of the receipt of this notice before this Court either in person or by an advocate in the court to be appointed by you in that behalf and take such part in the proceedings as may be advisable and take further notice that in default of your appearance within the time prescribed, the appeal will be proceeded with and determined in your absence and no further notice in relation thereto shall be given to you."

इस सदन में जो मामला उठाया जाता है, जो भाषण किये जाते ह या वोट दिया जाता है, उसके बारे में संविधान की धारा 105 (2) के तहत बिल्कुल साफ शब्दों में कहा गया है कि अदालत में कोई कार्रवाई हो नहीं सकती है। जब यह मामला हाई कोर्ट में आया था तब हम लोगों ने यह सवाल यहां पर उठाया था लेकिन बाद में हाई कोर्ट ने इस मामले को खारिज कर दिया। उसके पश्चात ऐसा लगता है जिन्होंने यह केस चलाया था, तेज किरण जैन आदि लोगों ने, उन्होंने दिल्ली हाई कोर्ट से सर्टिफिकेट प्राप्त किया अपील करने का और इस सर्टिफिकेट को ले कर ये लोग सुप्रीम कोर्ट के पास गए और उसके ऊपर यह नोटिस जारी किया गया है।

इसके बारे में दो बातों में से किसी एक विकल्प को हमें स्वीकारना है। या तो सुप्रीम कोर्ट के द्वारा जो नोटिस जारी किया गया है उस को हम सदन की मान हानि समझें, सदन के विशेषाधिकारि का भंग समझें और अदालत के खिलाफ कार्रवाई करें। लेकिन अदालत के खिलाफ कार्रवाई करना मेरी राय में उचित नहीं है। इस झगड़े में हम को नहीं पड़ना चाहिये क्योंकि खामखवाह पार्लिमेंट और सुप्रीम कोर्ट में संघर्ष और झगड़ा मैं भी करना नहीं चाहता। लेकिन साथ साथ यह भी साफ बात है कि संविधान की धारा 105 और उप धारा 2 भी बिल्कुल स्पष्ट है। मेरी राय में तो सुप्रीम कोर्ट को यह नोटिस जारी नहीं करना चाहिये था। लेकिन यह नोटिस जारी किया गया। जब इसके बारे में सभी निर्णयों को मैं पढ़ना नहीं चाहता हूं। एक ही बात मैं कहना चाहता हूं। जो मामला इंग्लैंड में तीन चार सौ साल पहले तय हुआ था क्या उसी युग में सुप्रीम कोर्ट हम को ले जा रही है। जब एलिजाबैथ रानी के जमाने में हाउस आफ कामंज अपने अधिकारों को साबित करने का प्रयास करता था तो सर एडवर्ड कोक ने एक मज़ेदार भाषण किया था। आपकी जानकारी के लिए एक ही वाक्य मैं पढ़ता हूं। उन्होंने स्पीकर को डांटते हुए कहा था :

> "Liberty of speech is granted to you, but you must knew what privilege you have; not to speak everyone what he listed, or what cometh in his brain to utter, but your privilege is "aye" or "no".

सिर्फ हां या न करने का आपको अधिकार है। यह उस समय कहा गया था। लेकिन उसके बाद बड़ी लड़ाइयां राजा और हाउस आफ कामंज के बीच में होती रही और पार्लियामेंट के सदस्यों को जो भाषण की स्वतंत्रता का अधिकार है वह इंग्लैंड में प्रस्थापित हो गया। हमारे संविधान में भाषण की स्वतंत्रता के अधिकार को सुरक्षित रखा गया है। उसके बारे में शकधर साहब की किताब में जो एक अनुच्छेद है सिर्फ उसको मैं पढ़ना चाहता हूं और ज्यादा सफाई की जरूरत तब नहीं पड़ेगी। (इंटरप्शंस) जिस तरह से इंग्लैंड में मेज पार्लियामेंटरी प्रेक्टिस को संसदीय प्रक्रियाओं के सम्बन्ध में कोट किया जाता है, उसी तरह से हम यहां मेज के साथ साथ कौल और शकधर को चलाते हैं। इस में यह कहा गया है :

"For his speech and action in Parliament a member is subject only to the discipline of the House itself and no proceedings, civil or criminal, can be instituted against him in any court in respect of the same. Absolute privilege has been given in respect of anything said or any vote given in Parliament or a committee thereof so that members may not be afraid to speak out their minds and freely express their views. Members are therefore completely protected from any proceedings in any court even though the words uttered by them in the House may be false and malicious to their knowledge. Though a speech delivered in the House by a member of the House may amount to contempt of court, no action can be taken against him in a court of law, as speeches made in the House are privileged".

19वीं धारा में साधारण जनता को भाषण की स्वतंत्रता का अधिकार है और उसके ऊपर कोई अगर किसी की बदनामी करे तो केस चल सकता है। अदालत भी बदनामी को लेकर केस चला सकती है। संविधान की शायद 121 धारा में कहा गया है कि सुप्रीम कोर्ट की आलोचना यहां पर नहीं करनी चाहिये।

SHRI RANDHIR SINGH: This is very clear; everybody agrees on this.

श्री मधु लिमये : लेकिन बावजूद इसके अगर कोई करे तो उस पर नियंत्रण आपको करना है, इस सदन को करना है। अदालत के द्वारा या सरकार के द्वारा इसके बारे में कोई कार्रवाई नहीं हो सकती : मैं यह कह रहा हूं कि यहां मनमाने ढंग से किसी की भी बदनामी या मानहानि लोग अदालत की करें, सुप्रीम कोर्ट की करें, दूसरे लोगों की करें तो उसका जो नियंत्रण है, मैम्बरों को जो अनुशासित करना है, यह काम आपका और सदस्यों का है और इसलिए धारा 105 और उप धारा 2 में यह अधिकार हम को दिया गया है। अगर इन अधिकारों का उल्लंघन होगा और सुप्रीम कोर्ट और हाय कोर्ट में मामला चलने लगेगा तो सदन में एक डर उत्पन्न होगा और सदस्य निर्भीक हो कर अपने विचार प्रकट नहीं कर पाएंगे।

मैं यह नहीं चाहता कि आप सुप्रीम कोर्ट के खिलाफ कोई मनमानी कार्यवाही करें। लेकिन आप मेहरबानी कर के इन पांचों मेम्बरोंको यह आश्वासन दें कि सुप्रीम कोर्ट का चाहे जो भी निर्णय हो मैं उम्मीद करता हूं कि सुप्रीम कोर्ट इस मामले को खारिज कर देगा, लेकिन अगर उस ने किसी कारण से ऐसा न किया, तो —इस मामले को लेकर—मैं माननीय सदस्यों के अन्य कामों के बारे नहीं कह रहा हूं—उन को दंडित करने की इजाजत किसी को नहीं मिलेगी और उन को पूरा संरक्षण दिया जायेगा।

13 hrs.

SHRI S. M. BANERJEE (Kanpur): I must thank my hon. friend Shri Limaye for raising this question as a matter of privilege.

When I got the notice, I also immediately sent a notice of privilege, and I must tell you that when we are given immunity or protection under article 105, there should be no cause for any court, whether the High Court or the Supreme Court, to send us a notice or try to involve us in a case for what we have done in this House.

You will remember that at that time Dr. Sanjiva Reddy was the Speaker of this House, and this thing came up on a calling attention notice given by Mr. Salve. When the whole thing was being discussed about Jagadguru Sankaracharya and his various statements, I in my wisdom said he should be brought and laid on the Table of the House for circulation. That is exactly what I said. I did not say anything else, and Dr. Sanjiva Reddy in his wisdom said that he could not be laid on the Table, he should be put under the Table. These are the two charges against me and Dr. Sanjiva Reddy. It was just in joke.

I am afraid that if this House does not protect the privilege of the Members, then there will be a situation of

[Shri S. M. Banerjee]

a serious confrontation between the two bodies. Both the Supreme Court and this House are the creatures of the Constitution, and when we have regard for the Supreme Court Judges, for the judiciary; they should have equal regard for the Members of this House. After all, we are the law-makers, we are not subservient to the Supreme Court, let the Judges realise that. That is why I would plead with you that this should be referred to the Privileges Committee, because last time when we were asked to appear before the Court, we were advised by the Law Minister and also by the Chair that they took serious exception to such things and we were asked not to appear, but again the notice has come to us. Whether the High Court is responsible or the Supreme Court is responsible we do not know, but the notice has been signed by the Assistant Registrar of the Supreme Court, and it has been delivered to us. So, I would request you in all fairness to refer this matter to the Privileges Committee, so that once for all it may be decided by a Committee of this House whether such rights and privileges of the hon. Members are duly protected by you or not. That is why I appeal to you and your sense of impartiality and justice. As the custodian of this House, you are upholding the functioning of parliamentary democracy in this House. So, this case should be referred to the Privileges Committee.

I do not want any confrontation between this House and the Supreme Court, but if the Supreme Court behaves in this fashion, with scant regard for the hon. Members of this House, I am afraid I will have to say that the Supreme Court is also guilty of contempt of this House, and it should be referred to the Privileges Committee.

THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON): I had an opportunity to refer to this matter on an earlier occasion when it was raised and I said, I repeat it now, that article 105 gives unlimited privilege to Members of Parliament and to Parliament. Whatever is stated within Parliament shall not be the subject matter of any proceedings in a court, that is the position. Parliament itself has imposed restrictions regarding speeches. They are contained in rules 352, 353 etc. I offered on the earlier occasion to request the Attorney-General to point out this matter to the High Court, and on his doing so, the suit was dismissed. Now also I think the better course would be to charge the Attorney General with the duty of pointing out to the Supreme Court that this is a matter which cannot be proceeded against on account of article 114.

SHRI SONAVANE (Pandharpur): Are the Supreme Court Judges ignorant?

SHRI GOVINDA MENON: The question was raised when I made this offer with respect to the High Court also. I do not know whether the summons which issue is a judicial order or a ministerial order. Anyhow, I shall ask the Attorney-General to appear in the Supreme Court and point the provisions of article 105. I suppose the House will agree to that course and keep this matter.... (*Interruptions.*)

AN HON. MEMBER: In the meantime Members will have protection?

SHRI GOVINDA MENON: Members need not appear.

MR. SPEAKER: There is not much need for any controversy over it. The position is just the same as was discussed earlier in the House. I very much wish that the Supreme Court had realised the powers, privileges and immunities of this House even before admitting this petition. The position earlier pointed out by the Law Minister should have sufficed. I am really surprised that inspite of that leave to appeal was granted by the High Court. I do not go into the merits of the question. They are wise persons. But so far as this House is concerned we have got rights and privileges coming to us for centuries under the British conventions. As Mr. Limaye pointed out, they may not force us into a repetition here of those ancient times. You know what a difficult period that was. About nine Speakers in Britain were hanged either by the King or the orders of the house or courts. I do not think they will make the tenth one here. I can never imagine I should accept the summons. I ask Members concerned not to appear before the Supreme Court and I request the Law Minister to take other steps. I quite appreciate the position he has rightly taken; he should point out to the Supreme Court that this matter was discussed and he should arrange to explain

the constitutional point to them. There should have been no need to repeat it. Still they are the Supreme Court; it does not matter if he repeats it there also. If anything comes again, we shall be at liberty to discuss the matter. Papers to be laid.

SHRIMATI SHARDA MUKERJEE (Ratnagiri): On a point of order.

MR. SPEAKER: That part of the agenda is over.

SHRIMATI SHARDA MUKERJEE: We look upon you as the custodian of our rights in this House. There is a very important point about which I met you a month ago and it is regarding the Air Force aircraft in which Group Capt. Das crashed.

MR. SPEAKER: You must come through some regular motion.

SHRIMATI SHARDA MUKERJEE: I am very reluctant to raise this matter in the House. As I mentioned....

MR. SPEAKER: I have asked papers to be laid.

SHRIMATI SHARDA MUKERJEE: What is this? Whom are you protecting—the Government? Or the rights of Members?.... (*Interruptions.*)

13.8 hrs.

PAPERS LAID ON THE TABLE

ACCOUNTS OF I. I T., DELHI AND ANNUAL REPORTS OF NATIONAL INSTITUTE OF FOUNDARY & FORGE TECHNOLOGY, AND INDIAN INSTITUTE OF SCIENCE

THE MINISTER OF EDUCATION AND YOUTH SERVICES (DR. V. K. R. V. RAO): I beg to lay on the Table:—

(1) A copy of the Certified Accounts of the Indian Institute of Technology, Delhi for the year 1968-69 along with the Audit Report, therein, under sub-section (4) of section 23 of the Institute of Technology Act, 1961.

(2) A copy of the Annual Report of the National Institute of Foundry and Forge Technology, Ranchi, for the year 1968-69.

(3) A copy of the Annual Report of the Indian Institute of Science, Bangalore and the Statement of Accounts for the year 1968-69. [*Placed in Library. See* No. LT-3072/70.]

ANNUAL REPORTS OF DURGAPUR PROJECTS LIMITED AND SINGARENI COLLIERIES COMPANY LTD.

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND CHEMICALS AND MINES AND METALS (SHRI JAGANNATH RAO): I beg to lay on the Table:—

(1) A copy of the Annual Report of the Durgapur Projects Limited, Calcutta for the year ended the 31st March, 1969 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon, under sub-section (3) of section 619A of the Companies Act, 1956 read with clause (c) (iii) of the Proclamation dated the 19th March, 1970 issued by the President in relation to the Sate of West Bengal. [*Placed in Library. See* No. LT-3073/70.]

(2) A copy each of the following papers under sub-section (1) of section 619A of the Companies Act, 1956:—

(i) Review by the Government on the working of the Singareni Collieries Company Limited, for the year 1968-69.

(ii) Annual Report of the Singareni Colleries Company Limited, for the year 1968-69 along with the Audited Accounts.

[*Placed in Library. See* No. 3074/70.]

REPORT ON WORKING OF COMMISSION OF RAILWAY SAFETY

THE MINISTER OF TOURISM AND CIVIL AVIATION (DR. KARAN SINGH): I beg to lay on the Table a copy of the Report on the working of the Commission of Railway Safety for the year 1968-69. [*Placed in Library. See* No. LT-3075/70.]