

brought within the ambit of the Bonus Act. I have stated specifically that every employee means the employee of Central or State Governments or Local Bodies, all public institutions, including departmentally-run undertakings like Railways, P&T, Defence, Civil Aviation, Banks and Insurance Companies."

MR. CHAIRMAN: Now you can resume your seat...

SHRI A. K. ROY: But, ...

MR. CHAIRMAN: No question of 'but'. Kindly resume your seat. I have rung the bell several times. I am calling the next speaker. Mr. Harikesh Bahadur—not here. Mr. Chitta Basu—not here. Prof. Mavalankar.

PROF. P. G. MAVALANKAR (Gandhinagar): Madam, I am very glad that the Janata Government has come forward with this Bill replacing an ordinance, because, in respect of what was done in a most shabby and cruel manner during the emergency, by letting the workers lose their right of a well earned bonus, now, the new Government has at least restored that situation and the workers are now going to continue getting the bonus. But Madam Chairman, it is not a mere question of giving bonus to the workers. The question is, how the Parliament look at it ..

14.58 hrs.

[Mr. SPEAKER in the Chair]

MR. SPEAKER: This debate will continue later.

MOTIONS RE: THIRD REPORT OF
♦ COMMITTEE OF PRIVILEGES—
contd.

MR. SPEAKER: Mr. Dhondge.

श्री एच० एल० पटवारी (मंगलदाई) :
अध्यक्ष महोदय, मेरा प्वाइंट ऑफ़ ऑर्डर है ।

MR. SPEAKER: You can't have a point of order in a vacuum. Mr. Dhondge.

श्री केशवराव धोंडगे (नांदेड) : मर साहब, मैं बड़े प्रदब के साथ कहना चाहता हूँ कि वह जो प्रिविलेज कमेटी की फाइंडिंग है और मानरेबल प्राइम मिनिस्टर साहब का जो रेजोल्यूशन है उसकी मैं ताईद नहीं कर सकता । मैं अपनी और अपनी पार्टी की तरफ से उसकी मुखातिफ करने के लिए यहां पर खड़ा हुआ हूँ । इसके मायने यह नहीं है कि मैं श्रीमती इन्दिरा गांधी की ताईद करता हूँ । मैं ताईद करता हूँ, जमहूरियत की, मैं ताईद करता हूँ पब्लिक की, मैं ताईद करता हूँ सोशलिज्म की । यह अफसोस की बात है कि गए दो साल में आप बाहर कुछ नहीं कर सके और आज यहां पर अक्सरियत के नाम पर बदला लेने की कोशिश करें तो मेरे खयाल से यह जमहूरियत के खिलाफ आप बगावत कर रहे हैं । लोगों के खिलाफ, मभाजवाद के खिलाफ बगावत कर रहे हैं । मैं मानता हूँ कि आपकी यह इस हाउस में अकसरियत की राय है । इस का मतलब है कि आप इन्दिरा जी को सेंट्रल हाल में गोली से उड़ा सकते हो, इतना ही नहीं पार्लियामेन्ट के मामले जिनदा जला सकते हो (व्यवधान) क्योंकि आप के पास अकसरियत है (व्यवधान) मेरा बोलने का हक है, इसलिये मैं जमर बोलूंगा । आपके रोकने से मैं नहीं रुकूंगा ।

15 hrs.

मैं आपके मोशन की ताईद नहीं करना चाहता हूँ । मैं जानता हूँ कि एमजेंसी में और मेरी पार्टी के हजारों लोग जेल में भेजे गये थे । मेरे अपने ताल्लक कन्धार में 350 में ज्यादा लोग एमजेंसी के खिलाफ सत्याग्रह कर के जेल गये थे । 11 से 19 महीने तक हम लोग जेलों में डिटेन्शन में रह चुके हैं और इन मताजी की मेहमाननवाजी हम ने जेल में लूटी है । मेरे अपने गांव बहादुरपुरा से मेरे साथ 10 लोग डिटेन्शन में थे । लेकिन इस के यह मायने नहीं हैं कि हम आप की हर गलत बात की ताईद करें । आप को जनता ने अकसरियत दी, इस के मायने यह नहीं है कि आप कानून अपने हाथ में लेकर जो चाहें करें । ऐसा कर के आप लोगों के और इन्साफ के खिलाफ बगावत कर रहे हैं, इस का खिला आप को जरूर मिलेगा ।

अगर बाहर इंदराजी के खिलाफ आप कुछ कार्यवाही कर सकते हैं तो जरूर कीजिये—इन्दिरा गांधी के फरजन्द संजय गांधी के खिलाफ, प्राइम मिनिस्टर के फरजन्द कान्ति देमाई के खिलाफ, डिफेन्स मिनिस्टर के फरजन्द गुरेज बाबू के खिलाफ और हमारी श्रीनाद के भी खिलाफ । क्योंकि जिन मां-बाप के हाथ में हुकूमत की बागडोर धाली है, बागडोर के बाद अगर उन की श्रीनाद कोई नाजायज काम करती है तो उन को सजा दिया जाना बहुत जरूरी है, तब इतिहा की मामूली हो जब कि हुकूमत में कोई भी रहे, अगर हुकूमत से नाजायज फायदा उन की श्रीनाद

[श्री केशव राम घोडगे]

उठाती है, तो उस को जरूर सजा देनी चाहिये। हिन्दुस्तान की मियामत में बहुत से बिल्ला और रंगा हुए हैं और आज भी ऐसे बहुत से बिल्ला और रंगा हैं जिन्होंने अनाडिक्लेअंड एमर्जेन्सी शुरू की हुई है—उन को सजा दिया जाना बहुत जरूरी है। लेकिन आज ब्रीच आफ प्रिविलेज के नाम पर जा रेजॉल्यूशन लाये हैं, वह ठीक नहीं है। इस के बारे में मैंने एक सक्स्टीयूट मीशन भी दिया है। इस सार्वभौम सभा को ग्राम पंचायत मत बनाओ, इस सार्वभौम सभा का बदला लेने की नीयत से फायदा मत उठाओ। इस वकन आप की एक जज की हैमियत है, एक बहादुराना तरीके से आप का काम करना चाहिये। अगर उन्होंने कानून को खिलाफवर्जो की थी, तो आप को बहुत पहले कानून के जरिये उन को बाहर सजा देनी चाहिये थी। मगर बून्द से गई अब होद से नहीं आती।

जब हिन्दुस्तान की जनता ने 1977 के अन्दर वैंनेट बाकम के जरिये इल्कनाव पैदा किया, सारी दुनिया ने हिन्दुस्तान की जनता को नारीफ की थी। अगर इस वकन अकसरियन का फायदा उठा कर आप प्राइम मिनिस्टर साहब उन को जेल में डालेंगे और एकसंगल करेंगे तो आप गांधी-इज्म का खून करेंगे, जम्हूरियत का खून करेंगे और दुनिया के लोग आप पर हंसेंगे और आप के लोगों को बदनाम करेंगे। लिहाजा मैं इस रेजॉल्यूशन के खिलाफ अपनी राय जाहिर करना हूँ।

SHRI G. M. BANATWALLA (Ponnani): Mr. Speaker, Sir, we are today under full gaze of the entire world. History too waits to return its verdict upon the collective wisdom of this House.

Indeed, Sir, democracy is on trial. At least two things are as clear as crystal. In the first place, this House cannot be influenced by any considerations of high and low; that must be a point which should be clearly understood. Any consideration with respect to the status of any person involved is an extraneous consideration worthy of being ignored. In the second place, I submit most respectfully that there may be some lurking fears about deterioration in the law and order situation consequent to a decision of this House, but then, Sir, I must say that this House cannot be held

no decision of this House will be influenced by creation of any condition of duress.

Now, Sir, after making these preliminary observations, it is necessary that the entire question of the breach of privilege is scrutinized with meticulous objectivity, characterized with crystal visibility. There are serious doubts about the jurisdiction of this House, viz. that the 6th Lok Sabha cannot take cognizance of an offence committed with respect to the 5th Lok Sabha. (Interruptions) I will not go into the details, because the point has been made. I am only placing these things in a summary.

The Attorney General has also not been very clear in his opinion. On the contrary, he was leaning all the time towards this particular idea that this House has not got the jurisdiction. The competence of this House to expel a Member is also shrouded in doubt and uncertainty. It would have been better if we had before us to-day the opinion of the Supreme Court; but for obvious reasons, it has not been thought advisable by the powers that be, to get the opinion of the Supreme Court in the matter.

The competence of the Committee which was asked to enquire into the question by Mr. Madhu Limaye having now considered another question by Mr. Jyotirmoy Bosu and then having arrived at a decision, is also a matter which does not come under strict judicial standards.

We cannot ignore the fact that there are certain criminal cases pending against the persons involved in this question. Whenever a question of privilege involves also a criminal offence, let us see what May has to say in his book on Parliamentary Practice. At page 131 of May's "Parliamentary Practice", we are told that in cases of breach of privilege which are also offences at law... or where for any other reason the House has thought a

proceeding at law necessary, either as a substitute for, or in addition to, its own proceeding, the Attorney General has been directed to prosecute the offender. Therefore, I submit that wherever the question of breach of privilege also involves the question of a criminal offence, it means it should be in the collective wisdom of the House that the matter should rest with the courts. The point is already...

(Interruptions)

SHRI RAM JETHMALANI (Bombay North-West): On a point of order, Sir.

MR. SPEAKER: Let us have the debate. Please help us in the debate... What is the rule?

SHRI RAM JETHMALANI: He cannot misquote May. May says you can ask the Attorney General, in addition to the punishment. He should not be misquoted. (Interruptions).

SHRI G. M. BANATWALLA: It is better that the hon. Member reads his law again without bias. Mr. Speaker, Sir, the House will not enhance its prestige by having a confrontation either with the judiciary or the people, or even with one constituency. Before I conclude, I have to say that the House can be guided by considerations no other than those of the majesty of the rule of law. Let those who swear by democratic norms also live by him. There can be only one consideration before this House; and that is strict judicial standards.

We swear by democratic norms. There are certain basic requirements. And to conclude, I will only borrow the words of Justice Shinghal about the basic requirements of democracy in accordance with strict judicial standards. I quote him from the recent judgment about special courts from *The Hindu*, Saturday, December 2, 1978, page 5. He said:

"Those ordering the trial should, in fact, do all that they can do to convince everyone concerned, including the accused, that they had the

best of intentions in ordering the trial and had provided a fair and straightforward procedure, and the cleanest of judges, for the trial, in an open and fearless manner. That will not only foreclose avoidable criticism but uphold the majesty of the rule of law in its true sense."

Therefore, I conclude by appealing to one and all in this House not to place the House in an unenviable position of unescapeable suspicions of having acted with political vendetta. This attitude will not enhance the prestige of this House. Let us not head towards confrontation either with the judiciary or with the people or even with one constituency. For these considerations, I appeal to this House to refrain from any arbitrary exercise of powers that are uncertain and under circumstances that are questionable. I appeal that for the very maintenance of the dignity of the House any further proceedings should be dropped.

श्री बलबन्त सिंह रामबालिया (फरीदकोट) : अध्यक्ष महोदय, आज हम एक ऐतिहासिक और तारीखी दौर में से गुजरने हुए हम हाउस में इकट्ठा हुए हैं। इस हाउस ने इस देश की किस्मत बदलने के लिये और हम देश के करोड़ों गरीबों को जो हजारेदारों, सरमायेदारों के पैरो तले कबले जा रहे हैं उनसे उनकी मुक्ति दिलाने के लिये और लोगों का जीवन ठीक करने के लिये इस हाउस ने बड़े बड़े फैसले किये हैं। इस हाउस ने पिछले 30 वर्षों में इस देश को जिन्दगी दी है, प्राण ले जाने का काम किया है। इस हाउस ने बहुत से फैसलों में कभी कभी दुखदायी फैसले भी किये। इस देश में बहुत से स्थान होंगे जिनको महापवित्र, महाकुलीन, महाब्रह्म कहा जा सकता है। लेकिन 65 करोड़ लोगों का यह स्थान है, 65 करोड़ लोग यह महसूस करते हैं कि भारतवर्ष के किसी भी स्थान पर कोई नाना बात ही सकती है, 65 करोड़ लोग बड़ा नाना बात होने को नहीं रोक सकते, लेकिन उस 65 करोड़ जनता को यह उम्मीद है कि दिल्ली में जो पार्लियामेंट है वहाँ कुछ नहीं बम सकता। यह वह रोक सकते हैं, वह उनकी जक्ति है। वह वह स्थान है। मुझे दुःख है कि इस स्थान पर किसी मच्छाई को रोकने की कोशिश करे, उस पर हम विचार कर रहे हैं। विचार वह है इस हाउस ने माहद लाइन्स दी हैं, और इस हाउस की मान्यता रखावत है, मान्यता तबारीक

[श्री बलवन्त सिंह रामवालिया]

है। लेकिन इस हाउस ने बुराई भी देखी ताकत भी देखी, ताकत को आजमाई भी देखी। यह हाउस सच्चाई को लोगों तक पहुंचाने का जरिया है, बाज़बल से दगल करने का स्थान नहीं है। यहाँ किसी को जिस्मानी ताकत से गिराया या बढ़ाया नहीं जा सकता है। हम समझते हैं कि इस हाउस में जब सच्चाई की बात आयी तो ताकत के जरिये उसको रोकना गया और 65 करोड़ लोगों का जो विश्वास था... यह एक निहायत बदकिस्मत कांड था। मैं महसूस करता हूँ, मेरे कुछ निजी ख्यालात हैं। मैं समझता हूँ कि दुनिया में हम लोग सबसे बड़ी डैमोक्रेसी हैं। जो सबसे बड़े होते हैं, उनकी जिम्मेदारी, उनका फर्ज और भी बड़ा होता है। ऐसा न हो, राजश्रीकांत इन्मान ऐसा काम कर बैठता है, जिससे दोषी निर्दोष बनता है और निर्दोष दोषी बन जाता है। मैं तमाम गदन के लोगों से कहूँगा कि दोष कितना बड़ा है, यह लोगों में जाना चाहिये, लोगों को बताया जाना चाहिये, मगर दोष की मज्रा के फैसले के समय उसमें से कोई दुष्मनी को, विन्डिकटवनेस की बदबू नहीं भ्रानी चाहिये। पह हमारा फर्ज बनता है और मैं समझता हूँ कि आने वाले लम्बे समय में इस गदन ने जो फैसला करना है, उसको देश ने गाइडलाइन के तौर पर चलाना है।

मैं समझता हूँ कि दानों पासे के लोग उधर और उधर बैठे हुए लोग विशाल हृदय से, अगर गलती हुई है और हम हाउस ने कहा है कि गलती हुई है तो उस पर पश्चानाप करना चाहिये और इस हाउस के मेम्बरों का चाहिये कि वह ऐसी ट्रेडिशनस इस देश के इस हाउस को मुख्य रखते हुए इस तरह के कदम उठायेँ जिनसे यह नजर न आये कि इसमें विन्डिकटवनेस की बदबू भाली है, इन अल्फाज के साथ मैं समाप्त करता हूँ।

SHRI NANASAHIB BONDE (Amravati): I know the laws—so far the accused has the right to ask for the benefit of doubt. But I have come to the new law here when the prosecution itself is coming and asking for the benefit of doubt. Here is a case where at every stage we are having doubts and doubts pertaining to the guilt of the accused. Had this case been presented to the impartial court of law, even the judicial magistrate would not have framed the charges as he would not have found in this particular case any *prime facie* guilt.

Now, I will take you one by one to all this. Firstly, there is absolutely a

doubt about the jurisdiction of the case. The Attorney General has come with the definite opinion that this House has absolutely no jurisdiction to try that which has taken place during the life time of the Fifth Lok Sabha.

What about the evidence in this particular case? If we were to judge the case on merits, I am upright there is absolutely no evidence in this particular case so as to bring home the guilt of any one of the accused. Then there is only one evidence of Mr. Pai, which evidence cannot be taken into consideration and no reliance can be placed on such evidence. This is the second circumstance that I am going to point out.

There is the third circumstance i.e. the same charges are being enquired into the court of law. That means this case is sub judice. We know the law. We are here to give the law to the country. We want the country to obey the laws. We are the law-givers, the supreme body. When we know definitely that this matter is pending in the court for disposal, can we not apply the same law here? Because we are the supreme body, because we can do and undo anything by virtue of our being elected to this House, can we do anything? That is wrong logic.

Then, some members of the Privileges Committee have given their unequivocal and definite finding in this case that there is absolutely no evidence worth the name. If it is the argument of the other side that these three or four members from this side have been actuated by party motives, the same thing can apply to you. So, I think this argument will not be raised by you. These three or four members have said on every issue that the case is not tenable. They say that this House has no jurisdiction to try this. They say, there is no evidence and the Privileges Committee has been driven to conclusions unwarranted by reasons on record. When

at each and every stage there are doubts, doubts and doubts and that too of a grave nature which a reasonable man will entertain, should the benefit of the doubt go to the prosecution or to the accused? Is this the law? My submission therefore is that we should drop further proceedings for the present and await the judicial order from the court where the court is pending.

MR. SPEAKER. Mr. Doley.

SHRI B. P. MANDAL (Madhe-pura): On a point of order, Sir. At page 103, fifth edition of this book handbook of Members, it is said that unless a member rises in his seat and catches the eye of the Chair, he will not speak.

MR. SPEAKER: That is not a point of order. The list is there.

SHRI B. P. MANDAL: The member has to stand. Then, those members who have given notices of amendments are not being called. This should not be decided on a party basis.

MR. SPEAKER: There is no point of order. Mr. Doley.

SHRI L. K. DOLEY (Lakhimpur): Sir, I first of all make a fervent appeal to this august House for a little patience, as I have been greatly influenced by a Chinese proverb which runs like this: "Patience is power. With time and patience, the mulberry leaf become silk!". Fortunately while entering today into this House I came across the great saying which is inscribed on the gate:

कर्मण्येवाधिकारस्ते मा फलेषु कदाचन ।

I would like to think about it, but I will come to my own now. There are certain things of life which cannot and should not be decided by laws alone as "man does not live by bread alone." I have carefully listened to the arguments advanced by most hon. members. They have dealt in length with legalities. I have relished it very

much but I have not been able to digest it. I have read quite a number of books where great many thinkers and many jurists of eminence have given their sharp reaction against the legalities of things. Ultimately, they come to such a conclusion that "laws grind the poor and rich men rule the law." If I may add further "to go to the court is to lose a cow for the sake of a cat", and in very many cases it so happens that "in legal jurisprudence there are so much of laws that there is no room for justice and the claimant expires of wrong in the midst of right as Mariners die of thirst in the midst of water".

The other day, when I was hearing the debate on Constitution Amendment, I started thinking, what are these laws after all? It concerns to a type of people who belong to the rank of Shanti Bhushans and Jethmalanis but for the poor millions, it does not touch even the fringe of their problems. "It is poverty that deprives the man of all his spirit and virtue since an empty bag cannot stand upright," as say goes, "if rich, it is easy enough to conceal your wealth, but if poor, it is not quite so easy to conceal your poverty." You can hide thousands of guineas but you cannot hide a hole of your coat. This is our difficulty. Therefore, I do not know what would be the reaction of the country and of this august House but I feel that Mrs. Gandhi has been put on trial. The first ever Prime Minister who belongs to a mother community has been put on trial. It is the first of its kind in history. But I have no doubt in my mind that 'it is prosperity that tries the fortunate and the adversity the great'. I have great confidence in her. As the saying goes, "a good man is like a good metal, the more he is fired, the more he is fined, the more he is opposed, more he is approved".

It again reminds of a great saying that 'we sleep but the loom of life never stops—the pattern that was

[Shri L. K. Doley]

weaving when the sun went down, is weaving when it comes up in the morning'. The Janata Party's pattern of hostility and personal denigration of Mrs. Indira Gandhi that started 20 months before continues unabated 20 months after. Where is the novelty in this question of privilege? The Janata Government invariably deserves at least one credit and that is the credit of their unrelenting and un-failing pursuit after Mrs. Indira Gandhi whereas they have been callous and failing everywhere and in all directions. In fact, the country has been drowned in the floods of inquiries they have instituted and the numerous committees they have constituted to find fault with Mr. Gandhi.

I shall conclude by quoting a saying that "a spirit of revenge is the very spirit of devil then which nothing makes a man more like him and nothing can be more opposed to the temper—Christianity was designed to promote. If your revenge be not satisfied, it will give you torment now; if it be, it will give you a greater hereafter. None is a greater self tormenter than a malicious and revengeful man who turns the poison of his own temper in upon himself". It is peculiar to know this phenomenon inherent in the Janata Party.

The other day, I was quite surprised to hear Mr. Subramaniam Swamy saying that if Mrs. Gandhi should contest from Bombay, she would forfeit her security deposit. How strange it is! It reminded me of what Martin Luther has said in his sharp reaction against Papacy 'if I make air at Luxembourg, they will smell it at Rome. Mrs. Gandhi has been elected from Chikmagalur, why should she contest again from Bombay? Is it that Mrs. Gandhi should give out the foul air at Chickmagalur and one has to go to Bombay to smell it? I shall be the last person to fight such an election.

(Interruptions) **

MR. SPEAKER: Do not record.

श्री मोहम्मद शफी कुरेशी (अनन्तनाग) :
स्पीकर साहब, यह पार्लमेंट एक अहम और संजीदा मामले पर गौर कर रही है। मैं आपसे यह अर्ज करना चाहता हूँ कि आज इस तारीखी इजलास पर आप स्पीकर बनकर बैठे हैं। और जनता पार्टी अपनी अक्सोरियन की ताकत पर जमहूरियत का खून करने जा रही है। (व्यवधान) आप एक काबिल जज रहे हैं, आप अपने मामले को इस ध्ये से बचायें। (व्यवधान) प्रिविलेज कमेटी का एक अहम रोल होना है। आम अदालतों में एक तरफ एक कंफ्लेक्ट होता है और एक तरफ मुल्जिम होता है और एक जज होता है। लेकिन प्रिविलेज कमेटी में कंफ्लेक्ट कोई मेम्बर या पार्लमेंट खुद होती है और जज भी पार्लमेंट खुद होती है। इसलिए प्रिविलेज कमेटी पर यह जिम्मेदारी ज्यादा आयाद होती है कि वह इन्साफ करें। वह इन्साफ सिर्फ करे ही नहीं बल्कि दुनिया को भी दिखाये कि वह इन्साफ कर रही है। प्रिविलेज कमेटी के कुछ मेम्बरान ने श्रीमती गांधी के खिलाफ प्रिविलेज आने से पहले ही नफरत का खल्लम खल्ला एलान किया। कल तक मुझे यकीन था कि मुमकिन है श्रीमती गांधी ने प्रिविलेज कमेटी में अपनी सफाई न देकर गलती की हो। लेकिन श्री जेटमलानी की तकरीर के बाद यह बात बिल्कुल साफ हो गई है कि श्रीमती गांधी ने सफाई के लिए पेश न होने का जो कदम उठाया था वह उनका बिल्कुल ठीक कदम था। जिन लोगों ने श्रीमती गांधी के खिलाफ प्रिविलेज आने से पहले इल्जाम लगाए थे उनके लिए अकल और इन्साफ का तकाजा यही था कि वे प्रिविलेज कमेटी से इन्सीफा दे देते क्योंकि उन्होंने पहले ही अपने खयालात का इजहार कर दिया था लेकिन अब वे फेमला दे देने के बाद इस्तीफा देते हैं। (व्यवधान) एक मेम्बर ने जो तकरीर दी उससे साफ जाहिर हो गया कि किस तरह से यह चल रहा था। (व्यवधान) यह बहुत अहम मसला है जिससे आपको दो चार होना पड़ेगा। यह ठीक है कि आप चिकमगलूर से श्रीमती गांधी की फतह की शिकस्त में बदल देना चाहते हैं, आप बदल दीजिए लेकिन यह शिकस्त श्रीमती गांधी की नहीं होगी, यह शिकस्त जमहूरियत की होगी। (व्यवधान) यह बात आप पर आकर पड़ेगी कि आप जमहूरियत को तबाह और बरबाद करने पर तुले हुए हैं। अभी चन्द महीने पहले चिकमगलूर की जनता ने श्रीमती गांधी को यहां पर अक्सोरियत से मेम्बर बनाकर भेजा है। पार्लमेंट के प्रिविलेज ज्ञाती तौर पर कुछ नहीं है, जो भी प्रिविलेज मिलता है वह खैराती मिलना है। जनता जोकि हमको चुनकर भेजती है उसका प्रिविलेज होता है। आज अक्सोरियत की ताकत पर आप श्रीमती गांधी को पार्लमेंट से निकाल दीजिए लेकिन चिकमगलूर नहीं तो कश्मीर से लेकर कन्याकुमारी तक कहीं से भी वे एलेक्शन लड़ सकती हैं और अगर वे चुनाव लड़कर पार्लमेंट में वापिस आ जाती हैं तो फिर इस पार्लमेंट

[شری محمد شفیع قریشی]

کی ہوئی - یہ بات آپ پر آکر پڑے گی کہ آپ جمہوریت کو تباہ اور برباد کرنے پر تلے ہوئے ہیں - ابھی چند مہینے پہلے چکملگور کی جنتا نے شریمتی اندرا گاندھی کو یہاں پر اکثریت سے مہمیز بنا کر بھیجا ہے پارلیمنٹ کے پریولوز ذاتی طور پر کچھ نہیں ہیں - جو بھی پریولوز ملتا ہے وہ خیرانی ملتا ہے - جنتا جو کہ ہم کو جن کر بھیجتی ہے اس کا پریولوز ہوتا ہے - آج اکثریت کی طاقت پر آپ شریمتی گاندھی کو پارلیمنٹ سے نکال دیکھئے لیکن چکملگور نہیں تو کشمیر سے گنیا کماری تک کہیں سے بھی وہ الیکشن لڑ سکتی ہیں - اگر وہ جنتا لڑ کر پارلیمنٹ میں واپس آجاتی ہے تو پھر اس پارلیمنٹ کا کیا کار رہے گا - میں سمجھتا ہوں جنتا پارٹی اس نئے قدم سے جنتا کے خلاف جنگ کا اعلان کر رہی ہے - شریمتی گاندھی کو ایکسپیل کر کے جنتا پارٹی چکملگور کی جنتا جس نے ان کو جن کر یہاں بھیجا ہے - توہین کر رہی ہے -

ہمارے مرار جی بھائی بڑے گاندھن ہیں - اگر انہوں نے جمہوریت کی سٹیبلٹی کے لئے کوئی کام کیا ہوتا تو ہمیں بڑی خوشی ہوتی - آپ کے ریولوشن میں جو

پہلا لفظ آیا ہے وہ ہے کلیکتو ورتم لیکن افسوس کی بات ہے کہ جنتا پارٹی کی کلیکتو ہیڈاپیسٹیس اس ملک کو تباہ اور برباد کر رہی ہے - مرار جی بھائی اپنی سٹیبلٹی کے لئے ملک کی سٹیبلٹی کو تباہ اور برباد کر رہے ہیں - اس لئے میں آپ سے عرض کرونگا کہ مرار جی بھائی جو کاروائی شریمتی اندرا گاندھی کے خلاف کر رہے ہیں اس کو جمہوریت کے نام پر، ملک کے نام پر اور اس ملک کے وقار کے نام پر چھوڑ دیں اور کچھ عقل سے کام لیں -]

SHRI B. C. KAMBLE (Bombay South-Central): Whatever may be the opinions expressed by different sections of this House, I submit that at least on two points all Members must be unanimous. One point is upholding the privileges of this House. On that the whole House must be unanimous. Similarly, the whole House should be unanimous so far the power of this House is concerned.

What was the view that the Constituent Assembly took with regard to the privileges? I am reading what Dr. Ambedkar said with regard to privileges. He said:

"Under the House of Commons rules and privileges it is open to Parliament to convict any citizen for contempt of Parliament, and when such privilege is defied, the jurisdiction of the court is ousted. This is quite an important privilege. There is not the slightest doubt in my mind, and I am sure also in the mind of the Drafting Committee. Parliament must have these privileges when Parliament would be so much exposed to colamny and unjustified criticism, when the parlia-

mentary institution in this country might be brought into utter contempt."

Therefore, what I submit is that each Member, including Shrimati Indira ji Gandhi, must uphold the privileges. Therefore, let us consider the report and the statement of Shrimati Indira Gandhi in her defence. While considering her statement in her defence, I do not find any appeal made by her to this House either to set aside the findings or the recommendations of the Privileges Committee. She does not appeal to the House to take a generous view. She has not done anything of that sort.

Similarly, the Privileges Committee has erred in one respect. The Privileges Committee has not given the procedure with regard to the implementation of its recommendations even though the rules enjoin on the Committee that it should be stated. Therefore, this is a shortcoming so far as the report is concerned.

Finally, I have to appeal to both the present Prime Minister and the ex-Prime Minister. Both of them have enjoyed the prerogatives and powers of the parliamentary system. Therefore, let Shrimati Indira Gandhi accept the findings of the Committee, and then the Prime Minister should amend his resolution, and she may be simply reprimanded. If she does not accept the findings of the Committee, the House may proceed in the manner it likes. That would be a sort of compromise. This is my suggestion. I have given a substitute motion that only reprimand should be administered. I stand by that particular substitute motion. I stand by the recommendations of the Committee. They may be accepted, and she should be reprimanded.

श्री कंबर लाल गुप्ता (दिल्ली-मदर) : अध्यक्ष महोदय, मैं इस बात से सहमत हूँ कि यह कोई पार्टी का सवाल नहीं है। मैं इस बात से भी सहमत हूँ कि यह सदन एक अदालत है

और हमें प्रावैक्टिवली, डिमिशननेटली, इस प्रश्न पर विचार करना चाहिये। यह बात भी सही है कि यह कोई पोलिटिकल सवाल नहीं है। लेकिन, अध्यक्ष महोदय, सवाल यह है कि इन्दिरा जी को जो मोका दिया गया था कि प्राप अपनी सफाई दीजिये—क्या उन्होंने प्रिनलेज कमेटी के सामने अपनी सफाई दी? क्या उन्होंने बतलाया कि उन अफसरों के खिलाफ, जिन के खिलाफ इन्होंने कार्यवाही की, कोई शिकायत थी, क्या शिकायत थी, किम ने शिकायत की थी? इन्होंने कोई डिफेन्स नहीं लिया, कोई प्रोथ नहीं ली। उसके बाद भी यहाँ पर उन को मोका दिया गया कि बतलाइये, प्राप के खिलाफ कार्यवाही क्यों न की जाय, लेकिन यहाँ भी उन्होंने पोलिटिकल भाषण दिया। और हम सदन को एक इस तरह की बात कह कर के उस का अपमान किया अध्यक्ष महोदय, ये लीडर प्राफ द हाउस थीं, हम सदन की मान्यता और हम की शान को रखना इन की जिम्मेदारी थी। इसलिए इन्होंने इसका ताड़ा है। सवाल यह है कि प्रावैक्शन करने का इन पर दलजाम है। एक ही कस के अन्दर, एक ही फेक्ट के ऊपर अदालत भी सजा दे सकती है और प्रिवलेज मांशन में भी इन्हें सजा दी जा सकती है। मैं आपका बताता हूँ। मैं शकधर, मेज प्रोसिडम पढ़ रहा हूँ :—

"In the case of a breach of privilege, which is also an offence at law the House may, if it thinks that the punishment it has the power to inflict would not be adequate to the offence or where for any reason the House feels that the proceedings at law is necessary either as a substitute for or in addition to its own proceedings, direct the prosecution of the offender in a court of law."

अध्यक्ष महोदय, मेरा कहना यह है कि ये सवाल अलग-अलग ह। वेम के फेक्ट एक ही है। यहाँ आपने हम सदन की मर्यादा को तोड़ा है इसलिए सजा दी जा रही है, वहाँ आपने क्रिमिनल ला को तोड़ा है इसलिए सजा दी जा रही है।

कहा यह जाना है कि हेमोचमी के नाम पर, देश के प्रजातंत्र के नाम पर अड्डेज हो जाएंगे। मैं बहुराज्य माहब से यह पूछना चाहता हूँ कि इन्होंने हमें एडवाइस दी है, हम तो उन की बात को सुन लेंगे लेकिन वे एमर्जेन्सी के दिनों में मंत्री थे, क्या उन्होंने इन्दिरा जी को यह एडवाइस नहीं दी थी? उस समय उनको क्या हो गया था? (व्यवधान)

SHRI VASANT SATHE (Akola): On a point of order. This is a matter of pre-Emergency and this gentleman wants to refer to Emergency. About

[Shri Vasant Sathe]

this very gentleman, it was reported: "That the Emergency continued and so did we in jail, but Mr. Gupta had gone out not to return. I was to hear of him only and none of the heroes of Emergency."..

MR. SPEAKER: It is not a point of order. (Interruptions) Don't record.

SHRI VASANT SATHE: **.

MR. SPEAKER: I have expunged it.

श्री कंबर लाल गुप्त : चहूवाण साहब के मोटिव को मैं ब्राऊट नहीं करता। मैं यह समझता हूँ कि चहूवाण साहब .. (व्यवधान)

MR. SPEAKER: Don't record.

(Interruptions) ***

श्री कंबर लाल गुप्त : अध्यक्ष महोदय, मैं चहूवाण साहब के मोटिव को डाऊट नहीं करना। वे इन्दिरा गांधी को एडवाइस देने तो भी वह शायद नहीं मानती।

मेरा कहना यह है कि एक ही फेक्ट के ऊपर प्रिविलेज मोगन भी हो सकता है, एक ही फेक्ट के ऊपर क्रिमिनल केस भी चलाया जा सकता है। चाहे एक ही फेक्ट क्यों न हो, मेरा कहना यह है कि यह चीज पॉसिबल है। चूंकि इनके ऊपर रिस्पॉसिबिलिटी थी, चूंकि ये लीडर आफ द हाउस थीं, और इन्होंने मर्यादा को तोड़ा है इसलिए इनको सख्त सजा देनी चाहिए। (व्यवधान) अध्यक्ष महोदय, मैं यह पूछना चाहता हूँ कि क्या तीन दिन की जेल सख्त सजा है? मैं इन्दिरा जी से पूछ रहा हूँ कि आपने डेढ़ लाख लोगों को जेल में डाला और 19 महीने तक डाला, क्या आप चाहेंगे कि आप को तीन दिन के लिए जेल में डाला जाए? क्या यह बात आपके लायक होगी? आपको तो जेल में लम्बा जाना चाहिए।

(Interruptions) ***

SHRI KANWAR LAL GUPTA: I agree that Shrimati Indira Gandhi's was the worst dictatorship of its kind.. (Interruptions) Shrimati Indira Gandhi dictated thousands of persons. But that is not relevant here so far as this motion is concerned. This is outside the purview. But at the same time, I have to say all this.. (Interruptions)

MR. SPEAKER: Please conclude now. I have to call two more speakers.

SHRI KANWAR LAL GUPTA: I am winding up in a minute.

चूंकि वह प्रधान मंत्री थीं यहां पर 11 साल इसलिये उनको छोड़ दिया जाय, उनको सजा न दी जाय, यह चीज ठीक नहीं होगी। इसलिये न्याय का तकाजा यह है कि उनको सजा देनी चाहिये और कड़ी से कड़ी सजा देनी चाहिये ताकि आइन्दा कोई इस प्रकार का व्यवहार न करे।

(Interruptions)

MR. SPEAKER: I am calling another member. Shri K. Mallanna. (Interruptions). Don't record

(Interruptions) ***

SHRI K. MALLANNA (Chitradurga): Mr. Speaker, Sir, I heard the speeches of all my hon. colleagues and the Leader of the opposition and I have also carefully gone through the motion and substitute motions of the Prime Minister and also of the ruling party members and its allies and, specially, the recent substitute motion of our Prime Minister inflicting the grave punishment.

In this background, it is futile for me to think on the consequence of the motion as it has been already pre-thought. But I have to bring the political motive and the political vendetta of the Janata Government to the country through this august House.

The recommendation of the Privileges Committee regarding the breach of privilege is unjustifiable and untenable both in law and facts. So far as the facts are concerned, the whole House knows that the facts are fabricated, concocted and irrelevant. So far as the law is concerned, it violates the rules and the procedure of the Lok Sabha and the provisions of the Constitution. In the circumstances, the

**Expunged as ordered by the Chair.

***Not recorded.

charge is politically motivated specially when I read the substitute motion of our Prime Minister. It occurred to me, in the circumstances, he should have been the leader of the party. But unfortunately, he has been led by the sycophants of the "Sino-American Block".

Now, Sir, Chikmagalur people have elected her as a Member of Parliament. She has become a powerful force; she has become a powerful voice in the Parliament so far as the implementation of socialism and secularism in the country is concerned. The opposition has become more effective. They want to curtail the effective opposition and they are not tolerating Shrimati Indira Gandhi's entry into the Parliament. Those who promised socialism and secularism and civil liberties in the name of democracy to the people by their malicious and false propaganda against Shrimati Indira Gandhi and her party are placed in an inconvenient position. Now we have to understand the political culture of the Janata Party. They came to power only by abusing Shrimati Indira Gandhi.

During the tenure of her regime, the vested interests, hoarders, smugglers, anti-nationals, black-marketeers etc. were not encouraged, and she tried to implement the policies of democratic socialism and secularism. It was not tolerated by vested interests and these forces were consolidated into the Janata Party and they came to power by abusing, and by malicious propoganda and also with the assistance of foreign forces which were against Mrs. Indira Gandhi and her Party.

Now, the Janata Party and its allies want to take revenge against Shrimati Indira Gandhi. They thought that she could be inconvenient to them in the Parliament.

Her contribution to India's progress in various fields, especially...

MR. SPEAKER: Mr. Mallanna.

Not recorded.

SHRI K. MALLANNA: Just one minute.

Her creating political awareness will never be forgotten, while pigmies who are keen on harming her will soon be discarded...

MR. SPEAKER: Mr. Mallanna, no more.

Don't record. (Interruptions)**

SHRI VAYALAR RAVI (Chirayinkil): Sir, on this day we are going to create a history in the Indian Parliament, and I would say that the decision must be taken dispassionately, and it must also appear to be impartial. Regarding the facts of the case, I do not want to go into hair-splitting technicalities and legalities. But the fact remains, and everybody has accepted, that the four officers have been harassed and humiliated and even the CBI had investigated. The only dispute is whether it is in connection with a Parliamentary question or not; that is the question. If it were a routine matter, if it were in the usual course of a CBI enquiry, the burden of proof lies on Mrs. Indira Gandhi to show that she never intervened. But the fact that the Prime Minister had intervened in the case of four petty officers makes us think there is some truth in the case. Now, even if it is so, what is the breach of privilege of the House involved? A privilege of the House is not only a privilege of the Members but it is a privilege of the people of this country. If that is so, may I appeal to the House that if this is a question which arises out of a privilege, then the paramount supremacy of the House and the sanctity of the House should reflect itself in the debate and in the decision?

Now, what should be the decision? Can we take a decision without any reason? It must be reasonable, logical and must go along with the thinking of the Indian people—because of the political effect of it. Our judgment is not the last judgment. It is not the

[Shri Vayalar Ravi]

last judgment: whatever we do here will have to be judged by the people outside.

‘ May I remind you that when, in 1970 we came here and were sitting in the last bench, we were more emotional than you regarding a certain small, petty factory?

MR. SPEAKER: Even now.

SHRI VAYALAR RAVI: I am not going into that.

Now, there has been a verdict by the people, and that is why we are sitting on this side today. If mere passion guides you, you will land in the same trouble. Mr. Subramaniam Swamy can say ‘You dismissed me, so I will dismiss you’. Many Members can say ‘You put us in jail, so we will put you in jail’. But by that action you are surrendering your moral authority to criticise the Emergency; you are surrendering your political right to accuse and question Mrs. Gandhi’s actions and the Emergency excesses. This whole thing came out of the excesses of Emergency: the decision on excesses of Emergency should not be another excess.

Lastly, my point is that collective wisdom has to prevail. What is collective wisdom? Collective wisdom should not be the decision of the dominant group in the Janata Party. I would appeal to them to accept my amendment. My amendment is very simple, because a guilty person must also be given a chance.

The political situation in the country should be taken into account by this Parliament. The Parliament is bound to take into account the political situation of the country. If we take a decision with passion and motion, without reason, it will recoil on everyone of us. That is why I am appealing with all humbleness, in all humility, to the Janata Party Members, especially the new friends, to take a decision taking into account the feelings of the people of this country. It is not a question of majority decision. Do not think that the majority in the Parliament is

being guided by the people of the country today. (*Interruptions*)

MR. SPEAKER: Please conclude.

SHRI VAYALAR RAVI: I would make this appeal to the Prime Minister. By taking this action, he will only be falling into the trap set by Shrimati Indira Gandhi’s Party.

I have moved a Motion suggesting a milder punishment and I request the House to accept it.

SHRI R. V. SWAMINATHAN (Madurai): Mr. Speaker, Sir, the Constitutional and legal loopholes in this Report have already been pointed out by my friends on this side. I am not going into the merits of this case now. But one thing is very clear. This Report of the Privileges Committee is not a unanimous Report. The Members who have given dissenting notes have given very weighty arguments. They have shown that Mrs. Indira Gandhi was not directly involved in this. Therefore, the entire Report is on presumptions and doubtful, and based on this doubtful document, doubtful Report, the Prime Minister is proposing for this severe action. I would appeal to him that he should not allow himself to be misguided by the Janata Party, he should not allow himself to be pressurized by the Janata Party; he should not fall into the trap set by the Janata Party. The Janata Party has got only a one-point programme and that is to victimise Shrimati Indira Gandhi. Therefore, the Prime Minister should not allow himself to be misguided by Janata Party.

I have got the greatest respect for the Prime Minister, Shri Morarji Desai. He is one belonging to the old guards of the freedom movement. The younger generation has no idea of the freedom movement, the great sacrifices that had been made during the freedom movement by the Nehru family. I am appealing to Shri Morarji Desai to think of the great Motilal Nehru who made supreme sacrifices for the

country renouncing his princely life on the call of Mahatma Gandhi. I am appealing to Shri Morarji Desai to think of Pandit Jawaharlal Nehru who has made great sacrifices and service done for our country. I would also appeal to the Prime Minister not to forget what Shrimati Indira Gandhi had done, the services and sacrifices for the freedom movement and as Prime Minister and also the fact that she saved this country, when she was the Prime Minister, from the onslaught by Pakistan. At that time, all the Members, including Shri Morarji Desai, lauded and praised her action in the war against Pakistan.

Therefore, I am once again appealing to the Prime Minister. Let him not create this precedent. If he does it, he will only be falling into the trap set by the Janata Party and it will boomerang on him.

I would, therefore, appeal to him not to press this motion. He may withdraw his motion.

MR. SPEAKER: The Prime Minister.

(Interruptions)

MR. SPEAKER: No, no. I am sorry. (Interruptions)

16 hrs.

SHRI N. SREEKANTAN NAIR (Quilon): I am a very senior Member of this Parliament. Last time I was denied the opportunity.@@
(Interruptions)

MR. SPEAKER: You are a very senior Member....
(Interruptions)

SHRI SAUGATA ROY (Barrackpore): The Prime Minister is in no hurry. Let him answer later.... (Interruptions).

MR. SPEAKER: Don't use your lung power on me.

PROF. P. G. MAVALANKAR (Gandhinagar): I am on a point of order.... (Interruptions).

MR. SPEAKER: Please, I am on my legs now....

PROF. P. G. MAVALANKAR: Yesterday you ruled that any member of the Committee of Privileges who wants to speak will be allowed to speak. You cannot shut me out.

MR. SPEAKER: Now I am on my legs....

(Interruptions)

MR. SPEAKER: No, no. Please hear me. I am not going to be dictated. Don't be bothered about it....
(Interruptions)**

MR. SPEAKER: No, no. There is no point of order. It is only a point of disorder.... (Interruptions)** Nothing is recorded.... (Interruptions)** No, no. Especially to-day it was entirely given to the opposition.

SHRI MALLIKARJUN (Medak): You must give me at least five minutes.

SHRI D. N. TIWARY: I do not want to speak but I want to submit one thing.... (Interruptions)

MR. SPEAKER: What is the point of order? Let us see what is the point of order.

SHRI MALLIKARJUN: I want to speak on our motion.

(Interruptions)**

MR. SPEAKER: Don't record it.

Everybody wants to participate. There are 50 members.... (Interruptions) No, no. Nothing of that sort. If you want to hear me, just hear me for a minute.... (Interruptions) Nothing of that sort. Yesterday closure motion was moved.

@@Expunged as ordered by the Speaker.

**Not recorded.

(Ms.)

Comm. (Ms.)

SHRI SHANKAR DEV (Bidar): As far as our Party is concerned, we must be given a chance to be heard.

MR. SPEAKER: You were given a chance yesterday as also to-day.

(Interruptions)**

MR. SPEAKER: I have got your letter.

SHRI N. SREEKANTAN NAIR: You are going against established Parliamentary conventions. Everyone has got a right.

SHRI MALLIKARJUN: Not even five minutes, I want only two minutes.

PROF. P. G. MAVALANKAR: You are going back on your word.

MR. SPEAKER: I am not going back on my word.

PROF. P. G. MAVALANKAR: Kindly read what you said yesterday.

MR. SPEAKER: I have never said that every member will be given a chance.

PROF. P. G. MAVALANKAR: No Speaker can go against his words.

MR. SPEAKER: I have not gone. You please read it.

PROF. P. G. MAVALANKAR: I have read it.

MR. SPEAKER: Nothing of the sort.

(Interruptions)

...I have said I have called upon the Prime Minister. (Interruptions)

THE PRIME MINISTER (SHRI MORARJI DESAI): How can you say that? Your own Leader has accepted this. You had undertaken this. (Interruptions)

MR. SPEAKER: For the time being, I am not going into the rights of the Members to speak. I never said that every Member will get the chance. Nothing of the sort. (Interruptions) This is what I said yesterday. Please hear me.

"This debate will continue tomorrow at 3 O'clock. At 4-30, we will take up the voting. At 5 O'clock it will be over—the Prime Minister's reply and all that. Also I will give opportunity to as many Members as possible. Now, the House stands adjourned to meet at 11.00 A.M. tomorrow". (Interruptions).

Nothing of the sort.

SHRI D. N. TIWARY: Mr. Speaker, Sir, I do not want to speak. (Interruptions)

MR. SPEAKER: How can I hear you?

SHRI D. N. TIWARY: I will take only one minute.

PROF. P. G. MAVALANKAR: You gave your ruling.

MR. SPEAKER: I have not given the ruling that all Members will speak. Nothing of the sort.

PROF. P. G. MAVALANKAR: You have no right to change your words. You have no right to go back upon the words. It was not expected of a Speaker. (Interruptions)

SHRI D. N. TIWARY: I do not want to speak on the motion. I have a submission to make.

Sir, on the 4th of this month, I requested you to allow me some time to speak on the Privileges Motion. When the discussion began, you assured me to give 7 or 8 minutes' time. My request was for ten minutes. Now, the discussion has ended but you have not called me. I mark the tendency that you always ignore me; you only succumb and respond to the shouting and lung power and those Members always are ignored who have no lung

power. This is undermining the discipline of the House, with the result that those who can resort to shouting catch your eye and have their say.

(Interruptions)

MR. SPEAKER: Nobody can ignore you.

SHRI D. N. TIWARY: I cannot shout and therefore, I must, in the Gandhian way, withdraw from the House till the end of the session.

16.07 hrs

Shri D. N. Tiwary then left the House.

MR. SPEAKER: Now, the Prime Minister.

SHRI N. SREEKANTAN NAIR: You are very unfair. (Interruptions)

MR. SPEAKER: Mr. Nair, you are a very senior Member. (Interruptions) I have called the Prime Minister. Please hear the Prime Minister. If there is time, I will give you.

THE PRIME MINISTER (SHRI MORARJI DESAI): Mr Speaker, Sir, (Interruptions)

MR. SPEAKER: Please hear the Prime Minister. If there is time, I will give you. (Interruptions)

SHRI MORARJI DESAI: Mr Speaker, it is very rarely that this House is called upon to discharge an onerous responsibility of the kind that we are called upon to discharge to-day. But this onerous responsibility is an inalienable responsibility, a responsibility which the House (Interruptions) cannot evade as the sovereign Parliament of this country, pledged to protect the sanctity and rights of Parliament as the repository of the rights of the sovereign people. All of us are aware that the Motion that I have moved, and the Report of the Committee of Privileges deal with a grave and unprecedented situation. In sitting in judgment on the Report of the Committee, and on the charges of breach of privilege and grave contempt of the House, of which the Privileges Committee has found Shri-

matl Gandhi guilty, the Members of the House have to rise above the passions of the moment, considerations of likes and dislikes of personalities, and calculations of expediency. The main questions that we have to ask ourselves are:—

(i) Is Smt. Gandhi guilty?

(ii) Is she guilty of a deliberate, grave and unprecedented contempt of the House?

(iii) Since the contempt of the House was committed while being in the office of the Prime Minister and using the powers of the Prime Minister, does she deserve punishment that would deter others from contemplating such contempt with immunity?

I, therefore, attempted to listen to the debate in the House with the utmost attention, dispassionate objectivity and humility that is demanded of us in discharging this responsibility. (Interruptions)

In coming to a conclusion on these questions, one has to remember that the Law is no respecter of persons. Every citizen, whatever high office he or she may hold, is equal before the Law, and must have the humility of submit himself or herself to the Law of the land. No one can claim to be above Law, and yet claim to be democratic. (Interruptions) But, it appears to me that Smt. Gandhi has always felt that she is above the law; that she cannot be judged by the same laws with which others may be judged; with the same processes with which others are found guilty or innocent; by the same machinery with which other citizens are judged. Need I remind the House that it is this element in her thinking that led to the dispensation that we saw in the Emergency—when the laws were altered to provide immunity to her, when the Constitution was amended to take away the Fundamental Rights of the people. (Interruptions) when

[Shri Morarji Desai]

the power of the Judiciary to protect the citizens from the arbitrary exercise of Governmental powers was whittled away, and when attempts to exterminate dissent and opposition took the place of democratic customs and rights. It is the same element which may be witnessed in the effort to cast aspersions on the Privileges Committee and the Members of this august House and to ascribe motives, and to describe the consequences of one's equality before Law as an attempt at political persecution.

Shrimati Gandhi and those who have argued her innocence have virtually questioned the impartiality and bonafides of the Committee of Privileges. (*Interruptions*) It was said that the majority in the Committee was of a particular political persuasion. It is not unnatural if any Committee of the House reflects the composition of the House. In fact, the Committees of the House have to reflect the composition of the House. Yet when Members sit in the Committee of Privileges or any other Committee of the kind, they rise above partisan considerations and look at what the rights and privileges of the whole House demand. Even in the case of Shrimati Gandhi, I would like to remind the House that there was an earlier occasion on which the Committee of Privileges considered the question of privilege. On that occasion, the Committee came to the House with the Report that though Shrimati Gandhi was guilty of breach of privilege, taking the totality of the circumstances into consideration, no further action may be taken.

I wish to remind the House of what my Hon'ble friend, the Leader of the Opposition said at that time. It was the same Committee composed of the same Members, that by majority, had held Shrimati Gandhi guilty. On that, my Hon. friend Shri Jyotirmoy Bosu criticized the Committee

for the recommendation that no action should be taken but the Hon. Leader of the Opposition said in the House and I quote:

"That is not the way. The Report of a Committee of Parliament is treated with the utmost respect by the House because the Committee is a mini-House. The convention is that a Report presented by the Parliamentary Committee is treated with respect and accepted... Let us not by-pass the convention and lay down a dangerous precedent."

SHRI C. M. STEPHEN: (*Idiuki*): It was unanimous.

SHRI MORARJI DESAI: That was also by a majority. It was not unanimous.

SHRI C. M. STEPHEN: Sir, I rise on a point of order. My point of order is this. He is making a statement with reference to the document placed on the Table of the House. He makes a statement which is contrary to the fact. The fact of the matter was that the recommendation of that committee that the proceedings be dropped was unanimous. That was the recommendation. There was no dissenting note. He says that it was a majority recommendation. That is against the fact. The recommendation there was unanimous. The recommendation here is with a dissenting note. That is the difference. He has misquoted. He has no right to misquote. That is my point of order.

SHRI MORARJI DESAI: I would like to quote what he has said himself about dissenting members in that very Committee Report. Then he will see what it is. This is what he has said...

AN HON. MEMBER: He forgets himself.

SHRI MORARJI DESAI: He said:

"The Report of a Committee of Parliament is treated with the utmost

respect by the House because the Committee is a mini House; a Committee represents the House. In the Committee's discussion of all matters in detail, different points of view come in."

SHRI VASANT SATHE (Akola): What was the recommendation?

SHRI MORARJI DESAI: He said:

"...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.."

SHRI C. M. STEPHEN: With regard to the finding, there was difference of opinion. On the recommendation it was unanimous. It is the recommendation which we are concerned with, not the finding.

SHRI MORARJI DESAI: He said, there is a dissenting note, but I will not support it now, because of this convention. That is what he has stated.

SHRI C. M. STEPHEN: You are misquoting. Misquoting has become the habit of the Prime Minister.

MR. SPEAKER: If he says that others are misquoting, I am not concerned.

SHRI MORARJI DESAI: Now I turn to the question of whether the Committee offered Shrimati Gandhi a full opportunity to defend herself and to present her version of the events?

As we see from the records, there was no question of the Committee compelling Shrimati Gandhi to give evidence against herself. She refused to take the oath. She was told that she could take the oath but refuse to answer the questions she considered incriminating. When she refused, she was told that she could give evidence or make any statement she liked,

without taking the oath or affirmation. That also she declined to do. Even then, she was asked whether she would like to hear what the witnesses had deposed, whether she would like to make any observations to clear her of the charges... This is important. To all this, her answer was 'no'. How then can it be argued that she was not given an opportunity to defend herself, to state her case. If she did not let the Committee know what she had to say in defence of herself, it was because she herself decided to forgo the repeated opportunities which the Committee gave.

Since Shrimati Indira Gandhi chose to cite Shri Pai and say that she herself had done nothing which fixed the responsibility on her, I have to cite columns 138-139 of the second volume of the Report of the Committee in which Shri Pai clearly says—I quote his letter to her—these are Shri Pai's words:

"My officers were only doing their legitimate duty in collecting information about this Question. Now they are being harassed."

And later:

"I found that for all the trouble that these four people were involved in supposed criminal charges their only fault was that one was asking for information from the other. All the four of them got into difficulties merely because of the Question asked."

... (Interruptions)

SHRI B. SHANKARANAND (Chikkodi): Sir, on a point of order. Whose letter is this?... (Interruptions)

SHRI VASANT SATHE: That letter is not on record; produce that letter.

SHRI MORARJI DESAI: I am quoting from Sri Pai's letter.... (Interruptions)

SHRI VASANT SATHE: How can he quote when the letter is not on record... (Interruptions)

SHRI MORARJI DESAI: And later on, he said:

"My whole Ministry came into trouble, I do not know why, what for, I was thinking why this Question was so important."

I should also perhaps point out that in the quotation that Shrimati Gandhi herself has given to the House from what she told the Shah Commission, She does say and I quote:

"I received complaints from some persons, including M.Ps about these officers, amongst others. I told Shri Dhawan to pass on the complaints to the authorities concerned in order to verify whether there was any truth in the allegations. There was nothing special or unique about this. When such complaints were repeated or conveyed verbally to me, I sometimes directed similar action through a member of my staff."

(Interruptions)

SHRI VASANT SATHE: He is misleading the House.

SHRI MORARJI DESAI: I shall now refer to the point that was raised about double jeopardy. I must submit that the arguments that were used were misleading arguments. The contention is obviously based on Article 20(2), which provides that no man shall be punished twice for the same offence. The question, therefore, arises whether the nature of the offence that the Privileges Committee is dealing with is the same as that of the offence for which a regular case is registered against her and the other two whom the Privileges Committee has found guilty... (Interruptions). The learned Attorney General, who was requested to give his opinion on this aspect of the question, himself has said that:

"None of the Sections of the IPC mentioned in the First Report have

anything in common with the charge before the Lok Sabha or the Privileges Committee."

SHRI B. SHANKARANAND: Let him produce that letter... (Interruptions)

MR. SPEAKER: He says, he is reading from the report of the Committee.

SHR MORARJI DESAI: I do not think that I have to dwell further on this point. To argue, therefore, that if she had defended herself before the Committee of Privileges, it would have prejudiced her defence in a criminal case is to attempt to explain away why she chose not to defend herself. One would normally have thought that if there was a defence, and the accused was convinced that he or she was innocent, he or she would never have thought that the statement of his or her defence in one place will harm his or her defence in another

Now, you will permit me to turn to the nature of the breach of privilege and the gravity of the contempt of the House. It is true that the House does punish its members when the rules of decorum and order in the House are violated by the members or when a member is named for his grossly unparliamentary and disorderly conduct, and the members concerned are sometimes suspended from the House.

I submit that there is a qualitative difference between such breaches of privilege or contempt of the House that a Member is guilty of in the midst of the passions of the moment, and a breach of privilege and contempt of the House that stems from a calculated, deliberate and cynical contempt for the very rights, and therefore, the privileges of the House. The charge against Shrimati Gandhi is not one of the former kind. It is that she misused the office of the Prime Minister of this country, though she had taken the oath of loyalty to the Constitution, to subvert the

very basic rights of the Parliament. (Interruptions) The right to seek information is a basic right. That the officers were collecting information that the House had demanded, or a Member of the House had demanded or was necessary to answer a question became the reason for persecuting these officers. That the question related to the Maruti Ltd. in which Sri Sanjay Gandhi had the Prime interest, was another aspect which cannot escape notice. The Committee of Privileges having examined the evidence that was led before it came to the conclusion that Shrimati Gandhi was guilty of a breach of privilege and contempt of the House that amounted to the subversion of the system on which the rights and privileges of the House are based, rights that the House needs if it is to perform its duty as the sovereign representative of the people. It was the duty of any Prime Minister to protect these rights from inroads, and yet it was a person, who was holding the office of the Prime Minister, whose impugned action resulted in the subversion of the rights of the House. How can it then be held that the offence is not grave and unprecedented? (Interruptions).

But Shrimati Gandhi's answer to all this was to try to shift the ground and to attempt to defend herself by launching a tirade against the Janata Party. I respectfully submit that a charge against oneself cannot be cleared by making an accusation against a person who levels the charge. Shrimati Gandhi charged and accused the Janata Party of many things ranging from failure to check divisive forces and weakening of the foundations of the State to inefficiency and corruption. Quite clearly, these are all political attacks on the Janata Party, and I readily grant that it is within her rights as a citizen, or a Member or a leading figure in the Opposition to attack the Janata Party, though they are arguments which But when these attacks are made as prove the innocence of Shrimati

Gandhi, of charges of which the Committee of Privileges has found her guilty, one can only say that she has used time-honoured diversionary tactics, political polemics to divert the attention of the public from the real gravamen of the charges against her. I shall not, therefore, follow Shrimati Gandhi here into the area of Political polemics which is irrelevant to the question of privilege.

But I must deal with her accusation that the motive which is actuating Janata Party and its Government is not their respect for the Privileges of the House but their personal vendetta against her. I must most emphatically repudiate this charge. (Interruptions) We have no motive except to do the duty that is cast on this House to protect its privileges which are necessary for the discharge of its responsibilities as the sovereign representative of the people. Neither our Party nor our Government has any vendetta against Shrimati Gandhi. Shrimati Gandhi herself knows this, only too well. Do I have to remind her or the House of what the Janata Party might have done or could have done if it really had a personal vendetta against her? When this Government came to power, the instruments that Shrimati Gandhi had forged to deal with political opponents and dischargers were still on the Statute Book. The Government did not invoke them to deal with Shrimati Gandhi.

She could have been given a dose of the bitter medicine, which she said, she had to administer to the people. She could have been arrested or detained or dealt with in a manner in which those who used power to destroy democracy have been dealt with by the people, or by Governments that came to power after their overthrow. We did no such thing. In fact, some have complained that we did not do any such thing. Smt. Gandhi has referred to history and said that the pages of history are strewn with instances of great people who were

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persecuted. The pages of history are replete with instances of the way in which people have dealt with those who have tried to destroy democracy, dealt with dictators who have, while plotting for and enjoying dictatorial powers, exclaimed "I am the law, I am the State, I am the people". If history has run a different course in this country, it is not because the enormity of Smt. Gandhi's crime against the Constitution and the people was less, but because of the nature of the people of India the traditions of the people of India, specially reinforced by the great values that Gandhiji has left with us. I can, therefore, assure the House that there is no question of vendetta or vindictiveness in our attitude.

My Hon'ble friend Shri C. Subramaniam referred to the phrase "Collective Wisdom", and asked you whether the Motion that I have moved is based on Collective Wisdom. You have answered the question yourself, and I can hardly put the answer better than you have done. The collective wisdom of the House is known and identified by its decision, and the processes of decision-making which are processes of identifying the collective wisdom are too well known to bear repetition. Even so, I would like to point out that if one looks at the Substitute Motions and the Amendments that have been received, most sections of the House do approve of the findings of the Committee of Privileges and hold Smt. Gandhi guilty of breach of privilege and contempt of the House. The differences among them may be on the quantum of punishment, not even on the need to see that the punishment serves as a warning and a deterrent.

Now I turn to what my good friend, Shri Y. V. Chavan, had to say. He made a special appeal to me to "be strong and radical on social and economic issues and be just and liberal in dealing with political opponents".

I know Shri Chavan for many years. I shall not twit him by asking him whether he has always given the same advice about liberal attitudes to political opponents, and whether he has stood by such advice. I shall certainly look at his advice in the spirit in which he has tendered it. Shri Chavan made it clear that he did not want to deal with what he called 'technicalities' but he was concerned with the political aspect. I do not know whether it is his view that such a grave contempt of the House can be dismissed as a 'technicality'. Be that as it may, I will submit in all humility that when he talks of political considerations, he should ask himself whether these political considerations should lead to political expediency or political wisdom. I can understand Shri Chavan's concern about political expediency. But I will remind him that the aspirations and designs of dictators have always fed on the belief that the counsels of political expediency may induce people to adopt a line of least resistance in the hope that it will stay off the day of dictatorship. Political wisdom, on the other hand, should never lose sight of the consequences of the failure to resist at the right time.

I will now conclude with a reference to the quantum of punishment that my Motion proposes. In coming to a conclusion on this question, it will be legitimate to ask ourselves a question—when should justice be tempered with mercy, when can the ends of justice be met by imposing a lenient punishment. It is obvious that in a case where an accused confesses his guilt, when there is an evidence of remorse, given reasonable ground to hope that there will be no repetition of the offence, it may well be argued that the punishment should be lenient. I must tell you that when Smt. Gandhi rose to speak, I was hoping that there will be some expression of remorse or regret on her part.

But I was sadly disappointed. I looked in vain for a trace of remorse or repentance or even self-introspection in her words, but she was not only unrepentant but defiant and minatory. There was nothing in what she said which I could clutch in the belief that she was sorry for what had happened and that we could believe that she would not commit such contempt in the future and, therefore, the ends of justice would be met by a light punishment. I failed to find any ground for extenuation. I came to the conclusion that Smt. Gandhi has left me with no alternative but to ask for penalty of committal and expulsion. I, therefore, commend my Amendments 33 and 39 for the adoption of the House.

(Interruptions)

MR. SPEAKER: I shall now take up the amendments. These are to the main motion.

I am asking about the amendments to that motion which they have moved already.

Let us go one by one.

SHRI K. P. UNNIKRISHNAN (Badagara): I am on a point of order. Rule 181 leaves statutory powers with you.

(Interruptions)

Will you take it up paragraph by paragraph i.e. take the first paragraph, the whole of it and then come to the quantum of punishment.....
(Interruptions)

MR. SPEAKER: That would be the procedure.

SHRI K. P. UNNIKRISHNAN: As per rule.....

(Interruptions)

MR. SPEAKER: Yes, I am doing that way.

Mr. Mandal, are you pressing your amendment No 3?

SHRI B. P. MANDAL: No, Sir.

MR. SPEAKER: Shri Shambhu Nath Chaturvedi, are you pressing your amendment No. 4?

SHRI SHAMBHU NATH CHATURVEDI: No, Sir.

Amendment Nos. 3 and 4 were, by leave, withdrawn.

MR. SPEAKER: They are not pressing the amendments to the main motion....

(Interruptions)

MR. C. M. STEPHEN: May I beg leave of you to know the procedure.
(Interruptions)

MR. SPEAKER: Mr. Stephen, the main motion is the motion of the Leader of the House. I will take up amendments to that motion and after that I will put the motion of the leader of the House to the vote of the House. If that is not accepted, then I will go to the substitute motion.

(Interruptions)

SHRI SHYAMNANDAN MISHRA (Begusarai): We did not hear you. Please tell us the procedure that you are adopting.

MR. SPEAKER: The main motion is the motion of the Leader of the House. I am taking up amendments to that motion. After that motion I will take up the main motion. If that motion is not accepted by the House, I will go to the substitute motions.

(Interruptions)

Shri Unnikrishnan has already said that.

(Interruptions)

That is the procedure already adopted

SHRI HARI VISHNU KAMATH (Hoshangabad): On a point of clarification. We could not hear you clearly. Did you say that the main motion as it stood on the eighth of this month will be taken up first?

MR. SPEAKER: No, no. The main motion is sought to be amended now.

SHRI HARI VISHNU KAMATH:
38 and 39 will be taken up first.

MR. SPEAKER: Yes.

SHRI HARI VISHNU KAMATH:
How can that be? There is my
amendment No. 31.

MR. SPEAKER: No, no. That will
be taken up. Because other amend-
ments to the motion are there I will
take up amendments Nos. 38 and 39
last.

SHRI HARI VISHNU KAMATH:
If they are carried, the others will
fall through.

MR. SPEAKER: It is not carried.

SHRI HARI VISHNU KAMATH:
If they are carried, then, will others
fall through?

MR. SPEAKER: They need not be
put.

SHRI SHYAMNANDAN MISHRA:
My submission is that the amend-
ments have to be graded according to
the degree of severity. The most
severe amendment is that of the Leader
of the House. If that amendment
comes first, the other amendments
cannot be put. So, they have to be
graded according to the degree of
severity. Then alone justice can be
done.

MR. SPEAKER: Mr. Kamath, are
you pressing your amendment No. 5?

SHRI HARI VISHNU KAMATH: I
withdraw amendment Nos. 5 and 15,
but I want to press amendment
No. 31.

MR. SPEAKER: I will come to
amendment No. 31 at the appropriate
stage. Has he the permission of the
House to withdraw his amendments
Nos. 5 and 15?

SOME HON. MEMBERS: Yes.

Amendments Nos. 5 and 15 were, by
leave, withdrawn.

MR. SPEAKER: Amendment No. 6
by Shri Jyotirmoy, Bosu.

SHRI JYOTIRMOY BOSU (Dia-
mond Harbour): I am pressing my
amendment.

MR. SPEAKER: The question is:

For the last paragraph of the
motion, substitute: "This House,
is of the opinion that Shrimati
Indira Gandhi be asked to tender
an unconditional apology to the
House immediately on conclusion
of this debate, failing which she be
suspended from the Lok Sabha for
the present session;

This House is also of the opinion
that Shri R. K. Dhawan and Shri
D. Sen be brought before the Bar
of the House, on such date as may
be decided by the Honourable
Speaker, and they be asked to
tender an unconditional apology
to the House failing which they be
severely reprimanded." (6)

The motion was negatived.

MR. SPEAKER: Amendment No. 10
Dr. Murli Manohar Joshi.

DR. MURLI MANOHAR JOSHI
(Almora): I withdraw my amend-
ments Nos. 10, 11 and 12.

MR. SPEAKER: Has he the per-
mission of the House to withdraw his
amendments Nos. 10, 11 and 12?

SOME HON. MEMBERS: Yes. W
Amendments Nos. 10 to 12 were, by
leave, withdrawn.

MR. SPEAKER: Amendment No.
14—Shri Madhu Limaye.

SHRI MADHU LIMAYE (Banka):
I want to withdraw it.

MR. SPEAKER: Has he the per-
mission of the House to withdraw his
amendment.

SOME HON. MEMBERS: Yes.
Amendment No. 14 was, by leave,
withdrawn.

MR. SPEAKER: Amendment No.
15 has already been withdrawn.

Amendment No. 25—Shri Nathu Singh.

SHRI NATHU SINGH (Dausa): I withdraw my amendment.

MR. SPEAKER: Has he the permission of the House to withdraw his amendment?

SOME HON. MEMBERS: Yes.

Amendment No. 25 was, by leave, withdrawn.

MR. SPEAKER: Amendment No. 27—Shri Sreekantan Nair.

SHRI N. SREEKANTAN NAIR: I am pressing my amendment.

MR. SPEAKER: The question is:

For the last paragraph of the motion substitute:—

“The House therefore resolves that Mrs. Indira Gandhi be admonished and kept imprisoned till the House adjourns for the day.” (27)

The motion was negatived.

MR. SPEAKER: Amendment No. 28. Shri Shyamnandan Mishra.

SHRI SHYAMNANDAN MISHRA: I am not pressing it.

MR. SPEAKER: Has he the permission of the House to withdraw it?

SOME HON. MEMBERS: Yes.

SHRI EDUARDO FALEIRO (Morugaq): I am opposing leave to withdraw it.

SHRI C. M. STEPHEN: The rule is that when permission to withdraw is being asked for, even if a single member objects, the motion will have to be put.

MR. SPEAKER: I will put it. The question is:

For the last paragraph substitute the following:

“The House, therefore, resolves that Shrimati Indira Nehru Gandhi, be reprimanded in the

strongest terms and suspended from the service of the House till the end of the current session.

The House further resolves that Shri R. K. Dhawan be severely reprimanded at the Bar of the House and Shri D. Sen admonished at the Bar of the House.” (28)

The motion was negatived.

MR. SPEAKER: Amendment No. 31. Shri Vishnu Kamath.

SHRI HARI VISHNU KAMATH: I am pressing it. Kindly read it.

MR. SPEAKER: The question is:

For the last paragraph, substitute the following:

“The House therefore resolves that Shrimati Indira Gandhi be asked by the Honourable Speaker to stand in her place, and she be severely reprimanded by him in the name, and by the authority, of the House, for her aforementioned misdemeanours.

The House further resolves that Shrimati Indira Gandhi be suspended from the service of the House during the remaining period of the current session of Lok Sabha as well as during the entire budget session of 1979.

The House also resolves that Shri R. K. Dhawan and Shri D. Sen, be called to appear at the Bar of the House and administered a severe reprimand by the hon. Speaker, in the name, and by the authority, of the House.” (31)

The motion was negatived.

SHRI VINAYAK PRASAD YADAV (Bahara): I beg leave of the House to withdraw my amendment No. 33.

Amendment No. 33 was, by leave, withdrawn.

SHRI B. P. MANDAL: I beg leave of the House to withdraw my amendment No. 35.

Amendment No. 35 was, by leave, withdrawn.

SHRI M. N. GOVINDAN NAIR: I am pressing my amendment.

MR. SPEAKER: The question is:

"That in para 1 of the amendment proposed by Shri Morarji R. Desai, printed as No. 26 in list No. 14 of amendment:—

For

"committed to jail till the prorogation of this Session and expelled from the membership of the House.

substitute

"admonished". (36)

The motion was negatived.

SHRI KANWAR LAL GUPTA: I beg leave of the House to withdraw my amendment No. 37.

Amendment 37, was, by leave, withdrawn.

MR. SPEAKER: Now, I will take up amendment No. 38 by the Prime Minister. The question is:

For the first four paragraphs substitute the following:—

"That this House having considered the Third Report of the Committee of Privileges, presented to the House on 21st November, 1978, agrees with the recommendations and findings of the Committee contained therein:

That Shrimati Indira Nehru Gandhi, Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister and Shri D. Sen, former Director of C.B.I. committed a breach of privilege and contempt of the House by causing obstruction, intimidation, harassment and institution of false cases against four concerned officers;

That she committed a further breach of privilege and contempt of the House by her refusal to take oath/affirmation before the Committee;

That she also committed a breach of privilege and contempt by casting aspersions on the Committee in her statement dated 16th June, 1978, submitted to the Committee." (38)

The motion was adopted.

MR. SPEAKER: Now I take up amendment No. 39.

SHRI VAYALAR RAVI: On a point of order. There are four other amendments in the name of other members. Amendment No. 44 is for simple punishment. When you put this amendment for severe punishment to vote, what will happen to that?

MR. SPEAKER: A similar amendment has been negatived already.

SHRI VAYALAR RAVI: Sir, I am on a point of order.

MR. SPEAKER: I have already heard your point. I have said that a similar amendment has already been negatived.

SHRI VAYALAR RAVI: By whom?

MR. SPEAKER: By the House.

SHRI VAYALAR RAVI: No. You should put my amendment.

MR. SPEAKER: All right, I will put that amendment.

SHRI K. LAKKAPPA (Tumkur): Sir, what about my substitute motion?

MR. SPEAKER: Substitute motions will be afterwards.

SHRI K. LAKKAPPA: How can you do that? You are adopting a wrong procedure.

MR. SPEAKER: All right.

SHRI K. LAKKAPPA: You adopt a wrong procedure and get away?

MR. SPEAKER: Lobbies have been cleared. I will now put amendment No. 39 to the vote of the House.

The question is:

‘For the last paragraph substitute the following:—

“The House resolves that Shrimati Indira Nehru Gandhi be committed to jail till the prorogation of the House and also be expelled from the membership of the House for the serious breach of privilege and contempt of the House committed by her.

The House further resolves that Shri D. Sen, former Director, Central Bureau of Investigation, and Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister be committed to jail till the prorogation of the House for the serious breach of privilege and contempt of the House committed by them.”(39)

The Lok Sabha divided.

AYES.

Division No. 12] [16.58 hrs.

Abdul Lateef, Shri
 Agrawal, Shri Satish
 Ahmed, Shri Halimuddin
 Ahuja, Shri Subhash
 Amat, Shri D.
 Amin, Prof. R. K.
 Ansari, Shri Faquir Ali
 Argal, Shri Chhabiram
 Arif Beg, Shri
 Bagri, Shri Mani Ram
 Bahuguna, Shri H. N.
 Bahuguna, Shrimati Kamala
 Bairagi, Shri Jena
 Bal, Shri Pradyumna
 Balak Ram, Shri
 Balbir Singh, Chowdhry

Barakataki, Shrimati Renuka Devi
 Barnala, Shri Surjit Singh
 Basappa, Shri Kondajji
 Bateshwar Hemram, Shri
 Berwa, Shri Ram Kanwar
 Bhadoria, Shri Arjun Singh
 Bhanwar, Shri Bhagirath
 Bharat Bhushan, Shri
 Berole, Shri Yashwant
 Brahm Perkash, Chaudhury
 Brij Raj Singh, Shri
 Chakravarty, Prof. Dilip
 Chand Ram, Shri
 Chandan Singh, Shri
 Chandra Shekhar, Shri
 Chandra Shekhar Singh, Shri
 Chandravati, Shrimati
 Charan Singh, Shri
 Chaturbhuj, Shri
 Chaturvedi, Shri Shambhu Nath
 Chaudhary, Shri Motibhai R.
 Chaudhry, Shri Ishwar
 Chaudhury, Shri Rudra Sen
 Chauhan, Shri Bega Ram
 Chauhan, Shri Nawab Singh
 Chhetri, Shri Chhatra Bahadur
 Chowhan, Shri Bharat Singh
 Chunder, Dr. Pratap Chandra
 Dandavate, Prof. Madhu
 Danwe, Shri Pundalik Hari
 Das, Shri S. S.
 Dasgupta, Shri K. N.
 Dave, Shri Anant
 Dawn, Shri Raj Krishna
 Desai, Shri Morarji
 Deshmukh, Shri Nanaji
 Deshmukh, Shri Ram Prasad.
 Dhandayuthapani, Shri V.
 Dharia, Shri Mohan
 Dhillon, Shri Iqbal Singh
 Dhurve, Shri Shyamal
 Digal, Shri Sribatcha
 Digvijoy Narain Singh, Shri

Durga Chand, Shri
Dutt, Shri Asoke Krishnar
Fazlur Rahman, Shri
Fernandes, Shri George
Ganga Bhakt Singh, Shri
Ganga Singh, Shri
Gattani, Shri N. D.
Gawai, Shri D. G.
Ghosal, Shri Sudhir
Godara, Ch. Hari Ram Makkasar
Gore, Shrimati Mrinal
Gowda, Shri S. Nanjeshha
Goyal, Shri Krishna Kumar
Guha, Shri Samar
Gupta, Shri Kanwar Lal
Gupta, Shri Shyam Sunder
Harikesh Bahadur, Shri
Hazari, Shri Ram Sewak
Heera Bhai, Shri
Hukam Ram, Shri
Inder Singh, Shri
Jagjivan Ram, Shri
Jain, Shri Kacharula Hemraj
Jain, Shri Kalyan
Jain, Shri Nirmal Chandra
Jaiswal, Shri Anant Ram
Jasrotia, Shri Baldev Singh
Jethmalani, Shri Ram
Joshi, Dr. Murlidhar Manohar
Kachwai, Shri Hukam Chand
Kailash Prakash, Shri
Kakade, Shri Sambhajirao
Kaldate, Dr. Babu
Kapoor, Shri L. L.
Kar, Shri Sarat
Kaushik, Shri Purushottam
Kesharwani, Shri N. P.
Khalsa, Shri Basant Singh
Khan, Shri Ghulam Mohammad
Khan, Shri Kunwar Mahmud Ali
Khan, Shri Mohd. Shamsul Hasan
Kishore Lal, Shri
Kotrashetti, Shri

Krishan, Kant, Shri
Kundu, Shri Samarendra
Kureel, Shri Jwala Prasad
Kureel, Shri R. L.
Kushwaha, Shri Ram Naresh
Lalji Bhai, Shri
Lalu Prasad, Shri
Limaye, Shri Madhu
Lyngoh, Shri Hopingstone
Machhand, Shri Raghubir Singh
Mahale, Shri Hari Shankar
Mahi Lal, Shri
Mahishi, Dr. Sarojini
Marti, Shrimati Abha
Malik, Shri Mukhtiar Singh
Mallick, Shri Rama Chandra
Mandal, Shri B. P.
Mandal, Shri Dhanik Lal
Mangal Deo, Shri
Mankar, Shri Laxman Rao
Manohar Lal, Shri
Mathur, Shri Jagdish Prasad
Meerza, Shri Syed Nazim Ali
Mehta, Shri Ajit Kumar
Mehta, Shri Prasannbhai
Mhalgi, Shri R. K.
Miri, Shri Govind Ram
Mishra, Shri Janeshwar
Mishra, Shri Shyamnandan
Mohd. Hayat Ali, Shri
Mohinder Singh, Shri
Mondal, Dr. Bijoy
Mritunjay Prasad, Shri D.
Multan Singh, Chaudhary
Munda, Shri Govinda
Munda, Shri Karim
Murmu, Father Anthony
Nahar, Shri Bijoy Singh
Nathu Singh, Shri H.
Nathuni Ram, Shri
Nathwani, Shri Narendra
Nayak, Shri Laxman Narain
Nayar, Dr. Sushila
Negi, Shri T. S.

Onkar Singh, Shri
 Oraon, Shri Lalu ,
 Pandey, Shri Ambika Prasad
 Pandeya, Dr. Laxminarayan
 Pandit, Dr. Vasant Kumar
 Paraste, Shri Dalpat Singh
 Parmai Lal, Shri
 Parmar, Shri Natwarlal B.
 Parthasarathy, Shri P.
 Parulekar, Shri Bapusaheb
 Paswan, Shri Ram Vilas
 Patel, Km. Maniben Vallabbhai
 Patel, Shri Meetha Lal
 Patel, Shri Nanubhai N.
 Patidar, Shri Rameshwar
 Patil, Shri Chandrakant
 Patil, Shri S. D.
 Patnaik, Shri Biju
 Patwary, Shri H. L.
 Phirangi Prasad, Shri
 Pipil, Shri Mohan Lal
 Pradhan, Shri Gananath
 Pradhan, Shri Pabitra Mohan
 Raghavendra Singh, Shri
 Raghavji, Shri
 Raghua Ramaiah, Shri K.
 Rai, Shri Narmada Prasad
 Rai, Shri Shiv Ram
 Raj Keshar Singh, Shri
 Raj Narain, Shri
 Rajda, Shri Ratansinh
 Rakesh, Shri R. N.
 Ram, Shri R. D.
 Ram Awadhesh Singh, Shri
 Ram Charan, Shri
 Ram Deo Singh, Shri
 Ram Dhan, Shri
 Ram Gopal Singh, Chaudhury
 Ram Kinkar, Shri
 Ram Murti, Shri
 Ram Sagar, Shri
 Ramachandran, Shri F.
 Ramapati Singh, Shri

Ramdas Singh, Shri
 Ramji Singh, Dr.
 Ramjiwan Singh, Shri
 Ramoowalia, Shri Balwant Singh
 Ranjit Singh, Shri
 Rao, Shri Jagannath
 Rao, Shri Raje Vishveshvar
 Rasheed Masood, Shri
 Rathor, Dr. Bhagwan Das
 Ravindra Pratap Singh, Shri
 Rodrigues, Shri Ruldolph
 Rothuama, Dr. R.
 Saeed Murtaza Shri
 Sahoo, Shri Ainthu
 Sai, Shri Larang
 Sai, Shri Narhari Prasad Sukhdeo
 Saini, Shri Manohar Lal
 Samantasinhera, Shri Padmacharan
 Saran, Shri Daulat Ram
 Sarangi, Shri R. P.
 Sarda, Shri S. K.
 Sardar, Shri Mahendra Narayan
 Sarkar, Shri S. K.
 Sarsonia, Shri Shiv Narain
 Satya Deo Singh, Shri
 Sen, Shri Prafulla Chandra
 Shah, Shri Suresh Bahadur
 Shazia, Shrimati Rano M.
 Shakya, Shri Daya Ram
 Shakya, Dr. Mahadeepak Singh
 Sharma, Shri Jagannath
 Sharma, Shri Rajendra Kumar
 Sharma, Shri Yagya Datt
 Shastri, Shri Bahanu Kumar
 Shastri, Shri Y. P.
 Shejwalkar, Shri N. K.
 Sheo Narain, Shri.
 Sher Singh, Prof.
 Shiv Sampati Ram, Shri
 Shrikrishna Singh, Shri
 Shukla, Shri Chimanbhai H.
 Shukla, Shri Madan Lal
 Sikandar Bakht, Shri

Singh, Dr. B. N.
 Singha, Shri Sachindralal
 Sinha, Shri H. L. P.
 Sinha, Shri M. P.
 Sinha, Shri Purnanarayan
 Sinha, Shri Satyendra Narayan
 Somani, Shri Roop Lal
 Somani, Shri S. S.
 Sukhendra Singh, Shri
 Suman, Shri Ramji Lal
 Suman, Shri Surendra Jha
 Suraj Bhan, Shri
 Surendra Bikram, Shri
 Swamy, Dr. Subramaniam
 Swatantra, Shri Jagannath Prasad
 Talwandi, Shri Jagdev Singh
 Tan Singh, Shri
 Tej Pratap Singh, Shri
 Thakur, Shri Aghan Singh
 Tiwari, Shri Brij Mohan
 Tiwary, Shri Ramanand
 Tohra, Shri G. S.
 Tripathi, Shri Madhav Prasad
 Tripathi, Shri Ram Prakash
 Tur, Shri Mohan Singh
 Tyagi, Shri Om Prakash
 Ugrasen, Shri
 Vaghela, Shri Shankersinhji
 Vajpayee, Shri Atal Bihari
 Varma, Shri Ravindra
 Vasisht, Shri Dharma Vir
 Verma, Shri Brijlal
 Verma, Shri Chandradeo Prasad
 Verma, Shri Phool Chand
 Verma, Shri R. L. P.
 Verma, Shri Raghunath Singh
 Verma, Shri Sukhdeo Prasad
 Yadav, Shri Gyaneshwar Prasad
 Yadav, Shri Hukmdeo Narain
 Yadav, Shri Jagdambi Prasad
 Yadav, Shri Narsingh
 Yadav, Shri Ramji Lal
 Yadav, Shri Sharad
 Yadav, Shri Vinayak Prasad

Yadava, Shri Roop Nath Singh
 Yadavendra Dutt, Shri
 Yuvraj, Shri

NOES

Ahsan Jafri, Shri
 Alluri, Shri Subhash Chandra Bose
 Anbalagan, Shri P.
 Ankineedu, Shri Maganti
 Ankineedu Prasad Rao, Shri
 Arunachalam, Shri M.
 Arunachalam alias 'Aladi Aruna'
 Shri V.
 Asokaraj, Shri A.
 Avari, Shri Gev M.
 Badri Narayan, Shri A. R.
 Banatwalla, Shri G. M.
 Barrow, Shri A. E. T.
 Barua, Shri Bedabrata
 Barve, Shri J. C.
 Basu, Shri Dhirendranath
 Bhakta, Shri Manoranjan
 Boddepalli, Shri Rajagopala Rao
 Bonde, Shri Nanasahib
 Chandrappan, Shri C. K.
 Chavan, Shrimati P.
 Chavan, Shri Yeshwantrao
 Chetri, Shri K. B.
 Chikkalingiah, Shri K.
 Choudhari, Shri K. B.
 Dabhi, Shri Ajitsinh
 Damor, Shri Somjibhai
 Dasappa, Shri Tulsidas
 Desai, Shri Hitendra
 Devarajan, Shri B.
 Dhondge, Shri Keshavrao
 Doley, Shri L. K.
 Elanchezhian, Shri V. S.
 Engti, Shri Biren
 Faleiro, Shri Eduardo
 Gaekwad, Shri F. P.
 Gamit, Shri Chhatubhai
 Gandhi, Shrimati Indira Nehru
 Gogoi, Shri Tarun

- Gomango, Shri Giridhar
 Gopal, Shri K.
 Gotkhinde, Shri Annasaheb
 Gounder, Shri Venugopal
 Jaffer Sharief, Shri C. K.
 Jagannathan, Shri S.
 Jeyalakshmi, Shrimati V.
 Kadam, Shri B. P.
 Kalyanasundaram, Shri M.
 Kamakshaiiah, Shri D.
 Khan, Shri Ismail Hossain
 Kidwai, Shrimati Mohsina
 Kodiyan, Shri P. K.
 Kolanthaivelu, Shri R.
 Kolur, Shri Rajshekhhar
 Kosalram, Shri K. T.
 Krishnappa Shri M. V.
 Lakkappa, Shri K.
 Laskar, Shri Nihar
 Mallanna, Shri K.
 Mallikarjun, Shri
 Mathew, Shri George
 Mayathevar, Shri K.
 Meduri, Shri Nageswara Rao
 Mirdha, Shri Nathu Ram
 Mishra, Shri G. S.
 Mohanarangam, Shri Ragavalu
 Mohsin, Shri F. H.
 Murthy, Shri Kusuma Krishna
 Murthy, Shri M. V. Chandrashekhar
 Murugaiyan, Shri S. G.
 Murugesan, Shri A.
 Naidu, Shri P. Rajagopal
 Naik, Shri S. H.
 Naik, Shri V. P.
 Nair, Shri B. K.
 Nair, Shri M. N. Govindan
 Nair, Shri N. Sreekantan
 Narayana, Shri K. S.
 Pajanor, Shri A. Bala
 Patel, Shri Ahmed M.
 Patel, Shri Dwārikadas
 Patel, Shri R. R.
 Patil, Shri Balasaheb Vikhe
 Patil, Shri S. B.
 Patil, Shri Vijaykumar N.
 Periasamy, Dr. P. V.
 Poojary, Shri Janardhana
 Pradhani, Shri K.
 Pullaiah, Shri Darur
 Qureshi, Shri Mohd. Shan
 Rachaiiah, Shri B.
 Rajan, Shri K. A.
 Raju, Shri K. A.
 Raju, Shri P. V. G.
 Ramalingam, Shri N. Kudanthai
 Ramalingam, Shri P. S.
 Ramamurthy, Shri K.
 Ramaswamy, Shri K. S.
 Ramaswamy, Shri S.
 Rao, Shri G. Mallikarjuna
 Rao, Shri J. Rameshwar
 Rao, Shri Jalagam Kondala
 Rao, Shri M. S. Sanjeevi
 Rao, Shri M. Satyanarayan
 Rao, Shri P. V. Narasimha
 Rao, Shri Pattabhi Rama
 Rath, Shri Ramachandra
 Rathawa, Shri Amarsinh V.
 Reddi, Shri G. S.
 Reddy, Shri G. Narsimha
 Reddy, Shri K. Brahmananda
 Reddy, Shri K. Obul
 Reddy, Shri K. Vijaya Bhaskara
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Bayappa
 Reddy, Shri S. R.
 Sangma, Shri P. A.
 Sathe, Shri Vasant
 Satyanarayana, Shri Dronam Reju
 Sayeed, Shri P. M.
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Shrangarc, Shri T. S.
 Stephen, Shri C. M.
 Subramaniam, Shri C.
 Sunna Sahib, Shri A.

Suryanarayana, Shri K.
Swaminathan, Shri R. V.
Swamy, Shri Sidrameshwara
Thakur, Shri Krishnarao
Thiagarajan, Shri P.
Thomas, Shri Skariah
Thorat, Shri Bhausahab
Tulsiram, Shri V.
Veerabhadrapa, Shri K. S.
Venkataraman, Shri R.
Venkatareddy, Shri P.
Venkatasubbaiah, Shri P.
Visvanathan, Shri C. N.

MR. SPEAKER: Subject to correction, the result* of the division is:

Ayes 279; Noes 138.

The motion was adopted.

MR. SPEAKER: The amended motion is:

"That this House, having considered the third Report of the Committee of Privilege....

SHRI B. SHANKARANAND: On a point of order. You have put the main motion first. That was carried. Thereafter you put the amendment. Now you cannot put the amended motion to the House. It is not permissible under the rules.

SHRI C. M. STEPHEN: You exercise your power under rule 181, and that rule says:

"When any resolution involving several points has been discussed, the Speaker may divide the resolution, and put each or any point separately to the vote, as he may think fit."

Therefore, you bifurcated the resolution into two. One part of it you put and you declared that as carried. The second part is a separable part, that

you have now put. There is no one body, you have divided it into two. It is not like a Bill, with amendments and all that. One part you have declared has been passed. You took the second part out and you have put it to vote. This need not be combined, this cannot be combined. The effect of it will go. The fact was as follows. The first part is carried, the second part is carried. With regard to the second part, there is a division. There cannot be a resolution as amended. That is all that I am saying. It makes no difference, but you see that the point is that the first part you took out and declared as carried. The second part you declared as carried. There is no resolution as amended.

MR. SPEAKER: I have followed your point.

श्री राज नारायण (रायबरेली) :
श्रीमान्, कामन प्रेक्टिस यहीं है कि पहले अमेंडमेंट पर वोट लिया जाता है और क्रममेंडमेंट पर वोट लेने के बाद जो पूरा मॉशन है ऐज अमेंडेड, उसके साथ वोट लिया जाता है। . . . (व्यवधान)

SHRI B. SHANKARANAND: Now you cannot put the amended resolution to the House.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): Two amendments to the motion have been carried. Therefore, the motion with the two amendments has to be put.

SHRI B. SHANKARANAND: Please observe the rules. You cannot put the amended resolution to the House.

MR. SPEAKER: There seems to be some misunderstanding in the point of order raised. What I had earlier put to the House were Amendments

*The following Members also recorded their votes:

AYES: Sarvshri H. M. Patel, Narendra Singh, Mohan Bhaiya, Rinching Khandu Kherine, Bagun Sumbrui and Syed Liaquat Hussain;

NOES: Sarvshri P. Kannan, Shindharro Nathobaji Jawade and Bakin Pertin

Nos. 38 and 39. I did not put the main motion at all. This in substance comes into the main motion, but formality requires that I have to put it.

SHRI B. SHANKARANAND: Under what rule are you doing it? The House is entitled to know under what rule you are doing it.

17 hrs.

MR. SPEAKER: Now, I will put the main motion, as amended, to the vote of the House.

The question is:

"That this House having considered the Third Report of the Committee of Privileges, presented to the House on 21st November, 1978, agrees with the recommendations and findings of the Committee contained therein;

That Shrimati Indira Nehru Gandhi, Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister and Shri D. Sen, former Director of C.B.I. committed a breach of privilege and contempt of the House by causing obstruction, intimidation, harassment and institution of false cases against four concerned officers;

That she committed a further breach of privilege and contempt of the House by her refusal to take oath/affirmation before the Committee;

That she also committed a breach of privilege and contempt by casting aspersions on the Committee in her statement dated 16th June, 1978, submitted to the Committee.

The House resolves that Shrimati Indira Nehru Gandhi be committed to jail till the prorogation of the

House and also be expelled from the membership of the House for the serious breach of privilege and contempt of the House committed by her.

The House further resolves that Shri D. Sen, former Director, Central Bureau of Investigation and Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister, be committed to jail till the prorogation of the House for the serious breach of privilege and contempt of the House committed by them."

The motion was adopted.

MR. SPEAKER: As the motion has been carried, all the other substitute motions and amendments fall through.

(Interruptions)

SHRI K. LAKKAPPA: I rise on a point of order. Any legislation or any motion or any Bill cannot be passed in violation of natural justice. This cannot be passed by ordinary majority... **

MR. SPEAKER: There is no point of order. Don't record.

SHRI C. M. STEPHEN: Now the House has passed this resolution. There is the question of execution of this resolution, the decision of the House. The point is, Mrs. Indira Gandhi, whom the House has now decided to commit to prison, is here. What exactly is going to be the procedure because this is the first time that the House does something like that? She is here to receive the punishment. The punishment is there and the execution may be done immediately. It has got to be done that way.

I have got one more submission to make. We have got some genuine apprehensions about which some time back, I have given expression.

MR. SPEAKER: You have mentioned it to me.

SHRI C. M. STEPHEN: Now that has got to be taken care of, I want to emphasise that when this order is executed, she is under your custody, she is under you completely and not under any other authority at all. That has got to be completely borne in mind. This is the submission I have got to make. With your permission, may I make one more submission? The Members on this side, understandably are now possessed of a very deep emotion, the entire House. You will kindly appreciate the mental station which we are, as far as a large number of people on this side are concerned.

There is a feeling that proper justice has not been done. I do not want to reflect on the decision of the House; I do not want to go back upon that. As was mentioned by Mr. C. Subramaniam, the Leader of the House could have consulted the leaders of the Opposition, not me, other

leaders of the Opposition and a consensus could have been arrived at with respect to the punishment. The direction by the Committee was the collective wisdom. I want to go on record that the collective wisdom of the House is what was asked for. What we have got is the collective wisdom of...**

MR. SPEAKER: Don't record.

(Interruptions)**

Now, some legislative work is there.

SHRI C. M. STEPHEN: It cannot be proceeded with... (Interruptions)

MR. SPEAKER: I adjourn the House for the day. The House stands adjourned till 11 A.M. tomorrow.

17.08 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, December 20, 1978/Agrahayana 29, 1900 (Saka).

**Not recorded.