

MR. SPEAKER: I have not called anybody else. I have called only Mr. Unnikrishnan.

PROF. P. G. MAVALANKAR: This rule is applicable only because of the conditions that you are now having. More than one Member have been rising and most of them want to speak. Kindly allow one of us.

MR. SPEAKER: The rule is clear. Nobody can speak without the consent of the Speaker. I have not given my consent.

*(Interruptions)\*\**

SHRI GAURI SHANKAR RAI: On a point of order, under rule 376. The rule says that a point of order may be raised in relation to the business before the House at the moment. The whole House wants to discuss this matter one by one, can you not listen? The House will not sit after today.

MR. SPEAKER: That is not a point of order there is no point of order in this....

*(Interruptions)\*\**

MR. SPEAKER: Don't record anything. The hon. Prime Minister.

THE PRIME MINISTER (SHRI MORARJI DESAI): As the Home Minister is in hospital, I made enquiries in the matter as soon as I learnt about this incident. This morning I had a talk with the IGP and I told him that he must go into it vigorously and find out the jeep, he says he has traced the jeep, the persons responsible will be traced soon, perhaps by this evening and proper investigations will be made and proper action taken....

*(Interruptions)\*\**

MR. SPEAKER: Don't record. Nothing more can be said at this stage.

SHRI KANWAR LAL GUPTA: Under rule 389 I rise on a point of order. The matter has been raised

and it had been clarified by the Prime Minister because it is a serious matter. We suspect foul play in the accident.

MR. SPEAKER: Rule 389 is about residuary powers.

SHRI KANWAR LAL GUPTA: Permit me to formulate my point. The Prime Minister has made a statement. The whole world suspects that it is foul play....

MR. SPEAKER: I do not allow you. Don't record.

SHRI MORARJI DESAI: No purpose will be served by discussing the matter now. I have already taken it up. I have also talked with the officer concerned, the officer who had unfortunately lost his son in this tragic manner. This is being looked into very carefully and facts are being found out.

*(Interruptions)\*\**

MR. SPEAKER Don't record.

12.15 hrs.

QUESTION OF PRIVILEGE  
AGAINST MINISTER OF EXTERNAL  
AFFAIRS RE. ALLEGED MISLEADING  
STATEMENT ABOUT PAYMENT  
OF 11 MILLION DOLLARS  
THROUGH A SWISS BANK

MR. SPEAKER: Order, Order. Mr. Unnikrishnan's and Mr. Vayalar Ravi's Privilege motions.

*(Interruptions)*

MR. SPEAKER: Before that, Mr. Unnikrishnan, you had given notice of certain names. Under the Rules, you are required to give notice not only to me but to the Minister concerned and also tell me the substance of your allegation against the Officer so that before I decide.... You have not done that.

SHRI K. P. UNNIKRIISHNAN (Badagara): Without mentioning those names, it is impossible for me even to explain my notice. The Minister has seen the notice. I was informed by your Table Office Assistant, whoever he is, that he has objected only to one name.

MR. SPEAKER: It is not upto him. The ruling given here is, you can casually mention the names and that does not come. If you make any allegation of a character...

SHRI K. P. UNNIKRIISHNAN: No, No. I have given you all the documents and I have explained to you not once, but for the last one month continuously.

MR. SPEAKER: You are not concerned with the names.

(Interruptions)

SHRI K. P. UNNIKRIISHNAN: I do not want to mention anything beyond what I have told you and in deference to the wishes expressed by the Minister of External Affairs, I shall not mention any name, which he has said, is that of a foreigner.

MR. SPEAKER: There are two questions arising. I am taking one by one.

SHRI K. P. UNNIKRIISHNAN: First of all is my motion against Shri Vajpayee.

MR. SPEAKER: It is not that. I have put it to this House for this reason that there are contradictory decisions of the Chair in this case as to the scope of Rule 222. Many decisions have taken the view that I can consult before giving the consent or refusing to give the consent. Some decisions have taken the view that once I put it to this House thereafter I have nothing to do. I merely wanted to know about the scope of Rule 222 and I would like to be assisted by the Law Minister on the scope of Rule 222.

(Interruptions)

SHRI GAURI SHANKAR RAI (Ghazipur): Let the matter be the property of the House. (Interruptions).

SHRI K. P. UNNIKRIISHNAN: I am on a point of order. When you have told me, this is not the time for you to call him, may I submit? (Interruptions) On the question of admissibility of my notice, I quoted seventeen examples before you where it has been discussed in this House before. This is not the time for you to have a general discussion....

MR. SPEAKER: I have told you plainly that the first question that I will consider is about the scope of Rule 222 because, as I have told you there are contradictory rulings in this matter. I have told you specifically that the last ruling given by the Deputy Speaker was against the earlier line of rulings. Therefore, I am prepared to hear you and the Law Minister as regards the scope of rule 222. After that, I will certainly allow you to go to the next.

SHRI K. P. UNNIKRIISHNAN: You said, my notice will be taken up. This is not the time for you to bring up another procedural question.

MR. SPEAKER: No no. That is part of the question.

SHRI K. P. UNNIKRIISHNAN: You called me in order first. You cannot call someone else.

MR. SPEAKER: I am prepared to hear you.

SHRI K. P. UNNIKRIISHNAN: Repeatedly you have gone on record as calling me.

MR. SPEAKER: I am prepared to hear you first on rule 222. Then I will go to the substance of the matter.

SHRI B. SHANKARANAND (Chikodi): The Law Minister cannot be the competent authority to interpret the rules.

MR. SPEAKER: Not interpret, but assist.

SHRI B. SHANKARANAND: We cannot go by his advice.

MR. SPEAKER: I am not going by his advice. I am only asking for assistance.

SHRI K. P. UNNIKRISHNAN: In his intervention as and when he is called, he can certainly discuss this question. He can certainly assist the House and assist you as and when he is called. After you have called me, you have to stick to that and call me first. Let me make my submission.

SHRI K. LAKKAPPA (Tumkur): The Law Minister is no authority on the subject. You have to take the opinion of the House. Many members can give advice.

MR. SPEAKER: It is my right to seek advice.

*(Interruptions)*

MR. SPEAKER: I am only hearing Mr. Unnikrishnan, Mr. Ravi and the Law Minister on this point.

SHRI VASANT SATHE (Akola): I also want to make a submission on rule 222. You will have to listen to others also before you decide. You cannot say, I will hear the Law Minister and Mr. Unnikrishnan and decide it.

SHRI K. GOPAL (Karur): He is only a member here. When you ask him to interpret the rules of procedure, every one of us can interpret it.

MR. SPEAKER: It is well laid down that in this matter, it is for the Speaker to select the speakers. You cannot dictate to me who are the speakers.

SHRI VAYALAR RAVI: (Chiraynkil): Will you allow me to speak on it?

MR. SPEAKER: I am on rule 222.

SHRI K. P. UNNIKRISHNAN: It is together. I have given a notice.

SHRI SHYAMNANDAN MISHRA (Begusarai): I am arising on a point of order. You were pleased to say that you would like to be assisted by the hon. Law Minister in interpreting the scope of rule 222. May I submit to you with all humility that there cannot be attributed to the Law Minister any special competence in this matter? The rules are the creatures of this House and everyone of us is as competent to interpret them as the hon. Law Minister is. Moreover, it is very strange that the Chair should ask—when the Chair is expected to administer the rules—the Law Minister to assist him in finding out what are the powers available to the Chair. I think it is not being fair to the Chair itself in asking the assistance of the Law Minister.

SHRI VASANT SATHE: I rise on a point of order under rule 376: "A point of order shall relate—my point of order relates—to the interpretation or enforcement of these rules". I am on the point of interpretation of rule 222.

MR. SPEAKER: I am on that.

SHRI VASANT SATHE: Sub-rule (4) of rule 376 says:

"No debate shall be allowed on a point of order but the Speaker may, if he thinks fit, hear members before giving his decision."

So, If you decide to hear Members, not the Law Minister....

MR. SPEAKER: No, I am not confining to the Law Minister alone.

SHRI VASANT SATHE: So you hear the Members.

MR. SPEAKER: Not all the Members.

**SHRI VASANT SATHE:** But when we have a point to make, and I had even before raised this matter under Rule 222—I am on record—if you are going to give a fresh look on Rule 222. I beg to submit that I would also give my views and my views also should be taken into consideration.

**SHRI VAYALAR RAVI:** Sir, Rule 222 is very clear. Rule 222 reads as follows:

“A Member may, with the consent of the Speaker raise a question involving a breach of privilege either of a Member or of the House or of a Committee thereof.”

So far as Rule 222 is concerned, it is completely, purely and solely for the Speaker to allow any Member to raise. Mr. Sathe's point comes only in the debate on a point of order. There is no point of order. No Member raised any point of order when you called Mr. Unnikrishnan. No Member of the Ruling Party or this side raised a point of order under Rule 222. There is no point of order before the House under Rule 222.

**MR. SPEAKER:** There is no point of order in yours also.

**SHRI VAYALAR RAVI:** All the Speaker said is: “Item 1A. Mr. Unnikrishnan will be speaking.” So far, as he called Mr. Unnikrishnan on item No. 1A and there is no point of order raised before the House, it is completely within the purview of Mr. Unnikrishnan to speak as you called him to speak under Rule 222.

**MR. SPEAKER:** Kindly assist me under Rule 222.

**SHRI K. P. UNNIKRISHNAN:** I will, in the course of my...

**SHRI C. M. STEPHEN (Idukki):** What is the assistance you want under Rule 222?

**MR. SPEAKER:** I will clarify. There are two conflicting lines of

decision given by the Speakers here. One is, the Speaker has a right to hear before giving consent or not. He has a right to hear, after hearing he can decide. Secondly, once you allow the House to debate on that matter, thereafter the Speaker's consent is irrelevant. The line of rulings earlier taken is that the Speaker has heard, thereafter either he consented or refused to consent. But lately one or two decisions were taken. Once you allow them to raise, thereafter the Speaker's consent becomes irrelevant. That is the view taken, that is one decision, and in fact, Mr. Ravi was responsible for the latter ruling to some extent, though, of course, today he is taking a different line. The earlier ruling is that Rule 222 does not preclude the Speaker from hearing before consenting or refusing to consent. That is all that is there.

**SHRI C. M. STEPHEN:** The question of interpretation of the rules in the air is not contemplated. The question of interpretation under a point of order can arise only after the business comes before the House. The business has got to come before the House. The business now mooted by Mr. Unnikrishnan is the question of a privilege motion. It either comes or it does not come. It comes only if you permit. If it does not come, no question of interpretation of Rule 222 arises at all because in a vacuum it cannot be decided at all.

Now, the first question before you put a question to the Law Minister. I would put to you is: What is the business before the House? If there is a business before the House, then the application of the rules will arise. The business of the House, if it arises, then if there are points of order arising out of that, then opinion can be collected from the Members of the House.

Regarding the admissibility under Rule 222, you have got two courses: Either you can yourself decide it and

[Shri C. M. Stephen]

admit it under Rule 222, or you can consult the opinion either in the Chamber or here, as you choose, but there is no question of consulting the opinion of any particular individual. Once you seek to consult the House, you can consult only the House, not any Members. You can consult either a person in the Chamber or you can consult the House. Once you decide that you must consult the House before permission is given, then that becomes the property of the House. Discussions will have to be allowed in a proper manner. My submission is that under rule 222, this question does not arise at all, unless you make up your mind to admit the motion Mr. Unnikrishnan has given notice of. That has to be admitted. Once it is (*Interruptions*) admitted, the scope of rule 222 does not arise at all. My objection is, you cannot canvass an opinion of the Members in the air. You cannot decide a point of order, except in relation to a subject before the House. Therefore, the moment you say 'I want the opinion of the Members of the House', it is pre-supposed that you admitted it....

MR. SPEAKER: No, no. I have to make it clear that I have not admitted it. I am only on the question.

SHRI K. P. UNNIKRIISHNAN: The position is very clear on the question of admissibility of my notice. That is why you have called me; and when you have called me, I shall not be restricted to rule 222. (*Interruptions*)

MR. SPEAKER: Will you now speak about admissibility?

SHRI K. P. UNNIKRIISHNAN: The whole talk is about admissibility. (*Interruptions*) Unless I explain my notice, how do I say...

(*Interruptions*)

SHRI NARENDRA P. NATHWANI (Junagadh): *rose*...

MR. SPEAKER: What is your point of order?

SHRI NARENDRA P. NATHWANI: The point of order arises under rule 389. You are now seeking interpretation of rule 222. The question raised by you relates to detailed working of rule 222. If I am right, kindly look at rule 389. It says:

"All matters not specifically provided for in these rules and all questions relating to the detailed working of these rules shall be regulated in such manner as the Speaker may, from time to time, direct."

So, the matter rests entirely in your discretion. You are asking about interpretation of rule 222. You want to be enlightened as regards the detailed working of the rule. That point is expressly covered by rule 389. Therefore, it is for you, in your sole discretion, to regulate this point.

श्री गौरी शंकर राय : मान्यवर, मेरा प्वाँट ऑफ़ आर्डर है।

MR. SPEAKER: What is the rule? You have raised a point of order.

SHRI GAURI SHANKAR RAI: Rule 376.

SHRI K. P. UNNIKRIISHNAN: There cannot be a point of order in a vacuum.

MR. SPEAKER: It is not a point of order in a vacuum at all. It is a point of order because of a conflict of decisions...

SHRI K. P. UNNIKRIISHNAN: No.

SHRI SAUGATA ROY (Barrack-pore) *rose*.

MR. SPEAKER: Why don't you allow him? Mr. Saugata Roy, he is quite competent to do it.

श्री श्री गुरुदेव शंकर राव : मानवर, वेरा  
अवस्था का प्रश्न कर्तुं के लक्षण में हे ।

**SHRI K. P. UNNIKRISHNAN:** I have given my notice on the question of admissibility. Let me be clear on that point, before I proceed.

**MR. SPEAKER:** You are taking the position that after hearing you, it is for me to decide whether to admit or not.

**SHRI K. P. UNNIKRISHNAN:** Of course.

**SHRI GAURI SHANKAR RAI:** In this connection, my point of order is that the procedure and the convention is that the hon. Member must read the notice that he has given to you; on that, and after that, he should not be allowed to talk on the merits and demerits of the different subjects involved in it. Only in the notice. (Interruptions) Listen; only on the notice. We would like you to listen to us also regarding the admissibility.

**MR. SPEAKER:** That is not a point of order. It is for me.

**SHRI K. P. UNNIKRISHNAN:** I shall confine to my motion against Mr. A. B. Vajpayee—because it can only be taken up separately—and not on the question of privilege concerning Mr. H. M. Patel. The privilege motion for which I have given notice to you, i.e. regarding Mr. Vajpayee's statement on 12-4-1978, is an unparalleled one. Because, the issue involves a very grave violation and a fraud on the Constitution, a fraud on Parliament, a fraud on the provisions of the Constitution concerning the administration of the Consolidated Fund of India and, above all, it challenges the sovereign jurisdiction of this House regarding questions like the custody of the Consolidated Fund of India and, simultaneously, it also raises the question of the doctrine of ministerial responsibility. So, this is not a party question; this is not a question concerning X, Y or Z, some individuals,

whoever may be concerned, the previous Government or the Government of the present day, but it is a question of vital significance, namely, whether we want to have parliamentary democracy in this country and, if so, you have to uphold not only the values but also the Constitution and its provisions regarding the administration and also sovereign jurisdiction of Lok Sabha. If this House is to discharge its functions, then it has to be conducted properly, and, similarly, its rights have to be upheld by you, Sir, the custodian of our rights and the rights of this House.

On 3rd March 1978, Shri Shyamnandan Mishra made a statement under rule 377, seeking information regarding the payment of 11 million dollars from the Consolidated Fund of India and the question of External Affairs Ministry's involvement with it.

Under rule 377, as you know, it is not mandatory for any Minister to make any reply. But, recognising the importance of the issues raised by Shri Shyamnandan Mishra, the Minister for External Affairs thought it right to give a reply to it on 12-4-1978, and he said he has "carefully enquired"—these words are very important, I submit—"into these payments" and he has admitted—I shall come to that later on. The words "carefully enquired" what does it mean? According to the Oxford Dictionary, "careful" means "full of care, anxious, applying care, taking pains of what one has to do and on one's own care"; and "enquire" means "to ask searching questions, to search into, investigate and examine thoroughly".

So, the meaning is very clear that with great care he had thoroughly probed into the question to these payments, referred to by Shri Shyamnandan Mishra, in his statement. This must have necessarily included looking into all the documents and files regarding these payments, because he had come before the House with a statement after discussions with officials on

[Shri K. P. Unnikrishnan]

other related questions. Now, he was not obliged, it has to be remembered, nor was it mandatory for him to come before the House with any reply to the questions raised by Shri Mishra, because it was under rule 377.

Now my charge against him is that in this statement Shri Atal Bihari Vajpayee, the Minister for External Affairs deliberately and wilfully attempted, consciously attempted, to mislead the House and cover up what amounted to and what I shall explain as a fraud on the Constitution, a fraud on this House and a fraud on the sovereign jurisdiction of this House.

The Minister in his statement laid emphasis on the following points: (1) that he has carefully enquired, and (2) the two payments, what he called 'part payments' of 5½ million dollars each, were sanctioned on 15-3-1976 and 28-10-1976, and that these payments were made in accordance with the terms of "a commercial transaction between the Governments of India and Iran." He also said in his statement that these payments, according to this agreement, had to be made in Swiss francs in Switzerland. The funds, he claimed, were provided under the special discretionary expenditure of his ministry in the budget, and the amounts were paid by cheque—note the word "cheque"—and no illegal payments—mark the word "illegal" were made to any Indian.

He went on to say that Ashoka Traders of ~~Hinduja Brothers~~ was a company registered in Iran, and was not, as far as he knew, the recipient of these payments. He went on to talk about the strengthening of relations with Iran. On this question, because it is sensitive, I would like to say that nobody here in this House questions the desirability of having good neighbourly relations with Iran or any other country, and let me also add, so that doubts can be set at rest, that we do not doubt the *bona fides* of His

Imperial Majesty, the Shah-en-Shah of Iran, who has been recently very helpful to us. We want the relations to continue and improve. This is not a question concerning that. This is a question concerning, I repeat, the sovereign jurisdiction of this House, and a fraud on the constitution, a fraud on the Consolidated Fund of India. But my allegation is that the guilty men behind this transaction, whoever they were, wherever they might be, are trying to use this Indo-Iran relationship as a smoke screen to cover up their misdeeds.

It is very interesting to compare the Minister's statement with the anatomy of the whole transaction that the *Current*, a weekly of Bombay, dated 15-4-1978 had exposed.—and I should say it has done a great national service—by explaining how a fraud on the Constitution had taken place. Then I wrote to you.

The role of the External Affairs Ministry in the constitutional set-up and in the set-up of the Government of India has to be considered in this background. My contention is that the Ministry of External Affairs, like any other Ministry of the Government of India, can only transact business or make payments or enter into agreements as allowed by the President of India under article 77(3) of the Constitution and under the rules made for the same, known as the Government of India Allocation of Business Rules. It cannot transgress the limits imposed by the rules made under article 77(3) of the Constitution. Otherwise there will be total anarchy in this country.

Under the Government of India Allocation of Business Rules, 1961, there are 44 items listed as applying to or being under the exclusive jurisdiction of the Ministry of External Affairs, except that there is a minor fraud there also, committed by the previous Government. Item 44 is entered under both the Ministry of

Supply and the Ministry of External Affairs, as you will see. This item 44, I have been told, has been subsequently modified to mean that the affairs concerning India Supply Mission, Washington, and India Supply Mission, U.K., alone come within the purview of the External Affairs Ministry. So, the legal capacity of the External Affairs Ministry to enter into transactions or make payments, I repeat, or enter into any agreements as contemplated under article 299(1) of the Constitution is confined to business that has been allotted to them under the Allocation of Business Rules.

What is a commercial transaction, as we are supposed to understand? It must necessarily mean not only the sale or purchase of goods or services; also, it may include any covenant or agreement to buy or sell goods or services. If it was such a payment for goods and services bought or sold, then the question would arise: what were the stipulations under the contract entered into or agreements regarding these payments? This is a fundamental and vital question regarding this. The questions are: firstly whether the External Affairs Ministry could enter into it, whether they had the legal capacity, and secondly, what were the stipulations and agreements regarding these payments?

According to the Explanatory Memorandum of the Budget of 1976-77, the following agreements were entered into between the Governments of India and Iran. Incidentally I may say with deep regret that in some of these explanatory memoranda, the payments received from Iran are not mentioned in the Statement of External loans. I shall take it up later. There are three agreements mentioned in the explanatory memorandum: (1) A loan assistance of Rs. 298.80 million dollars for meeting part of the cost of crude supplied to Indian Oil Corporation and the Madras Refineries; (2) Loan assistance of 250 million dollars to the State Bank of India to be utilis-

ed for implementation of development programmes in India; and (3) A loan assistance of 630 million dollars to the Steel Authority of India towards financing the cost of implementation of the Kudremukh Iron Ore Project. I do not want to go into the various other deals entered into with Iran by STC or others. To which of these agreements did these payments relate and the vital question, again I repeat is: did these agreements specifically say that \$ 11 million be paid, if so to whom? Who negotiated the agreement and signed? Are the part payments continuing? Or have they ended? It is necessary to pull down the veil of secrecy.

As records show, on March 15, 1976 the then Foreign Secretary, Mr. Kewal Singh wrote to the Governor of Reserve Bank as follows:

"Top Secret. No. T.325/FS/76 dated March 15, 1976. To the Governor, Reserve Bank of India, Bombay. (Attention: Shri J. C. Luther, Executive Director): Sir, I am directed to request you to arrange immediately remittance of US \$ 5.5 million (US dollars five and a half millions only) in Swiss Fracs. payable to Shri K. Sankaran Nair at Credit Suisse or Union Bank of Switzerland at Geneva, Switzerland. The remittance should be made by drawing a demand draft...." (which has been differently defined under the Negotiable Instruments Act.) "...in the name of the above person payable to him at the bank at Geneva on sight.

2. The expenditure is debitable to "Major Head 261-B.3 Special Diplomatic Expenditure B.3(1)(1)—Other Charges."

3. Secretary, Department of Economic Affairs, has agreed to the remittance being made and this letter issue with his concurrence.

Sd/- Kewal Singh."



[Shri K. P. Unnikrishnan]

There are certain remarks by Mr. K. Sankaran Nair and Mr. J. S. Mehta. I do not want to repeat them.

As per his directive, a telex message went from the Reserve Bank to Mr. Hanselmann, General Manager of the Union Bank of Switzerland, Zurich. Well, I do not want to repeat that. It is asking them to make arrangement for payment.

Mr. K. Sankaran Nair, then Special Secretary, in the Cabinet Secretariat wrote a letter on May 11, 1976 to the then Deputy Chief Accountant, Reserve Bank of India, Central Office, Bombay. DO No. 10/SOP/76.

"My dear Janakiraman,

Refce: Your DO No. F No. 3938/  
94A-75/76 dated May 8,  
1976.

As you know, the transaction involved in this case is of highly sensitive nature and the less people know about it, the better. However, the Accountant-General, I suppose, would be justified in making sure that there is proper authority for the transaction. But rather than let a copy of the Foreign Secretary's authorisation be sent to the Accountant General, may I suggest that you or your authorised representative may personally show the letter to the Accountant General, Central Bombay, explaining the highly sensitive nature of the matter and then bring back the letter for safe custody on your file. I would have no objection to your showing the Accountant General this letter also, if necessary

2. As regards the \$ 170 charged by the Union Bank of Switzerland, Zurich for carrying out this transaction, I believe it would be in order to charge it to the same head of account as the original transaction.

Sd/- K. Sankaran Nair."

Now, this is the transaction. I have other documents of the Reserve Bank which I do not want to read out. Mr. Jagat Mehta writes a similar letter on October 28, 1976 on similar lines seeking another 5-1/2 million dollars for the same payment. Mr. Sankaran Nair writes to Mr. J. C. Luther on similar lines about arrangements for this payment. This is what has happened.

The question arises why were these payments made in Switzerland. Was Mr. Sankaran Nair, the then Special Secretary in the Cabinet Secretariat who was the Government servant a recipient of this payment? He is legally a recipient of payment as per these documents which I want to lay on the Table of the House [Placed in Library. See No. LT-2358/78]. Or, was he only a carrier? This question is of vital significance. Is it a fact that the former Finance Secretary objected to these payments and he was asked to mind his own business? I would also like to know whether some related documents in the Finance Ministry, in the External Finance, Foreign Division, were destroyed in this connection. This is a vitally important thing.

I would also like to know, if my friends on this side would bear with me, what was the role of the former Prime Minister and her son, Mr. Sanjay Gandhi, in this whole episode. Is it a fact that a sum of Rs. 50 crores was passed through the same brokers who were recipients of these payments or secondary recipients of these payments, and around Rs. 20 crores found its way back through normal banking and illegal channels? The brokers in this as well as all other transactions were none other than Hinduja Brothers, operating from Teheran and Bombay—Mr. Gopichand Hinduja and Mr. Prakash Hinduja from Teheran and Srichand Hinduja and Ashok Hinduja from Bombay. So, payments were made for all the agreements.

I still contend and I challenge this Government to disprove my contention. If necessary, I shall bring other documents not only in relation to one agreement but in relation to other agreements. These were an out-go from the Voted resources of Parliament, an out-go from the Consolidated Fund of India. Is it a fact that in 75/76 huge sums came to the firms associated with Hinduja Brothers, like, Asia Films, Hinduja Development Corporation, Hinduja Foundation and Paramanand Deepchand and Sons through Grindlays Bank and the City Bank? Is this Government prepared for an inquiry? Whether it is also a fact that a lot of it found its way to Delhi. . . .

AN HON. MEMBER: To whom?

SHRI K. P. UNNIKRISHNAN: I will explain it. And its relevance to this privilege issue? This is my contention. The entire payment of the transaction is taken out from the Consolidated Fund of India. The money is voted; it is taken out from the head which has been voted by this House on good faith for a specific purpose. In all Appropriation Acts, we know that an undertaking is given to this House that these items and amounts mentioned in the Schedule of the Appropriation Act shall be spent only for the specified purpose and during the relevant year. As per the records, these funds under the head, "Major Head 261(C)—it has been changed from (B) to (C) later—External Affairs; C-3—Special Diplomatic expenditure. These charges constituted payment from the Consolidated Fund of India.

In this case, the Minister of External Affairs authenticated the Schedule and asked the Finance Minister, Mr. H. M. Patel, to move for the third supplementary demand for 1976-77 on 30th March, 1977 which included demand No. 32 covering the head which included fraudulent payments I have referred to and referred to here in this document.

Now, Sir, the Consolidated Fund of India or the provisions under the budgetary control envisaged under the Constitution vide article 114(3) and 266(3), cannot be trifled with by anyone. It is a question of patent misappropriation of voted funds voted by this House and as such exclusive jurisdiction of this House is involved. A breach of faith has been committed by the Government. This Parliament repose in the Minister of External Affairs and the Ministry a certain amount of faith when they came before the House and this Ministry allowed itself and the Minister shielded in its subsequent act to become a conduit for wrongful and illegal transfer of funds from the Consolidated Fund of India and subsequently tried to cover up the same by authenticating this demand in the supplementary demand last year and again by making this statement on 12th April, 1978 in response to Shri S. N. Mishra's query under rule 377.

Now the question arises is what is a new service for which money is sought? As you know, the hon. Leader of the Opposition knows about it, because he was the Chairman of the Public Accounts Committee. They had gone into the whole question of new service. And whether did this payment constitute a new services.

Now, in addition to these, these payments were also violative of the general finance rules of 1963 of the Government of India as amended, rule 12(1) and the Government of India's decisions thereof. When did the President—this is another question—delegate authority to our Ambassador in Iran and when was it gazetted under the rules and orders under the Constitution of India? Now, Sir, the vital question is—I repeat it again—if he was authorised what were the terms stipulated? Did it say, did the provision say: we want 11 million dollars?

Now it has been claimed that this belonged to discretionary expenditure

[Shri K. P. Unnikrishnan]

governing special diplomat expenditure. The expenditure includes or the character of this head is that it is of a discretionary nature. Now all discretionary expenditures of any Ministry as well as the Ministry of External Affairs are governed by rule 152 of general financial rules and "regulated" by special or general orders of the competent authority specifying the object for which grants can be made, payment can be made and any other condition that shall apply to them. I have gone through the rules governing all Ministries. There is a continuing theme that it shall not be recurring. A register of sanction shall be maintained; proper receipts shall be maintained; proper names shall be entered and that these should square up with any agreement entered into if it is a payment for an agreement or a commercial transaction as is claimed by the Minister in that stipulated agreement.

Now what are the parameters of discretion? For example, can the Minister of External Affairs or the Foreign Secretary buy a villa in the South of France with his discretionary funds? No. It must be related to the purpose and business under article 77(3), and the rules of discretionary payments.

MR. SPEAKER: Is the House prepared to dispense with the lunch hour?

SEVERAL HON. MEMBERS: No.

SEVERAL HON. MEMBERS: We shall take it up after the lunch.

SHRI K. P. UNNIKRISHNAN: I will finish it and then you can adjourn it for lunch.

13 hrs.

MR. SPEAKER: Mr. Unnikrishnan, how much time are you likely to take?

SHRI K. P. UNNIKRISHNAN: Five or ten minutes.

MR. SPEAKER: He says that he will take another five minutes or so. Let him continue.

SHRI K. P. UNNIKRISHNAN: The question is, what are the parameters of discretion. Was a register of sanctions kept in this case and were these payments entered? Was a receipt obtained? Why was it not paid—the question arises—through normal diplomatic channels? We have an Ambassador in Switzerland, a Mission in Geneva, an Embassy in Teheran. Why was it not paid through them? Why was it necessary for the Ministry, to requisition the services of the Cabinet Secretariat, Research and Analysis Wing? To whom did it ultimately go? What was the final destination of this amount which was misappropriated from the Consolidated Fund of India?

The Minister of External Affairs refers to a cheque. He was trying again and again to confuse and mislead the Parliament. For, a cheque and a draft under the Treasury Rules may be one and the same thing, but in the case of these foreign payments where sections 6 and 12 of the Negotiable Instruments Act of 1884 alone can be applied, they are different.

So, I contend that, having known all these and more, having known the nature of the payment, as to what happened, the Minister for External Affairs, Shri A. B. Vajpayee, was wilfully, deliberately and consciously misleading the House.

You are aware of the decision of the Speaker of the House of Commons in Profumo's case. I want to refer to only one case. There it was admitted that he had uttered falsehood and had misled the House. He was hauled up for breach of privilege and he had to quit.

Another important question is the question of Ministerial responsibility.

and continuity of Government. This was conclusively proved again in the House of Commons that, even if a Minister had no knowledge of these matters, he was responsible. In July, 1954, the U.K. Minister for Agriculture resigned after Crichel Down affair. Even in India, Jawaharlal Nehru, while accepting the resignation of Mr. T. T. Krishnamachari, wrote:

"You very rightly say that, according to our conventions, the Minister has to assume responsibility even though he might have very little knowledge, or none at all, of what others did and was not directly responsible for any of these steps."

In this case I am not alleging that the Minister did direct the payments. But having come to realise the nature of these payments, having known that it was a fraud on the Constitution and Parliament,—and five weeks after it was raised in the House, after careful enquiries,—the meaning has to be understood clearly—he deliberately and wilfully misled the House.

Again, having supported payment under Demand No. 32, Revenue Section, Major Head 261, which includes these payments in March 1977, he colluded with the fraudulent acts of the previous Government on 30th March, 1977 and 12th April, 1978.

So, the Minister is guilty of breach of privilege and contempt of the House. The whole issue is an assault on the Lok Sabha's sovereign jurisdiction over the exchequer, and the Minister is guilty of having committed a fraudulent act.

Apart from this, the entire moral credibility of this Government is at stake on this question. They talk of moral worth. They had moral credibility when they came to power but, on the moral question of misuse of power, on the question of authoritarianism, this Government which white-

washes, which colludes, which provides a smoke-screen for illegal actions—whichever may be responsible for it—has lost its moral credibility. So, my contention is, a *prima facie* case has been made out as it required under Rule 222, and the basis of our Parliamentary democracy will be destroyed if such assault on our rights as well as on the Consolidated Fund of India are allowed or condoned by this House.

MR. SPEAKER: We will continue after 14.05 hrs.

13.05 hrs.

*The Lok Sabha adjourned for Lunch till five minutes past Fourteen of the Clock.*

*The Lok Sabha re-assembled after lunch at five minutes past Fourteen of the Clock.*

[MR. SPEAKER in the Chair]

QUESTION OF PRIVILEGE AGAINST MINISTER OF EXTERNAL AFFAIRS RE. ALLEGED MISLEADING STATEMENT MADE BY HIM ABOUT PAYMENT OF 11 MILLION DOLLARS THROUGH A SWISS BANK—contd.

SHRI KANWAR LAL GUPTA: Sir, I want to express my opinion on the privilege motion moved by Shri Unnikrishnan.

MR. SPEAKER: Shri Vayalar Ravi.

SHRI VAYALAR RAVI (Chirayinkil): Mr. Speaker, I rise to raise an issue of breach of privilege....

MR. SPEAKER: You have given me a list of names to be mentioned just now. This is not allowed; you have given notice just now.