

which a discussion in the House is necessary. I cannot think of a situation more serious than this—the Home Minister giving directives to the Shah Commission by open statements, public statements to the Press and on the public platform. What business has the Home Minister to say that the Shah Commission will issue a warrant? What business has he to say that the Shah Commission will give a report about the justifiability of the Emergency? Is the Shah Commission a proxy of the Home Minister? This is what is being done and, therefore, I gave notice for an Adjournment Motion to discuss this very serious situation that the Home Minister has created by giving the impression that the Shah Commission is functioning under his directive. This is a serious situation and I seek your permission to move that the House may adjourn to discuss this very serious matter. (*Interruption*).

MR. SPEAKER: I have already disallowed this adjournment motion. I called for the comments of the Home Minister and the Home Minister has said that the press report is wrong and he has also produced another Paper which published the news. He has said that he had merely stated that the Shah Commission has the power to issue a warrant. (*Interruptions*).

SHRI C. M. STEPHEN: "A warrant will be issued by the Shah Commission" the Home Minister Mr. Charan Singh said today" That is what has been reported. (*Interruptions*).

MR. SPEAKER: As between the statement published in the Press and the statement of the Home Minister, I accept the statement of the Home Minister. That apart, this very news item has been published by another Paper and the version given in that other Paper is different. (*Interruption*).

There will be no further recording in regard to this matter.

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12.10 hrs.

QUESTIONS OF PRIVILEGE

- (i) CERTAIN REMARKS BY SHRI MADHU LIAMAYE ABOUT THE SPEAKER OF FIFTH LOK SABHA

MR. SEAKER: Shri C. M. Stephen has given a notice of question of privilege against Shri Madhu Limaye, MP for certain observations made by him in the House on 16th November, 1977 in respect of Speaker of Fifth Lok Sabha.

I have gone through the English translation of the statement made by Shri Madhu Limaye when his privilege motion against Mrs. Gandhi, the former Prime Minister, was taken up. During the course of his statement, he observed as follows:

"When Shrimati Indira Gandhi got two-thirds majority, she was continuously working towards the subversion of the procedures and the rights of this House. Not only that, most dangerous thing was that the Prime Minister's Secretariat became all powerful and even started dominating the Lok Sabha Secretariat. Which questions should be accepted for discussion, which should be rejected and which questions should carry incorrect replies—all this was decided in the Prime Minister's Secretariat. Since she had a two-thirds majority, the Speaker was always under the fear of being removed if he acted to hold the dignity and privileges of the House. The result was that the sanctity of the House (*Interruptions*) the people removed (*Interruptions*)"

The inference drawn by Shri Madhu Limaye may or may not be correct. But I am of the opinion that these observations do not amount to a breach of privilege either of the House or of the former Speaker. In this view, it is not necessary for me to

[Mr. Speaker]

decide the question whether a former Speaker has any privilege.

Hence, the consent asked for under Rule 222 is not granted.

SHRI C. M. STEPHEN (Idukki): Sir, this is a really sad day in the annals of the Lok Sabha to say that a statement that the Speaker is functioning under the fear of being removed would not amount to a breach of privilege. It is really laying down a very dangerous precedent. You are now telling us that if I say that you are functioning under fear of being removed by the Janata Party, it will not amount to a breach of privilege. That is the precedent that you are laying down. We take note of this and we will make use of this precedent. *(Interruptions)*.

12.15 hrs.

(ii) **ALLEGED INQUIRY BY THE SHAH COMMISSION ABOUT PROCLAMATION OF EMERGENCY**

MR. SPEAKER: Shri Vasant Sathe has given a notice of question of privilege against Shri J. C. Shah, Chairman, Commission of Inquiry for alleged inquiry regarding proclamation of emergency which was approved by Houses of Parliament.

Shri J. C. Shah has made it clear in his statement made on 5th December, 1977 that he is not inquiring into the validity of the declaration of Emergency. He has further stated that he has no competence to do so. He has also stated that he is only inquiring into the transactions which had immediately preceded and led to the declaration of Emergency.

Whether a commission appointed under the Commission of Inquiry Act is competent to enter into the facts and circumstances or the transaction which immediately preceded and led to the declaration of Emergency or the steps taken in pursuance of the declaration

of Emergency is a matter for courts to decide.

Therefore, *prime facie* there is no contempt of Parliament or breach of privilege of Parliament. Hence, the notice given under rule 222 is not sustainable.

I decline to give my consent to the same.

SHRI YASHWANTRAO CHAVAN (Satara): Sir, I have got one point to make and that is we would like to protest against this decision of yours. What is happening in the Shah Commission is quite contrary to the facts that you mentioned here.

The antecedents and the incidents are being examined there... *(Interruptions)* We, therefore, ... *(Interruptions)* It is completely elastic... *(Interruptions)*

SHRI KANWAR LAL GUPTA (Delhi Sadar): On a point of order, Sir... *(Interruptions)*.

SHRI YASHWANTRAO CHAVAN: I protest and we have decided to stage a walk out as a protest against your ruling.

Shri Yeshwantrao Chavan and some other hon. Members then left the House.

SHRI KANWAR LAL GUPTA: I rise on a point of order. Rule 188 says:

"No motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi judicial functions or any commission or court of enquiry appointed to enquire into...

MR. SPEAKER: What is it that you are making out? I have disallowed it.