

[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.

श्री कबर लाल गुप्त: मेरा कहना यह है कि लीडर आफ दि अपोजीशन ने शाह कमीशन के बारे में जो डेरोगेटरी रिमार्क्स किये हैं, वे वास्तव में शर्मनाक हैं। इतने जिम्मेदार आदमी को, जो इतने साल तक मंत्री रह चुके हैं, इस तरह की घटिया बात नहीं कहनी चाहिए। मह कानून के भी, और यहां के प्रोसीजर के भी, खिलाफ है। हम शाह कमीशन का सम्मान करते हैं और इस मदन को उस के प्रोसीजर में किसी तरह की बाधा डाने का कोई अधिकार नहीं है। हम आशा करते हैं कि लीडर आफ दि अपोजीशन यहां पर एक अच्छे स्टैंडर्ड का निर्माण करेंगे, ताकि सदन का काम ठीक तरह से चल सके।

SHRI SHYAMNANDAN MISHRA (Begusarai): May I bring to your kind notice another aspect of the matter which you might consider for future occasions?

Now the terms of reference of the Shah Commission clearly indicate that he could go into the circumstances..

MR. SPEAKER: I have mentioned it.

SHRI SHYAMNANDAN MISHRA: He has mentioned it but how do you see that it is for the court to judge. In fact it is for this House which has appointed that Commission and has also approved the terms of reference. The terms of reference clearly indicate that the Shah Commission could go into the circumstances immediately preceding the proclamation of emergency. Then the question of privilege does not arise at all. That point should have been brought to the notice of the hon. Members who have sought to bring the motion of privilege.

SHRI KANWARLAL GUPTA: Those derogatory remarks made by the Leader of the Opposition should be expunged

from the records. Anything against Mr. Shah should be expunged.

(iii) HOME MINISTER'S STATEMENT ON AIR AND T.V. ABOUT SABOTAGE CASES

MR. SPEAKER: Now about the notice of question of privilege given by Shri Vayalar Ravi against the Minister of Home Affairs, I do not think that any question of privilege arises in the present case. I also do not think that the broadcast made by the Home Minister was inappropriate. Evidently, the Home Minister made a broadcast to the nation with a view to warn the public about the existence of certain state of affairs. He also wanted to inform the public of the various steps taken by the Government. Early information to the public in respect of the matters mentioned in the broadcast was necessary and the same was in public interest.

Under these circumstances, the consent, asked for under Rule 222 is refused.

SHRI JYOTIRMOY BOSU (Diamond Harbour): On a point of clarification, Sir. What about the observations made by the Leader of the Opposition?

MR. SPEAKER: That subject is over.

SHRI JYOTIRMOY BOSU: I want to know whether it remains on the record or you expung it from the record?

MR. SPEAKER: I am not expunging it.

(iv) ALLEGED MISLEADING STATEMENT BY MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE AND IRRIGATION OF 24-11-1977

MR. SPEAKER: Shri C. M. Stephen has given notice of a privilege motion against the Minister of State in the Ministry of Agriculture and Irrigation. The telex message received by the Ministry of Agriculture have been shown to me. The statement made by the Minister of State in the Ministry of Agriculture and Irrigation, Shri Bharu