

[Dr. Suthila Nayar]

should vacate Government accommodation so that Government servants without houses can be accommodated in Government accommodation. What is the reason which has led the Government to change that accepted policy? Now these well-to-do people, high officers are earning good rent on the one hand and are living nearby their offices so that they need not spend on transportation, while the poor small people are being put to terrible inconvenience, living miles away from their place of work. Why has the Janata Government taken this decision?

श्री कांवर लाल गुप्त (दिल्ली सदर) : मैं भली महोदय से यह जानना चाहता हूँ कि गवर्नमेंट के कितने मकान हाउस-प्रोनिग आफिसर्ज के पास हैं, और उन में से 1,000 रुपये से कम तन्हावाह वाले कितने लोग हैं।

श्री सिकन्दर बहल : यह जो सवाल पूछा गया है, उस का प्राजेक्टन इस तरीके से हुआ है कि उस में कृष्ण यह साबित करने की कोशिश की जा रही है कि हायर इनकम ब्रैक्ट के आफिसर्ज को पायदा पहुँच रहा है। पोजीशन यह है कि जेनरल प्रूल में गवर्नमेंट आफिसर्ज के लिए कुल 41,594 मकानात हैं, जिन में से 1287 मकानात उन लोगों के पास हैं, जिन की इनकम 1,000 रुपये से कम है। जहाँ तक हायर इनकम ब्रैक्ट के आफिसर्ज का सवाल है, उन में से टाइप 8 के 3 मकानात और टाइप 7 के सिक्के 16 मकानात हैं। मैं यह भी घर्ज कहना कि 1977-78 के क्रम होने तक 6811 में से बेस्टर मकानात उन आफिसर्ज के लिए होंगे, जिन की माहवार तन्हाव 1,000 रुपये के कम है।

12·35 hrs.

**CORRECTION OF ANSWER TO
SUPPLEMENTARY ON STARRED
QUESTION NO. 209, DATED
27-6-77 RE. REGULARISING OF
UNAUTHORISED COLONIES IN
DELHI.**

**THE MINISTER OF WORKS AND
HOUSING AND SUPPLY AND REHA**

BILITATION (SHRI SIKANDAR BAKHT): With your permission Sir, I wish to the House and make an admission before giving for the facts mentioned in my replies to the above question.

On 27th June, 1977, in the course of the reply to the supplementary arising out of Starred Question No. 209 regarding the regularisation of unauthorised colonies, I had said that these colonies are being regularised but on two occasions I said that these colonies have been regularised. Now, it is a more question of language than of facts. Orders have been passed for the regularisation of the unauthorised colonies. There can be no going back on this. Only certain formalities have to be gone through. Even then I want my statement to read as 'are being regularised' in place of 'have been regularised' wherever it occurs in my reply, to set the record straight.

Also I had said that 103 colonies which came prior to September 1962 were regularised, but it is now reported that actually 110 such colonies were regularised. Further I had said that out of the colonies which came up between September 1962 and January 1967, 68 colonies had been regularised. But only 64 such colonies had been regularised. These corrections could not be made earlier as the discrepancies came to notice subsequently and verification has taken some time.

I really regret the inconvenience caused to the House.

12·38 hrs.

R. QUESTION OF PRIVILEGE

SHRI VAYALAR RAVI (Chairman): I beg to move, under rule 222, a motion of breach of privilege against the Home Minister regarding his statement made in this House in which he had stated that there was think, "vihar", in the Government to kill the opposition leaders.

SHRI JYOTIRMOY BOSU (Diamond Harb ur): How does it become a matter for a privilege motion? I rise on a point of order on the submission that he is making. (Interruptions).

I am here since 1967 and we have known it, not through one day's experience but repeated experiences, that if a Member says something which is not, in the opinion of another Member correct....(Interruptions)

SHRI VASANT SATHE (Akola) : I am also on a point of order. You have allowed Mr. Vayalar Ravi. Under what rule is he raising a point of order ? (*Interruptions*).

MR. DEPUTY-SPEAKER : He is raising a point of order. Let me hear and decide it. (*Interruptions*).

SHRI JYOTIRMOY BOSU : A Member is always expected to remain in the House, and if a statement is made which, in his opinion, is not true or incorrect, it may be refuted. If there is any factual inaccuracy, he can give notice under Direction 115. Today you have admitted three such cases under Direction 115. There is no case of privilege. This is against all rules. (*Interruptions*).

SHRI VAYALAR RAVI : This is what the Home Minister said :

"...some thinking to shoot down opposition leaders including Jayaprakash Narain during the emergency as was done in the Dacca jail."

The emergency was declared under article 352 of the Constitution, and it invoked articles 358 and 359. Article 358 is concerned with suspension of the provisions of article 19, while article 359 empowers the President to suspend the enforcement of the rights conferred by Part III of the Constitution.

The Home Minister reiterated his statement the next day and repeated his allegation, saying that the ordinance issued by the President was a preparation for such action. The President, by the ordinance, had expressly suspended the operation of article 14, 20 and 21.

Here is the press report to which the hon. Home Minister referred. He referred to a press report regarding the argument of Mr. Niren De in the Supreme Court. It was actually when Justice Khanna specifically asked Mr. Niren De.... (*Interruptions*). I am only making out a case. (*Interruptions*).

MR. DEPUTY-SPEAKER : Mr. Jyotirmoy Bosu, please sit down. You do not have to get up. Let me decide the issue. I will deal with it.

SHRI JYOTIRMOY BOSU : You are to act according to the rules. (*Interruptions*).

SHRI VAYALAR RAVI : This is what it says :

"Justice Khanna pointed out that article 21 dealt not only with

personal liberty but also with the right to live. It would follow that during emergency if some b'dy's life was taken away by the State without the sanction of law, no action would lie."

This is how Mr. Niren De was questioned by Justice Khanna. He specifically asked that..... (*Interruptions*).

MR. DEPUTY-SPEAKER : Please take your seat now. This is not the way we conduct the House. I know what is to be done. I know under what rule, under what Direction, I have to give the ruling. I shall give it. Let me hear him. He has raised the issue of breach of privilege. I may rule it out. Why do you pre-suppose it ? (*Interruptions*).

THE PRIME MINISTER (SHRI MORARJI DESAI) : When one Member is raising an issue, should the point of order be raised while he is speaking or after he has finished ? Then, if another Member raises a point of order or any issue, is it for others to decide the point of order or the issue or is it for the Chair to do it ?

MR. DEPUTY-SPEAKER : There will be disorder.

SHRI MORARJI DESAI : Therefore, I should like you to give this clear direction to the House.

MR. DEPUTY-SPEAKER : Let Mr. Vayalar Ravi finish.

SHRI JYOTIRMOY BOSU : Direction 115 clearly states.....

MR. DEPUTY-SPEAKER : I know all the Directions. I have not the book with me. Please take your seat. You cannot take the place of the Speaker. I know how to decide.

SHRI VAYALAR RAVI : On 16th December, this argument took place on a *habeas corpus* petition. The contention of the Home Minister was that the Ordinance itself was a preparation of such an action because there was thinking..... (*Interruptions*).

SHRI MORARJI DESAI : Let him finish.

SHRI VAYALAR RAVI : Then, article 359 says :

"Where a proclamation of Emergency is in operation....

(*Interruptions*).

MR. DEPUTY-SPEAKER : Order, please. Let him finish. (*Interruptions*).

शीमती मृणाल गोरे (बम्बई-उत्तर) : उपायक महोदय, मेरा व्यवस्था का प्रश्न है जो इसी के बारे में है कि प्रिविलेज मोशन आ सकता है या नहीं इसलिए आपको इसे पहले मुनाफ़ा चाहिए।

मेरा व्यवस्था का प्रश्न यह है कि मंत्री महोदय या कोई अन्य माननीय सदस्य इस सदन में एक स्टेटमेंट देता है वह सही है या नहीं, इसके बारे में चर्चा करना तो अलग बात है लेकिन उसके ऊपर कोई श्रीच आफ प्रिविलेज कैसे हो सकता है ? जिस प्रकार से अगर मन्त्री कोई सही बात लगती है तो उसे यहाँ पर कहने का अधिकार है उसी प्रकार में मंत्री को भी यहाँ पर कहने का अधिकार है। वह सही है या नहीं उसके बारे में सदन के बाहर प्रगत कोई बात करता है तो सदन के प्रिविलेज को श्रीच करने का सवाल उठ सकता है। लेकिन यह जो बात कही गई, उसके बारे में चर्चा भी हो गई और मंत्री महोदय ने बता भी दिया कि यह किस प्रकार से है, तब किर इस पर प्रिविलेज कैसे हो सकता है ?

MR. DEPUTY-SPEAKER : All these points of order, as far as I can see, relate to the fact whether this can be treated as a privilege motion or not. That's all. I have not yet accepted that there is a question of privilege. Have I ? I have allowed him to raise the matter and it is for me to decide.

(Interruptions).

SHRI JYOTIRMOY BOSU : Direction 115.

SHRI MORARJI DESAI : When the Speaker allows somebody to move a motion, I cannot think that there can be a point of order on that permission. Therefore, that has to be understood. If you want to raise a point of order, after he finishes, you can do so, but not before that.

SHRI JYOTIRMOY BOSU : I want to point out that that can only be covered under Direction 115. He cannot be allowed to raise it under Rule 222. That is what I have to point out. I am only trying to assist the Chair by saying that the permission that you have given is not in keeping with the rule. (Interruptions) So, direction 115.

MR. DEPUTY-SPEAKER : I know what I am doing. I know 115; I know 222 and I also know 227. Do not tell me what I have to do. I have gone through all the rules. I have not yet given him permission under 222 and if it does not come under privilege, it is my job to see that I rule it out. (Interruptions).

SHRI JYOTIRMOY BOSU : If you kindly go to the direction 115, it says.....(Interruptions).

MR. DEPUTY-SPEAKER : I would not allow this kind of thing. (Interruptions).

SHRI VAYALAR RAVI : Mr. Shyamnandan Mishra, Mr. Jyotirmoy Bosu and others moved a privilege motion and made long speeches against the then Defence Minister, Shri Jagjivan Ram. You may recall. There was a precedent in this House. In this connection, I may point out that the hon. Home Minister made a contention that the ordinance has been issued with the purpose of.... (Interruptions).

SHRI MORARJI DESAI : The same thing is being repeated. What is the meaning of this ? I cannot understand this. Repetition of the same argument does not mean anything (Interruptions).

SHRI VAYALAR RAVI : The contention of the Home Minister is that there was a thinking... (Interruption). From the circumstantial evidence, we can come to a conclusion. Only on circumstantial evidence, can we come to a conclusion. The case which he quoted was argued in the Supreme Court on the *habab corpus* petition on 16th December, 1975. Look at the circumstantial evidence. When was Mr. Jayaprakash Narayan released ? He had been released even in that month itself. Mr. Charan Singh himself was released on the first of March. I can quote many names of the leaders who had been released from jail (Interruptions).

If it is the circumstantial evidence he has been relying on, that there was a thinking on the pattern of what took place in the Dacca jail, there was no need for the Government to release all these leaders, including Mr. Jayaprakash Narayan.....(Interruptions). The circumstantial evidence stands. The Government had released all the important leaders including Mr. Jayaprakash Narayan. Even today this argument is going in, the argument of the Home Minister, the argument that he put forward that there was some thinking.....(Interruption). The purpose is to mislead this House and malign all the Members belonging to the Congress Party sitting

on this side. There is no evidence he can produce. Even circumstantial evidence is against it. There was no such law proclaimed. (*Interruptions*)

MR. DEPUTY-SPEAKER : Mr. Ravi, please take your seat.

SHRI K. P. UNNIKRISHNAN (Badagaṛa) : Mr. Deputy-Speaker, Sir, at the outset I would like to point out that this does not come under the purview of the Direction 115. I would take an entirely different point of view.

While replying to the debate on the Demands for Grants of the Ministry of Home Affairs, the Home Minister, Shri Charan Singh on 13th of this month said this after referring to the arguments of Mr. Niren De, the then Attorney-General, in the Supreme Court; the Home Minister said :

"It did not end there. Preparations were being made for the day when certain leaders could be show down as had been done in the Dacca jail. There was a thinking (*vichar*) to shoot leaders right from Jayaprakashji, if need arose."

This is liable only to few interpretations. One, he was not entirely basing his arguments on the arguments of the then Attorney-General Mr. Niren De because he has also used words, 'It did not end there', that is with Mr. De's arguments. Here he was making another statement which said that 'preparations were being made'. These 'preparations' were not disclosed by Mr. Niren De or any one else. Mr. Charan Singh had taken it upon himself to inform this august House, rather to deliberately mislead or misinform the House. Now it has to be found out whether he was uttering falsehood or misleading the House or he had some information to substantiate his statement. That is the crucial point. He said, 'Preparations were being made' and then he said 'as had been done in Dacca jail'. A specific thing happened in Dacca jail. That was in the knowledge of Mr. Charan Singh and all the Members of this House and, in fact, of the entire world. It was not a deduction. Can it not be a *reductio ad absurdum*, even an absurd deduction, from an argument made by Mr. Niren De in the Supreme Court, which was again, I would say, based on a hypothetical case?

I am coming to this House based on specific statements where privilege is involved. I cannot come to you under Direction 115. My idea is not to

correct his statement; my idea is to point out to the House and to you—that is why I have been writing to you—that Mr. Charan Singh, Home Minister, during this speech and by using these words has deliberately misled the House. (*Interruptions*).

बीघरी बलदीर सिंह (होमियारपुर) : आप हमें भी बोलने का मौका दीजिए। मेरे बोले चले जा रहे हैं और आप सुन रहे हैं . . . (व्यवधान) इन के हाथ बून से रंगे हैं और इन्होंने क़स्त किया है।

बी हुकम चन्द्र कछवाय (उज्जैत) : बहुत के लोगों को इन्होंने मार दिया है।

बीघरी बलदीर सिंह : मेरे फादर-इन्होंने क़स्त किया है। इन लोगों ने आग एसोसियेशन के जो प्रेसिडेंट थे, उन का क़स्त किया है। (व्यवधान)

SHRI K. P. UNNIKRISHNAN : I must be allowed to develop my argument. This is a crucial question. He had another opportunity when the Leader of the Opposition raised the issue on the 14th of this month; under rule 377; he neither contradicted nor corrected the statement.... (*Interruptions*).

बी हुकम चन्द्र कछवाय : जीवे का प्रविकार छीन लिया है, इस का मतलब क्या है ?

बीघरी बलदीर सिंह : बार एसोसियेशन के प्रेसिडेंट को इन लोगों ने मारा है और पता नहीं क्या क्या क़स्त किये हैं।

MR. DEPUTY-SPEAKER : Please take your seat. Whatever you say will not go on record if you do like this.

SHRI K. P. UNNIKRISHNAN : On the 14th of this month when the Leader of the Opposition raised the issue, he did not correct or modify any of his earlier statements, nor did he express any regret for it. He only elaborated on it, and he stood firmly by the statement on 'preparations being made.' The whole point is this. Mr. Charan Singh cannot take refuge under the arguments of the then Attorney-General Mr. Niren De. (*Interruptions*).

[Shri K. P. Unnikrishnan]

Sari Charan Singh cannot take refuge under the arguments advanced by the then Attorney-General, Mr. Niren De, in the Supreme Court.....(Interruptions). Since it is relevant to the consideration of this privilege motion, I should recapitulate what was said by Mr. Niren De in the Supreme Court(Interruptions).

MR. DEPUTY-SPEAKER : If the hon. Members keep on interrupting him, he will take more time.

SHRI K. P. UNNIKRISHNAN : Mr. Niren De said that Articles 14, 20 and 21 of the Constitution stand suspended as a result of a presidential proclamation consequent to the invocation of internal emergency under Articles 352 and 359. Article 19 stood suspended right from 1965 when external emergency was imposed.....(Interruptions). Mr. Niren De was replying to a poser of extreme proposition and a hypothetical case which the bench had developed....(Interruptions).

MR. DEPUTY-SPEAKER : If the Members keep on like this, he would take more time. I would appeal to the House to be silent and let him finish.

SHRI MORARJI DESAI : I would appeal to the House, particularly this side, that they ought to hear any Member from the opposition in silence without interruptions. If they have to say anything, they can do so afterwards, but what is this method of carrying on a debate like this? This does not lend any dignity to this part of the House. I must say, I am very sorry for it.

SHRI JYOTIRMOY BOSU *ans.*

MR. DEPUTY-SPEAKER : I am going to call you after him.

SHRI JYOTIRMOY BOSU : I am sitting on the edge of my patience.

SHRI K. P. UNNIKRISHNAN : Mr. Niren De was arguing against a poser of extreme proposition fix the bench as a hypothetical case and saying that this was not a case for judicial review. But what Mr. Charan Singh told the House on 26th July is something very different. He specifically said : (a) preparations were being made for the day when certain leaders could be shot down.....(Interruptions).

Mr. Charan Singh was not referring to any hypothetical case nor did he follow Niren De's arguments....(Interruptions) Please listen. The words 'preparation' and the reference to the happenings in *Daco* make it very clear that he was referring to more than what contained in Mr. De's argument. He has not substantiated nor denied it. So, my contention is that he was deliberately and wilfully misleading the House and uttering falsehood in the House. That is why I approach you with this case of privilege. Uttering falsehood or deliberately misleading the House constitutes a breach of privilege of the House.

13 hrs.

In the House of Commons in the Profumo case...(Interruptions) I must be allowed to conclude....

MR. DEPUTY-SPEAKER : Please take your seat. Now, Mr. Bosu.

SHRI MORARJI DESAI : The hon. Member is wasting the time of the House by repeating all the while what he has already said. I do not know what he wants to say.

SHRI K. P. UNNIKRISHNAN : In the House of Commons since the Profumo case, a clear precedent has been laid down that uttering falsehood or deliberately or wilfully misleading the House constitutes a breach of privilege and contempt of the House. Here is also a case of wilful misrepresentation.

(Interruption.)

MR. DEPUTY-SPEAKER : I have called Mr. Bosu. No more submissions please.

SHRI SHYAMNANDAN MISHRA (Begunji) : I have to make a submission on this.

SHRI JYOTIRMOY BOSU (Diamond Harbour) : I have been in this House since 1967. I have not seen a single instance where in similar circumstances a privilege motion has been allowed to be raised under Rule 22.

What does Rule 222 say? You kindly go through it. It must be clear in the minds of the Chair as also in the minds of the members of the House as to what constitutes a privilege. Neither of them has made out any case of breach of privilege in this instance.

Direction 225...

SHRI K. P. UNNIKRISHNAN : No, no.

SHRI JYOTIRMOY BOSU : ... is clear on this subject. The caption says: "Mistake or inaccuracy in statement made in the House." Even if for argument's sake, we take it that the Home Minister had made a statement which is not accurate and which is not correct, the only procedure left open is to seek a remedy under Rule Direction 115.

Under Direction 115 the procedure is not to allow it on the floor of the House straightway. It says:

"The member may place before the Speaker such evidence as he may have in support of his allegation."

Then, it says:

"The Speaker may, if he thinks fit, bring the matter to the notice of the Minister or the member concerned for the purpose of ascertaining the factual position in regard to the allegation made.

The Speaker may then, if he thinks it necessary, permit the member who made the allegation to raise the matter in the House and the member so permitted shall, before making the statement, inform the Minister or the member concerned."

So, there is no breach of privilege. You have acted outside your jurisdiction as stated in the rules, by permitting them to raise the matter under Rule 222 for a breach of privilege. I regret this action is not justified on the strength of the rules.

Therefore, I will request you to completely ignore what has been stated in the context of the breach of privilege motion and give a ruling accordingly.

MR. DEPUTY-SPEAKER: Mr Mishra.

After Mr Mishra, I will call the Home Minister.

SHRI C. M. STEPHEN (Idukki): I rise on a point of order. The point of order has reference to the point of order raised by Mr. Jyotirmoy Bosu.

Now, Direction 115 has been relied upon. The basis on which this motion is moved is:

"A breach of privilege can arise when a Member or a Minister makes a false statement or an incorrect statement wilfully, deliberately or knowingly."

It is on this basis that this is moved.

SHRI JYOTIRMOY BOSU : What are you quoting?

SHRI C. M. STEPHEN: Proceedings analogous to those under 115 have already been gone through with reference to Shri Charan Singh's statement. From our side a statement was made here and he replied to that. On the basis of that reply the conclusion is emerging that the statement made by him here was made deliberately, knowingly (knowing it to be incorrect) and wilfully.

You have allowed it under 222. Once you allow it to be raised under 222, a discussion on that has to take place. It is not under Direction 115.

222 says—

"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."

The procedure is stipulated here. You have of course not given a finding that this is a breach of privilege. Nor has the House come to the conclusion that it is a breach of privilege. But by giving permission under Rule 222 you have given a finding that it is a matter in which the intervention of the House is called for. Now it is for the House. Discussion must take place so as to arrive at a conclusion whether there is *prima facie* a case for breach of privilege and whether the matter may be referred to the Committee on privileges or not.

SHRI SHYAMNANDAN MISHRA: Mr. Deputy-Speaker, the two ingredients of breach of privilege that my hon. friends on the other side have tried to establish are—

- (i) That there has been a misrepresentation.
- (ii) And it is with a view to misleading the House, for deceiving the House.

The two elements must be present in order to establish a breach of privilege.

Now the question that arises is—misrepresentation of what? Have the hon. friends, in fact, in their possession to suggest to the contrary? There can be a mis-representation of fact and if there is any complaint so far as breach of privilege is concerned, then the complainant has to come before the House that here is a fact to rebut what has been said by an hon. member.

So far as we are concerned, we yet remain to be enlightened what are the facts in possession of the hon. members to suggest to the contrary to what the hon. Home Minister said on that day.

[Sri Shyamnandan Mishra]

Secondly, the hon. members have said, it is with a view to misleading the House.

SHRI C. M. STEPHEN: We are prepared to go to the substantive part of it.

SHRI SHYAMNANDAN MISHRA: So far as misleading....

SHRI VASANT SATHE: Burden of proof to substantiate is on your side. Are you shifting it on to us?

SHRI SHYAMNANDAN MISHRA: We have come before the House earlier in order to establish a case of breach of privilege with full possession of facts.

Sir, this is what appears on record to suggest that the hon. Home Minister had tried to misrepresent to the House. That the hon. Member has not done. This is one ingredient. The second ingredient that they wanted to make out was that with a view to misleading the House, the hon. Home Minister has tried to place his point of view based on certain legal and other framework—not on the basis of certain things, certain plan and so on.

Now, the hon. Member says that it cannot be a legitimate deduction from what the Attorney General has said before the hon. Supreme Court. Now, so far as this is concerned, this is a matter.... (Interruptions) what the hon. Home Minister has tried to tell the House was that there was a preparation on the legal plane. (Interruptions) The hon. Home Minister was quite clear, unequivocally clear, on this that there was a preparation on the thinkingplane. He also tried to relate it to the legal framework that was being evolved in this country. May I tell the hon. Members on the other side that the then Prime Minister had made a charge about the assassination of her entire family that was to take place on the blessed day of the 29th June, 1975. At that time she had made a complaint earlier and that probably figured even in the document that has been presented to the House.

So far as the Home Minister is concerned, he did not come out with any plan of that kind. He was only suggesting and, may I submit to the hon. House, that when we had gone to the Supreme Court, our case was that the hon. Supreme Court should examine whether we had been arrested in accordance with the provisions of the law as passed by the Parliament; we were denied even that.

My hon. friend says that they stand for the supremacy of the Parliament. When we had gone before the Supreme Court we submitted that here was a law passed

by Parliament; we wanted them to consider whether we had been arrested in accordance with the provisions of the law. That also, the hon. Supreme Court had denied. Now I ask: Where is the question of the framework of the rule of law in this country? The hon. Home Minister said that the Attorney General had gone on record to say before the Supreme Court that if any constable (Interruptions).... I only explain what the hon. Home Minister said namely, the Attorney General had said before the Supreme Court that if a constable shoots down a person, then, there is no remedy before the court of law. Now, that being so (Interruptions), Mr. Deputy-Speaker my hon. friend said that the Home Minister had also tried to relate the whole thing to what had happened in Dacca Jail. Now, whether the situation in this country was taking place or not exactly on the lines on which this situation occurred in Dacca, that is for the House to consider.

Many members had voiced anxiety and concern that the things were taking shape on the same lines as in Dacca. Many others did not believe that. When Mr. Jayaprakash Narayan had warned the country that there was going to be an authoritarian regime in this country on the lines on which Mr. Mujib had assumed powers, then many of us did not believe. It was in this House that I had come forward with a Resolution that the Government was creating conditions for growth of fascism in this country. But, at that time, nobody believed. Similarly, if anything had taken place exactly on the lines on which it did take place in Dacca in Bangladesh, there could then be a deduction that even this thing could happen in this country. (Interruptions) Therefore, in my humble opinion, there is no case of breach of privilege. Anybody is perfectly in order to infer that the hon. Member tried to infer, to deduce, to reason, what the hon. Home Minister said was based on reasoning and articulation and not on facts or evidence for plans.

PROF. P. G. MAVALANKAR (Gandhinagar): Mr. Deputy-Speaker, Sir, I am rising on a point of order, and I want to say that we are not at this stage on the question of substance of the matter. We are at this stage discussing the procedural matter raised by Mr. Unnikrishnan involving what is alleged to be a breach of privilege. My point of order is that rules 222 to 228 deal with the question of privilege. These rules are very clear. You have allowed Mr. Unnikrishnan to raise the matter of privilege only to find out whether a *prima facie* case is there or not. If after your allowing and the House

agreeing, the matter goes to the Privileges Committee, the Committee decides. My point is that the Home Minister made a statement on a particular day in reply to Home Ministry's Demand, which has now become the subject-matter of this discussion on privilege. There are two points involved—one is regarding inaccuracy in terms of facts, and secondly, the alleged question of misleading the House in regard to certain facts. If it is an inaccuracy then the Rules provide as to how to deal with it. The Opposition does not say that the inaccuracy is there. (*Interruptions*)

There are two aspects of the matter— inaccuracy and deliberately misleading the House. If it is inaccuracy then Direction 115 is clear. The Minister can get up and correct the inaccuracy if he thinks there is one.

The next point is about the allegation of having misled the House deliberately. My point is: Who is to decide whether the Home Minister's factual statement and later on, if necessary, a corrected factual statement has led the House or misled the House? It is entirely a subjective matter. Some Members may feel that the Home Minister has misled and some others may feel that he has not misled. From the Chair you have to decide whether the particular statement of a Member or a Minister constitutes *prima facie* a breach of privilege or not. Therefore, I want to conclude by saying, and asking you with utmost respect and great reverence, under what rule precisely has the Chair permitted the Opposition to bring this point as a matter of privilege. At one point of time during the discussion you said that you have read the rules. We agree your knowledge of rules is perhaps better than ours. My point, however, is that the Chair is not going to allow anybody to raise a point of privilege outside the rules provided in the book. My contention is that the Chair also is a creature of rules. The Chair cannot make its own rules. I am only saying that the Chair is also bound by the rules. It is only when the rules are silent that the Chair has the discretion—when the Chair can use its discretion. My point is: which rule is silent? My other point is: you cannot say that it is your right to do so. That is my point of order. (*Interruptions*)

MR. DEPUTY-SPEAKER: We are only discussing the procedural matters. If the hon. Members do not want to follow (*Interruptions*), I shall give my ruling now. (*Interruptions*)

SHRI VASANT SATHE: Sir, I have a point of order. Sir, I beg of you to consider my point. You have

allowed the hon. Members to raise the matter who had given you notice earlier. Now, what do the rules say? (*Interruptions*).

MR. DEPUTY-SPEAKER: Let me hear his point of order.

SHRI VASANT SATHE: Sir, the rule says like this:

"222. 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".

The next rule, that is, rule 223, says like this:

"223. A member wishing to raise a question of privilege shall give notice in writing to the Secretary before the commencement of sitting on the day the question is proposed to be raised. If the question raised is based on a document, the notice shall be accompanied by the document."

Now, Sir, a notice was given both by Mr. Vayalar Ravi and Mr. Unnikrishnan to the Secretary, accompanied by the document. You considered that the question raised under rule 222, can be allowed. If that is correct, then what is the mode of raising question of privilege? This is given under rule 225. Rule 225 says like this:

"225(1): The Speaker, if he gives consent under rule 222 and holds that the matter proposed to be discussed is in order, shall call the member concerned, who shall rise in his place and, while asking for leave to raise the question of privilege, make a short statement relevant thereto."

Sir, he was raising this question under Rule 225 to make a statement asking for the leave of the House. (*Interruptions*) Let there be no anger. Let us understand the rules. I think the hon. Prime Minister will agree with me. Kindly see the rule 225. If under rule 225 he is asking for leave, then the natural course must be rule 226. And rule 225(2) says:

"(2) If objection to leave being granted is taken the Speaker shall request those members who are in favour of leave being granted to rise in their places, and if not less than twenty-five members rise accordingly, the Speaker shall declare that leave is granted. If less than twenty-five members rise, the Speaker shall inform the member that he has not the leave of the House."

Now, we are at this stage when permission for leave of the House is sought.

[Shri Vasant Sathe]

The next stage must come; you must ask the House whether 25 members or more members are in favour of the motion...

SOME HON. MEMBERS: No.

SHRI VASANT SATHE: Now, rule 227 reads as follows:

"Notwithstanding anything contained in these rules, the Speaker may refer any question of privilege to the Committee of Privileges for examination, investigation or report."

All that you can do is *suo motu* you can send it to the privilege committee. But the moment you allow leave to be asked for, the House is seized of the matter and you cannot scuttle the power of the House. Under rule 226 the House can itself pass a resolution, if leave under 225 is granted, the House may consider the question and come to a decision, itself. That is the power of the House. The House may refer it to the privilege committee on a motion made either by the member who has raised the question of privilege or by any other member. Unless we go through this procedure, it will not be correct. Is it your idea or is it their contention that although under 225 leave is asked for, you can cut short the power of the House, the privilege of this House and also the proper procedure and say: I will act under rule 227. How do we go? Where do we go? These rules should be read properly and should be followed properly. Once leave is asked for under the rules, you have to rely on rule 226... (Interruptions)

MR. DEPUTY-SPEAKER : Please take your seats, all of you. Let me make the position clear. At the outset I said that I had to decide whether there was *prima facie* case or not. I had never said that there was *prima facie* case of privilege. When I allowed a member to read out a privilege motion it does not *suo motu* allow that there is privilege. On that day he read it out; today he also read out. Then there were some points of order. That is: where we are now. (Interruptions) I am not allowing any more discussion on this....

SHRI VASANT SATHE : You are going back on what you said.

MR. DEPUTY-SPEAKER : I am not going back on anything. I have to give my ruling. And I shall now give my ruling.

AN HON. MEMBER : What is it?

MR. DEPUTY-SPEAKER : In a case where it is alleged that a Minister or a Member has made an incorrect statement in the House the procedure for inviting the attention of the House to such matters is laid down under Direction 115 of Directions by the Speaker which reads as follows :—

"115 (1). A member wishing to point out any mistake or inaccuracy in a statement made by a Minister or any other member shall, before referring to the matter in the House, write to the Speaker pointing out the particulars of the mistake or inaccuracy and seek his permission to raise the matter in the House.

(2) The member may place before the Speaker such evidence as he may have in support of his allegation.

(3) The Speaker may, if he thinks fit, bring the matter to the notice of the Minister or the member concerned for the purpose of ascertaining the factual position in regard to the allegation made.

(4) The Speaker may then, if he thinks it necessary, permit the member who made the allegation to raise the matter in the House and the member so permitted shall, before making the statement, inform the Minister or the member concerned.

(5) The Minister or the member concerned may make a statement in reply with the permission of the Speaker and after having informed the other member concerned.

(6) The item regarding statement to be made by the member and the statement to be made by the Minister in reply thereto shall not be put down in the list of business unless copies thereof have been submitted in writing to the Speaker sufficiently in advance and the Speaker has approved them. Words, phrases and expressions which are not in the statements as approved by the Speaker, if spoken, shall not form part of the proceedings of the House."

In the present case when the matter was raised in the House earlier on the 14th July, 1977 by Shri Y. B. Chavan, Leader of the Opposition under Rule 377, the Minister of Home Affairs had clarified the position.

Now today when this matter has again been raised by Shri Veerayar Ravi, the Minister of Home Affairs may again clarify the position. In view of the provisions of

Direction 115 and the clarification by the Minister of Home Affairs, the matter may be treated as closed.

Mr. Charan Singh, if you want you can make a statement now.

THE MINISTER OF HOME AFFAIRS (SHRI CHARAN SINGH) : *rose.*

SHRI K. P. UNNIKRISHNAN : Sir, I am on a point of order. (*Interruptions*)

SHRI VASANT SATHE : Yesterday's privilege motion, you have sent it to the Privileges Committee. (*Interruptions*) Having given consent under Rule 222 how can you go back on your own ruling?

SHRI C. M. STEPHEN : You have given permission to raise the matter under Rule 222. What happened to that is my question. You cannot change your earlier ruling.

MR. DEPUTY SPEAKER : Please take your seat. When some member gives notice of a privilege motion, I have to decide whether there is a *prima facie* case. I have heard the Members. It does not come under privilege. So, I am applying Direction 115.

SHRI K. LAKKAPPA (Tumkur) : Mr. Deputy-Speaker, Sir, you are well in order to take a decision on this subject. But the other day when some matter was raised by the other Member, you have, *suo motu* referred it same to the Privileges Committee. (*Interruptions*) Article 359 is very much there and it is a provision for declaration of Emergency. But in the statement of the Home Minister, in spite of the clarifications he has given, he has stated that there was a deliberate attempt. He has made an aspersion and thus he has deliberately done. (*Interruptions*) It is my request to you to revise your decision.

SEVERAL HON. MEMBERS *rose.*

MR. DEPUTY SPEAKER : Please take your seats now.

SHRI K. P. UNNIKRISHNAN : Sir, I am on a point of order. Please listen to me.

SHRI SAMAR GUHA (Contd.) : Sir, my point of order comes first. Before him I raised a point of order.

SHRI MOHARJEE DEBRAI : I do not understand how any point of order can arise on the Speaker's ruling.

SHRI VASANT SATHE : A point of order can arise. The House is the master and the Speaker is not the master. (*Interruptions*)

SHRI K. LAKKAPPA *rose.*

MR. DEPUTY SPEAKER : Mr. Lakkappa, please take your seat.

SHRI J. RAMESHWARA RAO (Mahaboobnagar) : Once you have allowed a matter to be raised under rule 222, you cannot go back to Direction 115.

MR. DEPUTY SPEAKER : I have explained it.

SHRI K. P. UNNIKRISHNAN : I did not come to you under Direction 115. I came to you with a specific allegation about a statement made by the Home Minister. The entire proceedings would be in laid if you had not permitted me under rule 222 to raise the issue. Now, having allowed me and Mr. Ravi to raise it under rule 222, you cannot go back to Direction 115. You could have told me that there is no case and this will not be permitted to be raised under rule 222.

MR. DEPUTY SPEAKER : When I permitted you or Mr. Ravi, I did not say that there was a *prima facie* case of privilege. Under rule 222 I received a notice. That is all. When I received notice, I can allow a member. Now under Direction 115, the Home Minister is giving an explanation.

पूर्ण मंडी (बी चरण सिंह) : उपायक महोदय, मेरे दोस्त शुनने के लिए तैयार नहीं हैं, इस लिए मैं कुछ नहीं कहना चाहता।

SHRI C. M. STEPHEN : We do not want to hear him. (*Interruptions*).

AN HON. MEMBER : Are you revising your ruling?

MR. DEPUTY SPEAKER : There is no question of revising any ruling. I have explained it sufficiently. Under Direction 115, I am allowing the Home Minister.

(*Interruptions*)
MR. DEPUTY SPEAKER : I will put it to the House.

बी चरण सिंह : उपायक महोदय, प्राप्त मेरी बात शुन सीजिए। उन का जो एटीएम है, उस के कारण मैं कुछ कहना नहीं चाहता हूँ।

SHRI VASANT SATHE: You are violating the rules completely. You are throwing the rules to the winds...

(Interruptions)

SHRI MORARJI DESAI: I do not know what my hon. friends want. I am not able to hear them at all. I do not know what they want to say. I cannot understand unless it is spoken clearly.

(Interruptions)

SHRI J. RAMESHWARA RAO: We have nothing against you. I submitted to the Deputy Speaker that the question was permitted to be raised under Rule 222. Once the question is raised under Rule 222, you cannot go back to Direction 115. The procedure under Rule 222 has to be followed.

MR. DEPUTY SPEAKER: If what you say is to be followed, then every Motion of privilege that is raised under Rule 222 will have to be sent to the Privileges Committee.

SHRI C. M. STEPHEN: There is no question of notice being given under Rule 222. What Rule 222 contemplates is permission being given.

(Interruptions)

SHRI MORARJI DESAI: Let me say something about it. If the hon. Deputy Speaker has decided a matter, anybody may say it is wrong. I am not here to dispute his freedom. Everybody is entitled to have his opinion. But if you dispute the decision of the Chair, this House will not be able to function at all. Whether it is for this side or for that side, I am afraid we are not following proper procedure at all. (Interruptions). There is a method of doing that also. I am not saying anything about it. This is not the way to do it.

SHRI C. M. STEPHEN: Then, you tell us what is the way.

SHRI MORARJI DESAI: My suggestion would be that if you are dissatisfied with the decision, do not go by passion, think calmly about it and find out a procedure as to how to do this. I am not going to object to that kind of thing. But this is not a method of doing it.

SHRI C. M. STEPHEN: You are the Leader of the House.

SHRI MORARJI DESAI: If you consider me the Leader of the House and if you are not prepared to heed even my advice, then what can I tell you?

MR. DEPUTY SPEAKER: Now we go to the next item.

(Interruptions)

13.45 hrs.

NATIONAL HIGHWAYS (AMENDMENT) BILL

THE PRIME MINISTER (SHRI MORARJI DESAI): I beg to move*.

"That the Bill to amend the National Highways Act, 1956, be taken into consideration."

It is a simple measure to amend Section 7 of the existing Act; to enable Government to levy fees on permanent bridges on national highways; costing more than Rs. 25 lakhs which are erected or will be erected after 1st April, 1976. This in essence is the simple measure that I have put before you. Though it is simple, I cannot say that its implication is very simple, because it involves payment of fees. The justification for it is this, namely, that when these bridges are erected at heavy costs—and we want to have more such highways and more such bridges, it is necessary that they should pay for themselves. In many other countries, this is the way it is done. The State governments also want toll to be levied on bridges. But we cannot levy a toll, because toll is a subject belonging to the State. It is, therefore, that we are levying a fee; and that fee will be utilized, not for enhancing the revenues of the government for spending in other ways. This will be utilized for National Highway and bridges, after deducting the expenses on collection of the revenue. We are also taking power to see if it is necessary to exempt any bridge from this fee. So, if it is necessary in public interest to do so, we shall certainly do so. I only hope and trust that my hon. friends will agree with it.

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill to amend the National Highways Act, 1956, be taken into consideration."

Before we go on with the motion moved and through the discussion on

* Moved with the recommendation of the Vice-president acting as President.