

[Mr. Speaker]

to enquire into the matter as to who was responsible for the leakags.

(Interruptions)**

I am not asking them as a Privilege Committee but as a Committee of the House.

(Interruptions)**

Unless I study the papers I cannot give a ruling. (Interruptions)

SHRI B. SHANKARANAND (Chikodi): I rise on a point of order.

Only a Committee specified under the Rules have the authority to summon any person or call for any document. Now you are saving that a Committee without any authority...

MR. SPEAKER: No, no....

SHRI B. SHANKARANAND: Please listen to me. You are referring this matter to the Privileges Committee, not as a Privileges Committee....

MR. SPEAKER: As a Committee of the House.

SHRI B. SHANKARANAND: Please listen to me. That Committee is not according to the procedure. This Committee will have no authority to summon anybody....

MR. SPEAKER: I can always appoint a Committee to go into the matter: the House can always go into the matter.

SHRI B. SHANKARANAND: No, no: You have to say whether this Committee will have authority to summon anybody.

MR. SPEAKER: We will give you all the authority. The House will now take up further consideration.... (Interruptions)

MR. SPEAKER: Please do not record.

(Interruptions)**

15.00 hrs.

MOTION RE. THIRD REPORT OF THE COMMITTEE OF PRIVILEGES—
Contd.

MR. SPEAKER: The House will now take up further consideration of the Motions regarding the Third Report of the Committee of Privileges and the Substitute Motions and Amendments moved thereto.

Some more Substitute Motions and Amendments have since been tabled by Members to the Motion moved by Shri Morarji Desai on 8th December, 1978.

I will allow the Members concerned to move them also. They may, if they desire to move their Substitute Motions/Amendments, send slips to the Table within 15 minutes indicating the serial numbers of the Substitute Motions/Amendments they would like to move.

Now, before I start the proceedings, may I make a request to the hon. Members, since there are a large number of Members desiring to speak, to be brief in their submissions.

SHRI C. SUBRAMANIAM (Palani): As far as Amendment No. 39 is concerned—which is standing in the name of the Prime Minister—, before he moves that, I have to rise on a point of order. Please hear me before that.

MR. SPEAKER: Now....

SHRI C. M. STEPHEN (Idukk): On a point of order. We must know where we stand with respect to whatever motions are there, whatever amendments are there. The point is this. I have got before me the proceedings of the

8th. It is not clear what are the amendments before the House, what are the substitute motions before the House. These things are not clear. I would just read out. You were pleased to say this when I rose on a point of order after Mr. Morarji Desai moved his motion:

"Mr. Speaker: I do not think I should decide this now. There are a number of motions. This is not the only motion before us. There are a number of motions. I will give the decision after all the motions are moved. If any one of them contravenes the rule, that will be over-ruled. This is not the only motion before the House. I would have given my decision here and now on this, but that does not serve the purpose. There are a large number of motions."

This was your ruling on that day. Subsequently you made this observation when the matter was pursued further; You said:

"Mr. Speaker: I propose first to have all the amendments to the motion moved and thereafter consider which ones of them are valid or not. If all of them are invalid, they are invalid. If they are valid, they are valid. At that stage, I will hear you."

Then it went on and I said:

"Shri C. M. Stephen: I am not making a speech. I am saying which motion the House must take into consideration."

It went on. Then you said:

"Mr. Speaker: I am going to take up the motions."

Then I said:

"Shri C. M. Stephen: Then the point of order is in which order the motions will be taken up."

Then you said:

"Mr. Speaker: I will consider it."

In that way, the proceedings of the 8th were over. The next day—please see the proceedings of the next day—you made these observations. The next day it happened like this. What I am saying is that the next day you said, 'Proceedings will be like this...' and you said 'Whoever wants to move his motion, may send in the chit.' Nothing further was said about it. We do not know what all amendments have been moved. We do not know what all substitute motions have been moved...

MR. SPEAKER: They have been circulated to you.

SHRI C. M. STEPHEN: No. The point is that all the amendments that came were circulated. You did not say the way you have said to-day in the House, that is to say, 'Anybody who sends in the slip, his motion will be treated as having been moved.' You did not make that announcement.

MR. SPEAKER: I have made that announcement. I have read it.

SHRI C. M. STEPHEN: This is page 11322. This is what you have said:

"The procedure will be that those who have given notices of substantive motions and those who have given amendments, and who want to move them may send their slips to the Table within 15 minutes."

You did not say as you said now that whoever sends in the slips, those amendments will be treated as moved. You did not say that. This is all you said. I am reading again:

"The procedure will be that those who have given notices of substantive motions and those who have given amendments and who want to move them, may send their slips to the Table within 15 minutes."

[Shri C. M. Stephen]

Now, Those who send in the slips within 15 minutes will be treated as having moved their amendments—you did not say that. Therefore, the point is this... (*Interruptions*) No, no. Let me say.

Mr. Kamath was called and he moved his amendment. Mr Kamath was one of the persons who sent in the chit. He moved his amendment. I take it that his amendment alone has been moved. How do I know which are the amendments which are moved? Mere inclusion of it in the record of proceedings will not do. I have looked up at the Budget proceedings. You will see the cut motions are treated there in the same way. But the Speaker will invariably make an announcement that now the cut motions are open for debate. I have looked through all the Budget papers. Every time the Speaker makes an announcement, 'Now the cut motions are before the House for debate.' This announcement did not come at all. I am submitting that a ruling by you remains to be done, that is to say, about the validity of the motions and the validity of the amendments because that was what you said, 'After everything comes to me, I will decide which is valid and which is invalid.' This point will have to be clarified. There are points of order in regard to validity with respect to many amendments and many motions. This will have to be considered. You have promised on the 8th that we will get an opportunity. There is no objection. Anybody can move amendments and even now. Then we must have an opportunity to object with respect to any amendment on the basis that it is not permissible under the rule. You can now announce that whoever has sent in the slip at that time will be treated as having moved. Then we must be allowed to raise our objection with respect to the amendments pursuant to the ruling you gave on the 8th saying that after everything comes,

'I will consider what is invalid and what is valid.' I must get an opportunity to raise objections with respect to amendments given.

SHRI C. SUBRAMANIAM: When a motion is moved by the Leader of the House, as you have already said, that stands on a special footing. There are amendments 88 and 89 with regard to that. Have they been moved or not? If it has been moved, then I would like to take objection to this very motion because I have got valid points against that. You must hear me before allowing amendment No. 89 to go on record and putting it for discussion. At what stage you will allow me to say, it is for you to decide. But I want to be understood that I have raised objection to amendment No. 89. It cannot be allowed, it should not be allowed to be moved and you should hear me before you come to a decision on that.

MR. SPEAKER: I will hear you at the stage when he formally moves and opens the debate.

SHRI C. SUBRAMANIAM: I am objecting to the very moving of the motion.

SHRI VASANT SATHE (Akola): His objection is to the very admissibility of the amendment. You must hear him before that. (*Interruptions*)

MR. SPEAKER: The procedure will be that those who have given notice of substantive motions—of course, Mr. Jyotirmoy Bosu has already given notice—those who give amendment and who want to move them may send slips to the Table within fifteen minutes. Now, the procedure normally adopted is: First we take up the substitute motion. If somebody takes objection to the validity of the motion at that stage the decision is given. Then we take up amendment. If anybody takes objection to the validity of the amendment then that will be taken into consideration and

will be decided whether it is valid or not. This will be the proper course and this has been the course earlier adopted. Earlier adopted procedure is: We first take up substitute motions. In respect of substitute motions when anybody raises objection ...some of them I have found invalid *prima facie* and I have myself overruled. But there may be that still others may take objection and say some motion is invalid then I will hear it and decide whether it is valid or invalid. Similarly, when amendments are coming up I will decide the question whether amendment is valid or not.

SHRI C. SUBRAMANIAM: Sir, I am not fond of hearing my own voice but I have a point to make and that is why I rise. Now, as far as 39 is concerned is it for discussion before the House?

MR. SPEAKER: No. No. He has given notice of moving but he will formally move. The Prime Minister has sent the slip: I propose to move my amendments nos. 38 and 39.

SHRI C. SUBRAMANIAM: Then you should hear my objection.

MR. SPEAKER: At that stage I will hear it.

SHRI C. SUBRAMANIAM: Not at that stage. Now, he has moved it...

MR. SPEAKER: He has said: I propose to move... (*Interruptions*)

SHRI C. M. STEPHEN: Now, I am saying the slip is there. You have taken up the position that it is not treated as moved and he will move. The same standard will apply with regard to other amendments. Therefore, let us know which are the amendments before the House. There is a large bundle of amendments. Which exactly are the amendments that the respective members have chosen to move?

MR. SPEAKER: I have explained the position. The validity of the amendments will be taken into consideration whenever an objection is taken to an amendment at the stage when we are putting it before the House.

SHRI C. M. STEPHEN: Sir, you will kindly bear with me. We are having a debate on what. Are we having a debate only on the motion? If it is that it is all right. Then each amendment will have to come and cycle of debate must start on every amendment or are we having a motion and the amendment put together which we are debating. If the motion and the amendments are together being debated I must know what the amendments are and on those amendments I will raise my objection.

MR. SPEAKER: Even at this stage I will allow the objection to be taken to the amendments.

SHRI C. M. STEPHEN: Let the respective members move the amendments.

MR. SPEAKER: It is circulated.

SHRI C. M. STEPHEN: It is not circulated. What I am submitting is all that is circulated is the number of the amendments in the summary of the proceedings. That is not something that we are bound to go through at all. (*Interruptions*)

MR. SPEAKER: Everybody has been given the amendments circulated.

SHRI C. M. STEPHEN: When?

Sir, when was it circulated? (*Interruptions*), I ask: When was it circulated? Can they show a single instance where it is mentioned? The intimation says: 'Please receive the following papers'. There is a covering letter which comes with the papers every morning. Please produce a covering letter which would carry this. Where is this mentioned?

[Shri C. M. Stephen]

No covering letter has mentioned this, where you say 'Please receive the following papers'. I ask: Please produce one covering letter which is mentioning this item. No. There is no covering letter which motions this.

SHRI DINEN BHATTACHARYA:
(Serampore): You have no time to read it.

SHRI C. M. STEPHEN: Let us know what the amendments are. Let us raise our objections.

SHRI SHYAMNANDAN MISHRA (Begusarai): Sir, let me make a submission. (Interruptions) Sir, the position taken by my hon. friends is this. They say that although the amendments have been circulated, they cannot be considered to have been moved...

AN HON. MEMBER: Exactly.

SHRI SHYAMNANDAN MISHRA: They say, they cannot be considered to have been moved, although they have been circulated.

Sir, you have been pleased to say that those who want to move the amendments can give intimation to that effect to the Chair within 15 minutes.

So, Sir, I submit that the problem would be solved if the Chair announces at the end of 15 minutes saying that these are the amendments which have been moved. There is no difficulty about it. (Interruptions)

SHRI C. SUBRAMANIAM: Motion having been given with regard to certain items here, you should hear us before you allow him to actually move it.

MR. SPEAKER: The convention is there. I am hearing you.
(Interruptions)

SHRI C. SUBRAMANIAM: Kindly be patient.

Mr. Speaker, Sir, the Substitute Motion given by the Prime Minister and the Leader of the House is in two parts. One is No. 38 and the other one is No. 39.

Sir, as far as No. 38 is concerned, this is what is stated there;—for which I have no objection. It says:

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

This is the point. What are the 'findings'? What are the 'recommendations'? The finding is that they have been guilty of having committed breach of privilege. I need not go into it. I go only to the 'recommendations'—what are they? The recommendation is contained in page 122 of the report. Let me quote this portion. It says:—

"The Committee recommend that Shrimati Indira Gandhi, former Prime Minister, Shri R. K. Dhawan ... and Shri D. Sen... deserved punishment for the serious breach of privilege and contempt of the House committed by them."

And then it says:—

"In view of the unprecedented nature of the case and the importance of the issues involved in maintaining the authority, dignity and sovereignty of Lok Sabha and upholding the principles underlying the system of Parliamentary Democracy, the Committee consider it desirable to leave it to the collective wisdom of the House."

—Please note these words—"collective wisdom of the House." I want to emphasise that the punishment to be meted out should be what is reflected by the collective wisdom of the House.

Now, if the Prime Minister has accepted the recommendation of the Privileges Committee that it should be 'the collective wisdom of the House' and that the punishment should reflect 'the collective wisdom of the House', then, let us see what is stated here, in serial No. 39. I quote. The Prime Minister has moved this.

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

Therefore, this is put forward by the Leader of the House as the collective wisdom of the House. We have all been listening to the Debate. You have been listening to the Debate. Taking from your extreme right upto the Janata party nobody is agreed for her being committed to jail or being expelled from the House.

DR. SUBRAMANIAM SWAMY (Bombay North-East): She should be sent to jail right away. We have said that.

(Interruptions)

MR. SPEAKER: Why don't you hear? You should have patience.

SHRI C. SUBRAMANIAM: I will take party by party. As far as Congress (I) is concerned, they are not for any action at all. (Interruptions) I am not going to leave it. I will have my say in spite of Mr. Jyotirmoy Bosu. (Interruptions)

SHRI M. SATYANARAYAN RAO (Karimnagar): Sir, this is a breach of privilege. He is preventing the parliamentary debate being conducted by you. It amounts to a breach of privilege.

SHRI C. SUBRAMANIAM: Now, that party's attitude is known. As far as my party is concerned, it is

divided. One section says no action, the other section says reprimand. Take C.P.I. it is for reprimand, not for jail or for expulsion.

SHRI KANWAR LAL GUPTA (Delhi Sadar): How is it that you are representing everybody in the House? (Interruptions)

MR. SPEAKER: Why don't you allow him to speak?

SHRI C. SUBRAMANIAM: I can assure you... (Interruptions)

MR. SPEAKER: Mr. Gupta, your absence in the House for a brief period...

(Interruptions)

SHRI C. SUBRAMANIAM: A.I.A.D.M.K.'s attitude is 'No action'. C.P.I. attitude is 'only admonition'. Even the C.P.I.(M), even the hard boiled Jyotirmoy Bosu had to relent because it is the party's decision which says no expulsion, only suspension till the end of the Session. So also the Forward Bloc, so also Mr. Tridib Chaudhuri. It is only when you go to the Janata Party, there is a point of view that there should be expulsion and there should be imprisonment also and even there the party is not unanimous because there are hawks and doves. Even Shri S. N. Mishra says only suspension upto the end of the Session. And Mr. Tiwari also. Therefore, it is only a section of the Janata Party which is for the punishment proposed by the Prime Minister. Therefore, in all fairness, I would ask you as a Judge and as Speaker occupying this House whether this represents the collective wisdom of the House. It is the first time that this is happening... (Interruptions)... the collective wisdom of the House should be consensus of the House as a whole. If you accept the recommendation, then it has to reflect the collective wisdom. Of course, it is open to the House to say that we do not accept the theory of collective wisdom and we go on our own party

[Shri C. Subramaniam]

basis... That is a different thing altogether. But having accepted the recommendation of the Privileges Committee and that recommendation is that the punishment should be on the basis of the collective wisdom of the House, they cannot look forward to foist this preposterous proposal on the House. This is the first point. There are two more points. The second point is that this motion is moved by the Prime Minister and the Leader of the House. The Prime Minister and the Leader of the House has a very peculiar position in the House because he is not merely the Prime Minister but he is the Leader of the House and it has been stated that as far as the Leader of the House is concerned, in matters of this sort where the House is not considering a party matter but in which the whole House is involved, the House is treated as a corporate body and the decision has to be taken on that basis, the Leader of the House should speak for the House and not take a partisan attitude. On page 239 of the Parliamentary Practice by Erskine May, it is stated:

"In the absence of the Prime Minister the Leader expresses the sense of the House on formal occasions such as in moving motions of thanks or congratulation; and at all times, being responsible to the House as a whole, he advises the House in every difficulty as it arises."

Again, Sir, Ivor Jennings says:

"In short, when the House speaks as a corporate body, he speaks on its behalf."

Therefore, when this House is sitting as a corporate body to deal with the privilege motion, he should speak on behalf of the House and not for a section of the House or a section of his own Party. He cannot speak on behalf of the Government, he cannot speak on behalf of the party, he can-

not speak for a section of the party; he will have to represent the whole House. Anybody else can move this motion. When the consensus in the other parties was that there should be no imprisonment and there should be no expulsion, I respectfully submit that it is not open to the Leader of the House representing the whole House to move this motion. It will give a wrong impression that this proposal represents the sense of the whole House.

Then, this is a point which is much more substantial in which you will have to exercise your discretion. As already stated, all the political parties are not for expulsion or for putting Shrimati Indira Gandhi in prison. Janata Party—a section of it alone—takes a different view. Why? They will have to keep in mind, you will have to keep in mind, two startling facts... (Interruptions) One, an infructuous attempt was made to imprison her during the last year and they did not succeed (Interruptions). Then, they have been saying from the roof tops that they are going to imprison her, but they have not succeeded so far... (Interruptions). Then, she contested for the Parliament. They mobilised all the resources to see that she did not enter the Parliament... (Interruptions). Taking advantage of the breach of privilege motion, they want to achieve both these ends of putting her in prison and expelling her from the Parliament. Why? They say plainly: "Did she not imprison us during Emergency? We should, therefore, pay her in the same coin". For expulsion, they say that as Dr. Subramaniam Swamy was expelled, for that she should also be expelled. That is the attitude. They are using this House in the guise of the breach of privilege motion to achieve their political ends and for punishing her.

Sir, you are the custodian of this House. Can you allow it to be used for partisan purposes of putting her

in prison or for expelling her or any Member altogether for the whole term from the House? This is a matter which should not be decided like this... (*Interruptions*). The least you can do in this is not to take a decision on the basis of one party being in majority taking a decision. If you want to give effect to the collective wisdom of the House, you should convene a meeting of the party leaders and try to arrive at a just decision rather than allow them to use this House for their private vengeance and private vendetta.

These are all substantial points which are going to be the precedents for the future and if you are going to allow this House to be used for this purpose, it can be used next day for some other purpose also against somebody else and they are not permanent fixtures there. We are not permanent fixtures here. Therefore, Sir, you should take into account all the three points. First of all, the motion itself is contradictory and the Leader of the House should not be allowed to move it and more than that, you will have to safeguard the interests of the House for not being used for private and party purposes.

SHRI C. M. STEPHEN: I am rising on a point of order. I have got objections. (*Interruptions*)

MR. SPEAKER: He is objecting to the amendment. He has a right.

SHRI C. M. STEPHEN: My first objection is that this amendment contravenes rule 344, sub-rule (2) viz.

"An amendment shall not be moved which has merely the effect of a negative vote."

The operative part of this motion says... (*Interruptions*)

MR. SPEAKER: Please... he is objecting to the validity of the amendment. He has a right to object to the amendment.

(*Interruptions*)

MR. SPEAKER: Mr. Kar, kindly hear him first.

SHRI JYOTIRMOY BOSU: I want to make a submission. You made an observation the other day that 2 hours should be devoted for allowing Members—those who have not spoken—and then we shall hear the Prime Minister. It will be put to vote. You have been deviating from it from 2 p.m. to 3.30 p.m. (*Interruptions*)

MR. SPEAKER: When an objection is taken to an amendment, I have to dispose it of.

SHRI JYOTIRMOY BOSU: The amendments were there on that day also.

MR. SPEAKER: No.

SHRI JYOTIRMOY BOSU: I will show you the amendment.

SHRI C. M. STEPHEN: The point is that the operative portion of this motion says that you will be authorized to fix up a date, and that the 3 persons will be asked what they have to say about the punishment.

MR. SPEAKER: We know that aspect.

SHRI C. M. STEPHEN: There, we had an objection and you gave a ruling; quite a lot of gamut we went through. Whether the debate should go through the third stage, was a very material aspect. You invoked your inherent jurisdiction and residuary jurisdiction, and you said 'I am allowing it'. The present amendment says, 'Give the punishment here and now'. This is a negative vote with respect to this portion of this motion. This is a negative motion, because this says that the third stage need not be there. This is the contention: whether the punishment must be given here and now, whether the punishment must be given at the second stage. Now, the motion says punishment must be given here and now. If I am against it, I will have to vote against it. When you say that

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the punishment be given here and now, that negatives the motion that the Prime Minister has put forward. Therefore, this sub-rule (2) of rule 344 comes into play, and this amendment is absolutely invalid and not permissible under the rules.

Number 2 objection is that I will have to be heard, that is, on the basis of jurisdiction. This proposal to expel is not countenanced by the Constitution of India. This goes against the provisions of the Constitution of India. And this House does not have the power to expel an elected member.

Wherever constitution is violated, a point of order arises. I hold the position that Constitution is being violated. It is on that basis that I raise this contention of mine. I would straightway invite your attention to a full bench ruling... (*Interruptions*) of the Punjab and Haryana High Court reported in 1977 (*Indian Law Report*) 269. There on page 481, their lordship says, after a detailed discussion: and I will just read out that.

MR. SPEAKER: What does it say?

SHRI C. M. STEPHEN: Their lordship says, after a detailed discussion...

MR. SPEAKER: Do not read the discussion.

SHRI C. M. STEPHEN: I will read out only the ruling part of it. On page 519, it says:

"I am inclined to hold that in view of the basic premise of a Republican democracy enshrined in the Preamble of our Constitution; art. 170 which is analogous to 81, art. 172, prescribing the freedom of franchise and the freedom of choice for a fixed duration for the territorial constituencies of a State Legislature; and arts. 190, 191 and 192 providing in detail for the vacation of seats and disqualifications for membership; when read

together are all pointers to the fact that a power of expulsion by majority is inherently alien to the written provision of our Constitution and is, therefore, unavailable to the State Legislatures by the very nature of things."

This is the full bench ruling of 1977 by the Punjab and Haryana High Court.

Now I am saying this because this aspect will have to be examined in detail. Now very quickly, I will pass off. I will invite your attention to the Supreme Court ruling in the U.P. Legislature case. This is on page 454 of this Report... (*Interruptions*) That ruling says: 194(3) is examined and the question was whether all the privileges obtaining in the House of Commons have been preserved for the Parliament of India or the legislature of India. And their lordship said... Mr. Seervai's argument is this.

MR. SPEAKER: You tell us the conclusion.

SHRI C. M. STEPHEN: This is what I am reading. It is this:

"The House of Commons also claims."

This is what they say. I am reading only the conclusion and nothing more than that.

MR. SPEAKER: You tell me in your own words.

SHRI C. M. STEPHEN: This is a broad claim. The latter part of art. 194(3) expressly provides that all the powers which vested in the House of Commons at the relevant time vest in the House. This broad claim, however, cannot be accepted in its entirety because there are some powers which cannot obviously be claimed by the House. Then their lordships mention different powers which cannot be claimed. One of those powers, they

are spelling out on page 466. There they say:

“The House of Commons also claims the privilege in regard to its own Constitution”.

It can constitute....It can call..... and therefore, there are certain aspects of it. It can call for an election. It can issue writs to hold by-election. It can examine an election petition. It can determine the disqualification, it can determine the membership. All these are enjoined on this. This privilege admittedly cannot be claimed by the House. This is the Supreme Court decision. Therefore, it would not be correct to say that all powers and privileges which were possessed by the House of Commons at the relevant time can be claimed by the House and on this aspect of the case I conclude that it is beyond the pale of controversy that the legislature under Article 194(3) or otherwise has no power to provide for and regulate its own Constitution unlike the House of Commons of England.

Now the next question is what is the nature of this power which is claimed? The controversy is whether the power of expulsion is a part of the power of privilege or whether it is a part of this special power. This was the controversy on which arguments took place. A large number of authorities have been quoted. I do not want to take your time with all that. I will only give you the a final ruling on this question. That ruling is given on page 481—

“To sum up on this aspect of the case, it appears plain to me that on the authority of the British Constitutional authors, like Anson, Halsbury, Maitland, Wade and Phillips, Keir and Lawson, Ridges and including the opinion of May and his distinguished Editor Sir Barret here is hardly any doubt that the power of the house of Commons to expel one of its Members is rested from time immemorial in its basic

privilege to provide for and regulate its own constitution. It is indeed an integral and indivisible facet of the said privilege and of no other.”

Now, therefore, my argument is this. The Supreme Court has said.....

DR. SUBRAMANIAM SWAMY: He is violating Rule 356.
(Interruptions).

SHRI C. M. STEPHEN: My argument is this—

(1) 105(3) does not give all the powers. 105(3) does not transfer from the House of Commons all the powers of the privilege to us.

(2) The power to constitute itself and regulates its constitution is one of the powers which has not been transferred to the Parliament in India.

(3) The power to expel anybody is not a part of the privilege law in England. That has been part of this law of the power to regulate and control and constitute the House of Commons. Therefore, this has not an independent existence. This power to expel a Member is not available to the legislature. I also find that the provisions with respect to the vacation of seats, disqualification is a complete provision—comprehensive—nobody has any power to add on by which the seat can be vacated. Therefore, he, as an elected Member cannot be expelled from the House. That is not one of the powers. This is what is stated.

Just one minute more and I have concluded.

I read to you the authority. Their Lordship cited the authority of Shri Barnett Cocks. He was the Clerk of the House of Commons for a long time. He was Editor of May 16th, 17th and 18th Edition. He is the highest living Constitutional authority with respect of Parliament Law. He appeared before the Privileges Committee

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of England and on this question he gave this evidence.

A question was asked. I do not want to repeat the question.

"Because the result was that Asgill was expelled, as being unfitted for membership by virtue of his activities."

What was his offence?

"Because the book 'contained many profane and blasphemous expressions highly reflecting on the Christian Religion', and after Asgill had admitted himself to be the author of the book, they on that account resolved that he should be expelled from the House."

Is it a matter of privilege? He was the author of a book which was blasphemous and he was expelled. Then, he continues:

"Yes. The House has control, of course, today over its own membership. It is illustrated in Erskine May as one of the Privileges of the House to control its own membership and to expel Members who are unworthy of membership, to control its own composition, certainly."

Then he goes on:

"Yes. I think the general heading 'Privilege' does cover the right of the House to regulate its own composition and it does enjoy that right today and continues to exclude Members, as I mentioned in earlier evidence, who refuse to take the Oath of Allegiance."

This full Bench ruling which came after Mr. Subramaniam Swamy's expulsion, if anybody quotes that, with respect to Mr. Hardwar Lal is the latest precedent. He was expelled from the Vidhan Sabha and it went up to the full Bench. A very detailed discussion took place. This is the latest judicial pronouncement that we

have. Therefore, the powers that they seek to expel is in contravention of the constitutional provisions as sustained by the judicial pronouncements. This is alien to the law of privileges. This is only inherent to the characteristics of the House as being a self-constituted body, which our House is not.

Finally, you look through any expulsion. I have got a list of them before me. Never in the history of any Parliament has expulsion been attempted like this. Expulsion has been attempted for things done in the House if the House finds that the person is intolerable. Expulsion takes place in the exercise of the other jurisdiction and not in exercise of this jurisdiction. Never in the history of the world expulsion has been attempted, even in England, with respect to something which is alleged to have been done before this House was constituted. (*Interruptions*). Therefore my submission is the proposal to expel is unconstitutional, invalid and against the High Court ruling. Therefore, this amendment is unsustainable and it must be ruled out of order with respect to the expulsion part of it. (*Interruptions*).

SHRI RAM JETHMALANI (Bombay North-West): If you see any substance in that, you will hear us. But if you do not see any substance, which you should not, we do not want to take your time.

MR. SPEAKER: Shri Shyamnandan Mishra.

SHRI SHYAMNANDAN MISHRA (Begusarai): I want to refer to the two points that have been raised by the two hon. members. I would be brief in my submission, as I have always been. So far as the jurisdiction of the House is concerned, we are not prepared to accept any extraneous authority as sitting over us. We are the masters of our proceedings and the legality of our proceedings cannot be questioned anywhere. (*Interruptions*).

The hon. Leader of the Opposition was referring to the Advisory opinion of the Supreme Court in the Kesav Singh case. I must underline that this was only an advisory opinion. Even in that case, the hon. High Court later on ruled that the remaining period of the sentence must be served by the accused, although there had been prerogation meaning thereby that there would have been no termination of the sentence, the sentence was to be served, that was the order passed by the hon. Allahabad High Court later. But this has to be borne in mind by all concerned that this is the court of superior jurisdiction, and when one sits on its superior jurisdiction..... (Interruptions). In this case, we are a court of superior jurisdiction, meaning thereby that only these things which are expressly excluded from our jurisdiction cannot be taken care of by this House. There is nothing expressly excluded from the jurisdiction of this House, so far as its penal provisions are concerned. In this very House—not exactly this House but the Parliament of India, because it was the Provisional Parliament at that time—this penal provision was indeed exercised and an hon. Member's membership was terminated by this very House, I mean to say that in the case of Mr. Mudgal the membership was terminated. This is the position with regard to the powers of the House.

Now I move on to the point made by my hon. friend, Shri Subramaniam, and that point has to be given due weight in some way. But, even so, may I submit to you that although my hon. friend, Shri Subramaniam, knows what his aim is, he does not know how to go about it. He has complicated this matter. He says that according to the recommendations of the Committee of Privileges, the collective wisdom of the House has to be expressed. Now more than once what is meant by the collective wisdom of the House has been determined. Can my hon. friend say that there is any other way of determining the collective wisdom of this

House except through a majority opinion of this House? This has been very well determined... (Interruptions). My hon. friend would certainly not suggest that there should be an impasse or stalemate in this House. If there is a situation like that, that has to be broken.

But the real point of substance that he was making was that the motion was made by the Leader of the House. That is the point of substance, and he probably seems to suggest that, as the Leader of the House, he should have wider consultations, so far as the final judgment of this matter is concerned. That is the real point... (Interruptions).

I have always been insisting, and you have been a witness to this, that in such matters the Leader of the House should make the motion, and it is after many many years that the hon. Leader of the House has brought this motion. Now what I am coming to is this. If there is a new amendment, the probably assumption would be that, when the Leader of the House made the motion, there had been in the background this some what wider consultation with other parties. Nobody differed when the first motion was made by the Leader of the House. Now at this stage, when the new amendments are sought to be moved, there should be—that seems to be the object—wider consultation with all elements of the opposition in this House. If that is so, then there is force in this argument that there should be wider consultation. May I say from my side of the House that there is no party decision as such, there has been no whip and there have been amendments from hon. Members even on this side. So, the position is very clear.

But, Sir, if the hon. Member suggests and makes an appeal to the hon. Leader of the House, that he should have consultations on this matter before taking a final decision, before

[Shri Shyamnandan Mishra]

proposing the final form... (*Interruptions*)... that follows from the position of the Leader of the House. It is logical to except from the Leader of the House that when he tries to place any motion before the House, that will reflect the general state of opinion in this House. But I do not agree that it should be agreed by all sections of the House in that way, but the general state of opinion in this House and so in that process of consultation if there has been any inadequacy or incompleteness, that should be made up now. That is the point.

(*Interruptions*)

SHRI JANARDHANA POOJARY (Mangalore): Sir, I am on a point of order. It is against the jurisdiction and competency of the House and it is also a violation of the Constitution. On this point I am rising. Sir, I am not speaking with a sense of confrontation, (*Interruptions*). You heard the other side. Why can't you hear me?

MR. SPEAKER: I heard your side.

SHRI JANARDHANA POOJARY: Your constant assertion that you upheld the tradition of judiciary calls for your upholding the parliamentary tradition. That is why I am submitting. Why don't you hear me?

MR. SPEAKER: I have heard.

SHRI JANARDHANA POOJARY: I am raising a point of order on a constitutional matter. I draw your attention to Article 29 of the Constitution which says:

"(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence."

I am emphasising the words: "nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence."

Article 20(2) says:

"No person shall be prosecuted and punished for the same offence more than once."

Now, my submission is that so far as the competence is concerned, our learned and hon. Leader of the Opposition has raised one point. Endorsing that point, I am to just bring to your notice another point. Last time I raised the point that the question of competency and jurisdiction could be raised at any time. As a Public Prosecutor and as a Supreme Court Judge you know the question of law. Now I am raising the question whether this House has got the competence or jurisdiction to inflict punishment or to award punishment to any person. That is the pertinent point. Now, Sir, you cannot be a captive to the brute majority of the Janata Party. You must be impartial. That is why I am submitting this to you on whether this House has got the jurisdiction or competence. The former Speaker in this very same House on 1-4-1977 had clearly stated, and it was a categorical and clear decision of the House, that the Sixth Lok Sabha does not have any right or authority to go into any matters pertaining to the privilege issue because it happened during the life-time of the dissolved House. In view of this clear decision, I do not know whether this House has got any right to inflict any punishment on any person.

16.00 hrs.

MR. SPEAKER: I have understood your point. This was raised at the time of consideration.

SHRI JANARDHANA POOJARY: There is no law which prescribes the maximum punishment as contained

ed by article 29(1). In the absence of a maximum punishment, I submit nobody can convict any person, and nobody can give any imprisonment.

MR. SPEAKER: Mr. Stephen has made that point.

SHRI JANARDHANA POOJARY: If you go through article 105 of the Constitution, it is also silent about the quantum of punishment.

MR. SPEAKER: He has already raised that. Again and again you are raising the same thing.

SHRI JANARDHANA POOJARY: I am not raising the same thing.

Therefore, there will be double jeopardy if anything is done today. Double jeopardy means punishment by the Lok Sabha and punishment by a court under the law. Now you have to give a decision whether a decision taken here does not conflict with the functioning of the courts.

MR. SPEAKER: I have heard your point.

SHRI SHANKAR DEV (Bidar): The Privileges Committee has clearly stated that the House should decide.**

MR. SPEAKER: I am sorry this is not a point of order, I am not allowing it. Don't record.

SHRI MALLIKARJUN (Medak): On a point of order.

MR. SPEAKER: Unless you are objecting to Mr. Subramaniam's motion, I cannot allow.

Very important constitutional and moral arguments have been advanced by Mr. C. Subramaniam and Mr. Stephen. The first question that I have got to bear in mind is this. In a matter like this, what is the position of the Speaker? Is he in the position of a Judge to decide constitutional points, or is he merely a

servant of the House at this stage of the proceedings? The points raised by Mr. C. Subramaniam and Mr. Stephen are certainly going to be considered by the Members of the House at the time when they come to the final decision. It has been well settled that when the matter of constitutional and legal objections are raised before the House, it is for the House to decide and not the Speaker. The Speaker has no jurisdiction to decide. It is a well accepted position. (Interruptions).

SHRI VASANT SATHE: On a point of order. Is it to be decided by the House? Then, why are you therefor? (Interruptions) The rulings of the Speaker will be final. These are points of order that we have raised (Interruptions).

MR. SPEAKER: Don't record. (Interruptions)**

MR. SPEAKER: While the Speaker has to decide the points of order, the Speaker has not to decide the constitutional validity of any proposition. (Interruptions)

My predecessors have given... (Interruptions).

SHRI VASANT SATHE: On a point of order under Rule 376. You are giving a ruling.

MR. SPEAKER: I am giving my ruling and not your ruling.

SHRI VASANT SATHE: I am rising on a point of order under Rule 376.

MR. SPEAKER: I am deciding the points of order. (Interruptions)

MR. SPEAKER: While it is the duty of the Speaker to... (Interruptions) While I have to decide every point of order... (Interruptions)

I am not allowing anything more. Don't record.

(Interruptions)**

MR. SPEAKER: While I have to decide every point of order if the controversy relates to.... (Interruptions).

SHRI B. SHANKARANAND: Please read the Rules.... (Interruptions)

MR. SPEAKER: I have read the Rules and the commentaries also.

While the Speaker has to decide every point of order where the point of order gives rise to any interpretation of the Rules or laws or the Constitutions, any controversy as regards the validity of a provision when the matter is before the House, it is for the House to decide and not for the Speaker to decide. If the matter is controversial and is capable of a judicial decision, the judiciary has to decide it. The Speaker does not arrogate to himself the position of either the House or of the judiciary. Some of the points raised are matters to be decided by the judiciary and not the matters to be decided by the Speaker. The Speaker does not seize the powers of the judiciary in these matters.

SHRI C. SUBRAMANIAM: I have got great respect for your judicial wisdom. But this is evading the issue.

MR. SPEAKER: Mr. C. Subramaniam has raised three points on which he wanted my decision. The first contention of Mr. Subramaniam is whether the motion of the Prime Minister reflects the collective wisdom of the House. The collective wisdom of the House will be only known when the House decides about the matter. It is not necessary that the House should accept the motion of the Prime Minister. I cannot constitute myself as a person to decide the collective wisdom of the House.

The second point raised by Mr. Subramaniam is that the Leader of the House should represent the views

of the House and not of any section thereof. It is not for me to decide whether he is representing the views of the House or he is representing the view of only a section of the House. This, again, is a matter which the Speaker cannot enter into.

The last point raised by Mr. Subramaniam is that the motion of the Prime Minister represents a political view and not a view in consonance with the rules and the law. This, again is not a matter where the Speaker can enter into. The Speaker does not enter into controversial matters. Controversial matters are decided by the House and not by the Speaker.

Mr. C. M. Stephen's first contention was that the amendment moved by the Leader of the House is negative in character and, therefore, it is violative of rule 344 (2) of our rules. I am unable to accept that the amendment in question is negative in character. It is an alternative motion. It is for the House to accept it or not to accept it.

Mr. Stephen has contended that under the Constitution this House has no power to expel a member. Here again, it is a matter for judicial decision and not a matter for Speaker to decide. (Interruptions) I am not hearing any more. Here again, the matter is either for the House or for the judiciary. (Interruptions) There can be no point of order on my order.

Then Shri Janardhana Poojary has raised several objections based on article 20 of the Constitution. This again, is not a matter where I can interpret the Constitution. It is for the appropriate authorities to decide it. That being so, I see no point in the objections raised.

(Interruptions)

THE PRIME MINISTER (SHRI MORARJI DESAI): I should like to say this, that last time it was decid-

ed that two hours' time may be given for the debate in the House. I find that there is a great deal of time taken up. I therefore move:

"That this House do sit until this business is disposed of."

(Interruptions)

SHRI C. M. STEPHEN: Beyond six o'clock we will not sit. On this, don't decide by majority. You can do whatever you like, but beyond six o'clock we will not sit. (Interruptions) Time is never decided by majority. (Interruptions).

Two hours had been given. We were proceeding on the basis of motion of the Leader of the House. We never expected that the Leader of the House will be bringing in amendments after amendments. Normally it does not happen. The Leader of the House had a motion; for the discussion on the Motion we agreed to two hours subsequently. . .

MR. SPEAKER: Let us see. There are one hour and forty-five minutes still. If necessary, we will take it up at six o'clock.

SHRI C. M. STEPHEN: What is an amendment? He has brought an amendment. What does an amendment mean? I want to emphasize this. An amendment is a subsidiary motion moved in the course of a debate upon another motion, which interposes a new cycle of debate and a decision on the proposal and a decision on the main motion and question. Therefore, when an amendment is moved, a new debate begins. The most important part is about punishment. Now, if you put forward an amendment, on that a debate has got to begin. We will have the right to speak on that. That is the essential part of it: a new cycle of debate begins. Otherwise, there is no amendment.

MR. SPEAKER: We will consider it at 6 o'clock when the time comes.

SHRI B. SHANKARANAND: Time is extended only by consensus and not by majority. (Interruptions).

MR. SPEAKER: All the time is being taken up by these other things.

SHRI C. M. STEPHEN: It should not be by majority: we cannot do it. (Interruptions).

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): It is necessary for me to point out to certain matters of procedure. The Hon. Prime Minister, the Leader of the House, has moved that the House sit till it disposes of this business.

You, Sir, will recall, and the House will recall—if its memory is not so short—that last time, when this question was being debated in the House, you, Sir, announced that since both the Leader of the Opposition and the Leader of the House were agreed that another two hours might be spent on this debate, two hours would be allotted and that it will be taken up on the next day. I wish to draw your attention and the attention of the House to Rule 363 which says:

"(1) Whenever the debate on any motion in connection with a Bill or on any other motion becomes unduly protracted, the Speaker may, after taking the sense of the House, fix a time limit for the conclusion of discussion an any stage or all stages of the Bill of the motion, as the case may be.

(2) At the appointed hour, in accordance with the time limit fixed for the completion of a particular stage of Bill or a motion, the Speaker shall, unless the debate is sooner concluded, forthwith put every question necessary to dispose of all the outstanding matters in connection with that stage of the Bill or the motion."

[Shri Ravindra Varma]

I wish to point out, therefore, that by virtue of Rule 363(1)... (Interruptions).

I am not yielding. I did not interrupt the Leader of the Opposition. I am not yielding. Under rule 363(1) the procedure, in case a debate becomes unduly protracted, has been contemplated. That procedure is that the Speaker may, after taking the sense of the House, fix a time. Last time you did take the sense of the House and fixed the time. Even if the contention is that a new matter has been introduced when the Prime Minister and the Leader of the House moved this motion, I most respectfully submit to the Chair that it becomes incumbent on you to take the sense of the House and fix the time limit. Once you take the sense of the House and fix a time, again I most respectfully submit to you that it makes it obligatory on you to put the question concerned to the House when the hour comes. Therefore, I beg of you, in view of the motion moved by the Leader of the House, that you take the sense of the House and fix the time limit.

SHRI B. SHANKARANAND: Even if we go by what he has said, you have to go by the sense of the House and not at the dictates of the Prime Minister. It is unfair for the Prime Minister to have suggested this. He will have to take the sense of the House. That has been the practice, that has been the convention. The time cannot be extended like this, beyond 6 O'Clock.

SHRI JYOTIRMOY BOSU: I want to quote a ruling; I want to quote what one of the illustrious Speaker has said on Mudgal's case...

MR. SPEAKER: No. I am now on a different matter. Mudgal's case is over.

SHRI JYOTIRMOY BOSU: I am quoting a ruling, a relevant ruling.

MR. SPEAKER: We are now on fixing the time.

SHRI C. M. STEPHEN: In view of what the Minister of Parliamentary Affairs has said, I would say this. There are two aspects of the whole question. The main motion was here. We agreed that we would complete the debate on the main motion in two hours' time. Now that has to be completed. Now an amendment has come. The most vital, the most material, part of the whole thing is that particular amendment different points of view on that amendment have got to be aired. That is the most vital part of the general debate. Therefore, to proceed as if that that is of no consequence will not be right. That is the most vital part. Two hours for the main motion; and then the period for the amendment will have to be taken into account. Amendment starts 'a new cycle of debate. I repeat that provision a new cycle of debate'. (Interruptions).

MR. SPEAKER: One thing you must bear in mind. This amendment, though given notice of by the Prime Minister now, was there given notice of by others also....

SHRI C. M. STEPHEN: That is why I raised the question whether the amendment was moved or not. That was the purpose. The amendment is moved only today.

MR. SPEAKER: I do see that some more time has got to be given, not merely two hours. You have already taken nearly two and a half hours. I think, if the House so pleases we shall have another two hours for this.... (Interruptions).

SHRI C. M. STEPHEN: Not today. Today, no.... (Interruptions).

SHRI VASANT SATHE: You cannot take us by surprise like this. (Interruptions).

SHRI MORARJI DESAI: Please fix the time, Sir. (Interruptions).

SHRI C. M. STEPHEN: On that day we adjourned for his convenience. On that day we could have taken two hours. We adjourned for his convenience. He wanted it for his convenience. On the next day, unfortunately, a colleague of ours died and we had to adjourn. Then I came and told you that, on Friday, we could have the debate. But they had their own motives because they wanted to prevent her from filing her nomination in Secunderabad. Therefore, they took it over to Monday. This was the purpose. Monday has come now. We are agreeable to the sort of arrangement you made. 2 hours. This 2 hours we took over procedural matters should not count. We have not gone into the debate at all. The debate has yet to begin. We are not prepared to sit beyond 6 O'clock today.... (Interruptions) You can do it. This way the House can never run. Has the Parliamentary Affairs Minister consulted me? Has he consulted Mr. Chavan? Has he consulted Mr. Bala Rajanor? All the leaders are here. Did he consult them? Is this the way to do it merely because they have got the majority?... (Interruptions)

MR. SPEAKER: May I add one thing? Shall I adjourn the House just for ten minutes so that I can call all the leaders to my Chamber?... (Interruptions)

SHRI C. M. STEPHEN: Call us to your Chamber....

MR. SPEAKER: They are not agreeable.... (Interruptions)

SHRI C. M. STEPHEN: We are agreeable but they are not agreeable. Why?

MR. SPEAKER: I am sorry. I cannot do anything at all. It is a matter for the House.... (Interruptions) Whatever is in my power, I have been trying to do.... (Interruptions)

SHRI A. BALA RAJANOR (Fondicherry): For a long time I have been sitting quite. At least permit me to say something.

We have been keeping quite. I should not say that you have become a prisoner. I am sorry to make that comment because it is a convenience of other Parties also. I have to say that because you suggested, let us go into your Chamber and discuss it. This is a non-controversial subject. The consensus of the House is to be taken only with the help of the leaders. When you find that everybody is in the House and if it is going to be judged by a brute majority, I am afraid when we are crying and the Judges are clapping, what sort of judgment we will get in this House. We too have our own ailments but if this is the way they treat us when a simple request is made. I do not know where we are marching to.

PROF. P. G. MAVALANKAR (Gandhinagar): May I say something?

MR. SPEAKER: Each one becomes a debate on which you want to say something?

PROF. P. G. MAVALANKAR: I am not speaking on each one. Kindly don't say that. Please hear me.

The hon. Leader of the House is well within his rights to move the kind of motion he has moved....

MR. SPEAKER: Does he require that?

PROF. P. G. MAVALANKAR: He has a right. But the Minister of Parliamentary Affairs has quoted the rules. We know those rules.

There are two points I want to submit for your consideration. One is that whatever time you give for this debate—2 hours or whatever it is—must be 2 hours from this minute and not from 2 O'clock.

[Prof. P. G. Mavalankar]

Secondly, even if this limit of 2 hours—I am not quite clear if the debate will be over to-day but it cannot be over in 2 hours—is over, my contention is that unless the Speaker is satisfied that all possible points of view have been reflected in the debate in this House, he cannot agree to closure. That is the point.

MR. SPEAKER: Mr. Chavan.

SHRI YESHWANTRAO CHAVAN (Satara): Mr. Speaker, Sir, I am not rising on any point of order nor am I speaking on a technical aspect. I am speaking on the political aspects of the issues involved in this controversy. My party has not met as a party to consider this question at all because we thought in this House we are sitting as juries and judges. Juries when we take the facts into consideration and judges when we give the final judgement. And, therefore, we did not take any party line in this subject and, as such, I am speaking for myself when I am speaking on it.

...r, in the last few hours that we have debated this matter, I think, nothing has been left unsaid. I think all the technical and legal aspects have been said but even then certain things have to be said because they deserve repetition. My first political objection to the Parliament taking a view on the facts of this case is that the same set of facts—Mrs. Gandhi in her statement has also made a mention of this aspect and this is a very important aspect which we should take into consideration—is going to be considered by a special court or a High Court or any other court. (Interruptions)

Just now my hon'ble friend, Shri Shyamnandan Mishra, said that we are a court of superior appellate jurisdiction or final jurisdiction. Now, we are taking a secondary position of taking the view of the matter on the same facts and asking the courts to

take the view again on appeal. I am not worried about the technical aspects of it. I am worried about the political aspects of it. Somebody can make a distinction that here it is an issue of privileges and there it is going to be the issue of criminality. But even in order to prove the criminality *mens rea*, i.e. the intention, has to be gone into. Whether a public servant was obstructed in his work. It will ultimately come to the same set of facts. Therefore, the court will have to go into the same set of facts. Suppose tomorrow we take some final position here and give certain punishment or take a final view and tomorrow the court accepts the view of the Parliament then it will be said that Parliament has influenced the court. If it rejects the Parliament's verdict, then Parliament would look vindictive and small. (Interruptions)

Therefore, Sir, it will be very unwise politically to consider this aspect at this stage because it goes against the fundamental concept of jurisprudence to try the same persons on the same set of facts more than once. (Interruptions) The second political aspect of it is that when the privilege motion was introduced in this hon'ble House Mrs. Gandhi was not the member of this House. She has been elected as a member of the House by the people after this privilege motion was under consideration.

SHRI JYOTIRMOY BOSU: That does not make any difference.

SHRI YESHWANTRAO CHAVAN: It does make a difference politically. (Interruptions) I am not standing on technicalities. I am talking about political aspects. Here is a person who is elected by the people. We have absolutely no moral right to undo things even partially. Suppose tomorrow you expel her. That does not mean you disqualify her to contest elections. (Interruptions) Constitutionally in my

view, it can not be so. She will not be disqualified and supposing she is elected by the same constituency of Chikmagalur, then what will be the position of Parliament.

So, I would suggest that let us not take that position. My third point is this; I would again appeal to the Prime Minister and to you, Sir. It is one thing if you want to leave the matter to the entire House's discretion. But you certainly have got your responsibility to see that whatever decision is taken here, is taken in a good atmosphere in the House. That is certainly your responsibility. You cannot run away from that responsibility. Therefore, I would make an appeal to you as the Leader of the House—and to you personally,—that you should consider this issue completely beyond any sort of party issue. This is not a partisan matter. (Interruptions) This is not a partisan issue. This is an issue requiring consideration on merits. And again I would like to request the Prime Minister to consider another aspect. This country today is facing many issues of confrontation. The atmosphere is such that it is surcharged with an air of violence and if we add any tension in addition to what has already been there, we will be doing injustice to ourselves and injustice to the country.

(Interruptions)

MR. SPEAKER: Why, disturb when he is speaking?

SHRI YESHWANTRAO CHAVAN: Sir, it looks like another kind of rolling plan. The last Parliament was the Parliament of Emergency. This Parliament will be the Parliament of Expulsion and Imprisonment. It is a new type of rolling political plan in this country. I therefore make an appeal: Please consider this aspect very carefully. Are there not enough tensions and confrontations in the country today? Don't get angry, but face the realities. There is confrontation in your own party today. There is confrontation between the opposition and the ruling

party. What is the use of adding fuel to fire and creating new problems in the country?

Therefore, in the name of democracy, in the name of Parliament, in the name of people, I would make an appeal to the Leader of the House that he should give up this issue completely and do some constructive work. (Interruptions) I have to say only one word more, if you want to listen. In this country, if at all we want to run the Government of this complex country democratically, then two golden rules will have to be followed. According to me, one is, be firm, be strong, be radical, when you come to the solutions to the problems of a socio-economic type. But when there is the question of dealing with political opponents, be just, be liberal, be moderate.

(Interruptions)

MR. SPEAKER: Please don't interrupt.

SHRI YESHWANTRAO CHAVAN: I have given you my views; whether you like it or not is another matter. This is not a party matter; Don't consider this issue on any party basis. For God's sake, for democracy's sake, consider the issue again carefully and give up this issue completely.

श्री राज नारायण (राय बरेली) मैं सदन के सम्मानित सदस्यों से यह निवेदन करना—जरा शान्ति से हमारी बात सुन लें—इस में बहुत इमोजन में जाने की जरूरत नहीं है—एक बात बह्दाय साहब ने कहा—कोर्ट के बारे में। जैसे मान लीजिए किसी ने कोई चोरी की, कोर्ट ने चोरी की सजा दी, यह किमिनल कोर्ट ने किया, तो सिविल कोर्ट में हम अपनी नुकसानी के लिए जा सकते हैं, दावा कर सकते हैं, नुकसानी की बिधी हो सकती है और हम बहुत कर सकते हैं। इस लिए यह कहना कि एक ही मामले को लेकर पार्लियामेंट भी पणिस करे और फिर कोर्ट में जाय—वह फज्जा नहीं है। कोर्ट में और वहां में पिचता है। वहां का केस कुछ पिच है और वहां का केस कुछ पिच है..

MR. SPEAKER: You have to raise a point of order. What is all this? I have not called you.

SHRI RAJ NARAIN: It was the point of order raised by Mr. Chavan. (Interruptions)

MR. SPEAKER: I called him to speak.

(Interruptions)

श्री राज नारायण : मैं बहुत अदब से अपील करूंगा—आप अध्यक्ष हैं और यहां बड़े-बड़े धुरन्धर विद्वान बैठे हैं, प्राचीन शास्त्रों के अनुसार कहूँ तो भीष्म भी हैं, द्रोणाचार्य भी हैं, सभी हैं। आप यह देखिए—आप ने कहा कि मैं सदन को 10 मिनट के लिए स्थगित करता हूँ और मैं सभी नेताओं को बुला कर कन्सल्ट करूंगा। यह चेअर की ओर से आया है, किसी ने नहीं रखा है और चेअर के मुखारबिन्द से ऐसी बात आयें और उस को सदन न माने—
it will amount to a motion of no confidence passed against you....I can give you so many instances.

क्या बात करते हैं—यह पार्लियामेन्ट्री प्रोसीजर की प्रेक्टिस से मैं नहीं सुनने वाला हूँ। मैं बराबर खड़ा रहूंगा, रात तक इस प्वाइन्ट पर खड़ा रहूंगा। आप किसी को "नेम" करते हैं, नेम करने के बाद अगर लीडर-आफ-दि-हाउस या एनी-सीनियर-मेम्बर-आफ-दि-रूलिंग-पार्टी रेजोल्यूशन नहीं रखते हैं—
that will amount to a no confidence motion passed against you....

MR. SPEAKER: You are open to move it and I am only here to accept it. I am only waiting for somebody to do it.

श्री राज नारायण : मैं चाहता हूँ—सदन के नेता की शान और मर्यादा इस में है कि आप ने जो सुझाव दिया, उस सुझाव को सदन के नेता के नाते ... (व्यवधान) 10 मिनट में कोई फर्क नहीं पड़ता।

MR. SPEAKER: It is not a point of order. Mr. Satyanarayan Rao....

(Interruptions)

SHRI RAJ NARAIN: There is no question of pressing for it from your side.

MR. SPEAKER: I have heard you Mr. Raj Narain. Now, Mr. Satyanarayan Rao....

SHRI RAJ NARAIN: To maintain the dignity of the House, to maintain the dignity of the Chair and to maintain the dignity of the Leader of the House, I walk out in protest for 10 minutes against your ruling.

16.45 hrs.

SHRI RAJ NARAIN them left the House.

SHRI M. SATYANARAYAN RAO (Karimnagar): Mr. Speaker, Sir, before I begin my speech, I would like to quote from the Address to Parliament by the Vice-President acting as President of India in 1977. After the Janata Party came into power in 1977, this was the first presidential Address:

"The people have given a clear verdict in favour of individual freedom, democracy and the rule of law and against executive arbitrariness, the emergence of a personality cult and extra-constitutional centres of powers..."

Than, again:

"My Government pledges itself to fulfil in every way the mandate given to it by the people. In doing so, it will not take the people for granted or assume that they know nothing and that the Government alone knows all answers and solutions."

This Address.... (Interruptions)

श्री मनी राम बागड़ी : अध्यक्ष महोदय, आप दस मिनट के लिए इस सदन को रोकियेगा। आप यह गलत परम्परा पेश कर रहे हैं। आप कह कर के उल्टी बात करते हैं।

SHRI M. SATYANARAYAN RAO: After they came to power in 1977, have they been able to restore individual freedom and are they following the rule of law? Is their claim that they are interested in the rule of law borne out by what they have been doing? Do they believe in the rule of law?

Sir, I have gone through the whole evidence of this case and I am sure, you must have also gone through it. The Attorney-General has given evidence before the Privileges Committee and he has clearly expressed his

opinion that this House has no jurisdiction... (*Interruptions*). Secondly, he said that the so-called officers who were collecting the required information for an answer to a Question in Parliament, were not officers of the House. As regards taking the oath, he also expressed his opinion clearly that the witness cannot be forced to take the oath and give evidence against herself. Though these things are very clear there, this Committee has not given any consideration to these aspects. On the other hand, they claim that they believe in rule of law. If they really believed in the rule of law, they should have accepted the opinion of the Attorney-General, who has been appointed by your Government and not by us. They are going by their majority here.

Then**

MR. SPEAKER: It is convention of the House that we do not drag in the name of the President. There will be no reference to the President. Do not record this.

SHRI M. SATYANARAYAN RAO: Now, I came to the facts of the case. The whole case is based on the evidence of Shri T. A. Pai. Sir, he is an aggrieved person, he is not an independent person. His firm was raided by the Income-tax Department and he suffered on account of that. He had a grudge against Shrimati Indira Gandhi and Mr. Dhawan etc. That is why, I charge Mr. Pai; it is he who is responsible for this. He has instigated these so-called officers to go before the Shah Commission and give evidence against these people. The whole thing is based on this. Is it admissible? Is it believable?

Then, there is the evidence of Shri Chattopadhyaya. He said that at the instance of the then Prime Minister, he suspended Shri Bhatnagar. Why didn't you involve him? They are involving Shri Sen and Shri Dhawan

only, who they say, were acting and harassing these people at the instance of Shrimati Indira Gandhi. If this is the case, Shri Chattopadhyaya should also be involved. He also comes under the contempt of the House. He suspended him; nobody else did. If you ask me to murder anybody, should I do that? If I do that, I will be responsible and I should be involved. He was not involved. This shows that in order to save his skin, he deposed like that.

This is the whole evidence before the Committee. It is not at all reliable. It is not tenable. I am sorry to say that the hon. Prime Minister is a prisoner in the hands of RSS elements. This is my charge. He regards himself as a great living Gandhian. Gandhiji was killed—by whom? If he is really a follower of Gandhiji, he should get out of the hands of RSS elements. These people are dictating to him. He is a prisoner he cannot take an independent decision.

Mrs. Gandhi has been elected by the people of Chikmagalur. I know that the Janata Party has got the mandate from the North, but at the same time they must agree that she also has got the mandate from the South. It means that there will be a confrontation between North and South, if you are going to punish her. It will be a punishment to the whole South. The whole South will rise. (*Interruptions*) If the Prime Minister is dictated to by such elements, he will land himself in trouble. You have now got a majority. The same thing was happening when you people were here, on this side. Mr. Vajpayee was also saying at that time that because we had got a brute majority, we were doing all that. You are also following the same practice. You are now setting up a dangerous precedent. By your majority, you are punishing her. The day is not far off: after 1½ years or 2 years, you may have to be here. Dr. Swamy himself may not be elected. On the evidence of the ex-Minister Mr. Pai,

*Not recorded.

[Shri M. Satyanarayan Rao]

you are punishing her. Now we know that Mr. Charan Singh has made allegations already against the son of the Prime Minister. Mr. Raj Narain is also there, i.e. two ex-Ministers are there. The Prime Minister can also be hauled up. You are setting up a very dangerous precedent. You are not considering these things from that point of view. Mr. Desai, you are the seniormost leader in India, by age and service. You are not considering this from all these points of view. I know that you are worried about your chair. If you go against the wishes of these elements, you will be out of your chair. So, it is a kissa of kursi. It is a story of your chair. In order to retain your chair, you are obliging these people.

Let me warn him. At the time of Emergency, when Jayaprakash Narayan was arrested, he said, 'Vinasakale Vipareedha Buddhih'. Now, this Rao is also saying, 'Vinaasakale Vipareedha Buddhih'. You are having 'Vinaasa Kal', that is why you are doing this. Because of your majority, you want to punish her.

Ultimately I would say that there is no evidence or facts. Legally also she does not deserve to be punished at all. So, these proceedings should be dropped.

SHRI EDUARDO FALEIRO (Mormugao): Mr. Speaker, Sir, thank you for giving me this opportunity.
(Interruptions)

श्री उद्दलेश देविया : मैं आप से जानना चाहता हूँ कि आज यह सदन कब तक बैठेगा और कब तक इस पर विचार करेगा ? आप स्पष्ट इसको बताइये । जो हल्का करता है उसको तो आप सुनते हैं और दूसारी सुनते ही नहीं हैं ।

MR. SPEAKER: It is for the House to decide.

SHRI RAM JETHMALANI (Bombay North-West): The Leader of the House has moved a motion that we sit late to

complete the business, and we need not surrender to the susceptibilities of these gentlemen. We have decided that this must be finished today. It may take as much time as possible.
(Interruptions)

MR. SPEAKER: By mistake, I have not put the motion of the Prime Minister to the vote of the House. Is it the pleasure of the House to accept the motion of the Prime Minister?

SEVERAL HON. MEMBERS: Yes.

SHRI C. M. STEPHEN: Before you do that, I would appeal to you to exercise your discretion. Your discretion is there under rule 362. This is the rule which gives you full discretion. It says:

"At any time after a motion has been made, any member may move: 'That the question be now put', and, unless it appears to the Speaker that the motion is an abuse of these rules or an infringement of the right of reasonable debate, the Speaker shall then put the motion."

Now a reasonable debate must take place. Now you have said. Whatever you suggested, we agreed. We said that we were prepared to come to your Chamber and discuss it. You said that there will be additional two hours. There also we had agreed—additional two hours time.

MR. SPEAKER: From 430 onwards.

SHRI C. M. STEPHEN: No, Sir. That is not right. What I am saying is that we are not prepared to sit beyond 6 O'clock, because they did not consult us. They should have consulted us. They are behaving as if we are in two compartments. They did not consult us. Without consulting us and merely relying on a sort of majority and putting a motion through and compelling us to sit beyond 6 O'clock is not good. Under law, we are bound to sit for what? It will not be right at all. I am saying that let them hang us; let them send us to jails; let them hang Mrs. Gandhi.

but give a hearing. Let there be a proper debate. Now that your amendment has come, you should try to give us time to debate on the amendment. (Interruptions) On behalf of the entire Opposition, I want to tell you that we are not agreeable to sit beyond 6 O'clock; we are not prepared to sit beyond 6 O'clock.

SHRI VASANT SATHE: We shall not allow anything to go on record.

(Interruptions)

MR. SPEAKER: Finished.

(Interruptions)

SHRI C. M. STEPHEN: You had made a proposal that the Leaders should come to your Chamber and discuss it. I agreed.

(Interruptions)

SHRI C. M. STEPHEN: They alone are not agreeable.

(Interruptions)

MR. SPEAKER: I have mentioned that.

(Interruptions)

MR. SPEAKER: Kindly allow me.

(Interruptions)

SHRI B. SHANKARANAND (Chikodi): Kindly allow me one word to say. Please do not set a dangerous precedent.

MR. SPEAKER: I agree I should not set....

(Interruptions)

SHRI B. SHANKARANAND: It has been the practice of the House....

MR. SPEAKER: This is not one word.

SHRI MORARJI DESAI: May I say that I moved the motion without consulting them? Last time, it was an

agreed thing and still it went on today. I do not want to curtail any time of the debate for them. That I do not want to do. Therefore, I have moved that let this business finish today and sit till then.

(Interruptions)

SHRI VASANT SATHE: Last time, you had not allowed that motion.....

MR. SPEAKER: You have mentioned a number of times.

(Interruptions)

MR. SPEAKER: I have heard.

(Interruptions)

MR. SPEAKER: You are right. I cannot go beyond the rules.

(Interruptions)

17.00 hrs.

SHRI VASANT SATHE: There was engagement with the Prime Minister of Singapore. That is why....

MR. SPEAKER: That is for extension. Four hours were given.

SHRI VASANT SATHE: To-day we have our own engagements at six O'clock. We cannot be taken by surprise that we have to sit beyond six.

(Interruptions)

SHRI C. K. JAFFER SHARIEF (Bangalore North): You never allow us to speak. You simply listen to whose-ever shouts. If that is the course, then we will also be shouting.

(Interruptions)

SHRI C. K. JAFFER SHARIEF: My humble submission is it has not been brought to our notice earlier that we will have to sit for any length of time. We have got our own engagements after six O'clock. We are committed without knowing this. It is not the prerogative or privilege of the Minister, themselves to have some engagements.

MR. SPEAKER: The same thing was mentioned by Mr. Sathé.

SHRI C. K. JAFFER SHARIEF: The leaders cannot take us by surprise. Are we not supposed to have our say?

(Interruptions)

MR. SPEAKER: The same is not allowed because of interventions.

SHRI C. K. JAFFER SHARIEF: You should consider in your wisdom. I am only making a point. I am appealing that he should consider this point.

MR. SPEAKER: Under Rule 382(1) the power of closure is in the hands of the House. The Speaker has the powers if it appears to the Speaker that the motion is an abuse of these rules or an infringement of the right of reasonable debate.

Unless the Speaker comes to either one or the other conclusion he has no power to intercede the matter. I cannot make inroads into the powers of the House.

(Interruptions)

MR. SPEAKER: I have quoted these rules.

So far as fixing of the time is concerned, we had originally fixed six hours for this debate. This debate has nearly taken more than thirteen hours. Therefore, I cannot say that reasonable time has not been given. Though, of course, undoubtedly, there are many more members wanting to speak. It is a very important matter and the Prime Minister has mentioned, he has no objection to the debate continuing so that it may finish in the course of the day to-day. That is why he has moved the motion.

I have no powers in this matter.

The leader of the Opposition has made an appeal to the Government benches. It is upto them to decide

one way or the other. I do not see any power where I come into the picture unless I see that there has been a deliberate obstruction on any part. So, I will not be in a position to intercede in the matter.

SHRI C. M. STEPHEN: Rule 14 says—

“Unless the Speaker otherwise directs, sitting of the House on any day shall ordinarily conclude at 17-00 hours”.

That has been allowed upto 18 hours. It is for you to give direction. The words are “the Speaker otherwise directs”. Therefore, it shall conclude at 18 hours. It is for you to give the direction. When they bring a motion that we may sit beyond that, the Speaker has got the full power there. It is not compulsory on your part to put the motion. Not, at all. It is not compulsory on your part to put the motion and compel us to sit till 12 O'clock in the night, absolutely not. Therefore our liability is to come at 11 and sit till 6 O'clock, not beyond that.

MR. SPEAKER: Each time you rely on one rule. You do not consider all the rules. I have got to decide taking all the rules into consideration.

SHRI B. SHANKARANAND: On Wednesday last you have ruled that you will not be sitting beyond 6 O'clock.

MR. SPEAKER: I have never said that.

(Interruptions)

SHRI C. M. STEPHEN: We are prepared to sit beyond 6 O'clock.

SHRI B. SHANKARANAND: Only last week you ruled like that.

MR. SPEAKER: What has the Minister of Parliamentary Affairs to say on this? He is relying on rule 14. Minute by minute separate rules are relied upon.

SHRI RAVINDRA VARMA: The hon. leader of the opposition knows that there are innumerable instances where it has been moved in the House that the House may sit after 6. Therefore, the practice in the House has been that the Speaker takes the sense of the House and asks the House whether it agrees to sit beyond 6. This has been the practice which can be verified from the records.

SHRI RAM JETHMALANI: Out of 2 hours, you would have given us half an hour or 45 minutes. We do not want to speak at all. Give them the maximum possible time. But we shall finish at 5 minutes to 6 and the question shall be put.

MR. SPEAKER: Can we finish the debate today and have the voting tomorrow?

SHRI MORARJI DESAI: No. The voting has to be today.

(Interruptions)

SHRI C. M. STEPHEN: He brings an amendment today and wants to get it through. (Interruptions).

MR. SPEAKER: Then you can move for closure at the appropriate time if you so desire.

SHRI MORARJI DESAI: May I say that if I move for a closure at any time, it will be again said that I am trying to stop a debate. I do not want to do that.

MR. SPEAKER: They are not willing to sit beyond 6. You can move for closure if you so desire.

SHRI MORARJI DESAI: Then how will voting be done?

MR. SPEAKER: After that voting can be done. It can be done at 5.30.

SHRI MORARJI DESAI: If you want, I can move for closure.

MR. SPEAKER: I do not want to take the responsibility. (Interruptions).

SHRI KANWAR LAL GUPTA: I want to know whether the motion of the Prime Minister has been carried or not.

MR. SPEAKER: The motion of the Prime Minister does not arise because it is only at 6 o'clock that he can move for extension and it is for the Speaker to allow it. In this matter, I do not want to get myself involved. If you want, you can move for closure. Shri Faleiro.

SHRI EDUARDO FALEIRO: Sir, several leading speakers before me a different context have emphasised the point that we are sitting here not to make any law in our ordinary legislative capacity, but as leaders from the Janata Party like Shri Shyamnandan Mishra said, we are sitting here as a court of superior jurisdiction. It means each one of us is a judge and collectively we are a judicial body. I for one humbly admit that I have not been able to understand the complicated constitutional issues involved in this case. I have not even been able to read the entire report of the findings which runs into more than a thousand pages of print. If my friends are honest, 99 per cent of them will admit that similarly they are not in a position to decide on the constitutional issues involved. (Interruptions) So, we are supposed to sit here as a judicial body. You will see that we have not been functioning in the way Parliament usually debates. What we see today is, it must be said, that side probably more, this side probably less, just a mob, a shrieking mob, a frenzied mob and, as far as that side is concerned, a lynching mob, shouting for the blood of Mrs. Gandhi and others.. (Interruptions) In fact, the worst part of it is a sanctimonious mob which claims....

MR. SPEAKER: Do not use the word "mob".

SHRI EDUARDO FALEIRO: Let us not be more fair than fair. I am precisely quoting the words of Michael Foot, the Leader of the House of Commons, in a case very much similar in nature, the Poulson case. What he said was this "the House converts itself into a sanctimonious mob when it deals with a question of privilege against one of its own members". My submission is....

SHRI JYOTIRMOY BOSU: Michael Foot? My foot!

SHRI EDUARDO FALEIRO: * * *

MR. SPEAKER Do not record it.

SHRI EDUARDO FALEIRO: I submit that I had occasion to go through cases of Parliaments of the world from Argentina to Zambia.... (Interruptions) In most of them, the jurisdiction and punishment for breach of privilege is not vested in the House but in ordinary courts..... (Interruptions)

Sir, as I have submitted, I say with utmost respect that we do not have the constitutional competence to go into the issue. These facts are to be judged by the Court and, therefore, we cannot pronounce a judgment here.... (Interruptions) An opening is there for us in the Parliament of India. Parliament can punish for breach of its own privileges, or it can direct in special cases, it has the liberty to direct, the Attorney-General to prosecute in cases of breach of privilege. In this particular case, we have a God-send opportunity, and the God-send opportunity is this, that this case is pending in a court.

Before you ring the bell, let me utter a word of caution. There are friends there who tell me I come from a place where the excesses of Emergency did not take place.... (Interruptions) They tell me they have suf-

fered badly during the Emergency. I am prepared to believe them. There are others who speak of excesses of emergency but are reaping the benefits of emergency. (Interruptions) I may utter a word of caution, that the greatest victim of this farce is not going to be Mrs. Gandhi; it is not going to be Shri Sen or Shri Dhawan; the greatest victim, the greatest casualty is going to be this House itself, the credibility and the respect which we enjoy in the eyes of the world. Let them not dig their own grave in the middle of the House. Let me say what Shri Chavan said, that it will be such a big pit that we will never be able to cross it. The result of what will happen today is that in this absolute attitude of confrontation will continue and we will be responsible for destroying Parliament, for destroying the Lok Sabha in the eyes of our people and of the world.

SHRI RAM JETHMALANI: Sir, I move:

"That item No. 17, which is fixed for 5.30 p.m. be taken up after the debate on the privilege motion is over."

(Interruptions)

MR. SPEAKER: I will put it at 5.30 p.m. It is not 5.30.

SHRI RAM JETHMALANI: But put it before 5.30.

श्री संकर देव (बीबर) : अध्यक्ष महोदय, मैं यह कहना चाहता हूँ कि आज जनता पार्टी जो कि कलिय पार्टी है वह न तो संघटित है और न उसमें कोई अनुशासन, डिस्प्लिन है लेकिन वह दूसरों को अनुशासन सिखाने जा रही है। (ब्यक्तवाच) खुदा अनुशासन में न रह कर दूसरों को अनुशासन सिखाना ऐसे ही है जैसे कि कोई व्यक्तिबारी बाप अपने बेटे को ब्रह्मचर्य की शिक्षा दे। अगर एक बाप व्यक्तिबारी है तो उसे कोई अधिकार नहीं है कि वह अपने बेटे को ब्रह्मचर्य का उपदेश दे। इसी तरह वे बाप आपकी पार्टी इनडिपेंडेंट इंसालिए उसको दूसरों को डिस्प्लिन सिखाने का कोई अधिकार नहीं है। (ब्यक्तवाच)।

दूसरी बात यह है कि जब श्रीमती इन्दिरा गांधी ने चिकमगलूर में एवरेकान कंटेस्ट किया तो वहाँ आपने उनको हराम के लिए दुनिया भर की कौशिकों की लेकिन आप उसमें सकल नहीं हुए। अब वे यहाँ पार्लियामेंट में आई हैं तो आप उनको वहाँ पर आपने से रोकना चाहते हैं। आप कहते हैं कि उन्होंने गलती की है। उन्होंने कहा कि मैं तो धर्मी आई थी नहीं, मुझे जाना है, बात करना है फिर मेरी गलती क्या है। आप कहते हैं कि इस लोक सभा में नहीं तो पिछली लोकसभा में आपने गलती की थी। यह बड़ी बात है जैसे किसी गोर को एक बकरी को काटना ही है इसलिए गोर बकरी से कहे कि तुमने 6 महीने पहले घास खा ली थी, बकरी कहती है मैं तो बार गहने की ही हूँ, 6 महीने पहले मैं घेदा भी नहीं हुई थी, तो गोर कहे कि तुमने नहीं तो तुम्हारे बाप ने खाई होगी। इसी तरह की बात आप कर रहे हैं।

आप हाउस आफ कॉमन्स की भाषा में बोल रहे हैं लेकिन मैं सैन्य आफ कॉमन्स की भाषा में बोल रहा हूँ, जनसाधारण की भाषा में बोल रहा हूँ। मैं यह कहना चाहता हूँ कि अगर जनता पार्टी मेमोरेटि की बेलिस पर यह जजमेन्ट लागू करना चाहती है तो यह रोज समझा जायेगा। अगर पार्टी ग्यांग के साथ जनता की सेवा करती है उसके बाद अगर जजमेन्ट चाये तब उसको जस्ट माना जायेगा। बिना सेवा और अनुशासन के सिर्फ मेमोरेटि की बेलिस पर जजमेन्ट लागू करना प्रतिशोध समझा जायेगा। (अव्यवधान) . . . अगर आपको रोज ही लेना है तो मैं आपसे कहना चाहता हूँ कि आप कनाटप्रेस में उनको गालियाँ दें और जितने लोग अरेस्ट हुए वे (अव्यवधान)

MR. SPEAKER: Mr Shankar Dev, please resume your seat. No further recording.

SHRI SHANKAR DEV: ***

MR. SPEAKER: I have to inform the House that Shri Mani Ram Bagri, in whose name the half-an-hour discussion has been put down in the List of Business, has requested that the discussion be postponed. Since the half-an-hour discussion is not being taken up, the discussion of the privileges issue will be continued after 5.30.

SHRI A. BALA PAJANOR (Pondicherry): I do agree with what the leader of the Congress Party, Mr. Chavan, has said. Opinions have been expressed by many Members of the

House. Though it is said that we have given a go-by to passion and emotion, practically everybody is speaking with passion and emotion. That is a *fait accompli*, and nobody can deny it. I am also susceptible to passion, but I am trying to get out of it. And if you try to provoke me, I will take the advice of the Prime Minister not to get provoked today at least. It is difficult for you to provoke me also because you lack wit.

I will touch only one aspect. I do understand the feelings of the Members on the other side. Ninety per cent of you were in jail, I do feel for it, but not on this score. I am not going to advise the others Members, but only through you, Sir, I appeal to the Prime Minister and my friends on the other side to put sense into this issue and at the same time give a calm and quiet thinking before we pass a judgment on the privilege issue against Mrs. Gandhi and two others.

17.25 hrs.

[SHRIMATI PARVATHI KRISHNAN in the Chair]

It is a serious matter as all have stated, and the entire nation is watching, and we too have a feeling that we have come to a point of confrontation. If I may say so, the House is divided into two—the entire opposition on one side, not only the Congress (I), as expressed by Mr. Stephen, by Mr. Subramaniam and Mr. Chavan. But I will go a step further.

It is said that Mrs. Gandhi was not a Member when the matter was referred to the Privileges Committee, but she is when she is being punished; when it is attempted to punish her, she is a Member from a southern constituency, Chikmagalur. I do not want to raise the feeling of any emotion or passion when I say that the people of the South are very much agitated on

[Shri A. Bala Pajanor]

this issue. I have a feeling that you are creating a diversion, I am not saying anything else. Since you asked me to speak out, I speak from my heart the feeling of our people. I appeal to you, through the Chairman. This is a matter which is trying to divide the country into north and south. Please do not attribute motives on this matter. (*Interruptions*) Members in this House are unnecessarily provoked on trivial things. You are sitting as judges, watching the clock, and before it strikes six, you want to strike something else. If that is the feeling, are you not exhibiting the feeling of a pound of flesh for a pound of flesh?

To be or not to be may be the question. I can also argue on these technicalities from literature etc. in this forum, but this is not the occasion for it. I appeal to you once again to please calmly and quietly judge this matter. Are we in a proper mood to give a correct judgement on this eighteenth day of December, 1978, at this critical hour?

As I said at the beginning, I can understand your feeling. You have become subjective, very subjective. If your judgement goes in a different angle, I am afraid of the future of democracy, because the Prime Minister always says that he wants to build up the future of this country in a democratic manner. So, I do appeal for that. (*Interruptions*) I do understand that persons have got their own ego. We are coming from a cultured part of the country. I do not say that you are not cultured. We speak language that is six thousand years old. In 1967 there both the Congress were put an end to by our great party led by Anna. You must remember what happened then. It was alleged that the ex-Chief Minister burnt the files. The matter was taken up in the House very much agitated. On that day, at that hour,

we, the Members who were in the ruling party, under the beloved leadership of Anna, had the same feelings that you are having now. Our young boys and girls were shot dead like birds when there was Hindi agitation. We had the same feelings. Our leader was in jail for seven months. Many of our party members were in jail. It was twelve years back, not today.

AN HON. MEMBER: Who was the Prime Minister then?

SHRI A. BALA PAJANOR: We are not concerned about who was the Prime Minister then. I am speaking about a cultured part of the country. That has to be taken noted of. During that time, that was taken up and there the same emotions were expressed and they wanted to punish the ex-Chief Minister in the House. But the great Anna then said "the very discussion itself is a punishment if you think of a punishment". I had felt the same feelings. That is the reason why I do appeal to you. I am not going into the details, as Mr. Falerio has correctly put it. I do not have that much of brain, I am a poor and simple person. The report contains about thousand pages. Have they gone through it deep within ten days? Have they analysed the evidence? They are trying to fix the blame and trying to convert the parliament to a criminal court.

Mr. Jethmalani has told me how he has argued for a person in Bombay. But he also has feelings and that is the reason why reason fails to take an upper hand. But the youth of this country is very much agitated, because the future of this country, if you follow the samething. (*Interruptions*) I repeat—the youth of this country is very much agitated. Please read the writ on the walls. You are trying to show passion or emotions on this issue. (*Interruptions*).

MR. CHAIRMAN: You can talk when you speak, please continue.

SHRI A. BALA PAJANOR: Thank you very much. I can understand the feelings of the Members on the other side. Once again, I tell you, if you are going to take head for head, I am afraid, that is not justice. Here I will quote a statement of Mr. Subramaniam Swamy.

MR. CHAIRMAN: Please conclude with the question.

SHRI A. BALA PAJANOR: Then I do not quote. He said: "this lady must be in jail". That was the argument put forward. "We were in jail. What have you done during Emergency?" If the same wrong is repeated by you, the great democrats, where is your judgement? If that wrong had taken place in 1976-77 and if you are going to repeat it again, what is the difference between your Government and that Government? Therefore, I appeal to you, through Madam Chairman, that it is high time for us to consider this issue. Once again, I put it very simply and plainly. I feel that the discussion itself is the punishment. The country is aware of it. (Interruptions) I can understand the feeling of the Member with the red turban because red itself signifies danger to the country and red is accompanying him. He must understand that. You have been listening to me patiently. It was said that this debate had taken thirteen hours. But thirteen is an unlucky number. This discussion of thirteen hours is going to be unlucky discussion for this Parliament. I am not talking of astrological calculations or numerological calculations for that matter. I was a Member in the last Parliament. Many of you were not there and so you would not know what took place. When Mrs Gandhi was in the peak of power in Emergency I said in this House take note of it—and I was not sent to jail, not because I was pleading for it. But you must also remember that we are telling this not only from an individual's point of

view, but the point of view of the youth of this country, the Members of the South and from the point of view of Opposition, I do appeal to you, that it is high time...

MR. CHAIRMAN: I think you will set an example to the youth and conclude.

SHRI A. BALA PAJANOR: I have been listening to elders all the time. It has become a practice to listen always to elders. But at least once, as the youth, we must make them understand and we have to tell them that it is high time to give up this kind of vindictiveness.

SHRI RAM JETHMALANI (Bombay North-West): Madam Chairman, some 66 years ago, a frail old man stood before a British Indian court and told the court that he had committed the crime with which he was charged; he spoke the truth, the whole truth, nothing but the truth. He asked the court to inflict upon him the maximum punishment which the law could impose. That man became one of the immortals of this world. His statement to the court has become a legal classic which everybody reads throughout the world.

SHRI VASANT SATHE: On a point of order. (Interruptions)

I want to ask, a member who has a pecuniary interest, a personal interest in a particular matter, can he be allowed to participate in the debate under the rules? A person who has a personal interest and a pecuniary interest in the Jeep case against Mrs. Indira Gandhi, Mr. Jethmalani... (Interruptions) He is appearing as a Counsel, he has a personal interest. Can he be allowed to participate in this debate? (Interruptions)

SHRI RAM JETHMALANI: He cannot take liberty with my name. If we start this game, I can abuse him as much as he is capable of. (Interruptions)

SHRI VASANT SATHE: It is a matter of fact. Is he not appearing as a Counsel? *(Interruptions)*

MR. CHAIRMAN: Mr. Jethmalani, don't worry. In the records, your name will appear as it appears in the list. *(Interruptions)*

SHRI RAI JETHMALANI: He should withdraw it.

MR. CHAIRMAN: I cannot force him to pronounce anything in a way that you like. *(Interruptions)*

SHRI VASANT SATHE: A member who has a personal interest in any matter... *(Interruptions)*

MR. CHAIRMAN: He does not have a personal interest.

SHRI VASANT SATHE: He has. You ask him.

MR. CHAIRMAN: As a member of the Privileges Committee? *(Interruptions)*

SHRI VASANT SATHE: I am not talking about the Privileges Committee.

17.33 hrs.

[MR. SPEAKER in the Chair]

Mr. Speaker, Sir, I was on a point of order. Mr. Ram Jethmalani is appearing as a Counsel in the Jeep case against Mrs. Indira Gandhi. Therefore, he has a personal interest at least against Mrs. Indira Gandhi. A person who has a personal interest should not be allowed to participate in the debate. *(Interruptions)* He has a direct interest; he has been engaged as a Counsel. He is a prosecutor. If a person is a prosecutor against a particular person, it will be highly immoral on his part to participate in the par-

liamentary debates. So, he should not be allowed to participate.

MR. SPEAKER: There is no point of order; Shri Ram Jethmalani to continue.

SHRI RAMACHANDRA RATH (Aska): On a point of order, Sir. He has appeared before the Shah Commission as a lawyer against Mrs. Indira Gandhi. His daughter is also a lawyer. Not only he has a pecuniary interest, a personal interest, but his family also has got interest. In view of these circumstances, I would appeal to you to restrain this gentleman from speaking.

MR. SPEAKER: I do not think there is any point of order.

SHRI RAM JETHMALANI: I am entitled to make a personal explanation. In the first place, I am not appearing in the case against Mrs. Indira Gandhi. Mr. Khandalwala has been engaged. I have given up that case. In the second place... *(Interruptions)* Please sit down. *(Interruptions)* In the second place, the appointment letter contains a provision that Mr. Ram Jethmalani will be paid no fee.

I appeared free for the Government in all matters. I have no pecuniary interest. *(Interruptions)*

MR. SPEAKER: There is no point of order.

SHRI C. M. STEPHEN: I rise on a point of order. The point of order is this. A Member having a personal, pecuniary or direct interest in any matter before the House is required while taking part in the proceedings on that matter, to declare the nature of his interest. I am making the allegation that by a Government Notification he has been appointed as Solicitor--or whatever the term may

he—or Special Prosecutor in three cases in which Mrs. Indira Gandhi is the accused. He has been declared Special Prosecutor in cases in which Mr. Sanjay Gandhi, on whose basis the entire proceedings are revolving, is an accused. He is conducting that case free: that is what he is claiming. If he is to conduct the case without collecting fees, it shows the depth of his direct, personal interest.

Now, we are giving you notice, through the proceedings, to appoint a Committee on mis-conduct of the Member in having participated in the Privileges Committee and voted and spoken on the Floor of the House without revealing his direct personal interest. A person who has direct personal interest, as per the provisions in this book, has absolutely no right to take part in the discussion on this issue. Therefore, I object. He should not be allowed to speak when the discussion goes on here.

SHRI RAMACHANDRA RATH: Kindly refer to Rule 255. (*Interruptions*). Not only has he got direct and pecuniary interest, but Mr. Jethmalani's daughter also has direct interest. His daughter is drawing a fat fee from the treasury of the Government of India. That also is pecuniary interest. So he forfeits his right to speak on this matter because he and his daughter, both are involved.

SHRI MALLIKARJUN (Medak): In the month of May 1978, my Hon. friend Shri Jethmalani revealed to the Press that the report of the Privileges Committee was going to come... (*Interruptions*). What does it mean? In what way is he supposed to reveal to the Press and the public, as a Member of the Privileges Committee, in the month of May, that severe punishment will be given to Mrs. Gandhi? That amounts to saying that he is absolutely biased and has malafied intentions.

Apart from that, Rule 255 clearly says that if any Member has a per-

sonal, pecuniary or direct interest of such an intimate character that it may prejudicially affect the consideration of any matters to be considered by the Committee, objection may be taken. The Privileges Committee was considering the matter relating to answers in Parliament and Mr. Jethmalani was a Member of the Privileges Committee. He has an acute political vendetta and political retaliation and vengeance was his motivation, which affects the entire privileges Committee's functioning. Particularly, when you go through the Report of the Privileges Committee, you will see what Mr. Jethmalani has said. Therefore, I would seek your indulgence to say that you should not allow the Hon. Member to speak on this issue at all.

MR. SPEAKER: Shri Jethmalani has denied that he has any direct or pecuniary interest. (*Interruptions*)

If he has not made a correct statement, he has to face the consequences. I cannot decide whether he has pecuniary interest or not. Mr. Jethmalani.

SHRI C. M. STEPHEN: This is the Government Notification. It says:

"In exercise of powers conferred by the sub-section (6) of Section 24 of the Code of Criminal Procedure....the Central Government hereby appoints Sarvashri Ram Jethmalani and S. B. Jaisinghani, Advocates, Bombay, as special public Prosecutors for conducting the prosecution....."

It is not stated that it is not without fees. The question is whether an attorney, a person who holds a professional interest, can speak in this House.

(*Interruptions*)

MR. SPEAKER: A lawyer, engaged by a client, cannot be said to have direct or personal interest. It is a well recognised position. He must have a pecuniary interest in the sub-

[Mr. Speaker]

ject that is before the Court. Mr. Jethmalani says that he has no pecuniary interest. He may be right or he may be wrong. But I have got to go on the basis of his statement. (Interruptions) He has already made a speech in the earlier stage. (Interruptions).

SHRI C. M. STEPHEN: We will not hear him.

SHRI VASANT SATHE: We do not want to hear you, Mr. Jethmalani.

MR. SPEAKER: After I went to the Chamber, I had requested both the Leader of the House and the Leader of the Opposition to come. I had a discussion with them, and we have agreed that two hours more would be given tomorrow, from 3.00 to 5.00 p.m. That is the agreement. Therefore, there is no point in your taking up further time by raising these objections.

SHRI VASANT SATHE: This has nothing to do with time. We have an objection to his speaking. We do not want to hear Mr. Jethmalani.

MR. SPEAKER: Those who do not want to hear him have got a remedy. You need not hear, if you do not want to hear him. You can be here and still need not hear. (Interruptions) I cannot go into the merits. All that the rule provides is that I must ask him whether he has any pecuniary interest. I have done that. Anyway, it is upto you to take the time of the House.

SHRI VASANT SATHE: How do you allow him to speak, Sir? (Interruptions).

MR. SPEAKER: He has been called. If he uses any unparliamentary word, I will have it removed.

SHRI VASANT SATHE: He is a voluntary prosecutor. We will not hear a prosecutor.

SHRI B. SHANKARANAND: I rise on a point of order. (Interruptions)

MR. SPEAKER: To this extent, we lose the time.

SHRI VASANT SATHE: Tomorrow we shall have...

MR. SPEAKER: No. Not at all. (Interruptions)

MR. SPEAKER: Do not record. (Interruptions)*

MR. SPEAKER: The Chairman has given the ruling and I am not going to revoke it.

THE PRIME MINISTER (SHRI MORARJI DESAI): If this is going to be repeated, I cannot agree to that proposition.

MR. SPEAKER: The difficulty is: if you disturb this matter, the agreement falls... (Interruptions) You cannot dictate, Mr. Shankaranand, what the Prime Minister says is that if you are taking time by this... (Interruptions) No, not at all... (Interruptions)

I shall see that Mr. Jethmalani does not use any unparliamentary words.

SHRI RAM JETHMALANI: I am moving a closure motion on this debate. We will not allow this kind of situation.

MR. SPEAKER: I am not allowing it.

SHRI RAM JETHMALANI: Either you stop this or you agree to closure. We will not allow this kind of thing.

SHRI C. M. STEPHEN: Now that the Speaker has given his ruling that

Mr. Jethmalani has got his permission, I would appeal to my friends to let him speak and let us hear.

SHRI RAM JETHMALANI: It is my purpose to-day to expose a couple of** and when I say a couple of** a couple of** in each paragraph of the statement which we heard last Wednesday from the accused, Mrs Gandhi. I will not deal with every paragraph because that will take us years... (Interruptions)

MR. SPEAKER: Don't say 'lie'. The word 'lie' is not allowed... (Interruptions) I have already disallowed it. You may say 'incorrect statement'.

SHRI C. M. STEPHEN: In privilege matters, there is no accused.

SHRI RAM JETHMALANI: First of all her statement is far from truth... (Interruptions)

SHRI B. SHANKARANAND: Don't behave like a prosecutor.

SHRI RAM JETHMALANI: She has compared the House to the Star Chamber... (Interruptions)

Sir, in the Star Chamber there were unusual and cruel methods of interrogation. But when she appeared before us, she was treated with the utmost courtesy. Constitutional arguments were heard and even though the Privileges Committee came to the conclusion... (Interruptions)

MR. SPEAKER: I am trying to get some order but you members do not allow... (Interruptions) Please hear him. You can make your submission on that... (Interruptions) What is all this?

SHRI RAM JETHMALANI: We told her in the Privileges Committee that though you are not entitled to the benefit of Art. 20 because you are

not technically in the position of an accused which you are now talking about, still we shall treat you... (Interruptions)

SHRI MALLIKARJUN: This provocative speech cannot be tolerated.

MR. SPEAKER: Mr. Jethmalani, I am asking you to go on.

SHRI B. SHANKARANAND: I have a point of order. Can any member disclose what happened in the proceedings of the committee?

MR. SPEAKER: This can be disclosed in the House but you cannot disclose outside.

SHRI RAM JETHMALANI: I am not disclosing anything that is not here in this report.

MR. SPEAKER: Mr. Shankaranand, don't get excited.

SHRI RAM JETHMALANI: Sir, she was told that we will not put to you a single incriminating question...

MR. SPEAKER: What he says is there in the proceedings.

SHRI RAM JETHMALANI: Still they talk and still they speak and accuse for having converted the proceedings into a Star Chamber. (Interruptions)

At the end Mr. Nathwani told her that this is the evidence against you. Do you wish to be apprised of the nature of the evidence so that you should be able to give the reply? She said: No. I do not want even to do that and she retired from the proceedings and for anybody to accuse either the Privileges Committee or this House for having converted itself into a Star Chamber is to show that you use expressions which others write for you but you do not know what the Star Chamber was and what it did to the people who appeared before it. (Interruptions)

[Shri Ram Jethmalani]

Sir, she selects forums...where she gets a few paid audience or she goes to the forums where there can be no interrogation. She does not mind going to the public places and speaking any number of false things. (*Interruptions*) Sir, whenever the credibility or the trustworthiness of her story is likely to be exposed by questions she claims the constitutional right of silence which was originally designed for illiterate and ignorant people and not for those who claimed to be the Prime Minister of this country and want to again get into power in this country.

Sir, in her statement which she has filed she has correctly diagnosed the issue of fact. The issue of fact is four names of the officers against whom cases were recorded on a single day, who conveyed the names to the CBI or who caused those names to be conveyed to the CBI? That is the crucial issue before this House and that was the crucial issue before the Privileges Committee. (*Interruptions*) On this issue there is no denial in her long statement. There is no denial that the four officers were honest officers against whom there was not one word in their confidential service records. It is not denied that all these four officers during the preceding week were doing something or the other in connection with the collection of information about Maruti. It is not denied that the Parliament wanted to know the value and volume of the imported machinery which her son had installed in his factory without having the proper industrial licence the condition of which was that he will not instal any imported machinery. It is not denied—I want the House and Mr. Stephen to know about it—that on the 15th April Batliboi who were the suppliers of imported machinery to Maruti compiled a statement in which they said that we have supplied half-a-crore worth of imported

material to Sanjay Gandhi for his Maruti factory. (*Interruptions*) That letter was brought to Mr. Bhatnagar, one of the officers, and while that gentleman, the poor innocent officer was still reading that letter on 15th April orders had already been issued by Mrs. Gandhi and that file was snatched from his hand and that letter was snatched from his hand and never got into the hands of the Minister much less the Parliament.

On that day orders were issued. (*Interruptions*)

SHRI VASANT SATHE: That proves that on the 14th, when the answer was given, there was no link at all. That proves the case.

SHRI RAM JETHMALANI: Mr. Stephen had made the point that on the 15th of April nothing was happening and therefore Mrs. Gandhi could not be held guilty of contempt. On the 15th of April, this is what happened to Mr. P. S. Bhatnagar.

This is what he stated:

"That on the 15th April, 1975, between 3-30 P.M. and 4-00 P.M. Mr. Mathur of Batliboi along with Mr. Adeshra called on me. I enquired from Mr. Mathur whether he has brought the required information or not. He said 'Yes' and gave a letter to me which I could not even go through. The Director called for the file and the file was taken back from me and I was asked to go home. And, at 10 O'clock at night, an order of suspension was served on me."

The order of suspension was served on this poor officer. Mr. Stephen—for whose credibility I used to have the greatest respect, a respect which is fast diminishing—could not tell the House that on the 15th of April this is what happened to that officer. The officer was in the process of collect-

(*Interruptions*)**

*Not recorded.

MR. SPEAKER: Don't record anything except Mr. Jethmalani's speech.

SHRI RAM JETHMALANI: Sir, those facts did not fall in the hands of the Minister. He did not put them into the hands of Parliament. Since they did not take it to the hands of Parliament, Parliament was permanently deprived of information that half-a-crore worth of imported machinery had been installed in the premises of Maruti, contrary to the terms of the Industrial Licence. There is no denying the fact..

MR. SPEAKER: Only two minutes. No further time.

SHRI RAM JETHMALANI: We are not going into further**.

MR. SPEAKER: Do not record that word.

SHRI RAM JETHMALANI: But I want to say something about the Leader of the Opposition. I am only sorry that the Leader of the Opposition the other day brought in the name of Jesus Christ into the sordid conspiracy for the defence of a sordid crime. All devout Christians, and perhaps the spirit of Jesus Christ, would be terribly distressed at the obscene heresy which he uttered by bringing in that Prince of Peace in the defence of his leader. If anybody got pleasure out of it, if anybody must be happy, it must be the spirit of Lucifer, and it must be the spirit of his earthly sister whom he now claims to be his leader and whom he so zealously serves.

Now that Mr. Stephen, Mr. Sathe and Mr. Lakkappa have embarked upon the precedent of quoting from fiction—Alice in Wonderland was quoted to us the other day in this House—I wonder if Mrs. Gandhi or Mr. Stephen or Mr. Sathe know that Alice, that poor foolish girl, dreamt in that very story that she had be-

come two miles big. I hope you know about it. And, Sir, if some part of Alice in Wonderland suited them, may I tell the Leader of the Opposition that he has not been able to find any shred of evidence in the volume of evidence because like another character in the Wonderland due to his political compulsions, he stands on his head. This makes it impossible for him to discover the evidence or read the evidence in the proper light....

MR. SPEAKER: Mr. Jethmalani, no.

SHRI RAM JETHMALANI: Can I continue tomorrow?

MR. SPEAKER: I am not allowing you tomorrow.

SHRI RAM JETHMALANI: Thank you.

MR. SPEAKER: I have to inform the House that on the basis of slips received from Members, the following substitute motions and amendments to the motion moved by Shri Morarji R. Desai have been treated as moved today:—

Substitute motions:

- No. 8 —Shri K. Mallanna
- No. 24 —Shri Nathu Singh
- No. 32 —Shri Keshavaro Dhondge
- No. 42 } Shri K. P. Unnikrishnan
- No. 43 }
- No. 46) —Shri K. Mallanna

Amendments:

- No. 25 —Shri Nathu Singh
- No. 27 —Shri N. Sreekantan Nair
- No. 28 —Shri Shyamnandan Mishra

**Not recorded.

No. 31 —Shri Hari Vishnu Kamath

No. 33 —Shri Vinayak Prasad
Yadav

No. 35 —Shri B. P. Mandal

No. 36 —Shri M. V. Govindan Nair

No. 37 —Shri Kanwar Lal Gupta

No. 38 } —Shri Morarji R. Desai

No. 39 } —

No. 40 } —Shri Janardhana Poojary

No. 41 }

No. 44 —Shri Vayalar Ravi

No. 45 —Shri B. P. Mandal

SHRI K. MALLANNA (Chitradurga): I beg to move:

"That for the original motion, the following be substituted, namely:—

"After having considered the Third Report of the Committee of Privileges this House resolves that Shrimati Indira Gandhi and others have not committed a breach of privilege and also disagrees with the recommendation of the Committee of Privileges both on facts and Procedures." (8)

SHRI NATHU SINGH (Dausa): I beg to move:

"That for the original motion, the following be substituted, namely:—

"That this House after having considered the Third Report of the Committee of Privileges is of the opinion that Shrimati Indira Nehru Gandhi (former Prime Minister), Shri R. K. Dhawan and Shri D. Sen have committed breach of privilege and contempt of the House by causing obstruction, intimidation and institution of false cases against some officers. In view of the aforesaid, misdemeanours, the former Prime

Minister, Shrimati Indira Nehru Gandhi, Shri R. K. Dhawan and Shri D. Sen should straightaway be committed to prison till the prorogation of the House and Shrimati Indira Nehru Gandhi should also be immediately expelled from the membership of the House." (24)

SHRI KESHAVRAO DHONDGE (Nanded): I beg to move:

"That for the original motion, the following be substituted, namely:—

"That this House having considered the Third Report of the Committee of Privileges is of the opinion that no question of privilege is involved in the matter against Shrimati Indira Nehru Gandhi, Shri R. K. Dhawan and Shri D. Sen and that no further action be taken by the House in the matter.

That the very charges mentioned are being inquired into by a Court of Law and are sub judice; thus double prosecution is against the fundamental principles of law and natural justice.

That in the matter there had been lack of unanimity or consensus in the course to be followed.

That further proceedings will not enhance the prestige of this House but are likely to undermine the confidence of the people in Parliamentary institution.

That this House do decide to drop the further proceedings in the matter." (32)

SHRI K. P. UNNIKRISHNAN (Badagara): I beg to move:

"That for the original motion, the following be substituted, namely:—

"Having considered the Third Report of the Committee of Privileges, the House do proceed to

reprimand Mrs. Indira Gandhi, member for Chikmagalur, for having committed a grave contempt of the House." (42)

That for the original motion, the following be substituted, namely:—

"Having considered the Third Report of the Committee of Privileges, the House do proceed to reprimand Shri R. K. Dhawan and Shri D. Sen, for having committed a grave contempt of the House." (43)

SHRI K. M. MALLANNA: I beg to move:

That for the original motion, the following be substituted, namely:—

"After having considered the Third Report of the Committee of Privileges (Sixth Lok Sabha) presented to the House on 21st November, 1978, this House is of the opinion that in view of the absence of any recommendation of specific facts and proposed action in the Report of the Privileges Committee, no action could be taken on the said Report." (46)

SHRI NATHU SINGH: Sir, I beg to move:

For the last paragraph of the motion substitute the followings:—

"The House therefore resolves that Mrs. Indira Nehru Gandhi, Shri R. K. Dhawan and Shri D. Sen straightway be committed to prison till the prerogation of the House.

The House further resolves that Mrs. Indira Nehru Gandhi be immediately expelled from the membership of the House for conduct grossly unbecoming of a member of the House." (25)

SHRI N. SREKANTAN NAIR (Quilon): I beg to move:

For the last paragraph of the motion substitute:—

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

SHRI SHYAMNANDAN MISHRA (Begusarai): I beg to move:

For the last paragraph substitute the following:—

"The House, therefore, resolves that Shrimati Indira Nehru Gandhi be reprimanded in the strongest terms and suspended from the service of the House till the end of the current session.

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

SHRI HARI VISHNU KAMATH: I beg to move:

For the last paragraph substitute the following:—

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

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

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

SHRI VINAYAK PRASAD YADAV (Saharsa): I beg to move:

'For the last paragraph substitute the following:

"The House, therefore, resolves that Shrimati Indira Nehru Gandhi be reprimanded and the House further resolves that Shri D. Sen and Shri R. K. Dhawan be also reprimanded." (33).

SHRI B. P. MANLAL (Madhepura): I beg to move:

'For the last paragraph substitute the following:—

"The House therefore resolves that Shrimati Indira Nehru Gandhi, Shri D. Sen and Shri R. K. Dhawan be reprimanded." (35).

SHRI M. N. GOVINDAN NAIR (Trivandrum): I beg to move:

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

For

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

substitute

"admonished." (36).

SHRI KANWAR LAL GUPTA: I beg to move:

'For the last paragraph substitute the following:—

"The House, therefore, resolves that Shrimati Indira Nehru Gandhi should be called upon to give unconditional apology falling which she should be suspended from the service of the House till she tenders the apology and she be committed to prison till the prorogation of this Session.

The House also resolves that Shri D. Sen and Shri R. K. Dhawan be reprimanded, at the Bar of the House and be committed to Jail till the prorogation of the House." (37)

SHRI MORARJI DESAI: I beg to move:

'For the first four paragraphs substitute the following:—

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

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

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

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

'For the last paragraph substitute the following:—

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

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

SHRI JANARDHANA POOJARY (Mangalore): I beg to move:

'For the first four paragraphs substitute the following:—

"That this House having considered the Third Report of the Committee of Privileges, presented to the House on 21st November, 1978 does not agree with the recommendations and findings of the Committee contained therein.

That Shrimati Indira Nehru Gandhi, Shri R. K. Dhawan and Shri D. Sen have not committed a breach of privilege and not committed the contempt of the House by alleged causing obstruction, intimidation, harassment and institution of false cases against four concerned officers.

That she has not committed a further breach of privilege and contempt of the House by her refusal to take oath/affirmation before the Committee in view of the protection given to an accused person under Article 20(3) of the Constitution of India.

That she has not committed a breach of privilege and contempt by casting aspersions on the Committee in her statement dated 16th June, 1978 submitted to the committee." ' (40)

'For the last paragraph substitute the following:—

"The House hereby resolves to drop further proceedings in this matter." ' (41).

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SHRI VAYALAR RAVI (Chirayinkil): I beg to move:

'At the end of the motion add

"The House further decides to reprimand Shrimati Indira Nehru Gandhi for the conduct of the breach of privilege of the House and suspend her for the rest of the period of the session.

The House further decides to imprison Shri R. K. Dhawan and Shri D. Sen till the end of the Session for the conduct of the breach of privilege of the House." ' (44).

SHRI B. P. MANDAL: I beg to move:

'At the end add the following para:—

"The House further resolves that in case Shrimati Indira Gandhi and others offer an unqualified apology, no punishment be inflicted, but in case no such apology is offered, Shrimati Gandhi and others be reprimanded and warned." ' (45)

18.00 hrs.

SHRI SHAMBHU NATH CHATURVEDI (Agra): Sir, I have also sent my amendment.

MR. SPEAKER: You have not sent the slip. We shall check it up if you have sent it. (Interruptions)

This debate will continue tomorrow at 3 O'clock. At 4.30 we will take up the voting. At 5 O'clock it will be over—the Prime Minister's reply and all that. Also I will give opportunity to as many Members as possible. Now, the House stands adjourned to meet at 11.00 A. M. tomorrow.

18.02 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, December 19, 1978/Agrahayana 28, 1900 (Saka).