

GOVERNOR

APPOINTMENT

389. Governor: Appointment: House does not get involved in the appointment of a Governor

On 3 April 1992, while seeking clarification on the statement regarding the President's rule in Nagaland, Shri V. Narayanasamy demanded that the Governor of Nagaland should be withdrawn because he had taken the wrong decision of dissolving the State Assembly.

The Deputy Chairman overruled the demand of the member and made the following observation:

Under the Constitution it can be the pleasure of the President to withdraw a Governor. Put it this way. A Governor is appointed by the President. A Chief Minister is elected by the people. Up to the Chief Minister it is a democratic process. But we do not get involved in the appointment of a Governor.

(R.S. deb. dt. 3.4.1992, Cols. 225-26)

REPORT

390. Governor: Report: The Report of the Governor of a State on the basis of which the President issues a Proclamation under article 356, need not be placed on the Table

Shri Bhupesh Gupta, rising on a point of order, submitted that the Government was under a constitutional obligation to place before the House the Report of the Governor of the State of Kerala and any other information which the President had considered on the basis of which the President had issued a Proclamation under article 356 of the Constitution in relation to the State of Kerala. Even though the Constitution did not provide for the placing of the Report of the Governor on the Table, in view of the fact that the Council was called upon to apply its mind to the Proclamation, consider it on merits, go into the whole question and come to its own judgment, the right to demand the placing of the Report of the Governor on the Table was an implied right under the Constitution. He further argued that as under the Preventive Detention Act the grounds on which a person was detained were given to the *detenu*, the Council was entitled to know the exact grounds, on which the Assembly of the State was dissolved and an elected Ministry dismissed.

The Minister of Home Affairs, Shri Govind Ballabh Pant, submitted that he had done exactly what the Constitution required him to do, namely, placing a copy of the Proclamation on the Table of the House. If the intention of the Constitution-makers had been that even the Report of the Governor should be placed on the Table of the House, they could have made an

express provision to that effect. In the absence of such a provision it was clear that the authors of the Constitution did not contemplate that the Report of the Governor and any other information on which the President's Proclamation was based should be laid on the Table of the House.

After listening to the argument advanced by the Home Minister, the Chairman said:

I am saying that the Home Minister has said that there is no constitutional obligation for him to place the documents on which the Proclamation is based on the Table of the House. The article in the Constitution only says every Proclamation under it shall be laid before each House of Parliament. That is there. The second thing is that it must be provided with information as much as possible which will enable the members of the House... to form a proper judgment on this Proclamation.

Thirdly, if you talk about the supremacy of Parliament, Parliament undoubtedly is supreme. But it is bound by the rules it itself makes. And we have made several rules here which say that documents of a secret nature whose publication will not be consistent with the public interest... need not be placed. It is there. I cannot compel a Minister to place a document on the Table of the House when he feels that its publication is not consistent with public interest. Your point is that you must have sufficient materials to go by. That will be supplied ... I don't think there is anything in the point of order.

(R.S. deb. dt. 10.8.1959, Cols. 83-96)

HALF-AN-HOUR DISCUSSION

GENERAL

391. Half-an-hour discussion: Members wanting to associate with half-an-hour discussion should give their names in writing

During a half-an-hour discussion on points arising out of answer to unstarred question no. 103 given on 19 February 1975, when Shri S. S. Mariswamy got up and wanted to speak, the Vice-Chairman observed:

The procedure is that those who want to take part in the half-an hour discussion should give their names in writing.

(R.S. deb. dt. 7.3.1975, Col. 233)

392. Half-an-hour discussion: Members should give prior intimation to the Chair for asking questions during a half-an-hour discussion

On 15 December 1978, when Shri Yogendra Makwana, who had not given prior intimation, wanted to ask some questions during a half-an-hour discussion, the Vice-Chairman observed:

This matter has been discussed earlier also in this House. The rule is, the member informs the Chair in advance and then he is called.

(R.S. deb. dt. 15.12.1978, Cols. 207-08)

393. Half-an-hour discussion: Members cannot go on seeking clarifications on a reply given by the Minister to a half-an-hour discussion

Dr. Rafiq Zakaria raised a half-an-hour discussion. Having asked some questions and getting replies to those questions from the Minister, Dr. Zakaria wanted to seek further clarifications. This was not permitted by the Chair.

The Vice-Chairman observed:

You have no right... I think there is no convention.

Dr. V. P. Dutt also got up to seek some clarifications. He was also not allowed by the Vice-Chairman, who observed:

Unless one gives your name, how can I call you? Already this half-an-hour discussion has gone on for one hour. If your name had been given, we would have called you.

(R.S. deb. dt. 20.2.1979, Cols. 241-45)

394. Half-an-hour discussion: Members should ask pointed questions while seeking clarifications during half-an-hour discussion

On 7 December 1987, Shri V. Gopalsamy, participated in a half-an-hour

discussion on the points arising out of the answer given in Rajya Sabha on 1 December 1987, to starred question no. 342, regarding counter trade agreement with Bofors. He spoke certain things which were not relevant to the discussion. Shri Madan Bhatia wanted the ruling of the Chair whether the member can ask questions on the basis of assumptions and conjectures under the rules.

To the query of Shri Bhatia, the Vice-Chairman observed:

On this kind of half-an-hour discussion, on so many occasions, it went on for two hours or so. That is what is happening. I wish the member should ask pointed questions. That is why in the initial stages, I have asked them to do so. I would request the members once again to put only pointed questions.

Regarding the scope of the discussion, if it relates to the counter trade that will be affected if the guns are not bought, to that extent, he can ask. Beyond that I will not allow.

(R.S. deb. dt. 7.12.1987, Col. 429)

395. Half-an-hour discussion: During half-an-hour discussion questions can be put only after the Minister's reply

On 18 March 2006, during a half-an-hour discussion on points arising out of answer given on 2 March 2006, to unstarred question no. 1061 regarding Panchayat elections, some members tried to raise questions on the matter before the Minister made his reply. The Vice-Chairman, however, reminded them of the rules that questions can be asked only after the Minister made his reply. The Vice-Chairman stated the rule position thus:

... Now, Mr. Minister will give the reply. Then, members who would like to ask questions can do so. That is all. You cannot speak. This is half-an-hour discussion. After the Minister's reply, you can ask questions. That is the rule.

(R.S. deb. dt. 18.3.2006, p. 91)

QUORUM

396. Half-an-hour discussion: Quorum: Half-an-hour discussion cannot be postponed to the next day if the House is adjourned for the day for want of quorum

On 4 June 1971, during the course of a half-an-hour discussion regarding Expatriation of Profits and Dividends by Coca-Cola Factory, Shri Babubhai M. Chinai, raised the question of quorum and suggested that since the House was not properly constituted the business could not be carried on in the absence of quorum. He said that the discussion could take place on some other day. When even after ringing the quorum bell, the quorum could not be obtained.

The Deputy Chairman observed:

Under the rules that cannot be done...An hon'ble member has raised the question of quorum. There is no quorum now and, therefore, we have to adjourn.

(R.S. deb. dt. 4.6.1971, Cols. 245-46)

HOUSE

CONVENTION

397. House: Convention: Members should not wear any kind of badge inside the House

On 6 May 1985, Shri V. Gopalsamy raised a point of order regarding wearing of badges by members inside the House. Shri Gopalsamy objected to some Congress members wearing party badges inside the House to observe the Congress Centenary Celebrations. He said that on a matter of principle members should not wear badges as on an earlier occasion his party members were asked to remove the badges they were wearing to mourn the death of many Tamils in Sri Lanka.

When there was some controversy in this matter among some members, the Chairman ruled:

I will give my ruling. Now, there is no rule that a person should not wear any badge or anything like that in the House. But it has been our convention that people do not come into the House with badges. Now, when I came by some inadvertance with a NAM badge in the House, which had nothing to do with anything, the Speaker said: "You must observe the convention." And I took it away. Therefore, it is a convention in the House that we do not wear badges of any kind.

At this point, the Minister of Law and Justice, Shri Asoke Kumar Sen referred to an incident when Shri Piloo Mody, after violent objection in the House, took away a badge he was wearing.

The Chairman said:

That is why, as I said, there is a convention in the House that people do not wear any badge. Let us observe the convention.

After this, when Shri Gopalsamy pointed out that some members were still wearing badges, the Chairman said:

All Congress members, please take away your badges when you come from the Centenary. One need not go into any controversy over this.

(R.S. deb. dt. 6.5.1985, Cols. 188-92)

398. House: Convention: Nobody can ask questions about loan transactions of any one individual

On 13 August 1985, during the question hour Shri Sukomal Sen put a supplementary to starred question no. 302 regarding partiality in sanctioning loan by Banks raised by Shri Lal K. Advani. In his supplementary Shri Sen wanted to know about the details of the loan sanctioned by the State Financial Corporation of Haryana to Shri Anoop Kumar Bishnoi, son-in-law of Shri Bhajan Lal.

Ruling the question out, the Chairman said:

That you cannot ask. That cannot be disclosed. The question is ruled out.

When Shri Sen wanted to know the amount sanctioned, the Chairman further said:

It is the principle of banking and observed in this legislature that nobody can ask questions about the loan transactions of any one individual. The question is ruled out.

(R.S. deb. dt. 13.8.1985, Col. 16)

399. House: Convention: Members can criticise only Ministries and the Government, not officers thereof

On 26 August 1985, making a reference to the deportation of Tamil political refugees to Sri Lanka through a special mention, Shri V. Gopalsamy referred to the plight of some leaders of Tamils in Sri Lanka. Shri Gopalsamy alleged that the Foreign Secretary of India had joined the Sri Lankan Government in their dealings with the Tamils.

At this the Chairman observed:

Mr. Gopalsamy, I will not allow this. Anything said about the Foreign Secretary will not go on record. You can only criticise the Ministry, the Government.

(R.S. deb. dt. 26.8.1985, Col. 10)

400. House: Convention: Minister cannot directly address a member, he has to address the Chair only

On 14 March 1986, the Minister for Urban Development, Shri Abdul Ghafoor while replying to a question directly addressed the member.

The Chairman observed:

Mr. Minister, you are violating all known conventions of Parliament. Please hear me first. You cannot address a member; you have to address the Chair.

(R.S. deb. dt. 14.3.1986, Cols. 28-29)

401. House: Convention: Members can ask questions after the Minister replies to the calling attention

On 2 January 1991, Shri Gurudas Das Gupta called the attention of the Minister of Home Affairs to the communal situation in the country and the action taken by the Government in regard thereto. When the Minister of State in the Ministry of Home Affairs, Shri Subodh Kant Sahay, answered to the calling attention before the members spoke, Shri S. S. Ahluwalia raised a point of order questioning whether it was a convention for the Minister to speak first.

The Deputy Chairman then observed:

Do not argue; you do not know. Unfortunately, we did not have many calling attentions. So, the members have forgotten the procedure for calling attention. When the member calls the attention of the Minister, the Minister has to reply to that and then everybody has to ask questions. This is the rule – not only the rule but convention, procedure, everything. It is right. If there are more calling attentions we will remember it.

(R.S. deb. dt. 2.1.1991, Cols. 758-61)

402. House: Convention: Chairman's permission prevails in the House

The Chairman had permitted a few members to speak during zero hour. Shrimati Sushma Swaraj raised a point of order that the members were discussing in zero hour itself, a matter which was listed as a short duration discussion for that day. In reply to this point of order, the Vice-Chairman gave her ruling as follows:

Let me inform the members that there is no doubt that a short duration discussion is listed and Mr. Mahajan has to initiate it.

The Chairman is conscious of it; the matter was decided at the Business Advisory Committee meeting yesterday... Then the matter about the short duration discussion was decided. Please understand what I am saying. After that decision has been taken, it had been listed as a short duration discussion. Thereafter, I think, Mr. Jaipal Reddy and certain other hon'ble members approached the Chairman for permission to speak during the zero hour on what they thought was a matter of great importance and which they wanted to raise. The Chairman, in his discretion, has permitted them to speak, not on the merits but to focus attention during the zero hour... once the Chairman has permitted certain members to speak, I have no option but to allow them to say this during the zero hour.

(R.S. deb. dt. 23.2.1993, Cols. 269-72)

403. House: Convention: How the House is conducted, cannot be discussed on the floor of the House

On 12 August 1993, when Shri Mentay Padmanabham wanted to raise a point of order regarding the procedure and how the House was to be conducted, the Deputy Chairman ruled:

The conduct of the House, you cannot discuss it on the floor of the House... This is not the forum where you can discuss the conduction of this House.

(R.S. deb. dt. 12.8.1993, Cols. 191-92)

404. House: Convention: Leader of the House: Members should not interrupt the Leader of the House

On 3 January 1991, some members were demanding a statement from the Government on a reported excise scandal involving crores of rupees. As the Finance Minister and the Leader of the House, Shri Yashwant Sinha,

was reacting to the demand, some members from the Opposition interrupted him repeatedly.

Thereupon, the Deputy Chairman ruled:

Do not interrupt. He is the Leader of the House. He has a right to speak. This is the convention of this House... When the Leader of the House is on his legs, the convention of the House is that nobody will interrupt him and I am going to uphold that convention of this House.

(R.S. deb. dt. 3.1.1991, Cols. 267-71)

DECORUM AND DIGNITY

405. House: Dignity: Members must maintain good name and dignity of the House

While ordering the expunction of some portion from the proceedings of the Council of 27 September 1955, the Chairman observed:

We want to maintain the good name and dignity of this House. Every one of us is interested in that as much as I am. I do not want it to be said that sometimes these discussions suggest that we are not behaving like serious, responsible Members of Parliament but rather like irresponsible professional agitators. That impression even all members of this House, to whatever side they may belong, should avoid. We must be careful and preserve our good name and our dignity. That is what I am anxious about.

(R.S. deb. dt. 28.9.1955, Cols. 5036-37)

406. House: Decorum: Members must maintain decorum and dignity during discussions

There were certain personal exchanges between the Minister of Law, Shri A. K. Sen, and Shri Bhupesh Gupta during the course of the former's intervention in the general discussion on the Budget (General), 1957-58.

The Chairman observed:

Our discussions should take place with dignity, decorum and even charity to our opponents and if I find that these qualities are lacking, I am sorry for the House and for myself.

(R.S. deb. dt. 23.5.1957, Cols. 1278-86)

407. House: Decorum: Members should maintain decorum and dignity in debates

Referring to the tone of some of the speeches made on 17 March 1961, during a discussion on the resolution regarding 'prohibition of marriages where the difference between the ages of the spouses is more than 15 years', the Chairman observed:

I saw the proceedings of the House yesterday and I was greatly distressed

by the lack of seriousness with which many members spoke in this House. That does not add to the dignity of the speakers or the reputation of the House.

(R.S. deb. dt. 17.3.1961, Cols. 3298-3431; 18.3.1961, Col. 3434)

408. House: Decorum: Members must maintain the decorum and dignity during discussions

On 25 July 1966, two members defied and disobeyed the Chair and were suspended from the service of the Council for one week. As they did not withdraw themselves, the Marshal had to be summoned for removing them from the Council.

On 26 July 1966, the Chairman, reverting to this subject, observed:

Before taking up the business on the order paper, I must express my deep distress at the unfortunate incidents that took place in the House yesterday. Disorderly conduct and disregard of authority will discredit this House in the eyes of the people. It is a matter of shame and sorrow to me that any member of a House of Parliament representing the greatest democracy in the world should sometimes behave in a manner that can destroy the very basis of the democratic way of life. While I permit considerable latitude to members, sometimes through procedure not strictly covered by rules, to bring to the notice of this House matters on which they may feel strongly, I may not allow this latitude to be abused by them. With the co-operation of both sides of this House it was possible to maintain the decorum so necessary for parliamentary discussions. I do hope this co-operation will continue to be forthcoming in the future. The forum of Parliament and the right of free expression therein are things to be cherished, and not to be sullied. I would like to express the hope that what happened in this House yesterday would never be repeated.

(R.S. deb. dt. 25.7.1966, Cols. 133-39; 26.7.1966, Col. 248)

409. House: Decorum: Members should maintain decorum and dignity in the House

On 7 August 2006, some members disrupted the question hour and persisted in their demand to discuss the issue of leakage of the Pathak Committee Report. The Chairman objected to raising of slogans and said:

Hon'ble members, it is better if there is no sloganeering in the House...It is O.K. you want to say something, but resorting to sloganeering is not correct.*

(R.S.deb. dt. 7.8.2006, pp. 4-5)

410. House: Decorum: Display of banners in the House is against the rules

On 21 October 2008, when the House met in the morning, some members were displaying banners in the House, protesting against the attack on students from North India by workers of the Maharashtra Navanirman Sena (MNS) in Mumbai, Maharashtra.

*Spoke in Hindi.

On this, the Chairman ruled:

No banners in the House. This is against the rules... There shall be no display of banners.

(R.S. deb. dt. 21.10.2008, p. 1)

411. House: Dignity: The Chairman may direct a Member for grossly disorderly conduct to withdraw immediately from the House

On 24 April 2008, during the question hour when the Chair called for a starred question no. 441, Dr. V. Maitreyan sought clarification from the Prime Minister. When he disregarded the direction of the Chair and continued to interrupt the proceedings, the Chairman categorically ruled:

I am afraid, hon'ble members, I have witnessed a situation which I had hoped I would never witness in this august House. A senior member of this House, a leader of a political group, is deliberately violating the procedure of the House, the agreed rules of the House.

I read to you the rule 255 of the Rajya Sabha Rules. The Chairman may direct any member whose conduct in his opinion is grossly disorderly to withdraw immediately from the Council." Now I am invoking this rule against you.

(R.S. deb. dt. 24.4.2008, p. 2)

412. House: Decorum: Members should cooperate and compromise to avoid disruption of the business of the House

Ever since the start of the monsoon session on 17 July 1978, the members of the Opposition had been demanding that the correspondence between the Prime Minister and the former Home Minister relating to the charges of corruption against the members of the families of both should be placed on the Table of the House. They contended that since a part of it had already been published in some newspapers and weeklies, they should be made public and the members had a right to know the contents of the letters exchanged. Various opinions were expressed by the members of the Opposition and also by the members of the ruling party. The discussion involved the participation by the Leader of the Opposition as also the Leader of the House. While the Opposition was very firm and insistent on its demand, the Government side was also unyielding and the issue was raked up everyday by the Opposition which resulted in the disruption of the normal business of the House and the premature adjournment of the House on 20 July 1978. This made the Deputy Chairman point out that the House had reached a crisis stage and that it was difficult for him to carry on with the business of the House any more in that atmosphere. He then adjourned the House with an appeal to the Chairman to initiate a process of discussion to resolve the crisis and also to the members to arrive at a compromise and some basic minimum consensus to tide over the crisis.

The Deputy Chairman observed:

I do not think any more discussion on this matter would help... We are not able to proceed with the business of the House. I have heard with great attention what the hon'ble Leader of the Opposition and the Leader of the House said and also what the other members have said... It seems that we have reached a stage of crisis so far as the conduct of the proceedings of this House is concerned and no more debate here would resolve it as is very apparent from the various statements that have been made. Well, I can only appeal to the various leaders of the parties to kindly sit together and find a solution to this... because this is something which is completely beyond the competence, if I can say so, or the sphere of duties, of the Chair. I would only request our hon'ble Chairman to kindly initiate a process of discussion which may help us in resolving this crisis which, I think, is of a very serious nature.

I only pray and hope that all the members and all the leaders will co-operate in any effort made in this direction and kindly come to a compromise because some basic minimum consensus is the *sine qua non* for the functioning of parliamentary democracy ... and that does not seem to exist now. So, with this hope and prayer, I adjourn the House to meet tomorrow at 11.00 a.m.

(R.S. deb. dt. 20.7.1978, Cols. 242-58)

413. House: Decorum: Reading of newspapers inside the House is improper and discourteous

On 28 February 1981, when Shri Syed Sibte Razi, during the debate on a calling attention matter, drew the Chairman's attention to the fact that a member was reading newspaper in the House, which, he thought, was not allowed, the Chairman observed:

I think it is very improper and very discourteous to the House, not to say to the Chair, to read newspapers in the House.

When Dr. Bhai Mahavir contended that it may be in connection with a particular subject, the Chairman further observed:

He cannot hold it and read like that... He can refer to that.

(R.S. deb. dt. 28.2.1981, Cols. 15-16)

PROCEEDINGS

414. House: Proceedings: Discussions made outside the House cannot become part of proceedings

On 28 July 1997, during a special mention regarding failure of the Central Government to initiate contempt proceedings against a person alleged to have brought political pressure on Judges in the Hawala case, Shri Satish Agarwal stated that the Chief Justice of India had himself observed in the open Court that some gentleman tried to approach the Judges hearing the Hawala case. During the course of the discussion in the House a name was also mentioned.

The Deputy Chairman, taking exception to the mentioning of names in the House in this regard, ruled thus:

I would not like you to take names... Whatever you have discussed outside this House will not become a part of the records. It should not be mentioned.

(R.S. deb. dt. 28.7.1997, Cols. 262-69)

415. House: Proceedings: It is not a Constitutional obligation for the Executive to have the approval of Parliament on any international treaty or agreement

On 20 August 2007, the Chairman gave the following ruling on the notices received by him under rule 168 of the Rules of Procedure and Conduct of Business in the Council of States on matters pertaining to the Indo-US Nuclear Agreement:

I have received several notices under rule 168 on matters pertaining to the Indo-US Nuclear Agreement. On scrutiny of these notices, I have found that in some of the motions, a demand has been made for disapproval or rejection of the Agreement or have a vote of the House on it. In other cases, a demand has been made for re-negotiation of the Agreement. There are other notices of motion, again under rule 168, in which a demand has been made to have a discussion on the Agreement. Since it is not a Constitutional obligation for the Executive to have the approval of Parliament on any international treaty or agreement, admission of these motions which involve approval of Parliament would not be in order. I am, therefore, converting these notices into notices for discussion under rule 176. The Business Advisory Committee has already identified this subject for discussion.

(R.S. deb. dt. 20.8.2007, p. 211)

416. House: Proceedings: Interpretations: Interpreters need not have political knowledge also

On 7 August 1985, during a debate on the State Financial Corporations (Amendment) Bill, 1985, Shri D. Heerachand, member from Tamil Nadu, spoke in Tamil. Shri R. Mohanarangam, also from Tamil Nadu, objected to the interpretation made. He said that although the words 'Anna' and 'Periyar' in the speech of Shri Heerachand also meant 'brother' and 'elderly person', respectively, but in the context of his speech Shri Heerachand actually meant Shri Annadurai, the leader of their party and Shri Periyar, founder of DK Movement, and not 'brother' and 'elder brother' as interpreted.

Ruling out the objection, the Deputy Chairman observed:

I think the translation must be correct. If you mean that the interpreter also has to have the political knowledge, that is a different thing. But if 'Anna' is brother, the translation is correct.

(R.S. deb. dt. 7.8.1985, Col. 224)

417. House: Proceedings: Press: Unless the House puts a ban, newspapers have right to reproduce fairly, faithfully and accurately, the proceedings or any part thereof, without let or hindrance from any person not authorised by the House or by any law

On 2 March 1981, giving his ruling on a notice of breach of privilege against the Director of Information and Public Relations, Government of Assam, for refusal to permit some daily newspapers to publish a detailed report of the proceeding of Rajya Sabha of 24 December 1980, arising from the mass *satyagraha* on the issue of foreigners, the Chairman observed as follows:

A largely signed notice of breach of privilege has been pending before me against the Director of Information and Public Relations, Government of Assam, for refusal to permit some daily newspapers to publish a detailed report of the proceedings of Rajya Sabha of the 24th December, 1980, arising from the mass *satyagraha* on the issue of foreigners. According to the hon'ble members, only brief reports of the discussions were published by some of the daily newspapers and they were anxious to publish a detailed account, but under the law in Assam, this account had to be submitted to the Director of Information and Public Relations. The said officer did not permit a second publication on the ground that the report of the Agency had already been published. This was said to raise a question of privilege as it amounted to obstruction in the discharge of the duties of a member.

There is no question of obstruction of any kind so far as our members are concerned. The House had not ordered publication; nor is it the right of the members to insist on publication. Article 361A of the Constitution, however, by implication allows substantially true reports of any proceedings of Parliament to be published without any adverse consequences to the newspaper.

The question whether the non-publication of proceedings of Parliament amounts to breach of privilege may be answered at once in the negative. The question, however, remains whether there can be a ban by legislation or by executive fiat on any such publication. This is an important question which may some day be necessary to consider.

Proceedings in the House are public property unless the House decides to the contrary. No executive fiat can issue to newspapers without authority of law. Proceedings which are open to the public, must necessarily be open to the newspapers to report. The newspapers are eyes and ears of the public not present in the House. Unless the House puts a ban, the newspapers must be held to have the right to reproduce fairly and faithfully and accurately the proceedings or any part thereof without let or hindrance from any person not authorised by the House or by any law. The newspapers may not misrepresent by editing, adding or unfairly omitting to give a totally wrong impression.

In the present case, however, the question does not arise because what happened is this: The report sought to be published begins by saying: "New Delhi, Dec. 25 – In reply to a calling attention notice on the Assam situation in the Rajya Sabha yesterday (agency report already published) the Home Minister, Shri Zail Singh, gave a resume of the various talks..." and it goes on. In the margin there is a note in relation to the observation in brackets –

which I read again – agency report already published “so not to be reported”. This is signed by someone ‘for’ Director. There is room to think that the remark was made *bona fide* and was induced by the words in brackets. Therefore, I do not think any question of privilege arises. Shri Dinesh Goswami has since said that if the right of the newspapers to report what is not precluded by the House or by law is recognised, he would not press this motion. I think what I have said amply shows the dividing line between what may be published and what may not and, therefore, I treat this as not pressed.

(R.S. deb. dt. 2.3.1981, Cols. 144-46)

TIME

418. House: Time: Budgeting of the time of the House should be properly done by the Government

On 3 September 1966, the Leader of the Council, Shri M. C. Chagla, requested the Council to pass the Essential Commodities (Amendment) Bill, 1966 and the resolution regarding the Proclamation by the President in relation to the State of Punjab on that day itself as the Ordinance regarding the former was to expire the same night and the latter was to expire the following day.

Shri Bhupesh Gupta submitted that the Government should think over such matters beforehand and bring them well in time so that the Council was not hurried through.

The Chairman observed:

I must say that there is a general feeling from all parts of the House that the budgeting of the time is not being properly done and that this House has sometimes the feeling that it is being hustled. That should be avoided, that should be definitely avoided, and there should be some forethought applied to this problem and we should have ample time. That is the feeling that has been voiced several times in the Business Advisory Committee and I have heard it here also and I think it would be conveyed to the Government and they will take care about it.

(R.S. deb. dt. 3.9.1966, Cols. 5414-16)

419. House: Time: Time allotted for a discussion is decided by the House

On 7 December 1987, Shri Dipen Ghosh, was participating in a half-an-hour discussion on points arising out of the answer given to starred question no. 342 in Rajya Sabha on 1 December 1987, regarding counter-trade agreement with Bofors. He made his speech unduly lengthy. As there were ten more members to participate in the discussion, the Deputy Chairman asked Shri Ghosh to sum up his speech. Shri Dipen Ghosh wondered why a half-an-hour discussion could not take a few hours when special mention could be converted into a three days debate.

Thereupon, the Deputy Chairman said:

Please don't try to cast any aspersions on the Chair. It was the desire of the House from both the sides. Also, it was a very special thing.

It was something special that the Chairman had admitted. This was admitted as half-an-hour discussion with your consent. Even if you want to have seven days for it, you could seek permission. But it has been admitted as half-an-hour discussion and you have accepted it.

...you are interfering with the time of the House. Therefore, I would request you to just make your specific points for clarification.

(R.S. deb. dt. 7.12.1987, Cols. 409)

LEADER OF THE COUNCIL

420. Leader of the Council: A statement by the Leader of the House has to be accepted as to whether an assurance had or had not been given earlier on behalf of the Government

On 26 April 1978, after the question hour in Rajya Sabha, when the Minister of State in the Ministry of Labour and Parliamentary Affairs, Dr. Ramkripal Sinha, moved a motion for election to the Committee on the Welfare of Scheduled Castes and Scheduled Tribes, Shri N. P. Chaudhari brought to the notice of the Chairman that he had given a notice of amendment to the said motion seeking constitution of a separate Committee for Rajya Sabha to look into the problems of the Scheduled Castes and Scheduled Tribes. He also contended that the said amendment was in keeping with an assurance given to this effect on behalf of the Government. Several members supported the plea made by Shri N. P. Chaudhari. The Leader of the House, Shri Lal K. Advani, in reply to the various points raised by members categorically denied that any such assurance was given.

The Chairman then observed as follows:

We have discussed it sufficiently. The Leader of the House had said just now that there was no assurance given on behalf of the Government and you must take it as correct, unless the contrary is proved. I will now put the motion to vote.

(R.S. deb. dt. 26.4.1978, Cols. 141-49)

421. Leader of the Council: Leader of the Council in that capacity or in his capacity as Minister cannot be asked to be present in the other House to answer charges in connection with his observations or remarks made in the Council

On 1 May 1953, Shri B. C. Ghose referred to the discussions in the House of the People about the observations of the Leader of the Council on 29 April 1953, on the point of order raised by Shri P. S. Rajagopal Naidu about the Indian Income-Tax (Amendment) Bill, 1952, being a Money Bill or not. He said that the question that was raised in the other House had two aspects. The first was in relation to the observation of a member of the other House that the points made by the Leader of the Council during a discussion as to whether a Bill was or was not a Money Bill cast a reflection on the Speaker of the other House. This was also upheld by the Deputy Speaker. The second aspect was regarding the demand made in the other House that the Leader of the Council be directed to be present in the other House presumably to answer charges relating to the statements made by him during the discussions on the Bill in the Council. Shri B. C. Ghose observed that the remarks made by the Leader of the Council did not cast, nor were they intended to cast, any reflection on the Speaker. All that the

Leader was concerned to do at that time was to offer an interpretation and explain the implications of clauses (3) and (4) of article 110 of the Constitution. He said that the demand made in the other House that the Leader of the Council, who was also the Law Minister, be directed to be present in the other House to answer charges in respect of statements made by him in the Council was extraordinary and astounding, amounting to a clear case of breach of privilege of the Council.

The Leader of the Council, Shri C. C. Biswas, said that he never cast nor ever intended to cast any reflection or slur on the Speaker and, as for his being present in the other House, the Deputy Speaker had made a request to him to do so and that he owed it to him as a matter of courtesy, if not as a matter of constitutional obligation, to do so.

The Chairman refused to give his consent to the motion of privilege and observed:

There seems to be some misapprehension in regard to what happened in the Council on the 29th instant. Some members expressed a doubt whether the Bill in question was a Money Bill according to the requirements of article 110(1). A few felt that doubts could be raised even after the certificate was issued by the Speaker. At this stage the Leader of the Council referred to these doubts and suggested that it would reassure the House if it was told categorically that the Speaker had applied his mind to this question and issued the certificate after a full and fair consideration of all aspects of the matter. When that statement which reiterated the obvious, came to us yesterday from the House of the People, the matter was concluded. It was nobody's intention, least of all of the Leader of the Council, to cast aspersions on the integrity and impartiality of the Speaker. It is our anxiety in this Council to do our best to uphold the dignity of the Speaker and the privileges of the other House as we expect the other House to protect our interests and privileges.

Shri H. N. Kunzru, Shri B. C. Ghose, Shri J. R. Kapoor, Shri K. S. Hegde and Prof. G. Ranga argued, however, that the fact that the Leader of the Council was only requested to be present in the other House did not conceal the fact that he had been asked to go there to answer a charge against him whether it was formally made against him at a sitting of the House or not and that while they were all for settling such matters in a friendly way, the appearance of the Leader of the Council in that House would certainly be derogatory to the Council.

The Chairman observed:

What I feel is that you are behaving with such excitement and enthusiasm. You take it from me that it is not my business or intention in the least to do anything which is likely to impair the dignity of this House or the privileges of any of the members. Mr. Mathur for instance asks a question here. We can ask the Minister to be present here at 5.30 when we are taking up that question. The Deputy Speaker did come to me. He was in my room this morning and when I spoke to him, I explained to him what the position was. He said that it was all a misapprehension which would be cleared up. But let us not do anything which is likely to accentuate feelings and make us feel

that we are working at cross purposes. That is not our intention. This has never been my intention. When I say that I read the proceedings and I am satisfied that no slur was ever intended to be cast by any member, least of all, by the Leader of the Council, then that is final and that is conclusive so far as we are concerned and I have no doubt that the other House will give sufficient consideration to the views that I have expressed.

The Leader of the House, Shri C. C. Biswas, wanted a special direction from the Council as to what he should do. At the instance of Shri C. G. K. Reddy a resolution in the following terms was unanimously adopted in the Council:

That this Council is of the opinion that the Leader of the Council be directed not to present himself in any capacity whatsoever in the House of the People when the matter sought to be raised by Pandit Thakurdas Bhargava with reference to the speech of the Leader of the Council regarding the certificate of the Speaker endorsed on the Indian Income-Tax (Amendment) Bill, 1952, is under discussion in that House.

The Chairman was requested to communicate it to the Deputy Speaker of the House of the People.

(R.S. deb. dt. 1.5.1953, Cols. 4605-25)

LEADER OF THE OPPOSITION

422. Leader of the Opposition: Procedure for recognition laid down by the law is to be followed

On 24 February 1978, soon after the Secretary-General read out the messages from Lok Sabha, Sardar Amjad Ali, a member of the Opposition, raised the question of appointment of the new Leader of the Opposition on the basis of the prevailing strength of the major opposition parties in Rajya Sabha. While the member welcomed the earlier decision of the Chairman derecognising Shri Kamalapati Tripathi as the Leader of the Opposition, he deplored the delay on the part of the Chairman in giving recognition to Shri Bhola Paswan Shastri as the Leader of the Opposition, even after his nomination for the post was conveyed to the Chair.

The Chairman then, *inter-alia*, observed:

There is a certain procedure laid down according to the law. I have consulted the Legal Department also and that procedure will have to be followed correctly.

When the Leader of the House, Shri Lal K. Advani, and several other members referred to the undesirability of leaving a vacuum which hampered the proper functioning of the House, the Chairman again stated:

Now, let me make it very clear. As far as I am concerned, I have nothing for or against any side. The only thing is that some procedure is to be followed which was followed earlier while deciding whether the leadership of Mr. Kamalapati Tripathi should be continued or not. We have followed the procedure then. All the papers are with the Secretary-General who has received them and I will decide.

When some members pressed for an immediate decision, the Chairman finally observed:

As far as I am concerned, I have no difficulty. Secretary-General has told me that he has received all the papers. I will get these papers today and I will decide.

(R.S. deb. dt. 24.2.1978, Cols. 94-105)

423. Leader of the Opposition: Announcement regarding the Leader of the Opposition and seating arrangements

On 27 December 1990, at the commencement of the Hundred and Fifty-sixth session of Rajya Sabha, members of the Opposition led by Shri M. S. Gurupadaswamy obtained permission of the Chairman for suspension of the question hour and raised the issue of the seating arrangements in the House. The opposition parties had objected to their seating arrangements with the Treasury Benches, whereas the Congress Party on whose support the then Government was formed was given the status of the main opposition

party. After listening to the submissions made by different members, the Chairman reserved his ruling till obtaining the opinion of the Attorney-General regarding the Leader of the Opposition and observed that the *status quo* be maintained until that time.

Thereafter, on 2 January 1991, the Chairman made the following announcement regarding the Leader of the Opposition and seating arrangements in the House:

Hon'ble members, in regard to the office of the Leader of the Opposition, you may be aware that views were expressed by different parties in the House; I had caused Attorney-General's opinion to be obtained in the matter for my information and have shared it with the leaders of various parties.

The Attorney General has opined, I quote:

...as the law stands today in the light of the parliamentary convention and provisions of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, there is no change in the position in regard to the Leader of the Opposition and the Leader of the Congress (I) Party continues to be the Leader of the Opposition.

Shri P. Shiv Shanker and Shri M. M. Jacob have now given me letters in this connection. The letter from Shri P. Shiv Shanker reads as follows:

Kindly recall our submissions, claiming to continue to recognise the Congress as an Opposition Party and your kind reference of the entire matter for the opinion of the Attorney-General. A little while ago, you were pleased to inform the leaders of different parties/groups that the Attorney-General has opined to the effect that the Congress Party could continue to be party in Opposition. This clearly vindicates the stand of our party. Despite this, my party and our leader are of the view that to avoid the possible conflict of the rulings of both the Houses of Parliament on an issue of this nature, I should tender the resignation from the position of the Leader of the Opposition, which I hereby do. I, therefore, request you to kindly accept my resignation as the Leader of the Opposition with immediate effect.

The other letter, signed by Shri P. Shiv Shanker and by Shri M. M. Jacob, Chief Whip of the Congress (I) Party in Rajya Sabha, reads as follows:

In continuation of my letter dated today, I would like to clarify that our party forgoes the claim to be the main opposition party in Rajya Sabha.

In view of the Congress (I)'s forgoing the office of the Leader of the Opposition, that office is now vacant. The Congress (I) has ceased to be the main opposition party in the House.

Suitable revision in the seating arrangements in the House would be effected shortly.

LEAVE OF ABSENCE

424. Leave of Absence: Grant of leave is to be decided by the House

On 22 March 1976, soon after papers were laid on the Table, the Chairman read out a letter received from Shri Subramanian Swamy, a member of the Opposition, requesting for the grant of leave of absence from the sittings of the House as he was still on his tour abroad. After taking the sense of the House the Chairman observed that permission to remain absent could not be granted. Another member of the Opposition, Shri Omprakash Tyagi, contested the decision of the Chair saying that it was against the traditions of the House.

The Chairman observed:

It is the sense of the House which has to be taken.

(R.S. deb. dt. 22.3.1976, Cols. 78-79)

LIBRARY OF PARLIAMENT

425. Library of Parliament: A Report placed in the Parliament Library is as good as laying it on the Table of the House

On 16 March 1981, Shri Sadashiv Bagaitkar made a reference to the direction given by the Vice-Chairman on 11 March 1981 that the Puri Committee Report on gold auctions be placed not only in the Library but also on the Table of both the Houses. The Minister of Finance, Shri R. Venkataraman, explained that since certain unauthorised versions of the Report had started leaking out, the Report was immediately placed in the Library as it would take time to prepare a large number of copies to be laid on the Table.

When the Deputy Chairman remarked that for all practical purposes it was sufficient to do so, Shri Bagaitkar demanded that the Report be placed on the Table of the House so that the same could be discussed.

Thereupon, the Deputy Chairman observed as follows:

Once the Report has been placed in the Library, the members have an access to that. It is as good as laying it on the Table of the House.

Shri Pilo Mody pointed out that there was a qualitative difference between placing it on the Table of the House and placing it in the Library. He said there was authenticity in placing the Report on the Table of the House because somebody could be held responsible for the same.

After persistent demand from Shri Bagaitkar and other members, the Minister of Finance stated that he would obey the directive from the Chair.

There were continued interruptions and the Deputy Chairman assured the House that when the Minister will be ready with sufficient number of copies of the Report, he would place it on the Table.

(R.S. deb. dt. 16.3.1981, Cols. 168-72)

LIST OF BUSINESS

426. List of business: Use of term 'Lok Sabha' and 'Rajya Sabha' is in order

In the post-lunch session of Rajya Sabha on 23 June 1971, Shri G. A. Appan raised a point of order to the effect that it was unconstitutional to mention in order paper the term 'Lok Sabha' while referring to the House of the People.

The Deputy Chairman ruled out the point of order thus:

...I think from the very inception of Parliament these two terms — Lok Sabha and Rajya Sabha — have been in use and in all the documents these two names appear. We have been using these terms and, therefore, there is no point of order in this and we should proceed further.

(R.S. deb. dt. 23.6.1971, Cols. 78-79)

427. List of business: Only the listed business is to be taken up

On 15 November 1971, when the Deputy Chairman called the Prime Minister to make her statement, Shri A. P. Chatterjee objected to it saying that the Prime Minister's report must wait and zero hour must be adhered to. The Leader of the Opposition, Shri M. S. Gurupadaswamy and some other members supported Shri Chatterjee's view.

Shri Arjun Arora said that the revised list of business which was circulated in the morning did not contain the name of Shri Gurupadaswamy, therefore, no business was to be initiated by him. The member further said that subsequently a supplementary list of business was also circulated which mentioned about the statement to be made by the Prime Minister.

Rising on a point of order, Shri Krishan Kant observed that the supplementary list of business was part of the regular business and according to rule 23, the Government business should have precedence over any other business before the House.

Shri A. P. Chatterjee also rose on a point of order saying that as per rule 29, the list of business should be made available for the use of every member and that he did not get the revised list of business which was circulated in the House itself before lunch. Shri Chatterjee contended that from the point of view of interpretation of rule 29, the list circulated was not a list of business at all as it was issued in the House only before lunch.

Referring to Shri Chatterjee's comments, Shri Niranjana Verma said that when the Chairman had allowed the member to make a mention, he got the right to speak and after that it was not at all possible to restrain the member from speaking.

The Deputy Chairman observed:

I think Mr. Niranjn Verma has raised one question whether Mr. Gurupadaswamy should be allowed to mention a subject or not. He has said that the Chairman has given permission and, therefore, when the Chairman agrees, the member should be allowed to mention something. I did not question that right earlier also. I have made it quite clear that as the Chairman has allowed, I think Mr. Gurupadaswamy and Mr. Niren Ghosh should be allowed to mention two important subjects in this House. These two members will definitely be allowed to mention the subjects for which the permission has been given.

But the second question is at what time we should call the Prime Minister to make a statement and at what time we should allow Mr. Gurupadaswamy to mention his subject. It was rather a coincidence that other miscellaneous business was over at about 3.30 and only Mr. Gurupadaswamy's subject was left. Now, for example, if we had not been able to finish this Ordinance business earlier and if it had continued even after 3.30, in that case we would have said, "Now, let us stop the discussion on the Ordinance. We have got a fixed hour business. So, let us hear the Prime Minister". That is the procedure we have been following always... I think the Prime Minister should make her statement now.

(R.S. deb. dt. 15.11.1971, Cols. 200-13)

428. List of business: There is nothing wrong if a Bill is removed from the list of business

On 28 June 1977, the Additional Emoluments Bill was not found in the list of business for that day. The House was to be adjourned *sine die* on that day. Shri Kalyan Roy said that the Bill which was on the agenda for the past two days, was surreptitiously withdrawn and questioned if this was the way the Government was going to treat democratic and parliamentary norms and forms.

Shri Nripati Ranjan Choudhury said that the Bill was the property of the House and should not have been withdrawn. He wanted to know if the Business Advisory Committee was taken into confidence.

Shri Bhupesh Gupta charged that the Government was playing a fraud on Parliament and was bypassing it, as the Government knew that the Bill would not be passed by Parliament.

The Deputy Chairman observed:

In the distribution of the time of the House, some time is allotted for the Government business, and it has been a very long standing practice that the Government sometimes presses some matters at a particular time and wants to withdraw some matters at some other time. So far as the Chair is concerned, there is nothing wrong involved in this. The matter is that the Government does not want to press a certain Bill at this particular time. What the consequences would be, it is for them to judge and face. If the ordinance does not go through or whatever happens, it is for them to judge what the consequences would be.

(R.S. deb. dt. 28.6.1977, Cols. 99-103)

429. List of business: Can be prepared and circulated under rule 23 read with rule 29

On 19 December 1978, raising a point of order, Shri Dinesh Goswami said that due to a sense of confrontation between the Treasury Benches and the Opposition, no business could be transacted in the House for the last three or four days. The member stated that the Minister of State for Parliamentary Affairs tried to place the business before the House and the Deputy Chairman had observed that reading the business of the House by the Minister was an expression of intent on behalf of the Government which was not binding on the House. Some other members also supported Shri Goswami's point of view. In this connection, the Deputy Chairman observed:

The discussion on this matter is now over. Some points have been raised by Shri Goswami and other members regarding the list of business and how it was prepared. Other members have also raised it today and earlier also and I believe some sort of explanation is due to the House.

On Friday, the 15th December, 1978, when the Government business for the week commencing the 18th December, 1978, was announced, certain points were raised. I had then observed that the Business Advisory Committee had not allocated any time for the new Government business that was expected to be taken up during the week. As regards the announcement itself, I had said that it was merely an expression of the Government's intention to place the business before the House. It is true, as stated by me in the House on 15th December, 1978, that the Business Advisory Committee had not allotted time for discussion of the business placed before it by the Government on that day. However, the list of business has been prepared and circulated to the members, and rightly so, under rule 23 read with rule 29 of our Rules of Procedure, no irregularity has been committed in the preparation of the said list. I will read out rule 23, part of it:

On days allotted for the transaction of Government business that business shall have precedence and the Secretary shall arrange that business in such order as the Chairman, after consultation with the Leader of the Council, may determine.

There are two definite set of rules for the allocation of business by the Business Advisory Committee, and another set of rules for the preparation of the list of business. Now, members probably see some sort of contradiction or lack of reconciliation between the two sets of rules. All I can say is that when the rules were framed, the type of situation that has arisen was, probably, not contemplated. But that does not mean that the list of business has not been properly prepared. As I said earlier, it has been properly prepared...

As regards rule 172, etc., all I can say is this that any discretion under the rules that lies with the Chairman and the way he uses the discretion or acts under the discretion cannot be a matter of point of order. He has a certain right to do it. He does something or he does not do something. But that cannot be discussed here. So I do not think any ruling or any such matter on rule 172 is called for.

I would, however, like to mention that we have reached a situation that cannot be solved through the sophisticated device of point of order. The malady is much too deep. It can only be solved by the Leader of the House, the Leader of the Opposition and the leaders of all the parties putting their heads together and in their wisdom finding some solution. It is with this appeal that I adjourn the House till tomorrow at 11.00 a.m.

(R.S. deb. dt. 19.12.1978, Cols. 186-89; 21.12.1978, Cols. 277-80)

430. List of business: Members should be informed about the papers not listed in the revised list of business, if required to be laid

On 2 August 1985, the Minister of State in the Ministry of Finance, Shri Janardhan Poojari (Department of Revenue), laid a paper regarding reduction of export duty on coffee on the Table of the House at 5.00 p.m. Since it was not listed on the revised list of business for the day, Shri Lal K. Advani suggested that in such a situation the existing formality of informing the House should be observed.

Thereupon, the Vice-Chairman said:

I would request the Minister of Parliamentary Affairs to take note of the suggestion of the member and see that where papers are not listed on the revised list of business, when they come in the middle of the day's proceedings, they may kindly be informed to the members so that they can ask for clarifications as is the practice here. I would request the Government to take note of this.

(R.S. deb. dt. 2.8.1985, Cols. 256-58)

MEMBERS

ABSENCE

431. Members: Absence: Members detained under the Preventive Detention Act or under any other law, should obtain the permission of the Council to remain absent from its sittings

On 26 March 1965, after the Council gave permission to Shri P. Ramamurti to remain absent from all meetings of the Council during the session, Shri M. Ruthnaswamy, rising on a point of order, asked whether it was necessary for persons detained under the law, who find it physically impossible to attend the meetings of the Council, to apply for leave of absence, when they had no control over their movements at all.

The Deputy Chairman said:

Normally they have to. Whoever has been detained either under the Preventive Detention Act or under any other rule or law, he obtains permission of the House.

(R.S. deb. dt. 26.3.1965, Cols. 4685-86)

432. Members: Absence: Members who are not present when their names are called, are not to be called again

On 22 December 1980, during the debate on the National Security Bill, 1980, the Deputy Chairman called Shri R. B. Paswan to speak. He was not present. Then, he called Shri J. K. Jain to speak and observed:

Members who have given their names should be present in the House. Otherwise once their names are called and they are not present, I am sorry, they will not be called again.

(R.S. deb. dt. 22.12.1980, Col. 68)

GENERAL

433. Members: If there is any controversy in the House, a member who is involved in that controversy should not be asked by the Government to make comments on it in the AIR broadcast unless others are also allowed

On 27 July 1966, Shri Bhupesh Gupta referred to a talk given in the All India Radio (AIR) the previous day by Shri G. Ramachandran, one of the members of the Council. In that talk which was aired by the All India Radio, Shri Ramachandran gave an account of what had happened in the Council on the opening day, *i.e.*, on 25 July 1966 in which, according to Shri Bhupesh Gupta, he had been all the time praising the Government, placing the Opposition in the wrong light. He alleged that Shri Ramachandran had been

chosen for this job by the Government, presumably with the idea that the public would be taken in by what an allegedly independent member said. Since one side of the picture of the happenings in the House should not be given to the public, he and other members of the Opposition should also be allowed by the All India Radio to speak and give their versions. Shri Mulka Govinda Reddy, Shri Lokanath Misra, Shri B. K. P. Sinha and Shri M. S. Gurupadaswamy submitted that the All India Radio should not be utilised as an instrument of the Government propaganda and that in any case no Member of Parliament should be invited to make comments on what happened in Parliament. The Deputy Chairman agreed to convey those views to the concerned Ministry.

On 28 July 1966, the Minister of Information and Broadcasting, Shri Raj Bahadur, made a statement in the Council saying that as Shri Ramachandran's observations in the Council reflected the mood of the Council and its determination to preserve the sanctity of democratic and parliamentary proprieties, in all good faith he thought that a person of Shri Ramachandran's record, integrity and independence should be asked by the All India Radio to put before the country the entire sequence of events in their proper perspective with a view as much to informing the people and alleviating their anxiety, as to minimising the opportunities for distortion of the image of the parliamentary democracy of India across the Indian frontiers. He assured the Council that no propaganda in favour of the Government and against any opposition party or group was ever intended.

The Chairman observed:

I thoroughly understand the motive that you have just mentioned and you were naturally actuated by the best of motives. But the thing that has happened is one which probably should make you more careful in future. If there is any controversy, a member who has taken part in this controversy or who is part of Parliament should not be asked to comment on it unless you allow other groups also to do so.

(R.S. deb. dt. 27.7.1966, Cols. 436-45; 28.7.1966, Cols. 615-23)

MINISTER IN A STATE

434. Members: Minister in a State: A member who has become a Minister in a State can legally continue to be a member of the House till he is elected as a member of the State Legislature concerned

On 17 November 1964, Shri A. B. Vajpayee drew the attention of the Chairman to the fact that Shri A. M. Tariq who had then assumed office as a Minister in the Jammu & Kashmir Government was continuing to sit in the Council and questioned the propriety thereof. The Chairman said that he would take legal opinion and give his views later on.

On 18 November 1964, the Chairman observed:

At the sitting of the House yesterday, Shri Vajpayee drew my attention to the presence, in the House, of Shri A. M. Tariq, a member of Rajya Sabha, who had recently assumed office as a Minister in the State of Jammu & Kashmir. The Constitution contains provisions relating to disqualifications of members and vacation of their seats in Parliament. As far as I am aware, Shri Tariq has not become subject to any of those disqualifications. The question of disqualification will, however, arise when Shri Tariq is chosen as a member of the Jammu & Kashmir Legislature. Until then, legally and constitutionally, his membership of this House will continue.

On the question of the propriety of a member who has assumed office as a Minister in a State continuing to take part in the proceedings of this House, I would merely observe that it does seem somewhat odd that a member functioning as a Minister in a State should be attending Rajya Sabha and taking part in the proceedings thereof. I would, however, like to leave it to the good sense of the member.

I understand that a similar question arose in the other House some time back where the Speaker also took more or less the same view, the view that I have just now expressed.

(R.S. deb. dt. 17.11.1964, Cols. 174-75; 18.11.1964, Cols. 330-31)

435. Members: Minister in a State: A member appointed as a Minister in a State cannot be prevented from sitting in the House or voting, unless he has been elected to the Assembly

On 15 March 1988, when the Constitution (Fifty-ninth Amendment) Bill, 1988 was at the voting stage, Shri Lal K. Advani raised a point of order. The point of order was regarding the presence in the House of Shri R. K. Jaichandra Singh, a sitting member, who was appointed the Chief Minister of Manipur. Shri Advani referred to rulings given in similar circumstances in Lok Sabha and Rajya Sabha wherein it had been observed that a member when holding the office of Minister in a State was not entitled to participate in the proceedings of the House or to vote. Further, as a matter of propriety he should not attend the House. When some members argued on this point of order, the Chairman read out a relevant ruling on a Bill given by a former Chairman of Rajya Sabha, Dr. Zakir Husain. The ruling goes as follows:

At the sitting of the House yesterday, Shri Vajpayee drew my attention to the presence in the House of Shri A. M. Tariq, a member of Rajya Sabha, who had recently assumed office as a Minister in the State of Jammu & Kashmir. The Constitution contains the provisions relating to the disqualification of members and vacation of their seats in Parliament. As far as I am aware, Shri Tariq has not become subject to any of these disqualifications. The question of disqualification will, however, arise when Shri Tariq is chosen as a member of the Jammu & Kashmir Legislature. Until then, legally and constitutionally, his membership of the House will continue.

On the question of propriety of a member who has assumed office as a Minister in his State continuing to take part in the proceedings of the House, I would merely observe that it does seem somewhat odd that a member

functioning as a Minister in a State should be attending Rajya Sabha and taking part in the proceedings thereof.

I would, however, like to leave it to the good sense of the member.

Thereafter, the Chairman said:

A ruling of one of the most respected Chairman of Rajya Sabha is there... Under these circumstances, following Dr. Zakir Husain, I would leave it to the good sense of the member.

(R.S. deb. dt. 15.3.1988, Cols. 217-21)

PRECINCTS OF PARLIAMENT

436. Members: Precincts of Parliament: Members should remain in the precincts of Parliament for parliamentary work only and not to remain there during night for making demonstrations or hunger strikes

On 29 August 1972, immediately after the question hour, the question of 'hunger strike' by a member of the House, Shri Sitaram Singh, on the previous day in the Lobby of the House and his alleged forcible removal from the Parliament House, was raised.

The Chairman observed:

Now, I want to make it quite clear that Parliament is not intended for Members of Parliament to remain here during the night or to make demonstrations or *Bhuk Hartals* or for any such activities. There was one member of Lok Sabha and one member of this House. They did not want to leave the Parliament's precincts and the Parliament estate because they said that they wanted to stay here for the night and they wanted to have some political demonstration or *Bhuk Hartal*. Now, under my orders, when they refused to leave, they were made to leave. I want to make it clear that this has never happened in the history of Parliament, that anyone was allowed to remain here during the night. This Parliament, the Parliament's precincts and estate are intended for parliamentary work and members are entitled to remain here when the work is going on. After that they have no right to remain here.

(R.S. deb. dt. 29.8.1972, Col. 115)

SUSPENSION

437. Members: Suspension: A member can be suspended from the House for a fixed period by adopting a motion

On 29 July 1987, when the House met, Shri M. S. Gurupadaswamy stood up to make a submission with the permission of the Chair regarding certain commotion and confusion which occurred in the House the day before. Suddenly, Shri Puttapaga Radhakrishna waved some papers which according to him contained derogatory remarks against the Prime Minister. Admonishing the member for his unruly behaviour the Deputy Chairman asked the member to withdraw from the House. When the member did not abide by the direction

of the Chair, the Deputy Chairman asked the Minister of State for Parliamentary Affairs to move a motion under the Rules for the suspension of the member. The House unanimously resolved that he may be suspended for a week from the House.

The Deputy Chairman observed:

Shri P. Radhakrishna is suspended for one week from the House.

(R.S. deb. dt. 29.7.1987, Cols. 2-3)

MINISTERS

ABSENCE

438. Ministers: Absence: Any Minister can take down notes in the House, if the concerned Minister is absent

On 25 March 1985, during a discussion on the Budget (General) 1985-86, Shri Suresh Kalmadi noted the absence of the Finance Minister in the House and demanded his presence.

The Vice-Chairman ruled:

Mr. Kalmadi, for your information and for the information of other members, where the Chair has given specific prior permission to the Finance Minister or to the Minister of State for Finance for some business in Lok Sabha or for attending some other important meeting, then the other Cabinet Ministers are equally entitled to act on their behalf. We have one senior Cabinet Minister present here taking down notes. He will definitely take down notes and pass them on to the Finance Minister and all the Budget points will be answered.

(R.S. deb. dt. 25.3.1985, Col. 369)

APPOINTMENT

439. Ministers: Appointment: There is no bar in the Constitution for appointing a member of Rajya Sabha as the Finance Minister

On 23 February 1982, Shri A. G. Kulkarni raised a matter regarding the discussion held in Lok Sabha on the eligibility of a member from Rajya Sabha to be appointed as the Finance Minister. He also drew the attention of the Chairman to the fact that Rajya Sabha had also provided a Prime Minister sometime back and that under the Constitution it was perfectly legal for any member of Rajya Sabha, from the ruling party, to be either Finance Minister or Prime Minister.

The Chairman ruled:

... I have examined the matter and I find that there is no bar in the Constitution against the nomination of a member of this House as Finance Minister. Indeed, the Constitution seems to suggest without making any exceptions that Ministers may be from either House.

(R.S. deb. dt. 23.2.1982, Col. 213)

GENERAL

440. Ministers: When an important discussion is going on, a Cabinet Minister must be present in the House

On 22 August 1966, during a discussion on the motion regarding the devaluation of the Indian Rupee, Shri Bhupesh Gupta submitted that though

members were speaking, there was not a single Cabinet Minister present in Rajya Sabha. He said that the Government should be properly represented to listen to what the members had to say.

The Chairman observed:

I think it will be in the fitness of things if Ministers take note of the feeling in this House. This House feels that there is an important discussion going on and the Government is not represented. It is not good at all.

(R.S. deb. dt. 22.8.1966, Cols. 3425-26)

441. Ministers: When an important discussion is going on, a Cabinet Minister must be present in the House

On 23 March 1967, when the discussion on the President's Address was going on, Shri Lokanath Misra rising on a point of order submitted that the Chairman had given a specific ruling in the past that during the discussion on the President's Address a Cabinet Minister should be present in the House because it was a very important debate. But, in spite of the ruling, no Cabinet Minister was present in the House to hear what members had to say. Shri P. N. Saprú also supported the stand taken by Shri Lokanath Misra.

The Deputy Chairman observed:

In any case, whatever the House decides, its direction that a Cabinet rank Minister should be here at least for the President's Address when it is debated should be observed. I do feel that very strongly, but I leave it to the House. We go on till 5.30 and adjourn, and this may be brought to the attention of the Cabinet Ministers also... This will be for the last time that we shall continue without a Cabinet Minister till 5.30. In future it will depend on the House and they must accommodate themselves.

(R.S. deb. dt. 23.3.1967, Cols. 608-10)

442. Ministers: Presence of the Prime Minister or some senior Minister is required during discussion on the President's Address

On 1 April 1971, when the debate on the President's Address began, Shri J. P. Mathur raised a point of order regarding presence of no Cabinet Minister on the occasion and wanted a ruling from the Chair.

The Vice-Chairman observed:

...I appreciate your point of view. I think when we are discussing the President's Address, in addition to our friend, Shri Om Mehta, some Cabinet Minister should also be present here... According to the norms and rules, any Minister present is enough for the purpose, but as a matter of etiquette and courtesy, I think a Cabinet Minister should also be present.

(R.S. deb. dt. 1.4.1971, Cols. 173-74)

443. Ministers: A Cabinet Minister should be present in the House during important debates

On 1 March 1984, when the Motion of Thanks on the President's Address was taken up for discussion, Shri Lal K. Advani pleaded with the Chair to adjourn the House as there was no Cabinet Minister present in the House even though the debate, in the opinion of the member, was an important one.

After repeated pleas from Shri Lal K. Advani, the Deputy Chairman observed:

I have asked him to bring the Minister. Mr. Kalpnath Rai*, please ask your Ministers to follow the conventions of the House; they should not be careless and remain absent. I do agree that there must be somebody present.

(R.S. deb. dt. 1.3.1984, Cols. 217-18)

444. Ministers: One Cabinet Minister should be present in the House at all times

On 1 March 1984, when the Motion of Thanks on the President's Address was being debated, some members brought to the notice of the Chair, the absence of Cabinet Ministers in the House.

Not convinced by the reply given by the Minister of State in the Ministry of Parliamentary Affairs, the Vice-Chairman observed:

Hon'ble members, I share the concern of the hon'ble House. I have been present since morning and this question has been raised three or four times. It is with a sense of propriety and duty that I will have to tell the Parliamentary Affairs Minister that this House should not be ignored and at least one Cabinet Minister should be present here at all times. This may be taken as a ruling from the Chair.

(R.S. deb. dt. 1.3.1984, Cols. 315-16)

445. Ministers: All the Ministers are equally important

On 23 April 2008, while participating in the discussion on the working of the Ministry of Labour and Employment, Shri T. K. Rangarajan remarked that the Ministry of Labour, which was once headed by stalwarts who were all in the rank of the Cabinet Minister, had now been devalued and the Ministry was being headed only by a Minister of State.

At this, the Vice-Chairman interrupted him saying:

Mr. Rangarajan, do not make a statement in bad taste because whether he is MoS (Independent Charge) or a Cabinet Minister, for us, he is equally important.

(R.S. deb. dt. 23.4.2008, p.209)

*Shri Kalpnath Rai was the Minister of State in the Ministry of Parliamentary Affairs

446. Ministers: The Finance Minister should be present in the House while the General Budget is being discussed

On 26 August 1996, during a discussion on the General Budget, Shri Satish Agarwal strongly protested against the absence of the Finance Minister and wanted a ruling from the Chair.

The Vice-Chairman observed:

...This is not fair on your part and on the part of the Government. A former Finance Minister is initiating the debate on the General Budget. Our hon'ble member is saying that the Finance Minister is not in Lok Sabha. I think in this kind of a situation before me there is nothing I can do but to adjourn the House till the Finance Minister is available here.

(R.S. deb. dt. 26.8.1996, Cols. 257-61)

447. Ministers: A Minister has the right to give whatever information is available from any source

During the discussion on a calling attention regarding the situation arising out of the arrests and killing of Scheduled Castes and Neo Buddhists in Agra, the Minister of State in the Ministry of Home Affairs, Shri Dhanik Lal Mandal, took the plea that he could not go beyond the information given by the State Government on the incident and he had to rely upon the State Government's report. Shri Dinesh Goswami raised a point of order that the Minister could not take shelter behind the report given by the State Government because the subject matter of the notice, namely protecting the interests of the Scheduled Castes, came under the Central List. The Minister and the House could not absolve themselves of this constitutional responsibility.

The Deputy Chairman observed as under:

There is no point of order. The hon'ble Minister has the right to give whatever information is available and put it in whatever manner he likes.

(R.S. deb. dt. 4.5.1978, Cols. 162-64)

448. Ministers: Minister can preface answers by some other observations

On 16 June 1980, during the debate on a calling attention, the Minister of Energy and Coal, Shri A. B. A. Ghani Khan Chaudhuri, was replying to the points raised by Shri Harkishan Singh Surjeet. Shri P. Ramamurti raised a point of order that instead of answering specific questions put by the member, the Minister was giving statistics.

The Vice-Chairman observed:

If the Minister wants to preface his answers by some other observations,

I think he should be permitted; if he does not answer, well, your point of order will be taken care of.

(R.S. deb. dt. 16.6.1980, Cols. 116-20)

449. Ministers: A Minister who has ceased to be a member can answer questions in the House as per article 75(5) which sustains him as a Minister for six consecutive months, no fresh oath required

On 27 April 1982, during the question hour when the Minister of State in the Ministry of Finance, Shri Sawaisingh Sisodia rose to reply, Shri Sadashiv Bagaitkar pointed out that the Minister had ceased to be a member of the House on 2 April 1982 and enquired whether he was continuing as Minister under the provision in the Constitution where under six months could be granted and if so would he not have to take an oath anew? The Chairman said that he would study the problem.

On 5 May 1982, the Chairman gave a ruling on the point raised whether a Minister who ceased to be a member could answer questions in the House, thus:

Objection was taken recently, during the question hour, when an hon'ble Minister, who has ceased to be a member of the House, by efflux of time, began to answer a question as Minister. It was argued that his oath as Minister 'had run out' and he must be freshly appointed and sworn in as a Minister before the provisions of article 75 (5) of the Constitution can apply to him.

I reserved my ruling but allowed the Minister to reply on behalf of Government to the question. I now proceed to give my ruling.

My attention has been drawn to the proceedings in this House on 3 April 1970, when an identical question had arisen. The matter was very exhaustively debated, but the Deputy Chairman was not called upon to express his opinion as the Minister then had resigned. The Attorney-General, however, gave an opinion upholding the claim of the concerned Minister to act as such. I have read the debate and the opinion of the Attorney-General. I agree with that opinion.

In my view, the position is clear beyond doubt and is also supported by precedents in the House to which the Leader of the House, including his own case, drew attention. Of course, the practice and precedents of the House cannot prevail against the Constitution and the laws and the matter must be set at rest once and for all. In my opinion, I rely upon the provisions of the Constitution itself.

Article 75(5), which is the relevant provision, reads as follows and please mark the words:

A Minister, who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

The sub-article opens with the words "a Minister" and not the words "a person." This points to the fact that a Minister can continue for six consecutive months as a Minister whether such a person be newly sworn in as a Minister or continues as Minister, having been sworn in before the expiry of his term. If it was intended otherwise the sub-article would have read:

A person who is not a member or ceases to be a member of either House of Parliament may be sworn in as a Minister but if for any period of six consecutive months he is not a member of either House of Parliament he shall, at the expiry of that period, cease to be a Minister.

The force of the words "six consecutive months" leads to the conclusion that the Minister cannot cease to be a Minister during that period so long as at the commencement of the period he was a Minister. There is no break in the continuity by the fact of his ceasing to be a member of either House.

As to the oath, it may be said at once that a Minister takes two oaths – one as a member of the House and the other as Minister before entering upon that office. The former lapses as he cannot be sustained by any law as a member, but the second does not because article 75(5) sustains him as a Minister for six consecutive months by the force of the Constitution itself. There is no need for a fresh oath. The oath ensures for this purpose.

(R. S. deb. dt. 27.4.1982, Cols. 3-5; 5.5.1982, Cols. 193-95)

450. Ministers: A Minister is not obligated to lay on the Table of the House a dispatch or other State Papers if he gives in his own words a summary or gist of such dispatch or State Papers

On 9 March 1984, the Minister of Law, Justice and Company Affairs, Shri Jagannath Kaushal, was replying to a calling attention moved by Shri Lal K. Advani, relating to the situation arising out of the decision of the Supreme Court in setting aside the election of a candidate from Parur Assembly Constituency in Kerala, held in 1982, where electronic voting machine was used. Shri Lal K. Advani raised a point of order wherein he said:

The hon'ble Law Minister has quoted 2 or 3 letters and under the rules, letters that are cited have to be laid on the Table of the House. Therefore, so far as these specific letters are concerned, he is obligated to lay them on the Table; but my submission is that in order to enable the House to understand the entire issue in perspective, all correspondence between the Election Commission and the Government in respect of electronic machines should be laid on the Table of the House... So far as these two or three letters are concerned, he is obligated; he must lay them on the Table of the House; in fact, I can cite the Rules.

When Shri Jagannath Kaushal was arguing against the necessity of laying the entire correspondence on the Table of the House, Shri Lal K. Advani reiterated that it was obligatory on the part of the Minister to lay on the Table the two letters that the Minister had quoted in his reply.

As the Minister sought the ruling of the Chair in this regard, the Deputy Chairman observed:

Rule 249 is clear on this. Whatever the hon' ble Minister has said is there in the statement also. Kindly see the second proviso to rule 249. It says:

Provided further that where a Minister gives in his own words a summary or gist of such dispatch or State Paper it shall not be necessary to lay the relevant papers on the Table.

Not yet convinced, Shri Lal K. Advani quoted rule 249 which says:

If a Minister quotes in the Council a dispatch or other State Paper which has not been presented to the Council, he shall lay the relevant paper on the Table.

Shri Advani said that it was, therefore obligatory and the Minister had no option. He also stated that hundreds of rulings could be cited in that regard.

Thereupon, the Deputy Chairman observed thus:

Mr. Advani, you should see the second proviso to rule 249. Whatever he has said, he has put in his statement.

(R.S. deb. dt. 9.3.1984, Cols. 239-41)

451. Ministers: The Minister can withhold information if necessary

On 28 November 1985, in his supplementary to starred question no. 152 relating to air violations by Pakistan and China in Jammu and Kashmir, Shri M. S. Gurupadaswamy wanted to know the number of violations from the Minister. In answer to this query when the Minister of State in the Department of Defence Research and Development, Shri Arun Singh, gave the reasons for not giving the number of violations, the Chairman commented:

The point that the Minister is making is valid. What he says is that if you give the number of violations and if there are more violations than what you have given, then it will give the impression that they can do these violations with impunity without being detected. I think it is all right.

(R.S. deb. dt. 28.11.1985, Cols. 13-14)

MOVING OF A MOTION

452. Ministers: Moving of a motion: A motion can be moved by a Minister though listed in the name of another Minister

On 21 August 1990, the Deputy Chairman called the Minister of Environment and Forests, Shri Nilamani Routray, to move the motion for election to the Animal Welfare Board of India.

Shri Suresh Kalmadi stood up and said, "Madam, this is wrong. It is listed in the name of Shrimati Maneka Gandhi and she alone has to move it."

On this issue, the Deputy Chairman observed as follows:

Mr. Routray is not only a Minister, but he is also a Cabinet Minister and that too in the same Ministry. He is a senior Minister and he is in his full right to do what he has done.

(R.S. deb. dt. 21.8.1990, Cols. 253-54)

REPLY

453. Ministers: Reply: Normally, the Minister concerned should reply to the discussion on a Bill, others may do so with prior permission of the Chairman

On 15 November 1976, when the Chairman asked Shri Jagannath Pahadia, the Deputy Minister in the Ministry of Communications, to reply to a discussion on the Gujarat Appropriation (No. 2) Bill, 1976, some of the members objected to this and desired that the reply be given by the Finance Minister and not by the Deputy Minister of another Ministry.

There was a discussion on this point and the Chairman observed:

No further discussion please. He has written to me and I have allowed him. Let him speak because it is the responsibility of one of the Ministers. Nobody can say that such and such Minister should only reply. The practice is that the Minister pertaining to that Ministry should reply and we will keep a note of that.

(R.S. deb. dt. 15.11.1976, Cols. 32-35)

454. Ministers: Reply: Ministers cannot make all statements about everything in the House

On 21 March 1980, during a discussion on a calling attention matter regarding some reported secessionist movement in the northeastern region of the country, Shri Nageshwar Prasad Shahi pointedly asked the Government whether they had information that foreign missionaries financed by the CIA were operating in that region and leading the secessionist movement. The Minister of State in the Ministry of Home Affairs, Shri Yogendra Makwana, replied that everything could not be stated in the House. Immediately, Shri G. C. Bhattacharya asked under what rule the Minister could withhold the information. Shri Yogendra Makwana said that it was not advisable in public interest to give the information. Shri Bhattacharya insisted on a ruling from the Chair on the question.

Thereupon, the Chairman observed:

Mr. Bhattacharya, you must understand that there is a certain responsibility on the Government and the Ministers of the Government cannot make all the

statements about everything in the House, especially where foreign countries are involved...

Shri Nageshwar Prasad Shahi interjected to say that it was a question involving the integrity of the country and so it should not be taken lightly.

The Chairman then observed:

No, it would be enough for the Minister to say that he is bearing all this in his mind.

(R.S. deb. dt. 21.3.1980, Cols. 132-53)

455. Ministers: Reply: Minister's reply cannot be questioned

On 21 March 1985, Shri Lal K. Advani raised a point of order on some remarks made by the Prime Minister about the city of Calcutta.

Thereupon, the Chairman ruled:

I have heard Mr. Advani and I know the point which is being raised. The Minister can give any reply. It may be liked by you or may not be liked by you. You cannot question it.

(R.S. deb. dt. 21.3.1985, Cols. 151-54)

456. Ministers: Reply: Minister should not be confronted while replying to questions

On 24 July 2001, questions* relating to the Unit Trust of India (UTI) were being answered by the Minister of Finance, Shri Yashwant Sinha. Some of the members kept intervening when he was replying and asked the Finance Minister to own the responsibility and resign.

The Chairman observed:

This is question hour. It is not a question of confronting the Minister. Mr. Pranab Mukherjee has put certain questions. The Minister wants to reply. He is replying to his question. The question of resignation does not arise in the question hour.

(R.S. deb., dt. 24.7.2001, pp. 8-23)

457. Ministers: Reply: Raising of points disallowed after Minister's reply

On 18 March 2006, during a discussion on the working of Ministry of Labour and Employment after the Minister of Labour and Employment, Shri K. Chandra Sekhar Rao concluded his reply, Shrimati N.P. Durga raised some points.

The Vice-Chairman asked her to ask a question or seek a clarification on the Minister's reply and objected to the raising of points. He observed:

*Question nos. 23, 33 and 38 were taken together.

Only ask a question... You can ask a question or seek a clarification on that.
Don't raise a point.

(R.S. deb. dt. 18.3.2006, p. 12)

458. Ministers: Reply: Mistakes in the Minister's reply should be raised as a separate subject

On 14 March 2008, the Minister of Agriculture and Minister of Consumer Affairs, Food and Public Distribution, Shri Sharad Pawar, was replying to the starred question no. 223 regarding review of policy of permitting big retail corporate, raised by Shri Santosh Bagrodia and Shri Kalraj Mishra. Shri Santosh Bagrodia interrupted the Minister stating that he had asked about the Economic Survey and the Minister was not replying to that.

Thereupon, the Chairman remarked:

If there is a mistake in the reply, you raise that subject separately.

(R.S. deb. dt. 14.3.2008, p. 13)

459. Ministers: Reply: Minister may reply to the debate the way he likes

On 30 April 1987, replying to a half-an-hour discussion on the points arising out of the answer given to starred question no. 123 on 23 April 1987, regarding credit to M/s. Reliance Industries Ltd., Shri Janardhan Poojari tried to overlook certain points raised by Shri Jaswant Singh. The Minister wanted to go by the list of business. Shri Jaswant Singh pointed out that the Chairman had already granted permission to raise the points. He further pointed out that if the Minister went only by the list of business and overlooked the direction of the Chairman, then a grave wrong would be committed to the Rules of Procedure of the House.

To this the Vice-Chairman, observed:

I have considered the points raised by Mr. Jaswant Singh. In the notice submitted by any member to the Chairman, the member concerned has to mention the points which he wishes to raise during the half-an-hour discussion. It is matter of fact that Mr. Jaswant Singh did mention three points considering which the Chairman has permitted this matter to be raised in the House. Thereafter, the House as such goes by the list of business, that is, the agenda mentioned there. The points on which the hon' ble member was asking for a discussion are the points which he has to raise to enable the Chairman to take a decision on the notice. Thereafter, the Minister elucidates the answer given by him to reply to the main question. I would, therefore, hold that it is for the Minister to reply to the debate the way he likes.

(R.S. deb. dt. 30.4.1987, Cols. 344-47)

460. Ministers: Reply: Ministers must give adequate reply to a question

On 16 November 1987, Shri Vengal Rao was replying to a starred question about sales turn-over of ascorbic acid, put jointly by Shri Ratnakar Pandey and Shri Rajni Ranjan Sahu during the question hour. The members were not satisfied with the reply of the Minister. Seeking the protection of the Chairman, Shri Jagesh Desai said that the Minister's reply is inadequate.

Thereupon, the Chairman remarked:

Members want that their questions should be answered and what they say is correct also. You cannot tell them that they should go to the library and see the report. You must come up with answers. If you are not prepared today I will put it for the next day... You must take the feelings of the members of the House and give adequate answers. We can have it on the next day. You should come with adequate answers and with adequate preparation.

(R.S. deb. dt. 16.11.1987, Cols. 19-24)

461. Ministers: Reply: Ministers should send replies to the issues raised by the members in the House

On 1 August 1995, after the papers were laid on the Table of the House, some members including Shri K. L. Sharma raised certain issues. Then, Prof. V. K. Malhotra observed that there should be some response by the Government on the issue raised by Shri K. L. Sharma. Shri S. S. Ahluwalia said that earlier all the issues raised with the permission of the Chairman were replied to by the Ministers in 15 to 20 days.

As Shri S. S. Ahluwalia requested the Chair to give a ruling on the matter, the Deputy Chairman ruled:

...whatever issues are taken up here please send them. It is a tradition of this House that they (the Ministers) should reply. Whichever replies they can send immediately, they can send within some short period. But, if they need any time, they can at least write to you or to the members that they need some time. If there are State matters or others they may be requiring some time. But the members should at least know that if they have taken the time of the House, somebody is bothered about it.

(R.S. deb. dt. 1.8.1995, Cols. 239-40)

462. Ministers: Reply: After a matter is raised in the House, the Minister has a right to reply if he desires to do so

On 8 May 2002, Shri Suresh Pachouri with the permission of the Chair raised a matter relating to purchase of coffins/caskets at a higher price during the Kargil War. Several members began speaking on the matter and Shri Nilotpal Basu said that as it was a serious development, the Prime Minister should come and make a statement. At this juncture, the Chairman

asked Shri George Fernandes, Minister of Defence, who was present in the House, if he would like to reply. The Minister expressed his desire to do so. Members, however, strongly protested saying that they did not recognize him as Defence Minister and that the Prime Minister should come to clarify. Thereupon, the Chairman said:

He has a right to say... Minister has a right to reply. First, he will reply and then other things will be taken... Mr. Pachouri had asked for my permission, and I gave him permission and, while he was speaking, the hon'ble Minister was present; according to the rule, he has a right to reply.

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...He is a Minister. Let him speak. I have already given my ruling. Mr. Suresh Pachouri has spoken. Now the Minister is there to reply.

(R.S. deb. dt. 8.5.2002, pp. 182-86)

STATEMENTS

463. Ministers: Statements: When simultaneous interpretation is available, no need to furnish a copy of the Minister's statement in Hindi made on the floor of the House

Shri Rajnarain raised a point of order regarding not making available a copy in Hindi of the statement of Minister.

The Deputy Chairman said that the statement was not laid on the Table but was made by the Minister on the floor of the House.

When Shri Rajnarain stated that as the answers to questions were made in Hindi as well as English, in the same way the statement should also be in Hindi and English. The Deputy Chairman observed:

Any hon'ble Minister or member can speak in this House in any language — either Hindi or English. He has chosen to speak in English. This is only a statement made by him and it is not necessary that there should be a translated copy of that statement...

When the statements are read in the House, they are interpreted simultaneously as well.*

(R.S. deb. dt. 17.11.1971, Cols. 182-83)

464. Ministers: Statements: No questions should be asked while the statement is being made

On 5 December 1978, after the Minister of State in the Ministry of Home Affairs, Shri S. D. Patil made a statement regarding arrest of Miss Saroj Khaparde, several members sought clarifications, drawing the attention of the Minister to some inconsistencies in his statement.

*Spoke in Hindi.

On this the Vice-Chairman observed:

Hon'ble Mr. Ranga is a very well-known, seasoned parliamentarian and he knows that when a Minister makes a statement, no questions can be put.

Thereupon, Shrimati Ambika Soni, while agreeing with the observations of the Vice-Chairman, stated that the arrest, release and re-arrest of a Member of Parliament was not a thing of daily occurrence and that the Minister could be compelled to answer the points arising out of the statement made by him, which the Minister later on did.

(R.S. deb. dt. 5.12.1978, Cols. 265-66)

465. Ministers: Statements: No questions should be asked while the statement is made

On 18 March 1980, the Minister of State for Home Affairs, Shri Yogendra Makwana, wanted to make a statement regarding the reported burning of huts of Harijans in Moradabad. Some members who had given notice of calling attention on the subject, objected to this. The Chairman, appreciating the feelings of the members, directed the Minister concerned to make his statement on the next day, when the calling attention on the subject was to be taken up. He also observed:

I have been reading the rules for 52 years. The position is a very clear one that a statement may be made by a Minister on a matter of public importance with the consent of the Chairman ... But no questions shall be asked at the time when the statement is made.

(R.S. deb. dt. 18.3.1980, Cols. 146-58)

466. Ministers: Statements: Minister can make a statement even when a calling attention on the same subject has been admitted for a following date

On 18 March 1980, when the Chairman indicated that the Home Minister was going to make a statement on the reported burning of Harijan huts in Moradabad, Shri Buddha Priya Maurya, raising a point of order, asserted that since he had given a notice of a calling attention on it, the Minister had no right to make a statement on the subject before taking up the calling attention which was likely to be admitted for the next day. He, therefore, requested that the members should be given full opportunity, before the Minister made the statement, to express their viewpoints and raise questions so that the Minister could satisfactorily answer them. Shri Rameshwar Singh pointed out that when special mention and calling attention matters were pending with the Chair, the Minister's statement should not be thrust upon the members. The Chairman suggested that the Minister might postpone his statement till the calling attention was taken up the next day. The Leader of the House, Shri Pranab Mukherjee, drawing the attention to rule 251 stated that the Minister or the Government had the right to make

a statement on the floor of the House on any important subject at any time. The Chairman, however, felt that because of tense feelings in the matter, it would be better if the statement could be made on the next day. At this, Shri Pranab Mukherjee again drew the attention of the Chair to rule 251. The Chair unequivocally observed that if a Minister found it necessary to make a statement on the floor of the House, after seeking the permission of the Chair, he was entitled to make a statement irrespective of the fact whether a calling attention notice or a special mention notice was pending or not.

The Chairman agreed with the position that the Minister did have a right to make a statement but it could as well be done on the next day lest the matter should drag on. He agreed with the right of the Minister to make a statement, adding that he would permit a full debate on the subject the following day. As this did not satisfy some of the members, the House was adjourned earlier than scheduled and the Chairman called a meeting of the members available in his Chamber for a discussion on the subject.

When the House resumed its sitting after the lunch recess, the same matter was raised again, the Deputy Chairman observed:

I will inform the House of what transpired after we adjourned for lunch. Hon'ble Chairman held consultations with a number of members who were available and after the discussion what he directed was this:

Hon'ble Minister may be allowed to make the statement today. No questions would be asked after that and the calling attention motion would be admitted for tomorrow for regular discussion.

(R.S. deb. dt. 18.3.1980, Cols. 146-60)

467. Ministers: Statements: Statement should be made on the same day, if not simultaneously, in both Houses

On 18 June 1980, when the Minister of External Affairs, Shri P. V. Narasimha Rao, was making a statement in the House regarding his official visit to the USSR, some hon'ble members took objection saying that a statement on the subject had already been made in the other House on the previous day and the newspapers of the day had already published it, and that no useful purpose would be served by the Minister making a similar statement in the House.

Thereupon, the Vice-Chairman remarked:

It is a very desirable practice that if a similar statement has to be made in both the Houses, it must be made, if not simultaneously, at least on the same day.

(R.S. deb. dt. 18.6.1980, Cols.206-10)

468. Ministers: Statements: Statement should be made by the Minister on the same day in both Houses

On 1 December 1992, Shri Yashwant Sinha demanded a statement in Rajya Sabha regarding the situation in Ayodhya. He said that there was an announcement on television that the Government would make a statement in Lok Sabha, therefore, he insisted that the statement should also be made in Rajya Sabha. But the Government did not make any statement.

In this context, the Deputy Chairman made the following observations:

There are two issues. One issue which was raised was whether Doordarshan has announced that the Minister will make a statement only in Lok Sabha. So if he is making a statement in the other House, he should make it here also.

(R.S. deb. dt. 1.12.1992, Cols. 279-82)

469. Ministers: Statements: Seeking clarifications on the statement made by a Minister is not in accordance with the Rules

On 4 October 1982, the Minister of Irrigation, Shri Kedar Pande, made a statement regarding flood situation in the country. Some party whips sought clarifications. Some other members, including Shri Hukmdeo Narayan Yadav, Shri Shiv Chandra Jha and Shri Rameshwar Singh also wanted to seek clarifications.

The Vice-Chairman ruled:

No clarification can be asked. And, therefore, this is the indulgence by the Chair that some clarifications are being allowed, but surely there must be some regulation. Some members want to monopolize all the time. How can that be accepted? You are talking of Rules. Please read the Rules carefully. According to the Rules no clarification can be asked. Please sit down. "A statement may be made by a Minister on a matter of public importance with the consent of the Chairman, but no question shall be asked at the time the statement is made." The rule is quite clear. But this has been the tradition in this House that whenever statement of some urgent public importance is made, the Chair does allow a few questions in the form of clarification to be replied by the Minister. But surely on the basis of that I cannot be pressurised that every member, and especially those who have spoken, can go on asking clarifications. The business of the House has also got to be regulated; and I seek the co-operation of all sections of the House in going through the business. After all, the Business Advisory Committee also follows certain norms in this matter. I am applying the same norms. And what did I say? That in order to be fair and equitable to all sections of the House, those who have already had the opportunity of seeking clarification from the Minister on an earlier subject will not be allowed, because the time is not there, and that too because at least a dozen members have sent their names for asking clarification on this statement. In view of this situation, I am sure, the House will appreciate that some kind of regulation is necessary. If Mr. Jha wants to speak on every subject, I am afraid, the time of the House is limited.

(R.S. deb. dt. 4.10.1982, Cols. 272-75)

470. Ministers: Statements: It is not customary to allow explanations on the statement made by a Minister

On 29 August 1985, the Minister of State in the Ministry of Home Affairs, Shri Arif Mohd. Khan made a statement in the House correcting the replies given in Rajya Sabha on 8 August 1985, to supplementary questions arising out of the answer to starred question no. 244 regarding steps to prevent communal riots. With the permission of the Chair, Shri Syed Ahmad Hashmi wanted to seek clarification. But, as he was giving examples before putting the question, the Chairman disallowed it, saying:

First thing please understand that it is not customary to allow any explanations. You came and mentioned to me one thing that this is just a simple thing where you wanted a clarification. I said I will allow it but since you are explaining it, you may write to the Minister and he will send you a reply.

(R.S. deb. dt. 29.8.1985, Col. 6)

471. Ministers: Statements: Members can seek clarifications only after the statement has been made and not when the announcement about making the statement is made

On 17 March 1986, the Chairman made an announcement that the Home Minister would be making a statement regarding the escape of prisoners from the Tihar Jail, Delhi. A member wanted to seek clarifications on that incident immediately.

The Chairman observed:

No, nothing will go on record. Usually, permission is given only when the Minister is not making a statement. But now you have an opportunity to ask for clarifications when the Home Minister makes his statement in the afternoon.

(R.S. deb. dt. 17.3.1986, Cols. 290-91)

472. Ministers: Statements: Minister may reply to the clarification the next day, if he happens to be busy in the other House

On 1 December 1986, the Minister of State in the Ministry of Home Affairs, Shri Chintamani Panigrahi, made a statement regarding the killings of innocent bus passengers in Punjab on 30 November 1986. Some members wanted the Minister of Home Affairs, Shri Buta Singh, to be present there so that they could seek clarification from him.

Thereupon, the Deputy Chairman observed:

The Minister is in the other House. He cannot be present in both the Houses at one and the same time. If it is possible for him to come today, he will do so. Otherwise, he will reply tomorrow.

Prof. C. Lakshmanna wanted to know whether the Minister of State would reply to the clarifications that the members might seek on the statement. The Minister of State in the Ministry of Parliamentary Affairs, Shri M. M. Jacob also wanted that in the interest of the whole House the Minister of Home Affairs should reply to the clarifications the next day as he was busy in the other House.

The Deputy Chairman further observed:

...because we are discussing very serious issue, in the morning also, putting all conventions aside, the Chairman himself has moved a sort of resolution and everybody agreed with him. So we need not quote this convention at this juncture. And I would like the members to put forth their views if they want, and if they want to seek any clarification they can do so. If the Minister of Home is available he would come. Otherwise, he will reply tomorrow morning. If you want to seek any clarification, I am ready to allow.

(R.S. deb. dt. 1.12.1986, Cols. 321-26)

473. Ministers: Statements: Minister must supply copies of the statement to be made in the House immediately

On 24 February 1987, when the Minister of State in the Ministry of Home Affairs, Shri P. Chidambaram, was about to make a statement on the situation in Punjab, some members complained that they were not supplied with copies of the statement.

Not satisfied with the explanation of the Minister that "the copies are on the way", the Chairman observed:

Your point is well taken. On all important matters like this, Mr. Minister, you should have statement circulated to the members immediately. They should be supplied even when the Minister starts making the statement. Otherwise, how will they follow? It will be very difficult for them to follow. I will suggest one thing. Mr. Minister you get these copies ready..

(R.S. deb. dt. 24.2.1987, Col. 228)

474. Ministers: Statements: When a Minister makes a statement it is presumed that he has read the statement properly

On 11 March 1987, Shri Jaswant Singh, participating in the discussion on the Budget (General) 1987-88, alleged that the Prime Minister who was also the Finance Minister had presented the Budget without reading it properly.

The Deputy Chairman ruled out the allegation, saying:

When any Minister makes a statement it is presumed that he has read it. You cannot say that the Prime Minister has not read it.

(R.S. deb. dt. 11.3.1987, Col. 228)

475. Ministers: Statements: Members can seek clarification on a *suo motu* statement made by a Minister

On 18 August 1989, the Minister of State in the Ministry of Home Affairs made a statement on violent incidents in Gohpur area of Assam. Some members sought clarifications. Shri Anand Sharma while seeking clarification raised a point that if his question emanated from the statement made by the Home Minister and in the form of a clarification which he attributed to certain facts, could he be compelled to give a prior notice?

The Deputy Chairman ruled:

I gave my ruling right at the beginning that on any Minister's *suo motu* statement, all those members who want to seek a clarification, they have a right to seek a clarification in this House.

(R.S. deb. dt. 18.8.1989, Cols. 203-04)

476. Ministers: Statements: Ministers are responsible for the statements made by them

On 25 March 1992, the Home Minister, Shri S. B. Chavan, made a statement on the Ram Janmabhoomi-Babri Masjid issue in the House. Members sought clarifications on the statement, and in between the Home Minister said:

I must make one point. If you do not mind, you have to make a distinction between the version given to us by the U.P. Government and the inference of the Central Government. These are two distinct matters.

So far as the Government is concerned, though I may be having some other point of view, I will rely on what the State Governments have given to me. This is their version which I am giving you. That does not necessarily mean that this is my point of view.

Some members took exception to the observation made by the Home Minister. Shri Yashwant Sinha, while making his point of order said that whenever a Minister of the Government made a statement in the House, he had to own the facts of that statement. The member also asked "whether they should take it that the Home Minister did not agree with the facts which had been submitted to him by the U. P. Government and whether the Home Minister was acting as a transmission station." Some members including Shri Dipen Ghosh, Shri Gurudas Das Gupta and Shri S. Jaipal Reddy also made similar points of order.

Responding to the queries of some members as to whether the Home Minister took the responsibility for the facts in the statement, the Vice-Chairman gave the following ruling:

Mr. Sinha, the very fact that he has made the statement means that he is taking the responsibility for it.

(R.S. deb. dt. 25.3.1992, Cols. 347-84)

477. Ministers: Statements: No clarification should be sought after the Minister's reply

On 16 August 1993, while the Minister of State in the Ministry of Home Affairs, Shri Rajesh Pilot, was replying to the clarifications on the statement made by him, Shri Vishnu Kant Shastri tried to ask some question.

Thereupon, the Vice-Chairman gave his ruling:

There cannot be any clarifications after the Minister's reply.

(R.S. deb. dt. 16.8.1993, Cols. 272-73)

478. Ministers: Statements: A *suo motu* statement shall be read out and not laid on the Table

On 22 August 1995, when the Minister of State in the Ministry of Home Affairs, Shri Rajesh Pilot wanted to lay a *suo motu* statement regarding the escape of LTTE cadres from the Vellore Special Camp in North Arcot Ambedkar District of Tamil Nadu, Shrimati Jayanthi Natarajan raised a point of order and objected to the Minister laying the statement on the Table of the House. She contended that it would deprive the members of their right to seek clarifications on the statement.

The Deputy Chairman ruled:

In the past a statement was never laid. If there is a *suo motu* statement, it has to be read out. Since the statement is a *suo motu* statement, it has to be read out whenever the House permits him. If the time is not there then, we can fix up some other time and clarifications can follow after it has been read out..

(R.S. deb. dt. 22.8.1995, Col. 222)

MOTIONS

ADMISSIBILITY

479. Motions: Admissibility: Appointment of two separate Commissions of Inquiry to inquire into allegations of corruption against the family members of the Prime Minister and those of the former Home Minister is in order

Shri Rabi Ray, rising on a point of order, said that under rule 169(i) of the Rules of Procedure and Conduct of Business, it is stated, "It shall raise substantially one definite issue... " He said that no definite issue had been raised in the motion of Shri Salve. He referred to the provisions of the Commissions of Inquiry Act, 1952 which said:

The Commissions shall have the powers of a Civil Court while trying cases under the Code of Civil Procedure in respect of the following matters for summoning evidence and examining them on oath...

He added that there was no significant evidence before the House to admit the said motion. He also referred to the Santhanam Committee's Report which said:

Specific allegations of corruption on the part of a Minister at the Centre or a State should be promptly investigated by an agency whose finding will command respect...

According to Shri Rabi Ray, neither any memorandum had been submitted to the President nor any ten Members of Parliament had alleged misuse of power on the part of the Prime Minister. He, therefore, urged upon the Chair to reconsider the matter and said that the motion should not be admitted.

Shri K. B. Asthana supporting the contention of Shri Rabi Ray pointed out that clauses (iii), (iv) and (vi) of rule 169 of the Rules of Procedure and Conduct of Business had been violated by the motion. Clause (iii) of rule 169 says:

It shall not refer to the conduct or character of persons except in their public capacity...

Shri Asthana contended that relations of the Prime Minister and the former Home Minister had no public capacity in the eyes of law. According to Shri Asthana, the mover of the motion did not disclose any matter of recent occurrence in the resolution, as required under clause (iv). He further contended that the motion violated section 3 of the Commissions of Inquiry Act, according to which, Rajya Sabha had no jurisdiction over the matter, and that the motion had been wrongly admitted in its present form as it was a resolution covered by Chapter XI of the Rules of Procedure and fell

outside the scope of rule 167. It also did not disclose *ex facie* any definite matter of public importance. At this stage, he referred to two Supreme Court judgements to define as to what a matter of public importance was.

Shri Pranab Mukherjee did not agree with the contention of Shri Rabi Ray and Shri Asthana. According to him, the motion had been admitted by the Chair under rule 170. He said that the motion clearly brought out one substantial definite issue before the House to recommend to the Government to institute a Commission of Inquiry. Referring to Mr. Asthana's plea, Shri Mukherjee said that the relations of the Prime Minister and the former Home Minister utilised the respective offices to further their individual gains and, therefore, they come within the purview and within the ambit of the Commissions of Inquiry Act.

The Deputy Chairman observed:

We had enough discussion and I think I will have to make some observations.

Objections have been raised by hon'ble Shri Rabi Ray and hon'ble Shri Asthana regarding the admissibility of the motion, contending that it has not been properly admitted. And the reasons they have given, among other things, are that it is violative of rule 169 and the conditions laid therein. The first condition which has been objected to by Shri Rabi Ray says that it shall raise substantially one definite issue. Well, I think a reading of the motion would suggest that there is certainly a definite matter which is before us, which means substantially one definite issue. Whether we agree with the issue or otherwise, that is a different matter. But there is certainly an issue in the operative part of the motion and to that extent I think it is admissible.

Then, it has been suggested and argued that it is violative of other sub-sections of rule 169, namely that it shall not contain arguments, it shall not refer to the conduct or character of persons except in their public capacity, it shall be restricted to a matter of recent occurrence. Well, without going into the details, whether it is a matter of recent occurrence or not, I think a general reading of these provisions would suggest that these provisions have been substantially complied with in the framing of the motion.

Hon'ble member, Shri Asthana, objects on other counts also, namely that the motion is without any foundation and violates section 3 of the Commissions of Inquiry Act. Well, I do not think this is the state when we can say whether the motion is violative of this or any other Act.

That is not the consideration before us when admitting the motion. Therefore, I think, this argument also is not very relevant so far as the discussion on today's motion is concerned. Hon'ble Shri Asthana makes another observation regarding this motion that the motion would be an exercise in futility and would not be consistent with the prestige and the dignity of the House as it would be without any effect.

Now, the limited point before us is whether it should be taken up for discussion and whether it has been properly admitted. What effects it will have, whether it will be futile or not, is again something with which we are not concerned at this stage. I think that point has also not been well taken. Therefore, looking to the provisions of our rules and the arguments that

I have heard and, above all, looking to the precedents which indicate that similar motions have been accepted in this House for discussion, I hold that it has been properly accepted and we proceed with the discussion.

(R.S. deb. dt. 10.8.1978, Cols. 235-52)

AMENDMENTS

480. Motions: Amendments: Moving of amendments to a motion after the debate has commenced may be allowed if the House has no objection

On 26 November 1973, after a motion for consideration of Twenty-second Annual Report of the Union Public Service Commission was moved, the Chair announced that there were thirty amendments given notice of by Shri Bhupesh Gupta, but since he was not present, the said amendments could not be moved. The House then proceeded with the discussion on the motion. In the midst of the discussion Shri Bhupesh Gupta entered the House and sought permission of the Chair to move his amendments at that stage as he could not be present in the House at the appropriate stage due to certain special circumstances. The Deputy Chairman said that Shri Bhupesh Gupta had himself agreed that moving of amendments at a stage other than immediately after the motion was moved, was against the practice and, therefore, he did not want to create an anomalous position by creating any new precedent. But when Shri Bhupesh Gupta repeatedly pleaded with the Chair to exercise the discretionary power and permit him to move his amendments at that stage as an exception, taking into consideration the special circumstances that existed then, the Deputy Chairman said:

May be if the House does not have any objection, then I will use my discretion... It is not going to be a precedent. Let me make it very clear... I will not establish any precedent today. As the situation today is, I am prepared to make an exception and let him move if the House has no objection.

(R.S. deb. dt. 26.11.1973, Cols. 131-37)

GENERAL

481. Motions: Members should not raise a matter, which is not on the agenda, without informing the Chairman before hand

Shri Bhupesh Gupta immediately after the question hour, referred to a news item in the dailies that the Government proposed to amend the Constitution with a view to guarding itself against payment of damages for illegal detentions under the Defence of India Rules and wanted to know from the Government whether that was correct.

The Chairman said:

In future I would very much wish that if a matter like this has to be brought

before the House – which is not on the agenda paper – I should be told beforehand... whenever it would be on the agenda, it would be duly taken up, and if matters that are not on the agenda have to be mentioned here, then I should be first told...

(R.S. deb. dt. 18.11.1963, Cols. 92-94)

482. Motions: Motion admitted under rule 170 can be listed for discussion under rule 176 according to practices and conventions of the House

A notice of a motion for discussion on the Reports of the Shah Commission by Shri N. P. C. Naidu was admitted under rule 170 and notified as no-day-yet-named motion in the Bulletin dated 15 November 1978. Subsequently, the names of some other members were appended to the motion. The Business Advisory Committee at its meeting on 8 December 1978, recommended that the Report should be discussed under rule 176. Accordingly, the motion was listed for discussion under rule 176 in Bulletin Part II, dated 8 December 1978 and included in the list of business. Shri Bipinpal Das and several other members objected to this procedure and wanted to know under what authority the conversion from rule 170 to rule 176 was done.

On 13 December 1978, the Deputy Chairman observed:

We have had enough of debate, as it is. Two points have broadly been raised by the hon'ble members. The first point that was raised by Shri Bipinpal Das is regarding the admission of motion for discussion by the Business Advisory Committee and, what he called, contradictory publications in the Bulletin. It is true that there is a lot of confusion on this though the Chairman tried to clarify this. What I would suggest is that, if found necessary, a fuller explanation of the practices as they developed in our House and under which it was done, should be given to the House. I think, we should try to set the record straight because unnecessary difficulties are being experienced, a lot of doubts have been raised about the functioning of the Secretariat...

It all means this because we have a certain practice of combining names of persons who move such motions, under different sections, rules and things like that. So, my request to the hon'ble members is that if necessary a fuller statement of this would be given to the House.

Regarding the motion for appointment of a Committee to enquire into the charges against Shri Kanti Desai and others, the Chairman himself has said on that on a number of occasions what his stand is. His last pronouncement was that he is prepared to discuss that in the Business Advisory Committee meeting where all parties are represented. So, I would request the hon'ble members in the whole House to please leave the matter at that because the Chairman has agreed to discuss it in the Business Advisory Committee where all these things which are being said here could be said there and an attempt could be made to arrive at a satisfactory solution. He already said this; he offered this and, I think, the House would be good enough to accept that.

One more thing I would like to say. I would like to very humbly request the hon'ble members not to bring the Chair into any controversy, to put very mildly, as it is being done. After all, the rules – which means the whole House and the Constitution – entrusted the Chair with certain rights, responsibilities, etc. Now to say that the Chair is being pressurised by one side or the other would not be, I think, proper because it weakens the Chair and the authority that you have vested in it. It means, we are defeating the very purpose for which the Chair's authority has been enshrined in our Rules and the Constitution. I do not want to say more than this. And I leave it to your own discretion. If the difficulty is with the Government; as it obviously is and as one hon'ble member very rightly said, you can say all that you like to the Government. The peculiar position is that the Government says that they will abide by the decision of the Chair and the Opposition also says – it does not say it, but it says that the Chair is being pressurised... I would not like to enter into a big debate. With this only plea, I leave it to your good sense whether it redounds to the credit of the House or the effective functioning of the House if such remarks are constantly made against the Chair. Please consider this coolly. I do not want any comments now, any commitments or anything of this nature. I would request you to please think about it calmly and coolly whether it really helps us for the purpose for which we gather here. It is true that the situation in the House is very peculiar in that the Opposition has a majority and that is why this type of situation is being created. We have been used to a certain type of working all these years which has now been disturbed and the Opposition is in a majority. It has a right to say the thing it does and it is natural that it will feel a little offended if – what it considers to be the majority view – it is not allowed to have its say. How to solve it, I again leave it to you. My last appeal to you is, please do not involve the Chair in this because it serves neither this purpose nor that purpose.

The decision to admit the motion was taken by the Business Advisory Committee. I am not reflecting on or saying anything in regard to that. But I do feel, as many members of the House feel, that a fuller statement or explanation regarding the way it has been done, why it has been done under which rules and conventions it has been done, ought to come because it is a right of the House to know a little more about it.

My observation was on the limited point of giving a fuller explanation regarding the procedure that the Secretariat has followed and why these things and under what circumstances, it has been done. As regards the larger question, under which rule it should be admitted, that is a different matter and we are not concerned with it now.

Further, on 14 December 1978, explaining the position in detail, the Deputy Chairman observed:

We have had enough discussion on this. I do not think we should take more time except if the Leader of the Opposition or the Leader of the House wants to say something. If they do not want to say anything, I would like to clarify certain matters as I promised yesterday. Yesterday some points were raised – and today also – about the admission of the short duration discussion under rule 176 of the Rajya Sabha Rules on the Shah Commission's Report. I also announced that a fuller explanation as to the practices followed in the Secretariat may be given to the House today.

I have examined the matter as well as the entire file dealing with this subject.

The Secretariat had received from Shri N. P. Chengalraya Naidu a notice of a motion for discussion of the Reports of Shah Commission under rule 168 of the Rajya Sabha Rules. The notice was admitted under rule 170 and under rule 171 it was notified as a no-day-yet-named motion in the Bulletin dated 15 November 1978. Subsequently, notices on the same subject and under the same rule, *i.e.*, rule 168 were received on 13 November 1978, from Shri Kadershah and Shri Mulka Govinda Reddy and the names of these two members were appended *vide* Bulletin dated 22 November 1978, to the motion which already stood admitted in the name of Shri N. P. Chengalraya Naidu. Shri Harkishan Singh Surjeet and Shri Vishwanatha Menon gave a notice for raising a short duration discussion on the Shah Commission's Report under rule 176. This notice was received in the Secretariat on 7 December 1978. As per the practices obtaining in this matter the names of these two members were also appended to the motion already admitted and this fact was notified in the Bulletin dated 8 December 1978.

Since a long time the names of members who had given notices under rule 176 were appended to notices of motions already admitted as no-day-yet-named motion under rules 170 and 171. If no such motion under rule 170 was there, still the short duration discussion notices were converted into no-day-yet-named motions in the first instance and again revived as short duration discussion if and when it was decided to take up the subject for a short duration discussion notice under rule 176. The intention behind this procedure appears to be to keep all the members informed of the motions received on a particular subject.

The Business Advisory Committee at its sitting held on 8 December 1978, recommended that the Shah Commission's Report should be discussed under rule 176.

An announcement to this effect was made in the House on 8 December 1978 and the announcement was published in the Bulletin of that date. Notice received from Shri Harkishan Singh Surjeet and Shri Vishwanatha Menon under rule 176 which was converted earlier into no-day-yet-named motion was therefore considered afresh and admitted under rule 176... On 12 December 1978, Shri Shanker Ghose gave two notices on this subject – one under rule 168 and the other under rule 176... Therefore, all these notices, except that of Shri Naidu who is at present abroad, were admitted under rule 176 and a Bulletin to that effect was issued on 12 December 1978. The item in the list of business shows all these names.

In the past also, as stated by me earlier, this procedure has been followed and no objection was raised at any time. I, therefore, feel that no irregularity has been committed in this case.

So far as the decision of the Business Advisory Committee is concerned, I may point out that there was a demand for discussion on Shah Commission's Report and the Committee, in its wisdom, decided to recommend a discussion on this subject under rule 176. There are many precedents to this effect also.

(R.S. deb. dt. 13.12.1978, Cols. 215-20; 14.12.1978, Cols. 215-18)

483. Motions: Motion can be seconded by any member

On 28 April 1982, motions were moved for election of the Deputy Chairman. Dr. (Shrimati) Rajinder Kaur moved the motion 'that Shri Dinesh Goswami

be chosen as the Deputy Chairman of Rajya Sabha'. Shri Manubhai Patel seconded the motion because the seconder of the motion, as per the list of business was absent. At that point, Shri Lal K. Advani, questioned the propriety of another member to second the motion in the absence of the seconder as per the list of business.

Dismissing Shri Advani's plea, the Chairman ruled:

Under the ordinary law of meetings, if a motion has been moved and if the seconder is not present, it can be seconded by anybody.

(R.S. deb. dt. 28.4.1982, Cols. 153-56)

MOTION FOR PAPERS

484. Motions: Motion for papers: Motion for papers cannot be moved on a matter about which the Minister concerned had in the recent past made a statement

Shri C. G. K. Reddy requested the Chairman to give a ruling on the admissibility of his motion for papers regarding Mr. Justice Wanchoo's Report on a separate Andhra State.

The Chairman ruled:

I am afraid, Mr. Reddy, the motion cannot be allowed because we raised this question last week and the Home Minister gave a very carefully prepared statement. Nothing has happened in the meanwhile to warrant this motion for papers. I cannot admit it.

(R.S. deb. dt. 9.3.1953, Col. 2049)

485. Motions: Motion for papers: Motion for papers cannot be admitted if an early opportunity is available for the discussion of the proposed matter

Shri Lal K. Advani wanted to propose a motion for papers* asking for the CBI Report concerning import licences to certain parties of Yanam and Mahe to be placed on the Table of the House. The Chairman did not admit the motion for papers on the ground that on the same day they were having a full discussion under rule 176 on the subject.

In this connection, the Deputy Chairman observed:

Let me tell you something. You have given notice of your intention to move a motion for papers and the Chairman has not admitted it. You see rule 175(ii), that is, the second part of it – the second para – which says:

Provided that, if any early opportunity is otherwise available for the discussion of the proposed matter, the Chairman may refuse to admit the motion.

I say this because the discussion is already there under rule 176... this question of whether the CBI Report is to be placed or not to be placed or

*Rule 175 has been omitted.

what is going to be done is a separate question. As far as the admission of the motion for papers is concerned, the Chairman has taken a decision that it is not to be admitted because today, you are having a full discussion under rule 176.

(R.S. deb. dt. 4.12.1974, Cols. 158-63 and 172-83)

NO-DAY-YET-NAMED MOTION

486. Motions: No-day-yet-named motion: Fixing time and date for discussion rests with the Chairman

On 1 August 1978, Shri Devendra Nath Dwivedi raised a point of order in regard to the admissibility of no-day-yet-named motion, calling on the Government to place the correspondence exchanged between the Prime Minister and the former Home Minister on corruption charges against their family members on the Table of the House. He was followed by Shri Salve who drew the attention of the Chairman to the fact that the Chairman had already admitted the motion standing in his name. He wanted the Chairman to fix a date for discussion of the motion. Several members raised points of order on the subject.

After a prolonged debate, the Deputy Chairman observed:

As I have said, all this discussion has taken place before the hon'ble Chairman and all sides have expressed their views. The hon'ble Chairman is considering all these things before giving his decision. Hence, I would request the House to take up the scheduled business and leave the decision to the hon'ble Chairman.*

(R.S. deb. dt. 1.8.1978, Cols. 176-220)

487. Motions: No-day-yet-named motion: Time for discussion not to be given if the Government does not agree to have a discussion on the subject

A controversy was raised during the 107th session about the no-day-yet-named motions on the subject of corruption charges against the family members of Shri Morarji Desai and Shri Charan Singh moved by Shri Bhupesh Gupta and Shri Bipinpal Das. There was virtual confrontation between the Treasury Benches and the Opposition, with the Government not agreeing to have a discussion on the subject and the Opposition pressing for allotment of some time for the same. The proceedings in regard to Government business in the House were stalled for several days and the House had to be adjourned before time.

In this regard on 18 December 1978, the Deputy Chairman observed:

I think that an extremely serious deadlock has arisen in the House and there is a demand from that side that no action should be taken and there is a demand from this side also that no Government business should be transacted.

*Spoke in Hindi.

I am unable to say how this deadlock can be resolved...*

This continuing deadlock is very serious. In regard to this deadlock between the Government and the Opposition, I can only make an appeal that the Leader of the House, the Leader of the Opposition, other leaders of the House and the hon'ble members should meet together in order to take a decision in the matter. Otherwise, it will not be possible to transact the business of the House. Considering the turn the proceedings have taken today, it would not be proper to continue the proceedings of the House further. I, therefore, adjourn the House till 11.00 a.m. tomorrow.*

On 19 December 1978, the Deputy Chairman observed:

I want to tell the hon'ble members that we should take up the calling attention in the same way as we have done in the past but it seems that it is not the wish of the hon'ble members to take it up and it is difficult to run the House without the cooperation of hon'ble members from all sides and sections of the House. In view of your wishes, I adjourn to meet at 11.00 a.m. tomorrow.*

Then, on 22 December 1978, the Deputy Chairman further observed:

Now, let us come down to the business before the House. A member from every party has spoken... Then every member will want to speak... Well, I will have to adjourn the House if you don't co-operate... I adjourn the House to meet at 11.00 a.m. on Tuesday, the 26th December.

Again, on 26 December 1978, the Deputy Chairman observed:

If you don't want to take up the business before the House and if the House feels, we better adjourn.

(R.S. deb. dt. 18.12.1978, Cols. 241-42; 19.12.1978, Col. 210; 22.12.1978, Col. 138; 26.12.1978, Col. 116)

NOTICES

488. Motions: Notices: Notices of motion lapse with termination of membership

On 3 April 1970, rising on a point of order, Shri Bhupesh Gupta said that his name did not figure among the names appearing in the calling attention listed for the day. He said that he was one of those who gave notice of the calling attention. Presumably his name had been dropped on the ground that he retired the day before. He contended that the calling attention notice had been admitted the day before when, in fact, he was a member of the House. He ceased to be a member of the House only at twelve o'clock midnight. Further, the Rajya Sabha Secretariat had been informed by the West Bengal Legislative Assembly Returning Officer about his being re-elected to Rajya Sabha. Shri Gupta asked the Chairman to take into account the paramount fact of his election and his continuation despite a little break in service between twelve o'clock midnight and 11 A.M. the next day. The member stated further that as the Chairman knew, the

*Spoke in Hindi.

calling attention would come up after his swearing in and by that time he would already be a member again.

The Chairman then observed:

I think that the notice, which Mr. Bhupesh Gupta gave, lapsed with the termination of his membership. At the time when this agenda started, there was no notice by him... Admission of notice is not material, because the notice itself lapsed, and whatever I did, had to take effect from eleven o'clock today... I wish to point out that the notification of the new membership is dated the 3rd April, and the 3rd of April began after the earlier notice lapsed... You cannot take part unless you take the oath. You might have given notice. But there is no new notice.

(R.S. deb. dt. 3.4.1970, Cols. 4-10)

OATH TAKING

489. Oath taking: Use of 'Hind' in Urdu instead of 'India' or 'Bharat' while taking oath, held as correct

Shri Rajnarain raised a point of order that a member while taking oath had used the word 'Hind' whereas according to the Constitution the name of the country is India, that is, Bharat.

Shri V. K. Sakhalecha raised the point that the member who had taken oath in Urdu should not have done so, and it was not proper.

The Chairman observed:

Now, I hold that all the oaths have been rightly taken.

(R.S. deb. dt. 22.4.1974, Cols. 4-6)

ORDINANCE

490. Ordinance: Power to legislate through Ordinances should be used sparingly

Shri Godey Murahari raised a point of order objecting to the laying of the papers relating to the Ordinances for levying taxes. His contention was that there was no necessity for levying certain taxes through Ordinances without the approval of Parliament which was going to meet soon.

Shri Bhupesh Gupta, Shri Lal K. Advani, Shri M. S. Gurupadaswamy, Shri Lokanath Misra, Shri Rajnarain, Shri Niren Ghosh, Shri Thillai Villalan, Shri N. G. Goray, Shri Mahavir Tyagi, Shri A. P. Chatterjee and Shri Babubhai M. Chinai supported the point of order raised by Shri Murahari.

The Deputy Chairman observed:

As has been pointed out by the hon'ble members, this is quite a large number of Ordinances that are being placed on this Table. Of course, Ordinances are to be normally issued in abnormal or extraordinary conditions, recourse should not be taken to this procedure of legislating, in normal conditions. It has been pointed out by the Leader of the House that if, strictly speaking, according to the provisions of the Constitution there is no emergency, there is a near emergency, by which, I thought, he meant that even if an emergency is not proclaimed under the provisions of the Constitution, the situation is emergent. And, therefore, he said that under such extraordinary circumstances it was necessary and essential for the Government to issue such Ordinances... But there is the constitutional obligation on the part of the Government that when an Ordinance is issued, Government must place a copy of the Ordinance on the Table of both the Houses as early as possible. That constitutional obligation is there.

I have said earlier also that there is constitutional provision for issuing Ordinances. It is an entirely different issue whether from the political, democratic or moral point of view it is proper or not. But, as I have said earlier, very strong feelings, very strong views have been expressed, I should say by almost all the Opposition parties. I hope the strong views expressed in this House by the entire Opposition will be taken into consideration by the Government and in future there will be no recourse at all and, if at all, very little recourse, to issue Ordinances and to make laws by this procedure.

(R.S. deb. dt. 15.11.1971, Cols. 161-98)

PAPERS LAID ON THE TABLE

COMMISSION OF INQUIRY

491. Papers laid on the Table: Commission of Inquiry: Laying of Interim Reports on the Table of the House is in order

The First and the Second Interim Reports of the Commission of Inquiry headed by Justice J. C. Shah were laid on the Table of the House. This was objected to by the Leader of the Opposition, Shri Kamalapati Tripathi, as, according to him, the Report was, *inter alia*, one-sided and politically motivated. A discussion ensued raising several points of objection. The Leader of the House, Shri Lal K. Advani, clarified that the Commission's Report was intended only to establish culpability and was not a conviction or sentence.

The Vice-Chairman then observed:

The Report of the Shah Commission, as per rules, has already been laid on the Table of the House. So far as a discussion on it is concerned, it is for the Government to find business either in this session or the next session and, I am sure, all the hon'ble members will have an opportunity to express their views on this. So far as the laying of the Report on the Table of the House is concerned, it has been in order; it has been done according to the rules. The Commission was appointed under the Commissions of Inquiry Act and it has been laid down there.

(R.S. deb. dt. 15.5.1978, Cols. 52-70)

CONFIDENTIAL/SECRET DOCUMENTS

492. Papers laid on the Table: Confidential/Secret Documents: A member has no right to place any confidential or secret document on the Table of the House which he cannot authenticate and in no case can a member lay any document on the Table without the previous permission of the Chair

On 22 February 1965, after the question hour was over, Shri Lokanath Misra claimed that he had a copy of the CBI Report on certain allegations against two Chief Ministers and some other Ministers of the Government of Orissa and also of the findings of the Cabinet Sub-Committee on that. He asked for permission to lay a copy of the documents on the Table of the House. Shri Bhupesh Gupta supported the member.

The Chairman said:

I do not want the Report to be laid. My permission has been asked to lay this Report on the Table. I did not give my permission because I do not know what the document is...I do not allow any document to be placed unless I know what the document is... The member should place the document in my

hands. I will examine it and I will find out whether it is correct and whether it should be laid or not.

Later in the day, when Shri Lokanath Misra tried to quote certain extracts from the CBI Report, the Chairman said:

The C.B.I. Report is a Government document. It has not been laid on the Table of the House. I will not let you quote from this document...The hon' ble member this morning said that he has a copy of the Report and he wanted to lay it on the Table of the House. I did not allow it to be laid on the Table. He said that he would like me to see the copy. I wanted to study it and consult the Government. That copy has not been given to me as yet. I will not allow you to quote from it... When the document comes to me I will decide whether it should be laid on the Table of the House or not.

Shri Lokanath Misra then tried to give a gist of certain alleged irregularities said to have been committed, as mentioned in that Report, by the Chief Ministers of Orissa and requested the Prime Minister to either deny or confirm what he had said. The Leader of the House, Shri M. C. Chagla, said that the whole issue raised a very important question of parliamentary procedure and asked whether it was open to a Member of Parliament to refer to a State document submitted to the Cabinet for its consideration which the Cabinet had not released.

The Chairman said:

I have asked the member not to quote from the Report and he, therefore, has not quoted from the Report. He is now mentioning certain things which he seems to know and asks for a clarification. He said that these things were there in the Report. They are not supposed to be quotations from anything. And so far as the Report is concerned, my position still stands that, if he wants that Report to be placed on the Table of the House, as he requested this morning, that Report has to be submitted to me. I will study the Report and consult the Government and if at that stage, the Prime Minister says he would lay it on the Table of the House, it is open for him. Otherwise, it would be a special case, where I may or may not permit it to be so placed. An ordinary member, a non-official member, cannot lay any paper on the Table of the House except with the permission of the Chairman. Therefore, in this case, the permission of the Chairman is essential. I will be guided in giving the permission or in not giving the permission by what I see in the document and what I find on a discussion on it.

Reverting to the subject matter on 26 February 1965, the Chairman ruled:

On 22 February 1965, immediately after the question hour, Shri Lokanath Misra asked for my permission to lay on the Table of the House certain papers which he said were copies of the CBI Report and findings of the Cabinet Sub-Committee in regard to allegations against the Chief Minister and certain other Ministers of Orissa. I did not give him the necessary permission as I desired to examine the papers and consult the Government. On the same day in the afternoon after the Prime Minister made a statement on the subject, Shri Lokanath Misra wanted to quote from the copies of the papers he had in his possession. I asked him not to quote from these papers as I could not see or examine them or consult the Government.

I have since seen the papers given by Shri Lokanath Misra and also consulted the Government in the matter. The Government do not propose to lay the CBI Report and the findings of the Cabinet Sub-Committee on the Table of the House as they are of the view that these are secret and confidential documents and as such privileged. In these circumstances, I will not be able to insist upon the laying of these documents by Government on the Table of the House. The next question is whether Shri Lokanath Misra may be permitted to lay the papers which he has in his possession and which he claims to be copies of the CBI Report and findings of the Cabinet Sub-Committee on the Table of the House. I regret I cannot permit him to do so. These are in their very nature confidential and secret documents and as such I cannot permit them to be laid on the Table of the House. Besides, for obvious reasons, Shri Lokanath Misra cannot authenticate the papers he desires to lay on the Table.

As to how far Shri Lokanath Misra can, during the course of his speech in the House, make use of the contents of these papers, I would only say this much that the matter should be left to the good sense and discretion of the member himself.

On 2 March 1965, Shri Bhupesh Gupta drew the attention of the Chair to the fact that there had been a ruling by the Speaker in Lok Sabha on the subject of the CBI Report on Orissa affairs just as there had been a ruling by the Chairman in the Council on 26 February and wanted to be sure that there was no difference between the two rulings, coming as they did from two different Houses of the same Parliament.

The Chairman observed:

I am really not concerned with the other ruling. I have given my ruling and that ruling will operate in this House. The Speaker's ruling will operate in Lok Sabha. It is for you to find out whether there is difference or not.

(R.S. deb. dt. 22.2.1965, Cols. 492-95 and 604-09; 26.2.1965, Cols. 1337-38; 2.3.1965, Cols. 1496-97)

GENERAL

493. Papers laid on the Table: Papers can be laid on the Table by the Government at any time

The Deputy Minister in the Ministry of Finance, Shrimati Sushila Rohatgi laid a copy of the notification regarding enhancement of excise duty on *Khandsari* sugar towards the end of the sitting on 30 April 1974. Shri Rajnarain objected to the laying of papers at any time by the Deputy Minister. The Vice-Chairman said:

From the Government side the Minister can place a statement at any time.

(R.S. deb. dt. 30.4.1974, Col. 217)

494. Papers laid on the Table: Corrections to the answer to be laid on the Table on the same day

On 20 December 2002, during question hour, a member, *inter-alia*, drew the attention of the Chair to undue delay on the part of the government to correct the answers laid on the Table of the House. The Chairman while realising the importance of the points raised by the member, instructed the Minister concerned thus:

Hon'ble Minister...Rulings have been given by the Chair in this regard on a number of occasions. I like you to correct the answers in time. Secondly, I would also like to tell you that hon'ble members would be better informed if you correct the answer the same day it is laid on the Table.

(R.S. deb. dt. 20.12.2002, p. 210)

495. Papers laid on the Table : Anything handed over at the Table is not automatically laid on the Table of the House

On 23 January 1976, after concluding his speech on the nonofficial resolution moved by Shri B. P. Nagaraja Murthy, regarding the setting up of a Central Co-ordinating Agency for the speedy implementation of the twenty point economic programme of the Prime Minister, Shri G. Lakshmanan walked up to the Table of the House and tried to lay on the Table some document. This provoked Shri Arvind Ganesh Kulkarni to enquire from the Chair whether it was being laid on the Table of the House.

The Vice-Chairman then observed as follows:

Anything handed over here is not automatically laid on the Table of the House. This is for your information. Therefore, there is nothing for you to be startled about.

(R.S. deb. dt. 23.1.1976, Cols. 151-52)

496. Papers laid on the Table: Members have right to know the viewpoint of the Government regarding the papers laid on the Table

On 9 July 1979, immediately after the papers were laid on the Table, which included (i) the Reserve Bank of India (Maintenance of Services) Ordinance, 1979 and (ii) The Additional Emoluments (Compulsory Deposit) Amendment Ordinance, 1979, Shri Bhupesh Gupta, Shri S. W. Dhabe, Shri Anant Prasad Sharma and Shri G. C. Bhattacharya spoke against the Ordinances. Prof. Ramlal Parikh asked the Chairman the rule under which he was permitting the debate on the Ordinances, to which the Chairman observed:

When the paper is to be laid on the Table, it is the right of the members to know the viewpoint of the Government regarding the paper.

(R.S. deb. dt. 9.7.1979, Cols. 147-54)

497. Papers laid on the Table: Papers should be laid on the Table in both Houses simultaneously

On 31 July 1980, Shri Lal K. Advani and others took objection to the laying of the Report of a Commission of Enquiry on the Table of the House on the ground that it was already laid on the Table of the other House on the earlier day. According to them the contents of the Report were already published in the day's newspapers, and that the Report should have been laid on the Table of both Houses simultaneously.

The Chairman observed:

...the time gap of 12 hours or 24 hours between Lok Sabha and this House, of course, is a question of the pride of this House. Nothing further...It could have been avoided...If you do something there, do it simultaneously here. Otherwise, they feel insulted...Both Houses should be treated equally.

(R.S. deb. dt. 31.7.1980, Cols. 142-47)

498. Papers laid on the Table: Papers should be laid on the Table in both Houses

Shri Lal K. Advani, raised a point of order on 14 December 1983, that the Report of the Election Commission on the elections held earlier this year had been laid on the Table of Lok Sabha the previous day but the same had not been laid on the Table of Rajya Sabha. Shri Advani further stated that the Report had not been listed even for that day and, as such, the members were not in a position even to give formal notice for a discussion on such an important document.

The Chairman observed:

...the system of laying papers on the Table of the House is not so onerous that illnesses and other things can come in the way of laying the papers on the Table of this House but do not come in the way of laying the papers on the Table of the other House. I think this discrimination must stop.

(R.S. deb. dt. 14.12.1983, Cols. 150-52)

499. Papers laid on the Table: Papers should be laid as early as possible

On 17 November 1980, as soon as the Minister of State in the Ministry of Finance, Shri Sawaisingh Sisodia, laid certain papers on the Table of the House, Shri Era Sezhiyan pointed out that the Minister had taken "plenty of time without any explanation" to lay those papers on the Table.

Shri Manubhai Patel asked whether the Chairman would condone such delays.

Thereupon, the Chairman observed:

I am telling Mr. Sisodia that he must see that these papers are laid as early as possible. Otherwise, the point is lost, if there is anything which is placed very late. I mean, you may put it in the next century at this rate. Why don't you do it earlier enough?

(R.S. deb. dt. 17.11.1980, Cols. 212-16)

500. Papers laid on the Table: Members wishing to make a point regarding papers being laid can do it either before or after the papers have been laid

On 5 March 1991, Shri Dinesh Goswami raised some objections regarding laying of interim Budget on the Table of the House. He gave a notice complaining about irregularities in the laying of papers on the estimated expenditure and income by the Finance Minister. Shri Dinesh Goswami's argument was that if objections were overruled then the Minister could lay the papers on the Table and if the objections were sustained then the Minister could not do that. He also pointed out that if the Minister placed his document then it became a *fait accompli*. In such a case, supposing the arguments were found to be valid by the Chair then what would happen.

The Vice-Chairman observed:

...when members seek permission to make any points, they are permitted to do so either before the papers are laid or soon after they are laid on the Table...

(R.S. deb. dt. 5.3.1991, Cols. 262-68)

501. Papers laid on the Table: Members can ask for discussion on a Government policy after a copy thereof is laid on the Table of the House

On 30 April 1985, Shri Nirmal Chatterjee asked the Chairman if there would be a discussion on the Import and Export Policy in the House after a copy thereof was laid on the Table of the House on the same day.

The Chairman replied to Shri Chatterjee as follows:

Under the Rules, you can ask for it.

(R. S. deb. dt. 30.4.1985, Col.167)

502. Papers laid on the Table: Proclamation has to be laid on the Table

On 3 April 1992, when the House was about to take up a short duration discussion, the Minister of Parliamentary Affairs, Shri M. M. Jacob got the permission of the Chair to lay a statement on the Table of the House. Shri Yashwant Sinha objected to the laying of the statement at that point of time.

The Vice-Chairman ruled out the objection and observed:

He is just laying it...Just listen to me. It is a constitutional requirement that the Proclamation and the order has to be laid on the Table of the House.

(R.S. deb. dt. 3.4.1992, Cols. 98-99)

503. Papers laid on the Table: Prior permission of the Chair to be sought by the member to lay the rest of his speech on the Table of the House

On 21 October 2008, during the zero hour, there was a discussion on the alleged beating of students from North India by workers of the Maharashtra Navnirman Sena (MNS) in Mumbai, Maharashtra. Shri Manohar Joshi, who due to the paucity of time, could not conclude his speech and wanted to lay the rest of his speech on the Table of the House.

At this, the Vice-Chairman ruled:

I think you said you are placing the rest of the speech on the Table of the House. You cannot do it without the prior permission of the Chair. You have not taken the permission. So, it is not permitted.

(R.S. deb. dt. 21.10.2008, p. 402)

504. Papers laid on the Table: Books: Laying of books on the Table of the House is not allowed

On 9 May 2002, Shrimati Bimba Raikar raised a special mention regarding problems faced by Vishwakarma community and at the conclusion of the special mention, sought permission from the Chair to place on the Table a book concerning the problems of goldsmiths.

The Chairman making the position clear, said:

No, you cannot do that.

(R. S. deb. dt. 9.5.2002, pp. 238-39)

505. Papers laid on the Table: Documents: Documents quoted by a Minister need not be placed on the Table, if they are declared by him to be inconsistent with the public interest

When a private member's motion calling for certain amendments to the Indian Administrative Service (Recruitment) Rules, 1954, was being discussed, Dr. K. N. Katju, the Minister for Home Affairs and States, quoted an extract from a private letter written by Sardar Vallabhbhai Patel. Shri H. C. Mathur, Shri Bhupesh Gupta and Shri B. C. Ghose, on a point of order, demanded that the Minister should lay the letter on the Table. The Deputy Chairman said that if a Minister refers to any private letter or any document, it should be laid on the Table unless the Minister says that it was not in

public interest to do so. As the Minister declared that it would not be in public interest to lay the letter on the Table, the Deputy Chairman ruled:

I hold that the first proviso of rule 211* applies and it need not be placed on the Table.

(R.S. deb. dt. 24.9.1954, Cols. 3282-87)

506. Papers laid on the Table: Documents: Members have no right to place on the Table any document beyond the fair bounds of personal explanation

On 21 November 1962, Shri Bhupesh Gupta sought the permission of the Chair to place on the Table a statement from the Secretary of his Party (Communist Party of India) about an incident in Burdwan, about which some members had made accusations against the Communist Party of India while speaking in the Council on 19 November 1962.

Shri K. Santhanam, rising on a point of order, said that while a particular member could make a statement about himself, he could not make any statement on behalf of his Party and have it recorded in the proceedings of the Council.

Shri Rajendra Pratap Sinha wanted to know under what rule Shri Bhupesh Gupta wanted to make a statement. The Chairman, while saying that Shri Bhupesh Gupta was not making it under any rule, reserved his ruling on the subject.

Reverting to the matter on 22 November 1962, the Chairman said:

At the sitting of the House yesterday, Shri Bhupesh Gupta, rising immediately after the question hour, sought my permission to lay a statement regarding a certain incident in Burdwan to which a reference had been made by another member in the House on 19 November 1962. Two points of order were raised on this:

- (1) whether such a statement could be laid on the Table of the House; and
- (2) whether Shri Bhupesh Gupta could be permitted to make a statement with reference to a matter which did not personally concern him but which only related to a political party.

The question was also asked whether Shri Bhupesh Gupta had taken the permission of the Chair for raising the point in the manner in which he did and if no such permission had been given, how he could raise it.

There is no provision in the Rules of Procedure and Conduct of Business in Rajya Sabha which confers upon a private member the right to have a document placed on the Table of the House. If, in the special circumstances of the case, a private member desires to lay any document on the Table of the House, he should give previous notice to me so that I may look into the document and then decide whether I should permit the member to lay the document on the Table of the House. The document can be laid on the Table

*Old rule.

only after permission has been given by the Chair and not otherwise. In the present case, Shri Bhupesh Gupta did not give any such previous notice to me nor did he show me the statement which he desired to lay on the Table of the House. He could not, therefore, lay the statement on the Table. Furthermore, I may point out that according to Shri Bhupesh Gupta, the document which he desired to lay on the Table was, to use the member's own words "A full statement about Burdwan incident from our Party's Secretary (Communist Party Secretary)." In my opinion, it will not be in order to permit such a statement to be laid on the Table of the House and thereby make it a part of the proceedings of the House.

As for the second point, I may invite attention to rule 203* of our Rules, which reads thus:

A member may, with the permission of the Chairman, make a personal explanation although there is no question before the Council, but in this case no debatable matter may be brought forward, and no debate shall arise.

Shri Bhupesh Gupta had not taken my prior permission to raise the point on the floor of the House and, therefore, his making the statement in question was not in order. He was trying to give the version of the Communist Party of the incident to show that the criticism levelled against that Party was not justified. This introduces debatable matter which also is not permissible under the Rules. It is true that in regard to the explanation of a personal nature, the House is usually indulgent and it permits a statement of that character to be made, provided that leave has been previously obtained from the Chair; but general arguments and observations beyond the fair bounds of personal explanation are out of order. The indulgence of personal explanation should be granted with caution so that no debatable matter may be brought forward and no debate shall arise.

(R.S. deb. dt. 21.11.1962, Cols. 1944-49; 22.11.1962, Cols. 2158-62)

507. Papers laid on the Table: Documents: Government has to decide whether it is in the public interest to place a document on the Table of the House or not; it is better to decide it in consultation with the Chairman

On 21 March 1967, during the course of supplementaries on starred question no. 33, regarding Lt. Gen. Kaul's book *The Untold Story*, Shri Rajendra Pratap Sinha wanted to know whether the Minister of Defence was prepared to place on the Table of the Council the Report by Gen. Henderson on the debacle in NEFA. The Minister of Defence, Sardar Swaran Singh, said that it would not be in the public interest to publish Gen. Henderson's Report. Shri Bhupesh Gupta, rising on a point of order, submitted that if the Minister of Defence wanted to withhold the Report from the Council, then he (the Minister) would have to seek the permission of the Chairman not to lay it on the Table of the Council.

The Chairman said:

My view is that the Government is entitled to plead that it is not in the public interest to put the document on the Table of the House even without my

*Old rule.

permission. But in that case, in order to have the smooth working of the House the Government should do so in consultation with the Chair.

(R.S. deb. dt. 21.3.1967, Cols. 264-71)

508. Papers laid on the Table: Documents: If a Minister quotes from a document, he can be forced to lay it on the Table; he cannot avoid it; the member, however, cannot be forced to lay on the Table such document; it is entirely the Chairman's discretion

On 6 April 1967, when a calling attention notice of Shri M. P. Bhargava to the reported grant of about 375 Industrial Licences to the Birla group of Industries during the years 1957-66 was under discussion, Shri Chandra Shekhar started quoting extracts from what he claimed to be the Report of Dr. Hazari on the subject of Industrial Licensing. Shri B. K. P. Sinha submitted that if Shri Chandra Shekhar wanted to read extracts from the Report, he should place an authenticated copy of it on the Table of the Council. Shri Rajendra Pratap Sinha, Shri Bhupesh Gupta, Shri Murahari, Shri A. D. Mani, Dr. Anup Singh and other members supported the demand for the Report to be placed on the Table. Shri D. P. Karmarkar said that in the case of a Report submitted to the Government, the Minister concerned was the only person to decide whether it was in the public interest to so lay it. The Minister of Industrial Development and Company Affairs, Shri Fakhruddin Ali Ahmed, said that he would be placing a copy of the Report on the Table of the Council the next day.

The Chairman said:

So far as rule 249 goes, it refers only to the Minister. If a Minister quotes from any document, he can be forced to lay it on the Table of the House and the House is entitled to it. There is no such rule about private members. It is left entirely to my discretion. There are circumstances in which the use of the discretion can be very dangerous and can be misused and, therefore, I would not like to create a precedent, especially because the Minister has himself said that he would lay it on the Table of the House.

(R.S. deb. dt. 6.4.1967, Cols. 2555-79)

509. Papers laid on the Table: Documents: A member can refer to any document, but it cannot be laid on the Table unless the Chair permits

In connection with a calling attention notice, when Shri Bhupesh Gupta insisted on laying on the Table a photostat copy of the letter he had obtained, the Deputy Chairman observed:

Any member can refer to any document; he may read out or he may give a summary; that is permissible, but not laying on the Table of the House. That is a discretion of the Chair. I will not allow it to be laid on the Table of the House.

(R.S. deb. dt. 31.3.1969, Col. 6388)

510. Papers laid on the Table: Documents: Both English and Hindi versions of the papers are to be laid

On 9 November 1970, the Deputy Minister in the Ministry of Home Affairs was laying a copy of the Proclamation under article 356 in respect of Uttar Pradesh and a copy of the Report of the Governor of Uttar Pradesh dated 29 September 1970, on the basis of which the Proclamation had been issued. Shri Sundar Singh Bhandari raised a point of order that there was no mention of the Hindi version of the Report of the Governor and requested the Chair, before giving permission to the Minister to place the documents on the Table, to direct the Minister that both the versions should be made available simultaneously.

The Deputy Chairman ruled:

For the future, all documents should be placed both in English as well as in Hindi.

(R.S. deb. dt. 9.11.1970, Cols. 149-51)

511. Papers laid on the Table: Documents: There is no bar on the Government to lay any document it likes; no time limit is prescribed for doing so

On 18 December 1970, Shri S. N. Mishra and Shri Gurupadaswamy raised points of order regarding the laying of the Report of the Commission on the Maharashtra-Mysore-Kerala boundary disputes. Shri Mishra's point of order was that the statement that had been circulated, about which there was a supplementary list of business, could not be laid on the Table of the House because the Rules of Procedure did not permit it. He quoted rules 249, 250 and 251. His contention was that this Report had neither been presented in accordance with a decision of the House, nor had it been presented by any Committee constituted by the House. The member contended that whether such extraneous documents which had absolutely nothing to do either with any decision of the House or with any Committee of the House could be placed on the Table of the House by the Government and whether it came under the category of 'Statement' or any other things that related to rule 249. Shri Gurupadaswamy's point of order was that this document had become time-barred and it should not be placed on the Table of the House.

The Deputy Chairman observed:

Now, Mr. S. N. Mishra has raised a point of order that this document should not be placed on the Table of the House...As pointed out by Mr. Mishra, rule 250 is not relevant in this case. It refers to all the documents which are laid on the Table of the House under any rule or procedure or precedent. All documents once laid on the Table of the House become public documents. They are then available to the hon' ble Members of Parliament. They can be published in the press also and they can be utilized in whatever manner by

the public. So, rule 250 only mentions that all such documents laid on the Table of the House will be public documents. So far as rule 249 is concerned, it relates to the documents which are referred to by a Minister while speaking in the House. It says: "If a Minister quotes in the Council a despatch or other State Paper which has not been presented to the Council, he shall lay the relevant paper on the Table." It only means that while speaking in the House, if an hon' ble Minister refers to any State Paper which has not already been laid on the Table of the House, then it should be the responsibility of the Minister concerned to lay it on the Table of the House. But there is a proviso. It says that if the production of such documents will be inconsistent with public interest, then the Minister will not be compelled to lay those documents on the Table of the House. It only refers to the documents which the hon'ble Minister refers to in the course of his speech in the House. The general practice which I have seen in this House is that documents or Reports are normally placed on the Table of the House by Ministers. This is not the first incident that the Government is trying to place any document on the Table of the House. Previously also numerous such documents have been placed on the Table of the House. ...The point is clear. The practice has been that if the Government wants to place any document on the Table of the House, they can do so and they have been doing so. They have done so. As pointed out by Mr. Bhupesh Gupta, permission is also required and the permission had been given for placing it on the Table today. I mean there is no bar on the Government in placing any document on the Table of the House...

Mr. Gurupadaswamy said that this document has become time-barred and it should not be placed on the Table of the House. There is no time limit prescribed for laying documents on the Table of the House...Therefore, we cannot say that the Report has become time-barred. Therefore, the second objection raised by Shri Gurupadaswamy is not valid. So there can be no objection for laying this document or Report on the Table of the House.

(R.S. deb. dt. 18.12.1970, Cols. 92-113)

512. Papers laid on the Table: Documents: Members should not display photographs and documents in the House without showing them to the Chairman and getting them authenticated

On 19 January 1976, when Dr. K. Mathew Kurian during his speech on the Election Laws (Extension to Sikkim) Bill, 1976, wanted to exhibit a photograph in the House, the Deputy Chairman observed:

If you want to produce photographs, you must show them in the Chamber. Before that, you cannot produce these. And documents also have to be first shown in the Chamber and you must satisfy me that it is a proper document. You cannot simply come into the House and say, 'here it is'.

(R.S. deb. dt. 19.1.1976, Cols. 137-40)

513. Papers laid on the Table: Documents: Production of exhibits on the floor of the House which have not been shown to the Chair, not in order

On 1 August 2005, while participating in the discussion on Statutory Resolution approving continuance of the Proclamation dated 7 March 2005, in respect of the State of Bihar issued under article 356, Shri R.K. Anand

referred to some events prior to the formation of the Government in Jharkhand after the elections. In that context, he said that he had a CD in which allegations had been made against certain persons. Shri Yashwant Sinha and Prof. R.B.S. Varma objected to this. At this, the Deputy Chairman ruled:

Production of exhibits on the floor of the House is not in order. Don't produce any exhibits which have not been shown to the Chair. It is not in order.

(R.S. deb. dt. 1.8.2005, p. 292)

514. Papers laid on the Table: Documents: Official documents should not be laid on the Table of the House by a private member

On 13 March 1999, during a discussion on the Patents (Amendment) Bill, 1998, Shri Gurudas Das Gupta quoted extensively from the Report of the Law Commission and finally requested the Chairman to permit him to lay the Report of the Law Commission on the Table of the House. This was supported by Shri Nilotpall Basu.

The Chairman, thereupon, ruled:

That need not be done. That cannot be done.

He further quoted from Kaul and Shakhder:

The Speaker observed that he could not allow an official document to be laid on the Table of the House by a private member.

(R.S. deb. dt. 13.3.1999, Cols. 13-16)

515. Papers laid on the Table: Newspapers: Newspapers are not to be laid on the Table of the House

On 9 March 1984, Shri G. C. Bhattacharya was referring to the reported anti-national activities in Jammu and Kashmir through a special mention. To substantiate his point, the member was citing certain news items from the *Blitz*, of 10 March 1984, and wanted to lay the paper on the Table of the House for he wanted that to be on record.

Disallowing him, the Deputy Chairman observed:

Mr. Bhattacharya, I do not allow you to lay the paper. You take it back. If I have to take papers like this, there should be a separate storage for them. This is not the way of laying papers on the Table...I cannot allow you to lay it on the Table like this.

(R.S. deb. dt. 9.3.1984, Col. 289)

516. Papers laid on the Table: Private correspondence: Private correspondence between individuals cannot be laid on the Table of the House and thus given immunities which it will not otherwise enjoy

On 31 March 1967, Shri Rajnarain wanted to place on the Table of the House a copy of a letter alleged to have been written by Shri M. O. Mathai to Miss Padmaja Naidu, Governor of West Bengal, in which Shri Mathai was said to have confirmed an allegation made by Shri Rajnarain against the Prime Minister, Shrimati Indira Gandhi.

The Chairman said:

Shri Rajnarain had given me a document. He had first given me a document which was not addressed to anybody nor signed by anybody. It was a text. It was shown to me in my Chamber. I said it is not a document on the basis of which anything can be done because it is not addressed to anybody nor is it signed by anybody. It was three typed sheets. He said, "I have brought only this copy to show you. I will bring you the real stuff." Again two days after, he brought to me a typed copy, three-page copy, called the spare copy, addressed to some person in Calcutta and addressed by some person in Delhi. I wanted the copy to be given to me but he could not give it to me for the simple reason that it was the only copy he had and he thought he should not pass it on to me lest I lose it or lest it gets misplaced. So he said, "I will send you a photostat copy." Then came the holidays and he could not give it. After the holidays were over he gave me a photostat copy. I got in touch with the writer – as a matter of fact, I had got in touch with the writer even before getting the photostat copy – and he read through those pages. He said he was sorry that he had written them but asked, "Where is the original?" I said I had no original and I did not know anything about the original. He said, "I ask that question because I sign the originals in one way and the copies in another way." Whether it was from the original or the copy, I did not discuss that matter with him. Then I called him again and showed him the signatures. I asked, "Are these your signatures?" and he said, "Yes, they are my signatures." In the meantime, I also made enquiries from the addressee. The addressee was Miss Padmaja Naidu and she had written to me and categorically denied that she had received any letter of that kind. I spoke to her first on the phone to find out. She said that she had received no letter of that kind. I said, "Please make sure. If a registered letter had been sent, may be there is some receipt in the office." So she examined all the registered letters and receipts and she assured me and authorised me categorically to deny that she received that letter. From the one side it is the information I have and from this side the information is that he has written that letter. In these particular circumstances I give this ruling which I have written out carefully.

The House of Parliament is a privileged place since the parliamentary proceedings enjoy certain immunities under our Constitution. In my opinion, private correspondence of individuals cannot be laid on the Table of the House and thus given immunities which they will not otherwise enjoy. I cannot, therefore, allow the copy of the letter in question to be laid on the Table of the House. Members of Parliament enjoy freedom of speech in the House. But I consider it to be an unhealthy practice for the members to use their freedom of speech for making charges on the basis of statements contained

in private correspondence of individuals who are not entitled to use the floor of this House for making any statement.

(R.S. deb. dt. 31.3.1967, Cols. 1663-79)

LIST OF BUSINESS

517. Papers laid on the Table: List of business: Normally the senior Ministers should lay the papers, if it is not possible, then the names of junior Ministers should appear on the order paper. In case the Minister is suddenly held up, the Chair may be informed about it so that the name of his Deputy is called to lay the papers

On 9 May 1972, after a couple of papers had been laid on the Table by Ministers other than those whose names had appeared on the order paper, Shri Chandra Shekhar rose on a point of procedure and said that it had become a regular practice in the House that papers in the names of senior Ministers were always laid by junior Ministers and sometimes the Minister of Parliamentary Affairs virtually functioned as 'Minister for Paper Laying'. In the other House, if the concerned Minister could not be present he had to get the permission of the Speaker to authorise somebody else to lay the paper on his behalf. Shri Chandra Shekhar suggested that in the interest of decorum and decency if the Minister concerned could not be present he should be generous enough to allow his junior's name to appear on the order paper. His contention was supported by Shri Bhupesh Gupta.

Thereupon, the Deputy Chairman observed:

I think it is only fair that the Minister, in whose name the paper laying appears, should be present. But I feel that if he has some other work in the other House or if he himself is held up somewhere else, then he should ask his junior Minister to lay it on the Table and his name should appear. There is no harm if the junior Minister's name appears there. I think this practice should be followed. If the Minister is held up due to some reason, he should inform us so that we can ask his Deputy Minister to do it.

(R.S. deb. dt. 9.5.1972, Cols. 166-67)

NOTIFICATIONS

518. Papers laid on the Table: Notifications: When there is a statutory provision regarding laying of a notification on the Table, the Government must see that the provision is strictly adhered to

On 15 December 1981, the Minister of State in the Ministry of Home Affairs, Shri Yogendra Makwana, had moved a motion for securing the approval of the House, of the notification issued by the Assam Government on 17 November 1981. As Assam was under the President's rule at that time, the notification was laid on the Table of the House on 20 November 1981.

Shri Era Sezhiyan raised objection to the delay in laying the said notification on the Table of the House. He argued that according to section 2(2) of the Essential Services Maintenance (Assam) Act, 1980, under which the notification was issued, the same should have been laid before each House of Parliament on the very first day of the commencement of the current session, that is, 23 November 1981. Shri Era Sezhiyan felt that it was a violation of a statutory obligation imposed by an Act of Parliament. The Minister admitted that there was some delay and said that since the notification was received late in the evening of 24 November 1981, immediate action was taken to have the notification translated into English also. As there were two intervening holidays also the notification was laid on the Table of the House at the earliest on 30 November 1981. Shri Era Sezhiyan contested the validity of this explanation and said that even the blame for the lapse squarely lay on the Central Government which was functioning as the State Government of Assam.

The Vice-Chairman observed:

The Minister has admitted that there has been a delay as far as receiving the intimation from the Assam Government to the Centre here is concerned. Well, I do not think it would be quite right to say that the Government here is the same as the Government there. The President does assume the powers of the State Government of Assam but there is, in law, a State Government. You cannot say that in Assam there is the Central Government. It is the State Government whose powers are exercised by the Centre. But, as the Minister has said that he would enquire into it, let us give him an opportunity to find out what has happened. And, certainly, I agree with Mr. Sezhiyan that where a statutory provision is there, the Government must take the utmost care to see that this statutory provision is strictly adhered to.

(R.S. deb. dt. 15.12.1981, Cols. 247-53)

519. Papers laid on the Table: Notifications: Issuing a notification during session period is not a violation of the rights and privileges of the House if a copy thereof is laid on the Table the same day

On 25 February 1983, after the notification regarding hike in postal rates had been laid on the Table of the House, Shri Ladli Mohan Nigam and some other members raised the point that such a course was a denial of their rights and privileges.

The Deputy Chairman observed as follows:

I think this notification was issued yesterday and laid on the Table of the House the same day. I don't think there was any gap as if it was done a day earlier and it was laid on the Table later on. I think yesterday itself, as soon as the notification was finalised and issued, it was laid on the Table of the House. Therefore, the House was taken into confidence and the House will have ample opportunity to discuss all these matters.

(R.S. deb. dt. 25.2.1983, Cols. 242-46)

520. Papers laid on the Table: Notifications: Committee on Papers Laid on the Table: Notification with financial implications issued on the eve of the Budget may be referred to the Committee on Papers Laid on the Table of the House for factual examination

On 25 February 1987, Shri Lal K. Advani drew the attention of the Chairman to the propriety of laying on the Table of the House a series of notifications with financial implications just on the eve of the Budget. He cited a previous ruling by the Chairman when the then Finance Minister, Shri Vishwanath Pratap Singh, sought to lay 42 such notifications on 25 February 1986. Subsequently, 2 more notifications were also laid on the Table of the House on 27 February 1986. Considering the merits of the objection of Shri Lal K. Advani, the Chairman referred those notifications to the Public Accounts Committee (PAC) for a scrutiny.

After receiving the Report of the PAC, the Chairman ruled:

The PAC has minutely examined the notifications laid on February 25 and 27 and felt that 15 out of 49 notifications ought to have been held back until Parliament has had an opportunity to consider them.

The Chairman went on to read out the Report of PAC which says:

...the post notification approval by Parliament is no substitute for a prior debate and discussion of taxation proposals, especially when they depart from the approved Budget.

The Chairman then advised the Government to take note of the Report and "endeavour to ensure that resort to issuing notifications having revenue implications will be minimised." Substantiating his argument by quoting extensively from the previous ruling, Shri Lal K. Advani vehemently objected to the laying of 47 notifications under the Customs Act and 14 notifications relating to excise, on 24 February 1987. There were 10 notifications under the Customs Act and 6 notifications relating to excise on 25 February 1987. He pointed out that it was contrary to parliamentary propriety to issue notification with revenue implications such as increasing and decreasing the duty structure on the eve of the Budget. He pleaded fervently with the Chairman to admonish the Government for violating his previous ruling and undermining Parliament as an institution.

In the end he requested the Chairman for referring the contents of the notifications to PAC or Committee on Papers Laid on the Table.

Disallowing any debate over the issue and after carefully listening to the request of the Leader of the House, Shri Vishwanath Pratap Singh "for a review of the decision", the Chairman ruled as follows:

I will make it clear. I am not referring it to the Public Accounts Committee. I am referring it to the Committee on Papers Laid on the Table of the House for the purpose of ascertaining whether any of these notifications come within the

mischief of the ruling which I have already given. The Finance Minister has made representations to me saying that in certain cases Government will be in a very tight position and they will have to issue notifications. The Committee on Papers Laid on the Table will consider the aspect which has been raised by the Finance Minister and they will make their recommendations to me. The decision will be mine and not of the Committee on Papers Laid on the Table.

Now so far as these notifications are concerned, they will be referred to the Committee on Papers Laid on the Table of the House because this is only a factual examination. The principle has already been decided by the PAC and approved by me. Now there will be only a factual examination by the Committee on Papers Laid on the Table of the House and they will report the factual position to the Chair.

Now Mr. Gadhvi, you can proceed to place the papers.

(R.S. deb. dt. 25.2.1987, Cols. 208-13)

ORDINANCES

521. Papers laid on the Table: Ordinances: It is not necessary to lay an Ordinance which has lost its force

On 26 August 1981, many members raised the question whether the Assam Appropriation (Vote on Account) Ordinance, 1981, promulgated by the Governor of Assam on 1 April 1981, should have been laid on the Table of the House under article 213(2) (a) of the Constitution.

On 8 September 1981, the Deputy Chairman read the following ruling on the subject on behalf of the Chairman:

During the sitting of Rajya Sabha on 26 August 1981, some hon' ble members, immediately after the question hour, raised points for my consideration about the proceedings of the House on 25 August 1981, in connection with the Assam Appropriation Bill, 1981. They asked to know whether the Assam Appropriation (Vote on Account) Ordinance, 1981, promulgated by the Government of Assam on 1 April 1981, should have been laid on the Table of our House under article 213 (2) (a) of the Constitution. I had then stated that my colleague had already given his ruling on this point and it was not open to me to give a fresh ruling as I cannot sit in appeal or revise the rulings given earlier in the House by the Deputy Chairman or Vice-Chairman. However, I promised to examine the limited question whether in similar circumstances occurring in future the Ordinance must be laid on the Table of the House and whether the Ordinance in the present matter should still be laid on the Table of the House.

Before I give my opinion, let me recall the facts with dates. The Ordinance was issued on the 1 April 1981 after the prorogation of the Assembly on the 31 March 1981, following its adjournment *sine die* earlier. Before this, the 'Demands on Account' were voted upon by the Assembly and passed but before the Appropriation Bill was adopted, the Assembly was adjourned *sine die* and then prorogued on the 31 March 1981. To provide for the lacuna, the Governor in the exercise of his powers promulgated the Appropriation (Vote on Account) Ordinance, 1981, on the 1 April 1981. The Assembly thereafter sat only for one day on 29 June 1981. The next day the President by

Proclamation assumed to himself the functions of Government of the State. The powers of the Legislature of the State were also declared to be exercisable by or under the authority of Parliament.

The Ordinance limited its own operation to four months commencing on 1 April 1981 and it expired on 31 July 1981. As the Assembly met for a day on 29 June 1981 before the expiry of the period of four months, the Ordinance received a six weeks life under article 213(2) (a), that is to say, till 9 August 1981 and on that date the Ordinance became inoperative.

Now, under article 213 (2), it is provided as follows:

An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance –

(a) shall be laid before the Legislative Assembly of the State... etc.

Therefore, there was a duty to lay the Ordinance on the Table of the Legislative Assembly to comply with this requirement. This duty was not performed. The article gave a life of six weeks to the Ordinance from the re-assembly of the Legislature on 29 June 1981. The Legislature could have disapproved the Ordinance that day or on any subsequent day, but before it could do this what is colloquially called 'President's Rule' was imposed and the powers of the Legislature of the State came to be exercised by Parliament. The present session of Parliament commenced on 17 August 1981 when not only the initial four months but also the six weeks had expired. The Ordinance thus had lost its force before the House met on 17 August 1981.

The Ordinance had still some period left for its expiry when the Legislative Assembly met for one day on 29 June. Thereafter, it was open to the Assembly to pass a resolution disapproving it that very day. Neither was the Ordinance laid on the Table of the Assembly nor was any action taken in respect of it. The Ordinance, therefore, came to an end a second time by efflux of time on 9 August 1981.

As the duty to lay it on the Table of the Assembly had commenced and was not fulfilled there is nothing in the Constitution which substituted Parliament for this purpose. After the expiry of six weeks, no resolution disapproving the Ordinance could be moved in Parliament and matter of laying the Ordinance on the Table of the House which began on 29 June 1981 also came to an end when a resolution disapproving it was not possible either in the Assembly or in Parliament. Therefore, I agree with my colleague that no purpose would have been served by laying a twice dead Ordinance on the Table of our House except to inform the hon'ble members about it. That was adequately done by providing copies of the Ordinance in the members' Library. There was thus no breach of any constitutional provision. It appears to me that if the letter and spirit of article 213(2) (a) are to be followed it may be necessary to lay the Ordinance on the Table of the Assembly when it meets, not having been laid thus on 29 June 1981, but that mission will not be supplied by laying it on the Table of our House which could not have acted under article 213(2) (a) on 17 August 1981.

(R.S. deb. dt. 8.9.1981, Cols. 221-23)

522. Papers laid on the Table: Ordinances: No discussion is allowed at the time of laying the statement on an Ordinance

On 19 March 1986, while the Minister of Water Resources, Shri B. Shankaranand, was laying a statement regarding Ravi and Beas Water Tribunal Ordinance, 1986, some members wanted to raise objections.

The Chairman observed:

I am going to give you an opportunity. I have told Mr. Advani. First of all, the procedure is this. Let me clarify. First, the Minister will make the statement with regard to the Ordinance and nobody can raise any objection. Then he will seek to introduce the Bill... You can discuss it at that time. I have got the Rules here. At the time of laying the statement on the Ordinance no discussion will be allowed. At the time when he introduces the Bill to replace the Ordinance, if there is objection, I will give you an opportunity. That is it. I follow very correctly the procedure.

(R.S. deb. dt. 19.3.1986, Cols. 158-59)

523. Papers laid on the Table: Ordinances: Ordinances to be laid on the Table, 'normally' on the previous day

On 23 February 1993, while papers were being laid on the Table, Shri Yashwant Sinha raised a point of order regarding the Ordinances that were to be laid on the Table of the House. He quoted a rule from Kaul and Shakhder and said that according to the rule those Ordinances should have been laid the previous day.

Replying to the member's point of order, the Vice-Chairman ruled:

The rule says 'normally'. And the Chairman has permitted them to be laid today...

(R.S. deb. dt. 23.2.1993, Cols. 251-56)

REPORTS

524. Papers laid on the Table: Reports: It is not always incumbent on the Government to lay on the Table of the Council the Report of any Committee appointed by it

On 25 February 1966, while answering supplementaries to starred question No. 212 regarding the Report of the Enquiry Committee on the exodus of minorities from East Pakistan, the Deputy Minister in the Ministry of Home Affairs, Shri V. C. Shukla, said that after the Report of the Committee was received, the Government would consider whether it could be placed on the Table of the Council. Shri Atal Bihari Vajpayee contended that the question as to whether the Report of the Committee, when received, should be placed on the Table of the Council or not, could not be left to the sweet will of the Government but that it was for the Chairman to decide on

it. The Leader of the House, Shri M. C. Chagla, explained that the constitutional position was that, if Parliament appointed a Committee, naturally its Report should be placed on the Table of the Council but if the Government appointed a Committee, it was not incumbent upon the Government to lay the Report of the Committee on the Table of the Council. The Government would have to examine, after receiving the Report, whether there was anything in it which might affect the security of the country or its international relations and then decide whether it could be placed on the Table or not.

The Chairman said:

I agree with the view expressed by the Leader of the House.

(R.S. deb. dt. 25.2.1966, Cols. 1320-23)

525. Papers laid on the Table: Reports: Laying of CBI Reports on the Table not allowed

On 4 December 1974, some members of the Opposition wanted the Government to lay on the Table the CBI Report concerning the issue of import licenses to certain parties of Yanam and Mahe. Shri Om Mehta, the Minister of State in the Ministry of Home Affairs, did not agree to it on the ground that the CBI Report was a confidential and sensitive document, that it was contrary to known practice to lay it on the Table of Parliament, and that it would be injurious to public interest to do so. Shri Om Mehta, in this connection, quoted the ruling given by the then Chairman, Dr. Zakir Husain, on 26 February 1965, which, *inter alia*, says:

I have also consulted the Government in the matter. The Government do not propose to lay the CBI Report and the findings of the Cabinet Sub-Committee on the Table of the House as they are of the view that these are secret and confidential documents and as such privileged. In these circumstances, I will not be able to insist upon the laying of these documents by Government on the Table of the House.

Giving his ruling on the points of order raised by some members of the Opposition regarding the laying of the CBI Report on the Table of the House, the Deputy Chairman observed:

I abide by Dr. Zakir Husain's ruling and I cannot go beyond that.

(R.S. deb. dt. 4.12.1974, Cols. 205-33)

526. Papers laid on the Table: Reports: Members can only raise question concerning any delay or non-compliance with the rules in regard to the papers to be laid on the Table of the House

On 7 August 1985, when the Report of the High-level Committee on Problems of Ex-servicemen and related papers were laid on the Table by the Minister of Defence, Shri P. V. Narasimha Rao, Shri Jaswant Singh

wanted to know what action had been taken by the Government on the Report.

The Chairman ruled:

What is the point in regard to laying this paper on the Table of the House? You cannot raise any other thing. You can only raise a question in regard to the paper to be laid on the Table of the House, any delay, any non-compliance with the rules. This is the only thing you can raise.

(R.S. deb. dt. 7.8.1985, Cols. 143-44)

527. Papers laid on the Table: Reports: A Report laid on the Table of the House may be discussed

On 20 July 1989, while supporting other members, Shri Gurudas Das Gupta stated that the observations of the Comptroller and Auditor-General could not be a matter of discussion in the House. If they were allowed to discuss the observations of the CAG then the next day there will be a demand to discuss the judgements of the Supreme Court.

The Deputy Chairman observed:

The Chairman is in his right to allow any Report which is laid on the Table of the House to be discussed and he has used his right... about the judgement, a judgement of the Court is never laid on the Table of the House and there is a difference between a Report and a judgement. This is a Report only, not a judgement.

(R.S. deb. dt. 20.7.1989, Cols. 258-59)

528. Papers laid on the Table: Reports: Note of dissent should not contain aspersions and in case of dispute, the Report should not be listed for laying on the Table

On 29 August 1996, at the time of laying of papers on the Table of the House, Miss Saroj Khaparde raised a point of order regarding laying of the Report of the Department-related Parliamentary Standing Committee on Industry. She contended that she had given a note of dissent to the Report which was not appended to it by the Chairman of the Committee. According to her, it was in utter violation of sub-rule (3) of rule 274 of the Rules of Procedure and Conduct of Business in Rajya Sabha. She said that the Chairman of the Committee had no authority to either reject or delete a note of dissent. Shri Ashok Mitra, the Chairman of the Committee, informed the House that Miss Khaparde had three objections. So far as the first objection was concerned, she had already agreed to go with the majority of the Committee. Then she had objected to a particular sentence in another paragraph. The sentence had been dropped. She had a third objection with reference to another issue, but she had cast some aspersions on some other members of the Committee and he had found it difficult to include it.

Shri Ashok Mitra further informed the House that a footnote saying that Madam Khaparde was in total disagreement with the contents of that paragraph had been included.

The Deputy Chairman, giving her ruling the next day, observed:

In the light of the Report, I had another discussion with the hon'ble Chairman. The hon' ble Chairman said that the Report should be laid on the Table of the House... The footnote that is given in the Committee's Report is sufficient.

* * *

Secondly, the rule says that no motivations or aspersions of any kind should be put in a note of dissent.

* * *

In future the procedure should be that if there is a dissent or a dispute, it should not be listed for laying on the Table. Either the Chairman of the Committee or the member should take the matter to the hon' ble Chairman of Rajya Sabha for a decision and when the dispute is settled, then only it should be laid on the Table of the House.

(R.S. deb. dt. 29.8.1996, Cols. 265-69; 30.8.1996, Cols. 218-22)

529. Papers laid on the Table: Reports: In case of delay in laying the Reports, Minister should come out with the explanation

On 30 August 1996, when the papers were being laid on the Table of the House by Shri Muhi Ram Saikia, Shri Satish Agarwal objected to the laying of Reports and asked for the reasons for the delay and demanded an explanation from the Minister of Agriculture. The Minister could not give any explanation.

The Deputy Chairman then directed:

The Ministers should come with the explanation. They have come with explanation which is not satisfactory... all the Ministers while laying papers on the Table of the House should not take it casually and that they should take it seriously. . .This is my ruling. It should not happen the next time.

(R.S. deb. dt. 30.8.1996, Cols. 214-17)

PARLIAMENTARY PROPRIETY

DECLARATION OF INTERESTS

530. Parliamentary propriety: Declaration of interests: A member having personal interest in a matter before the House must declare the nature of interest

On 30 December 1993, Shri Ram Jethmalani spoke on the Report of the Joint Committee to Enquire into Irregularities in Securities and Banking Transactions. Shri Madan Bhatia, Shri S. S. Ahluwalia, Dr. Abrar Ahmad and other members objected to his speaking on the issue on the ground that he was a counsel for the main accused in the case. They wanted his whole speech expunged. Thereupon, the Deputy Chairman read from the *Practice and Procedure of Parliament* by Kaul and Shakhder and gave the following ruling:

A member having a personal pecuniary or direct interest on a matter before the House is required, while taking part in the proceedings at that matter to declare the nature of interest.

(R.S. deb. dt. 30.12.1993, Cols. 226-50)

GENERAL

531. Parliamentary propriety: Raising the tariff of postal articles, etc. by the Government on the eve of the Budget is a question of propriety and not of legality

The Deputy Minister in the Ministry of Communications, Shri V. N. Patil wanted to lay on the Table of the House, the notifications of the Ministry of Communications (Posts and Telegraphs Board) and related papers. But before the papers could be laid on the Table, some of the members from opposition parties protested against the increase of the postal rates on the eve of the Budget Session of Parliament. The members said that that type of increase might be technically and legally correct but by convention and by practice it was grossly improper. It took away the right of the members to discuss it as a part of the Budget. Many members from the Opposition walked out of the Chamber in protest.

At that point of time, the Chairman ruled:

It is true that the Government has the power and the authority under the Act to raise the tariff for postal articles. No question of legality is involved... I personally think that propriety demands that if there is an increase in the rates of levies of this type, it should be done not on the eve of the Budgetary Session, but well in advance, so that the people will know that this is not a part of the Budget being shoved in... Therefore, I allow the Minister to lay the papers on the Table of the House.

(R.S. deb. dt. 19.2.1982, Cols. 172-85)

532. Parliamentary propriety: Announcements made outside the House while Parliament is in session which are not statements of policy, constitute neither breach of privilege nor breach of propriety

The Chairman gave the following ruling regarding alleged breach of privilege by the Minister of Finance and Commerce, Shri Vishwanath Pratap Singh, who made certain announcements outside the House on 10 August 1985:

On 12 August 1985, Shri Lal K. Advani raised, with my permission, a question of breach of propriety allegedly committed by the Minister of Finance and Commerce, Shri Vishwanath Pratap Singh, by making certain policy announcements outside the House on Saturday, the 10 August 1985, when the House was in session. Shri Advani referred to the various rulings from the Chair and the established convention and practice in this behalf. Shri M. S. Gurupadaswamy also lent support to the contention of Shri Advani saying that the particular announcements of the Minister outside the House were important policy statements.

Shri Vishwanath Pratap Singh, thereafter, clarified the position. He stated that the two important announcements – one regarding abolition of Minimum Export Price (MEP) on tea and the other regarding the extension of the International Prices Reimbursement Scheme (IPRS) to certain other alloys did not amount to policy statements. He contended that these were administrative decisions. In so far as abolition of MEP on tea was concerned, he stated that it was an administrative decision taken to respond to the international market situation. So far as the IPRS was concerned, it had earlier been adopted as a matter of policy and its extension to other alloy steels was an administrative decision, and not a policy decision. The Minister stated that there was no impropriety in making those announcements outside the House.

Subsequently, I received a detailed note from the Minister giving the background as well as the gist of announcements made. It appears that the Commerce Minister held open House discussions with the representatives of trade and industry on 10 August 1985 in New Delhi. There was no fixed agenda and the representatives of trade and industry were free to raise any points that they deemed appropriate. As per the practice, the Commerce Minister was to respond to some of the points raised during the discussions on the spot. I am given to understand that open House discussion is not a forum for making major policy announcements. It is a forum primarily for taking administrative action on the spot. The Minister announced his decisions on several points such as abolition of MEP on tea, extension of IPRS to alloys, steel, etc., creation of separate Export Promotion Council for electronic goods and computer software, creation of a separate division in the Ministry of Commerce to take care of services sector, constitution of a task force to review the duty drawback, reduction of bonding charges of export oriented units, etc. These are in the nature of removing procedural irritants and bottlenecks in the export endeavour.

It is now well established that no privilege of the House is involved if statements on matters of public interest are not made first in the House. However, it is a breach of propriety for a Minister to make a policy statement outside the House of Parliament while it is in session. Kaul and Shakhder in their volume *Practice and Procedure in Parliament* have correctly summarized the rulings in both Houses of Parliament in the following words:

It has also been held that policy statements should first be made on the floor of the House, when the House is in session, before releasing them to the press or the public. But Ministers cannot be prohibited from making statements outside the House if such statements are not contrary to the declared policy of the Government.

The question at issue is whether the announcements made by the Minister for Finance and Commerce either amount to an announcement of a new policy, change in policy or are contrary to declared policy. Taking the announcement of abolition of MEP on tea, it may be noted there was a change in the effective rate of duties to cope with the trends in external markets and no question of policy is involved in it. Similarly, the extension of IPRS to a few more commodities does not involve any question of policy. I, therefore, rule that there has been no breach of accepted proprieties involved in the announcements made by the Minister for Finance and Commerce in the open House discussion.

The Minister further contended that these were administrative decisions and that, therefore, no breach of propriety was involved in the case. Such a broad proposition is not warranted by the earlier rulings of Parliament. It is conceivable that some administrative decisions may involve either a change or infringement of an existing policy and may have to be made first in the House. It is not necessary to rule on this point as I have already held that the impugned announcements by the Minister for Finance and Commerce are not statements of policy.

For the foregoing reasons, I hold no breach of propriety is involved in the announcements made by the Minister for Finance and Commerce outside the House on 10 August 1985.

(R.S. deb. dt. 19.8.1985, Cols. 250-52)

533. Parliamentary propriety: On matters of policy and other important issues Parliament must be informed earliest

On 12 May 1987, Shri Lal K. Advani drew the attention of the Chairman to a point of order on the Proclamation under article 356 of the Constitution in relation to the State of Punjab. His point of order was that when Parliament was in session any important announcement pertaining to the administration had to be made in Parliament first before it was made outside. He opined that it would have been proper if in the list of business it had been mentioned that the Minister of Home Affairs, Shri Buta Singh, or the Minister of State in the Ministry of Home Affairs, Shri P. Chidambaram, would make a statement on the Punjab situation and then he would have made an announcement that a Proclamation had been issued instead of just laying on the Table of the House a Proclamation. Shri Advani viewed this action on the part of executive as bypassing of Parliament, a breach of propriety and a violation of established conventions. Shri Dipen Ghosh, Shri Gurupadaswamy and Shri Parvathaneni Upendra also associated themselves with the view of Shri Advani. They said that Parliament should have been taken into confidence on such an important matter. Shri Gurupadaswamy urged upon the Chair to warn the Government not to treat the Parliament so casually.

Shri Parvathaneni Upendra charged the Government of treating the Parliament in a cavalier manner. Defending the action of the Government, Shri P. Chidambaram said that the Proclamation was made late last night and as per the constitutional provision the Government had come with the Proclamation to lay it on the Table of both Houses immediately.

Listening carefully to the point of order of Shri Advani and the defence given by Shri P. Chidambaram, the Chairman observed:

You do not want to plump me. It has been raised as a breach of propriety. But considering the circumstances and the facts of this case and that the decision was taken late in the night, I am not satisfied that it is a breach of propriety in this case. But the advice tendered by the Opposition that in all matters of policy and in all important matters Parliament should be informed earlier should be noted by the Government.

(R.S. deb. dt. 12.5.1987, Cols. 5-14)

534. Parliamentary propriety: Issuance of notifications with revenue implications on the eve of the Budget is contrary to parliamentary propriety

On 28 March 1988, the Chairman gave a ruling on the issuance of notifications with revenue implications on the eve of the Budget.

The ruling goes as follows:

Hon'ble members may recall that on 4, March 1986, my predecessor, Shri R. Venkataraman, had, while giving his ruling on a question of propriety of Government issuing notifications exempting either various items from payment of customs duty or varying the duty structure just on the eve of the Budget, raised by Shri Lal K. Advani and other members in the House on 25 and 27 February 1986, observed, *inter alia*, as follows:

Notifications with revenue implications such as increasing or decreasing the duty structure on the eve of the Budget are contrary to parliamentary propriety.

At this stage, it is not possible for me to comment on the merits or the contents of particular notifications, that is, whether the exemptions have been given properly or in normal circumstances. I feel that this is a matter which can be looked into by the Committee on Public Accounts which I understand, had done so in 1981.

On 11 November 1986, he (Shri Venkataraman) gave another ruling in the context of the observations of the Committee on Public Accounts.

On 25 February 1987 when a set of notifications having revenue implications was sought to be laid on the Table of the House, objection was again raised by Shri Advani. The then Chairman referred the matter to the Committee on Papers Laid on the Table with the following observations:

I am referring it to the Committee on Papers Laid on the Table of the House for the purpose of ascertaining whether any of these notifications come within the mischief of the ruling which I have already given.

The Finance Minister has made representations to me saying that in certain cases the Government will be in a very tight position and they will have to issue notifications. The Committee on Papers Laid on the Table will consider the aspect which has been raised by the Finance Minister and they will make their recommendations to me. The decision will be mine and not of the Committee on Papers Laid on the Table.

The Chairman of the Committee of Papers Laid on the Table submitted a report to me in the matter. The Committee examined all the notifications. It upheld the propriety of sixty notifications.

As regards the other eighteen notifications the Committee found that there did not appear to have existed circumstances warranting their issue and could, therefore, have been held back until Parliament had an opportunity to consider them. The other suggestions made by the Committee on Papers Laid on the Table are as follows:

- (i) In order to enable the House and the members to have full facts, notifications which seek either to extend or amend the earlier notifications should, as a matter of practice, invariably be laid along with such earlier notifications;
- (ii) The tendency to issue the notifications just a few days before the expiry of the session and laying copies thereof during the next session, pursuant to parliamentary directions, be discouraged. Rather, notifications issued during the session should invariably be laid in the same session well before its expiry; and
- (iii) Instead of giving unsatisfactory and inadequate explanations for the issue of notifications and using vague explanation such as 'revenue implication on account of exemption is not likely to be significant', precise and adequate explanations be given in unambiguous terms.

I would again like to refer to the following observations of the Public Accounts Committee which my predecessor had quoted on 11 November 1986:

Post-notification approval by Parliament is no substitute for a prior debate and discussion of taxation proposals especially when they depart from the approved Budget.

I am sure Government will take due notice of the suggestions made by the Committee on Papers Laid on the Table and ensure that in the matter of issuing notifications, it will adhere to the criteria laid down by my predecessor in the rulings on 4 March and 11 November 1986.

I am having a copy of the Report of the Committee on Papers Laid on the Table, forwarded to the Minister of Finance and am also getting the copies of the Report circulated to members for information.

535. Parliamentary propriety: Any legislation passed in the other House should be brought in this House so that constitutional requirement is fulfilled and propriety is maintained

On 9 March 1999, during a discussion regarding 'Need for Government to Accommodate Discussion on Important Issues,' Shri Pranab Mukherjee and Shri Gurudas Das Gupta expressed a feeling that the Upper House had been bypassed in case of certain legislations. It was mentioned that several issues, even substantive issues like the Approach to the Ninth Plan, which had been approved by the National Development Council, no word had been heard from the Government. It was stated that even in areas where the House had right as a legislative body, that right was not being accorded to it. A piece of legislation which required the endorsement of the House was never brought in. The Prasar Bharati Bill which was a legislation initiated by the Government was passed by Lok Sabha and after that it was to be introduced in Rajya Sabha. Instead, an Ordinance was issued. As per the constitutional requirement, the Ordinance had to be placed in the House for consideration either for approval or disapproval, which also was not done in the next session. Expressing his anguish, Shri Gurudas Das Gupta said that the members of the House had a feeling that they had been abandoned. The House had no opportunity to discuss the vital issues, as the Leader of the House had not given time for discussion. He requested that important issues should be discussed at length instead of just raising the matter in zero hour. Many other members held the same view.

After listening to the views of the members, the Deputy Chairman ruled:

So far as the constitutional responsibility is concerned, the Minister of Finance and the Minister of Information and Broadcasting have confirmed it. So, you rest assured. . . Every Government has got certain privileges and those privileges are also shared by this Government. But I still feel that, considering the sentiments of the members, any legislation, that has been passed in the other House should be brought to this House so that not only the constitutional requirement is fulfilled but propriety is also maintained. The business should not lapse and it should not appear that the business has been made to lapse. It might lapse by not your wanting it to lapse, but because of some negligence or some ignorance or whatever it may be. But it should not appear that it was purposely made to lapse. Now, you know the sentiments of the House. One never knows who sits on which side in future. So, it is better that we keep the healthy practices and the traditions of this House.

(R.S. deb. dt. 9.3.1999, Cols. 233-40 and 254-55)

536. Parliamentary propriety: The title 'General' is not used in Parliament

On 18 December 2001, during a discussion on Statement regarding terrorist attack on Parliament House, when the Deputy Chairman called the next speaker, Shri Shankar Roy Chowdhury, another member, Shri Sangh Priya Gautam pointed out that he was General Roy Chowdhury. Commenting on that, the Deputy Chairman said:

We do not use the word 'General' in the House...Being a Member of Parliament, I think, he should be more proud of, as he was proud of being a General.

* * * *

When he was a General, he was a General; when he is a Member of Parliament, he is a Member of Parliament.

(R.S. deb. dt. 19.12.2001, p. 232)

PERSONAL EXPLANATION

537. Personal explanation: A member should not exceed permission and refer to matters not permitted, while making personal explanation

The Chairman gave a ruling regarding permission sought by Shri Chandra Shekhar to make a statement on personal explanation thus:

About ten minutes before the House was due to meet yesterday morning, Shri Chandra Shekhar came into my chamber with a letter requesting my permission to make a statement of personal explanation with reference to a certain observation which the Deputy Prime Minister and Minister of Finance had made concerning Shri Chandra Shekhar in the course of his intervention in the debate of Birla affairs on March 5 last. I found from Shri Chandra Shekhar's letter that he referred in it to certain matters quite extraneous to the particular observation over which he appeared to have a grievance. I permitted him to make the statement and subsequently sent a note to him in writing saying that his personal explanation should only refer briefly to budget proposals and not regarding other matters which he had referred to in his communication. I also left instructions that a copy of this note together with Shri Chandra Shekhar's letter should be brought to the notice of the Deputy Chairman.

On a perusal of yesterday's records, I find to my regret that Shri Chandra Shekhar exceeded the permission I had given him and brought in matters of a personal character against the Deputy Prime Minister, not relevant to the personal explanation. This is clearly against procedure and well-established conventions. I would like to say that if members who seek my indulgence in matters like this, misuse it, I will have to seriously consider whether hereafter I shall not have to insist that the member who seeks this privilege should put down the statement of personal explanation in writing in advance and show it to me before the statement is made.

I would also like to add that normally members who participate in debates and make criticisms of Government should be present in the House to listen to the replies to their criticisms, so that occasions for personal explanation statements as in the present case may not arise in future.

(R.S. deb. dt. 11.3.1969, Col. 3151)

538. Personal explanation: Questions or clarifications are not allowed on personal explanation

On 31 August 1973, Shri Niren Ghosh wanted to put some questions by way of seeking clarifications on a statement of personal explanation made by the Minister of Railways, Shri L. N. Mishra.

The Chairman observed:

You cannot discuss it here... I will tell you that on personal explanations no questions are put.

(R.S. deb. dt. 31.8.1973, Col. 84)

539. Personal explanation: No discussion should follow a personal explanation

On 31 July 1980, Shrimati Vijaya Raje Scindia made a personal explanation on what the Minister of Information and Broadcasting had said earlier on the question of atrocities on women. After she made her personal explanation, many members wanted to raise points of order and they also wanted that the matter should be discussed.

On this, the Deputy Chairman observed:

Everyone cannot be allowed. Another point is being raised. This is not proper... I do not allow this. May I request the hon'ble members that so far as the personal explanation is concerned, the matter ends there. Both the versions are before the House in the proceedings and the country knows what is the version of the Minister and what is that of the member. The country can draw its own conclusion. If any party – either the Government or the members wants to raise the matter for a discussion in some form or the other, the rules are there; they can seek guidance from these. I do not think there is any hindrance for them.

(R.S. deb. dt. 31.7.1980, Cols. 148-60)

540. Personal explanation: No discussion should follow a personal explanation

On 3 April 1989, Shrimati Renuka Chowdhury made a special mention on the allegation of a member of the House against another member on the leakage of the Thakkar Commission Report. During her speech, she referred to an interview published in the April issue of the *Surya*, where a Minister of State implicated a Cabinet Minister in the leaking of the Report. This charge of the member led Shri Kalpnath Rai, Minister of State for Power, to give a personal explanation.

Bringing an end to the arguments and counter-arguments of members about the Minister's right of personal explanation, the Deputy Chairman observed:

You please refer to "Kaul and Shakhder". According to that, a member has a right to make his personal explanation. He is a member of this House and he is sitting here...

And he happens to be present in the House now. He has denied it also. Now, if you still feel that he has not stated the truth, the correct fact, on which you think you have a right to make a privilege issue, I think you cannot discuss it. "Kaul and Shakhder" is very clear on it. There is going to be no discussion on a personal explanation. That is the rule and that is the rule in this book. That is all.

(R.S. deb. dt. 3.4.1989, Cols. 121-28)

541. Personal explanation: No debate or question can be raised on a personal explanation

On 29 July 1993, Shri Subramanian Swamy raised a point of order with regard to a personal explanation offered the previous day by the Minister of Law, Justice and Company Affairs, Shri H. R. Bhardwaj, regarding an interview that he gave on the television.

In this connection, the Deputy Chairman ruled as follows:

I would not allow any discussion because it is a personal explanation. According to the rule, according to Kaul and Shakhder no debate or question will be arising out of this personal explanation.

(R.S. deb. dt. 29.7.1993, Col. 239)

542. Personal explanation: Debatable matter should not be brought forward while making a personal explanation

On 30 March 1988, the Minister of State in the Departments of Youth Affairs and Sports and Women and Child Development in the Ministry of Human Resource Development, Shrimati Margaret Alva, offered to make a personal explanation regarding a statement she made earlier in the House on 23 March 1988. While offering her apologies for mistakenly stating that Shri Atal Bihari Vajpayee, as Foreign Minister, had met the Prime Minister of Israel, she brought in some other matters and names of various other leaders. Objecting to this, Shri M. S. Gurupadaswamy raised a point of order and referred to rule 241 which prohibits introduction of debatable matters at the time of making a personal explanation.

The Chairman ruled:

I will see her whole speech and if it comes within the mischief of these words used. But what you have read, I may read the whole thing: "A Member may, with the permission of the Chairman, make a personal explanation although there is no question before the Council, but in this case no debatable matter may be brought forward and no debate shall arise." So, now you leave it to me, I will see if any debatable matter...I have the right to expunge and I have been telling all of you.

The Chairman further said:

My ruling is that I will go into the records. If she has brought any matter...

Now, I will go into the question. But in this case no debatable matter may be brought forward. Whatever comes within the terms of "debatable matter", I will definitely expunge.

(R.S. deb. dt. 30.3.1988, Cols. 66-67)

543. Personal explanation: No discussion on a statement of personal explanation can be permitted but a statement of fact in it can be contradicted

On the 17 November 1980, the Minister of State in the Department of Science and Technology, Shri C. P. N. Singh, made a statement of personal explanation in regard to certain allegations made against him (in his earlier capacity as the Minister of State in the Ministry of Defence) by Shrimati Margaret Alva. Shrimati Alva said, among other things, that one Mr. Michel, who, she had alleged had been the beneficiary of some shady transactions in the sale of some tanks and spares by the Defence Ministry, "had been ringing her up frantically from London during the preceding week requesting her not to create problems for him." Referring to her statement, Shri C. P. N. Singh said: "Sir, I have evidence to show that Mrs. Margaret Alva had taken the initiative of calling him up during her visit to London sometime in the end of July or early August 1980. Since Mr. Michel was abroad, she had left a message asking him to contact her on her return to India. I am not sure as to why an hon'ble member of this House should have taken this initiative. I leave it to the hon'ble members to draw the inference."

On 20 November 1980, Shrimati Margaret Alva, with the permission of the Chairman, made a statement denying the allegations of Shri C. P. N. Singh. She said: "I categorically deny this allegation as being untrue, aimed at deliberately misleading the House and bringing me into disrepute. It is calculated at questioning my integrity and conduct as a member of this House. And I may add, Sir, that I retain my right to go to the Privileges Committee on this."

Immediately, some hon'ble members rose to make some observations on the subject.

The Chairman then observed:

Please sit down. There is a rule that after the statement has been made, there shall be no other personal statement. But if a statement of fact is said in the statement made by a Minister or anybody, that can be contradicted. I told Mrs. Margaret Alva, and she kindly agreed that what has been said against her can be contradicted on the floor of the House. That was agreed to and that has been done.

(R.S. deb. dt. 17.11.1980, Cols. 323-26; 20.11.1980, Cols. 221-23)

544. Personal explanation: Words from the charge-sheet, if mentioned in the House, should not form part of the records

On 21 February 1986, members were permitted to offer personal explanations regarding espionage case involving Shri Ram Swarup. Shri Gurupadaswamy, in his personal explanation, made reference to the charge-sheet.

Then, the Chairman observed:

The words about the charge-sheet will not form part of the record because you cannot comment on it. You have to confine yourself to personal explanation.

(R.S. deb. dt. 21.2.1986, Cols. 190-91)

545. Personal explanation: Ministers have right to make personal explanation

On 30 August 1990, the Deputy Chairman called the Minister of State in the Ministry of Environment and Forests, Shrimati Maneka Gandhi, to make her personal explanation regarding a dispute between her and the Minister of Environment and Forests, Shri Nilamani Routray.

On this issue, Shri Kamal Morarka and other members raised a point of order that Shrimati Maneka Gandhi was not a member of Rajya Sabha, and as such she could not make a personal explanation.

The Deputy Chairman observed as follows:

...if Mrs. Maneka Gandhi was only a member of that House, then the Chair would not have allowed any allegation on her. It was allowed because she comes to this House as a Minister and she is answerable to the questions of the members in both the Houses. And if it was not so I would not have permitted you to say anything about any member belonging to the other House.

Secondly, the Chairman in his right has permitted Mrs. Maneka Gandhi to make a personal explanation. That is why she is here.

(R.S. deb. dt. 30.8.1990, Cols. 152-57)

546. Personal explanation: Members should seek Chairman's permission for giving a personal explanation

On 31 July 1991, Dr. Y. Sivaji sought the permission of the Deputy Chairman to make a personal explanation. Reminding the member of the Rules and procedure of the House, the Deputy Chairman made the following observation:

You should first seek Chairman's permission for giving a personal explanation. You write to the Chairman. Then I will allow you if the Chairman permits. Nobody is going to reply to your questions in this way.

(R.S. deb. dt. 31.7.1991, Cols. 341-42)

547. Personal explanation: One should not impinge on the right of a member to give an explanation as a member

On 29 July 1993, some members including Shri Subramanian Swamy and Shri S. Jaipal Reddy raised objections and points of order with regard

to a personal explanation given by the Minister of Law, Justice and Company Affairs, Shri H. R. Bhardwaj, regarding an interview he gave on the television. The point of order raised by the members was that whether the Minister was giving the reply in his capacity as a member of the House or in his capacity as a member of the Council of Ministers.

At this point, the Deputy Chairman ruled as follows:

You cannot infringe on the right of a member to speak as a member. You cannot direct a member to make his explanation under any rule which you want. It is entirely his prerogative.

(R.S. deb. dt. 29.7.1993, Cols. 237-40)

548. Personal explanation: Prior notice before making an allegation is required to enable the member to give a personal explanation in the House

A question of privilege was raised on 20 December 1993 by Shri Satya Prakash Malaviya regarding a report on Doordarshan in which a photograph of Shri Digvijay Singh who had been invited to form the Government in Madhya Pradesh was to be shown and instead the photograph of Shri Digvijay Singh, member of Rajya Sabha, was shown. Shri Malaviya was not satisfied with the steps taken by the Ministry to rectify the error.

The Deputy Chairman gave the following ruling:

According to the rule, if you want either to make an allegation or refer to an allegation made against a member or a Minister of the Government, it is a pre-requisite that you should give notice. We will inform the person concerned and he or she should be present in the House to give a personal explanation. I only want to abide by the rules. I have to abide by the rules even if it is made against you also...

(R.S. deb. dt. 20.12.1993, Cols. 276-78)

POINTS OF ORDER

549. Points of order: Points of order should not be raised on a business that is not before the House

On 8 September 1961, Shri Bhupesh Gupta, rising on a point of order, alleged that the proceedings of the House had been tampered with and that some remarks that he had made on 5 September 1961, regarding the Finance Minister, Shri Morarji Desai, were missing from the proceedings.

The Deputy Chairman observed:

There is no point of order. You cannot raise a point of order on a business that is not before the House... It must pertain to something which is before the House.

(R.S. deb. dt. 8.9.1961, Cols. 3911-13)

550. Points of order: Without quoting the rule no point of order can be raised

On 29 August 2001, during a calling attention on the recent circulars issued by the University Grants Commission (UGC) and the National Council for Educational Research and Training (NCERT) Curriculum Framework in the context of the National Policy of Education, Shri Eduardo Faleiro wanted to raise a point of order. At this, the Vice-Chairman said :

Mr. Faleiro, if you want to raise a point of order, you have to quote the rule under which you want to raise your point of order...Without quoting the rule, you cannot raise a point of order.

(R.S.deb. dt. 29.8.2001, p. 233)

551. Points of order: Points of order should not be raised when the subject is already under consideration of the Chairman

Shri Krishan Kant raised a point of order regarding a decision of the Supreme Court. He said that he had written a letter on this subject to the Chairman.

The Deputy Chairman observed:

Mr. Krishan Kant you have already mentioned that you have written a letter to the Chairman and you had made out a whole case and you have made it out now. As it is under the consideration of the Chairman, we need not proceed with the point of order you have made.

(R.S. deb. dt. 15.11.1971, Cols. 223-41)

552. Points of order: No point of order to be raised when there are interruptions in the House

On 2 August 2006, Shri V. Narayanasamy tried to raise a point of order when there were frequent interruptions and business of the House was not running properly. The Chairman objected to the raising of the point of order and said:

When the House is not running then from where does point of order arise.
Point of order is raised only when the House is running.

* * *

There have been rulings in this very House that until the House does not do business a point of order should not be brought.*

(R.S. deb. dt. 2.8.2006, pp. 215-216)

553. Points of order: A point of order should concern a matter which is immediately before the House and not a matter discussed earlier

On 14 March 1985, in the course of a discussion on the Handloom (Reservation of Articles for Production) Bill, 1984, Shri Jaswant Singh sought to raise a point of order concerning a question put to the Home Minister during the question hour.

The Deputy Chairman ruled this out, saying:

I thought your point of order was concerning the Bill that we are discussing. You cannot raise a point of order on something which happened in the morning. I am sorry, I cannot allow you. But, if you want to raise a point of order on the Handlooms Bill, you are most welcome.

When Shri Jaswant Singh referred to rule 258 which enables a member to raise a point of order on any issue, the Deputy Chairman said:

Please listen to me. It does say that a member has a right to raise issues of any kind or type or whatever you may say, but not at any time. But your point of order does not concern this debate or the deliberations going on just now. So, you cannot raise it.

Clarifying an argument on this ruling, the Deputy Chairman further observed:

You can raise a point of order concerning the debate going on now. Whatever query you have on that you can raise it tomorrow after the question hour or you may write a letter to the concerned Minister and find out.

(R.S. deb. dt. 14.3.1985, Cols. 265-67)

*Spoke in Hindi

554. Points of order: A point of order can be raised only on a matter before the House

On 12 August 1993, just as the Deputy Chairman took up clarifications regarding a calling attention, Shri Mentay Padmanabham began insisting on raising a point of order regarding what had happened in the House the previous day.

On this, the Deputy Chairman gave her ruling as follows:

...a point of order can be raised on a matter which is for discussion before the House. If you are raising a point of order on this calling attention then I will permit you. I won't object to it. But if you are raising a point of order on any other subject, I cannot permit you.

(R.S. deb. dt. 12.8.1993, Cols. 190-92)

555. Points of order: Points of order should not be recorded if not allowed by the Chair

On 27 February 1982, the House was discussing the reference to the alleged misreporting of the proceedings of Rajya Sabha on Doordarshan. Shri Ramakrishna Hegde wanted to raise a point of order but the Deputy Chairman ordered the Reporters not to take down anything. Shri Hegde again raised a point of order and wanted to know the rules under which the Deputy Chairman had asked the Reporters not to take down his point.

The Deputy Chairman ruled:

It means Mr. Hegde was rising without any point of order. After he rose, then I said that nothing will be recorded. If he had any point of order, he should come forward with that thing. And you see, this is a salutary provision to regulate the proceedings that the Chair has got not to record the member unless the member is called and he is permitted by the Chair to go on record. The member cannot get up and go on record. That is not his right..This is under the inherent power of the Chair to regulate the proceedings of the House.

(R.S. deb. dt. 27.2.1982, Cols. 3-11)

556. Points of order: There can be no point of order on a point of order

On 21 August 1984, when the Minister of State in the Ministry of Parliamentary Affairs, Shri Kalpnath Rai was called by the Chair to lay papers relating to Government assurances and actions taken thereon on the Table of the House, Shri Jaswant Singh rose on a point of order. As he was trying to explain his case by citing unfulfilled assurances, Shri Vishvajit Prithvijit Singh rose on a point of order. Even as the Deputy Chairman was not allowing it, the member pressed for listening to his point of order, for in his opinion, his point of order was very important.

Disallowing his point of order, the Deputy Chairman observed:

This is not the parliamentary practice. When one point of order is raised, you cannot raise another point of order. There is no point of order on point of order.

(R.S. deb. dt. 21.8.1984, Cols. 195-96)

557. Points of order: A point of order can be raised only with the permission of the Chair

On 22 August 1990, Shrimati Jayanthi Natarajan demanded a statement from the Government on Language Policy. The Minister of Surface Transport, Shri K. P. Unnikrishnan, said on behalf of the Government that the language policy of the National Front was very clear and unambiguous. Shri M. M. Jacob rose on a point of order on this issue but the Deputy Chairman did not permit him. Shri V. Narayanasamy pleaded that the member could raise his point of order and the Minister had to yield.

The Deputy Chairman observed on this issue as follows:

I have not permitted him. Point of order does not mean this becomes his birth-right.

(R.S. deb. dt. 22.8.1990, Cols. 227-28)

558. Points of order: Calling attention: A general 'point of order' should not be taken up during the calling attention

On 10 June 1971, after the question hour was over and the debate on the calling attention had commenced, Shri Rajnarain repeatedly wanted to raise a point of order relating to a question which was not allowed by the Chairman.

The Chairman then observed:

A general point of order cannot be taken up in the midst of a calling attention.

(R.S. deb. dt. 10.6.1971, Cols. 115-18)

559. Points of order: Half-an-hour discussion: Points of order should not be raised during half-an-hour discussion

On 9 March 1979, when a half-an-hour discussion was taking place, Shri Harekrushna Mallick and Shri B. Satyanarayan Reddy wanted to raise a point of order.

On this the Vice-Chairman observed:

This is a half-an-hour discussion. You cannot raise a point of order in a half-an-hour discussion. There is no subject under discussion now...

I make it very clear, you can participate in the discussion but you cannot raise a point of order now.

(R.S. deb. dt. 9.3.1979, Col. 226)

560. Points of order: Ministers: A Minister also can speak on a point of order

On 1 March 1979, during a half-an-hour discussion when the Minister of State in the Ministry of Agriculture and Irrigation, Shri Bhanu Pratap Singh, wanted to speak on a point of order raised by Shri Sadashiv Bagaikar, Shri Anant Prasad Sharma raised an objection that he being a Minister could not take part in the debate when the point of order was going on. Shri Bhanu Pratap Singh mentioned that he was also a member of the House.

On this the Vice-Chairman observed:

On a point of order a Minister also can speak...While the House is considering one point of order, another point of order cannot be raised. Let me dispose of it first. He is a Minister; he has a right...

(R.S. deb. dt. 1.3.1979, Cols. 258-61)

561. Points of order: Ministers: A Minister who is the member of the other House, also can raise a point of order

On 25 January 1980, in the course of a discussion on a calling attention, when Shri Bhupesh Gupta made certain references in respect of an individual, the Minister of State in the Ministry of Home Affairs and in the Department of Parliamentary Affairs, Shri P. Venkatasubbaiah, raised a point of order that allegations had been made against a person who was not a member of the House and who had no chance to defend himself. Shri Arvind Ganesh Kulkarni objected to the Minister raising the point of order on the ground that under the Rules of Procedure a Minister had no right to raise a point of order when he was not even a member of the House. On this point Shri S. W. Dhabe said that formerly a Minister was never allowed to raise a point of order and asked whether such a convention could be broken. Shri Sankar Ghose, referring to rule 258, said that as per the rule any member may at any time submit a point of order for the decision of the Chairman. Shri Ghose emphasized the words 'any member' and asked whether the Minister was a member of the House. At this stage, Shri B. N. Banerjee intervened to point out that there was a precedent which took place only a few months back when some members had raised a similar point of order and the Deputy Chairman had clearly stated that a Minister, who was not a member of the House, was, under the Constitution, entitled to participate in the proceedings of the House and could raise a point of order. Shri Era Sezhiyan wanted the Chair to consider the definition of 'Member' given in rule 2 of the Rules of Procedure before giving his ruling.

The Chairman observed:

There is rule 258 which reads:

Any member may at any time submit a point of order for the decision of the Chairman, but, in doing so, shall confine himself to stating the point.

Here, the word is 'member' which has been emphasized. The definition of a member is this: 'Member' means a member of the Council of States (Rajya Sabha). So, the objection seems to be that as the hon' ble Minister is not a member of Rajya Sabha, he cannot raise a point of order because the rules only contemplate a member of the Council of States. But, there is the super law, namely the Constitution. Article 88 reads:

Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the House, and any Committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

The point relates to: 'otherwise to take part in the proceedings'. Does it mean – to take part in the proceedings – to the same extent as any other member or to go beyond the scope of the rules? Now, here we follow the principle that earlier precedents weigh with the Chairman. I have been told that there is an instance when my predecessor had ruled that an hon'ble Minister, when he is in the House, will be entitled to raise a point of order. I think it would be wrong for us to depart from what has been once decided in this House.

(R.S. deb. dt. 25.1.1980, Cols. 52-55)

562. Points of order: Ministers: A Minister, even if not a member of the House, has a right to raise a point of order

On 15 December 1980, several members took objection when the Minister of Information and Broadcasting, Shri V. P. Sathe, wanted to raise a point of order after the Deputy Chairman had disallowed the point of order raised by Shri Rameshwar Singh. Their contention was that a Minister who was not a member of the House, could not raise a point of order.

In this connection the Deputy Chairman had the following observations to make:

Let me explain the position on the point raised by Mr. Mody. In this House, when Mr. Advani was the Leader of the House, Mr. Rajnarain raised points of order and on several other occasions Ministers have raised points of order. This has been the practice in this House. If anybody has any doubt, let him consult the proceedings.

While making his submission, Shri Pilloo Mody made the following points: firstly, a point of order relates to the procedure of the House and that privilege belongs to the members and, therefore, Ministers should not be raising points of order and secondly, not being a member here, Ministers

should not appropriate the privileges of this House.

Dr. M. M. S. Siddhu's contention was that since the Deputy Chairman had not allowed the subject-matter to be recorded, whether interruptions or otherwise, there was no matter in the House on which point of order could be raised. He, however, agreed that it was upheld on a previous occasion that a Minister could raise a point of order.

Thereupon, the Deputy Chairman made the following observations:

May I read for the benefit of the hon'ble members article 88 of the Constitution...

Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

In this article, the important point is, 'to take part in the proceedings'; point of order and other discussions, they are all part of proceedings. Therefore, there is no bar on that.

And as Dr. Siddhu has rightly reminded the House, Shri Rajnarain – when Shri Advani was the Leader of the House – was permitted to raise a point of order; the Chair upheld it.

On a further point raised by Shri Pilloo Mody about the applicability of rule 258 of the Rules of Procedure, the Deputy Chairman observed:

I request you to read article 88 of the Constitution. Article 88 of the Constitution is supreme, and our rule is subordinate to it.

(R.S. deb. dt. 15.12.1980, Cols. 207-16)

563. Points of order: Ministers: A Minister who is a member of the House has a right to raise a point of order

On the 29 May 1990, Shri R. K. Dhawan made a special mention regarding FIR lodged in the St. Kitts case. On this matter, the Minister of Petroleum and Chemicals, and the Leader of the House, Shri M. S. Gurupadaswamy raised a point of order. Shri S. S. Ahluwalia also raised a point of order as to whether the Minister could raise a point of order or not?

The Deputy Chairman observed as follows:

It is for me to decide, not you. It is for me to decide which way I should allow... I have permitted him...The Minister who is a member of this House can raise a point of order. This is my ruling.

On 30 May 1990, the Vice-Chairman clarified the above ruling as follows:

Yesterday, the Deputy Chairman ruled when there was a controversy whether a particular Minister can make a point of order or not. Her ruling was very clear "If the Minister is a member of this House, he has a right to

raise a point of order."...So let me repeat the Deputy Chairman's ruling unless it is revised by her or the Chairman, that a Minister who is a member of Rajya Sabha has the right to raise a point of order. No Minister howsoever mighty a member of the Government of India he is, if he is not a member of this House he does not have the right to raise a point of order but with the permission of the Presiding Officer he or she can make an intervention...

(R.S. deb. dt. 29.5.1990, Cols. 258-60; 30.5.1990, Cols. 268-69)

564. Points of order: Question hour: Points of order should not be raised during the question hour

In the course of the supplementaries on starred question no. 331, Shri Arjun Arora rose on a point of order.

The Chairman said:

I would discourage points of order during question time.

(R.S. deb. dt. 5.12.1967, Cols. 2455-59)

565. Points of order: Question hour: Points of order should not be raised during the question hour

On 13 February 1968, during a supplementary on starred question no. 6, Shri Rajnarain stood up on a point of order.

The Chairman observed:

I am not going to allow any point of order during the question hour. You can take it that hereafter as my view that during the question hour no point of order will be admitted, unless it is very extraordinary.

(R.S. deb. dt. 13.2.1968, Col. 61)

566. Points of order: Question hour: Points of order should not be raised during the question hour

Citing the Chairman's previous ruling on the subject, Shri M. M. Dharia asked how it was that the Chairman was allowing members to raise points of order during the question hour.

The Chairman observed:

Points of order are being raised at every step unfortunately from all sides of the House. It is unfortunate. If we really want more questions to be answered, we must make a determination in our minds and conscientiously feel that we should not have any points of order during the question hour.

(R.S. deb. dt. 20.3.1969, Col. 4888)

567. Points of order: Question hour: Points of order should not be raised during the question hour

On 19 January 1976, while the Minister of Law, Justice and Company Affairs, Shri H. R. Gokhale, was answering supplementaries arising out of starred question no. 243 on legal aid to the poor, a member of the Opposition from Tamil Nadu, Shri G. Lakshmanan, characterised the whole thing as an election propaganda. The Minister retorted and asked the member what his State had done in giving legal aid to the poor. At that stage, another member from the Opposition, Dr. K. Mathew Kurian, repeatedly tried to raise a point of order. The Chairman informed him that he was not allowing him to raise any point of order.

When the member asserted his right to raise the point of order, the Chairman observed:

No point of order during the question hour. I am not allowing it.

(R.S. deb. dt. 19.1.1976, Cols. 20-21)

568. Points of order: Question hour: Points of order should not be raised during the question hour

On 1 March 1978, during the question hour when the Minister of Health and Family Welfare, Shri Rajnarain, wanted to raise a point of order, the Chairman observed thus:

No point of order during the question hour. I will not allow that...I am here. I tell the hon' ble Minister that it was decided by the entire House that no point of order should be raised in the question hour.

(R.S. deb. dt. 1.3.1978, Col.17)

569. Points of order: Question hour: Points of order should not be raised during the question hour

On 1 July 1980, during the question hour, a newly elected member, Shri M. Kalyanasundaram, wanted to raise a point of order relating to the inability of some newly elected members to take oath on that day because of some formality not having been completed by the Law Ministry.

The Chairman observed:

There is one rule in this House. When I stand, you sit down. You have to learn this. During the question hour, no point of order can be raised. You can raise it after the question hour.

(R.S. deb. dt. 1.7.1980, Col. 1)

570. Points of order: Question hour: Points of order should not be raised during the question hour

On 4 May 1984, during the question hour, Shri M. Kalyanasundaram was trying to raise a point of order. The Deputy Chairman told that point of order could not be raised during the question hour. The member, however, insisted that he should be heard before disposing the point of order. At this stage Shri R. Ramakrishnan, quoting rule 258 said, "Any member may at any time submit a point of order for the decision of the Chairman, but in doing so, shall confine himself to stating the point."

The Deputy Chairman, however, disallowed the point of order and observed:

This is not a new point. No point of order can be raised during the question hour. This has been the ruling of this House throughout.

(R.S. deb. dt. 4.5.1984, Cols. 16-17)

571. Points of order: Question hour: Points of order should not be raised during the question hour

On 5 September 1990, while the activities of ULFA were being discussed during the question hour, Shri G.G. Swell sought to raise a point of order.

The Chairman refusing him permission to raise the point of order, observed:

There is no point of order during the question hour.

(R.S. deb. dt. 5.9.1990, Col. 11)

572. Points of order: Question hour: Points of order should not be raised during the question hour

On 21 December 1992, when the House met at eleven o'clock, the Chairman, at the very outset, allowed the Leader of the Opposition to say something regarding indefinite fast by Shri Atal Bihari Vajpayee. As the Leader of the Opposition started speaking, Shri H. Hanumanthappa tried to raise a point of order.

At this, the Chairman ruled:

There is no point of order during the question hour.

(R.S. deb. dt. 21.12.1992, Cols. 1-2)

573. Points of order: Question hour: Point of order cannot be raised during question hour

On 2 August 2001, during question hour when Shri Anantray Devshanker Dave rose to make a point of order, the Chairman observed:

There is no point of order during question hour.

(R.S. deb . dt. 2.8.2001, p. 6)

574. Points of order: Question hour: No point of order during question hour

On 20 August 2001, during question hour, Shri Rajnath Singh 'Surya' rose to make a point of order. The Chairman promptly made the position clear, thus:

There is no point of order during question hour...

(R.S. deb. dt. 20.8.2001, p. 30)

575. Points of order: Question hour: There cannot be any point of order during question hour

On 22 November 2001, during question hour, Shri Satish Pradhan rose to make a point of order. The Chairman did not allow him saying that:

In question hour, there can't be any point of order.

(R.S. deb. dt. 22.11.2001, p. 7)

576. Points of order: Question hour: No point of order to be raised after question hour on any matter raised during question hour

On 25 July 2003, when the Minister of State in the Ministry of Defence and the Minister of State in the Ministry of Parliamentary Affairs, Shri O. Rajagopal was making a statement regarding government business in the House, a member rose on a point of order saying that the Minister had made a statement and he wanted to seek a clarification, etc. Closing the matter then and there, the Chairman stated thus:

...Once question hour is over and till the next subject is taken up you cannot raise a point of order on any matter raised during question hour.

(R.S. deb. dt. 25.7.2003, p. 233)

577. Points of order: Question hour: Convention of not raising a point of order during the question hour should not be violated

On 4 May 1984, Shri K. Mohanan raised a point regarding the decision of the Chair, disallowing a point of order raised during the question hour. He pleaded that since the Rules and procedures of the House provide for raising a point of order at any point of time, nobody including the Presiding Officer could override the rule. Shri Nirmal Chatterjee also supplemented by saying that even during the question hour, it might be necessary to raise points of order.

Dismissing the points raised, the Chairman observed:

It has been the convention of this House that during the question hour there are no points of order raised.

(R.S. deb. dt. 4.5.1984, Cols. 193-94)

PRESIDENT

578. President: Election: The decision of the Supreme Court shall be final in disputes arising out of the election of the President

All the opposition parties sought special permission to raise the matter regarding the misuse of Government machinery by Government officials, Ministers and the ruling party in the campaign for the President's election. Opposition parties made mention of a photostat copy of the Press Information Bureau's note. They had written to the Chief Election Commissioner and he had made an inquiry from the Ministry of Information and Broadcasting. The Information and Broadcasting Ministry accepted that it was their press note issued by the Press Information Bureau appealing for votes for the candidate, Giani Zail Singh, who had been selected by the Congress Parliamentary Board.

Some of the ruling party members were of the view that infirmities in the election should not be raised in this House because it is a matter which is within the competence of the Supreme Court and not of this House.

The Deputy Chairman ruled:

I think the points that have been raised by several members have almost been replied to from either side. But this point is quite clear that "all doubts and disputes arising out of or in connection with the election of the President or the Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final". So, all matters that arise during the election – the election process starts from the date of the nomination itself and there are several rulings from the courts and there is no doubt on that point – can be inquired into only by the Supreme Court.

(R.S. deb. dt. 8.7.1982, Cols. 177-209)

579. President: Letter to the Prime Minister: Discussion on correspondence between the President and the Prime Minister involves constitutional interpretation

On 17 March 1987, Shri Parvathaneni Upendra drew the attention of the Chairman to a letter purported to have been written by the President to the Prime Minister. He said that the existence of the letter is neither denied by the Rashtrapati Bhawan nor the Prime Minister's Office. So, this raises many fundamental issues.

Disallowing Shri Upendra to go into the merits of the letter, the Chairman gave the following ruling:

Hon'ble member wanted to know what exactly is the situation with regard to the study which I promised to do in respect of the matter raised. It is a very important issue and one which involves interpretation of the Constitution. I want to make a thorough and deep study of this problem and come out with a ruling in depth. I have asked for information regarding the corresponding

provisions in the Constitutions of Canada and Australia. I have asked for information regarding any precedent in this matter. I will study them in depth and give a ruling not before 20th. If you want the ruling before the 20th, I will give on the basis on the *ex-facie* position on the Constitution. It is for you to choose.

(R.S. deb. dt. 17.3.1987, Cols. 220-22)

580. President: Letter to the Prime Minister: The contents of the President's letter to the Prime Minister cannot be discussed in the House

On 20 March 1987, after an extensive study the Chairman gave the following ruling on the issue raised by Shri Parvathaneni Upendra on 17 March 1987, demanding a discussion on a letter purported to have been written by the President to the Prime Minister:

Hon'ble members, on the morning of 13 March 1987 a certain Delhi based newspaper published what purported to be the text of a letter written by the President of India to the Prime Minister of India.

Shri Jaswant Singh obtained the permission of the Chair to read in the House a communication addressed by him to the Chairman which *inter-alia*, sought a clarification on issues, which according to him, arose as follows:

- (a) The veracity of this purported letter;
- (b) The manner in which the newspaper gained access to such correspondence between high officers of State;
- (c) Vital questions relating to the security of information and confidentiality of governance; and
- (d) The question arising from the Prime Minister having made a statement in Parliament, which the text of the purported letter appeared to refute.

Describing the issue as 'not merely a privilege issue' but one that had constitutional aspects to it, Shri Jaswant Singh appropriately concluded his remarks with the statement that Parliament should do nothing that might bring it in conflict with the office of the Head of State. Sarvashri Gopalsamy and Nirmal Chatterjee were permitted to associate themselves with the observations of Shri Jaswant Singh.

Shri Gopalsamy had earlier sought to raise this matter as an issue of privilege. On being apprised of the relevant rules in this regard, he, however, withdrew his notice reserving his right, if any, to raise it again.

I also received, later, notices of breach of privilege against the Prime Minister from Sarvashri Jaswant Singh, Upendra and Lakshmana. Shri Jaswant Singh supplied me his viewpoint in regard to interpretation of articles 74 and 78. Shri Upendra again raised the matter on 17 March urging upon me to expedite my ruling.

After hearing their explanations, I informed them that I would go into the matter in depth. I also received on 19 March 1987, a letter signed by Shri Samar Mukherjee and eight leaders of the Opposition seeking to discuss various issues relating to the matter. The issue is one in which two of the highest offices under the Constitution are involved. What is more, it concerns a nexus which is at the very heart of governance under the Cabinet system which we have given to ourselves. I have, therefore, felt it essential that such consideration be given in my study to the issues involved as this constitutionally pivotal matter calls for. Having done so, I now proceed to give my ruling.

The first and essential question that arises for consideration is whether any matter communicated or purported to be communicated by the Head of the State to the Head of the Government and *vice versa* may be raised in the Houses of Parliament. The answer to this question rests on the nature of the relationship that governs the President and the Prime Minister under our Constitution. I shall attempt such an answer by means of (i) reference to the discussions on the subject in the Constituent Assembly; (ii) reference to the relevant conventions in Britain and (iii) a discussion on the scope of articles 74 and 78 of our Constitution.

While introducing the Draft Constitution as settled by the Drafting Committee in accordance with the decisions of the Constituent Assembly and on the basis of Reports of various Committees appointed by it, the Chairman of the Drafting Committee who is rightly regarded as the architect of our Constitution, Dr. B.R. Ambedkar made certain important observations on the role of the future Head of Indian Republic. Dr. Ambedkar said, and I quote:

Under the Draft Constitution, the President occupies the same position as the King under the English Constitution. He is Head of the State but not of the executive. He represents the nation but does not rule the nation. He is the symbol of the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known.

It was clear that the Office of the President of India was to enjoy a unique and special relationship with the Council of Ministers headed by the Prime Minister, a relationship based on inviolable trust. Other eminent jurists like Sir Alladi Krishnaswami Aiyer, who was in the Constituent Assembly, also opined that under the Constitution, the President of India had to go by the advice of the Cabinet.

The decision embodied in the Constitution provided for a Cabinet form of Government of the Westminster type with a President as Head of the State and a Prime Minister as Head of the Government, based on conventions as well as the provisions of the Constitution. Herein lay the pith and substance of parliamentary democracy. The people's will is embodied in Parliament, the Parliament expresses itself through the Cabinet and the Cabinet transacts its business in the name of the Head, namely, the President. One preserves and protects the other. Articles 53 and 74 of our Constitution enshrine this living principle of democratic articulation. Article 53 of our Constitution states that the executive power of the Union is vested in the President, all executive action being taken in his name. The scope of this executive power has been defined in the article 74 which states that the President has to discharge all his functions in accordance with the advice of the Council of Ministers, which is responsible to Lok Sabha.

The fact that the Cabinet system of Government has been introduced into the Indian Constitution is universally acknowledged. Another distinguished member

of the Drafting Committee of the Constituent Assembly, Dr. K. M. Munshi, said in that Assembly:

We must not forget a very important fact that during the last one hundred years, Indian public life has largely drawn upon the traditions of the British constitutional law. Most of us and during the last several generations before us, public men in India, have looked up to the British model as the best. For the last thirty or forty years, some kind of responsibility has been introduced in the governance of this country. Our constitutional traditions have become parliamentary...

The Supreme Court of India in its judgement in *Ram Jawaya versus the State of Punjab* case upheld the principle of the President-Cabinet relationship and Justice Mukherjee clarified therein as follows:

The President has thus been made a formal or constitutional head of the executive and the real executive powers are vested in the Ministers of the Cabinet.

In this context I turned to the practice in the House of Commons to see if the conventions of that Parliament made room for a discussion on issues such as the one at hand. A set of relevant queries was posed to Sir Kenneth Bradshaw, Clerk of the House of Commons, on the subject. The answers are revealing. To a question as to whether correspondence between the Queen and the Prime Minister is confidential and whether it is even debated in the House, the Clerk of the House of Commons had replied that the correspondence "is confidential and never debated". The position as obtains in the House of Commons showed that the only occasion in this century when discussions between the Monarch and the Prime Minister were shared with the British Parliament was during the course of a substantive debate of legislative nature, namely, on the Abdication Bill, 1936.

Again, in the recent matter of the reported "leaking" of the Queen's private opinions on the subject of "sanctions against the Pretoria Regime", the Clerk of the House of Commons was asked if any discussion took place in the House of Commons. He has replied that "no debate took place in the House of Commons and no questions were tabled." The British Prime Minister, Mrs. Margaret Thatcher refused to answer supplementary questions relating directly or indirectly to the monarchy.

It has been feebly suggested that under article 74(2) only questions relating to the advice tendered by the Council of Ministers to the President shall not be enquired into by any court and that since the Parliament is not a court of law, Parliament is entitled to enquire into it. Such a contention will lead to illogical conclusions as follows: Firstly, the confidentiality between the President and the Prime Minister cannot be looked into by courts but can be looked into by Parliament and other institutions. This conclusion would negate the very principles of confidentiality of communication between the President and the Prime Minister. Secondly, a literal construction of this kind would mean that only advice tendered by the Council of Ministers to the President shall not be enquired into but that the reverse process namely, advice tendered by the President can be made public by the Council of Ministers. Under the convention of our Constitution the President is in the same position as the Monarch of England and has the same right to encourage, to warn and offer counsel to the Ministers, even though he is bound to accept the advice of the Council of Ministers. It would be absurd to suggest that the Council of Ministers can disclose such advice. Occasions may arise when the President's wise counsel may be against some popular emotions of the time and if the President's advice is publicised the Office of the President will get discredited.

It is, therefore, of the utmost importance that the confidentiality of communication between the President and Prime Minister is maintained in the larger interest of democracy and the nation.

It was suggested that under article 105 of the Constitution, the freedom of speech in Parliament entitled hon'ble members to discuss any matter regardless of confidentiality. But the article itself states "subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament there shall be freedom of speech in Parliament."

Rule 238 of the Rules of Conduct of Business of the Rajya Sabha prohibits the use of President's name for the purpose of influencing the debate. There are several precedents in our Parliament where references to the President's personal opinion or even letters from the President to the members have been barred from discussion in the House.

This House is also aware of the well-known difference of opinion between the first President of India Dr. Rajendra Prasad and the first Prime Minister of India, Shri Jawaharlal Nehru, on the subject of the Hindu Code Bill. It may be of interest to the hon'ble members to know that a certain "leak" of correspondence occurred then also, Dr. Prasad noted in his diary which has since been published:

I received two letters from the Prime Minister in reply to my letter and the note on the Bill. In one he had expressed pain and surprise over the fact that even though he received the letter at 3.00 p.m. he had heard that newspapers had been talking about it at 1.00 p.m. to the Members of Parliament, saying that the President had written a strong letter to the Prime Minister on the question of the Hindu Code Bill.

My letter was marked Top Secret and the information might have probably leaked out from my Secretariat. In the second letter he referred to the fact that I had indicated my views on the Bill and also that I intended to send a message to Parliament that even after it passed the Bill I would have to see whether it would be proper for me to give my assent to it. This was an important constitutional matter on which the President, on the one hand, and the Government and the Parliament on the other, may become involved in a serious controversy. The Prime Minister was of the view that the President does not have the power to send such a message to the Parliament nor does he have the right to reconsider the principles of a Bill submitted to him for assent. He also wrote that the Government had decided that only that part of the Bill be passed which concerns marriage and divorce. He has given his views also on the other clause of the Bill. I was surprised at the first letter and I have started making enquiries about it...

I have quoted this record in some length only to show the degree of importance that the very first incumbents of these two high offices in our country attached to the inviolability of their mutual communications. The pain and surprise of the then Prime Minister was matched by the anguish of the then President at the violation of the inviolable communications.

In view of the express provisions, background, philosophy and provisions of the Constitution, the corroborative position in the House of Commons and the evolution of conventions in this regard, I do not consider that any case has been made out requiring me to permit the charge of breach of privilege being laid against the Prime Minister or permitting any discussion on the issue on the floor of the House. Moreover, I am conscious of the fact that our decisions today will shape the future of constitutional governments in India. This Chair will only be fulfilling its sacred trust if in disregarding the heat of the passing moment, it adheres to the path charted for it by the framers of our Constitution. I, therefore, disallow the requests for any discussion in any manner on the subject.

(R.S. deb. dt. 20.3.1987, Cols. 259-66)

581. President: Presidential Order: Presidential Order should be laid on the Table when the House is in session

On 31 March 1980, Shri Lal K. Advani, the Leader of the Opposition, referred to the time at which the decision about the dissolution of Metropolitan Council was taken and the time at which the notification had been signed by the President. He pointed out that the Chairman had told the House that he would leave the necessary instructions with whosoever presided over the sittings of the House.

The Vice-Chairman observed:

According to the information which has been received the order was signed by the President in the afternoon of 21 March 1980. The reference was made here in the House by the Chairman on 25 March 1980. So, according to me, there was sufficient time for the Government to have made a mention of this in the House since the House was sitting. But, unfortunately, that was not done...If the House is sitting, normally such information should be given to the House; it should be laid before the House. I hope the Government will bear this in mind for future action.

(R.S. deb. dt. 31.3.1980, Cols. 28-32)

582. President: Proclamation under article 356: Lapse or lack of validity is no bar to the Proclamation being laid on the Table

On 23 March 1971, when the Proclamation under article 356 of the Constitution in regard to the State of Orissa was to be laid on the Table by Shri Ram Niwas Mirdha, Shri Banka Behary Das and some other members raised the objection saying that the Proclamation could not be laid on the Table since it had lapsed.

On this the Chairman ruled:

Now, we are not concerned today with the question of when it will cease to operate. You can raise points about its validity at the time when it comes up

for discussion... So far as laying it on the Table is concerned, that is a requirement of the Constitution and no one can challenge it... I have already ruled that the Constitution requires every Proclamation to be laid on the Table of the House. What is its validity, when it will expire, these are matters which cannot be discussed at this stage. This is my ruling.

(R.S. deb. dt. 23.3.1971, Cols. 20-27)

583. President: Proclamation under article 356: It is for the Government to decide to place on the Table of the House the Proclamation issued under article 356

On 4 March 1999, during a discussion on the Motion of Thanks on the President's Address, members wanted to know from the Minister of Parliamentary Affairs as to why the resolution on Bihar regarding the promulgation of President's rule under article 356 which was passed by Lok Sabha had not been placed on the Table of the House in Rajya Sabha. Shri S. R. Bommai said that there was a constitutional obligation that when a Proclamation is passed in the other House, it should be brought before this House also and that both the Houses had to approve it to make it valid.

The Chairman, while recalling a similar situation which had occurred in the House earlier, said:

You are aware that if the Government does not want to have the Proclamation approved, they need not move the resolution. And if they do not move the resolution, the Proclamation lapses. Therefore, there is nothing for discussion. It is only when the Proclamation is continued that there is something for discussion in the House. When the Government is not coming forward with the Proclamation, and if it lapses, there will be nothing for discussion. It is for the Government to decide. We cannot force the Government to decide just now. It is their right to decide.

(R.S. deb. dt. 4.3.1999, Cols. 22-23)

584. President: Proclamation under article 356: Governor's Report: It is the Proclamation, not the Governor's Report which is required to be laid on the Table

On 20 February 1970, when a copy of the Proclamation issued by the President on 16 February 1970, revoking the Proclamation issued on 4 July 1969, under article 356 (3) of the Constitution, in relation to the State of Bihar, was laid on the Table, Shri Sundar Singh Bhandari objected to the laying of this paper and demanded that the two Reports sent by the Governor of Bihar to the President, in regard to the imposition of the President's rule in Bihar and its revocation, should also be laid on the Table.

The Chairman gave the following ruling:

I overrule this point of order. Under article 356 clause (3) it is only the Proclamation which has to be laid on the Table. No other document need be laid to do something which is not required by the Constitution.

Again, on 23 February 1970, this question of laying on the Table the Governor's Report was raised by Dr. Bhai Mahavir and Shri Rajnarain and the Chairman observed that he had already given his ruling the previous day and would like to know the views of the Home Minister whether he was prepared to lay the two Reports on the Table.

Later, the Deputy Minister in the Ministry of Home Affairs, Shri K. S. Ramaswamy, laid on the Table a copy each of the two letters of the Governor of Bihar, dated 11 and 14 February 1970. Shri Rajnarain, then pressed for the laying of the Report of the Governor of Uttar Pradesh also on the Table and he was supported in his demand by other members also.

The Deputy Chairman, thereupon, made the following observations:

The Chairman had given a ruling that the Government will not be compelled because there is no such provision under the Constitution...The Chairman had expressed this view that it is within the discretion of the Government to place any Report on the Table of the House. If the Government desires and wants to place any of the Governor's Reports on the Table, it will be at liberty to place it. The Government has been willing to place on the Table of this House, the two letters from the Governor of Bihar and the matter now ends... Already the hon' ble Minister has said that he is placing two letters on the Table and he is not going to place the other Report on the Table.

(R.S. deb. dt. 20.2.1970, Cols. 45-46; 23.2.1970, Col. 192)

585. President: Summoning of the House: The summoning of the House by the President can be cancelled and the House can be asked to meet on a fresh date

The Council was originally summoned by the President to meet on 17 August 1953, but a new notice was issued asking the Council to meet on 24 August instead of 17 August. On 24 August 1953, when the House assembled, Shri P. Sundarayya, Shri B. C. Ghose, Shri Nausher Ali, Prof. G. Ranga, Shri H. N. Kunzru, Shri M. P. N. Sinha, Shri B. Rath, Dr. (Shrimati) Seeta Parmanand and some other members took objection to the Council being summoned on 24 August after cancelling the summons to meet on 17 August, presumably on the plea that there was not enough business for the Council. It was pointed out that when the Council adjourned last, the Hindu Marriage Bill and the Special Marriage Bill were actually pending before the House and those Bills could easily have been taken up and also the new Bills on the anvil could have been introduced in the Council. Members pleaded that the Government should treat the House more seriously and not in the way in which it had been treating it. Shri M.P.N. Sinha also submitted that under the Constitution, while there were provisions for proroguing the Council, there was no provision saying that the President, once having summoned the Council, could cancel it. His point was that the President could not postpone it having summoned it once as it was not within his power to do so.

The Leader of the Council, Shri C.C. Biswas, expressed the view that an authority who could summon the Council had also the power to cancel the notice and summon a meeting on a fresh date. The summoning of the Council had been postponed only to suit the convenience of members. It would always be the Government's endeavour to treat the Council with all due respect and consideration.

The Chairman observed:

I think we have had a full discussion of this subject. There is no doubt that there is a widespread impression among the members of this House that the House should be treated with greater consideration, and this impression prevails in all sides of the House, I know. But we have the assurance that the Leader of the House has given that it is their endeavour to treat this House with all due respect and consideration. I have no doubt that these words will be backed by deeds in days to come and that this impression will be removed from the minds of the members.

There is another thing also – and that is this question of postponement, etc. I cannot help saying that more careful planning of parliamentary business could have avoided some of these delays, adjournments, etc.; but I have no doubt that the best is being done in the circumstances explained by Mr. Biswas and we will not have occasion to be called on one date and be asked to come on another date. As for the points of order raised, whether the President has the right to summon the meeting for one date and postpone it to another, when lawyers differ on that, I cannot offhand give a judgement here. Mr. Biswas says that he has not examined the constitutional and legal sides. Mr. Nausher Ali says the President has no right to summon the meeting for one date and get it postponed to another. In the circumstances, you do not expect me to say whether he was right or wrong. But the presumption is that the President would have taken the best legal advice available before he altered the date of the meeting from the 17th to the 24th. That is the presumption. The President's action should be deemed to be regular.

The other point raised was whether it was right – my friend – Mr. Rath says it – that we adjourned in the middle of the discussion on the Marriage Bill and it does not appear here in the order of business. After all, we are at liberty to arrange the order of business and we can put it to suit the convenience of the members. There is nothing irregular about it and the assurance has been given that it is the idea of the Government to go forward with the Marriage Bill, that they do not want to be dilatory or to be obstructive as some members seem to imagine.

(R.S. deb. dt. 24.8.1953, Cols. 72-94)

PRESIDENT'S ADDRESS

586. President's Address: Interrupting the President when he is addressing the members of both Houses assembled together is unbecoming of Members of Parliament

On 18 February 1963, when the President addressed the members of both Houses of Parliament assembled together, a member of the Council interrupted him and finally walked out of the Hall. On 19 February 1963, when the Council met, all sections of the House expressed regret at the incident and wanted that to be conveyed to the President.

The Chairman said:

I agree with the views expressed by all sections of the House that the conduct of the member of this House, who interrupted the President's Address yesterday and walked out, is reprehensible and unbecoming of a Member of Parliament. The President was performing a function enjoined on him under the Constitution, and it should be remembered that the President himself is part of Parliament. He is entitled to the highest respect, and any member who deviates from decorum and dignity deserves to be chastised. I shall write to the President conveying to him the deep regret of the House on this most regrettable incident.

(R.S. deb. dt. 19.2.1963, Cols. 81-91)

587. President's Address: Both the English and the Hindi versions are to be laid on the Table

On 20 February 1970, the President had delivered his Address to both Houses of Parliament in English and the Hindi translation of it was read out by his Secretary. Shrimati Yashoda Reddy raised a point of order that the convention was that the President read the English version of the Address himself and made the Vice-President read the Hindi version but this time the Hindi version was read out to the members by a stranger, *i.e.* his Secretary and, therefore, to maintain the dignity of the House, the House should not take cognizance of the President's Address given in Hindi and only the English version of the President's Address be laid on the Table of the House. She further commented that the staff of the President was not the President or the Vice-President; the Secretary was only a stranger and it was unconventional and really derogatory to the members of both the Houses that the Secretary had been asked to read out the Hindi version.

Shri Rajnarain, Shri S. N. Mishra (Leader of the Opposition), Shri Godey Murahari and others also supported the point of order.

The Chairman gave the following ruling:

I have heard enough and I shall now give my ruling. The President addressed the joint session. Under his orders, his Address was translated by his

Secretary. It was under his orders. His Secretary might not have translated it. The translation in Hindi, the authorized translation, is supplied to the hon'ble members. It is not proper for me to comment on the President's act...For the future what will happen will be considered by me within the limits of my office and today's debate will be placed before the President...So far as today's proceedings are concerned, I rule that the English Address along with the Hindi translation will be laid on the Table of the House.

(R.S. deb. dt. 20.2.1970, Cols. 1-13)

588. President's Address: Motion of Thanks: Amendments to the Motion of Thanks on the President's Address must be relevant to the main motion

The President's Address to both Houses of Parliament came up for discussion for the first time in free and independent India on 19 May 1952. After the motion was moved and seconded, the scope of the amendments to the Motion of Thanks on the President's Address, the general discussion on the Motion and the amendments came up for discussion and determination.

The Chairman was of the view that the amendments to the Motion of Thanks should relate to the topics mentioned in the Address. In support of this he quoted article 87(2) of the Constitution which says that "Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address" and also rule 13* of the Rules of Procedure and Conduct of Business in the Council of States which says, "The Chairman, in consultation with the Leader of the Council, shall allot time for discussion of the matters referred to in the President's Address... "

Shri B. R. Ambedkar observed that the purpose of the debate on the Address was to let the Opposition tell the Government what were the purposes which the Government ought to have included in the Address and, therefore, any subject which was not included in the Address by the President, for that very reason, became a matter of urgency because members of the Opposition might feel that Government had given priority and urgency to matters which they thought important but which in the opinion of the Opposition were less important than other matters. He was of the view that an amendment should not be ruled out on the ground that it covered a subject which had not been referred to in the Address. The purpose of the debate on the President's Address was to give an opportunity to the Opposition to discuss and place before the Government any particular subject which was the subject-matter of an amendment as a matter of urgency which must be given priority over subjects spoken of by the President in his Address. This view was strongly supported by Dr. H. N. Kunzru, Shri P. Sundarayya and Shri B. C. Ghose. It was argued that it might be

*Old rule

very easy for the Government not to refer in the Address to any of the important points and thus make the whole debate on the Address a worthless discussion.

Shri N. Gopalaswami, Leader of the House, Shri Alladi Krishnaswami and Shri B. G. Kher were of the view that the House could not deviate from the express provision in the Constitution and that while the Chair might give the fullest latitude and opportunity for the Opposition to debate what might be even very remotely connected with the points referred to in the Address, it would not be right to allow the debate to range over matters not referred to in the Address. That would result in the discussion by members on every conceivable topic under the guise of an amendment to the Motion of Thanks on the Address.

Shri P. V. Narayana referred to rule 14* laying down, "The Council shall be at liberty to discuss the matters referred to in such Address on a Motion of Thanks moved by a member and seconded by another member" and observed that, since it did not refer to amendments, matters not referred to in the President's Address could be discussed in the form of amendments.

The Chairman observed finally:

The last speaker referred to the amendments being independent of the main motion. The amendments must always be relevant to the main motion and so amendments cannot be treated as independent motions. That is my ruling on this matter... I do not wish to take any narrow legalistic view of the matter. I want to give as liberal an interpretation as possible. But you do not expect me to ignore the specific provisions of the Constitution. In these speeches on the main motion and the amendments which will be moved, there may be a general discussion on almost all the topics in which the members of this House are interested.

(R.S. deb. dt. 19.5.1952, Cols. 78-96)

589. President's Address: Motion of Thanks: Amendments to the Motion of Thanks on the President's Address must be relevant to the main motion

During the discussion on the Motion of Thanks on the President's Address, Shri Anand Chand submitted that his amendment no.15 had been disallowed and wanted to know the grounds on which it was disallowed.

The Chairman observed:

There has been a ruling on the question given some years ago and that is being followed systematically. So far as I remember, what I said was that matters which are not directly discussed in the President's speech are not to be given in the form of amendments, etc. but in the speeches which you make you may refer to them. That is the ruling which, I think, I gave in 1952 and that has been followed systematically year after year. But, of course,

*Old rule

there is a way by which you try to circumvent and say, "It is regretted that there has been no mention about this, that and the other."

Shri V. K. Dhage submitted that in spite of the ruling given by the Chair four or five years ago, an amendment was moved in the year 1956, with regard to the bilingual State of Bombay even though no mention of that was made in the President's Address at that time. The amendment was voted upon and there was even a division on that.

The Chairman observed that even though there was no specific reference to the State of Bombay in the President's Address, the question of reorganisation of States was mentioned by the President in his Address and therefore all particular problems under that head were allowed. If there had been no such reference to the reorganisation of States he would then have disallowed that particular amendment.

Dr. H. N. Kunzru asked as to whether the rights of members of the Council under the Constitution were less than those of the members of the House of Commons in the U.K. since in the House of Commons, motions regretting the omission of certain subjects in the King's Address had always been accepted by the Speaker.

Replying to that the Chairman said that it was sometimes more and sometimes less as provided in our Constitution.

Shri V. K. Dhage submitted that while the President's Address revealed the policy of the Government, it was left to the Opposition to initiate discussion with regard to what was not the policy of the Government and thus the initiative rested with the Opposition.

The Chairman said:

This is what I said in the year 1952 at the very first meeting:

Now, I find, the next subject in the agenda is the discussion of this motion. I would like to invite the attention of this House to the constitutional provisions on the matter. Article 87(2) of the Constitution of India says that provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of matters that are referred to in such Address. It is emphasized there that the matters referred to in the Address shall be the topics for discussion. The same is reiterated in rule 13 of the Rules of Procedure and Conduct of Business which also says, 'for the discussion of the matters referred to in the President Address'. Rule 14 says that the Council shall be at liberty to discuss such matters referred to in such Address on a Motion of Thanks... It is repeated again in rule 19 that the Chairman may allot time...It is my anxiety that there should be a free, frank, and full discussion of all the topics raised in the President's Address. I know from the list of amendments that have been given to me that strong views are held on different questions. And it is my desire that full freedom should be given for the expression of these views on both sides. If such a thing is to happen, then we have to concentrate our discussion, and not allow it to fritter over a large number of amendments. That is a request which I have to make to you. Will it be possible for the groups to come to an understanding as to what the amendments are which they would select for discussion? Or, if it

*Old rule

is not possible, then I have to take up amendment after amendment and say which of them can be brought under the constitutional provision, even by a great stretch of imagination, even subjects remotely connected with the topics mentioned by the President..

That is to say, whatever has a bearing on what the President has said, either directly or indirectly, may be moved as an amendment. But whatever has absolutely no bearing on any topic in the President's Address cannot be moved as an amendment, though you are free to refer to these things in the speeches which you make. That is what I said at the very first meeting in 1952 when we took up the President's Address for debate, and we have followed it all these seven or eight years. I am not referring to what May's *Parliamentary Practice* may have said. Why should we always be bound down by the practice followed elsewhere? We are an independent House and we follow our own Constitution and Rules of Procedure.

(R.S. deb. dt. 12.2.1959, Cols. 442-46)

590. President's Address: Motion of Thanks: Scope of amendments to the Motion of Thanks on the President's Address

On 10 March 1999, while discussing the Motion of Thanks on the President's Address some members wanted that there should be an amendment to the Motion of Thanks in respect to the Bihar issue because the Address said that the President's rule was imposed in Bihar but the Government had already withdrawn it.

The Chairman gave the following ruling:

...this Address was delivered on that date. This Address cannot be changed. Now, we have to adopt the Motion of Thanks to the President's Address, not on the basis of today's situation.

(R.S. deb. dt. 10.3.1999, Cols. 245-47)

591. President's Address: Motion of Thanks: Use of the term 'grateful' denotes the same meaning as 'thankful' and can be used in the Motion

On 25 February 1974, when Shri V. B. Raju moved the Motion of Thanks on the President's Address, Shri Bhupesh Gupta rose and objected to the word 'grateful' being used in the Motion and said that according to rule 15 of the Rules of Procedure and Conduct of Business in Rajya Sabha, only a Motion of 'Thanks' and not of 'Gratefulness' should be moved. His contention was that since he had to thank him under the Constitution he might thank him but that he was not bound to be grateful to the President. Therefore, the Motion was absolutely unconstitutional, with the word 'grateful' being used. His point was supported by Shri Pitamber Das and Shri Niren Ghosh.

The Deputy Chairman said:

The Oxford Dictionary says, 'grateful' means 'thankful'. So, that closes the matter. And he can move the Motion. Moreover, the same wording has been used for a number of years. Therefore, there is no point of order.

(R.S. deb. dt. 25.2.1974, Cols. 106-11)

592. President's Address: Motion of Thanks: Presence of the Prime Minister or some senior Minister is essential during the discussion on the Motion of Thanks on the President's Address

During the discussion on the Motion of Thanks on the President's Address on 22 February 1979, when some members raised the point that no senior Minister of the Government was present in the House, the Vice-Chairman observed as follows:

I fully appreciate the convention of the House that when the discussion on the President's Address takes place, it is actually the Prime Minister or a senior Minister who has to be present. That is the convention of this House. But, today, I am sorry to say, when the discussion started, nobody was there; but now Advaniji has come. I would advise the Government to uphold the dignity and the conventions of this House. This is not a party affair. Now there are two Deputy Prime Ministers. I would advise Mr. Advani to see that anybody who is connected with this Address is present here. Many problems come up during the course of the discussion, the members feel enthused, and apart from getting enthused, the members express themselves by way of offering constructive suggestions, and you as the Government have to respond to them. I would advise you to abide by the wishes of the House and would request you to follow up the matter accordingly.

(R.S. deb. dt. 22.2.1979, Cols. 224-28)

593. President's Address: Motion of Thanks: Members can seek clarifications after the Prime Minister's reply to the debate

On 25 February 1981, after the Prime Minister's reply to the debate on the Motion of Thanks on the President's Address, Shrimati Purabi Mukhopadhyay wanted to seek a clarification. At this, Dr. Rafiq Zakaria raised a point of order saying that no clarification be permitted after the Prime Minister had already replied since if one was allowed to ask clarification then others could not be restrained from speaking.

The Deputy Chairman observed:

...what you say is quite correct. But the hon'ble member should appreciate this. There has been a thorough discussion. But still she has the right. I cannot deny. Not all can be permitted.

(R.S. deb. dt. 25.2.1981, Col. 210)

594. President's Address: Motion of Thanks: Members cannot seek clarifications from the Member who is making his speech

On 3 March 2008, while participating in the discussion on the Motion of Thanks on the President's Address, Dr. V. Maitreyan was interrupted by Shri Tiruchi Siva who wanted to seek a clarification on the issue of Sethusamudram Shipping Channel Project.

Disallowing the request, the Deputy Chairman ruled:

This is not the platform to seek clarifications... No Member can seek clarifications from another Member.

(R.S. deb. dt. 3.3.2008, p. 244)