

and other laws and the action taken by the Government in the matter was being discussed, Shri Bhupesh Gupta mentioned that persons who gave notice asked questions first and then other members belonging to various parties were allowed to ask questions. He wanted that the practice should be followed.

The Deputy Chairman observed:

Those hon'ble members who had expressed a desire and had intimated to us of the desire to speak have been accommodated.

When Shri Triloki Singh said that he too wanted to ask a question, the Deputy Chairman observed:

If it was so, you could have informed me earlier.

(R.S. deb. dt. 6.4.1977, Cols. 99-100)

70. Calling attention: Every member to be replied to separately by the Minister as per convention

During a discussion on the calling attention, the Minister of External Affairs, Shri Atal Bihari Vajpayee suggested that he might be allowed to reply after all the members had spoken on the motion.

At this, the Vice-Chairman observed:

There is no convention in this House that the Minister has to reply to two, three or four members together. Every member has to be replied to by the Minister separately. So you have to reply. These are the important questions.

(R.S. deb. dt. 20.2.1979, Col. 186)

71. Calling attention: Presiding Officer has to call members as per the list given by the Minister of Parliamentary Affairs

During a discussion on the calling attention regarding the reported attack by China on the Vietnamese territory, Shri B. Satyanarayan Reddy complained that the members on his side were not being called.

The Vice-Chairman observed:

Now, Mr. Reddy, for your information - I have understood your point - it is not for me to look everywhere. There is a convention.

The Minister of Parliamentary Affairs has given me the names. It is my job as the Presiding Officer, to call members as per the list in my hand. Although I see here or there, I have got no authority to call anybody I like. Otherwise, I would have finished this subject within ten minutes.

(R.S. deb. dt. 20.2.1979, Cols. 188-89)

72. Calling attention: A calling attention should be read exactly as given in the list of business

On 15 December 1980, when Shri Murlidhar Chandrakant Bhandare called the attention of the Minister of Home Affairs to the reported demonstrations by women in Rajasthan and Delhi for the revival of the practice of *Sati*, Shri Pilloo Mody raised a point of order that the calling attention had not been properly presented to the House as it had to be introduced in the same words in which it appeared in the order paper.

The Deputy Chairman then asked Shri Murlidhar Chandrakant Bhandare to read from the agenda.

(R.S. deb. dt. 15.12.1980, Col. 218)

73. Calling attention: A Minister can ask for more time to make a statement at a later hour/date

On 10 March 1981, as soon as the Deputy Chairman occupied the Chair after the question hour, he announced that the calling attention regarding shortage and non-supply of wagons for transport of oranges would be taken up at 2 P. M. Amidst loud protestations from members, the Deputy Chairman explained that the Deputy Minister for Railways, Shri Mallikarjun, had requested for postponement because the information had to be collected from the concerned Divisional Manager's Office. Several members complained to the Chair that such kind of a thing was becoming a practice in the House. Shri Mallikarjun got up to say that he had sought permission from the Chair because of the reasons stated but if the members still felt that the House should go ahead with the calling attention now, then this can be done. At this

stage, the Minister of Parliamentary Affairs, Shri Sitaram Kesari, intervened to say that on hearing objections from some members he had summoned the Minister urgently, who after having sensed the feelings of members had made some statement after which there was no further scope for raising any question.

Then, the Deputy Chairman quoted rule 180 and observed as follows:

A member may, with the previous permission of the Chairman, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date..

So the Minister has got the right if he is not in possession of information that is asked for. This is one thing... Mr. Advani himself has been a Minister; he knows it.. Otherwise, I would like to say that the Ministers should be ready with the information when they are informed and they should not usually and unnecessarily ask for any postponement.

(R.S. deb. dt. 10.3.1981, Cols. 184-94)

74. Calling attention: The Government can decide as to which Ministry will deal with a calling attention

On 7 August 1985, Shri J. K. Jain called the attention of the Minister of External Affairs to the nuclear threat faced by the country in the context of the reported move of Pakistan to acquire and develop nuclear weapons and the steps taken by the Government in the matter. As the Minister of State in the Ministry of External Affairs, Shri Khurshid Alam Khan stood up to reply, Shri Lal K. Advani pointed out that the concerned calling attention should have been dealt with by the Defence Minister.

The Chairman said:

It is for the Government to decide who will deal with it and the Government have decided that the Minister of External Affairs will deal with it.

(R.S. deb. dt. 7.8.1985, Col. 147)

75. Calling attention: Copies of the statement should be circulated to the members before the Minister makes his statement

On 24 April 1986, the Minister of State in the Ministry of External Affairs, Shri K. R. Narayanan was to make a statement in response to a calling attention regarding the situation arising out of the recent Bombing Raids on Libya by the U.S. Forces. The Chairman enquired from the members whether the copies of the statement had been circulated to them or not.

When the Chairman got a negative reply from some members, he observed:

This time the Minister is excused. But in future he should see that copies of statements are circulated before he makes his statement.

(R.S. deb. dt. 24.4.1986, Col. 171)

76. Calling attention: Calling attention to come up immediately after the question hour

On 2 January 1991, Shri Santosh Bagrodia submitted that just before the adjournment of the House on the previous working day it was understood that on the statement given by the Finance Minister, clarifications would be taken up at twelve o'clock and thereafter the House would take up other business. Some other members also made submissions regarding the listed business of the House.

After listening to the submissions, the Deputy Chairman observed:

I find in the record that the Vice-Chairman said on that day, "Now, the sense of the House is that we will continue these clarifications on Wednesday, the 2nd January, 1991, when we meet and the seekers of the clarifications are listed from serial no. 9 onwards. That will come on the agenda". Therefore, it does not say that it will be taken up immediately after the question hour.

The second thing is that, as per sub-rule (5) of rule 180, calling attention motion will come up immediately after the question hour.

The third point is...it was decided in the Business Advisory Committee that the communal situation will be discussed in the

form of a short duration discussion. But later on, subsequently, as I have been informed, the leaders of the various parties agreed that the communal situation should be discussed by way of a calling attention motion... And, as I pointed out, according to sub-rule (5) of rule 180, calling attention motion is to be taken up soon after the question hour. That settles the matter.

(R.S. deb. dt. 2.1.1991, Cols. 752-55)

77. Calling attention: Scope of discussion: Term "Expenditure" includes both the amount in terms of money and quantity also

On 27 February 1981, when a calling attention matter regarding reported expenditure of diesel for organizing Kisan Rally was being discussed, Shri N. K. P. Salve, raised a point of order regarding the scope of the discussion. He said that if it was related to expenditure incurred on diesel and the mis-utilisation of Government machinery, it fell within the competence of the Home Minister, but if it referred to consumption of diesel, Shri P. C. Sethi was answerable.

The Deputy Chairman then ruled:

The essence of the motion must be expressed here. I think they must have referred to the use of diesel and other things also. So he has included a wide range - 'expenditure of diesel' in connection with the Rally. So far as the Rally is concerned, we are not going to discuss the Kisan Rally. That is not Government's job. The Government cannot reply for a party. Obviously, that distinction should be maintained...The fact is that the present calling attention motion relates to 'expenditure of diesel'. I think this expenditure will include both things - the amount in terms of money and the quantity also.

(R.S. deb. dt. 27.2.1981, Cols. 149-54)

MINISTER'S REPLY

78. Calling attention: Minister's reply: Minister of State or Cabinet Ministers can reply; whole day can be allotted with the consent of the House if matter raised is very important

When a calling attention regarding the increasing trends of communal riots in the country with particular reference to the incident

in Aligarh was taken up, Shri Bhupesh Gupta and some other members objected to the Minister of State in the Ministry of Home Affairs, Shri S. D. Patil, reading out the preliminary statement, when the Prime Minister, who was in charge of the Home portfolio, was present.

The Chairman then observed:

According to Rules, joint and several responsibility is there. The Minister, who is here, can do the same. If he finds some difficulty, automatically the Prime Minister will reply at the appropriate time...

There is no point of order because either of them, the Minister of State or the Cabinet Minister, can reply.

The Chairman also made the following observation about admitting the matter as a calling attention and allotting a whole day for the same:

The hon'ble member may bear with me. Yesterday it was thought that it was a very important matter and, therefore... We have allowed the whole day to be used.

There is no question of embarrassment at all. On the contrary, I have taken the consensus of the entire House and I have accepted it according to the sense of the House.

(R.S. deb. dt. 21.11.1978, Cols. 167-73)

79. Calling attention: Minister's reply: Minister who made the statement should reply to the calling attention

On 12 August 1993, during a discussion on a calling attention regarding situation arising out of large scale disinvestment in Public Sector Undertakings, the Leader of the Opposition raised an objection that as the matter was related to the Ministry of Industry, it was wrong on the part of the Finance Minister to have made a statement thereon. He, therefore, demanded that the Prime Minister, who was in charge of the Industry Ministry, should be in the House at the time of clarifications and should reply to questions seeking clarifications.

Giving her ruling on this, the Deputy Chairman stated:

...you cannot have two people replying to a calling attention motion. If it was a short duration discussion, anybody can intervene. But, in this case, the Finance Minister will be responsible for answering whatever queries you ask.

(R.S. deb. dt. 12.8.1993, Cols. 198-203)

NOTICE

- 80. Calling attention: Notice: If a calling attention notice or a motion for papers, etc. is disallowed, members cannot raise the question in the House but can discuss it with the Chairman in his Chamber**

Shri A. P. Chatterjee wanted to draw the attention of the Chairman to the way in which, according to him, his calling attention notices relating to very important matters were being treated by the Secretariat.

The Chairman said:

I will not discuss the procedure in the matter of admitting the calling attention notices.. This is not the place for discussing the procedure and all that. If they have taken my permission, I allow members to mention about some calling attention notices which are urgent, but if a calling attention notice is allowed, or disallowed, it is a matter for you to discuss in my Chamber.

(R.S. deb. dt. 31.8.1966, Cols. 4822-23)

- 81. Calling attention: Notice: If a calling attention notice or a motion for papers, etc. is disallowed, members cannot raise the question in the House but can discuss with the Chairman in his Chamber**

On 3 May 1978, Shri Buddha Priya Maurya raised the matter of his calling attention notice on killings in Agra not being admitted and discussed in the House, although it had been discussed in Lok Sabha. Some other members also felt that as this was an important matter, it should have been admitted.

On this, the Chairman observed:

After hearing the views of the various members from various sides of the House, I would request one or two members to meet me in my Chamber and I would discuss the matter with them and decide it.

(R.S. deb. dt. 3.5.1978, Cols. 131-38)

82. Calling attention: Notice: Procedure for disposal of calling attention notices

On 12 August 1968, Shri Tarkeshwar Pande with the permission of the Chair raised the question of certain incidents in Ballia in Uttar Pradesh during the Mahavir Jayanti Celebrations. He had also given a calling attention notice on the subject.

On 14 August 1968, Shri Rajnarain in the course of his speech on the resolution regarding the continuance of the President's Proclamation in relation to Uttar Pradesh, mentioned that though he had given many important calling attention notices in regard to certain police excesses in many towns of Uttar Pradesh, nothing seemed to have been done about them. The Minister of State in the Ministry of Home Affairs, Shri Vidya Charan Shukla, said that the Ministry did not have any objection to making a statement on the subject, but if the Chairman did not admit them, they could not help it. Shri Rajnarain said that the Rajya Sabha Secretariat seemed to have become a sort of super-Cabinet and even though members had given very important calling attention notices, the Secretariat did not seem to send them to the Ministries concerned.

Shri Dahyabhai Patel and Shri Bhupesh Gupta suggested that the calling attention notices on the affairs of Uttar Pradesh should be admitted at least before Monday, 19 August 1968, *i.e.*, before at least the conclusion of the debate on the resolution regarding the Proclamation in regard to Uttar Pradesh. Shri Tarkeshwar Pande wanted the Chairman to enquire as to why the Secretariat had not sent the calling attention notices to the Ministry till then.

Shri Chandra Shekhar said that such things should not be treated in a casual manner. While he did not raise any objection to the Chairman's discretion in either allowing or disallowing any calling attention notice, he was of the opinion that, in view of the seriousness of the incidents, the Minister himself should have come forward and given a statement *suo motu* on the subject. Shri Bhupesh Gupta and Shri Lokanath Misra suggested that the subject should come up in the form of a calling attention notice at least before the conclusion of the debate on the resolution on Uttar Pradesh. Shri Bhupesh Gupta said that in no circumstances would members tolerate the practice of the Secretariat sending calling attention notices to the Ministries for them to say whether they would like them to be admitted or not, instead of the Chairman deciding about their admissibility and then asking the Ministries to come and make statements. Shri M. N. Kaul said that the only reason why such notices were sent to the Ministries was for the Ministers to indicate the time when they would be able to make a statement. He suggested that it was for the Ministry to indicate the date and if no reply came from the Ministry within twenty-four hours, the item should be put down on the order paper. The Vice-Chairman explained that for every calling attention notice three copies were given; one was given to the Secretariat and another sent immediately to the Ministry concerned, the idea being to get the information as early as possible. He directed that the matter should be taken up on Monday, 19 August 1968, after the question hour.

On 19 August 1968, the Chairman made the following observations:

I would like to say something about the proceedings on the 14th August 1968.

I see from the proceedings of the Rajya Sabha of Wednesday, August 14, that certain viewpoints were expressed by members in regard to calling attention notices. At the outset, I wish to tell the House that every calling attention notice is submitted to me for my orders and the admission or otherwise of the notice follows my directions. It is unfortunate that some members should have made references to the Secretariat in this connection. As I stated on an earlier occasion, members should remember that the officers of the Secretariat perform a very difficult and sometimes

delicate job, because they have to deal with members belonging to all parties and groups and it is expected of them that they will discharge their duties without fear or favour. It will not be conducive to the efficient and independent functioning of the Secretariat if members start attributing motives to it or make allegations against it on the floor of the House.

Members have sometimes represented to me that calling attention notices tabled by them have been disallowed. They should appreciate that I receive on an average about fifteen to twenty calling attention notices for every sitting and that under the rules only one of the notices can be admitted for a day.

Kindly hear me. I am giving almost a ruling. Kindly hear me now, and you can discuss it with me in my Chamber later.

So, when I admit one notice and withhold permission for the others, members should not feel that I have not appreciated the urgency or importance of the subject matter of those notices. I consider all the notices and select one of them for admission and withhold permission for others. Members will agree that this power of deciding which of the many notices shall be admitted must rest with me and my judgment should be accepted by the House.

Sometimes, members have complained to me that a calling attention notice has been disallowed in Rajya Sabha, though a notice on the same subject has been admitted in the other House. All that I may say on this point is that I take an independent decision on merit, depending upon the urgency and importance of the subject matter of the notice and taking into consideration the relative importance and urgency of the several notices on various subjects received by me and in that process it may happen that a notice may not be admitted in our House, though a notice on a similar subject has been admitted in the other House. The House will agree with me that such a situation is sometimes inevitable.

The other important aspect about calling attention notices to which I have given careful thought, particularly in view of the views expressed in the House on Wednesday last, is what procedure should be followed to aim at expeditious disposal of the calling attention notices. The purpose of the calling attention notice, as the Members are aware is to obtain a statement from

the Minister on a matter of urgent public importance and this purpose will be lost if the Minister's statement is delayed. I have decided to follow hereafter the following procedure in the matter of calling attention notices.

All calling attention notices received up to 10.30 A.M. on any day will be placed immediately before me for my consideration. I will go through all of them and then select one of them for a statement by the concerned Minister at the sitting of the House on the following day. The member and the Minister concerned will be informed about the admission of the notice. The rest of the notices shall be treated as disallowed. Any member whose notice so stands disallowed will, however, have the right to revive his notice for a subsequent day by giving a fresh notice, and such notice will be reconsidered by me along with other notices received for that day. This will enable me sometimes to admit a notice which I could not admit on an earlier day because I gave priority to some other notice on that earlier day.

This does not necessarily mean that there will be a calling attention notice every day, because admission of notice will be entirely subject to the rules and subject to my judgment that the matter sought to be raised calls for an urgent statement from the Minister. It may be that in a special case I may admit a notice received on a particular day for the same day if I am satisfied that the matter is one of such importance and urgency that an immediate statement from the Minister is called for.

I propose to adopt this procedure as an experiment to begin with and shall watch how it works.

(R.S. deb. dt. 12.8.1968, Col. 2874; 14.8.1968, Col. 3387-3402 ;
19.8.1968, Col. 3477-79)

83. Calling attention: Notice: Admission of a calling attention notice is not to be questioned

Shri Arjun Arora rose on a point of order about calling attention notice regarding the reported statements of Mr. Z. A. Bhutto, former Foreign Minister of Pakistan, concerning the Kashmir issue in the context of certain developments in Pakistan. Shri Arora said that firstly, it related to certain statements made by a private individual in Pakistan

and secondly, it sought to raise a discussion on the recent developments in Pakistan. He urged that the calling attention notice should not have been admitted.

The Chairman observed:

Mr. Arora, I have allowed the calling attention... There is no question of discussing about the admission. The only thing is, I quite appreciate what Mr. Arora has stated. I would like members to be careful in making their observations because the whole situation is so complicated. We need not get into it and say this way or that way. That is my feeling.

(R.S. deb. dt. 3.3.1969, Cols. 1995-96)

84. Calling attention: Notice: Members cannot make speeches, they can only seek clarifications

During a calling attention regarding firing on the employees of the Gun and Shell Factory at Cossipore on 28 April 1969, Shri N. Sri Rama Reddy began making a speech, as a preamble to putting his question.

On this, the Chairman observed:

You would allow me to mention one thing. In this calling attention notice, you have to put questions for clarification and not make speeches. Otherwise, it becomes impossible for me to allow many members to put questions. Therefore, this should be remembered.

(R.S. deb. dt. 28.4.1969, Cols. 117-20)

85. Calling attention: Notice: Clubbing of notices of calling attention

Two separate notices of calling attention were given, amongst others, by Shri G. C. Bhattacharya and Shri Pranab Mukherjee for 28 July 1978, which did not pertain to an identical subject. Shri Bhattacharya's notice was addressed to the Ministry of External Affairs and that of Shri Mukherjee was addressed to the Ministry of Home Affairs. The two notices were clubbed together, recast and

admitted as one notice by the Secretariat and addressed only to the Ministry of Home Affairs. A copy thereof was, however, sent to the Ministry of External Affairs also. At the time of discussion only the Minister of State in the Ministry of Home Affairs was present in the House to reply to the points raised by the members.

After the Minister read out his statement on the calling attention and the members pointed out that two separate notices relating to two entirely different subjects had been given which were addressed to two different Ministries, Shri N. K. P. Salve raised a point of order and asked, "When questions are demarcated and meant for a particular Ministry whose prerogative is to transfer them to a Ministry other than the one to which they are addressed and assuming that they are addressed to a wrong Ministry then is it that the members must helplessly ask questions and frame questions relating to their original questions and a different Minister who has nothing to do with them will keep answering them?"

On this point, the Deputy Chairman observed:

We cannot expect a debate on this point of order. Let us come to the item before us. I am going to give my observations. It is true that what the hon'ble member spoke does not basically arise out of this as it has been framed. The hon'ble member himself explained that his own motion was somewhat different. What we normally do and what seems to have been done in this case also is that a number of motions on a subject or on related subjects are clubbed together. Now, they have been presented in this form. It is true that some of the observations that the hon'ble member made do not strictly arise out of this calling attention. It is open to the hon'ble Minister how he wants to reply to this.

As regards the further points as to whether the Chair could be pressed to give ruling on procedural matters straightaway, whether the clubbing of the two notices was proper and whether the members could ask questions as per the notice given by them, the Deputy Chairman observed:

I get your point. What he means to say is that the hon'ble member wants to have a ruling. It is not necessary. So many observations are made in the House of a procedural nature, which do not exactly come within the definition where the Chair is called upon

to give what it terms a ruling and none in this was of that nature. This is what I am saying. Some members raised some points and we were discussing how this should have been framed and how it was done. What I was trying to explain is the procedure that we normally follow when clubbing a number of notices of motions into one motion and I agree that this should have been better worded. We will take care of the observations that have been made by members in future and see how matters should be clubbed together and of what nature. This should dispose of the matter as far as some observations are concerned.

Now, another point was raised whether an hon'ble member can go beyond and say or speak on the basis of his original motion. Well, all I can say is this. As on today and at this moment, this is the motion before us and this is what we should confine ourselves to

Since this motion had ramifications which concerned the External Affairs Ministry also, we had, on our own, sent a copy to the External Affairs Ministry so that the Minister of State for External Affairs, if he wanted to be here and intervene if he so chose, our motion could be taken as it is and the Minister could handle it in any way he thought proper.

(R.S. deb. dt. 28.7.1978, Cols. 141-54)

86. Calling attention: Notice: A notice for calling attention lapses, if not accepted within a week

On 15 December 1981, Shri Satya Pal Malik raised a point of order that the subject of the calling attention of the previous day was the same for which he had given notice 20 days back and wanted to know the rule under which the notice given 15 days earlier was not accepted but a similar one given after 15 days was accepted. Shri Sadashiv Bagaitkar, rising on a point of order, also asked, "When notice given 10 days back on a subject was rejected and notice given 10 days after, on the same subject was accepted, whether the earlier notice was not kept in view and whether the hon'ble member's name who had given the earlier notice was not included or whether the calling attention was not accepted in his name."

The Deputy Chairman observed thus:

I tell you again that as per rule, any notice of calling attention may remain pending for a week. If that notice is not admitted in that very week, the notice gets lapsed. If hon'ble member wants to give that notice again, he has to repeat that for the next week. The notice is admitted in the name of that member who gives it and the name of the member, whose notice had lapsed earlier, is not included in the notice. This is the practice.*

(R.S. deb. dt. 15.12.1981, Cols. 162-64)

87. Calling attention: Notice: A notice for calling attention is allowed on a matter of urgent public importance

On 13 December 1985, during zero hour Shri Suresh Kalmadi enquired from the Chairman if the convention of zero hour or call attention had been dispensed with in the House.

Replying to this query, the Chairman said:

Whenever there is a matter of importance, I allow the call attention. I cannot allow call attention merely for the sake of filling up the time and have one call attention.

Shri Kalmadi then pointed out that everyday a calling attention had been made with reference to important matters.

The Chairman observed:

Quite right. It must be a matter of urgent public importance. If you raise any matter of urgent public importance, I have never refused to give permission but if you just give some..things, which are not of urgent public importance, the Chair will not be able to accommodate merely on the principle that there must be a call attention.

At this Shri Lal K. Advani suggested that there should be a discussion on the issue with the Chairman as an important calling attention notice on the gas leakage in Delhi proposed by him was earlier rejected.

* Spoke in Hindi

The Chairman, then said:

I will explain what I am doing because it is a matter of importance. Generally, at ten o'clock, I come to the Chamber. People who want to raise matters - special mention or call attention, they come and talk to me. I ascertain a consensus among the Opposition. I do not consult the Government on this. If there is some consensus among the Opposition, then I give call attention, but if there is none, if four-five people ask for four-five different things, then I judge. I decide which is important and on that basis, I give permission. Therefore, we will follow these rules. You, Mr. Advani are entitled to come and raise any matter. Not only you, but any member of the Opposition can come and raise any matter and show me that it is a matter of urgent public importance. I will certainly consider.

(R.S. deb. dt. 13.12.1985, Cols. 200-02)

CHAIR

88. Chair: Members should rise to speak only when they 'catch the eye of the Chair'

When Shri N. Gopalaswami, the Leader of the Council was speaking on the Appropriation (No. 2) Bill, 1952, Shri P. V. Narayana tried to interrupt him frequently.

The Deputy Chairman observed:

I find there is a tendency to speak even before catching the eye of the Chair. That is not contemplated by the Rules. No member can make a speech before he catches the eye of the Chairman. Let there be no interruption from anyone before catching the eye of the Chair. Let the member first catch the eye of the Chair and then begin to speak.

(R.S. deb. dt. 17.7.1952, Cols. 1379-80)

89. Chair: When the Chair stands, members should take their seats

When Shri M. N. Govindan Nair sought to raise a question of privilege, the Deputy Chairman stood up to say that the facts presented by Shri Govindan Nair in the House have already been presented to the Chair in the Chamber. At that stage many members of the House stood up to speak all at once.

The Deputy Chairman said:

Please take your seat. You must take your seat when I am on my feet... I think this is very indecorous. When the Chair stands, I think...in courtesy to the Chair, every member should take his seat. I hope such a thing like this will never recur in this House.

(R.S. deb. dt. 12.2.1964, Cols. 215-19)

90. Chair: The Chair cannot be forced to give its decision then and there over certain matters

The Prime Minister, Shri Morarji R. Desai gave a statement regarding the resolution adopted by the House for appointment of a Committee or alternatively two separate Commissions of Inquiry to

inquire into allegations of corruption made against members of families of the Prime Minister and the former Home Minister. In his statement the Prime Minister regretted the inability of the Government to accept either of the two recommendations contained in the resolution.

Some of the members took strong objection to this and said that it was obligatory for the Chairman to appoint a Committee of the House or alternatively two separate Commissions of Inquiry to deal with the allegations. They insisted upon the Chairman to do so. The Chairman said that he had heard all the members and that he would consider the matter.

Some members were not satisfied with the Chairman's response. They desired that the Chairman should give his decision then and there, and that it should not be delayed.

On this, the Chairman observed:

My point is, whenever the Presiding Officer says that he will reserve his ruling, can any member press that he must give the ruling on a certain day?

Some members requested that the decision should not be delayed unnecessarily.

Then the Chairman observed:

I accept it..I do not want to delay it unnecessarily.

(R.S. deb. dt. 24.8.1978, Cols. 280-333)

91. Chair: The Chair to vote for the *status quo*

On 18 February 1982, the House was discussing a Proclamation issued under article 356 of the Constitution. In that discussion, Shri Dinesh Goswami, referring to Assam Assembly, expected the Speaker of the Assembly to be a non-party and non-partisan man. He raised the question whether the Speaker of the House could come to the rescue of the Government by casting his vote.

On this, the Chairman said:

I know that there is a law of meetings that the person who is in the Chair, votes for the *status quo*...I may not know many things. But this I know for certain.

(R.S. deb. dt. 18.2.1982, Col. 41)

92. Chair: Identifying a speaker is entirely upto the Chair

On 31 July 1991, when the House was discussing the Budget (General) 1991-92, Shri R. K. Dhawan, Shrimati Kamla Sinha, Shri Yashwant Sinha and Shri Jagesh Desai together tried to draw the attention of the Chair to raise certain points. The members felt disappointed for not being identified by the Chair.

Asking the members to take their seats, the Deputy Chairman made the following observation:

It is entirely up to the Chair who is presiding over to recognize or not to recognize. You know it better than I do..I am going to impose my right. That is it.

(R.S. deb. dt. 31.7.1991, Cols. 335-39)

93. Chair: Agenda: The Chair has the discretion to vary the order of the proceedings of the House

On 17 August 1984, just at the beginning of the question hour, some members demanded the suspension of the question hour and wanted to raise a discussion on what they called as the constitutional crisis precipitated in Andhra Pradesh by the Governor's dismissal of the Chief Minister, Shri N. T. Rama Rao. The Chairman suggested that anything could be taken up after the question hour. Some members, however, pressed for moving a motion to suspend the question hour. Shri Lal K. Advani was then asked by the Chair to move the motion. After moving the motion, when Shri Advani attempted to explain his case there was stiff resistance from the Ministers. Shri Mallikarjun said that there was no question of any speech after the motion had been moved. Shri Buta Singh also submitted that when the motion had been moved and it had been approved, it must be put to the House before any speech is allowed on it.

The Chairman then ruled:

The position is clear. Rule 23 gives me a certain amount of discretion to vary the order of the proceedings in the House. That you must have yourself read and seen. Now the question is whether there is any bar to it in law which in other part of the Rules is to be found. That the hon'ble Leader of the House will point out to me when he opposes the motion, but for moving the

resolution every person, who moves a resolution, is entitled to say a few words as part of the resolution.

(R.S. deb. dt. 17.8.1984, Cols. 5-7)

94. Chair: Approval of the House: Whatever the Chair does is done with the approval of the House

On 31 July 1978, when some members insisted that the correspondence between the Prime Minister and the former Home Minister should be placed on the Table of the House, and referred to the notices of motions given by them in this connection, the Chairman observed:

Before the hon'ble Leader of the Opposition speaks, I would like to clarify one thing. When I said in this august House that I will discuss this matter with the Leaders of the Opposition and also the Leader of the House and try to find a solution, I presumed that the House accepted my suggestion. And because it was accepted, I took the responsibility of calling and inviting the leaders of all the parties and I had a discussion with them. Three sittings were held and it was decided there as to what exactly would be the solution and what procedure should be followed. Accordingly, I came here and I announced* the solution here which all of you know. On that day, nobody raised any objection to the formula accepted at the meetings. In spite of all that, if you are trying to raise anything - you have given notices of the motion and I have said that I am going to examine it thoroughly - I must make it clear because all of you are getting an opportunity and you are trying to get your views recorded - that what I have done, I have done with the approval of the House and I have not done it on my own. I want to have my views recorded, so that the outside world may not think that I have done something against your wishes.

(R.S. deb. dt. 31.7.1978, Cols. 130-31)

* On 27 July 1978, the Chairman making an announcement in regard to the placing of correspondence between the Prime Minister and former Home Minister before the House, said:

I have advised the Government that it would be better if the Government place this correspondence in the Chairman's Chamber for perusal by the Leader of the Opposition and Leaders and some members of other parties and groups in the House who attended our meetings. The modality and procedure for the perusal of the said correspondence would be the same as was adopted in the matter of the Import Licence Case in December, 1974. The Government have agreed to my suggestion.

95. Chair: Constitutional validity: The Chair does not decide the constitutional validity of a Bill; House decides it

On 11 May 1963, when the Deputy Minister in the Ministry of Finance, Shri B. R. Bhagat, was to move the Compulsory Deposit Scheme Bill, 1963 for consideration, Shri Bhupesh Gupta contended that the Bill could not be taken into consideration as it contravened certain provisions of the Constitution. It infringed a citizen's right to dispose of his property as he likes and that the House could not proceed on the basis of a mere assertion of the Attorney-General that the restrictions sought to be imposed by the Bill were reasonable.

Diwan Chaman Lal said that as a state of emergency had been declared, the House was competent to decide the fate of article 19 of the Constitution.

After hearing all sections of the Council, the Chairman said:

I thank the hon'ble members for the assistance they have given me in coming to a conclusion. *Prima facie* I think we can go on with the discussion, but I do not wish to give any ruling, because in the Central Legislature it has been the accepted practice for the Chair not to take upon itself the responsibility of deciding whether the House has the legislative competence to entertain a Bill or whether a Bill is *ultra vires*. When any such question is raised, the usual practice has been to leave the matter for the decision of the House. The main reason for the adoption of this course is that a question relating to the legislative competence of the House or the constitutionality of the proposed legislation often involves much difficulty and complexity and it is the function of the courts and ultimately of the Supreme Court to decide such a question. The Presiding Officer should not arrogate to himself the functions of the court, specially as he has not the facilities or the material on which to come to a satisfactory decision. It is the sole privilege and duty of the House to decide every question that arises on a motion moved by a member. So, if the matter is left to the House to decide, the House may reject the Bill, if it is of the view that the Bill is *ultra vires*. If, however, the House accepts the Bill, the party aggrieved will still have the remedy in the courts and ultimately in the Supreme Court. This question came before the Central Legislature on various occasions and the accepted practice has been as stated by me.

(R.S. deb. dt. 11.5.1963, Cols. 3128-51)

96. Chair: Constitutional validity: The Chair does not pronounce on the constitutional validity of documents

Shri Lal K. Advani said that the Minister of State in the Ministry of Finance was about to lay on the Table of the House a copy of the Ministry of Finance notification containing the President's Order in regard to the authorization of certain expenditure out of the Consolidated Fund of the Union territory of Pondicherry and contended this was unconstitutional.

The Chairman ruled:

The Chair does not pronounce on the constitutional validity of documents. Moreover, in this case the constitutional validity of this document is *sub judice*. Laying any document on the Table merely means that information is being given to the members about its contents. Moreover, the document has been referred to in the Bill and it will be a matter which may be referred to in the debate. It has already been laid in the Lok Sabha and has become a public document. I hold that this document will be laid on the Table of the House.

(R.S. deb. dt. 22.4.1974, Cols. 77-92)

97. Chair: Discretion: The Chair has the discretion to allow a member to speak from a place other than his/her seat

On 24 July 1974, the Deputy Chairman asked Shri S. A. Hashmi to come near the mike and speak. When Shri Rajnarain raised a point of order that it was not the seat of the member and by leaving his seat and coming nearer the mike he had shown disrespect to the House, the Deputy Chairman observed:

I have permitted Mr. Hashmi to speak from this place because the Reporter cannot hear him from his seat. This is no point of order. On several other occasions, Mr. Rajnarain, people have been permitted to come near the mike from their seats and on several occasions, members of this House, both from the opposition and the ruling party, have been permitted to come

near the mike so that the Reporters can hear them properly and take down. Even if a seat is not the seat of a particular member, it is up to the discretion of the Chair to allow him to speak from there. Sometimes, some members have been allowed to speak even while sitting also. So, there is no point of order in this.

(R.S. deb. dt. 24.7.1974, Cols. 205-06)

98. Chair: Mention with permission: When a mention is made by a member, other members cannot take it up and start rebutting it and in the process have their say on the subject-matter

Shri A. G. Kulkarni, with prior permission of the Chair, made a mention about the situation created by the so-called Black December Organisation in the course of which he referred to some case in Meerut. Shri J. P. Yadav took objection to the reference being made to the Meerut case in that connection and wanted to clarify the matter. The Deputy Chairman refused to allow him to speak on the ground that when a mention was made nobody else had the right to say about that matter. Thereupon, Shri N. K. Shejwalkar rose on a point of procedure. He wanted to know, if during the course something was said against an individual or a particular party or anybody else, whether members had not the right to clarify the position.

The Deputy Chairman observed:

I have got enough intelligence to judge whether it is such a remark as to warrant a rebuttal by another member. There are things and things which are said on the floor of the House. It does not mean that when any member mentions something or other every other member has a chance to take that up and start rebutting and make that an opportunity to say what he wants to say with regard to the subject-matter of the particular mention. I am sorry I cannot allow this sort of thing; otherwise there is no meaning left in the Chair giving permission. You must also know that when the Chairman is supposed to give permission there is some meaning attached to it. Otherwise what is the sanctity behind the permission? This cannot go on.

(R.S. deb. dt. 2.3.1973, Cols. 149-50)

99. Chair: Mention with permission: Members other than the one who has taken the permission, cannot speak on the subject

Shri Bhupesh Gupta with prior permission of the Chair made a mention about the state of affairs in the Kasturba Rural Institute in Punjab. Dr. K. Mathew Kurian wanted to support and associate himself with what Shri Bhupesh Gupta had said.

The Deputy Chairman observed:

I am sorry. As far as speaking without first taking permission is concerned, I am going to be very strict in this matter. Those members alone who have taken permission will have the right to say. As far as others are concerned, I am sorry I cannot allow; otherwise there is no point in some members taking permission and others speaking without it.

(R.S. deb. dt. 16.3.1973, Cols. 142-43)

100. Chair: Mention with permission: Other members not to comment on the mention being made by a member with the Chair's permission

On 18 May 1973, after Shri Mahavir Tyagi was permitted to make a mention about alleged distortion made by the All India Radio in its news broadcast, Shri Shyam Lal Yadav also wanted to associate himself with the statement of Shri Tyagi.

The Deputy Chairman, however, observed:

I am not permitting you because you must have already noticed that when somebody mentions something, no other member is allowed to comment upon it.

(R.S. deb. dt. 18.5.1973, Cols. 43-45)

101. Chair: Mention with permission: The Chair has the right to allow a person to make a mention if it is in the interest of the House

On 23 July 1985, with permission of the Chair, Shri Dipen Ghosh referred to the Prime Minister's remarks on the emergency at a press

conference. Some members objected to this reference. When the Chairman dismissed the objection, Shri Ramanand Yadav wanted to know under what rule the Chair had allowed the member to make a statement.

The Chairman said:

Please take it from me. The Chair has the right to allow a person to make a mention if it is in the interest of the House. It is necessary. I have, therefore, allowed.

(R.S. deb. dt. 23.7.1985, Cols. 141-42)

102. Chair: Motion: Government to indicate its response to the two alternatives mentioned in a motion adopted by the House

On 17 August 1978, when some members insisted that the Chair should appoint a Committee of the House in pursuance of the motion adopted by the House on 10 August 1978, for appointment of a Committee or alternatively two separate Commissions of Inquiry to inquire into allegations of corruption made against members of families of the Prime Minister and the former Home Minister, the Chairman observed:

The House at its sitting held on the 10th August, 1978, adopted a motion in regard to the appointment of a Committee of this House or two separate Commissions of Inquiry under the Commissions of Inquiry Act, 1952, to inquire into certain allegations of corruption against members of families of the Prime Minister and the former Home Minister, Shri Charan Singh. The said motion recommends to the Government to-

- (i) seek forthwith the guidance and advice from a Committee of fifteen members of Rajya Sabha to be appointed by the Chairman, Rajya Sabha, for appropriate and necessary actions to be taken on the allegations, or
- (ii) straightway appoint two separate Commissions under the Commissions of Inquiry Act, 1952, in the matter.

Two courses, therefore, seem to be open to the Government namely, either they should seek the guidance and advice from a Committee of the members of Rajya Sabha or forthwith appoint two separate Commissions of Inquiry.

This matter was also raised in the House yesterday. I am of the opinion that in terms of the motion the question of appointment of a Committee by me would depend on the indication from the Government as to which one of the two alternatives mentioned in the motion is acceptable to them. The appointment of a Committee at this stage without knowing the mind of the government would be infructuous. I would, therefore, request the Leader of the House to let me know what course the Government propose to adopt in the matter.

When some members raised doubts about this interpretation of the resolution by the Chair, the Chairman observed:

I have carefully gone through the resolution. I have given my specific opinion and I do not think that there is any ambiguity in the wording which I have used.

(R.S. deb. dt. 17.8.1978, Cols. 163-207)

103. Chair: Proceedings: Members are not allowed to raise any point without previous permission of the Chair and anything said by them without permission is not recorded

Soon after the item "papers laid on the Table", before the item "calling attention" was taken up, Prof. Ramlal Parikh stood up and started mentioning about the late arrivals of Indian Airlines flights. The Chairman said that that was not the occasion for the member to raise the issue and therefore, requested him to sit down. In spite of the Chairman's appeal, the member continued speaking.

Thereupon, the Chairman asked the Reporters not to record, and observed:

I want to tell the hon'ble members, if anybody rises without previous permission of the Chair, it will not be recorded. It is no use taking the time of the House unnecessarily.

(R.S. deb. dt. 6.3.1979, Col. 188)

104. Chair: Proceedings: Anything spoken without the permission of the Chair need not be recorded

On 27 April 1988, during the question hour when the Chairman did not allow certain remarks made by some members to be recorded,

there was some controversy. Many members objected to removing the expressions of members of the House.

To clear the confusion, the Chairman observed:

This is a well established practice. Otherwise, you will need as many reporters as the number of members here because some interruptions are coming from this side and some from that side. The question hour is very important. It is the time when we seriously want to know what is what from the Government. This hour is not for the opposition or the Congress Party or the party which is the ruling party, it is something when we all want to know things and this we can do by putting short questions. We can put them in a nice way and convey it to the Minister, but let it go on systematically. Otherwise, what happens, when we all move away from the point, the whole point gets lost. If any member wants to know something more from the Minister, he can ask a supplementary.

When Shri K. Mohanan asked as to what happens if the Minister 'evades' answering to a question, the Chairman further said:

Now, the question is very very simple. These things, whether he is evading or not, will not lead us anywhere. You can put the supplementary and in that supplementary you can say whether he is evading the reply. That arbitration is given to the umpire... Do not put words in my mouth. I have not said that it will not go on record. There is a vast difference.

This is my instruction to the Reporters. It is a well established practice. I have restricted in the question hour anybody rising and putting a supplementary without my permission. Otherwise, what is the sense of my calling 'A', 'B' or 'C'? This has been the practice and this has been done because the whole question hour, which is only one hour, should yield the maximum result.

However, when Shri M. S. Gurupadaswamy observed that there should be a distinction between regulating and removing from the record, the Chairman stated:

My ruling is very clear that nothing which is spoken without my permission during the question hour will go on record, what is on record is not expunged.

(R.S. deb. dt. 27.4.1988, Cols. 8-12)

105. Chair: Statement: Statement from the Chair should be deemed to be a unanimous resolution of the House

On 18 November 1985, the Chairman made a statement in the House with reference to the hanging of Benjamin Moloise by Pretoria Regime. After that when Shri S. W. Dhabe proposed that there should be a resolution in the House about the execution of Benjamin Moloise, the Chairman said:

A statement from the Chair amounts to a unanimous resolution of the House. Therefore, this has been made by the Chair, and it will be deemed to be a unanimous resolution of the House.

(R.S. deb. dt. 18.11.1985, Col. 348)

106. Chair: Supplementary questions: The Chair has to decide whom to call to put supplementary questions

On 26 March 1969, during the course of supplementaries to question no. 692, on an observation made by Shri J. P. Yadav, the Chairman observed:

Please leave it to me to decide whom I should call and whom I should not. From the same party I cannot call two or three persons from my list. I am trying to distribute them. And, therefore, do not always question me or become harsh when I am not able to ask you to get up.

The Chairman observed further:

Mr. Bhandari put a question - really he represents to a great extent the Jana Sangh - as one of the leaders of his party. When I have already asked him to put the question, I must give opportunity to others also to take part. This is the way in which I must get on. There must be some sort of self-restraint on the part of members. They must know how they should stand up, when they should stand up.

(R.S. deb. dt. 26.3.1969, Cols. 5928-33)

107. Chairman: The Chairman's prerogative is not to be questioned in the House

On 1 December 1969, just a few minutes before the House met, Shri Chandra Shekhar met the Chairman in the Chairman's Chamber and requested for permission to make a reference in the House to the hunger strike of Shri Amrit Nahata, M.P. in Jaisalmer, Rajasthan. The Chairman told Shri Chandra Shekhar that he had already given permission to two members. After the House met and when Shri A. G. Kulkarni was making a reference to Shri Amrit Nahata's fast, the Chairman on reconsideration thought that he would allow Shri Chandra Shekhar also to make a reference to the fast and so he communicated his permission to Shri Chandra Shekhar through the Secretary. But Shri Chandra Shekhar refused to avail himself of the permission given to him at that moment and protested against the earlier refusal of permission when he had approached the Chairman. He questioned the procedure adopted and the authority of the Chairman in giving or refusing such permissions. When the Chairman explained that when Shri Chandra Shekhar met him in his Chamber it was a few minutes before 11.00 A.M. and that he had given permission to two members already. Shri Chandra Shekhar said that what the Chairman said was not a fact.

Thereupon, the Chairman observed:

In the first place I want to state this that this question of my giving permission or not giving permission, after I have exercised my discretion, should not be raised in the House. In case any hon'ble member wants to discuss it with me or he has any grievance he may kindly come to my Chamber. That is the well recognised practice.

Secondly, when I came here, as the first question was being put, I thought over the matter and asked the Secretary to inform Mr. Chandra Shekhar that even though there are already two mentions which have been permitted by me I would permit him also. This slip was sent to him in which it was written: 'The Chairman has asked me to tell you that you have his permission to mention about Mr. Nahata and so on.' Then Mr. Chandra Shekhar says here : 'I do not want to mention now; I strongly protest about the manner I have been treated' .

These are the facts. In the first place I say - and I give it as a ruling - that if any hon'ble member has got anything to say to me about my refusal to give permission, that should be in the Chamber; it is not the practice in this House that such questions of permission should be raised in the House.

Secondly, when a number of members come to me just a few minutes before eleven o'clock and when I have to be here punctually at 11.00, I do need some time for consideration. I had said that there were already two mentions - he denies that I said that - which I had permitted. I might have said anything else I do not know, but I could not have refused him permission without any rhyme or reason. When Mr. Kulkarni started raising this question because I had already given him permission, I at once said that he also had wanted to mention this. I do not think it is right for any hon'ble member to raise such a question in the House.

(R.S. deb. dt. 1.12.1969, Cols. 2171-74)

108. Chairman: Prior permission of the Chairman is necessary for a Minister to lay papers on behalf of another Minister

On 29 January 1980, when the Minister of Tourism and Civil Aviation and Labour, Shri J. B. Patnaik, rose to lay some papers on the Table on behalf of the Minister of Energy and Irrigation and Department of Coal, Shri A. B. A. Ghani Khan Chaudhuri, Dr. Rankripal Sinha raised an objection. He wanted to know if the Minister concerned had written to the Chairman in advance and taken his permission.

The Chairman observed:

Well, no communication has been received.

Thereupon, Dr. Rankripal Sinha said that Shri Patnaik could not lay the papers on behalf of the other Minister.

At this stage, the Leader of the House, Shri Pranab Mukherjee said that he was sorry that no formal communication had been sent to the Chairman in this connection. So he suggested that the Chairman could pass on to the next item. The Chairman passed on to the next item and Shri Patnaik could not lay those papers on the Table on behalf of Shri Ghani Khan Chaudhuri.

(R.S. deb. dt. 29.1.1980, Cols. 77-78)

109. Chairman: Prior permission of the Chairman necessary for a Minister to lay papers on behalf of another Minister

On 28 March 1980, when some Ministers wanted to lay on the Table of the House some papers on behalf of other Ministers, in their absence, objection was taken by Dr. Rankripal Sinha and others who wanted to know whether prior permission of the Chair had been obtained in doing so. The Minister of State in the Ministry of Industry, Shri Charanjit Chanaana, asserted that he had got the permission and took out an office copy of a letter from his pocket.

At this stage, the Chairman observed:

Mr. Minister, you should not keep it in your pocket. You should give it to me. Mr. Minister, courtesy demands that it should reach me and permission taken. However, I will overlook it this time. Now that you have handed it over to me, you have the permission to lay the papers. As I have said, Mr. Bhupesh Gupta, courtesy demanded that it should have come to me first. I will insist on the permission being obtained first.

Again, when papers were sought to be laid on behalf of the Minister of State in the Ministry of Home Affairs, Shri Yogendra Makwana, the Chairman observed:

Mr. Leader, there is a certain formality in these matters. I think the House expects - and I expect - that the hon'ble Ministers, if they are not present here, will take expeditious steps to take my permission so that another Minister may work for them. Will you give an assurance?

The Leader of the House then gave such an assurance.

(R.S. deb. dt. 28.3.1980, Cols. 144-50 and 158-60)

110. Chairman: Examination of parliamentary documents by police can be allowed only with the prior permission of the Chairman

A request was received from the Assistant Commissioner of Police, New Delhi, *vide* his letter dated 14 February 1980 to examine certain documents in the custody of the Secretary-General, Rajya Sabha, in connection with the investigation of a certain case registered on the complaint of Shri Syed Ahmad Hashmi, a member of Rajya Sabha.

On 24 July 1980, after getting the matter examined by the Committee of Privileges, the Chairman, *inter alia*, observed:

The Committee, after deliberations, felt that I may permit the police authorities to inspect and make copies (including photostat copies) of the documents mentioned in the letter dated 1 May 1980 from the Assistant Commissioner of Police (H. Qrs.), New Delhi, in connection with the investigation of the case. The Committee also opined that the said documents or copies thereof should not be used or produced before a court of law without obtaining prior permission of the Chairman to that effect.

I have, therefore, permitted the police authorities accordingly, with a caution that my prior permission should be obtained.

(R.S. deb. dt. 24.7.1980, Col. 84)

111. Chairman: Not to record anything that the members say when Chairman is on his legs

On 24 February 1984, during the question hour, when the Minister of External Affairs, Shri P. V. Narasinha Rao, was replying to a question on the activities of Jammu and Kashmir Liberation Front, many members asked supplementaries, interrupting each other, even as the Chairman was on his legs.

Thereupon, the Chairman observed:

Nothing will go on record...please sit down...You know my standing orders to the Reporters are that while I am standing, anything that the members say shall not be recorded because I am in possession of the House. You have said it, you have all heard it. The newspapers and others will not publish it. Let us get on with the question.

(R.S. deb. dt. 24.2.1984, Col. 29)

112. Chairman: Chairman can suggest appropriate amendment in a quotation

On 21 March 1985, while making a special mention regarding reported harassment of journalists by the Haryana Government, Shri Lal K. Advani quoted from some reports of enquiry by some journalists.

On the mention of the words "Chief Minister" in the quotation, the Chairman put forth the following suggestion:

May I suggest a small amendment in your statement? Instead of the words "Chief Minister", you may say, "the Government of Haryana".

(R.S. deb. dt. 21.3.1985, Cols. 149-50)

113. Chairman: Chairman can ask any member of his choice to speak on an issue

On 18 November 1985, Shri Lal K. Advani made a reference to the Prime Minister's tour abroad at the start of the Parliament session. When Shri Parvathaneni Upendra wanted to correct what Shri Advani had said, the Chairman did not permit him and observed:

I will make a suggestion as a sort of compromise. I will ask the other two members of my choice to say something on this matter.. Otherwise I am not going to allow anybody. This is my prerogative. Since all of you want it, I will just allow two members of the Opposition and ask the Leader of the House and Mr. Jain on the other side to speak and it will be over.

(R.S. deb. dt. 18.11.1985, Col. 351)

114. Chairman: Subject matter of a notice or a communication with the Chairman not to be raised in the House without the specific permission to do so

On 24 May 1990, during a discussion on a question of privilege regarding a statement made by Shri K. K. Tewary which was derogatory to the dignity of the Chairman, the Leader of the Opposition, Shri P. Shiv Shanker, referred to a letter written by him to the Chairman in this regard. Shri Kamal Morarka protested against it and sought the ruling of the Chair.

The Deputy Chairman disallowed the reading of the letter and referred to the Handbook for Members of Rajya Sabha which says, "No Member should raise in the House the subject-matter of a notice or communication sent by him to the Chairman unless he has been specifically permitted by the Chairman to do so."

She ruled as under:

So, I am not in a position to allow you to read the letter.

(R.S. deb. dt. 24.5.1990, Cols. 197-207)

115. Chairman: Sense of the House shall not be taken on a matter already decided by the Chairman

On 12 March 1996, the Leader of the Opposition, Shri Sikander Bakht and some members including Shri S. Jaipal Reddy demanded the discussion on the Hawala issue in the House. The Deputy Chairman informed them that there was no instruction from the Chairman to allow such a discussion and on the other hand the Chairman had given permission to Shri P. Upendra to speak about rule 167 and 176.

Overruling the suggestion of Dr. Biplab Dasgupta to take the sense of the House on the issue, the Deputy Chairman observed:

I function only under the direction of the Chairman...On the permission given by the Chairman, you want me to take the sense of House?...I run this House under the direction of the hon'ble Chairman. Whatever decision is taken in the Business Advisory Committee, whatever instruction the hon'ble Chairman gives me, I go by it...

I should not take directions from the members, I am sorry... I have to take it from the Chairman or the Secretariat or the written thing. I cannot take your word as to what the Chairman wants to tell me. There is a limit to it. The Chairman has allowed him to speak. Let him speak...

How does the Chairman give instructions? How? I would tell you. It comes in the order paper. In the order paper it has not been mentioned under which rule it should be discussed. That is how I get the orders from the Chairman.

(R.S. deb. dt. 12.3.1996, Cols. 259-60 and 267-68)

116. Chairman: Agenda: Chairman can withdraw an item from the agenda of a sitting, if the concerned Minister seeks his indulgence to allow more time to check certain facts

On 24 February 1984, Shri Harkishan Singh Surjeet wanted to raise a point questioning the withdrawal of an item regarding the situation

in Punjab and Haryana from the day's agenda of the House without consulting the Opposition. The Chairman explained that though he had said that the item referred to would come up for discussion on that day, he had to postpone it because the Home Minister had sought some more time to check certain things that had come to his notice before making a statement in the House.

Since the member was incessantly questioning the propriety of withdrawal, the Chairman observed:

I withdrew the subject; because, in fairness to the Home Minister who had agreed to make a statement, I must allow him time.

He further observed:

I will allow this discussion at a later date when I have talked to the Home Minister. I must talk to him. He has asked me for indulgence that he may not be asked to speak today.

(R.S. deb. dt. 24.2.1984, Cols. 192-94)

117. Chairman: Division: There is provision of the division if Chairman thinks fit

On 7 October 1982, when Shri Shiva Chandra Jha raised a point of order and asked for a division on his amendment to the Powers of Attorney (Amendment) Bill, 1982, the Vice-Chairman observed:

I will refer you to rule 252 of the Rules of Procedure, sub-rule (2) which says:

The Chairman shall then say: "I think the Ayes (or the Noes, as the case may be) have it." If the opinion of the Chairman as to the decision of a question is not challenged, he shall say twice:

And then sub-clause (3) says: If the opinion of the Chairman as to the decision of a question is challenged, he may, if he thinks fit, ask the members...

You mark these words, "...if he thinks fit." That is very important clause. In fact, Mr. Jha, you yourself do not think it fit genuinely. For the sake of fun or something like that, you are asking for a division. I refer you to rule 252(3)...

(R.S. deb. dt. 7.10.1982, Cols. 218-22)

118. Chairman: Documents: Chairman has the authority to decide whether any document is to be laid or not to be laid on the Table of the House

On 4 November 1986, during a discussion on the calling attention notice about security lapse at Rajghat on 2 October 1986, it was asked whether the Ministry of External Affairs had received cable from the Consulate at Karachi. The Minister of State in the Ministry of Home Affairs had assured that he would look into it. In pursuance of this assurance, the Minister made a statement and during clarifications on the statement, members demanded that since a part of the cable was quoted it should be laid on the Table of the House. The Chair reserved the ruling for a later date.

On 12 November 1986, the Chairman gave a ruling on the issue:

Hon'ble members will recall that on November 4, 1986, during the discussion on the calling attention about security lapse at Rajghat on October 2, 1986, a query was raised whether the Ministry of External Affairs had received a cable from the Consulate at Karachi. The Minister of State in the Ministry of Home Affairs, Shri P. Chidambaram, while replying at that time, had assured that he would find out about it. In pursuance of this assurance, the Minister made a statement in Rajya Sabha the next day. In paragraph (3) of that statement, the Minister stated:

The cable referred to circulation of rumours in Karachi regarding the attempt made on the life of the Prime Minister and the Counsul-General commented that 'this had happened almost a day in advance of its actual occurrence'.

In the course of clarifications on this statement, Shri Dipen Ghosh, Shri M. S. Gurupadaswamy and Shri L. K. Advani urged that since a part of the cable was quoted the cable be placed on the Table of the House. Shri L. K. Advani raised a point of order drawing the attention to rule 249 of our Rules which provides that 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.

The proviso to this rule says that this rule shall not apply to any documents which are stated by the Minister to be of such a

nature that their production would be inconsistent with public interest. Shri Advani wanted me to examine the cable to ascertain whether the cable could be called a document which should be held back from the House in public interest. He contended that if the Government pleaded that it was in public interest to hold it back under the proviso to rule 249, then the proper course would be for the Chairman to examine the cable and only if the Chairman was satisfied that it was in public interest to withhold the cable, then the House would be satisfied; otherwise the cable should be laid on the Table of the House. In order to ascertain whether the cable in question could be laid on the Table of the House as demanded by the members, I had requested the Minister to send me a copy of the cable for perusal. The Minister has accordingly done so and while forwarding a copy to me, has taken the plea that the disclosure of the contents of the cable which was "SECRET" would not be in public interest. The Minister also stated that the sole purpose of reference to certain words contained in the cable in his statement on November 5, was for underscoring the point that the cable was despatched and received after the incident at Rajghat on October 2, 1986.

I have perused the cable. I find that the cable contains other materials which it would not be in public interest to disclose. I, therefore, hold that the proviso to rule 249 applies to this case and uphold the contention of the Minister. The matter is treated as closed.

(R.S. deb. dt. 12.11.1986, Cols. 163-65)

119. Chairman: Expunction: The Chairman has powers to order expunction even when he is not presiding over the House

On 10 June 1971, Shri Arjun Arora while trying to put a supplementary on starred question no. 387 made a certain remark about a blouse. On this the Chairman who was presiding at that time, directed Shri Arora to withdraw the remark, which he did.

On 11 June 1971, Shri Arora raised the question that while his words withdrawing the remark found a place in the uncorrected copy of the proceedings of the House of 10 June 1971, the remark which he actually made and which was withdrawn by him subsequently, did not figure in the proceedings. His contention was that it put him into a very

awkward position and if somebody ever read the proceedings, he may be left speculating as to what he (Shri Arora) had said.

Shri Arora sought to make a distinction between 'withdrawal' and 'expunction' and stated that when a member obeyed the Chair and withdrew the remarks, the same could not be expunged. He appreciated the gesture of the Chairman in asking him only to withdraw those remarks the previous day when he was in the Chair but was surprised that the Vice-Chairman should have ordered the expunction of those remarks later in the day. Shri Arora asserted that although the Vice-Chairman had expunged the remarks under the direction of the Chairman, it was beyond his powers, more so when these remarks were not made when he was in the Chair. The Chairman clarified that the Vice-Chairman had done so under his direction.

Shri Arora then went on to say that "his (Chairman's) orders while he is sitting on Chair of Rajya Sabha, have to be obeyed by members, by the Secretariat and even by the Vice-Chairman but when he is in the bathroom his orders cannot be obeyed in the House. When he is in the bathroom he is not the Chairman... The Chairman cannot direct the proceedings of the House from the Chamber. If that was so, a bed could have been installed in the Chamber and the Chairman will not have to take the trouble of sitting on the Chair. A Chairman may direct the proceedings of the House only when he occupies the Chair, not from the bathroom, not from his drawing room, not from his dining room, not even from his Chamber." Shri Arora desired that the expunction by the Vice-Chairman should be declared *null* and *void* and his remarks be restored in the proceedings of 10 June 1971. He asserted that a Presiding Officer had no right to improve the record according to his own notions and that the proceedings were supposed to be a true record of what had happened in the House.

Shri Arora further said that under the rules and under the procedure followed, particularly in the House of Commons, the power to expunge arose only after the member refused to withdraw. Power to expunge was to be resorted to rarely and only when a member was recalcitrant and persisted in disobeying the direction of the Chair... Shri Arora concluded by saying that in Britain in the House of Commons all remarks were generally retained. Very rarely, not even once in a

decade or so, was a remark expunged. He pleaded that when the Vice-Chairman was presiding even the Chairman, with due respect, had no right to correct the proceedings from his Chamber.

The Chairman ruled:

Now my right to expunge remarks is discretionary and is not confined only to those cases where an hon'ble member disobeys my direction..My power to expunge is not confined only to a case where I am sitting in the Chair. A remark may be withdrawn and yet it may be of such a character that it may attract my powers under rule 261. This power I exercised and I think rightly..The Chairman can exercise it. Place is not the thing. I have said that it is not necessary that I should be sitting in the Chair in the House to direct expunction.

(R.S. deb. dt. 11.6.1971, Cols. 141-45)

120. Chairman: Mentioning of important matters: Not to be made when the Chair has refused permission in the Chamber

On 28 July 1970, Shri Lokanath Misra wanted to mention about an important matter regarding the Orissa steel plant, permission for which apparently had been refused by the Chairman in his Chamber. The Chairman did not allow Shri Misra to make the point. Shri Chandra Shekhar supported Shri Misra and said that while in the House members who are more vocal and loud were being permitted, it was surprising that Shri Misra was not permitted to mention a very important matter.

The Chairman observed:

You have entrusted me with the conduct of the proceedings. You expect that the business of the House should be conducted in a proper manner. I feel it is not a correct thing that, if I say 'No' in the Chamber, after fully considering what an hon'ble member or members have represented to me, then I should allow the hon'ble member to stand up and start discussion of that matter. I hope members will agree with me that that is the correct procedure. If Mr. Chandra Shekhar wants that all that he told me in my Chamber or all that he represented should be repeated here so that the hon'ble members here may also know, then I am allowing an

appeal to this House over my ruling in the Chamber. In certain matters and in many matters I take the wishes of the House and I take the sense of the House but there are certain matters in which the House through the Rules Committee has given me a certain amount of discretion and if I exercise my discretion in the Chamber, then in that case, according to the conventions of this House, I am not required to explain the reasons for giving my ruling. If hon'ble members want to discuss with me whether my ruling was right or wrong, they are always welcome to my Chamber.

(R.S. deb. dt. 28.7.1970, Cols. 117-24)

121. Chairman: Mentioning of important matters: Not to be made without prior permission of the Chairman

On 18 March 1972, during the course of debate on the Appropriation (Railways) Bill, 1972, while Shri Rajnarain was speaking, he brought in the point that something emerging suddenly could be mentioned then and there in the House.

The Vice-Chairman said:

The practice and the convention of the House is that unless prior permission of the Chairman is taken, no new point which is not in the order paper, is taken up.

(R.S. deb. dt. 18.3.1972, Col. 59)

122. Chairman: Observation: It is ridiculous to expunge the Chairman's own words

On 23 February 1988, during a special mention Shri Parvathaneni Upendra made a mention about the reported violation of prescribed ceiling on expenditure by the Governor of Andhra Pradesh. When the Chairman ruled against the objections from the Congress members and said that such a matter could be raised in Parliament, members from the ruling party protested vociferously. However, the Leader of the House, the Minister of Finance and the Minister of Commerce, Shri Narayan Dutt Tiwari, regretted the unfortunate exchange later, and reiterating his party's faith and confidence in him requested the Chairman to treat the matter as closed and expunge his observation thereon.

The Chairman then observed:

Friends, in view of the sentiments of the House I do not wish to prolong the matter. I am touched by what the hon'ble members have said. I have entered upon this Office in a spirit of humility and service. My endeavour has been to uphold the highest values of parliamentary democracy. In the cut and thrust of our proceedings and in the heat of the moment, it is particularly necessary to uphold the traditions of our House. I may assure you that when I said it there was nothing personal about it because I do believe that Chairmen come and go, men come and go, but our institution lasts. This is the institution on which the unity of the country depends, on which the future of my country depends and on which the fulfilment of the dreams of those who sacrificed their all depends. So, please remember that it is nothing. What perturbed me was the way the things happened and the way I felt. The two sides of the House were moving in a particular direction. If that hostility remains, the purpose of the House is lost. The purpose of the House is discussion in a calm atmosphere giving full weight to what the other side is saying. That is why I said in the very first place that atmosphere has got to be built. That atmosphere is absolutely needed. We have to build the real foundations for the future India which, to my mind, depends on our unity and on the success of our democracy. As it is, my country cannot survive without democracy. So the basic thing is the atmosphere in which we can all work together. I was thinking in that context. Though I agree that I cannot expunge it, I do not want to get into what should be done and whether the word 'undignified' is applicable or not. One view is that what has been said or what happened was undignified and so it should be expunged. That is one point. But that is neither here nor there. The other thing that they have said is that it will be ridiculous and people will laugh that the Chairman expunged his own remarks. I understand the force of what is being said. But as I said in the beginning, the individuals don't count.

(R.S. deb. dt. 23.2.1988, Cols. 255-61)

123. Chairman: Observation: The four pillars of democracy should have faith in each other

On 23 February 1988, the Chairman permitted Shri Parvathaneni Upendra to make a special mention on the reported violation of prescribed ceiling on expenditure by the Governor of Andhra Pradesh.

This led to sharp exchanges between the members of the Opposition and the Treasury Benches which further provoked the Chairman to make certain harsh observations. Some members from the Treasury Benches were apprehensive of the reporting of the proceedings of the House in the Press that it might hamper the dignity of the House.

Quoting the relevant rules the Chairman dispelled their apprehensions by observing:

Now so far as press is concerned, there is a provision here in article 361A and I would like the press to keep that in view, because article 361A protects them, no doubt, but the wording is very clear:

Protection of publication of proceedings of Parliament and State Legislatures.

No person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature, of a State, unless the publication is proved to have been made with malice.

So till then - I want to have your consent on this - it will be necessary for the press to see that nothing exaggerated, nothing divergent from this is published, because if they do it, after that I can tell them that both the courts of India and this House will have the full right.

However, noting that some members were not quite satisfied, the Chairman further commented:

If you start losing faith in these pillars - press, judiciary, you can't go on. In a democracy these are absolutely essential. So, mutual faith is needed. You should have faith in the press, you should have faith in the judiciary. The judiciary should have faith in the legislature, and the press should have faith in the legislature. So, we are all working on one purpose.

124. Chairman: Observation: Unless there is official intimation talks of split in a party do not concern the House

On 1 March 1989, Shri Subramanian Swamy drew the attention of the Chairman to the confusion arising out of certain changes that had taken place in the Janata Party. He referred to an order of the Election Commissioner, wherein it was stated that Shri J. P. Goyal, the counsel for the Janata Dal conceded that the Janata Party continued to exist. He further said that some leaders of the party were maintaining double standards with regard to the name of the party. For them it was the Janata Party inside Parliament and the Janata Dal outside Parliament. He wanted the Chairman to write to them to end this confusion.

Thereupon, the Chairman observed:

Mr. Subramanian Swamy, so far as I am concerned, I am only concerned with the matters in the House. Till I hear from the Janata Party that there is a split into Janata Dal, your question will not come.

(R.S. deb. dt. 1.3.1989, Cols. 209-10)

125. Chairman: Proceedings: Admissibility or otherwise of any business by the Chairman should not be questioned in the House

On 23 February 1979, Shri Shiva Chandra Jha objected to the admissibility of a special mention on floods in Delhi.

On this the Deputy Chairman observed:

I have told the hon'ble members many a time that whatever is done by the hon'ble Chairman, is done under his authority and it is not proper for the hon'ble members to ask why a certain thing has been allowed or has not been allowed. We should not waste the time of the House on such things. In this regard, I have on several occasions said that the hon'ble members may state such things in their individual capacity or take up such things with the Secretariat but they should not raise points of order in the House in this way.*

(R.S. deb. dt. 23.2.1979, Col. 225)

* Spoke in Hindi

126. Chairman: Proceedings: A member's speech need not be recorded when the Chairman is on his legs

On 23 July 1980, when Rao Birendra Singh was answering supplementaries to starred question no. 1, several members got up at the same time, asking more supplementaries and raising points of order.

When the Chairman's request to them to resume their seats went unheeded, he stood up and observed:

If an hon'ble member speaks when I am standing, my instructions to the reporters are to completely black out what he says. This is a standing instruction.

(R.S. deb. dt. 23.7.1980, Cols. 15-16)

127. Chairman: Proceedings: The Chairman has to issue special directions whenever proceedings are not to be recorded

On 25 July 1980, Shri Bhupesh Gupta referred to the ruling given a few days earlier by the Chairman and requested him to reconsider the ruling in view of the fact that the Rules did not say that when the Chairman stood up, if somebody said something, automatically it got expunged.

Then, the Chairman observed:

I could see your point. I said it for that day. I now change it a little and say that I shall give special directions every time.

(R.S. deb. dt. 25.7.1980, Cols. 119-20)

128. Chairman: Ruling: Ruling by Chairman on starred question no. 87 answered on 3 March 1987, alleging favouritism shown to a private company in regard to a road construction contract in Jordan

On 6 May 1987, just after the papers were laid on the Table of the House the Chairman gave his ruling on the alleged favouritism shown to a private company in regard to a road construction contract in Jordan which was raised through starred question no. 87 on 3 March 1987. The question which was put by Shri Bir Bhadra Pratap Singh was relating to the award of a highway contract in Jordan to Messrs Som Datt Builders,

a private company and the MMTC. The main thrust of the interpellations was that the Ministry of Commerce and the MMTC had favoured a private company at the cost of a public sector undertaking, namely the NBCC in regard to the contract for road construction in Jordan. Since the Minister of Commerce and members wanted the Chairman to look into the matter, the Chairman gave personal hearings to Shri Bir Bhadra Pratap Singh and the Chairmen of MMTC and NBCC.

After making an indepth study of the matter, the Chairman made the following observation:

The MMTC has been importing Rock Phosphate from Jordan to the tune of approximately 120 million dollars. As against this, the exports from India to Jordan were only of the order of approximately 5 million dollars. The MMTC has been taking up with the Jordanian authorities the question of correcting the imbalance in trade and a delegation from the Commerce Ministry visited Jordan in February, 1986, to discuss the matter. The Jordanian side pointed out that since they have only a small population of 2.5 million people, it was not possible for them to bring about a parity of trade with India. However, the Jordanian side agreed that they would try to award few major projects to India in order to reduce the adverse balance of trade of India. Early in June, 1986, a private firm Messrs Som Datt Builders approached the MMTC with a proposal that they were in a position to obtain a major road construction project in Jordan, provided the MMTC agreed to take fertilizers from Jordan as part payment for the project. This was finalised between the Jordanian Government on the one side and the consortium of Som Datt Builders and MMTC on the other.

It is contended by Shri Bir Bhadra Pratap Singh, Member of Parliament, that the MMTC should have made a consortium with the public sector undertaking, *viz.*, NBCC and the arrangement with Som Datt Builders was made contrary to the interests of the public sector and for extraneous considerations. In support thereof, Shri Singh relies on a letter dated 23rd June 1986 from the Indian Ambassador at Jordan to the Joint Secretary, Ministry of Commerce, stating, *inter alia*, that a 180 km. road contract costing approximately 100 million US dollars was proposed to be issued to India on a negotiated basis and that India should get an offer prepared urgently from our companies and sent to the Jordanian authorities for their action. The hon.

member contends that at this stage the Commerce Ministry should have brought in the public sector undertaking, *viz.*, NBCC, for negotiation with the Jordanian Government and that the Commerce Ministry had failed to propose the NBCC.

The hon'ble member also relies on the minutes of the meeting from 20th to 23rd September 1986 between the Joint Secretary of the Urban Development Ministry, the Chairman of the NBCC and another with the Under Secretary, Public Works Department, Government of Jordan, wherein it was stated, *inter alia*, that the Public Works Department of Jordan would welcome an offer from the NBCC for this road project. The hon'ble member draws the conclusion that it was the MMTC and the Commerce Ministry which preferred Som Datt Builders over the public sector undertaking, *viz.*, the NBCC.

It appears from the letter of the Indian Ambassador at Jordan dated 23rd June 1986 that even on that date the Jordanian Minister informed the Ambassador that "the details about this project have been obtained by one of the Indian companies. He was not very clear about the name. He said that it was probably the NBCC". It is clear from the record that at this point of time the NBCC had not approached the Jordanian Government with any offer, since the letter from the Union Minister of Urban Development to the Minister of Commerce dated the 20th August 1986 states that he learnt about the MMTC-Jordanian contract only from a newspaper dated the 17th August 1986. During the discussions between the Indian delegation headed by the Joint Secretary, Ministry of Urban Development with the Under Secretary, Public Works Department of Jordan, between the 20th and 23rd September 1986, the Indian delegation was informed that there was another company, Messrs Som Datt Builders, who had submitted their offer and they were in the process of negotiating with them, but that the negotiation with that company was continuing and they had not arrived at any conclusion.

Thereafter, the Jordanian side appeared to have selected Som Datt Builders for the Highway project. This is seen from the record of discussions held on the 8th October 1986 between the Foreign

Trade Minister of Jordan and the Commerce Minister of India.
I am quoting the relevant paragraph:

JAFFAR-AQABA HIGHWAY PROJECT: It had been decided to award this project to an Indian company by negotiation. It was emphasised that Jordanian authorities had, after negotiations, already given their firm commitment in writing for acceptance of offer of Messrs Som Datt Builders. Only the details of the contract terms need to be worked out. The Minister emphasised that they had looked into the track record of various companies and on this basis have selected Messrs Som Datt Builders. It was emphasised that the Jordanian side were fully satisfied that the company was qualified to do the job and had been chosen on merits. They had also considered other companies but had found this company was most suitable. He also stated that the commitment was as strong as possible and, in fact, was a firm understanding on their side and formal signing of contract was only a formality.

It appears from the foregoing quotation that the decision to choose Som Datt Builders was that of the Jordanian side and not of the Indian side and that the charge that the Indian side deliberately preferred a private contractor to a public sector undertaking is not sustained. It is true that at the earlier stages of the negotiation the Jordanian side had an open mind. But at the stage of giving the final contract, the Jordanian side has clearly preferred a private builder to other competitors.

I, therefore, find on the material placed before me that there has been no irregularity or improper motivation on the part of the MMTC and the Commerce Ministry in winning the contract for the Jordan Highway Project along with Som Datt Builders.

(R.S. deb. dt. 6.5.1987, Cols. 279-83)

129. Deputy Chairman: Deputy Chairman occupying the Chair represents the Chairman

On 22 December 1980, the House continued its sitting past midnight. Many members raised points of order that the House should be adjourned to meet at 11 A.M. on 23 December 1980. Shri Nageshwar Prasad Shahi also repeated the same arguments, adding that since the business to be conducted by the House for 23 December 1980 had

been fixed, any business that would be conducted after 12.00 hrs. midnight will be illegal and irregular. Later, some members left the Chamber in protest. The House then adjourned at 00.40 hrs. after passing the National Security Bill, 1980.

On 23 December 1980, after the House assembled, Shri Nageshwar Prasad Shahi made a submission to the Chairman that he had pleaded with the Deputy Chairman on 22 December 1980 that the House could not dispose of the business allotted for the day on 23 December 1980 when list of business for that day had not been circulated and added: 'the whole business which was carried on at 12.00 and after that time is illegal and unconstitutional.'

Thereupon, the Chairman observed:

Mr. Shahi, may I say one thing? When the Deputy Chairman sits in this Chair he is 'me' and I cannot sit in judgement over his action; otherwise every day I will have to be hearing appeals, revisions and reviews and what not.

(R.S. deb. dt. 23.12.1980, Cols. 1-3)

130. Deputy Chairman: Election: Voting cannot be by ballot, secret or otherwise; and order of precedence of motions has to be as per the list of business; and according to the date of their receipt

On 17 December 1969, Shri S. N. Mishra rose on a point of procedure in respect of the motions for election of the Deputy Chairman. He said that when similar motions were there, two methods could be adopted. One was to take a ballot to determine the priority in which the motions were to be taken up and the other was to club all similar motions together, and take up the top one while all others would be deemed to have been moved. What was on the order paper was the order of receipt of the motions and it did not mean anything so far as the moving of the motions in the House was concerned. He requested the Chair to rule which of these two procedures was going to be adopted.

He also requested the Chair to permit him to move a motion that rule 7 of the Rules of Procedure be waived so that there could be secret voting.

After a few members had expressed themselves on these points, the Chairman ruled:

The first question that he (Mr. Mishra) raised was that the ballot should be secret...I am of the opinion that under the present Rules there cannot be ballot, secret or otherwise. The reason for saying so is that wherever the rule making authority wanted a certain action to be taken by ballot it had expressly said so, as for example, in rule 25. Therefore, when it had not said so in rule 7, it means that it cannot be by ballot. Voting cannot be by ballot... When it cannot be by ballot, it cannot be by secret ballot. Now, therefore, under the present rule the voting has to be in accordance with rule 7 as it stands. The practice, I understand, has been the application of rule 7, and no practice can weigh against an existing rule. If some hon'ble members want to change this practice, they should resort to the proper procedure for changing the rule, the Rules Committee, amendments and so on.

So far, the practice has been, I understand, to apply the Rule as it stands and no practice, even if there were one, can stand against the law... The law is that voting can take place according to rule 7.

Now another matter about the waiving of rule 7, rule 267 reads thus:

Any member, may, with the consent of the Chairman, move that any rule may be suspended..

Now it is obvious that unless rule 7 is suspended, rule 7 will apply and, therefore, no question of ballot or secret ballot would arise.

Now, this House has given me the authority to consider the question whether I should give my consent to such a motion. This question was mentioned by an hon'ble member in my Chamber yesterday or day before yesterday. I considered this matter carefully. I considered the underlying reason of rule 7, why rule 7 has been framed in the manner in which it has been framed. Having given full consideration to this matter, I withheld my consent. And, therefore, since there is no consent, this motion is out of order and cannot be moved.

I want to say one thing more. Rule 7(3) says: "A member in whose name a motion stands in the list of business", etc. Now,

according to the practice followed here, the motions stand in the list of business and according to the time and date of the receipt because on the same day a number of motions may be given. Therefore, the time and date has got to be specified. Now, the practice is, unless there is some rule specifying that the order of precedence will be determined by some other method, the order of precedence will be according to the time of receipt and, therefore, this list of business has been prepared in accordance with this practice... There is nothing wrong in the preparation of the list of business. It is not possible to alter the list of business and we must adhere to the list of business as prepared.

(R.S. deb. dt. 17.12.1969, Cols. 4505-19)

131. Deputy Chairman: Election: Election of the Deputy Chairman has to be conducted as per the procedure prescribed under the Rules

There was a request by some members that the election of the Deputy Chairman be held by secret ballot, if necessary, by suspending the relevant rule.

On 30 July 1980, the Chairman gave the following ruling on the question:

Yesterday, a request was made that the election of the Deputy Chairman be held by secret ballot and I should direct accordingly. A number of speeches followed, some generating more heat than light. I took the matter, as Judges say, 'under advisement', which, in this context, means for further deliberation.

I have considered the precedents and the rules. There is one precedent of 1969 and one of 1977. In the latter, the hon'ble Shri Ram Niwas Mirdha was unanimously elected and no question arose. In 1969, there were two rival candidates and the procedure of rule 7 in Chapter III read with rules 252 to 254 was followed. On the basis of this precedent, I should follow the same procedure. Hon'ble members have, however, requested that I should act under rule 267. That rule reads:

Any member, may, with the consent of the Chairman, move that any rule may be suspended in its application to a