

Conduct of Business in the Rajya Sabha, I have allotted time as indicated below against each Bill, for the completion of all stages involved in the consideration and return of the following Bills, by the Rajya Sabha, including the consideration and passing of amendments, if any, to the Bills:—

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| (1) The Appropriation (Railways) No. 5 Bill, 1969 | 1 hr. |
| (2) The Appropriation (No. 5) Bill, 1969, and
The Appropriation (No. 6) Bill, 1969 | 2 hrs. |
| (3) The Manipur Appropriation Bill, 1969 | 1 hr. |
| (4) The Bihar Appropriation Bill, 1969 | 1 hr. 30 mts. |

REFERENCE TO ARREST OF SHRI RAJNARAIN, M.P.

MR. DEPUTY CHAIRMAN: I have also to inform Members that I have received the following communication dated the 22nd December, 1969, from the Sub-Divisional Magistrate, New Delhi:

"I have the honour to inform you that Shri Rajnarain, Member of the Rajya Sabha, who was arrested u/s 188 IPC at 3.45 P. M. in front of Parliament House on 22-12-69 for violating the prohibitory orders promulgated u/s. 144 Cr. P.C. was produced before me. He was asked to furnish personal bond in the sum of Rs. 500. Since he did not furnish the requisite bond, he has been sent to judicial custody till 23-12-69 and is at present lodged in Central Jail, Tihar".

SHRI C. D. PANDE (Uttar Pradesh) : On a point of order ...

SHRI GODEY MURAHARI (Uttar Pradesh) : Mr. Deputy Chairman, we were discussing this very matter before the House adjourned for lunch.

MR. DEPUTY CHAIRMAN : I had expressed my opinion.

SHRI GODEY MURAHARI: There was a resolution before the House moved by Mr. Bhupesh Gupta.

MR. DEPUTY CHAIRMAN: There was no resolution before the House.

SHRI GODEY MURAHARI: He did move the resolution.

SHRI OM MEHTA (Jammu and Kashmir) : No, no. He did not move.

MR. DEPUTY CHAIRMAN: How can any Member move anything without the consent of the Chair? I have said I did not give any consent. There was no question of moving any resolution. I would request the hon. Members that we have to proceed with the legislative business. The question has been discussed for nearly one hour and fifteen minutes. Everybody has expressed his own point of view. If you think that there is any question of privilege involved in it, there are ways open for you. We can discuss this. Then you can come to a conclusion. There is no point in raising points of order every now and then when there is the question of consideration of other important business.

SHRI GODEY MURAHARI: There were two issues. One was the arrest itself, and the other was the information given by the Magistrate which was a patent lie.

MR. DEPUTY CHAIRMAN: About the second issue, I have told the House about it.

SHRI GODEY MURAHARI: That is purely a question of privilege and that must go to the Privilege Committee. You will have to take a decision on that. But on the first issue regarding the arrest itself, the House was in possession of this issue and Mr. Bhupesh Gupta moved a resolution, he sought permission to move it, and it was being discussed and at that stage the House adjourned.

MR. DEPUTY CHAIRMAN: I have said there is no resolution, no resolution can be moved.

SHRI BHUPESH GUPTA (West Bengal) : Mr. Deputy Chairman, I am sure you realise that the opposition is larger in number in the House, and number matters. There is none in the opposition who said that the resolution should not be moved. It was quite clear it was the desire of the majority of the House that a resolution of this kind should be moved. Obviously we expected to get your permission. Do I take it that even when we have a demonstrative indication of the majority of the House desiring

something within the framework of the rules, your discretion shall be applied? That is the question. If that is so, how will you conduct the House? Gone are the days when the Congress Party or the Government had a majority and they could utilise that majority and stop anything. Today when the opposition numerically is in majority, I can speak for the House more competently on such matters than the other side. You, Sir, naturally are expected to pay due attention to the views of Members on this side because they are in a majority in this House. Therefore, in a matter when the House is divided over an issue, the question of majority and minority comes in, and it is expected that in such a situation the discretion of the Chair should not be exercised against the wishes of the House, against the majority. That is all I have been trying to impress upon you. I thought the best way would be for the House to be seized of the matter and look into this thing. The House as a whole cannot look into it. It can depute some Members to do it. You can depute them in consultation with the opposition and the Government. This suggestion I made. Even that will not be accepted? I do not know how the Government wants to run its business in such a situation. Quantitative change has taken place in the House itself; and that outstanding fact you should know, and if you give a ruling as if we are still living in the old days, it will be a grave error. I for one would not like to defy you...

MR. DEPUTY CHAIRMAN: You have made your point.

SHRI BHUPESH GUPTA : I for one would not like to flout your ruling also. I agree. And for that, am I not entitled to beg of you that you may take into account the changed reality of the situation inside the House and the concern which has been expressed deeply by so many Members on this side of the House? Then, Sir, I think people will read your ruling that here is the ruling which has not taken into account the sentiments and the desires and the express request of the majority in the House. Does it do credit to you?

SHRI PITAMBER DAS (Uttar Pradesh) : Sir, I will take only a minute. The fact is that there is at least one matter in which my friend, Mr. Bhupesh Gupta, has joined with the rest of the Opposition, and I think we should take notice of it. Naturally this is a matter on which our sentiments have to be respected. So far

as the other alternative is concerned, if you are prepared to send the matter to the Privileges Committee, then, of course, once for all the view of the Privileges Committee would be on record as to what should be done in such matters, because every now and then the question of privilege arises on such occasions. Let us decide it once and for all. Secondly, we have a Privileges Committee in this House. Let it have some work to do.

SHRI MULKA GOVINDA REDDY (Mysore) : Mr. Bhupesh Gupta has made out a very important point. I think it is not fair and proper that it should be brushed aside. This question concerning the rights and privileges of Members of Parliament, we are not pressing it just because it is a question concerning Mr. Rajnarain. Tomorrow, it may be Mr. Om Mehta. There, even if it is Mr. Om Mehta, we would press that this matter should be taken up.

SHRI BHUPESH GUPTA : The way Shrimati Lalitha Rajagopalan is getting active, it may be she, some day.

SHRI MULKA GOVINDA REDDY : It is a very important question. We do not have any prejudice or anything of that sort. But it is a matter concerning the rights and privileges of Members of this House, and we should see that their interests are safeguarded and we are sure that in your hands, the privileges and rights of the Members of this House will not be jeopardised. So, we want that this matter should be sent to the Privileges Committee.

SHRI BHUPESH GUPTA : Sir, you think over this issue.

SHRI MULKA GOVINDA REDDY : We are all agreed on this issue; there is no question of any disagreement on this. It should be sent to the Privileges Committee. You can give your ruling after an hour or so. But it should be referred to the Privileges Committee.

SHRI T. N. SINGH (Uttar Pradesh) : Just now, he read out a communication from the Magistrate regarding the arrest of Shri Rajnarain that he was arrested yesterday. The relevant period is very important. Obviously, there is something somewhere very wrong. There is a very valid case. I think everyone should join that this matter should be referred to the Privileges Committee. It is a clear breach,

[Shri T. N. Singh]

according to me, of the privileges of the Members of this House. Therefore, I think all of us will join, and I appeal to the other Members also on that side, "Please join with us in referring this matter to the Privileges Committee. It is all in the interests of democracy." I pray, I request you, to join us. There should be no division on this point.

SHRI THILLAI VILLALAN (Tamil Nadu) : I wholeheartedly support the views expressed by Mr. Bhupesh Gupta. This is a matter which involves the rights and privileges of Members. This is a very serious matter. So, I request that this should be considered seriously. I share the views expressed by all the leaders in the Opposition.

PROF. SHANTI KOTHARI (Rajasthan) : I am sorry I find disagreement with the Government. I think, looking to the changed picture of politics of this country where the Congress is also in the opposition in various States, it is good to lay down conventions from the highest powerful House like this. And I appeal to the Government to review the thing in the light of what the Opposition Members have said. And I think for the first time—or at least today—they have expressed views which have very far-reaching consequences not only for this Parliament but for the State Assemblies in the country.

SHRI NIREN GHOSH (West Bengal) : What I feel is that it is yet time for the Government to come forward, for the Home Minister to declare, that the arrest was wrongfully made so that the case would be withdrawn and Mr. Rajnarain would be immediately released. It is yet time for the Government to come forward with such a declaration on the floor of the House. And as regards the timing, the thing that has been made out by the honourable Mr. Godey Murahari himself, we have no reason to disbelieve, and he is also the leader of that group. So that must go to the Privileges Committee. No Magistrate can be allowed to function in this manner.

LEADER OF THE HOUSE (SHRI K. K. SHAH) : I would not be one of those who will not value the privileges of Members of this House. But we are ourselves, as I have been submitting to the House, unfair to Rajnarainji himself. Rajnarainji would never say that he was not trying to respect the order passed under Section 144. If that is so...
(Interruptions) Will you kindly listen ?

SHRI GODEY MURAHARI : This is wrong. For God's sake, do not try to put words into Mr. Rajnarain's mouth. You say what you want to say.

SHRI K. K. SHAH : I am not. Where is the question of that ? On whose basis you are saying this ? The question is...

SHRI GODEY MURAHARI : I was myself present.

SHRI BHUPESH GUPTA : On what basis you are rejecting it ? You are rejecting again and again our suggestion on the basis of what you believe Mr. Rajnarain would say. You have been a lawyer and, I understand, a practising lawyer at that. How is it that you cannot understand a simple point in law ? What Mr. Rajnarain would say, you anticipate him ?

SHRI K. K. SHAH : I cannot persuade you ...

(Interruptions)

MR. DEPUTY CHAIRMAN : Please listen to him. Mr. Gupta, you have made all your points. Let the hon. Minister say.

SHRI K. K. SHAH : It is unfortunate that I am not able to persuade another good lawyer to appreciate my point of view.

SHRI BHUPESH GUPTA : For once I believe I am a good lawyer compared to you. I never ...

SHRI K. K. SHAH : You are a good lawyer and a good Parliamentarian. I immediately concede it.

SHRI BHUPESH GUPTA : I never suffer from the illusion.

SHRI K. K. SHAH : About the question of privilege of a Member of the House the Member, if he has taken to a particular line of action, will it be right to construe his action without even having his own statement and create a privilege ? This is the whole of my point. The question ... (Interruption) Will you kindly bear with me ? I am sure you will appreciate what I say. Therefore, the question is this. If Rajnarainji in the court takes up a different attitude, then you can come and say that Rajnarainji was coming here, he was not in the procession and he has not defied the order. Then I can understand it.

(Interruptions).

MR. DEPUTY CHAIRMAN : Let him speak first.

SHRI GODEY MURAHARI : He has finished.

MR. DEPUTY CHAIRMAN : Let him complete his statement and you can give your view.

SHRI GODEY MURAHARI : Irrelevant, nonsense he is speaking.

SHRI K. K. SHAH : Is it right to describe what I have said—an argument—that I am speaking nonsense? Do you want me . . .

SHRI GODEY MURAHARI : What is your argument ?

SHRI K. K. SHAH : When your time comes, you reply to the argument.

(Interruptions)

SHRI GODEY MURAHARI : What is your argument ?

SHRI K. K. SHAH : I am putting forth my argument. You may sit down.

(Interruptions)

MR. DEPUTY CHAIRMAN : Mr. Bhupesh Gupta, he has heard you. Will you please sit down. Do not rise up every time.

SHRI K. K. SHAH : In this House, we have been trying to lay down norms about our own dignity and according to the norms of dignity, the first principle is, let us hear everybody and then make up our minds. By using strong words you cannot deny the strength of an argument. On the contrary, by using very platitudinous words we always make it convenient for others to accept our argument . . .

SHRI GODEY MURAHARI : I would very much like to hear his argument. He has not given a single argument.

SHRI K. K. SHAH : . . . Here is the communication from the magistrate which says that the bail was offered. So when the bail is offered, can you say that the statement made by him is wrong ?

SHRI GODEY MURAHARI : Sir, with this statement he is trying to confuse the statement that the magistrate submitted to this House that Mr. Rajnarain was produced before him at 6-05 p.m.

yesterday. It is a blatant lie and I am prepared to go to any length on this issue. I am even prepared to resign my seat in the Rajya Sabha. I was myself physically present and I have seen the whole thing myself . . .

(Shri Bhupesh Gupta stood up in his seat.)

MR. DEPUTY CHAIRMAN : Mr. Bhupesh Gupta, will you please resume your seat? We have heard you enough. As I said earlier, we have had enough discussion on this point. As I have pointed out, there are two questions. The first question is whether the hon. Mr. Rajnarain was prevented from coming to Parliament from attending the session. That is one question.

The second question is whether the information furnished by the magistrate regarding the time at which Mr. Rajnarain was produced before the court is right or wrong. That is the second question. So far as the first question is concerned, we have heard the views of the hon'ble Members as also the Government . . .

SHRI BHUPESH GUPTA : So you accept my point.

MR. DEPUTY CHAIRMAN : Just listen. It is not a question of accepting. We have to go by the rules and also the provisions of law. When a person is arrested, he is arrested for committing some offence. And whether a person has committed an offence or not can only be decided by the court of law. As has appeared from the discussion, there was a demonstration and, as pointed out by hon'ble Members, Mr. Rajnarain accompanied by thousands of other persons who were demonstrating before the Parliament House . . .

SHRI GODEY MURAHARI : I will make a small correction. The fact is that he never accompanied the procession. The procession came from the Minto Park while Mr. Rajnarain went from the Parliament House to meet them, and when they were being beaten up, at that stage he intervened . . .

SHRI MULKA GOVINDA REDDY : He was here in the House yesterday.

SHRI GODEY MURAHARI : The procession started at 11 A.M.

MR. DEPUTY CHAIRMAN : As pointed out by the Leader of the House, whether he was with the procession, whether he was not with the procession

[Mr. Deputy Chairman]

or whether he went from here is a question of fact, and after drawing the inference about facts the law will be applied to find out whether he has committed an offence or not. Therefore, it is a question of fact as well as a question of law. The question of law will have to be decided by the court of law, *i.e.* whether a particular person was arrested for committing some offence, what are the facts, and in view of the established facts how the law can be applied to these facts. These two things can be decided by the court of law. The issue whether he was arrested for any alleged commission of offence is to be decided by the court. When the case is pending before the court, I do not think any useful purpose can be served by appointing a Committee of this House.

Now whether Mr. Rajnarain was prevented from attending the House or whether he was arrested for committing some offence is another question. The earlier question can be decided here. So far as as the second question regarding the time of producing Mr. Rajnarain in the court of law is concerned, as pointed out by some hon'ble Members, of course, there is some discrepancy. It is stated that he was produced at 8 P.M. whereas the magistrate says that he was produced at 6-05 P.M. Mr. Murahari says that that is a matter of discrepancy. I would ask the Government to find out the correct information about it if they have not done so by now. If they have not found out the information they can find out at what time he was produced before the magistrate. And if there is discrepancy and we come to the conclusion that the information given by the magistrate is wrong then any Member of this House is at liberty to move a resolution.

Now there is a procedure for moving a motion on for privileges. I think if we find that there is discrepancy in the statement given by the magistrate and the statement of the hon'ble Members, then definitely we can refer this question to the Privileges Committee under the procedure laid down in the Rules of Procedure. So we have now disposed of this question.

SHRI BHUPESH GUPTA : Sir, I invite your attention to a matter in the Lok Sabha which is part of Parliament. There was a writ served on the Speaker and the Home Minister in connection with the alleged Shankaracharya's statement which was discussed there. The High Court heard that writ and the matter was raised in Parliament. It was held by the Speaker that, certainly, Parliament

could discuss although the matter was before the court. The Speaker did not say that since the matter was before the court, let the High Court first decide whether or not the Speaker, the Deputy Home Minister and others were guilty or not.

MR. DEPUTY CHAIRMAN: There is a difference between the present position and what you say. You are asking that the question should be referred to the Privileges Committee. There the question was whether it could be discussed in the House or not. Now you have had discussion in this House.

SHRI BHUPESH GUPTA : Sir, it is good sometimes for the Judges to hear from the lawyers and for the Deputy Chairman to hear from the Members precisely. This question was discussed in the Uttar Pradesh Assembly. The Lok Sabha discussed whether the House had concurrent jurisdiction to discuss a matter of this kind, involving the rights and privileges of the House, even if the matter is before the court of law. The ruling was "Yes". The issue before the Lok Sabha was whether summons should be issued to the Delhi Judges to appear before the Lok Sabha to answer the issue of certain privileges against the Speaker. Therefore, it is a well-established law in Parliamentary practice, upheld by conventions over years. When it concerns the rights and privileges of the House, having been denied or interfered with the House certainly can discuss and start its processes under its own rules and conventions irrespective of whether or not the issue is before the court of law. In this case, Mr. Deputy Chairman, it is not the court of law that we are discussing. We are discussing the executive behaviour, the behaviour in particular of the Home Ministry which is responsible for law and order and the Delhi Police administration. Therefore, Sir, you are not very well advised. I would still beg of you. You are a young lawyer. I still beg of you to withhold this matter, discuss it in your Chamber and then give your ruling otherwise, Sir, neither the force of argument nor the numbers have any relevance here. It seems that it is the Government and the Treasury Benches which have relevance here. Surely, you will not like to expose yourself to such charges as anybody would make against you. I feel embarrassed and, Sir, you are in a predicament. The position is . . .

MR. DEPUTY CHAIRMAN: Will you please resume our seat ?

SHRI BHUPESH GUPTA: ... You will . . .

MR. DEPUTY CHAIRMAN: No more. We are proceeding to the next item on the List of Business, Bill for Introduction.

(Shri Niren Ghosh Spoke)

MR. DEPUTY CHAIRMAN: Please sit down. That should not go on record. Will you please refer to Rule 67, "with the consent of the Chairman"? Therefore, I am not going to allow it. Therefore, let us proceed with our Legislative Business.

SHRI BHUPESH GUPTA: Will you please allow me to move that that particular rule be waived. I move :

That the Rule be waived.

I can ask for waiving a rule. The rule provides for waiving a rule. Remember if the Government does not accept our right to waive the rule. I do not know how you will transact the Legislative business. You will need it yourself.

SHRI K. K. SHAH : That must be with the permission of the Chair.

SHRI BHUPESH GUPTA: Tomorrow you will need it—the waiving of the rule. And we shall co-operate with you. Why don't you give us the same right to-day? I move ...

MR. DEPUTY CHAIRMAN: I am not giving my consent to move it. Please sit down. We have taken enough time.

SHRI BHUPESH GUPTA: No.

MR. DEPUTY CHAIRMAN: We have to finish our legislative business and we may have to ask Members to sit for long, causing them some inconvenience, to sit even after 6 or 7. Let us not cause inconvenience to hon. Members.

SHRI GODEY MURHARI: If the resolution about the committee had been agreed to, the whole thing would have been over in half-an-hour.

MR. DEPUTY CHAIRMAN: We have discussed it at length. If you still want a discussion, we can discuss it in the chamber tomorrow and see what can be done. Now, Bill for introduction.

SHRI NIREN GHOSH: Then keep your ruling pending.

SHRI BHUPESH GUPTA: Everything will be pending.

THE SUPREME COURT (ENHANCEMENT OF VALUATION FOR CIVIL APPELLATE JURISDICTION) BILL, 1969

THE DEPUTY MINISTER IN THE MINISTRY OF LAW AND IN THE DEPARTMENT OF SOCIAL WELFARE (SHRI MOHAMMED YUNUS SALEEM) : Sir, I beg to move for leave to introduce a Bill to enhance the amount or value of the subject-matter of dispute for purposes of civil appellate jurisdiction of the Supreme Court, and further to amend the Code of Civil Procedure, 1908

The Question was put and the Motion was Adopted

SHRI MOHAMMED YUNUS SALEEM: Sir, I introduce the Bill.

THE APPROPRIATION (RAILWAYS) NO. 5 BILL, 1969

THE DEPUTY MINISTER IN THE MINISTRY OF RAILWAYS (SHRI ROHANLAL CHATURVEDI) : Sir, I beg to move :

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1969-70 for the purposes of Railways, as passed by the Lok Sabha, be taken into consideration".

SHRI C. D. PANDE (Uttar Pradesh) : Sir, the Minister should say something—why he is asking for it, what is the purpose, and so on.

SHRI DAHYABHAI V. PATEL (Gujarat): Sir, it is customary to explain why they want to misappropriate from one head to another.

SHRI ROHANLAL CHATURVEDI : It is not a question of misappropriation

MR. DEPUTY CHAIRMAN : Perhaps after hearing the speeches of the hon. Members, he may speak. It may facilitate the completion of the work.