

Ministry of Finance (Department of Revenue and Company Law) Notification G. S. R. No. 642, dated the 17th April, 1964, publishing the Central Excise (Fifth Amendment) Rules, 1964, under section 38 of the Central Excises and Salt Act, 1944. [Placed in Library. See No. LT-2899/64].

LEAVE OF ABSENCE TO SHRI SITA- RAM JAIPURIA

MR. CHAIRMAN: I have to inform Members that the following letter dated the 30th April 1964, has been received from Shri Siteram Jaipuria:—

"I am proceeding abroad on 2nd May. I will be out of India for sixty to eighty days. I request that I may kindly be given leave of absence from 2nd May onwards till my return."

Is it the pleasure of the House that permission be granted to Shri Sita-ram Jaipuria for remaining absent from all meetings of the House, during the current session?

No hon. Member dissented.

MR. CHAIRMAN: Permission to remain absent is granted.

MOTION RE RULES FOR REGULA- TING THE PROCEDURE AND CONDUCT OF BUSINESS IN THE RAJYA SABHA—contd.

MR. CHAIRMAN: Now we pass on to the further consideration of the rules regulating the procedure and conduct of business in the Rajya Sabha. When we last adjourned, Shri Nafisul Hasan had not finished his speech. He may continue it now.

SHRI A. B. VAJPAYEE (Uttar Pradesh): He had only started his speech.

SHRI NAFISUL HASAN (Uttar Pradesh): Mr. Chairman, Sir, when the House rose yesterday I was dealing with draft rule 7 which deals with the election of the Deputy Chairman. About this rule my contention is that there is the possibility of the rule proving inoperative and there may

be a deadlock. According to sub-rule (4) of this rule—

"The motions which have been moved and duly seconded shall be put one by one in the order in which they have been moved and decided if necessary by division. If any motion is carried, the person presiding shall without putting later motions, declare that the member proposed in the motion which has been carried, has been chosen as the Deputy Chairman of the Council."

I submit that this presupposes that a motion is bound to be carried. Supposing there are more than two candidates and there is no motion which is being supported by more than half of the members of the House present and voting, then there is clearly a deadlock. I may illustrate this. Suppose 35 per cent of the Members support one candidate and 25 per cent support another candidate and then the . .

SHRI P. N. SAPRU (Uttar Pradesh): What is the difficulty then? He will be elected.

SHRI NAFISUL HASAN: The motion cannot be pressed or carried because only 35 per cent are in favour of the motion and the others who are present will oppose and not support it.

SHRI DAHYABHAI V. PATEL (Gujarat): Sir, Mr. Chairman, may I point out that the Government is to tally absent, 'from the House' and there is no member of the Government here? I had suggested in my speech two days back that if the Government do not know where they are and what is their position, they may adjourn the House, but they did not accept my suggestion. But look at the present condition of things. The papers are full of news of a new government coming, of a new Prime Minister. I think this is not fair to the House, Sir.

SHRI NAFISUL HASAN: The hon Member who moved the motion is here. These are rules for the business of this House.

SHRI FARIDUL HAQ ANSARI (Uttar Pradesh): Am I to understand that the Government is not concerned at all about these rules?

SHRI P. N. SAPRU: As a matter of courtesy to the House, they should have been present.

SHRI ARJUN ARORA; (Uttar Pradesh): The Government is here.

SHRI NAFISUL HASAN: The hon. Member Shri Sapru thinks that if there are 35 per cent in favour of a particular motion then that person in whose favour that motion is made, will be declared elected. But if he reads the rule, he will find that that can happen only if that motion is carried. I say that that motion cannot be carried, because only 35 per cent will be in favour of it and the remaining Members present will be against that motion.

SHRI P. N. SAPRU: How?

SHRI NAFISUL HASAN: Only 35 per cent are in favour of that motion and the rest will be against it. Out of 100 Members I say that 35 per cent are in favour of one motion, 30 per cent in favour of another candidate. Therefore they will not support that motion and they will support only that motion which they favour and they will oppose any other motion. And the rest 25 per cent are in favour of a third motion and they will support only that motion which stands for the election of their candidate. Therefore, they will naturally oppose the other two motions. That is why I say there will not be 51 per cent of the persons present and voting in favour of any one motion.

SHRI P. N. SAPRU: What happens in the U. N. will go on.

MR. CHAIRMAN; So what is it you want to say?

SHRI NAFISUL HASAN: I am submitting that there will be a deadlock. I also dealt with the fact that the rule in the Lok Sabha is on the same lines. But as far as the Lok

Sabha is concerned, the Government is responsible to the Lok Sabha and so such a contingency as the one I have referred to here, will not arise in the Lok Sabha, because the Government always has a majority behind it in order to carry on its work. Therefore, any motion which has the support of the Government will be passed, and there will not be such a contingency to be faced in the Lok Sabha. I was dealing with the point yesterday and I illustrated that it was not necessary that the strength of a particular party in the Lok Sabha should be reflected in the Rajya Sabha. Here we are elected by the elected members of the States. Here one particular party may be in power, but in a number of States different parties may be in power. Also what is the state of affairs now? It is this. In a territory from which only one Member is elected to the Lok Sabha, 5 or 6 Members are elected to the Vidhan Sabha. Even presuming that the voting is on the same party lines, it is possible that one party may win the Lok Sabha seat and that particular party may lose the majority of the Vidhan Sabha seats, because in the Vidhan Sabha a big majority in one seat may make up for their loss in the remaining constituencies of the Vidhan Sabha which they may lose by small majorities. This will happen only when we presume that the voting will be absolutely on party lines. But then there are, as we know, other considerations like personal likes and dislikes for the candidates and so on. Therefore, it is possible that there may be quite a different position in this House. If there are more than two or three candidates, the possibility to which I referred is there, as far as this House is concerned. So, this matter can be dealt with by applying the principle of elimination. In the first round, votes are taken and the candidate who secures the smallest number of votes is eliminated and then votes are taken till in the final round one of the candidates does get a majority.

SHRI P. N. SAPRU: That is the correct procedure.

SHRI NAFISUL HASAN: That is what I suggest; that is the only remedy but the Rule as it is worded does not allow that procedure which should be correct procedure to be followed. My friend, Mr. Bhupesh Gupta, has asked for this election to take place by ballot and I know that in the Uttar Pradesh Legislative Assembly the election to the offices of Speaker and Deputy Speaker is held on this principle of elimination and also by ballot, I am not particularly interested whether it is done by voting in the House or by ballot but I do feel that if the principle of elimination is to be applied, it would be more convenient to apply it if the election is held by ballot. In the first round of voting we will have to record the division with the names of the person who voted in support of a particular man because those persons are not entitled to support another candidate. All these will have to be safeguarded but if it is done by ballot one round of ballot is finished, we eliminate one of the candidates, then another round takes place. So, for the sake of convenience, I think it will be better to provide voting by ballot, I have not given any notice of an amendment to this effect simply because we are not faced with such a situation just at present. Situated as we are, this contingency is not likely to arise in the near future and I am only making this point with a view to seeing that this may be taken into consideration and necessary provision made at some future appropriate occasion.

Now, certain other points were made by my hon. friend, Shri Bhupesh Gupta. He took objection to the Rule relating to the questions.

(THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) in the Chair.)

He said that the Rule which prohibited defamatory questions should go away, it should be open to Members to put in defamatory statements in questions. Our Rules pro-

vide that if a statement is made in a question, the Member should take the responsibility for that statement. To that also my friend, Shri Bhupesh Gupta, has objections. He says that the Members should have the right to make statements and the Government should come forward and say that it is untrue, that such is not the case. I will submit, Sir, that my friend, Mr. Bhupesh Gupta, forgets that with every right there is a corresponding duty or responsibility. If he wants to put a defamatory question or make a statement in a question or even come forward with a statement during his speech, he must make sure that his accusation is on solid grounds.

SHRI P. N. SAPRU: And he must be prepared to put that.

SHRI NAFISUL HASAN: . . . question outside. Quite right. That is different but all the same. I hope my hon friend, Shri Bhupesh Gupta, will hear me before taking objection to it.

SHRI BHUPESH GUPTA: (West Bengal) To get a little more clear . . .

SHRI NAFISUL HASAN: I am making it clear. As a matter of fact, there are certain rules of prudence, certain rules by following which we give dignity to ourselves, give dignity to our own House. If we are allowed to put question concerning the private lives of officers, it will lead to trouble. Another objection taken by him was that we should not be prohibited from putting questions concerning the private lives of the officials, it should not be confined to their official actions only.

SHRI BHUPESH GUPTA.- The hon. Member has misunderstood the point. May I make this clear? There is some misunderstanding. The Rule is that you can put questions only in regard to what an officer does in his official or public capacity; other things will be outside the pale but certain private action may also have a very serious bearing on his public life and in this connection I mentioned that such a thing may come up before Parliament.

[Shri Bhupesh Gupta.] and the country as, for example, the case of Profumo visiting Miss Christine Keeler. That was a very private affair but the whole thing came before the British Parliament and the public, Mr. Profumo went, Mr. McMillan nearly went. I do not know what has happened to Miss Keeler now; she is also in jail,

SHRI NAFISUL HASAN: My submission is that these Rules of Procedure are put in as a sort of self restraint on our own selves. As far as these officers are concerned, we cannot run the administration if we unnecessarily accuse them here even in regard to their private lives.

SHRI BHUPESH GUPTA: No, not for that.

SHRI NAFISUL HASAN: Quite right, I do concede that their private action as far as it affects the performance of their duty.

SHRI BHUPESH GUPTA: Suppose they go to a cinema house in a staff car?

SHRI NAFISUL HASAN: Just hear me. We may consider such private action, as would affect the performance of their public duty but otherwise we have to afford full protection to them.

SHRI BHUPESH GUPTA: I can assure you that we will never ask questions about what kind of food they took for breakfast or lunch or any such thing.

SHRI NAFISUL HASAN: If we want to exercise our right of putting question or of making speeches, naturally, we have got to practise some self-restraint, and not do anything in passion. We must look to the consequences of every word which we utter in this House. As I said yesterday, we must respect the rights of others also when we are going to exercise our own rights because there is a certain responsibility, a certain duty cast on us.

There is one other thing. You have a Rule which says that for keeping order the Chair has got the power to name a person or even to ask him to withdraw. My friend, Mr. Gupta, objected to calling in the police in certain other Legislatures. I agree with him that for the maintenance of the dignity of the House, the police should not ordinarily be called in. The only alternative is for us to keep a staff of our own. Suppose the Chair asks a particular Member to withdraw. I do not expect any Member of this House to refuse to withdraw when asked by the Chair. Shri Bhupesh Gupta in his speech went much farther on this question. Normally the orders of the Chair have got to be obeyed. If we want that Chair should conduct the proceedings of this House—we, have given that power to the Chair—even if we feel dissatisfied with what the Chair has ordered. I think as Members of this House, in order to maintain the dignity of the House which also includes the dignity of the Chair, we have got to obey implicitly the Chair's orders. There should be no grudging. Suppose a Member is asked to withdraw and he says 'I am not going to withdraw'. The marshal is sent for and told 'please help him to obey' and he uses force. What is the remedy to give effect to the order of the Chair? There is no other remedy. Mr. Bhupesh Gupta went to the length of saying that he would just lie down here.

SHRI BHUPESH GUPTA: Suppose the Marshal is unable to do it, then what happens? *(Interruptions)*

SHRI NAFISUL HASAN: Well, I am so particular about the execution of the order of the Chair that I will go myself and try to remove him. I think every Member has got the right to see that the order of the Chair is complied with. I won't wait for the police; I would consider it my duty to do that.

SHRI P. N. SAPRU: That is the English law.

SHRI NAFISUL HASAN: Now quite a lot of unnecessary things have been said about the presiding officers. It was also said that the presiding officer has sometimes got to try to shield those who elect him.

SHRI BHUPESH GUPTA: I did not say that. I said that they try to bring pressure and naturally the presiding officers succumb under that pressure.

SHRI NAFISUL HASAN: I think there is something mutual. I do not say that there have not been any presiding officers in any part of the country who have not unnecessarily favoured a particular party. Normally, what is the duty of the presiding officer? In a nut-shell I would explain; what I consider to be the duty of every presiding officer is to see that the Government, in order to carry on its administration, is in a position to get its legislation passed and see that all things are done in a reasonable time. Simultaneously it is also the duty of the presiding officer to see that the Opposition gets a fair opportunity of criticising all the measures that are brought before the House by the Government. Now, Sir, a happy balance has to be struck. If the Government wants to rush through any piece of legislation the presiding officer will stand as a rock against it and will not allow the Government to do that unless he is sure that a fair opportunity is given to the Opposition to criticise it. Similarly if the Opposition tries to delay or use delaying tactics then it becomes the duty of the presiding officer to see that such delaying tactics do not succeed.

SHRI BHUPESH GUPTA: To get the Salaries Bill passed?

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : Let him finish, Mr. Gupta.

SHRI NAFISUL HASAN: That is my view. My friend may or may not agree with it. What is our duty? Confidence begets confidence. It is our clear duty that we should have implicit confidence in the impartiality of the

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presiding officer because he is the custodian of the dignity, of everything which is desirable and good in Parliament. The duties of the presiding officer are very onerous and we must have full consideration for this fact also. After all, the presiding officers are human beings. To err is human. There may be cases when a presiding officer does not give a correct ruling or does not decide the matter in a correct way. But that is no occasion for imputing motives. We must always avoid imputing motives either to the presiding officer or to any hon. Member of the House. We must presume that all of us here are to serve the country and no motives are to be attributed by any of us. That will create the correct atmosphere for the proper transaction of business. There may be different points of view. We represent different points of view and we can continue to differ but still we can be best friends.

There was one other suggestion by Mr. Bhupesh Gupta about the law of privileges. He referred to a particular case and he is of opinion that we should not necessarily take notice of all breaches of privilege. On this point I am inclined to agree with him that we need not be extra-sensitive.

SHRI P. N. SAPRU: But he has been extra-sensitive.

SHRI NAFISUL HASAN: Yes, but we need not be extra-sensitive. There is one thing against which we must always be on our guard and it is this. Just like courts of law we sit here in Parliament. There is a law of contempt of courts and what is the reason underlying that? In democracy every individual should have confidence in the impartiality of the court. Once that confidence is shaken you know there will be only chaos and confusion. The country expects Parliament to work properly. There are certain remedies to the people which could be given by Parliament alone. Although our Parliament is not supreme and although the Constitution is supreme, all the same Parliament alone can give them certain reliefs. Therefore this

[Shri Nafisul Hasan] law of privilege comes into the picture. We have got full freedom to make any speech here but if the impartiality of the presiding officer is questioned or the motive of any Member in the performance of his duties is questioned, naturally it will be highly improper and we cannot carry on the business of the House in these circumstances. Therefore I say that we need not be extra-sensitive. We must be very careful to see that at least motives are not attributed to us, and that we are left free to perform our duties. There is one thing more. This law of privileges has come into the picture after the Constitution has come into force. Before that there was no law of privileges in our country. So not only we did not know the law but certain actions had to be taken to tell the Press, 'You have been criticising "the Government and Members of the Government. Please stay your hands so far as the House as a whole and its Members are the Presiding Officers are concerned." That is what it (really means. If action is taken in order that the country may know what the law is, that is justified. There is no question of any vengeance. Of course, sometimes it becomes a question of privilege.

Now, my friend, Shri Bhupesh Gupta, has also made a suggestion that we should codify our law of privilege. I had been for some time past connected with the question of privilege and also the question of procedure in my own State, I have considered it and I have also had the benefit of the opinion of Mr. Mavalankar, the then Speaker of the Central Legislative Assembly. We considered the question in very great detail and we were definitely of opinion, at least at that time, that it would not be proper to codify the law of privilege.

SHRI P. N. SAPRU: The Fundamental Rights will apply.'

SHRI NAFISUL HASAN: I will give the reasons. At least I think I am jealous of the rights of the House. I would always like that instead

of these rights being restricted, they should be extended. Now, if we have a statute on the subject our rights and privileges are restricted by the wording of that law. Here what is the position? The position is this. Our substantial privileges are such as were enjoyed by the House of Commons on the day on which our Constitution was passed. So, it remains only a question of interpretation and by interpretation it is possible to extend our privileges and rights—and our interpretation cannot be questioned.

[THE DEPUTY CHAIRMAN in the Chair.]

If we pass a law codifying it, then it will be others who will interpret it. So, we will bring in the jurisdiction of the courts in respect of the decisions we take. Therefore, I think it is not desirable that we should codify the law of privilege. It is all right as it stands; it may be extended by interpretation. We have got to find out whether a thing which was held as a breach of privilege in the House of Commons has happened here. That is how we have got to deal with it. We have got to look into precedents and all that. All the same, ultimately we have to interpret those precedents and our interpretation cannot be questioned in a court of law. If we make a law, naturally it will be subject to interpretation by a court of law.

As I said yesterday while opening the discussion, as far as the Report of the Rules Committee is concerned, we did not consider it on a Party basis. All of us are united and, therefore, there is no difficulty in getting the Rules, as they have emerged from the Committee, passed. I do not think the Rules are so important. It is the spirit which is required. I hope that when we are considering the Rules we will bear in mind the true spirit in which our democratic institutions are to be worked.

Thank you, Madam.

THE DEPUTY-CHAIRMAN: Mr. Niranjana Singh. There are quite a number of speakers and we must finish this business by today. Therefore, you will be brief.

SHRI NIRANJANA SINGH (Madhya Pradesh): Madam Deputy Chairman, I will not take much time. Neither have I sent any amendments nor have I sent any Note of Dissent. It is not because I am fully satisfied with the Draft Rules, but for the time being I think they are sufficient to carry on our business. Now, I have to make certain observations.

As it has been said, from the Government side, always, not seldom, replies are evasive and it has been dealt with by my friends. Now, I want to suggest something to them. It has been mentioned in Rule 47 (1) (i) regarding admissibility of questions that it shall be clearly and precisely expressed. As you have asked the Members that their questions must be precisely and clearly expressed, similarly, at C - t-m'9 of answering it this Rule should also be followed. The answer must be precisely and clearly expressed.

The other thing to which I want to draw your attention is this. As a matter of fact, as our friend said, these Rules have not been adopted. When I entered this House I tried to pursue the policy of amending these Rules, but I have failed for four years. Sometimes I was told that a certain thing was not admitted because there should be a motion. Then, when the motion was given, it was said that the motion could not be admitted. There must be an amendment of the Rules. The Rules could not be amended because they were not adopted by the House. Once I raised a point of order. Of course, a ruling was given. When I asked him the Secretary told me that this was not the practice even in other Parliaments. This is the House. We, Members, sit here. I am often surprised that the Ministers, even the

boys of the House, even Members, go to the official gallery and talk to them, get instructions from the official gallery. There is no need for that. It is always humiliating. I have mentioned this. In the Parliament at least in England, we have found in May'-Parliamentary Practice, that it is not the practice for the Minister to go to the official gallery and ask for information. Even in our Assemblies this practice has not been followed. It has been objected to The Minister or whosoever he may be sends a boy to the Secretariat and thereby he can get proper information or the papers concerned. Here we see that at any moment even a boy of the House will go and talk to the men in the official gallery and he can bring papers directly to this House. Can I get papers from the press gallery? Can I get information from my friends sitting on the other galleries? So, it is always objectionable. A man, whosoever he may be—he may be a Minister or a Member or any other man—cannot contact anybody outside the House when he is sitting in the House. At present the man who is in the gallery can give information and talk to the Member inside the House. So I want to place my view. Now you have formed the Rules Committee. There was already a Rules Committee but work has never been allotted to it. The Rules Committee has never come into existence in the real sense. Though it was constituted by the Chairman, it has never functioned. I would say that in future there should be decorum observed. No Minister or Member should ask the Secretary to give information directly in the House. He can go and approach the Secretary and ask for the information.

The other thing I want to tell you about the Rules Committee is this. Whether it will function well or not I am yet doubtful. As a matter of fact the Rules Committee is always to look after the procedures and see whether we have worked according to rules or not. That has not been followed up to this time. The ques-

[Shri Niranjan Singh.]

tion now is whether it will work. I should think it must work because there are good rules but there is lack of implementation and if there is lack of implementation, certainly you cannot improve the debate and you cannot improve the proceedings of the House and the decorum of the House. So, I say that if there is a Rules Committee, it must function. It must review the process at least once in three or four months to see how far the rules have been observed. Though it is not law in the legal sense, it is after all formality and formality must be observed. Therefore, I say that the Rules Committee must function.

Then I have to say one thing about the Committee of Assurances. I have given notice at that time about the formation of a Committee of Assurances. The Ministers or the Government come here and they give assurances. Of course we get the papers from the Secretariat. But after all it is the duty of the Members to know whether the assurances have been fulfilled or not. They should know whether what the Government has said on the floor of the House has been carried out or not. It is their duty to investigate and see whether those promises have been fulfilled or not. Therefore, there must be a Committee of Assurances which can investigate, which can go into it and see how many assurances have been fulfilled and within what time and what sort of fulfilment was there. Therefore, I say that there must be a Committee of Assurances. Now I want the assurance also that there will be a Committee of Assurances and the Rules Committee in the future or the Chairman of the House may look into it.

In the last I want to say that discussions on a matter of public interest and on a matter of urgent public importance have been introduced in the rules. It has to be seen whether they will be implemented in the future. I earnestly appeal to the

Chair that these things should be implemented properly. The viewpoint of the people outside and the viewpoint of the Members inside must be known to the world. The world should know as to what is going on here and how we function. Therefore these two rules must be implemented and properly implemented. This is my request to the Chair. Then the Committee has suggested the procedure to be adopted for the "No-Day-Yet-Named Motion". How the rules will be framed is a matter for the Committee. I hope that the mistake that has caused much discontent amongst Members will be removed shortly and that the rules will be implemented properly. That is my request.

SHRI J. S. PILLAI (Madras): Madam Deputy Chairman, I wish to support the motion that has been moved by my friend, Mr. Reddy. In doing so I wish to tell this House that in spite of our best efforts to bring the rules up-to-date we are not able to do so. There are loopholes here and there. They require finishing touches here and there. I will give you one example to show where they are defective.

Madam, it has been the practice to move condolence resolutions after Question Time.

Not only in Parliament but also in all Legislatures the practice is, whether it is a political meeting or social meeting or shareholders' meeting, to move condolence resolutions before they begin the work of the day. But here we used to do it after Question Time. It is more parliamentary if we do it before that. I have given notice of amendment. I hope the House would accept it.

The second point I wish to refer to here is that in the matter of speaking our rules are not definite and they are silent. For instance, take the word "you". Madam, you know that when the word "you" is used in Parliament, it always refers to the Chair. But here we are accustomed

The next day I called the Leaders of the House to my Chamber and we framed a rule. I have given a copy of that here. I hope the House would accept that also. For instance, this is the new rule I want to be inserted here. It says:

Perhaps some Members may say that this is inappropriate. When we meet there in the Central Hall it is not an ordinary meeting of the Houses. So, I feel that a new chapter should be given to this. And the heading may be "Disturbance at the meeting called under article 86(1) or article 87(1)." This should be given a separate chapter.

I have given notice of another amendment. As you know, Madam, there are Members of this House who are also Ministers. When they resign they should be given an opportunity to explain or to make a statement. I have framed rules, I have done it in accordance with the rules in the House of Commons. For instance, when a Member of this House resigns, he cannot go to the other House and make or give an explanation. In England when a Member resigns he can give an explanation. But for that the rule is there. He should give a copy to the King or to the Queen, whoever is the ruling person. The object of giving a copy to the King or the Queen is that the King or the Queen, in turn, will give it to the Prime Minister. It will be the duty of the Prime Minister to see

[Shri J. S. Pillai.] whether that Member, that ex-Minister, who has resigned has revealed in the explanation anything that has taken place in the Cabinet. Then on the advice of the Prime Minister all these things will be removed from the copy of the statement given to the King or the Queen and will be handed over to the ex-Minister to be read in the House. I have given notice of an amendment like that also.

Another thing that I wish to tell you is this. There is a practice here that when a Member utters any unparliamentary word, simply it is expunged. It is not the parliamentary way. He should be asked to withdraw the word and apologise to the House. Here when a Member utters any unparliamentary word it is taken as an insult only to that Member only. But when a Member insults another Member it is an insult to the whole House. When a Member insults or uses any unparliamentary word, all of us should join together. First, it is the duty of the Chair. I am not teaching anything to the Chair. Please excuse me, Madam. I am giving out my own experience. I have been Speaker for more than ten years of the Madras Assembly. I have framed a rule that the Member should withdraw and apologise to the House.

Another thing that I wish to say is this. There are certain words which are both parliamentary and unparliamentary. Take the word 'humbug'. There are certain persons who consider the word 'humbug' to be parliamentary and there are others who consider it to be unparliamentary. I will give another example. Take the word 'traitor'. It is held to be unparliamentary by some Members and parliamentary by some other Members. For instance, Madam, Speaker Lowther in 1911 considered the word 'traitor' to be unparliamentary and he asked the concerned Member to withdraw it. Recently in 1948 another Member used that word against a Communist Member. At that time the Speaker was Sir Clifton Brown. He was one of the eminent Speakers of the House of Commons.

I know that gentleman very well, because when I was Speaker of the Madras Assembly, he visited Madras and I had the honour of giving him a party in my Chamber. He was the Speaker at that time. He asked the Member, Earl Winterton, to withdraw it. Do you know the explanation of Earl Winterton? He said—I am not quoting his words but I am speaking from memory—"Sir, I have read the literature on Lenin and Marx. The Communists have no belief in parliamentary method of government. So, when I call the Communist Member a traitor, what I mean to say is that he is a traitor to the constitution. I never said, 'traitor to the country'. That is what he has said. I am not quoting him. Then the Speaker accepted the explanation. No action was taken against Earl Winterton. What I say is this. The Chair should explain the ruling where it is given. We were under the Englishman's rule for 150 years. But we have learnt what is bad, we have learnt to drink and smoke. But we have not learnt what is good. One of the good points is the parliamentary method of government. Another good point is this. A Member is asked to withdraw any unparliamentary word he has uttered and apologise to the House. But that practice is not to be seen here.

Another thing which I wish to mention here is whether we can codify our privileges. We had taken up that thing at the Speakers' Conference as early as 1948 or so. And it was the consensus of opinion of all the Speakers that we should not codify them. The reason given was that if we codified, the interpretation might go to the court and there would be trouble between the Speaker and the court and we thought it better to leave it as it was. I have nothing more to say except that we should follow the Rules.

There is one last point. The Presiding Officers should not only be impartial but they should appear to be impartial. That is more important. As I have already said, when I was Speaker I had to deal with 71 Corners in the Madras As-

sembly. As soon as the House comes to know that the Presiding Officer is impartial, there will not be any trouble at all.

With these words, I commend to the House the motion moved by Shri M. Govinda Reddy.

SHRI A. D. MANI (Madhya Pradesh): Madam, the Draft Rules of Procedure which the House is discussing will be considered as an important chapter in the history of the Rajya Sabha. These Draft Rules seek to widen the area of discussion and debate and interpellation in this Chamber. Quite a number of people in the country felt when the Rajya Sabha was brought into existence that it was an unnecessary and a duplicating Chamber. But the history of the Rajya Sabha during the last 12 years would clearly show that this House is not a duplicating Chamber and it has helped to formulate public opinion on many important questions. I may mention here the Punjab issue; on the conduct of Sardar Pratap Singh Kairon, the Rajya Sabha played a very influential part in focussing public attention on the charges against the Chief Minister of Punjab. There was another case when a mistake was made in drafting the Income-tax Bill which was passed by the other House in the year 1961. When the Bill came to this Chamber, one of our most valued former Members, Mr. Santhanam, pointed out the defect in drafting and the Bill therefore had to be amended and sent back to the other Chamber. The other Chamber has a large number of Members and naturally time is also limited for public discussion but this House does not suffer from the severity of limitation in regard to number. It is a smaller House and the way in which the Rajya Sabha is developing, I should say, would do credit to parliamentary institutions in the country.

Madam, I would like to make a few general observations on the Rules of Procedure before I go on to speak about by amendments, and I would like to address my arguments to the Members and principally to

Mr. Chagla whose opinion and support I would like to seek to my amendments.

In regard to the arrangement about Government business in the Rajya Sabha, I should like to make a suggestion which may be considered by the Leader of the House. We get 2½ hours for discussing the Report of the public sector undertakings. The public sector undertakings are so many that I would suggest that Government should allot two days for a discussion of all the public sector undertakings, even though a Committee has now been established which will go into the working of the public sector undertakings and submit Reports to Parliament. If we have two days for a discussion of this matter, it will enable a large number of Members to analyse the Reports of the public sector undertakings.

The second suggestion that I would like to make is with regard to the Appropriation Bill. It comes up for discussion here, for which three days are allotted. The discussion is of a discursive character. Sometimes the focus is on political issues. But the object of the Appropriation Bill is to see that Members get an opportunity to speak about the various Ministries and their detailed working. I would

suggest to the Leader of the House that the reports of the various Ministries be placed on the Table of the House so that Members may give notice of No-Day-Yet-Named Motions for discussion of the reports concerned.

A third point I would like to make is that the time has come for the codification of the privileges of Members of both Houses of Parliament. We are now dependent on the House of Commons practices. This has led to an extraordinary situation in Uttar Pradesh where a Judge of the High Court was summoned to the bar of the House. The matter is *sub judice*. I do not want to go into that. But it is time that Government brings forward legislation codifying the privileges of the Members of both Houses of Parliament.

[Shri A. D. Mani.]

The other point that I would like to make, Madam Deputy Chairman, is with regard to the provision for expunging remarks for which authority has been given to the Chairman. Madam, I do not want to refer to the details of my case. Some time ago allegations were made on the floor of the House against an individual who is not a Member of this House and the individual wrote to the Chairman denying all the allegations and said that he would like the remarks to be struck off. What I would like to suggest is that in case of persons who are not Members of the House and against whom allegations are made, the Chairman should have the right to expunge the remarks, if any before the record is printed if he is satisfied that the allegations are false and *mala fide*. Now under the Rules of Procedure the verbatim report is finalised after 24 hours. I would like a time lag to be there to enable the Chairman to satisfy himself that defamatory allegations if they are *mala fide*, made against an individual who is not a Member of the House, are expunged before the reports are printed.

I would like to refer to the three amendments of which I have given notice. Now I have suggested that under rule 47 th? stipulation that the question should be clearly and precisely expressed should be amended and the words "and precisely" should be deleted. What is wanted is that the question should be clear. Precision is a literary quality. I may be clear; yet I may be verbose. But since a limit of 150 words is there, there is no need for saying that the question should be precise. If a question is not precise—it may be verbose—but it is clear, that question should be admitted. Therefore, I have suggested that "and precisely" should be deleted.

Madam, I have also given notice of another amendment Which I should like to read. Sub-clause (vi) of clause 47(2) says:

"The question shall not ask as to

the character or conduct of any person except in his official or public capacity;"

It is not necessary that this provision should be there because under sub-clause (xii) power is given to the Chairman to rule out a question:

"it shall not make or imply a charge of a personal character;"

That power is already with the Chairman. I am objecting to sub-clause (vi) on the ground that taking politics as it is today in India, an occasion may conceivably emerge when questions have got to be asked of Ministers which may not be strictly official but may be a personal character. Again I refer to the Punjab case. A large number of allegations against Sardar Partap Singh Kairon which have been investigated by the Das Commission related not to him but to members of his family who utilised his name and influence, according to those who made allegations, for benefiting themselves. Suppose a Minister allows members of his family to make use of his name and his position to get personal fame, would it not be appropriate for any Member of this House to ask a question whether he was a conniving party? Now if a question of that kind is to be asked, it shall come under the mischief of this clause:

"it shall not ask as to the character or conduct of any person except in his official or public capacity;"

I have got a right to ask a question about a Minister in his personal capacity.

The other case which is a very well known case is the Profumo case. It was not a question of security alone. Mr. Profumo was asked about the nature of his relationship with Miss Christine Keeler. That matter was allowed to be raised in the House of Commons.

Madam, the Members have sufficient sense of responsibility and they would not ordinarily make *grave* allegations or any allegations against the personal

character of any Minister. I do not want that in the Rules of Procedure a stipulation should be laid down that no question should be asked except in his official capacity. The Chairman already has the power to rule out personal charges. If he finds that the questions are of a frivolous character, that the questions have been aimed at a Minister to embarrass him, he may rule out the question. It has happened very often not only in this House but in the other House also. I do not like to have a limitation in the Rules of Procedure in the shape of sub-clause (vi) of clause 47(2).

Madam, I have also suggested that at page 11 of the report, sub-clause (ix) reading as follows should be deleted:

"it shall not ask for information on matters which are under the consideration of a Parliamentary Committee;"

My reasons for asking for this deletion are that Parliament has now set up a committee on the working of the public sector undertakings. I have been finding that some of my questions have been ruled out in the past on the ground that these questions did not primarily relate to the Government of India. The public sector undertakings work in the form of limited liability companies registered under the Company Law. There is another group of undertakings which work in the name of corporations. In respect of Corporations the Government does answer questions concerning the working of the Corporation. But in regard to the public sector undertakings, which are working as companies, like the Hindustan Steel, the Government have even taken a stand that this does not refer to them but it refers to a company. Now if the Parliamentary Committee which has been established is going to consider the working of all these public sector undertakings and examine the reports, the Government may come forward and say that a question relating to the working of the public sector undertakings would not be admissible because it shall not ask for information

on matters which have been under the consideration of a Parliamentary Committee. We do not have a large number of questions asking about the working of the public sector undertakings. It is necessary for the efficient working of these public sector undertakings that we should have a right to ask as many questions as possible. I would, therefore, commend my amendment to the acceptance of the House.

Madam, I have also asked for the deletion of rule 58(3) at page 15 which reads as follows:

"If the Minister is not in a position to answer the question at short notice and the Chairman is of opinion that the question is of sufficient public importance to be orally answered in the Council, he may direct that the question be placed as the first question on the list of questions for the day on which it would be due for answer under rule 39 or for an earlier day if the Chairman, in the circumstances of the case, considers it so necessary."

I know that there is a similar rule in the Rules of Procedure of the Lok Sabha. But I am objecting to this rule on the ground that the new draft Rules of Procedure give a number of opportunities to a Member to raise matters of public importance. He can raise it on an issue for Motion for Papers. He can put a Short Notice Question. He can also discuss it as a matter of urgent public importance. Why I am objecting to this rule is that we should not drag the Chairman into the realm of controversy. Under this rule we are asking the Chairman to decide that the question is of public importance. Some Member who may feel that his question has not been answered may feel aggrieved that the Chairman did not consider his question important. In a matter of importance political opinions may vary and we should not like to see the Chairman to be placed in a position where he may be told that he is choosing some question because he is also personally keen that an answer should be given to that question.

THE DEPUTY CHAIRMAN: How much more time will you take, Mr. Mani?

SHRI A. D. MANI: I will take one more minute, Madam.

In view of the fact that we have many opportunities to ventilate our views on matters of public importance, I do not think that we need repeat a rule which is to be found in the Rules of Procedure of the Lok Sabha and have it as part of our rules.

Madam, with these rules, subject to the amendments that I have moved, I think the Rajya Sabha can well be assured that, there are many opportunities for discussing matters of public importance, and by discussing many matters of public import and importance this House will rise in stature.

I would like to conclude by paying a warm tribute to you, Madam Chairman, and Members of this Committee for the thoroughness with which you have all framed these rules.

THE DEPUTY CHAIRMAN: There are a number of speakers and I think we shall have to cut down the lunch time. Therefore we shall have to sit till 1.30. Mr. Dharia.

SHRI M. M. DHARIA (Maharashtra): Madam Deputy Chairman, in the beginning I would like to congratulate you as the Chairman of this Committee, and the Members of this Committee, who were appointed to recommend the Draft Rules of Procedure under clause (1) of article 118 of the Constitution.

When I look at the Draft Rules that are recommended, Madam, I feel that the salient features so far as this Draft is concerned could be stated in short as follows.

The Committee has now decided that every Friday shall be a day for private members' business.

Secondly, the scope of the Business Advisory Committee has been enlarged and the allocation of time **could be** considered by the Business Advisory

Committee apart from Government Bills.

The third salient feature is regarding the Question Hour. So far it was the procedure that the questions could be asked only on four days, Monday, Tuesday, Wednesday and Thursday. Hereafter, after these rules are approved, the Question Hour shall be for every day. Madam, so far as the Question Hour is concerned, it is the liveliest part of the House. Because of the Question Hour we can redress the grievances of the people. We can bring before the Government various live issues, we can call for an explanation, and the action that is being taken by the Government. This Question Hour is an important forum and through it, we can claim in the real sense of the term that this House represents the masses, that this House represents the country. Madam, it is because of this Question Hour we can go nearer to the people, and the people can be brought nearer to the House, and naturally I would like to congratulate the Committee for recommending the Question Hour for every day hereafter—it is the proposed rule 38.

By rule 52, there is one good provision that is being made now, Madam. If there is any question in the list of questions which is of public importance, and if that question cannot be reached within the Question Hour, even then that question could be replied to by the Minister—immediately after the Question Hour is over. It is really an important provision that is being inserted by the new rule 52.

Then the next salient feature that I would like to appreciate is in rule 58(3). It is of course a compromise and that compromise is regarding the Short Notice Questions. If a Short Notice Question is not allowed, then it could be put in the list of questions and it shall be the first question on that day—this is a new provision. When I read through the comments made by hon. Member, Shri Dahya-bhai Patel, I have not been able to

I think, Madam, the commentary of the hon. Member, Shri Dahyabhai Patel, is itself inconsistent. When It has been stated that it will be the first question in the list, I feel that it is bound to be answered on that day. So, naturally, there are no possibilities whatsoever that it will not be reached. I have therefore, not so far been able to follow the commentary made by Shri Patel. Of course, so far as the Short Notice Questions are concerned, it is really a debatable point whether the discretion of the Chairman should prevail upon the Minister or not. It is the Chairman who is to ask the hon. Minister, and if the hon. Minister is in a position to reply, then alone a Short Notice Question can be allowed under these draft rules. Madam, my proposition is that if the question itself is of material importance, and if the hon. Chairman feels that it is possible for the hon. Minister concerned to reply to that question the discretion should be left with the Chairman and not with the hon. Minister. The hon.

The provisions in rules 137 to 153 relate to the petitions that could be presented. They are also novel provisions. Henceforth it is not only in connection with the Bills that are

[Shri M. M. Bharia.] pending in the House that the petitions could be presented, but on any matter of public importance that the petitions could be presented. It is one more right that is being given to the hon. Members, and I welcome this provision. Rules 167 to 175 are absolutely of vital importance. They deal with motions on matters of public importance, motions for papers, call-attention notice and discussion* at short notice and so on. They are all enumerated under rules 167 to 175. Much has already been said about these provisions and so I shall not take up the time of the House in dealing with them. I definitely welcome the provisions made under rules 167 to 175 with due modifications.

Rule 203 corresponds to the old (rule 178. Formerly a Member was never aware if any question was referred to the Committee of Privileges. Now when a question is referred to the Committee of Privileges, the Member is to be informed under the new rule 203.

The next salient feature according to me is the provision relating to amendment of rules. In fact rules 216 to 220 deal with this matter. It was suggested by Shri Bhupesh Gupta that during every session the Committee on Rules should sit and make its recommendations. Madam, I feel that it is not necessary to insert a hard and fast rule stating that the Committee should meet every session. There are very good provisions under rules 216 to 220 whereby if any amendments are desired, they can be brought before the House by the Committee and that Committee can sit and take into consideration the rules and the amendments that are necessary. I think these rules should be accepted as suggested by the Committee.

So far as the suspension of a Member is concerned, much was stated by hon. Members. It was proposed by Shri Bhupesh Gupta that no force whatsoever should be used against a

Member. Of course, if ever such a time comes for using any sort of force against a Member, there is no doubt that it will not be a good thing and everybody will feel as if he was guilty. But if an hon. Member is not in a position to behave according to the decorum expected in the House, if the Member is disorderly in behaviour, then force becomes absolutely necessary. The decorum of the House has to be maintained by every Member and under all circumstances. Adjourning the House for the time being will not be fair. It will be giving more protection to those who are creating disorderly behaviour. I think the provision made in these draft rules is the proper provision and this sort of provision for the use of force is absolutely necessary in order to maintain the decorum and dignity of the House,

THE DEPUTY CHAIRMAN: How much more time would you take?

SHRI M. M. DHARIA: I will take about fifteen minutes more.

THE DEPUTY CHAIRMAN: I don't think you can have so much time because there are a number of speakers yet to speak and we should finish this item by the end of this day. I requested hon. Members just to make their points specific.

SHRI M. M. DHARIA: I am coming to them, Madam. Because various points have been raised, I wanted to place before the House the salient features of the draft rules.

THE DEPUTY CHAIRMAN: Please finish by 1.30 P.M.

SHRI M. M. DHARIA: It is very difficult, Madam; anyway I will try. I wished to touch on the various salient features of the new draft rules. Instead of going further into those salient features, I shall deal now with some important points.

Madam, so far as questions are concerned, rule 47 of the new draft rules

deals with them and I am of the opinion that the present system should be more liberalised. We have allowed Members to put questions and each question is not to exceed 150 words. That limit is there. Then how can we say that the question should be precise? How are we to have consistency between these two, namely, this limit of 150 words and the question being precise? When we say that the question should be brief and precise, we also say at the same time that it should not exceed 1-50 words. It is naturally difficult to find out the correct position. I feel that it should be a definite question conveying the meaning to the Minister concerned and in that way it should be a question which is self-explanatory. Naturally this limit of 150 words call for consideration. I have gone through several lists of questions and I have found that in all these questions the average number of words does not exceed 70 to 75. Now we have put down a limit of 150 words. The question can be up to that limit and the question has to be precise and brief in the context of 150 words and in that way we should interpret the briefness and preciseness of the question.

I should also like to say something about the manner in which questions are admitted here. Many times when new Members put questions, they are transferred from starred to unstarred questions for several reasons. Many times questions are grouped together. Now, there are various parts of a question, parts (a), (b), (c), (d) and so on. So many times these parts are dropped when the question of one Member is taken and admitted, and the other parts of the question which are mentioned in the original list of a Member are not mentioned in the list of grouped questions given in this House. This results in injustice to the Member because there is no reply to his own question. So I would like the Secretariat of this House to take care when questions are grouped and to see that all the points mentioned by the Members are brought together. While

grouping the questions, this sort of care is absolutely necessary.

So far as sub-rule (2) of rule 47 regarding questions about the character and conduct of a person is concerned, I am of the opinion that it should be left to the discretion of the Chairman whether a particular question should be allowed or not, even if it reflects on the character and conduct of a person. If a person behaves in his official capacity in such a manner, if he commits anything which is wrong, then it should be the privilege of Members to expose that particular person or officer. He may be an hon. Minister or any officer of the Secretariat or he may be any other public servant. It should be the privilege of every Member to discuss his actions and the discretion should be left to the Chairman in the matter of admitting such questions. I feel that by putting such restrictions on any question reflecting on the character and conduct of persons, we will be giving more protection to those who are carrying on such activities which are anti-national and anti-social and so I submit we should have the right to put questions even if they relate to the conduct of such persons. A provision for allowing Members to put such questions is absolutely necessary and my humble submission will be to have an amendment so far as sub-rule (2) of rule 47 is concerned.

So far as replies given by Ministers are concerned, I submit that many times replies are not correct. Today in this House a reply was given by one hon. Minister stating the number of those who are unemployed because of the closure of textile mills in the country and he gave the number as 2,000. In Maharashtra in Sholapur city a whole mill has been closed and I know that the number of those who are without jobs is not less than 4,000. And that is only about one mill and there are several closed mills in the country and naturally the figure of the unemployed should be easily more than 10,000 or 12,000. In case such inaccurate replies are given there is no provision under the rules to get

[Shri M. M. Dharia] them clarified. So my submission to the House is that if any reply is not correct, if it is inaccurate, there should be some provision under the rules so that we can get the correct reply and at the same time the hon. Minister who gives such an inaccurate reply could also be properly warned. This kind of a provision is not there anywhere in these draft rules. Such a provision is absolutely necessary.

So far as rule 48 is concerned, I think it is a correct stand taken by the Drafting Committee that no correspondence between the Union Government and the State Governments should be brought in by means of questions in this House. If that restriction is not there, it will not be possible for us to maintain the integrity of this country. There are many matters where there are conflicting interests between the different States. If such correspondence is brought before this House, there will be bitterness among the States and the representatives of the States. Naturally, therefore, the Committee has taken the correct position in inserting this rule, rule 48.

THE DEPUTY CHAIRMAN: It is 1.30 P.M. now. You have taken 20 minutes. You can wind up after the lunch hour. The House stands adjourned till 2.30 P.M.

The House adjourned, for lunch at thirty minutes past one of the clock.

The House reassembled after lunch at half past two of the clock, ■ THE DEPUTY CHAIRMAN in the Chair.

ALLOCATION OF TIME FOR GOVERNMENT BUSINESS

THE DEPUTY CHAIRMAN: I have to inform Members that the Business Advisory Committee at its meeting held today has recommended allocation of time for Government Business as follows: —

Time allotted

Hr. Mts.

1. Draft Rules of Procedure... (in addition to the time already taken) 2 30
2. The Indian Medical Council Bill, 1964, as passed by Lok Sabha (Amendment) 1 30
3. The Delimitation of Powers Bill, 1964, as passed by Lok Sabha 1 00
4. The Industrial Disputes (Amendment) Bill, 1963 2 30
5. The Coir Industry (Amendment) Bill, 1964, as passed by Lok Sabha 1 00
6. The Constitution (Nineteenth Amendment) Bill, 1964, as passed by Lok Sabha ... 7 00
- 7- The Appropriation Bill relating to Supplementary Demands for Grants (General) for 1964-65 1 30
8. The Prevention of Food Adulteration (Amendment) Bill for reference to Joint Committee 1
9. The Gold (Control) Bill for reference to Joint Committee... 2 00

In order to be able to complete the business, the Committee has further recommended (i) that Friday June 5, 1964 at present allotted for Private Members' Bills may be allotted for the transaction of Government Business, (ii) that the Rajya Sabha should also sit on Saturday, June 6, 1964 and (iii) that the House may curtail or dispense with the lunch recess and sit beyond 5.00 P.M. as and when necessary.