

MR. SPEAKER: Don't record it. I am not allowing it. We go to the next item—Item No. 2, (A). (Inter-ruptions)**

SHRI JYOTIRMOY BOSU: Mr. Speaker, Sir, I have already written to you. This is about the hon. Prime Minister's enquiry into Jawaharlal Nehru University affairs. This has now become available and I have already written to you, Sir. Either you allow me now or...

MR. SPEAKER: Order please. I don't do anything; I am not under anybody's orders. I will examine it. Please resume your seat.

We now take up the next item.

12.56 hrs.

RULING ON QUESTION OF PRIVILEGE AGAINST THE FARMER MINISTER OF HOME AFFAIRS,
SHRI CHARAN SINGH

MR. SPEAKER: Sarvashri Vayalar Ravi and K. P. Unnikrishnan had given notices of a question of privilege against Shri Charan Singh, former Minister of Home Affairs in respect of the following news report 'The Times of India' dated the 19th July, 1978:

"Mr. Charan Singh said in a statement: 'Whatever Mr. Unnikrishnan M.P. has said on the floor of Parliament regarding a recent meeting between me and Mr. Bansilal is, to put it moderately, a deliberate and mischievous statement.'"

I called for the comments of Shri Charan Singh. In his letter dated July 25, 1978, Shri Charan Singh has indicated that according to him, the allegations made against him are unfounded and defamatory, and hence his spontaneous reaction to the same was rather sharp. Obviously, he felt

that his political integrity was impugned by that statement, and further the same cast a serious aspersation on the character of his politics. He has further stated that in addition to the statement of Shri K. P. Unnikrishnan, the fact that the Leader of the Opposition did not contradict it had added to the gravity of the charge against him. All these facts were given wide publicity.

Shri Charan Singh has further explained that in view of his illness, he was not in a position to attend the sitting of the House, and consequently he issued the statement in question. He ended the letter by saying that:

"I would, however, like to make it clear that I had no intention of imputing any motive to the Hon'ble Member. But if an impression has been so created, I regret it."

Under the circumstances, I think I will not be justified in according my consent to the motions.

This order should not be taken as a precedent. Any hon. Member aggrieved by any observation in the House should explain his position in the House.

In the result, I withhold my consent to the motions in question.

12.58 hrs.

RE. LAYING OF CORRESPONDENCE BETWEEN FORMER MINISTER OF HOME AFFAIRS AND THE PRIME MINISTER

MR. SPEAKER: Hon. Members, the question of the correspondence between the former Home Minister and the Prime Minister being laid on the Table of the House or otherwise made available to Members has been raised in the House on several days. I called a meeting of the Leaders of

**Not recorded.

[Mr. Speaker]

Parties and Groups in the House on the 26th July, 1978 at 9-30 A.M. It was decided at that meeting that the correspondence might be made available preliminarily for perusal by Leaders of Parties and Groups in Lok Sabha. The question whether it should be placed on the Table of the House may be considered later. It was also decided that I may discuss the matter with the Chairman, Rajya Sabha, which I have done.

I received copies of the said correspondence from the Prime Minister on the 28th July, 1978, and on the same afternoon, I called a meeting of Leaders of Parties and Groups of Lok Sabha and placed the correspondence before them for their perusal with a request that no publicity should be given to that correspondence.

The Leaders of Opposition Parties and Groups have perused the said correspondence on the 28th July, 1978.

I have received a letter dated the 29th July, 1978 from Shri C. M. Stephen, Leader of the Opposition, requesting

“for hearing the members... on the demand that the papers be laid on the Table of the House.”

This raises a question of interpretation of the relevant rules, provisions of the Constitution and Parliamentary conventions.

I want to hear the Members on that question.

SHRI SHYAMNANDAN MISHRA (Begusarai): Mr. Speaker, Sir, before you proceed to that larger question, my submission is that, since this matter was raised in the House, the decision about it should have been conveyed to the House, before the decision taken by you was sought to be implemented.

And, I think, Mr. Speaker, that that is a definite affront to the House.

And for that the Hon. Speaker owes an explanation to this House.

13.00 hrs.

PROF. P. G. MAVALANKAR (Gandhinagar): Sir, I have a point of order. Just at the time of the beginning of Half-an-hour discussion, I had raised this matter. At that time the hon. Chairman was Mr. D. N. Bosu. I requested him to convey the feelings of the House to you as to how was it that something which was discussed not once but several times throughout last week was ultimately decided at an informal meeting of some Members with you in your Chamber—as you have said in the morning—and suddenly we were told in the evening on Friday that some of us had gone to the Speaker's Committee Room for inspecting the Correspondence. But the point is that something was already being discussed in the House. It was already the property of the House. Then how is it that at the back of the House, this matter was finally decided? Moreover, Sir, if you remember what the hon. Prime Minister had said that Government had no objection to follow the procedure established by the other House. Then objections were raised on the ground that we were independent of what the other House did. We will do what we think is right and they will do what they think is right. In that context, you also said that the House was sovereign and that the Government was collectively responsible to this House alone. Therefore, this House is competent to take an independent decision. After all that, Sir, now what you have done, I do not know. Why and how such a decision was arrived at? That is my preliminary point of order.

MR. SPEAKER: Mr. Mavalankar appears to have made some observations last Friday evening that I had given an assurance to the House to act in a particular manner....

(Interruptions)

PROF. P. G. MAVALANKAR: I did not say that you had given assurance to the House. I was only making enquiries as to how something was being done without the knowledge of the House, and how the House was not being told about what was decided.

SHRI K. P. UNNIKRISHNAN (Badagara): We were given to understand that some meeting was going on in your chamber. So, the matter was raised by Mr. Mavalankar and some of us in this House and we wanted the Chairperson who was presiding over at that time—Mr. D. N. Bosu—to convey it to you.

MR. SPEAKER: Mr. Bosu had conveyed it to me immediately. There was no difficulty. But you may kindly remember that I made no commitment to the House at any stage because I was only hearing the matter; nothing more than that was done. The Prime Minister was willing to concede to show it to the leaders of the parties and groups. The question whether the Government should be compelled to lay it on the Table of the House is before the House. The matter will be debated and the matter will be decided in accordance with the rules. Therefore, there has been no affront to the House at all because to this extent the Prime Minister was willing that the papers might be shown to the leaders. Only to that extent, I had shown it. So far as the right of the House is concerned, it is independent. I have made it clear to the leaders in the meeting. I have repeatedly told the leaders that so far as the right of the House is concerned, I have to decide it only in the House after hearing the Members who are interested in that. This is the attitude that I have taken right from the beginning. I do not think I have taken away any right of the House. At no time is it my intention to take away or infringe upon the rights of the House. In fact, I am for enlarging

the rights of the House and not infringing them.

Now, we will adjourn for lunch.

13.04 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at Fourteen of the Clock.

(MR. SPEAKER in the Chair.)

RE. LAYING OF CORRESPONDENCE BETWEEN FORMER MINISTER OF HOME AFFAIRS AND THE PRIME MINISTER—Contd.

MR. SPEAKER: Mr. Stephen, you have given notice and sent me a letter about the matter. There is a slight misunderstanding. I did not assure you that a debate would be there, but I assured you that an opportunity will be given to raise this matter. Subject to that you can speak now.

AN HON. MEMBER: We have not heard you, Sir.

MR. SPEAKER: I said, I had not told him that there would be a debate, I said, the question whether I have the power to call upon the Government to place the papers on the Table will be allowed to be raised in the House.

SHRI C. M. STEPHEN (Idukki): As you rightly observed regarding the request by a large section of this House, practically by almost the entire opposition, that the papers be laid on the Table of the House has got to be considered, I agree, with a view to the implications of the precedent that we may set up. But I must state at the very start that as far as this case is concerned, there is no question of setting up a precedent, because a case like this is not likely to be repeated. It is a case which is very special by itself. Before I make my submissions under

[Shri C. M. Stephen]

the rules of procedure, I would say, if you go through the rules of procedure, you will find that the rules for laying papers on the Table of the House are not by any means exhaustive. The rules are endeavouring only to say what should be done if the papers are sought to be laid on the Table. Then, it has cited certain cases where the papers will have to be laid on the Table of the House. But that does not cover all the contingencies. That is what I am submitting. Where a person can be compelled to lay a paper on the Table of the House, the reference from rule 368 onwards is only to Ministers. If you will kindly go through the rules, you will find that there is no rule which says that a member in a certain contingency can be compelled to lay a paper on the Table of the House. Rule 368 deals with Ministers and Rule 369 deals with what should be done if a paper is sought to be laid on the Table of the House. Rule 370 says when a Minister can be compelled to lay a paper on the Table of the House. What I am submitting is that this question cannot be decided exclusively under the provisions of the rules of procedure. Although it is not provided in the rules of procedure that a member who quotes from a particular document can be compelled to lay the paper on the Table of the House, it is taken for granted that if a member quotes, he can be compelled to lay the paper on the Table of the House. So many instances are stated. The book by Kaul and Shakdher in Chapter XXXIV deals elaborately with this matter:

"Papers are laid on the Table in order to supply authoritative facts and information with a view to preparing ground for discussion pertaining to various matters. Papers are so laid either in compliance with the specific provisions contained in the Constitution, the various Central statutes and the rules of procedure, or in pursuance of the directions issued by the Speaker from time to

time and the settled practices and conventions in regard thereto."

Shakdher's book also points that before we got independence, the executive has been refusing to lay papers on the Table of the House. It says:

"Before independence, the practice of laying papers was very much limited. The Executive had the unfettered power to frame various rules and regulations without any control of the Legislature and could refuse the production of any paper or the supply of information without assigning any reason therefor.

In fact, till 1950, there was no specific rule providing for a document cited in the House to be laid on the Table, though in practice the documents cited by Government Members were so laid during the days of the Central Legislative Assembly."

I am emphasising this to point out that conditions have changed after independence when this Parliament became supreme, when the Council of Minister became accountable to Parliament and there were a series of cases not covered by the rules of procedure where Ministers and members were compelled to lay papers on the Table of the House. Each case has got to be decided on its own merits. Of course, certain accepted principles we have to bear in mind. Where public interests are affected, the Speaker may not give a directive that it must be laid on the Table of the House. But the person to decide whether it is a matter of public interest, if the demand is made on the floor of the House, is not merely the Member concerned, the paper has got to be handed over to the Speaker; the Speaker will form his opinion whether the public interest is involved in it and if the Speaker comes to the conclusion that the public interest is involved....

MR. SPEAKER: Please quote the rule.

SHRI C. M. STEPHEN: I will quote that afterwards.

When the demands come, it will be handed over to the Speaker, the Speaker will consider whether it is a matter of public interest.

Now private correspondence does not mean a correspondence between a Minister and a Minister on State matters. Between some Members, between a Minister and a Minister on some domestic matters there can, of course be a private correspondence. But on a matter between a Minister and a Minister concerning the State, an administrative matter, that cannot be treated as private correspondence. That is an official correspondence. And also, confidential documents need not be compelled. But the standard of confidentiality is with respect to the view you take regarding the public interest. But merely marking something 'confidential' will not make it a confidential document unless the matter is concerning the public interest. These are the broad principles that are accepted.

Then there are privileges guaranteed by the Constitution. Discussion in the Cabinet cannot be revealed. But even there I would like to point out that it is not the decision of the Cabinet which is a privilege thing, it is the discussion in the Cabinet which is a privileged thing. And even there, the well accepted principle is, supposing a Minister resigns and the Minister wants to make a statement, the Minister wants to reveal something that has happened in the Cabinet, in spite of the provision in the Constitution with regard to the discussion in the Cabinet and all that, what the Minister has got to do is to seek the permission of the Prime Minister. The Prime Minister invariably gives the permission. There has never been a case in which Prime Minister has refused permission. And if the permission is given, even discussion in the Cabinet can be revealed to the House. This is accepted. I do not want to quote authorities but these are the accepted propositions. What I am

saying is that the privilege firstly, is a privilege which can be waived, secondly the privilege is subject to the importance of public interest, thirdly, the privilege is subject to the necessity of the House to have certain information for a complete document. And the privilege cannot be permitted to be pressed to the extent of repudiating the authority of the House and answerability of the Minister to the House. These are the basic things that we will have to bear in mind. For all that, it is not the person concerned who has got to say that it is a privilege and all that—he can of course, put his plea that it is privilege on such and such matter—but it is for the Speaker as a representative of the House to decide whether it will affect the country, it will affect our nation, our relations with foreign countries whether it will affect our permanent interest in any particular manner, it is there that the inhibition comes. Our democracy is an open democracy and if the openness is taken away, the democracy collapses. Ours is an open society. Therefore, the restrictiveness must be limited to the extreme limited extent by the sole consideration of affecting the country and affecting the long range interest of the nation. To that extent only and until then the openness will have to be guaranteed.

In this case, there are certain difficulties which have arisen. Here is a certain correspondence which passed between them and the statements about the correspondence have been coming out in the press, in the papers. The Prime Minister came out, here saying that a garbled version was coming. I will come to that. I, for one, am in a difficulty now because you rightly called the leaders of the different parties and very rightly said that it is only to assist us to come to a conclusion whether this is a case in which the papers must be called on the Table of the House; we take this and consider whether these are papers to be laid on the Table of the House. With the same measure of seriousness and confidence that you respond in us,

[Shri C. M. Stephen]

We went through it and our reaction was that these are the papers which should come on the Table of the House; there is nothing in these papers which should justify with holding these. After that, some versions of these reports are coming out. We are in the Knowledge of the contents of these letters. We represent our parties and the House. The contents are coming out. For instance, there was a statement in the press:

"Mr. Charan Singh's last letter on the subject was on the 29th March. In this he reiterated his demand for a probe into the charges against Kanti Desai, aseting for the first time in his correspondence that he had substantial and sufficient material against him."

This statement is made here that in the letter of the 29th March he said that he had substantial and sufficient material with him. If this statement is correct, then it gives a different complexion to the whole thing, to the question of the enquiry and all that. What should I do? Can I say it is correct? Can I say it is not correct? Would the Government say it is correct? Would the Government say it is not correct? If the Government says that this portion is not correct, then it concedes that the rest of it is correct. What I am submitting is that this creates a lot of confusion in the public mind.

Today's papers also carry the rest of the correspondence. Quite a lot of correspondence is coming out.

What is the attitude of the Prime Minister with respect to this? On the 25th when he responded to some discussion here, he said:

"It is observed everywhere that where there is a correspondence between Minister... it cannot be made public."

I quote this to emphasize one fact. It is not a question of correspondence between Mr. Charan Singh and Mr. Morarji Desai marked "secret". It is

conceded that it is correspondence between Minister and Minister, and he takes up the position that there is a correspondence between Minister and Minister which must not be released. It is not private correspondence, it is public correspondence. This is what he has very clearly stated.

Then, he said:

"As I said, there is nothing in this correspondence about which I should have any feeling of keeping it back...."

So, in substance he says there is nothing in this correspondence about which he should have any feeling of keeping it back. That means public interests are not affected, there is nothing in it which cannot be revealed, nothing which he should keep back. All these please he has given by this statement. I will repeat what he has said:

"...there is nothing in this correspondence about which I should have any feeling of keeping it back...."

Then, his only difficulty is: I cannot say that I will do that or not here, I have to wait for it to see what is going on there with respect to the Rajya Sabha, but I cannot myself break the secrecy.

The only difficulty is that it is marked secret, he cannot break the secrecy. This is an official correspondence. There is nothing in it basically which would compel him to hold it back. He is speaking as Prime Minister here, but it is marked secret, he does not want to break the secrecy.

Then, with respect to things having come out, he said:

"When it is said that things have gone out, I have not been responsible by any stretch of imagination. If anything like that had happened anywhere, I should first come to the House and do it. I would not tell anybody else about it. But if somebody does it and that also in a garbled manner, then, how am I

going to be told that because it is done I will give up all rules and do this."

Here he has referred to certain publications which had come. His comment is: Yes, publications have come. He concedes that the publications have come but in a garbled manner. He says that what has appeared is a certain portion of the real correspondence but in a garbled manner. Is not the House entitled to know which is the real thing?

Therefore, he has practically conceded a major part of the correspondence. A major part of the correspondence which has been published has been conceded as correct. But he said it is in a garbled manner, leaving the whole country in doubt as to which is the garbled portion of it and which is the real portion of it. The position, with respect to the correspondence which passed on between the Home Minister and the Prime Minister, is that versions have appeared in the press, and he tells these are versions of the correspondence, subject to this garbled-ness of this publication. Is it in the public interest, holding the entire country guessing as to what the correspondence is, and to give a free area for speculators and scandal-mongers to give their own versions of the correspondence and put the whole country in suspense? Is it in the public interest?

Now, this much has happened. Let us not look at it in the abstract; that is what I say. There is no question of laying down a precedent. Let us not look into it in an abstract way. The papers have got some portion of it; one of the parties, Shri Charan Singh, or quarters near to Shri Charan Singh, have given out certain portions of it; it has come out in the press. Now the leaders of the opposition, and different groups—and in the other House more members than the leaders themselves—had access to that. Of course, as we told you, we are not looking at it privately; we will tell our party members what the documents are. The

party members have been told. We told you we do not look into the documents, unless you give permission to tell our party members. It is on that basis we have looked into the papers. So, this has gone to the party members also.

The only thing is, the House as such does not have the document and, as the House as such does not have the document, all sorts of versions are coming as to what the contents of the documents are. Anybody can give any sort of version, and nobody will be able to repudiate it, nobody will be able to confirm it; everybody is going to accept it as a correct version. If there is such a confusion, such a calamitous situation, with respect to the correspondence that passed between the Home Minister of India and the Prime Minister, to leave it at that will not be in the interest of the country at all. So, the supreme Parliament must be told "this is the correspondence; here it is", particularly when the Prime Minister says: there is nothing in it because of which I feel I should withhold the correspondence from you; the only difficulty is the Rules of Procedure do not permit it.

Sir, here I would appeal to you that you must come to our assistance. The Rules of Procedure do not prohibit it; it only says that such and such things must be presented. The Rules of Procedure do not say that such and such things must not be presented, except for the convention part of it. Those inhibiting factors are taken away when he says: it is an official document, it is not a secret document, and excepting that it is marked "secret", it is not a document which I should withhold from anybody". The essence of it is there; that is what I say.

Now, coming to another aspect of it, this is a matter which concerns the developments which have led to the resignation of these Ministers. Here I want to raise this question above party politics. We have been asking from the Chair from the beginning as to

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the powers of this House. Sir, as a presiding officer who knows the laws and looks at the authority of the House in a very broad manner—that is my assessment—you will have to look into it that way. Six Ministers have quit. Excepting what has appeared somewhere, we do not know why the House does not know why. Of course, under the Salaries and Allowances of Ministers Act, it is published in the Gazette. But there is no presumption that because it was published in the Gazette, the House as such must know it. Though we have been asking him to tell us how it happened and why it happened, he has not cared to tell us the whole thing about this matter, with regard to the reasons that led to the resignation. There is a dispute between the Ministers who resigned and the Prime Minister. The Prime Minister told us the other day when this matter was put to him "I am prepared to lay the letter before you where I asked for the resignation". He has not put that letter on the Table of the House. May be, he is waiting for a demand from me that he must lay it on the Table of the House those letters which he wrote to Shri Raj Narain and Shri Charan Singh. Those letters ought to come. He said he will place them on the Table of the House.

Then if he has conceded that he will place it on the Table of the House, the documents containing the reasons which led to the resignation or demand for resignation, those reasons he will place them on the Table of the House, then the question follows whether those are the reasons. We have before us a statement by Mr. Charan Singh and Mr. Raj Narain saying that the reasons spelt out in the letter demanding the resignation are not the real reasons. Mr. Charan Singh has said in his statement that the reason was his demand on the Prime Minister saying that a commission of inquiry must be appointed. This is what he said. He said: he had come to know that the main reason why his resigna-

tion had been demanded was the pressure exerted by the foreign multinationals and big industrialists. Then he says (Mr. Charan Singh said): "His demand for a probe into the charges against Mr. Kanti Desai must have been at the back of the Prime Minister Morarji Desai's mind while taking action against the former Home Minister." Mr. Charan Singh said: "Complaints of bribery involving Mr. Kanti Desai had reached him. These may not have been true, but the prestige of Mr. Morarji Desai and the reputation of the Government would have been enhanced had an inquiry been conducted." You will also recall that Mr. Morarji Desai himself had stated at the public meeting at Gujarat that he would quit office if the charges against his son were proved by a committee of three independent persons. Explaining why he wanted a commission to probe into the charges, Mr. Charan Singh said: "He could get an inquiry held if an ordinary individual was involved; you mark this: 'if an ordinary individual was involved', he could have ordered an inquiry; an enquiry, he could have got done. "But how could an officer be deputed to look into the charges against the Prime Minister's son," he asked. When he made this suggestion, according to Mr. Charan Singh, the Prime Minister told him let those who made this charge against my son appoint a commission. "How could an accuser be also a judge?" Mr. Charan Singh told the audience. He said, he let the matter rest in March last after bringing it to the Prime Minister's notice and the issue must have been wrangling in Mr. Morarji Desai's mind when he asked for my resignation. Mr. Charan Singh said: "He has indeed abandoned his efforts to bring corruption to an end. What could a poor officer do if this was the attitude of the Prime Minister or a Minister on this issue?"

Therefore the question is this. What exactly he says is: he will place in the Table a letter which will spell out the reasons for asking for the resignation. Here the Minister is saying:

"These are not reasons; the reasons are something different," and he says: "Refers to the correspondence in March." Then, Sir, if the laying on the Table of the House the correspondence between him and the Prime Minister asking for his resignation and the reply is to tell the House why the resignation was asked for. If that is the reason, when the resigning Minister says: "These are not the reasons, if you want to find the reasons, look to the correspondence that passed between me and the Prime Minister." When he says—the Prime Minister on the basis of the commitment that he will place that paper on the Table of the House, must be asked to place it on the Table of the House the correspondence that passed between him and Mr. Charan Singh so that the House may get a full view as to why this whole incident has happened. This hush hush thing will not take us anywhere at all.

I have got with me a quotation of Mr. Morarji Bhai about what is the secret document business. He says: "There is no secrecy." That is what he stated.

(Interruptions)

SHRI GAURI SHANKAR RAI (Ghazipur): You are in favour of inquiry against anybody excepting your leader.

SHRI C. M. STEPHEN: Now when this question of oath of secrecy came out, Mr. Morarji Desai made a declaration in Bangalore saying that there was no oath of secrecy when public interest was involved; no oath of secrecy will prevail when public interest is involved.

This is the open declaration Mr. Morarji Bhai gave. I do not find the papers here. That was what he stated. Now the broad proposition therefore I am contending for is, as a rule, this House has got the right to get the document that passed between a Minister and a Minister when it concerns a matter which can be within the competence of this

House, as a rule. Exception will have to be proved and established. Those exceptions are not here at all. By the very statement of the Prime Minister made on the floor of the House this is official document. Public interest is not involved at all. On the other hand, it is in public interest that the confusion and the suspicion is removed and the cloud is completely removed. If that is not done more and more speculation will take place and more and more difficulties will arise. We, as persons who saw that paper, are in very very great difficulty when we find all these statements. In fact we can neither repudiate nor confirm. That is the difficulty we are put in. There cannot be a question of partial revelation and partial hiding. Secrecy is broken. Secrecy was broken in Rajya Sabha. Secrecy is broken here. Where is the limit of the secrecy, is the only question. Now therefore the only argument on which Morarji-bhai pleaded withholding of the document was the rule and the secrecy. My simple submission is: If assuming the matter is before a court of law, even the lowest court in the country can issue summons and the document will have to be given. Nothing stands in the way at all. If this is available to that court, to this House it must be made available. And the subject matter, the reasons that led to the resignation can be the subject matter before this House. I only want to quote Ivor Jennings Cabinet Government. It is not as if the resignation of a Minister is something which passes between him and him only. There are occasions when it will have to be completely substantiated.

It says here:

"Precedents certainly establish the right of the Prime Minister with the sovereign's assent to dismiss a Minister (or what comes to the same thing, to demand his resignation). But it also shows the difficulty of exercising the right..... But before a public servant of this class can properly be dismissed,

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there must be not only sufficient case against him, but a case on which this sufficiency can be made intelligible and palpable to the world."

It is on page 194, Second edition. Of course he has got the power. But when a dispute arises that this is a dubious deal, here, what is the essence of it? The Home Minister says: I am giving up my fight against corruption. I have been made a martyr because I took up the position for the purpose of wiping out corruption. When the Home Minister says that he has been martyred because of a position he took, is that not a matter for this House to take note of? Are we not entitled to discuss whether it is done or not? If we discuss are not the papers relevant for us, as the Prime Minister says: I will give you the paper which compelled his resignation and when the other party says: it is not complete document, go back to March document. That also should come before us. This is what I have got to say. There is no question of a dangerous precedent being put in because such a case has never arisen. Such a case is not going to arise. Each case has got to be decided on its own merit, and the merit as far as this is concerned, it is already public. Therefore kindly get the Prime Minister to place the document before the House. I have only to make an appeal to the Prime Minister that his conscience must now be at rest because all these things happened; let him not burden you, Mr. Speaker, with the task of having to give a ruling.

MR. SPEAKER: I shall be happy.

SHRI C. M. STEPHEN: Let him on his own come out and place on the Table papers. If he does not, as the protector of the rights of the House, you will kindly direct him to place the letters on the Table of the House in order that the House may form its opinion on this vital matter which concerns the nation. With this submission, I urge upon you that the papers may be ordered to be laid on the Table of the House.

श्री अंबर लाल गुप्त (बिस्मिली खबर) : अध्यक्ष महोदय, सभी मेरे साथ बोलते हैं, जो बहुत धक्के बकास हैं, बहुत धक्के तरीके से किस पैसा करने की कोशिश की है। लेकिन उन को माफ़ूम है कि सदन में जो भी कार्यवाही होती है, उस में हम सदन के क्लर्क प्राक प्रोसीजर और संविधान के प्रावधानों से परे नहीं जा सकते हैं।

उन्होंने दो मूठे उठाये हैं। एक तो यह है कि जो काराज, कारेसपांरेंस है, वह सदन के सामने रखनी चाहिए, और दूसरे, रेजिगनेशन लेटर सामने धाना चाहिए, और उस के लिए बहुत जरूरी है कि जो काराज, कारेसपांरेंस है, वह हाउस में रखी जाये।

संविधान में हमें कुछ अधिकार दिये गये हैं। जैसे, उस में यह कहा गया है कि कलां काराज सदन के सामने जरूर रखे जाने चाहिए। उदाहरण के लिए मैं आपका ध्यान धाटिकल 151 की तरफ़ खींचना चाहता हूँ, जो इस प्रकार है—

"The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament."

संविधान में और भी कई ऐसे प्राविकण्ड हैं, जिन में कहा गया कि है कलां काराज सदन के सामने रखे जाने चाहिए।

अभी मेरे मित्र ने कहा कि घाजादी से वातावरण बहुत बदल गया है। मैं उन से सहमत हूँ कि वातावरण बहुत बदल गया है। लेकिन ये जो क्लर्क हैं, उन में सभोधन भी होता रहता है। संविधान में भी सभोधन होता रहता है। वे लोग तो इतने साल तक राज्य करते रहे हैं। क्लर्क प्राक प्रोसीजर भी बदलते रहते हैं—क्लर्क कमेटी भी यहाँ है—, हम ने भी बदले हैं, इन लोगों ने भी बदले हैं। मैं तो पहली बार क्लियर पार्टी में आया हूँ। मैं यह कहना चाहता हूँ कि सदन में जो भी कार्यवाही होती है, वह क्लर्क प्राक प्रोसीजर और संविधान के तहत होती है—इस के परे नहीं हो सकती है।

पहले हम प्रोसीजर को लें। माननीय सदस्य ने दो तीन मूठे उठाये और कहा कि यह प्रोसीजर इन्कम्प्लीट है, कांमिप्रहेंसिव नहीं है। इस का मतलब यह है कि उन्होंने इस बात को स्वीकार कर लिया कि जहाँ तक प्रोसीजर और संविधान का सवाल है उन की बात में कोई बचन नहीं है और वह ठीक रीजन पर स्टैंड नहीं करते।

उन्होंने क्ल 368 का हवाला दिया। मैं उस को पढ़ना चाहता हूँ :—

"If a Minister quotes in the House a despatch or other State paper which has not been presented to

the House, he shall lay the relevant paper on the Table:

Provided 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."

भगर कोई मंत्री किसी डाकुमेंट में से क्वोट भी करता है, और भगर सदन यह मांग करे कि यह डाकुमेंट सदन के पटल पर रखा जाना चाहिए, तो इन क्लब के तहत इस बात का भी अधिकार उस मंत्री को दिया गया है कि वह उन कागजात को सभा पटल पर रखे या न रखे। यह देखने के लिए फ़ाइनल एयारिटी मंत्री की है कि पब्लिक इंटरेस्ट कहाँ है—पब्लिक इंटरेस्ट में उस डाकुमेंट को पटल पर रखना चाहिए या नहीं।

भगर मंत्री को भ्रमने बयान के बारे में यह पोजीशन है, तो यह तो किसी का बयान नहीं हुआ है। मैं माननीय सदस्य से सहमत हूँ कि ये प्राइवेट लेटर एक्सचेंज नहीं हुए हैं।

I agree with you that this is the correspondence between the Prime Minister and the Home Minister. There is no denial of the fact.

मेरा कहना यह है कि जब मंत्री सदन के सामने कोई स्टेटमेंट करे, और यह मांग हो कि ये कागज पटल पर रखे जायें, और वह भगर नहीं रखना चाहता है, तब भी वह ठीक है। लेकिन यह तो दो मंत्रियों की आपस में कारेसपांडेंस हुई है और वह रखना नहीं चाहते। यह पब्लिक इंटरेस्ट है या नहीं, यह कौन जांचेगा, स्पीकर को, या भगर किसी को, यह अधिकार नहीं है। यह तो केवल प्रधान मंत्री को अधिकार है कि वह इन कागजात को सदन के सभा पटल पर रखे या न रखे।

इसलिए यह कहना चाहिए कि यह कॉन्प्रोहेंसिव नहीं है, ठीक नहीं है। क्लब का प्रोहेंसिव है। इससे भागे जा कर जब वहाँ पर मिनिस्टर कहा गया है तो वहाँ डिस्क्रिशन मंत्री को दिया गया है। तो इस में तो सवाल ही नहीं पैदा होता जो यह करेस्पॉन्डेंस है। भ्राज इस का फाइनल डिसिजन किस का है? मंत्री का। भगर क्लब को, जो स्टीफेन साहब कह रहे थे वह मान लिया जाये तो क्या कोई सरकार चल सकती है? भगर मंत्री के बजाय कोई और लोग हों यह तय करने वाले, यह सारा सदन हो या प्रोजीशन हो, कि यह कागजात पटल पर रखे जायें तो कोई सरकार चल सकती है क्या? मैं यह सवाल भ्रापके जरिए उन से पूछना चाहता हूँ। कोई सरकार नहीं चल सकती। भ्राखर कैबिनेट में सीक्रेट बातें होती हैं, कभी एक्सचेंज भ्राफ लेटर भी होते हैं। हमारी

एक धावनी की सरकार नहीं है। बनता पार्टी के अंदर सब को खुसी राय रखने का हक है। एक मंत्री भ्रापनी राय रखता है। प्रधान मंत्री से उसको मतभेद रखने का अधिकार है, रखना चाहिए। अच्छी बात है। उन्होंने कोई बात कही है, प्रधान मंत्री उस से मतभेद रखते हैं। इसका मतलब क्या यह है कि वह सारे कागज यहाँ पर रखे जायें? क्या यह पब्लिक इंटरेस्ट में है। क्या इस को भ्राप तय करेंगे। यह नहीं हो सकता। इस तरह की भगर परम्परा झल दी जाय कि यह सदन तय करेगा इन चीजों में इतना तो भ्रायकर रूप यह लेगा कि कोई सरकार नहीं चल सकती, कोई सीक्रेसी नाम की चीज नहीं रह सकती।

माननीय मित्र ने कहा कि हमारी भ्रापेन सोसाइटी है। मुझे खुशी है कि भ्राप भ्रापेन सोसाइटी में भ्राब विश्वास करने लगे, कहने लगे कि भ्रापेन सोसाइटी है। भ्राज भ्रापेन सोसाइटी है, ठीक है। लेकिन भ्रापेन सोसाइटी का मतलब क्या यह है कि सरकार की सारी चीज यहाँ भ्राज पर रखी जायें? भ्राप भी भ्रापेन धावनी हैं। क्या भ्रापेन का मतलब यह है कि भ्राप की जो भी चीज है वह सब जनता के सामने और भ्राखबारों में भ्रानी चाहिए? भ्राप की पार्टी भी भ्रापेन है। मैं मानता नहीं हूँ। लेकिन मान लिया जाय भ्राप की पार्टी भ्रापेन है? तो क्या भ्रापकी पार्टी की जितनी बात होती है वह सदन के सामने भ्रानी चाहिए, जनता के सामने भ्रानी चाहिए? पार्लियामेंट का जहाँ तक तात्क है वह प्रोसीजर और कांस्टीट्यूशन के परे नहीं जा सकता...

MR. SPEAKER: It will be helpful if the observations are brief.

श्री कंवर लाल गुप्त : मेरा कहना यह है। भ्राब क्वेश्चन के बारे में भी सवाल है। हम क्वेश्चन करते हैं कि मंत्री महोदय से और भ्राप भी उसे ऐडमिट कर लेते हैं, मंत्री कहते हैं कि पब्लिक इंटरेस्ट में जबाब देना नहीं है।

After all, the Speaker says "I cannot compel a Minister to answer a question. Many times you have been saying, "It is the right of the Minister." This is the convention not now but right from the beginning. I think Mr. Chavan who is going to speak will bear me out if I am wrong. This has been the convention of this House that if a Minister says that it is not in public interest to disclose the information, that is final. The Speaker cannot force him to answer a particular question.

[जी कंचर लाल गुप्त]

धरम बनेबचन के बारे में यह है तो जो यह कोर-स्पॉन्स की बात है, मैं समझता हूँ वह ठीक नहीं है। अब यह बात है कि स्टेटमेंट मेंड बाइ दी मिनिस्टर, इस में जहाँ तक प्रोसीजर का सवाल है वह मैं ने कहा और मोरारजी भाई ने ठीक कहा कि इसमें कोई छिपाने की बात नहीं है। ऐसा नहीं है कि हम ने कोई पाप किया है और हम छिपाना चाहते हैं, यह चीज नहीं है। लेकिन सवाल यह है कि प्रगर एक प्रोसीजर बना दिया गया और एक चीज की शरघात कर दी गई तो कल को इस के जो दुष्परिणाम होंगे वह भयानक हो सकते हैं और सरकार ठीक तरह से नहीं चल सकती है। सवाल उसका है।

घाप को मालूम है क्या चीज हुई। घाप कहते हैं कि धाधा मालूम है, धाधा नहीं मालूम है, मुझ को नहीं मालूम कि घाप को कितना मालूम है। लेकिन जितना भी घाप को मालूम है, प्रगर घाप को यह लगता है कि उस में कहीं गड़बड़ी है, घाप को लगता है कि कांति देसाई करप्ट हैं, घाप को लगता है कि प्रधान मंत्री ने चरण सिंह के सन-इन-ला के बारे में भी शिकायतें की हैं, प्रगर घाप को लगता है, घाप ने उसे पढ़ लिया, प्रगर उस में वजन है तो कुछ होम बंक करिए। मैं ने भी इंदिरा गांधी के बारे में यहाँ प्रस्ताव रखा था कि उन के खिलाफ करप्शन के चार्ज हैं, संजय गांधी के खिलाफ हैं, बंगोलाल के खिलाफ हैं और इंदिरा गांधी के खिलाफ हैं तो मैं ने एक दो चार पन्द्रह बीस इंस्टॉमेंट दिए थे और मैं ने यह कहा कि प्रगर एक भी घाप कांट्रैक्ट करेंगे तो...

SHRI MALLIKARJUN (Medak):
No former Home Minister levelled charges then. But here the former Home Minister himself is levelling the charges. (Interruptions).

MR. SPEAKER: I have allowed everybody. Do not record.

SHRI MALLIKARJUN:**

MR. SPEAKER: I have not called you. Your leader has spoken and nobody interrupted him.

SHRI MALLIKARJUN: I am on a point of order.

MR. SPEAKER: This is a point of total disorder.

**Not Recorded.

जी कंचर लाल गुप्त : I have touched a very sensitive point; I agree.

प्रध्वक्ष महोदय, मेरा कहना यह है कि मैं ने बे सब चीजें कही थीं, उसी तरह से यदि घाप के पास भी कोई सबूत कान्तिभाई के खिलाफ है, प्रगर चरण सिंह जी के सन-इन-ला के बारे में घापको कुछ मालूम है, तो घाप धारक रहिए। कुछ होम-बंक कीजिये, लोगों से कुछ इच्छा कीजिये और फिर उस को सदन के सामने लाइये, प्राइमा-फेसी केस बनाइये, तब उस की एन्कवायरी होगी। लेकिन यदि घाप के पास कोई प्राइमा-फेसी केस नहीं है, कोई मसौदा नहीं है, कोई भी चीज नहीं है केवल पोलिटिकल-कैपिटल बनाने के लिये इस तरह की बात कहें—तो कम से कम लीडर धारक दी प्रपोजेशन को यह बोना नहीं देता, कोई और ऐसी बात करे तो दूसरी बात है। घाप के पास कोई मैटीरियल नहीं है, किसी के पास नहीं है—जो उधर बैठे हैं, न कान्ति भाई के खिलाफ है और न चरण सिंह जी के खिलाफ है, न किसी दूसरे के खिलाफ है। यदि है तो फिर घाप उसे लोकपाल के पास भेजिये, किसी के पास भेजिये, सदन में उठाइये, हम घाप का स्वागत करेंगे।

प्रध्वक्ष महोदय, उस साइड में बहुत सारे ऐसे सदस्य हैं, जे कैबिनेट के मेम्बर रहे हैं, उन को मालूम है कि कैबिनेट का फंक्शनल कैसे होता है। यह ठीक है कि स्ट्रीफन साहब कैबिनेट में नहीं रहे हैं। उन सदस्यों को जो मिनिस्टर रह चुके हैं, मालूम है कि कैबिनेट किस तरह से फंक्शन करती है, उस में सीक्रेसो होती है, कौन सी बात पब्लिक इन्टररेस्ट में कहनी है, कौन सी नहीं कहनी है...

MR. SPEAKER: You have made that point.

जी कंचर लाल गुप्त : यह बात कही गई कि जिन लोगों ने रिजाइन किया, उस के पीछे कुछ दूसरे रीजन्स थे। चौधरी साहब ने जब रिजाइन किया राज नारायण जी ने जब रिजाइन किया तो यह कहा कि इस के पीछे कुछ हमारे रीजन्स हैं। मैं यह कहना चाहता हूँ कि यह हमारे घर का झगड़ा है, हमारे घर की बात है, जहाँ तक कार्म्याप्टेस का सवाल है, वह इस के बीच में नहीं प्राती है, बिल्कुल नहीं प्राती है हम घाप से यह कहेंगे कि प्रगर घाप के पास कोई मैटीरियल है—किसी के खिलाफ, मंत्री के खिलाफ हो, उन के बेटों के खिलाफ हो, तो घाप यहाँ लाइये, हम उसका स्वागत करेंगे, उस के खिलाफ एन्कवायरी करायेंगे। लेकिन घाप की तरह से नहीं कि साह कमीशन की रिपोर्ट भी घा गई है, सरकारी एन्कवायरी की कन्क्लीट हो गई है, तब भी साह कमीशन की गालियां देते हैं। हम मुकदमा चला रहे हैं...

MR. SPEAKER: You are converting it into a debate. You have taken 20 minutes.

SHRI KANWAR LAL GUPTA: Please give me two more minutes.

MR. SPEAKER: You have taken 20 minutes. Another two minutes?

श्री कान्वर लाल गुप्त : मेरा कहना है कि प्रोसीजर के प्रश्न कास्टीडियन में प्राप को कोई अधिकार नहीं है यह मांगने का हवाला कि हुन छिपाना नहीं चाहते हैं। पब्लिक इन्स्ट्रुमेंट में यह नहीं है और मॉरल प्नेन पर भी कोई जरूरत नहीं है कि कागज रखा जाये। इसलिए मेरी यह बिजली है कि कागज रखने का अधिकार केवल सरकार का है, स्पीकर का नहीं है और सरकार चाहे तो उनको रखे या न रखे ।

MR. SPEAKER: You have mentioned that at least four times.

SHRI YESHWANTRAO CHAVAN (Satara): I am only rising for a very brief intervention because I am one of those with whom you shared the documents which are now the subject matter of discussion and controversy.

If we merely go by the interpretation of the rules of procedure etc.,—certainly we are entitled to do that—it would be inadequate according to me. While you make up your mind when you advise the Government, you will have to take into consideration the contents of the documents also because now we know exactly what those documents contain, and this will be a very material factor in deciding the whole thing.

Shri Kanwarlal Gupta was just now mentioning that Cabinet Ministers know what the procedure is about their own work. Well, the discussion in the Cabinet certainly is confidential, is a secret thing which should not be divulged, it is covered by the oath of secrecy, but that does not apply to correspondence between Ministers in which some other people who are not Ministers are also involved.

This is not a matter concerning Mr. Charan Singh and Mr. Morarji Desai. I think there are also other persons involved in it, sons and sons-in-law and other people are involved in this matter. And it is not their official duties, but doings of others are also involved in this correspondence.

So, instead of arguing that it is not in the public interest to place the documents on the Table of House, I am arguing that it is in the public interest, in the national interest, that these documents should be placed on the Table of the House. I would go a step further. It is even in the interests of the Government themselves, and ruling party itself. My political instinct tells me that the more you try to hide it, the deeper you get into trouble. Hon. member Kanwarlal wanted my advice as an ex-Minister. I am giving him my advice: don't take any chances about this issue.

Here is a very novel situation. A person who was holding the office of the Home Minister, who also happened to be No. 2 in rank, writing to No. 1, that is the Prime Minister, that certain matters should be enquired into, in which the relations of both the persons are involved. Now, does it become a matter of secrecy? This Parliament is meant for this. If Parliament is not meant for this, what is Parliament meant for? Even Shri Morarji Desai himself had made arguments from the place where I am speaking from.

SHRI KANWAR LAL GUPTA : What was your answer at that time?

SHRI YESHWANT RAO CHAVAN: I was not supposed to answer, otherwise I would have answered him.

His own argument was that as far as the Government is concerned, nothing should be secret from Parliament. It is better that he is reminded of what he himself advised the then Government and then Parliament about it.

[Shri Yeshwant Rao Chawan]

So, we mainly say that it is in the public interest to place these documents on the Table of the House. Here is a question in which the integrity of the Government, the integrity of the Prime Minister and the integrity of the Home Minister are involved. We want that this cloud of doubt, which is hanging over their heads, should be removed in the interests of this House, the Government and the people outside.

SHRI KANWAR LAL GUPTA :
There is no cloud.

SHRI YASHWANTRAO CHAVAN :
If you want to close your own eyes, you can do that.

SHRI KANWAR LAL GUPTA : The question is whether clouds prevail or not.

SHRI YASHWANTRAO CHAVAN : If the documents are placed on the Table of the House, the clouds will be cleared. The type of publicity that is going on, the type of controversy that it going on, certainly it is more than a cloud that is hanging over your government. It is, therefore, much better that these documents are placed on the Table of the House.

May I repeat what is already very clear in this matter that you in your duty, not only as a Presiding Officer but as also one who is supposed to protect the interests, rights and privileges of this House, you have to look into the contents of the documents concerned and adopt a larger view in this matter, in the interests of Parliament, in the interests of the Government and in the interests of the country. It is not merely a technical position of a rule here or a rule there; something much bigger is at stake. Therefore, I would make a request and an appeal to you, Sir, and also to the Government, not to stand on technicalities, not to stand on smaller things, but be brave and come forward with those documents and lay them on the Table of the House.

MR. SPEAKER : Before I call upon anybody else, let me have this clarification. You have called upon me to exercise my powers. I am not on the broader political question of whether it is right or wrong; it is not for me. But I see our earlier rulings, both of the House of Commons and of this House, saying that the Speaker has no jurisdiction. Of course, that is the legal position taken earlier, both by the House of Commons as well as here. Would I be well within my powers to do that?

SHRI YESHWANT RAO CHAVAN : This situation which we are discussing is a little more comprehensive. The Prime Minister had not claimed "public interest" not to show the documents. Even if he had, he had decided to forgo it by giving the documents to you. You, in your kindness, decided to show the documents to us and we, in our wisdom, decided to share it with our own party people. So, the whole thing has become completely different.

SHRI KANWAR LAL GUPTA : What are the rules?

SHRI YASHWANTRAO CHAVAN : There is no question of rules. You have not been able to meet the case made by Shri Stephen. I do not want to repeat the same thing.

MR. SPEAKER : You are only answering me and not anybody else. You can ignore all other interruptions; because, I find the House of Commons...

SHRI YASHWANTRAO CHAVAN : I think the situation demands that you will have to look at it much more comprehensively; you cannot merely go by certain precedents. If necessary, you will have to create another precedent.

SHRI K. P. UNNIKRISHNAN (Badagara) : Mr. Speaker, Sir, listening to my distinguished friend, Shri Kanwar Lal Gupta, was a very unhappy experience to me today, because he thought we were discussing the whole thing in a vacuum. I want to submit

to you that, while we are not on a very substantive motion, this is not a discussion in a vacuum. It is not only relevant but a matter of great vital and fundamental importance, which has certain constitutional implications. Here I would say that if there are no precedents, as the custodian of the rights of this House, you will have to create new precedents. You should not only go by what has happened before you, but you have a historic responsibility to create new precedents so that this institution can survive.

In March 1977 a new Cabinet was formed under the leadership of the respected leader, Shri Morarji Desai, and they were introduced to this House. Now I find that somebody who was a familiar sight on the Treasury Benches has moved from there to this side. I find someone else absent. I have seen a few press reports to the effect that some of them have resigned. Resigned for what? The House is entitled to know that. It is more than two weeks that we have been sitting here and still no explanation has been forthcoming. Why have they resigned? The Prime Minister has not chosen to take this House, the Lok Sabha, into confidence as to why they have resigned. Nor have they, while the horse trading is going on, which almost seems interminable, come forward to tell this House why they have resigned. All that we know and the whole world knows—Mr. Kanwar Lal Gupta ought to know—is that they have resigned as a result of serious differences of opinion and if I may deduct, as the whole world deducts, this relates to some correspondence between the then Home Minister Mr. Charan Singh and his Prime Minister, Mr. Morarji Desai. Now, Sir, . . .

15.00 hrs.

SHRI KANWAR LAL GUPTA : Can we force a Minister to make a statement?

SHRI K. P. UNNIKRISHNAN : I would support the contention and the

right of the Prime Minister, Mr. Morarji Desai under Article 75(2) of our Constitution, because under that article you can only occupy your office as long as the pleasure of the President is there, which is based on the Prime Minister's advice to the President. So, if on a question of collective responsibility, they are right in demanding the resignation of a ministerial colleague, it follows from that right that the Council of Ministers shall also be responsible to the Lok Sabha and the Parliament. You cannot say that one part of the Constitution should be followed in letter, spirit and practice and we shall not accept and follow another part. This is exactly the predicament before us today.

Now, while I accept the Prime Minister's prerogative in choosing his Ministers or sacking them at any time, because it is based on a Constitutional practice, I would also like to say that the Ministers are also political preachers. The entire edifice. . . .

MR. SPEAKER : Why are you saying also?

SHRI KANWAR LAL GUPTA : Can Apart from that, if you take a very narrow view, they are very much political preachers and they cannot function in a political vacuum. So, the question of collective responsibility is closely related to their political functioning.

It has happened in this case, for instance, as my leader Chavan Saheb pointed out a little while ago, where this relates not only to their conduct, the conduct of the Prime Minister or the conduct of the then Home Minister, but to various other things, from what I have seen in the press, the conduct of several other individuals in the corridors of power. Their probity has been called into question, their conduct has been called into question, their character has been called into question. By whom? By Prime Minister and by the then Home Minister.

[Shri K. P. Unnikrishnan]

If that is so, I would contend that this Parliament is entitled to know and in this case, I would only quote a precedent—I do not want to go into the substance of this case right now. A few years ago in this House, when a question of a slightly different nature, but similar in many ways was debated, there was a gentleman, a leader of great moral stature, who occupied the last benches, he came forward that day to occupy this seat and his words, I can still recall and he had a ringing tone, he had no power than, he had only certain moral authority and he said then—I quote:—

"But when it comes to the business of Parliament, where it becomes vital to have it, then Parliament is the highest body and it must have it. It must have all the papers. No secret papers of Government—I repeat—no secret papers of the Government can be secret from Parliament. The only stipulation would be that when Parliament sits in a secret session, nothing can be divulged. After all, the authority of Parliament is above Government and Government is not above Parliament. If that is not realised by this Government it will be a sorry day for Parliamentary democracy and Parliament cannot abdicate its authority."

And his name was Shri Morarji Desai who is now the Prime Minister of India.

Again, he continued saying:

"This is what power does. I hope, the Prime Minister will realise it. If not today, some day it will have to be realised. Power has that effect on everybody. I do not exclude myself from it."

After the then Prime Minister, Mrs. Indira Gandhi, made an offer, Shri Morarji Desai had something to say about the rights of Parliament. Earlier statement was made on 9th December,

1974, this was on 10th December, 1974. He said:

"I would say that I accept the offer made by the Prime Minister for placing all the relevant papers before the leaders along with you without prejudice to our right which flows from Parliament for any further probe or action which may arise after a perusal of the papers consistent with observing necessary secrecy."

I am all for implementing what he had demanded on December 9 and 10, 1974.

In that case, the argument might be that those were CBI reports and files. The CBI reports are the reports of an investigating agency which necessarily by its character have to be secret. If you could demand that, these letters, between the two stalwarts of a party, between the Prime Minister and the former Home Minister, cannot be kept away from the Table of the House. No public interest has been claimed so far. As my leader, Mr. Y. B. Chavan, pointed out before you, the very fact that if, along with you, a section a small minority, of the House—the Constitution does not recognise it, they have no other status and it is an informal arrangement under the Rules of Procedure—if they could have it, I do not know how you can deprive me of my right or his right or their right. So, it is an inherent right of Parliament to know and, if this right is not upheld by you, parliamentary democracy cannot survive in this country.

SHRI KRISHNA CHANDRA HALDER (Durgapur): Mr. Speaker, Sir, my party is against corruption and wants clean administration. Regarding the correspondence between the Prime Minister and the Home Minister, it is not a CBI report, it is not a Cabinet decision, it is simply letters exchanged between the Prime Minister and the Home Minister.

In this correspondence, there is some mention of relatives involved in corruption. So, not only in the

national interest but in the public interest, in the people's interest, also, this correspondence should be laid on the Table of the House. I do not want to take much of your time. It is a very important thing, it is a serious matter. I demand, on behalf of my party, that all these letters should be laid on the Table of the House to remove the doubts of the millions of people in our country.

SHRI M. N. GOVINDAN NAIR (Trivandrum): Mr. Speaker, Sir, let me first congratulate you for taking a lead in upholding the independence and sovereignty of the House. I hope, in the procedure to be followed, you will maintain the same attitude.

MR. SPEAKER: You are trying to bribe me!

SHRI M. N. GOVINDAN NAIR: I cannot understand in this controversy is the 'secrecy' of the letters. You were kind enough to show us the letters and we gone through them but we were not able to get any new information from the letters. So, what is the 'secrecy'? There is absolutely no secret.

Not only that. I do not want to go into all the arguments that have been raised here, but the Hon. Leader of the Opposition had a bundle of press cuttings of statements by the Hon. Ministers—either the Prime Minister or the ex-Home Minister or Mr. Raj Narain. Everything is known to everybody—except that, officially, the Members of Parliament are kept out. And how can it be a secret from the official point of view? Is it a Cabinet discussion? Can correspondence between two Ministers be called a secret document? Simply because on the top it is written 'top secret' or 'topless secret', does it mean it is a secret document? Supposing an ugly woman is called a 'beauty' by her parents, does it mean we have to accept her as a beauty? So, there is absolutely no substance in saying it is a secret document which cannot be placed on the Table of the House.

Secondly, what are the contents? I want these to be placed on the Table of the House to vindicate both the Home Minister and the Prime Minister. Is there any specific charge against anybody? You speak about a son and another speak about sons-in-law and monthers-in-law—just like village women fighting against one another ...

श्री मधुसूदन सिंह लखौरिया (इटावा) अध्यक्ष महोदय, इन्होंने जोयों का चित्र करके नारी जाति का अपमान किया है, यह सब आपसे ले सब मैं।

SHRI A. C. GEORGE (Mukandapuram): Please don't insult village women by calling the Prime Minister and the Home Minister 'village women'!

MR. SPEAKER: Women are both Home Ministers and Prime Ministers in the house.

SHRI M. N. GOVINDAN NAIR: Between two elderly statement, very silly correspondence has passed. What I want is that not only should the letters be placed on the Table of the House, but both of them should substantiate what they have said. They are placed in the highest position of responsibility: they have to write and speak in a responsible manner. Therefore, if the Home Minister says there are charges against the Prime Minister's son, he should substantiate it. At least in the second letter he should say 'These are the charges that have come to my notice'. Has he said that? Therefore, before this House, he should substantiate the charges, and so also the Prime Minister.

MR. SPEAKER: The only thing we agreed was that you will disclose it to the members of your Party: You asserted it—not that I consented. You asserted that you would disclose it to the Members of your Party. (*Interruptions*).

AN HON. MEMBER: He is not disclosing anything.

SHRI M. N. GOVINDAN NAIR: I am not disclosing anything. What I want

[Shri M. N. Govindan Nair]

is that these charges, if any, have to be substantiated, whether against wife or against son-in-law or against daughter-in-law ...

SHRI KANWAR LAL GUPTA: When you demand it, why don't you substantiate?

SHRI M. N. GOVINDAN NAIR: I did not raise any charge against Mr. Kantibhai Desai. I do not know the name of the son-in-law or the wife; I do not know anybody. I have not brought any charges against them. This kind of bringing false charges should end. That is why I said that these two responsible gentlemen must substantiate what they have said in their letters which are very vague. That is my point.

SHRI NIRMAL CHANDRA JAIN: (Seoni): Three things arise out of this discussion. Number one is the legal point; number two is the point of propriety; and number three, as termed by Mr. Chavan, a piece of advice to the ruling Party that it would be better that it discloses the letters. These three things have been raised.

Mr. Chavan had, all through, been a big man. I cannot say anything against him. But the pity is that, today, he is merely in the role of an Adviser, nothing more ..

AN HON. MEMBER: To whom?

SHRI NIRMAL CHANDRA JAIN: To any one; maybe to you, maybe to the Congress Party, maybe to any one; I cannot say. But it would have been much better if he had assumed this role in 1975 and 1976. It is a pity that he did not assume this role at that time.

I would, first, begin with the legal points ...

AN HON. MEMBER: Then come to illegal points.

SHRI NIRMAL CHANDRA JAIN: Do you call them illegal points? I would not call them so. Kindly have some respect for the Leader of the Opposition, Mr. Stephen. I am replying to his arguments. If they are illegal, well, I do not have anything to say.

Kindly see how this position of secrecy arises. Mr. Chavan and Mr. Stephen took one position if something had been done in the Cabinet, then the point of secrecy would have been there; otherwise not. Kindly refer to article 75 of the Constitution...

AN HON. MEMBER: Constitutional expert.

SHRI NIRMAL CHANDRA JAIN: I am not. It was you who raped the Constitution in 1975-76. Are you not ashamed of it?

Kindly see article 75(4). It reads:

"Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

The form of secrecy is in the Third Schedule:

".... I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister."

Those persons who care to understand the implications of this provision would bear with me that even the correspondence which passes between the Home Minister and the Prime Minister is a secret document, and oath of secrecy applies to it. It is not merely a Cabinet decision

बी नमी एल बागड़ी (मकुरा) : अध्यक्ष महोदय, मेरा एक व्यवस्था का प्रश्न है । ये होम मिनिस्टर और प्राइम मिनिस्टर को बोल रहे हैं । होम मिनिस्टर और प्राइम मिनिस्टर एक ही हैं । वो कौन है ? प्राइम मिनिस्टर ही होम मिनिस्टर है और होम मिनिस्टर ही प्राइम मिनिस्टर है । यह गलत भाषण क्यों दे रहे हैं ? एक्स-होम मिनिस्टर कहना चाहिये ।

MR. SPEAKER: As Home Minister.

SHRI NIRMAL CHANDRA JAIN: My contention is that not merely a Cabinet decision but the letters which passed between these two persons are also confidential letters and they are covered under the oath of secrecy.

There are only two rules for papers to be laid on the Table. One is Rule 368 and another is Rule 369. Rule 368 is that if a Minister quotes in the House a despatch or a State paper, then he has to lay the relevant paper before the House. Rule 369 is: "A paper or document to be laid on the Table shall be duly authenticated by the member presenting it."

Now we get it from *Kaul and Shakdhar* as to what can be done in the matter by the House or by the Speaker, leave aside the discretion of the Prime Minister. Chapter XXXIV....

SHRI L. K. DOLEY (Lakhimpur): You are defending a person who has made a victim of himself by his earlier stand in 1974 when he was not Prime Minister which Mr. Unnikrishnan has ably quoted. How can you defend him?

MR. SPEAKER: Please go on, Mr. Jain.

SHRI NIRMAL CHANDRA JAIN: Sir, let us listen to him as he will never get a chance.

What papers can be laid on the Table of the House are given in *Kaul and Shakdher*. The first category is papers which can be laid under the Constitution. The second category is papers which come under a statute and the third category is those that come

under the Rules of Procedure and the fourth is the papers that come under the Directions of the Speaker.

Under the Direction of the Speaker there are several items given, but this is not covered in it. I may further add that at page 830 a clear direction is given, a dictum has been laid down that "a document with the government does not *ipso facto* become public if the document purporting to be a copy thereof, is laid on the Table by a member" or it is published in the press also... The Speaker cannot compel the government to lay the document in their possession on the Table much less to disclose it or to communicate it to anyone-else if the government still classifies it as confidential. Therefore, compulsion cannot be made. Ultimately, therefore, both Mr. Stephen, Mr. Chavan and also Mr. Unnikrishnan had to fall back upon propriety.

Mr. Unnikrishnan said one thing which was a mere repetition of Mr. Stephen's speech. He gave an example and said, 'I do not see Mr. Charan Singh here. He was introduced to us. It is only from the paper that I have got it. Therefore, I have got to know where he is and how he is and whether he has resigned.' These are the things which Mr. Stephen raised while discussing Rule 199 and seeking permission. That permission was not given. Therefore, ultimately he had to say that 'the crux is the reason which led to the resignation of Chaudhry Charan Singh'. This is the propriety which he wants to establish.

Now, this argument was very well enunciated during the discussion when he said that under Rule 199 'I want to seek the explanation of the Government as to why Mr. Charan Singh resigned? No statement came forth from here.' It was the decision of your honour....

AN HON. MEMBER: Your honour?

MR. SPEAKER: It is the force of habit.

SHRI NIRMAL CHANDRA JAIN: The hon. Speaker's decision was that compulsion cannot be made. Now, if compulsion for oral version cannot be made, then the compulsion for laying full documents on the table of the House also cannot be made. Therefore, to say further that I have something here or something there I do not think it is the truth. Mr. Govindan Nair called this argument a hoax. He said there is nothing in it. Whatever he had read in the papers he saw that here also. Still he further wants this. The main allegation is that Mr. Charan Singh has made certain allegations and Shri Morarji Desai has also made certain allegations and therefore, they say that because *inter se* allegations have been made, let them be placed before the House. They may give some tale out of that and make a political motivation because the orders of H.M.V. her master's voice are issued to these people to do everything possible to see that these documents are there so that we can take a political advantage out of it.

My submission, therefore, is that there is absolutely nothing in it and no House can order certain documents to be placed at all which may lead to further probing into and a very very long enquiry resulting into nothing. My submission, therefore is that in view of propriety and in view of constitutionality, these papers should not be laid on the table.

DR. V. A. SEYID MUHAMMAD (Calicut): Mr. Speaker, Sir, there are certain fundamental issues which have been raised by the various speakers who have spoken before me. Those fundamental issues are, as I see them, the very foundation of the Parliamentary democracy and responsible Government. A person is the Prime Minister by reason of the fact that he commands the confidence of this House. When an incident happened, letters are exchanged and allegations are made casting reflection on the probity and integrity of the Prime Minister, this House is very much concerned because of the position of the Prime

Minister by reason of the fact that he commands the confidence of the House. This is the fundamental issue involved in this case. You can go into the subtle arguments and get yourselves diffused in the labyrinthine corridors of rules and regulations. When there is a fundamental issue where the confidence of this House in the Prime Minister is involved, it is futile and unwise to get ourselves entangled in the various subtle rules and regulations.

Sir, before I go into the details of the rules, I will submit that without taking much of the time of the House, rules 368 to 370 are intended not for a situation like this. The only rule which will apply is Rule 389 which vests residuary powers which state that if a situation is not covered by the rules, the Speaker has the residuary power to direct the proceedings of the House according to his discretion so that Rule 389 is the only rule which will be applicable and not the rules which concern with the minister's making a statement and laying some papers on the table. Those rules have nothing to do with this fundamental issue. As I said, the fundamental issue is the confidence of the House in the Prime Minister and in the person as Prime Minister as long as he commands the respect and the confidence of this House.

Sir, here, allegations are made—I am not going into the contents or the merits of the matter. Allegations have been made against each other, the Home Minister and the Prime Minister, which certainly cast a reflection and derogate from the integrity and the probity of both the Ministers concerned and, as the common saying goes which is very well understood by the people 'Caesar's wife must be above suspicion'. But here Caesar no. 1 himself and his son are involved Caesar no. 2 and his wife and other relatives are involved. So, it is all the more reason that they must permit this House to test and examine whether this House should continue the confidence

in the Prime Minister which this House has placed in him and whether the Prime Minister and the other Ministers concerned deserve the confidence of this House. If they are not prepared to do so and if they are wrangling on procedural aspects, on the subtleties of rules and regulations and in the complicated web and mesh of technicalities—as my leader said—it is really derogating from their own position and the confidence that the House has placed in them.

Sir, Article 74 of the Constitution has been quoted in respect of oath of secrecy. The decision of Justice Subba Rao—which you yourself followed—was that as far as the Government servant is concerned committing fraud is not part of his official duty. I would say if the allegations are correct—I do not know as I cannot reveal what has been told to me—then it amounts to protecting the corruption of the son of Caesar no. 1 and protecting the corruption of the wife of Caesar no. 2 and his son-in-law. So, I would request you to rely on rule 389 and take into consideration the fundamental issues involved and ask the Prime Minister and the former Home Minister to come before the House and place the documents before the House. If they have justification and justice on their side they must get the confidence of the House and a re-assertion of the confidence in the leadership of the Prime Minister. That is the only question, that is, the confidence of the House for him to continue as the Prime Minister.

PROF. P. G. MAVALANKAR (Gandhinagar): Mr. Speaker, Sir, I must say at the outset that I find myself at some dis-advantage while speaking on this matter as three of the hon'ble and distinguished colleagues who have spoken before me have seen the correspondence whereas I have not seen it. I am not making any complaint against them. I am only saying that they have an advantage over us in participating in this particular debate.

Mr. Speaker, Sir, at the very outset I must say in this whole matter—although it is delicate and sensitive because it touches the doggedness and established egos of both the highest individuals concerned—the very credibility of the Janata Government is involved. Wherever you go these days you find people have lost certain confidence and faith in the Government. I am sorry for it. I want that faith to be kept intact. I want the credibility to increase rather than decrease. My difficulty is because of what is happening in the Press and public discussion all over the country—especially when most of the things have come up—the credibility of the Government is getting further eroded. So, my first point is that the credibility of the Janata Government is at stage. And if they bring these papers before the House and through the House before the country then at least they should thank themselves that their credibility to that extent is restored. So, we are trying to help them and help us.

Mr Speaker, Sir, I raised last week the point that Government need not stand on technicalities. I know, the Law Minister is an able advocate. Because he is now the Law Minister, he has not ceased to be a good advocate. Therefore, he will make all kinds of legal and technical arguments. He will try to convince us,—although we will not be convinced about the technicality and so on. He is a good lawyer. He will do it. Therefore, what I am saying is this. With great respect, I would put it before him and before you also, Sir, that this is not a matter on which we can stand on any sort of technicality, where higher issues are involved. Technicalities become less important; I am not saying that they are unimportant, but they are less important. There is always a law of relativity in this. Therefore, Sir, I would say, in continuation of what I said last week that, after all that has happened in last week's debate and also today, I am more than reassured and convinced about that.

[Prof. P. G. Mavalankar]

The thing must come here. Otherwise we shall deprive the country of knowing the truth. Now, some colleagues have already seen these letters last Friday, and now they have spoken. But most of us have not seen these letters. That handicap is there. But, look at this report. In today's *Hindustan Times* that is, the 31st of July, 1978 on the back page, you find a very interesting item and it says:

'On stage; Off stage'

—After all, we are all actors. As Shakespeare says, all of us are actors on the stage of this world. So they are also actors. So, he says here 'On stage; off stage'—In that the *Hindustan Times* Correspondent has published this item under the heading 'The correspondence'. It is not 'any correspondence'; it is 'The correspondence'. That is why we want it. Sir. Already in the *Hindustan Times* you will find a despatch—practically everything has come up. And, Sir, two days back, on Saturday, the *Statesman* also gave this on the front page:

'Letters speak of corruption charges'.

—all these around the Resignation Drama!

Mr. Speaker, Sir, let the House know that the Prime Minister is technically right when he says that he demanded the Home Minister's resignation not on these letters, but on a public statement by him about the so-called impotency of Cabinet Ministers. (Interruptions). Sir, my point is, these letters and these corruption charges are hanging around the Resignation Drama, as I said earlier. Let any of the hon. Members of the Janata Party or the Government tell me that these letters and the correspondence and these corruption charges are not involved in the Resignation Drama. Then I am prepared to sit down and withdraw all my words. But the fact is that these corruption charges are there in this Drama of Resignation.

Therefore, Mr. Speaker, the point is that we must also go to the next aspect. You asked some of our colleagues in this House to see the correspondence and the Chairman of the other House also asked some of their members to see this correspondence. But, how is it, that between Saturday and Monday, all these things have come out in the Press? How did it come out? Who did it? That also is a matter of investigation, because I don't know who did it. I am only raising a point. Now that it has come out in bits and also in substance, let it come out fully, not in parts. That is my point.

There is Rule 368 and there are other rules which perhaps the Law Minister may quote more authoritatively than what I could. Now, Mr. Speaker, may I tell you that Rule 368 and Rule 369 and other rules do not come into the picture at all? In fact, Rule 368 quoted on page 177 of the Rules Book clearly and amply protects any Minister of the Government from giving out any document which he or the Government thinks is not in the public interest to disclose.

AN. HON. MEMBER: But who is to decide?

PROF. P. G. MAVALANKAR: But Sir, I ask: Is it not in the public interest to disclose that there is no corruption in higher echelons of the Janata Government? If that is so, it is all the more reason why you should demand that that correspondence must come.

The whole point is,—to put it in a very summarised form:—

No public interest is involved.

No security of State is involved.

No national interest is involved either in holding this correspondence back from Parliament and the nation.

Indeed, Sir, the national interest is that it must be fully brought to light

so that rumour-mongering and gossip-mongering is put an end to for all time, especially because it is hanging round this resignation circus and this resignation drama.

Mr. Speaker, Sir, the hon. Prime Minister says that this is 'a question of confidence'. Well, I accept it. I am not denying that particular aspect of the matter at all. He says: 'How can I disclose something which has been given to me in confidence?'. I entirely agree with him. No Government can function if confidential letters exchanged between Prime Minister and other Ministers are released. But the point is that already when that confidence is eroded, to a large extent, not perhaps by what the Prime Minister did, but by what other unknown sources have already done, by letting out the said letters, where is the confidence left now? Therefore, it must come out. And if there is nothing in all this—as the Prime Minister tells us that there is nothing—why not lay it before the House, on the Table of the House? It will not diminish or tarnish his image, but perhaps he may come out more honourably from this whole episode.

So, to conclude, Sir, when all is said and done, the entire truth must come out before us, all the more so, because, portions of it have already leaked out. Nothing can be kept back from Parliament. Parliament must be told the truth. That is because, *Satyameva Jayathe* is not only the motto of the Government, but also the motto of this Parliament. This is not to say that after the correspondence is laid on the Table of the House, we will begin to say this or that on the merits of the case. I have not seen the correspondence. In any case I do not know what it contains. Or, am I to question the press report of the correspondence? But what will happen on the basis of the merit of the whole correspondence is a separate issue about which we are not bothered at this stage. All that we are bothered is that the credibility of the Janata Government has gone down, and it must be

restored both in their interest and in our interest, in the Parliament's interest, in public interest, in democracy's interests, and the most important point is, in the interest of truth. Therefore, it must be done. I hope they will do it as early as possible.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): Mr. Speaker, Sir, the House has been discussing this afternoon a very important question. Of course, the question has been characterised as one involving a mere technicality by a number of distinguished hon. Members who have spoken this afternoon, but as I would endeavour to show, it is not a mere matter of technicality, but it is really a matter of high principle and why that high principle has not only been laid down but has always been universally accepted. I would endeavour very briefly to indicate that. Before I say so, Mr. Speaker, Sir, having heard several distinguished speeches this afternoon on this topic in which opinions varied because some of the hon. Members spoke and expressed the view that in this particular case, at least the correspondence requires to be laid on the Table of the House, whereas equally distinguished hon. Members expressed the contrary view also that it would be setting a very bad precedent not merely setting a bad precedent and laying down a very bad precedent and a dangerous precedent if the Government was compelled to lay correspondence which was marked confidential and secret, which was exchanged between the Prime Minister and the then Home Minister, on the Table of the House, Mr. Speaker, Sir, when I heard these distinguished speeches, I was reminded of a story. A father had 3 sons. The first was 25 years old.

SHRI K. GOPAL: In this case, only one son.

SHRI SHANTI BHUSHAN: Now, the two younger sons—one was 15 years old and the other was 14 years old—happened to find out where the love letters which the elder son, 25 years

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old, was writing to his beloved. He was not married. Now, both of them wanted to read them. The parents had come to know of it and they tried to explain that it was not proper to read the love letter of the elder son and the main reason which was given by the parents was "look here, when both of you grow up, you will also be writing such letters to other ladies and girls. If you try to read those letters today, what defence will you take when you grow up". Now, curiously one of the younger sons perhaps understood and he said that he would not look into those letters. But the other one was adamant and said: "Look at my face. Do I have any hope to fall in love with anybody?" He was adamant and he said he would not give up his claim. He would like to go through the letters because he did not run the risk of the danger at all.

SHRI K. GOPAL: On 9th December, 1974, did not Mr. Morarji Bhai think of this?

SHRI SHANTI BHUSHAN: I would like to appeal to the distinguished Members on the Opposition benches today that....

MR. SPEAKER: They may have occasions to write love letters.....

SHRI SHANTI BHUSHAN: If not in the near future..... Of course, they have occupied these treasury benches for a long time and may be that for the next fifteen, twenty or twenty-five years, they may not have any chance to occupy that, but let them not lose hope. After all, this great country will go on for a long time and may be after twenty-five or thirty years, they may have a chance to occupy the treasury benches. Let them think of those times and let them think of the precedent which they are trying to create today; that precedent will not only embarrass them, but embarrass the whole nation. (Interruptions) In fact, it was quite clear from the tenor of the various speeches which have been made that each one of the

speakers was fully conscious of the established principle, convention and tradition and that these were based on good reason, but perhaps they were trying to forget the good reasons behind it and they were saying that it was a mere technicality. They were conscious of the fact that this is the position in law that the Government cannot be compelled to lay such secret or confidential correspondence on the Table of the House, but they were trying to characterise it as a mere technicality. Now, what is a technicality? If a rule is not based on sound reasons, on good justification, certainly it can be characterised as a mere technicality. In fact, it was said that something has appeared in the press, some hon. Members have already perused that correspondence, even the Prime Minister was quoted that he said, there was nothing to hide, and there is no reason why he would like to withhold that correspondence; it was said that there is nothing in the contents of that correspondence which might make it necessary in public interest to withhold it from being laid on the Table of the House. In fact, it was also said that now that it has been placed on your Table, Sir, and it has been allowed to be perused by some leaders of different opposition parties and opposition groups, then why should there be any difficulty in the same correspondence being laid on the Table of the House.

SHRI DHIRENDRANATH BASU (Katwa): Why should the other Members be deprived of this? All the Members are equal and have equal rights.

SHRI SHANTI BHUSHAN: I would not be contending that all the Members are not equal; of course, they are equal. Everything that I say will be based on the acceptance of the equality of all the hon. Members of this House.

The main question involved in this is that once a document is laid on the Table of the House, the rules of this august House provide that it becomes public property, it becomes public.

namely it can be published in the whole country, its contents can be divulged. There is, therefore, a vital difference between the correspondence being laid on your Table and being perused under some kind of arrangement by the distinguished leaders of opposition parties or groups or other Members of Parliament and the same correspondence being laid on the Table of the House.

Now, I come to the main principle as to why this principle has always been recognised. In fact, the language of the specific rules leave no manner of any doubt that the decision as to whether it would be in public interest or it would be against the public interest to divulge, to make the contents of a particular document public or not, has been left to the Government. There is very good reason for it. One of the reasons, as one of the distinguished hon. Members referred to is, the oath of secrecy. So far as the members of the Government are concerned, every kind of document can come before them and that is the reason why an oath of secrecy is administered to them that anything which comes in their knowledge, they are not completely free to divulge the contents of every document. That might under certain circumstances be a breach of the oath of their secrecy. This correspondence between the Prime Minister and the Home Minister or for that matter between any two members of the Cabinet should not be made public for the very important reason that the entire functioning of parliamentary democracy is based on the principle of joint responsibility and that is most important for the success of democracy. The most important thing is that nothing should be allowed to come in the way of successful functioning of the Government on the principle of joint responsibility. What does it require? It requires that every Cabinet Minister must be able to correspond with every other Cabinet Minister with the full confidence; and that whatever he is saying whatever he is communicating, he is communicating with the utmost confidence that it might not be made public; that it shall not be made public;

because if this principle is given a go by or once the principle that the Government can be compelled to make public the contents of secret correspondence which the Cabinet Ministers have exchanged between them is accepted, then, in that case, the functioning of each Cabinet Minister would be impaired for the reason that before a particular Cabinet Minister would write down something in a letter to another Cabinet colleague, all the time he would be obsessed by this. He will try to see, well, supposing this letter becomes public and is made public; supposing the Government is compelled to make the contents of this document public, how would it affect me, how would it affect every one of us and so on. Therefore, these inhibitions will arise. These inhibitions must not be there. The main reason why it has been accepted that Cabinet decisions are secret, they cannot be allowed to be divulged, there is nothing....

(Interruptions)

SHRI VAYALAR RAVI (Chirayinkil): Whether this correspondence is on Government business or an allegation of abuse of power is very important.

(Interruptions)

SHRI MALLIKARJUN (Medak): What the hon. Minister is saying is totally illusory. We are not going into the question how many correspondences made between the Cabinet Ministers and which are confidential. We are not going into that. (Interruptions) But, unfortunately, the correspondence has been leaked out and it has been brought to the notice of the Public. Therefore, the question arises about this.

(Interruptions)

MR. SPEAKER: It is not a debate.

(Interruptions)

SHRI MALLIKARJUN: How can I bear....

(Interruptions)

MR. SPEAKER: We are not questioning....

(Interruptions)

SHRI SHANTI BHUSHAN: Now a distinction has sought to be drawn....

SHRI MALLIKARJUN: We are not bothered about it. *(Interruptions)* It has been leaked out.

MR. SPEAKER: Other people have put it very strongly.

SHRI MALLIKARJUN: This is our agony.

MR. SPEAKER: Do not agonise. This is very bad for health.

SHRI SHANTI BHUSHAN: Sir, a distinction has sought to be made between exchange at a Cabinet meeting and the exchanges otherwise between the Ministers outside Cabinet meeting. I appeal to the distinguished hon. Member... *(Interruptions)* Is there any distinction in principle between what is exchanged at a Cabinet meeting and what is exchanged between Ministers without a Cabinet meeting? This distinction has never been made for a very good reason. The same matter may be discussed in a Cabinet meeting; the same matter may be discussed in correspondence between different Ministers and the same kind of unimpaired, unhampered, frankness and freeness....

(Interruptions)

MR. SPEAKER: Do not record.

*(Interruptions)***

MR. SPEAKER: This is the fourth time you are doing it. You are unable to restrain yourself.

SHRI SHANTI BHUSHAN: What I was saying was that the very reasons which require that the discussions in a Cabinet meeting are secret and cannot be compelled to be divulged, the same reasons apply to any communication between different Ministers because it is equally important that a Cabinet Minister should feel completely free to express himself freely, to invite attention of his Cabinet Colleagues to any matter freely without being hin-

dered by the belief or the thought of the fear, that if this letter becomes public, he would not like to write certain things. There may be sensitive matters which Cabinet Ministers would like to write to the Prime Minister or the Home Minister or other Cabinet Ministers; he might feel that if this can be compelled to be made public at one time, he would not like to write and put it on record. He must have that confidence that even if he puts every kind of thing, it will not become public. Otherwise, he may not like to publicly go on the record saying something; there cannot be discussion between Cabinet Ministers. If the principle of joint responsibility has to be maintained then this much confidence every Minister must have: if I write something in confidence to the Prime Minister it will not be made public and it is this principle which the Prime Minister had in mind. In fact it was argued that the privilege can be waived. The distinguished Leader of the Opposition who has come to be known as the most eloquent advocate in this House of bad causes said....

MR. SPEAKER: It requires greater capacity to plead bad causes... *(Interruptions)*

SHRI SHANTI BHUSHAN: The biggest compliment which can be paid to an advocate is that he has the capacity to almost win even the worst case... *(Interruptions)*

SHRI C. M. STEPHEN: I would rather appeal to the Members of the Opposition, particularly here, that the Law Minister is replying to the points raised. We are discussing this matter on a very high plane; therefore arguments must be allowed to be put forth. We contribute nothing by interfering. I would appeal that the Law Minister may be permitted to continue... *(Interruptions)* It is a matter of opinion.

SHRI SHANTI BHUSHAN: I am grateful to the Leader of the Opposition....

AN HON. MEMBER: He must quote the rule and the law while he is giving his arguments.

SHRI SHANTI BHUSHAN: One reason which the Leader of the Opposition gave was that if once even a secret correspondence to which the claim of privilege may be applicable has come out either in part or in full, in a garbled way or otherwise, in that case the privilege of secrecy does not remain; on the other hand public interest requires that the whole of it should be allowed to be made public. If this principle was accepted, I should appeal to the hon. Members to just ponder that in that case what will happen is this. The most sensitive document in which the entire country was interested in maintaining its secrecy, certain persons would say something wrong about that document; they will try to make an attempt to publish it as if they were publishing that document with fantastic contents, very damaging contents; then it would be said that because a garbled or wrong version, etc. had already appeared in the Press therefore public interest now requires that the original document that was entitled to claim privilege must be laid on the Table of the House. It would be a dangerous thing.

SHRI C. M. STEPHEN: May I interrupt the Law Minister? I may explain the position of my argument. The letters may be published or purported to be published. I can understand the Prime Minister remaining quiet or the persons concerned remaining quiet. The letters are published. The Prime Minister makes a statement meaning that, of course this has been published but in a garbled way. If that statement is made, in effect you have published document in substance, confusion is created. If you remain quiet the position is different. The Prime Minister comes out with the statement on the floor of the House saying: what has appeared in Press as letters are substantially those letters but there is garbling about it. Once that is done the question is

whether it could be permitted to keep remaining like that? The question is different from what you say.

16.00 hrs.

SHRI SHANTI BHUSHAN: That is why I was saying that if an inaccurate version of the document is published in the press, I would go to the extent of submitting that even if the correct contents of the documents were published in the press even then it would not be a ground to lay that document on the table of the House. Till an authenticated version has been placed on the table, it would be merely a matter of conjecture. So far as responsible citizens of the country are concerned they would not go by what has been published in the press. All the time they know that many things which appear in the press are sometimes correct, sometimes incorrect, sometimes partly correct and partly incorrect. They will not draw any inference or conclusion on the basis of such documents which appear in an unauthorised manner. Otherwise unauthorised publication of even wrong contents of documents will itself become a ground for infringing the secrecy and for compelling to lay all these important and secret documents on the table of the House.

Another reason the leader of the Opposition gave was that the Prime Minister himself had said that he had no reason to keep back the documents and from that it was sought to be argued that the Prime Minister himself felt that there was no public interest involved in maintaining the secrecy of the document. Now if I may say so with great respect to the distinguished leader of the Opposition perhaps he did not properly infer as to what the Prime Minister had in mind when he made such a statement. What he meant was because certain things had been said which contained allegations of a certain kind and, therefore, perhaps this is not the reason why he wants to keep it secret. He does not mean to keep it secret, because there is some kind of allegation concerning him and concerning

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a member of his family. What he meant to say that it was not on ground of personal factor because that was something said about him or any person related to him that he was interested in keeping back the document. The real reason is as he said this correspondence is between two Cabinet colleagues which is marked secret or confidential, which means that the authors of those letters do not wish to make the contents public. Then in that case it would be violative of a very important matter of high policy and principle and that if this is violated, then in future the Cabinet Ministers would not have confidence in one another. They would not be able to express themselves freely and frankly. They would not be able to write those things. They would not otherwise write those documents and it is necessary that at that level this kind of inhibition should not arise at all.

SHRI K. P. UNNIKRISHNAN: Other members of this House have already seen it. You ask (*Interruptions*). This was the position in 1974. What is the present position?

SHRI SHANTI BHUSHAN: Do not think that I will not deal with your point. In fact you have raised a very important point.

SHRI VAYALAR RAVI: Shri Raj Narain released all the letters to the press. What is your opinion about that?

SHRI SHANTI BHUSHAN: I will deal with your point later on. Let me deal with the other point.

Before I deal with the point raised by Shri Unnikrishnan, I deal with the point raised by the leader, Shri Chavan.

SHRI DHIRENDRANATH BASU: There are certain specific allegations both against Prime Minister's son and

Ex-Home Minister Shri Charan Singh's relatives.

MR. SPEAKER: Is it a cross examination that is going on? The leader of the Opposition made an appeal now.

They heard you with patience. Why do you not have the same patience? You cannot put it in the form of a cross examination. If I want any elucidation, I will have that.

SHRI SHANTI BHUSHAN: Before I deal with the point made by Shri Unnikrishnan, may I first deal with the point first raised by his leader Shri Chavan. The main point made by Shri Chavan was, it is a question of credibility, he felt that he must help the ruling party. He said, "It is not in the interest of the ruling party if this correspondence is not laid on the table of the House." That was probably the reason that he gave and he said, "If some kind of doubt or cloud had arisen, the credibility of the Government is in question, is in danger. And if such doubts are allowed to remain, whether or not there is anything, if any allegation is made by anybody or any material, etc., is given by anybody, then in that case, those who lead the Government and those who lead the House, they will run the risk of not being believed by the country."

I wish one of the leaders of the opposition, Mr. Chavan, had borne this in mind. He appears to believe today that merely because somebody—don't know who—said something etc., therefore the credibility of the Leader of the House and the Leader of the Government would be in danger. (*Interruptions*).

MR. SPEAKER: This is the fifth time you are getting Don't record.

(*Interruptions*)**

SHRI SHANTI BHUSHAN: It is not an old matter. It is only three

**Not recorded.

years back that we had another Prime Minister in the country and it was not merely any gossip or rumour or statement of an irresponsible person, but it was the solemn judgment of a High Court of the land in which a statement of the Prime Minister had not been believed. When the entire country with one voice had said that the credibility of the Government was destroyed and therefore according to the principle which had always been invoked, so long as this doubt or cloud was there, the Prime Minister should step down making room for another person, at that time that was the occasion.... (Interruptions). It would be a curious position for an hon. member to take that when a solemn judgment of the High Court expressed such serious doubts on the credibility of the Leader of the Government.... (Interruptions).

THE MINISTER OF PARLIAMEN-
TARY AFFAIRS AND LABOUR
(SHRI RAVINDRA VARMA): The
Leader of the Opposition spoke for
half an hour. Why can't he be
allowed to place the Government's
point of view?

MR. SPEAKER: Every member
has a right to state his case. It may
be right or wrong. It is not for others
to judge. Ultimately it is my painful
duty to judge. Why do you take my
responsibility?

SHRI SHANTI BHUSHAN: I do
not propose to touch on the sensi-
tiveness of the hon. members. Now
I come to the point which was made
by Shri Unnikrishnan. He quoted
from a speech which the Prime Minis-
ter had made in 1974 and as an hon.
member of this House, he thought that
there was a parallel in what he said
and what is being said from the
opposition benches today. Before
I show that there is absolutely no
parallel, let me say this that if there
has been a parallel, I could have
easily cited a story. We had a judge
in the Allahabad High Court—Mr.
Justice Sen. After he had become
judge, he stepped down and started

practising again. Once when he was
arguing a joint, the judge cited the
decision given by Mr. Sen as a judge
and said, "Mr. Sen, you had said like
this as a judge". Mr. Sen said, "Sen,
has grown saner"!

Here, if I may say so, with the
greatest respect, there is absolutely
no parallel for the reason that as Mr.
Unnikrishnan himself read from the
speech of Mr. Morarji Desai, Shri
Morarji Desai had referred to the
powers and the right of the House
consistent with the needs of secrecy.

SHRI K. P. UNNIKRIISHNAN:
will repeat it, 'no secret papers
Government can be secret from Parlia-
ment'. This is what he said
December, 9.

SHRI SHANTI BHUSHAN: I have
heard you. If you have the patience
I will refer to that; I have made
note of that.

That is what he said. In the same
breath, he referred to the secret
session—secret session where the pro-
ceedings of the session would not be
divulged because in a secret session,
nothing can go out. The idea is not
of protecting the thing from the hon.
Members of the Parliament. The idea
is that things which should not become
public, which is not in the public
interest to be made public, should
not be made public by the expedient
of the papers being laid on the Table
of the House. And that is why, on
that occasion, this method was evolved
which method has been applied this
time so far, namely, that nobody may
get the idea that the Prime
Minister is interested in shielding, he
does not want the leaders of
the opposition parties to have a look
at them. After all, it has been said
that all the Members are equal, then
why only the leaders are allowed.
But then we know that in a represen-
tative democracy, there is the prin-
ciple of people being represented. All
the people of the country are repre-
sented by the hon. Members of the

[Shri Shanti Bhushan]

Parliament in this House. Similarly, different parties and groups are also represented by their leaders. Of course, if they have ceased to have confidence in their leaders, then they are perfectly entitled to break away.

(Interruptions)**

MR. SPEAKER: Mr. Mallikarjun, you are really incorrigible. Do not record.

SHRI SHANTI BHUSHAN: Shri Morarji Desai has been consistent unlike the leaders of the opposition who have chosen to be inconsistent on this occasion. But Shri Morarji Desai has been consistent. He has emphasized the need of secrecy then and now. He is emphasizing the needs of secrecy even today. Let the leaders of the opposition parties be equally consistent what they said then and now, what they say today.

(Interruptions)**

MR. SPEAKER: Do not record.

SHRI SHANTI BHUSHAN: So far as authority is concerned, authority in support of this principle, Kaul & Shakkher has been referred to by the Leader of the Opposition himself. Chapter 34, pages 813 and 831 have been referred to. They contain clear passages containing references to clear precedents as to why it is for the Government alone, because the Government alone knows what is contained in certain documents, and they alone are the custodian of the public interest, to decide as to whether it is in the public interest or not.

May I just refer to Shri Govindan Nair's speech and conclude by saying that he appealed to you, Mr. Speaker, Sir, and said that you have maintained the independence and dignity of the House and he appealed to you to maintain the independence and dignity of the House by taking a particular view. I am reminded of

an accused against whom a case was fully proved and since he had no other arguments, he told the Judge: Mr. Judge, you have been known as an independent Judge. I hope you will prove your independence by acquitting me also.

SHRI K. P. UNNIKRISHNAN: Are you prepared to call a secret session?

श्री राज नारायण (रायबरेली): अध्यक्ष महोदय मैं भी खड़ा हूँ अपने प्वाएंट आफ़ आर्डर पर। (ब्यवधान) हमारा प्वाएंट आफ़ आर्डर है। कृपा कर मुन लीजिए। श्रीमन् मैं यह चाहता हूँ कि प्राप अपनी राय दें और सदन के सम्मानित सदस्य जो यहां बोले हैं, वे भी अपनी राय दें।

"Involvement of relations alleged—P. M. Charan trade charges in letter"

ये तीन लेटर हैं। यह पेट्रियट प्रबुबार है। ये कहां से लीक हुए, यह सीक्रेसी कैसे गयी, इसको हम जानना चाहते हैं।

अध्यक्ष महोदय : प्राप नोटिस दे दीजिए।

श्री राज नारायण : मैं दे रहा हूँ। जरा देखा जाए।

MR. SPEAKER: You please give notice, I will have it examined.

SHRI RAJ NARAIN: Let me have my point.

मैं यह चाहता हूँ कि प्राप भी मुझे और शान्ति भूषण जी भी सुनें।

"Mr. Charan Singh's last letter on the subject was sent on 29th March. In this he reiterated his demand for a probe into the charges against Mr. Kantj Desai, asserting for the first time in his correspondence that he has substantial and sufficient material against him."

अब मैं यह चाहता हूँ कि सदन के सदस्य जब यहां सदन के सम्मानित सदस्य की हैसियत से बैठे हैं तो प्रापने को फीली एक्सप्रेस करें। हमारे यहां श्रुतियों में कहा गया है कि पहले विधान निर्मात्री परिषद् में जाने की कोशिश मत करो और वहां जाओ तो तथ्य और सत्य को पकड़ो, सत्य को असत्य से छेड़ो मत। यह बिल्कुल सही बात शास्त्रों में कही गयी है। लोगल प्रेक्टिसनर्स नजीर खोजते हैं और पोलिटिक्स में नजीर बनाते हैं। वकील नजीर पर चलता है और राजनीतिज्ञ नजीर बनाता है।

**Not recorded.

This is the difference between a politician and a legal practitioner.

मैं जरा यह चाहता हूँ कि इस को अच्छी तरह से हमारे लीगल प्रैक्टिशनर लोग समझ लें। वे समझ लें जिन्होंने काफी इयाति प्राप्त की है। मैं आपको छोटी-छोटी बातें बताता हूँ—

Every problem has got its different contradictions, there are inner contradictions. New conventions can be created by Parliament. Parliament is supreme. Parliament can suspend any rule. Parliament can make any new rule.

शांति भूषण जी को शायद न मालूम हो क्योंकि वे यहाँ नये प्राये हैं। मैं ने शांति भूषण जी की लीगल कण्डलियाँ और कहानियाँ सुनी हैं।

MR. SPEAKER: This is not a point of order.

श्री राज नारायण: शांति भूषण जी किस पर बोले, लीडर आफ दि अपोजीशन किस पर बोले उन्नीकृष्णन् जी, मायाकृष्णन् जी किस पर बोले। इन्होंने कहानियाँ बहुत कही हैं। हम को भी एक कहानी याद आती है। एक नव विवाहिता बहु थी। एक बार उस को पेट में गर्भ (कसीब) हो गया, गड़बड़ी हो गयी।

MR. SPEAKER: In a point of order how can stories come in?

श्री राज नारायण: जब उसको बच्चा पैदा होने को था तो वह अपनी सास से कहने लगी। (ब्यवधान) तुम हम को जगा देना। तो उसकी मदर इन ला ने कहा कि तुम तो खुद ही सब को जगाओगी, तुम्हें कोई क्या जगायेगा। इसलिए मैं चाहूँगा कि शांति भूषणजी यह बात समझ लें और प्रभावशयक रूप से इधर-उधर की बातों को न लें। सत्य पर पर्दा न विरोध पक्ष वाले डालें और इस पक्ष के लोग डालें।

इस बारे में हमारी प्रोपिनियन क्या है, वह हम आपको ब्रकेले में देंगे। (ब्यवधान) वह सदन की प्रायर्टी भी होगी। अगर सदन के लोगों को पार्लियामेन्टरी पद्धति में फेब है तो वह होगा। जब ब्रखबारों में यह चीज प्रकाशित हो गयी है तो होम मिनिस्टर के पास भी सबस्टेंशियल प्रूफ है, सफीशियेन्ट गेटर है।

If there is substantial proof, sufficient material, to prove the charges, then it is the duty of the House to enquire into it. I do not know whether the news which appeared in the press is correct or not. If it is not correct, my point is defeated. If

it is correct, it is my parliamentary duty to say this.

SHRI C. M. STEPHEN: The point is this. There are rules and there are Directions. You have Directions 19, 24, 25 and 35, whereunder the Speaker has directed, not by the rule-making power, that certain of the documents which are not compulsorily to be laid on the Table of the House, must be laid on the Table of the House. Every Direction comes out of certain experience. Therefore, it is a question of jurisdiction and in pursuance of the provisions rule 389 of the Rules of Procedure and Conduct of Business, the Speaker of the Lok Sabha has been issuing directions from time to time. That is why I submitted that these rules are not exhaustive; there are cases in which Directions can be issued and Directions are issued on the basis of certain precedents which are set up. I am only on the limited question of jurisdiction. Therefore, you have got the jurisdiction. Whether you must exercise it or not is a different matter. So, the question of the exercise of the jurisdiction, secrecy of the document, all these cases are accepted.

The only difficulty with the Prime Minister is whether these principles would stand in the way of laying it on the Table of the House. Therefore, taking all these matters into consideration, even short of giving a Direction, you may clarify, if you are satisfied, that the documents are such that these considerations need not stand in the way of laying it on the Table of the House. These are the two ways. One is clarification by your judgment, not an order but a judgement, as to whether these considerations should, in this instance, stand in the way of laying it on the Table of the House.

As far as the jurisdiction is concerned, you have got the jurisdiction—both clarificatory jurisdiction and constructive jurisdiction both you have, and you may kindly exercise those powers.

SHRI VAYALAR RAVI: Sir on point of order. Shri Raj Narain is of the Minister who has signed. Naturally, he is expected to make a statement, which he has done.

MR. SPEAKER: What is his point of order?

SHRI VAYALAR RAVI: Let me finish it. I am raising it under rule 199. Just now, Shri Raj Narain, a former hon. Minister, has made a statement, in which he said that the hon. Minister can substantiate all the allegations.... (Interruptions).

SHRI RAJ NARAIN: I have not said it.

MR. SPEAKER: He has not said that; he has quoted the papers.

SHRI RAJ NARAIN: I said "if the news which appeared in the papers is correct"; I do not know whether it is correct or not and from where the news came to the papers.

MR. SPEAKER: There is no point of order. Now, papers to be laid on the Table.

SHRI RAJ NARAIN: It is the duty of the Speaker....

SHRI L. K. DOLEY: Sir, I have a point of order.

MR. SPEAKER: What is the point of order?

SHRI L. K. DOLEY: My point of order is this. A famous jurist—I have forgotten his name—...

MR. SPEAKER: How is it a point of order?

SHRI L. K. DOLEY: I am coming to the point of order. I can quote the rule also. Law dissolves all contracts which are not for valuable consideration. So, a valuable consideration dissolves all laws. The question here is of such a nature that it over-rides all previous laws...

MR. SPEAKER***: It is not a point of order. Don't record.

PAPERS LAID ON THE TABLE

D.D.A. (PENSION) AMENDMENT RULES, 1978, ACCOUNTS AND REVIEW OF D.D.A. FOR 1975-76 ALONG WITH STATEMENT *re*. REASONS FOR DELAY IN LAYING THEM AND WATER (PREVENTION AND CONTROL OF POLLUTION) AMENDMENT RULES, 1978

THE MINISTER OF WORKS AND HOUSING AND SUPPLY AND REHABILITATION (SHRI SIKANDAR BAKHT): I beg to lay on the Table—

(1) A copy of the Delhi Development Authority (Pension) Amendment Rules, 1978 (Hindi and English versions) published in Notification No. G.S.R. 693 in Gazette of India dated the 27th May, 1978, under section 58 of the Delhi Development Act, 1957. [Placed in Library. See No. LT-2512/78.]

(2) (i) A copy of the Certified Accounts (Hindi and English versions) of the Delhi Development Authority for the year 1975-76 together with the Audit Report thereon, under sub-section (4) of section 25 of the Delhi Development Act, 1957.

(ii) Review by the Government on the Audit Report on the Accounts of the Delhi Development Authority for the year 1975-76.

(iii) A statement (Hindi and English versions) showing reasons for delay in laying the above papers [Placed in Library. See No. LT-2513/78.]

(3) A copy of the water (Prevention and Control of Pollution) Amendment Rules, 1978 (Hindi and English versions) published in Notification No. G.S.R. 377 (E) in Gazette of India dated the 20th July, 1978, under sub-section (3) of section 63 of the Water (Prevention and Control of Pollution) Act, 1974. [Placed in Library. See No. LT-2514/78.]