

and continuity of Government. This was conclusively proved again in the House of Commons that, even if a Minister had no knowledge of these matters, he was responsible. In July, 1954, the U.K. Minister for Agriculture resigned after Crichel Down affair. Even in India, Jawaharlal Nehru, while accepting the resignation of Mr. T. T. Krishnamachari, wrote:

"You very rightly say that, according to our conventions, the Minister has to assume responsibility even though he might have very little knowledge, or none at all, of what others did and was not directly responsible for any of these steps."

In this case I am not alleging that the Minister did direct the payments. But having come to realise the nature of these payments, having known that it was a fraud on the Constitution and Parliament,—and five weeks after it was raised in the House, after careful enquiries,—the meaning has to be understood clearly—he deliberately and wilfully misled the House.

Again, having supported payment under Demand No. 32, Revenue Section, Major Head 261, which includes these payments in March 1977, he colluded with the fraudulent acts of the previous Government on 30th March, 1977 and 12th April, 1978.

So, the Minister is guilty of breach of privilege and contempt of the House. The whole issue is an assault on the Lok Sabha's sovereign jurisdiction over the exchequer, and the Minister is guilty of having committed a fraudulent act.

Apart from this, the entire moral credibility of this Government is at stake on this question. They talk of moral worth. They had moral credibility when they came to power but, on the moral question of misuse of power, on the question of authoritarianism, this Government which white-

washes, which colludes, which provides a smoke-screen for illegal actions—whoever may be responsible for it—has lost its moral credibility. So, my contention is, a *prima facie* case has been made out as it required under Rule 222, and the basis of our Parliamentary democracy will be destroyed if such assault on our rights as well as on the Consolidated Fund of India are allowed or condoned by this House.

MR. SPEAKER: We will continue after 14.05 hrs.

13.05 hrs.

*The Lok Sabha adjourned for Lunch till five minutes past Fourteen of the Clock.*

*The Lok Sabha re-assembled after lunch at five minutes past Fourteen of the Clock.*

[MR. SPEAKER in the Chair]

QUESTION OF PRIVILEGE AGAINST MINISTER OF EXTERNAL AFFAIRS RE. ALLEGED MISLEADING STATEMENT MADE BY HIM ABOUT PAYMENT OF 11 MILLION DOLLARS THROUGH A SWISS BANK—contd.

SHRI KANWAR LAL GUPTA: Sir, I want to express my opinion on the privilege motion moved by Shri Unnikrishnan.

MR. SPEAKER: Shri Vayalar Ravi.

SHRI VAYALAR RAVI (Chirayinkil): Mr. Speaker, I rise to raise an issue of breach of privilege....

MR. SPEAKER: You have given me a list of names to be mentioned just now. This is not allowed; you have given notice just now.

**SHRI VAYALAR RAVI:** Sir, I rise to raise an issue of breach of privilege of the House against the External Affairs Minister, Shri Vajpayee, and the Finance Minister, Shri H. M. Patel. My colleague, Comrade Unnikrishnan, has very ably and skilfully presented the case and I will not repeat whatever he has already said. I would be very brief and would not take much time of the House.

As we know, on March 3, 1978, the Deputy Leader of the Janata Parliamentary Party in Lok Sabha, Shri Shyamnandan Mishra, made a statement under Rule 377 and drew the attention of the Government to an important matter. I will quote what he said:

"...Sometime ago during the previous regime, the Ministry of External Affairs had asked an agency of Government to assist and arrange for the deposit of an amount of 10 to 11 million dollars in a Swiss Bank (probably Union Bank of Switzerland, Geneva) in a numbered account. The order was passed in two instalments by two Secretaries of the Ministry of External Affairs. The money was released by the Reserve Bank of India, Bombay to be deposited in Geneva."

He added:

"The transfer of this money to a numbered account in Switzerland was, it is said, for the benefit of four individuals including Hinduja Bros. and an Indian politician of that time."

Sir, this was a very serious allegation about the misappropriation of Government money. The demand which had been voted for some other purpose was transferred for some other purpose. As everyone know, Shri Vajpayee, Minister for External Affairs, took five weeks to go through this matter and come out with a statement in this House. Naturally, the Minister for

External Affairs should take some time to study this because he came to know of it for the first time. I am underlining that the Minister of External Affairs came to know of this matter for the first time. This is a very important matter and I am underlying this for certain obvious reasons to which I will come later. He took five weeks to study this matter. As Shri Unnikrishnan pointed out, he said: "I have carefully enquired into these payments". On enquiry, he found two things; I would quote his own words which are very relevant. The Minister said "it is correct that two payments of \$5.5 million each were sanctioned on March 15 and October 28, 1976. These payments were in accordance with the terms of a commercial transactions between the Government of India and the Government of Iran negotiated by our Economic Affairs Department under orders of the then Prime Minister." He continued further and said: "Therefore, funds were provided under the head of special discretionary expenditure in the budget of the Ministry of External Affairs." It means funds have been provided for External Affairs; you say they are already provided. This also, has to be looked into.

He further said that there was no illegal payment to any Indian. These are the facts revealed.

One more fact is about the Asaka Traders. He said the Ashoka Traders with which Hinduja family is associated is a Company registered in Iran. These are the two or three matters revealed. These are the matters to be looked into—whether he really stated the facts or concealed facts and tried to mislead the House. That is one point as far as the External Affairs Minister is concerned.

Now, what is a commercial transaction? Mr. Unnikrishnan has ably told us, and I want to ask a pointed

question. If it is a commercial transaction, I know for what it is. In that agreement which was negotiated by the Ministry of Economic Affairs, there is no clause; please lay it on the Table of the House if there is any clause regarding this commission. I say 'no'; there is no such clause added in that agreement that this commission of \$ 1.5 million will be paid. There is no such clause at all. If it is a commercial transaction, there must be one clause about the transaction. There is no such thing. I know it is not there. Please come and....

**THE MINISTER OF EXTERNAL AFFAIRS (SHRI ATAL BIHARI VAJPAYEE):** You know the agreement?

**SHRI VAYALAR RAVI:** If the Minister says 'yes', please let him lay it on the Table of the House. That is all I am asking. (*Interruptions*)

Now, they paid it out of the special discretionary funds. The special discretionary fund is also a matter to be looked into. If you go through this special discretionary fund, it comes under the major head 281 C(3). What is the regular practice? If you go through 1975-76, 1976-77 and 1977-78, there is a limit for the amount. In 1975-76 first it was about 23 crores and the revised estimate is 17.19 crores. It is always the same amount: it has never gone up. In 1976-77 it was about 16.87 crores. So, you can see that the amount is always at the same level because this is meant not for a commercial purpose but for some other purpose: that is why this level is maintained. But after the money has been paid, Mr. H. M. Patel came to the House and moved the supplementary demands. Moving the supplementary demands, he asked for it: so it was a little later. It was not at all voted by this Parliament to be used as a discretionary fund for a commercial transaction.

What he further says is that in the budget provision it is already shown. It is not a budget provision: it is a

revised estimate and a supplementary demand moved by the Finance Minister. The supplementary demand is here. This supplementary demand that he moved is Demand No. 32. He moved it after payment. But what you have said is that it is already provided in the budget. It is not provided. It was paid and the demand was moved by Mr. H. M. Patel a little later.

So, you have said there was a careful examination of the case. How can you say there was careful examination and how can you try to mislead the House? The other important point, Mr. Speaker, is that the money has not been paid Government to Government. I say on authority that the money has been carried to Geneva. The bank refused to accept the draft first. Then who was the person present in Geneva? One of the Members of the Hinduja family, the main man was present in Geneva. After one hour the telephone call came and the money has been remitted later which the Bank has refused. So, this is not a government transaction. If it was a government transaction, then there is no need of any business person to be present to explain to them and negotiate with the bank to accept the draft. This has happened. So, how can you say that it is a transaction between government to government? It is not at all. It is absolutely misleading the House. I do not know whether you have been misled and you mislead the House. It has to be seen....

**SHRI YADVENDRA DUTT (Jaunpur):** The ex-Prime Minister did it.

**SHRI VAYALAR RAVI:** One more thing I have to make. Every detail is on record. There is nothing on telephone or orally. Mr. Unnikrishnan produced some document. Along with that, in the Ministry and in the Cabinet Secretariat every movement is negotiated. Every part is on record. Naturally, it will be under the Prime

[Shri Vayalar Ravi]

Minister. I will not say anything at the moment.

What did Shri H. M. Patel write? It is against the Constitution. It is against the authority of this Parliament and completely it is a fraud committed on Parliament. Here, I have a report of the Public Accounts Committee of 1952-53 presented to Parliament. It appointed a sub-committee headed by Shri Sriman Narayan. It was soon after independence when this country was formulated into a republic. In those days the veteran parliamentarians and the leaders of the nation presented this report. What do they say? It is an interpretation of the Constitution also. They say, I quote, Sir, it was a sub-committee appointed to go into the system of:

"control over expenditure from the Consolidated Fund of India in the manner envisaged by the Constitution *vide* Art. 114(3) and Art. 266(3) which is commonly known as 'Exchequer Control'."

MR. SPEAKER: Mr. Ravi, this is all well-known. These aspects are well-known.

SHRI VAYALAR RAVI: I will not take much of the time. I am only saying and I only want to say how they have committed a fraud and how Mr. H. M. Patel, the Finance Minister has acted against the Constitution. Only I will quote one sentence. This is what the Comptroller General who gave the evidence has clearly said:

"Under a parliamentary system of government, which has been evolved as a result of centuries of conflict between Kings and their subjects, the supreme right of Parliament, as the elected representative of the people, to determine the sums to be voted for expenditure and to tax themselves has been finally established."

This I am only saying to say that the Ministers are expected to know all this. I am not quoting the constitution or anything because the constitutional provisions are also known to you. My contention is that even when the Minister is moving for the Supplementary Demands for a discretionary expenditure which is not at all spent for that purpose and which is spent for a commercial purpose, he hid the fact. When it is a commercial transaction and when money has already been paid, the Finance Minister comes before the House and says....

SHRI VASANT SATHE (Akola): What are you going to do under Art. 225? I do not know.

SHRI VAYALAR RAVI: I am emphasizing this fact. Demand No. 32. It is for the discretionary fund of the External Affairs Ministry and the point is that he has deliberately committed a fraud on the Constitution. I am concluding in one sentence.

I would also say that it is a matter which although the External Affairs Minister knew and with all authority I must say that... (Interruptions) It is a Cabinet responsibility and I can submit to the Speaker that the matter is known to the Prime Minister and the present Prime Minister soon after he has taken over—this is very important—knows that the subject matter is one of collective responsibility. It is a very relevant question. I do not want to go into other facts, which the hon. Members on the other side should be very careful about because Mr. Unnikrishnan has said to whom the money has gone and what is the result of it. It was once done by the Crown Prince and now it has been dealt with by the ruling prince with a difference. I am not going into the details of the technical halt at Tehran by Prime Minister and what happened later on. I am not mentioning that. These are the matters to be looked into because the Prime Minister, knowing this fact after

one month after assuming power was expected to expose those things.\*\*

MR. SPEAKER: Do not record.

SHRI VAYALAR RAVI: It is from one prince to another prince. So, it is a matter not only a privilege, but the right of the Parliament also. Every Member on the other side has to be involved in it. I demand probe into the privilege. There must be a parliamentary probe which can reveal the whole fact and if necessary on this crucial point I appeal to you to call the Attorney General before the House asking him to explain what are the legal matters involved in it.

I demand parliamentary probe in this matter which could reveal the whole fact.

SHRI SHYAMNANDAN MISHRA (Begusarai): Just now I am not referring to my request under 115. I would only be trying to examine the question that has been raised by my hon. friend Shri Unnikrishnan. By no stretch of imagination, as I see it, it can be construed as a question of privilege, because the question of privilege is indeed a very well defined concept and it must have certain definite ingredients in order to establish it. Unless those ingredients are available, one cannot come to the conclusion that there has been a breach of privilege. To this aspect, I will come later.

My hon. friend Shri Unnikrishnan has tried to bring in all kinds of extraneous things although they are no doubt extremely important, and have vital political significance. Indeed this transaction is bound to be considered as one of the high scandals in the history of a parliamentary democracy. It is, indeed, one of the most serious scandals and does require a probe. But my hon. friend was barking up a wrong tree and was visiting the sins of the previous regime, on the present regime. In fact he was giving credit or discredit to himself

or to the leader who led him during the previous regime.

Now, so far as instituting a probe into the excesses of the kind that have been mentioned by my hon. friend is concerned, I would certainly agree to repeat that this does require a very deep probe. In fact since they happened to be the excesses of the emergency—the two payments were made during the period of emergency—one thought that this case would be referred to the Shah Commission. But I do not know whether the Government is still sorting out any of the issues arising out of it that when a perfect case is made, the matter would be forwarded to the Shah Commission. It may also be suggested that the matter has to be gone into by the Public Accounts Committee as the Public Accounts Committee is the proper agency, proper institution where this matter could be thrashed out.

Now coming to the question of privilege. Privilege would require that there is not only a misleading statement but a deliberately misleading statement. Unless an element of deliberateness is there, there cannot be a question of privilege. My hon. friend was suggesting that the hon. Minister of External Affairs was concealing something, he was also misleading the House, he was deliberately and wilfully....

HON. MEMBERS: Wilfully.

SHRI SHYAMNANDAN MISHRA: He had used three words meaning the same thing wilfully, knowingly, deliberately. Yes, he used these three words.

SHRI K. P. UNNIKRIISHNAN: You said on 3rd March (*Interruptions*).

SHRI SHYAMNANDAN MISHRA: What was he concealing? There may be many facts on the file. But they may not be relevant to the points that had been raised.

So, he was not under any obligation to reveal everything that happens to be on the file. My hon. friend had not

\*\*Not recorded.

[Shri Shyamnandan Mishra]

brought in any new information in addition to what I had given in the House. Does he mean to suggest that he should have brought in all the dramatic personal who were engaged in this drama? Does he mean to suggest that all the accomplices in this crime—if that can be called so—should have been mentioned by the hon. Minister of External Affairs? I think that was not the purpose.

**SHRI K. P. UNNIKRISHNAN:**  
If you were satisfied you would not have brought it.

**SHRI SHYAMNANDAN MISHRA:**  
I will take up my case under Rule 115 later. That is still pending with the hon. Speaker.

**SHRI K. P. UNNIKRISHNAN:**  
You cannot have it both ways, Shyam Babu.

**SHRI SHYAMNANDAN MISHRA:**  
My hon. friend has said that the hon. Minister was in possession of all the documents. He also stressed the fact that he had carefully gone into all the documents and then came before the House to make the statement.

Now all the documents mean what? If there is a separate discussion on the subject in this House, the hon. Minister would be under an obligation to come with all the facts that are connected with the document. Now that this question has been raised, probably the demand would also be made for a full-fledged discussion on this subject. But on a narrow, technical issue of privilege, he may not feel obliged to come out with full facts. That is, however, a different thing altogether.

The issue of privilege means that there has to be an offence established. And an offence can be established only when the Minister is considered to be deliberately misleading the House. Although it violated all the norms of financial propriety and so on, the hon. Minister had said that it was not an

illegal transaction—probably that was the thing on which the hon'ble Member has tried to build up a case of privilege.

May I suggest that it is a matter of interpretation? Whether it is an illegal transaction or not, is a question of interpretation. No one can impute any motive to the Minister. The Minister has placed all the salient facts, all the important facts, with regard to this case. He did say that the payment had been sanctioned and paid out of the discretionary fund under the Ministry of External Affairs. Secondly, these payments were connected with a commercial transaction. If he had chosen to hide the real nature of the deal, he would not have told you that it was in connection with a commercial transaction, although the appropriation had been made from the discretionary fund of the Ministry of External Affairs. Apparently there is an incongruity between the two and if the Minister wanted to hide the incongruity between the two, namely, that after the appropriation was made for one purpose, it was diverted to some other purpose, then, he might have taken the plea of national interest or public interest not to reveal any information to the House. Let the House be clear about the matter; if the Minister had come with the plea of public interest and said that he would not reveal anything about it, then, the Minister could have been accused of covering up the whole thing. Instead the Minister had said that appropriation was made from the discretionary fund.

**SHRI K. P. UNNIKRISHNAN:**  
I requested, let the whole thing be laid on the Table of the House.

**SHRI SHYAMNANDAN MISHRA:**  
The Minister says, Mr. Speaker, that it was in connection with a commercial transaction, in accordance with the terms of that commercial transaction.

**MR. SPEAKER:** Kindly be brief.

**SHRI SHYAMNANDAN MISHRA:** These are very important matters. Don't you think that if the Minister had taken the plea that he would not reveal anything, then there was a full stop to the whole matter and the House could not be seized of it?

So, what I am suggesting is, that as the Minister has made it clear, it is for the House to draw its own conclusions as to how such a transaction could have been made earlier. Therefore, to my mind, the Minister had made no attempt at misleading the House or at covering up the whole thing. Since there was a small, brief, cryptic statement, it may not be covering all the points; but thereby it cannot be as covering up a wrong transaction that was entered into by the previous regime.

So, I would submit that there is no case for privilege; as a case of privilege, it does not stand the scrutiny of the test. My hon. friend mentioned about two cases in this connection— one of Crichton Down and the other of Profumo. He was suggesting that the constructive responsibility lies upon the Minister. Of course, the constructive responsibility lies upon a Minister, but for the actions taken in his regime. The constructive responsibility of the hon. Minister of External Affairs would not extend to the regime which had preceded him. But it is this strange construction that the hon. Member placed upon the constructive responsibility of the Minister?

So, even that way, the hon. Minister of External Affairs is not guilty of any breach of privilege.

**SHRI VAYALAR RAVI:** There is Tulmohan Ram's case.

**MR. SPEAKER:** Mr. Kanwar Lal Gupta.

श्री अंबर प्रसाद गुप्त (दिल्ली सदस्य) : अध्यक्ष महोदय, मैं भी मित्र जी का समर्थन करता हूँ। जहाँ तक मित्रजी का कथन है, इस केस में मित्रजी को कोई कलह नहीं है। जिसने भी पेट्रोलियम केन्द्र

वे, वे मिनिस्टर साहब ने सदन के सामने पूरे रकब दिये हैं। इसमें न तो कोई डेपेंडीबल प्रोब्लम है और न कोई बिसकुल एक्शन है। माननीय सदन में मिनिस्टर के स्टेटमेंट से कोट कर के बातया कि यह बहुत ही गंभीर मामला है लेकिन मिनिस्टर साहब ने इसमें कुछ छिपाया नहीं है। मुझे लगता है कि श्री उर्जीकुण्डलन इसको गंभीर मामला बताते हुए भी जहाँ हिट करना चाहते हैं, वहाँ ने पोलिटिकल कम्पसशन की वजह से हिट नहीं कर रहे हैं, वह नाम से नहीं से रहे हैं। उनका लक्ष्य कुछ और है और वे निम्नाना कही गया रहे हैं।

जैसा कि श्री मिश्र जी ने कहा, मंत्री महोदय अगर चाहते तो इस सारी बातों को नहीं कहते क्योंकि नियम 377 के अन्तर्गत में वे इस मामले को छिपाने की रकब सकते थे लेकिन फिर भी उन्होंने इस के सम्बन्ध में बयान दिया। मुझे यह एक ऐसा मामला है इसमें सारी बातें नहीं कही जा सकती थीं। लेकिन मैं मंत्री महोदय से यह जानना चाहता कि क्या यह बात सही है कि जिस दिन इरान में तेल के बारे में हमारे एम्बेसडर ने समझौता किया, उस समय माननीय सदस्य के लीडर, जो उस समय एक्सटर्नल अफेयर्स मिनिस्टर थे, इरान में मौजूद थे? इसको मंत्री महोदय कंफर्म करें। मैं यह भी जानना चाहता कि क्या यह सही नहीं है कि मिश्रि गांधी ने स्वयं एक्सटर्नल अफेयर्स के सेक्रेटरी को लेटर लिखा कि यह वेंचर कर लिया जाए? क्या यह उनका लिखा हुआ लेटर नहीं है? ये तो नाम लेना नहीं चाहते हैं, ये तो कहीं और हिट करना चाहते हैं। ये सारे तथ्य मेरे पास तो 6 महीने पहले धार्ये के और मुझे मालूम हैं। उनको बाजार पर मैं कह सकता हूँ कि यह मामला बहुत गंभीर है और बिसावक मामला है। क्या यह बात भी सही नहीं है कि कर्नाटियल डीप्लस के साथ एक्सटर्नल अफेयर्स मिनिस्टर का कोई तालुक नहीं है? यह मामला फारेन ट्रेड में जाता चाहिए था। यह वेंचर फारेन ट्रेड से होना चाहिए था और उसी मिनिस्टर को डील करना चाहिए था। रा के हेड में पैसा धाना या उससे जाना कहां तक डीक है? एक्सटर्नल अफेयर्स मिनिस्टर का फोरेन ट्रेड में डील करना एक बहुत ही गंभीर मामला है। जो प्रोसीजर भी एक्ट किया गया वह अग्रप्रोसीजिंग का अग्रपेरेन्स था। इसमें मैं सहमत हूँ। इतनी ही बात नहीं है। इटैलीयंस का धारनी जाता है और पैसा लाया है। (अध्वक्षण) बार बार पूछ रहे हैं कि पैसा कहा गया। इनको क्या पता है कहा गया? धारको मालूम है इसका। धार यहाँ से तब। धार नाम लेना नहीं चाहते हैं। जहाँ बाकी सारा पैसा गया वहाँ यह भी गया है। इनको मालूम नहीं है। यह मालूम धारको है। उसी पार्टी में धार पहले था। पोलिटिकल कम्पसशन की वजह से धार दो दिन पहले भी-काफेस मोहान साए थे इस सरकार के विभाजक। इसलिए धार इतिहास गांधी का नाम नहीं लेना चाहते हैं, नहीं तो धारको सब मालूम है।

माननीय रवि श्री माननीय उर्जीकुण्डलन साहब ने कहा है कि मामला बहुत गंभीर है और

[श्री कंवर लाल गुप्ता]

विज्ञापक भी है। मैं कहना चाहता हूँ कि सारा केस सस्पेंड है, किसी है और इसकी इनकवायरी होनी चाहिए। लेकिन आपने कहा कि कंटेम्प्टी थाक गवर्नमेंट रहती है। श्रीमती इंदिरा गांधी ने एबरजेंसी के बिना मैं जो कुछ किया उस पर बाहू कमिशन बैठा। उसकी रिपोर्ट आ गई है। मुझे मालूम नहीं सरकार क्या कार्रवाई करने जा रही है। क्या वह सब बीज भी मोरारजी देसाई के मल्ले मड़ी जानी चाहिए अगर कंटेम्प्टी थाक गवर्नमेंट है तो ? कंटेम्प्टी थाक प्रिवलेज का जहाँ तक सवाल है मिनिस्टर जो होता है वह अपने मंत्रालय के लिए जिम्मेदार होता है। अगर कहीं बिजकुल, बेसोबेट एटैम्प्ट होती है हाउस को इनफॉर करने की या किसी बीज को छिपाने की तब आप प्रिवलेज ला सकते हैं। लेकिन इस में तो कोई इस तरह की बात नहीं है। आपने कहा है कि सप्लीमेंटरी ग्रांट फंडेल माहव जाए। यापकी सरकार पहले सब्सिडी कर चुकी है।

SHRI K. P. UNNIKRISHNAN: It is only about him. That is a separate issue.

SHRI KANWAR LAL GUPTA: You have not touched Patel. Alright, I will drop him. करोड़ों रुपये की माँग लगी गई थी जिन का वेपेट पहली सरकार ने कर दिया था। अब वह लौकिक था या इस्लीमिक, मालूम था य इन्फॉरल, उसकी क्वेरीफाई तो करना ही पड़ेगा। जो भी था.....

SHRI VAYALAR RAVI: Why do you bring in other issues?

SHRI KANWAR LAL GUPTA: I totally agree with you that the whole transaction was a fraud and it needs to be probed. मैं कन्ट्रोल एक्जक्यूटिव मिनिस्टर के माँग करता हूँ कि वह सारे तथ्य जितने भी उनके पास हैं सबन के सामने रखें। यह सस्पेंडेशन और किसी मामला है। इसकी एक इंवीस्टिगेशन इनकवायरी वह करारें। मैं इन से भी माँग करता हूँ कि वह अपने इस मोशन को वापिस ले लें क्योंकि इस में कोई प्रिवलेज का सवाल नहीं है। मैंने आपका काम कर दिया है। जहाँ आप लिट करना चाहते थे वहाँ मांकी बराबर पहुँच गई है।

इन मामलों के साथ मैं कहना चाहता हूँ कि इस में कोई प्रिवलेज नहीं है और यह बिजकुल बकार की बात है, हालाँकि मामला गम्भीर है।

SHRI VASANT SATHE (Akola): Mr. Speaker, Sir, I think you are real-

ly laying down a very dangerous precedent because if you see Rule 222 and then come to Rule 225—first I quote Rule 225:

"The Speaker, if he gives consent under rule 222 and holds that the matter proposed to be discussed is in order, shall call the member concerned, who shall rise in his place and, while asking for leave to raise the question of privilege, make a short statement thereto."

The leave is ultimately to be asked from the House for sending the matter to the Privilege Committee or for deciding it here. But the consent on admissibility is to be given by you. Now, I really do not understand if this practice which was resorted to earlier also of discussing the question of admissibility which is solely under your jurisdiction, is being followed. Now, the moment you decide to discuss in the House, the question of admissibility, then many a matter which would come on merits—it is a line which is so thin that you can draw it anywhere—will automatically be referred to while he makes a submission. After that when the whole thing has actually come before the House, you cannot refuse to show it because it becomes public not only in the House but it is the public property; it will go to the country and to the whole world. You cannot stop it. Therefore, what is the meaning of your consent being given later on or refusing consent. While the whole matter has actually come before the House, it becomes fait accompli and then your consent becomes infructuous, redundant. Therefore, if the consent is to be given, then under Rule 222, it will mean that the consent to be given actually is by the House and not by the Speaker. Therefore, when the rule 222 was originally framed, the idea was to refer all the records that you want to. This is not the interpretation of the rules. Earlier also I had given my suggestion. I have been consistent on this point. I have told Mr. Dhillon that this was a wrong method



to allow a discussion on this in this House. Then what are you for today? (*Interruptions*) Because it is not on a question of interpretation of rules that you are seeking advice. For the interpretation of rules, you can ask the advice of the Members because rules have been framed by the House, but when certain power or privilege is exclusively given to you, I think it is wholly under your jurisdiction. You could have called the Minister and said "whatever records you want, you could have asked the Member to show to you". Then you could satisfy yourself whether there is a case for privilege motion and then *prima facie* comes on the question of admissibility and given your consent. Then rest of the rules follow. But unfortunately, you are yourself falling in line with the precedent created, with the result that now having done it, I believe there is no escape from the fact that a *prima facie* case of whatever has been shown is there and what are you now going to do? And regarding refusal of consent, I do not really know. Now, a full debate must take place because you cannot stop it at this time. You will have to hear the other side and the Minister and all the facts that are being raised here. Now, this should be shown to the House only. Then we can arrive at something. Otherwise it will have gone only half-way, partially and one-sided. Now, you will decide the question of consent. My point is that a full-fledged debate should take place on this motion here and now and let the Minister come forward with all the facts because basically you have made a mistake of allowing a discussion here, in this House, which is completely wrong under Rule 222. It should not have been allowed.

**SHRI M. N. GOVINDAN NAIR** (*Trivandrum*): This is the last day of our session....

(*Interruptions*)\*\*

**MR. SPEAKER**, Don't record.

\*\*Not recorded.

**SHRI M. N. GOVINDAN NAIR**: Tomorrow we are having a joint session and today is the last day of the session. For the shock we received by the revelations made by the hon. Member, I had to drink five cups of water to absorb that. Then on coming here, when I found the Members on that side opposing reference of this to the Privileges Committee, I had another great shock. As had already been pointed out by my hon. friend, a *prima facie* case has already been established and there is no escape from referring it to the Privileges Committee. Many extraneous factors were brought in. I feel that the role of sons and sons-in-law in Indian politics has to be gone into by an expert committee from this Parliament or an out side body. That is all I have to say about all these remarks. As far as this question is concerned, there is no shadow of doubt I believe, not even in your mind, that the case has been well established and it should be referred to the Privileges Committee.

**विदेश बंधी (श्री जलज विहारी) बाबूजी** : प्रत्यक्ष महादय, मैं पहले कुछ हिन्दी में श्रीर बाद में अंग्रेजी में कहूँगा ।

प्रत्यक्ष महादय, कटघरे में लड़ा हूँ, लेकिन गुनाहगार नहीं हूँ ।

पिछले बीस साल मैं उय तरफ बैठ कर इधर बैठने वालों के बिरुद्ध विशेषाधिकार-भंग के प्रस्ताव लाया करता था । चर्ही की मुई पूरा घुम गई है । जिन के बिरुद्ध विशेषाधिकार के उल्लंघन के प्रस्ताव आते थे, वे आज मे प्रस्ताव ला रहे हैं, और बिना हमला करने की श्रावत थी, आज उन्हें हमले से बचाव करना पड़ रहा है ।

मैं यह स्पष्ट कर देना चाहता हूँ कि मैंने किसी विशेषाधिकार का उल्लंघन नहीं किया, मैंने जान-बूझ कर किसी तथ्य को नहीं छिपाया, मैंने सदन की गुमराह करने की कोई कोशिश नहीं की ।

यह सदन मेरे लिए लोकतन्त्र का मंदिर है । यत बीस वर्षों से मैंने इस सदन की मर्यादा का पालन करने का प्रयत्न किया है । जब मैं प्रतिपक्ष में बैसता था, तब भी मेरा यह मत था कि यह सदन ठीक इंस से बसे, और यहाँ वाद-विवाद के आसार पर, बिना नीयत पर आरोप किए हुए, निर्णय लिए जायें—

[श्री अटल बिहारी वाजपेयी]

घर भी मेरा यह सब था और घर भी मेरा नहीं मत है। इस लिए मैं सदन के सामने सारे तथ्य न रख और जानबूझ कर सतत बाँटें करूँ, ऐसा कभी नहीं हो सकता है। जिस दिन ऐसा करने का मौका आयेगा, मैं मंजी तो रूहगा ही नहीं, मैं सदन के बाहर भी चला जाऊंगा।

श्री उन्नीकृष्णन ने ठीक कहा है कि यह मामला हमारे मित्त, श्री स्वामनन्दन मिश्र, ने नियम 377 के अन्तर्गत उठाया था। घर न चाहता, तो मैं उस पर चुप रह सकता था। लेकिन मैं चुप नहीं रहा, क्योंकि मैं कुछ छिपाना नहीं चाहता। जो तथ्य मेरे सामने हैं, मैं उस पर क्या झकना नहीं चाहता। मैं तो तथ्यों को बाहर लाने के लिए उत्सुक हूँ। मैं उन बेहरी को बेनकाब करना चाहता हूँ, जो इस कांड के पीछे छिपे हुए हैं। जितना प्रचलन जितना परिधम, जितना कष्ट, जितनी प्रतिभा हमारे मित्त, श्री उन्नीकृष्णन, ने इस विशेषाधिकार के प्रस्ताव का सत्तावा तैयार करने में खर्च की है, उतनी अगर वह हमारी मदद करने में लगते, तो शायद...

**SHRI M. N. GOVINDAN NAIR:**  
Since you did not place those facts, Shri Unnikrishnan has placed them before us.

**SHRI ATAL BIHARI VAJPAYEE:**  
His whole speech is based on my statement.

**SHRI M. N. GOVINDAN NAIR:** You could have told us what Mr. Unnikrishnan placed.

**SHRI ATAL BIHARI VAJPAYEE:**  
His whole speech is based on my statement.

उन्होंने कोई नई बात नहीं कही। जब स्वामनन्दन ने मामला उठाया...

**SHRI K. P. UNNIKISHNAN:** Your statement is the genesis of the privilege motion.

श्री अटल बिहारी वाजपेयी : इसीलिए आप की विधिलेख का मामला शान्त पड़ रहा है, मैं जानता हूँ, नहीं तो आप यह मामला उठा ही नहीं सकते थे।

श्री उन्नीकृष्णन यह भी कहते हैं कि पांच रुपये काज बनाव दिया और यह भी कहते हैं कि अगर मंजी चाहते तो जमानत न देते। मैंने जमानत देने का तय किया, पांच रुपये के काज तय किया, इस बात के स्पष्ट है कि मैंने इस मामले की जानकारी प्राप्त करने की कोशिश की। जो तथ्य मेरे सामने

था वह मैंने सदन के सामने रख दिए। मैंने कुछ तथ्य छिपाए नहीं। मैंने इस बात की पुष्टि की कि विदेश मंत्रालय के डिप्लोमैटरी कंड के विक्टरवॉरेंट के बैंक में दो किस्तों में 5.5 मिलियन डॉलर जमा किए गए, प्रथम प्रथम किस्तों में। . . . . (स्वभावात्) . . . इसीलिए मैंने किस्तों में कहा।

एक माननीय सदस्य : क्यों किया ?

श्री अटल बिहारी वाजपेयी : काय, मैं इस सवाल का जवाब दे सकता।

मैंने हमारे मित्त उन्नीकृष्णन का कहना यह है कि मैंने कहा कि बैंक है, डिमांड ड्राफ्ट नहीं है। उन्होंने कहा भी कि डिमांड ड्राफ्ट है, बैंक नहीं है। मेरा निवेदन है कि सेंट्रल ट्रेजरी कंसल्टांट गवर्नमेंट प्रायः इंडिया के रुम 80 में यह है, मैं उस को कांट कर रहा हूँ :

"Demand Drafts shall not be distinguished for the purpose of these Rules."

मैं कुछ संशेपी में कहना चाहूँगा।

With regard to this motion of Privilege, may I first state what I think is undeniable and common ground? These payments were authorised by the previous Government and this Government was in no way involved with them. There were undoubtedly some unorthodox aspects in these transactions when 11 million dollars in two instalments were paid in Switzerland from special Discretionary Funds and not by normal bank or book transfers. It is also true that these payments of 5.5 million dollars each were sanctioned by the Ministry of External Affairs in 1976, when I was not here, . . . .

**AN HON. MEMBER:** When you were in jail.

**SHRI ATAL BIHARI VAJPAYEE:**  
Yes, I was in jail.

. . . . although the transaction was negotiated by an officer of the Finance Ministry, Economic Affairs Department. But the rationale and its unusual features could be explained exhaustively only by the Government of the day. There is no reasonable ground for any complaint, constitutional, legal or of any other kind against me or my colleague, the Finance Minister.

When the question was raised, careful examination was made to ascertain facts from papers available in piecing together all the relevant details particularly on the rationale of adopting an unorthodox modality of the payments. Our enquiries have been greatly handicapped because the officer who conducted the negotiations has unfortunately passed away. Since I made the last statement to the House on 12th April 1978, we have continued to make further enquiries on facts which may throw light on these payments. Some officers who now happen to be serving abroad and who were at that time aware of the relevant transactions, have provided some relevant information. I have no hesitation in sharing as much information as is now available to me on the points raised by the hon. Members.

According to circumstantial evidence gathered, the payments of 11 million dollars made in two instalments of 5.5 million dollars each in Switzerland, related to a loan Agreement with Iran, signed in November, 1975, for 250 million dollars. The text of the loan agreement is available in the Economic Affairs Department and the facts relating to it were publicly disclosed at the time. The Agreement was signed by the then Ambassador of India in Iran on behalf of the State Bank of India and the proceeds were deposited by the State Bank in the account of the Government of India. This was a soft loan carrying an interest rate of 2.5 per cent per annum together with a management fee of 0.5 per cent per annum and was repayable over a period of 12 years with grace period of six years. The loan tranches were received in two instalments and correspondingly the payments were made in Switzerland after deposits were received. (Interruptions). I am not yielding.

The attempts to negotiate such a loan started in July, 1974. This was at a time when, following a steep hike in oil prices, India was faced with a very severe balance of payments pro-

blem. Government was reluctant to make additional drawings from the IMF because of the stiffer conditions attached to drawings from IMF in higher credit tranches. Even taking into account the payments of 11 million dollars, the terms of repayment were decisively advantageous for India, considering the totality of economic circumstances prevailing at the time.

The Indian Ambassador signed the agreement in accordance with Article 299 which provides the necessary authorisation to do so for and on behalf of the President of India.

As regards the specific provisions in the Demands for Grant, it may be mentioned that a sum of Rs. 23.69 crores were voted in 1975-76 under Demand No. 30—Major Head 281-B—External Affairs—B3—Special Diplomatic Expenditure-B (3) (1)—Discretionary Expenditure. This included provision for payment of US \$ 5.5 million which was made in that year. Similarly, in the year 1976-77 a sum of Rs. 16.8774 crores was voted under Demand No. 32—Major Head 261-C—External Affairs—C3—Special Diplomatic Expenditure—C3 (1)—Discretionary Expenditure. The overall provision under the Head as augmented through the Supplementary Grant obtained in March, 1977 covered the payment of US \$ 5.5 million in the financial year 1976-77. From all evidence available, the payments of 11 million dollars in two instalments of 5.5 million each was in full payment of the transaction.

The House will understand that payments of this nature cannot be effected through book adjustments. I may also clarify that under the Treasury Rules of the Government of India, as I have already made it clear, the terms 'cheques' and 'demand drafts' are synonymous.

Further, in order to maintain the confidentiality of the transaction and presumably the nature of understanding reached—about which I do

[Shri Atal Bihari Vajpayee]

not know—the payments had to be made in Switzerland. I surmise that the Government of the day felt that the confidentiality of a transaction could best be maintained by payments being made out of the Discretionary Grant for which a provision existed in the budget of the Ministry of External Affairs. I may add, this is the only transaction of this nature for which financial provision was made in the Discretionary Expenditure of the Ministry of External Affairs.

**SHRI SHYAMNANDAN MISHRA:** Was it done under the orders of the then External Affairs Minister or under the orders of the then Prime Minister?

15 hrs.

**SHRI ATAL BIHARI VAJPAYEE:** I have already stated in my last statement that the expenditure was authorised by the then Prime Minister.

**SHRI SHYAMNANDAN MISHRA:** He was not in the picture.

**SHRI ATAL BIHARI VAJPAYEE:** Mr. Speaker, having inherited good relations with Iran, our Government has sought to strengthen them purposefully as we are convinced that they were to our mutual advantage. We do not wish to risk damage to this relationship, and I am happy my friend, Mr. Unnikrishnan also concurred with this view, or allow any unintended misunderstandings to come between us and Iran. On the basis of mutual confidence and mutual trust, we shall pursue the quest for economic cooperation between our countries as, we believe, it can be a factor in promoting cooperation and stability in the entire South Asian region.

Mr. Speaker, I would like to reiterate that there was never any intention nor is there now to suppress information or mislead the House. Indeed, as far as the present Government is concerned, there could be

no possible reason to do so. In the light of these facts, I would submit respectfully that no motion of privilege against me or my colleague, the Finance Minister, is warranted.

**SHRI KANWAR LAL GUPTA:** Was Mr. Chavan present on the day when the Agreement was signed?

**SHRI VAYALAR RAVI:** The hon. Minister has cleverly misled the House.

**SHRI K. P. UNNIKRISHNAN:** Sir, I rise on a point of order. The hon. Minister has tried to skip over all the issues raised by me. The one single question I had raised, which is fundamental to the consideration of the whole issue of privilege is whether there was a clause in the alleged agreement regarding payment of \$ 11 million in Switzerland. Would he place that agreement on the Table of this House so that the House and yourself can be satisfied? And what is otherwise the nature of this mysterious payment? He has not answered this point. My whole case is built on that and he has not said a word about it.

**MR. SPEAKER:** In the latter portion he has answered.

**SHRI K. P. UNNIKRISHNAN:** No, he has not said a word about it.

**SHRI VAYALAR RAVI:** One more point. The hon. Minister in his statement clubbed the budgetary provisions and the supplementary demands together. But the payment was made from the supplementary demands. It is not at all from the original Budget. He is clubbing both together. It is a clever way of misleading the House.

**SHRI ATAL BIHARI VAJPAYEE:** A little while ago they were saying that I made a determined bid to mislead the House and now, Mr. Vayalar Ravi says that I am cleverly trying to mislead the House.

(Interruptions)

**MR. SPEAKER:** Orders reserved. No further discussion. I am not going to hear anything more. Now, Papers Laid on the Table.

15.04 hrs.

**PAPERS LAID ON THE TABLE**

**INTERIM REPORTS OF SHAH COMMISSION AND CONNECTED PAPERS**

**THE PRIME MINISTER (SHRI MORARJI DESAI):** I beg to lay on the Table:—

(1) A copy each of the following papers under sub-section (4) of section 3 of the Commissions of Inquiry Act, 1952:—

(i) Interim Report I dated the 11th March, 1978 (Hindi and English versions) and Interim Report II dated the 26th April, 1978 of Shah Commission of Inquiry set up to inquire into the misuse of authority, excesses and malpractices committed during the Emergency.

(ii) Memorandum of the Action taken by the Government on the above Reports.

(2) A statement (Hindi and English versions) explaining reasons for not laying simultaneously the Hindi versions of Interim Report II and the Memorandum of Action taken.

[Placed in Library. See No. LT-2338/78].

**PROF. P. G. MAVALANKAR (Gandhinagar):** Mr. Speaker, Sir, this is an important Report...

(Interruptions)

**MR. SPEAKER:** Do not record.

**PROF. P. G. MAVALANKAR:\*\*\***

**MR. SPEAKER:** Mr. Mavalankar, only two persons have given notice.

(Interruptions)

**SHRI JYOTIRMOY BOSU (Diamond Harbour):** We have been waiting for these reports. These reports are historic reports. We want to know from the Prime Minister as to what action Government proposes to take against persons who have been found to have done mischief... (Interruptions) against the interests of the entire country. We have not seen... (Interruptions) Let the hon. Prime Minister assure the House...

**MR. SPEAKER:** No, no. It will open up a debate. I am not allowing it. Mr. Bosu. I have heard you.

**SHRI HARI VISHNU KAMATH (Hoshangabad):** In view of the fact that this is perhaps the most important constitutional, political and legal document that has been laid on the Table since the advent of the Janata Party to power last year, may I request you and the Prime Minister—and if the House also agrees—to extend the session by a day at least, so as to enable the House to have a full discussion thereon? Otherwise, during the next 3 months' interregnum, that is, between the two sessions, action will have been taken...

**SHRI JYOTIRMOY BOSU:** One day is not enough.

**SHRI HARI VISHNU KAMATH:** I said, at least one day, so that the House will have occasion to discuss it before Government initiates action. I am sure Government is not allergic to discussion in the House. Therefore, I would request the Prime Minister and yourself to decide today that the House will sit for one more day at least, to have a discussion and I am sure the Prime Minister will assure the House that he and his Government are not allergic to a discussion

\*\*\*Not recorded.