

[Shri Atal Bihari Vajpayee]

be achieved when there is a genuine political will to cooperate. I have come back confident about the prospects that lie ahead and have no doubt that our cooperation with Tanzania, and hopefully with other developing countries, will continue to grow from strength to strength.

May I conclude by expressing my grateful thanks to the Government and people of Tanzania for the warmth of the welcome accorded to us and the courtesy, attention and hospitality which our delegation received throughout its stay in Tanzania.

15 hrs.

MOTION RE. CONDUCT OF HOME MINISTER

MR. DEPUTY SPEAKER: SHRI Stephen to move the resolution now.

PROF. P. G. MAVALANKAR (Gandhinagar): On a point of order.

SHRI SAMAR GUHA (Contal): Sir, I rise on a point of order.

DR. SUBRAMANIAM SWAMY (Bombay North East) On a point of order.

MR. DEPUTY SPEAKER: One at a time.

SHRI SAMAR GUHA: I would like to draw your attention to the fact that it is not in order, censure motion or resolution, whatever you may call it. According to Rules of Procedure relating to motions, it has been specifically mentioned that it shall raise one specific definite issue. In this motion, three completely different issues have been included or

enlisted into one single resolution; one aspect is the atrocities on the harrigans, the second aspect is the allegation supposed to have been made by the hon. Minister and the third one is the withdrawal from the files of the Election Commission a letter dated so and so. Therefore, it is obvious that three completely different aspects, different matters which are not related to one another, which are not linked in any way and which cannot be adumbrated into one aspect or one matter or one objective. Therefore, it is in violation of the first provision of Rule 186.

Secondly, it should not contain arguments, inferences, ironical expressions and imputations and defamatory statements. The concluding part of the resolution reads "hereby records the indignation". The word 'indignation' is expressed only in a censure motion. But I have not yet come across any convention where a resolution has been allowed in this House where the word indignation could have been allowed to be incorporated in the body of the resolution. (Interruptions).

According to clause 7 of that Rule, 'it shall not anticipate discussion of a matter which is likely to be discussed in the same session'. Here the first aspect is the harrigans matter. The House is already seized of the discussion. It is continuing. Therefore, it is also in violation of that provision.

Lastly, the word used is 'the disapproval of the House'. It tantamounts directly almost to the censure of the Government and the Government is obliged to resign. Again the last part of the resolution reads, 'This House hereby records its indignation and disapproval of the conduct of the Home Minister'. This means it is a censure motion. I have not come across any such convention whatsoever. You will be setting a dangerous precedent

that in the form of a resolution a censure motion can be brought in this House. Disapproval categorically means that it is a censure motion. For moving a censure motion there is a definite provision in the Rules of Procedure, namely, the motion has to be placed before the Speaker and if the Speaker gives his consent, it has to be supported by 50 members. Therefore. . .

MR. DEPUTY-SPEAKER: That is for moving a motion of no confidence.

SHRI SAMAR GUHA: According to the Rules of Procedure, according to conventions and precedents that we know of in this House, this motion is completely out of order and cannot be taken up in this form. If they want to bring a censure motion, it should come in the proper form of a censure motion, not in this form. This will set a dangerous precedent and dangerous convention for the future. Sir, this party is not afraid of any kind of censure motion. Let them bring it. We are not afraid of any discussion whatsoever. We know what we have done, we know what they have done, and we know what the people want.

MR. DEPUTY-SPEAKER: All that will come during the discussion.

DR. SUBRAMANIAM SWAMY (Bombay-North-East): Sir, I rise on a point of order under rule 186 read with rules 187 and 191. In addition to the points made by Shri Guha, the rule says that it shall be restricted to a matter of recent occurrence. But in this motion item (c) really deals with something that happened well before this session began and which is a matter which has been quite thoroughly discussed. This is not a matter of recent occurrence. Then, it also contains inferences like 'misusing the floor of the House'. Whether allegations made in this House can be tantamount to misusing the floor of the House is the question. I invite at-

tention to the operative part of rule 187 and rule 191 which says:

"The Speaker shall, at the appointed hour on the allotted day forthwith put every question necessary to determine the decision of the House on the original question".

I would like you to put the question before the House whether this motion should be taken up at all. Let us find out whether the House is agreeable to discussing the motion in view of these points of order.

PROF. P. G. MAVALANKAR: You will see from the list of business that this motion has come under the names of Shri Stephen and Shri Unnikrishnan. But originally it was printed in Lok Sabha Bulletin Part II No 249 as a no day-vet named motion under rule 189. As you know under that rule, members are free to express opinions on whatever subject of public importance they think is worth inviting the attention of the House. If the Speaker admits notice of such a motion, it only means that the Speaker has admitted its importance and urgency. Afterwards, the Speaker must decide it on the basis of urgency and public importance within the framework of the rules of procedure. Rule 186(1) says, "It shall raise substantially one definite issue". But this motion raises three issues, though the decision may be one, namely, whether the conduct of the Home Minister is to be approved or disapproved. So, this motion raises three different issues and is in violation of rule 186(1). Then, rule 186(iv) says, "it shall be restricted to a matter of recent occurrence". But the first part of the motion, part (a) refers to something done on 13th June, 1977, almost at the beginning of the current session. How is it an urgent matter? There have been precedents not only in our House, but also in various other Houses and particularly in the British House of Commons, where the Chair has decided

[Prof. P. G. Mavalankar]

that if there is a delay by one day—24 hours—the matter is no longer urgent because the Members have to bring it to the notice of the House immediately. If the time limit of 24 hours elapses, the matter may have importance of public nature, but it is not urgent. Here is an issue of 13th June, 1977. Secondly, it says “13th July 1977”. And what is worse in paragraph (c) of the same Motion is that it says:

“by his conduct in withdrawing from the files of the Election Commission a letter dated the 5th May 1977. .”

Why did the mover of the motion not raise it earlier? That is one point.

Then rule 186 (vi) says:

“It shall not revive discussion of a matter which has been discussed in the same session;”

This Belchi incident has been discussed. It has been discussed during the discussion on Demands for Grants of the Home Ministry, it is being discussed in the Report of the Commissioner of Scheduled Castes and Scheduled Tribes and that discussion is not yet over. Therefore, when the matter is already seized of by the House, how can there be a Motion which is contrary to all these rules?

Finally, rule 194 gives the authority to the Speaker as follows.

“If the Speaker is satisfied, after calling for such information from the member who has given notice and from the Minister he may consider necessary....”

But the Speaker can admit part of the Motion or the whole Motion. I can understand if the Motion is admitted partly, but not wholly.

Finally, the Motion says:

“this House hereby records its indignation against and disapproval of the conduct of the Home Minister.”

The Home Minister in this House and outside is not acting as just the Home Minister. He is acting as the Home Minister who is a member of the whole Council of Ministers. He is not an individual, and this House can disapprove of the conduct of the Minister which means the conduct of the entire Council of Ministers. This House cannot take up one individual Minister and say his conduct is bad.

MR. DEPUTY-SPEAKER: I have understood your point of order.

PROF. P. G. MAVALANKAR: That is my point of order.

SHRI JAGANNATH SHARMA (Garhwal): Sir, I would like to emphasise only on one point of what my hon. friends have stated. Our Constitution has drawn inspiration from the Constitution of the British House of Commons.

(Interruptions)

From 1841 till today my friends on the other side cannot quote even a single instance of the British House of Commons where this type of motion was introduced. It was only when Lord Westbury was censured in 1864, that was the solitary instance that we find. But the resignation of the Minister was not accepted by Lord Palmerston, the Prime Minister.

There is not even a single instance of this in May's Parliamentary Practice. This Motion is in fact a no-confidence motion which cannot be brought unless the constitutional provisions are adhered to. If this is done, it would set up an unhealthy precedent. For a motion of no-confidence, there is the constitutional provision under article 75(1) and the principle of collective responsibility. They cannot move that motion in the garb of a

motion of disapproval against a particular Minister. Simply because they say that under rule 184/186, a motion can be admitted, does not mean that every motion can be admitted.

SHRI VASANT SATHE (Akola): Why don't you consult Mr. Madhu Lumaye before making this point?

SHRI HARI VISUNU KAMATH (Hoshangabad): I raise a point of order, to add to and to reinforce the points that have been made by my hon. friends earlier. I would like to make just one or two points which were overlooked by my colleagues.

We are now at the second stage. The admission stage is over. You admitted the motion. On that we have no quarrel, and we cannot have any quarrel with you.

15.17 hrs.

[Mr. SPEAKER in the Chair]

We are now at moving the motion stage. That is governed by rule 187. The points raised are with regard to the admission of the motion. We cannot raise them at this stage. You admitted it in your discretion, wisdom and judgement. I don't want to pursue it at this stage. Rule 187 says:

"the Speaker shall decide whether a motion or part thereof is or is not admissible under these rules and may disallow any motion or a part thereof when in his opinion it is an abuse of the right of moving a motion or is calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of these rules."

We are at the moving the motion stage. At this stage again, the rules come into operation. Just because it has been admitted, these rules have not been given the go-by. At this stage also they come into play, because of rule 187. Therefore, we go back to rule 186. What are the rules? These are

the rules. (*Interruptions*). They are, Sir, unfortunately reminded of what happened last Friday when my resolution came up—and they objected to that; but you, in your wisdom and judgement said that not merely had it been admitted, but it had been moved also. They were not alert, not awake, but somnolent, perhaps somnambulists. That is why they did not raise it earlier. I am raising it at the proper stage, that is, at this stage of moving the motion. At this stage, the rule comes into operation, viz. rule 186, because this is the rule which governs the motion now. Please note the words in rule 187, viz. "the right of moving a motion." Therefore, this is the rule which figures at this stage. What should the House do? What shall we place before you? What should we urge before you? The rule governing the admissibility of the motion operates here too. Before his motion is discussed, the point of order raised must be decided in the light of rule 186 and also rule 188. What does rule 188 say? It says:

"No motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate, any matter shall ordinarily be permitted to be moved."
....."

Now, Sir, I am not sure whether this particular matter in part (a) or (b) of the Resolution, whether directly or indirectly, is not the subject matter of an enquiry before one or other of the Commissions appointed in the country during the last two months. If that is so, then you have got to examine it in the light of rule 188. You must examine it, and you have got to give a ruling. You need not be in a hurry; you are not being hustled; you can hold it over till tomorrow, it is an important matter, and it will be a bad precedent if it accepted straightway, as it has come before this House, if he is permitted to move the motion and set a precedent.

[Shri Hari Vishnu Kamath]

Now I come to the most important aspect of the matter, the hurdle set by article 75 of the Constitution This is most important Article 75, clause (3) says

The Council of Ministers shall be collectively responsible to the House of the People "

Sir neither in the Constitution nor in the Rules of Procedure, is there any provision for moving a motion which will challenge this particular provision in the Constitution, in the sense that no single Minister can be held responsible to the House of the People Now let us see the wording in the Resolution I am sorry they have not been properly advised as to the wording of the Resolution I do not know who drafted it The last part, the operative part says

this House hereby records, its indignation against and disapproval of the conduct of the Home Minister

'disapproval is tantamount to or synonymous, with want of confidence They say we have no confidence in the Home Minister Under the Constitution under the Rules there is only one way one method one procedure by which a resolution or motion can be moved in this House with regard to disapproving the conduct of the Ministers or censuring the Ministers expressing want of confidence in the Ministers and that is provided for in the rules about no confidence motion In the entire body of the rules you may search for it I challenge any learned lawyer any member of the House but you cannot find one single rule out of the 389 rules which provides for a contingency of this kind for this kind of motion There is no provision at all I have searched for it Last night I sat up till about 4 O'Clock in the morning and I went through each rule in detail There is not a single rule which provides for a motion of this kind

Therefore, I would urge very seriously, in all humility, with all earnestness that if you allow this motion to be made—admission is over, it has been admitted we have no quarrel with that—if you allow this motion to be made I am sorry to say that this will become a dangerous precedent which will in effect (*Interruptions*) be dangerous for parliamentary democracy, dangerous for the Constitution which says that the entire Council of Ministers is responsible to the House of the People and not one single Minister Therefore I would urge you to disallow this motion or with the leave of the House and its consent let them modify the motion

SHRI SHYAMNANDAN MISHRA (Begusarai) So far as I am concerned I would like to make two propositions on which I want to base my objection to this motion As has been made abundantly clear we warmly welcome this opportunity of meeting this challenge from the Opposition Let there be no doubt about it

However there are two elementary things which are to be borne in mind The first is that there is no rule preventing the Chair from revising its earlier opinion if that opinion has been found to be inconsistent with the rules Secondly there is no rule preventing a Member from making a submission that a particular motion is not in keeping with the rules If these two elementary things are borne in mind this motion would fall to the ground

You know Sir more than any one of us that there is a provision for a no-confidence motion which comes under rule 188 How is a motion under rule 188 framed? The motion is framed in the most general terms, possibly 'that the House expresses its want of confidence in the Council of Ministers' No subject is mentioned Why is it so? Probably the intention is that many things could be thus covered, But in the main motion there must be unity in the subject and if that unity

is not to be found in the framing of the subject, probably it would not be admissible under the rules. That is one of the reasons, that seems to be one of the intentions, of framing a motion under rule 198 in general terms.

This motion is under rule 184, and it has to be governed by the provisions of this rule, so that there must be unity of the theme, and it must conform to certain other criteria laid down in rule 184. If this motion does not conform to those criteria, then it is not a motion under rule 184.

So we just do not recognise this as a motion under rule 184, nor do we recognise it under any other rule. What is this motion? Under which rule has this motion been moved? That is my basic question. Because I do not find it to be general terms expressing want of confidence in the Council of Ministers, nor do I find unity of theme in it as required under rule 184. Therefore, this motion is completely outside the book of the rules of procedure of the House, and my submission would be that you should be pleased to rule it out of order.

So far as the basic challenge of the Opposition is concerned, I would submit to them that they should come forward honouring the rules in another form, thus probably they can cover a much larger gamut than has been covered under the three items mentioned here.

SHRI C. M. STEPHEN (Iduki) rose—

MR. SPEAKER: Are you raising a point of order?

SHRI C. M. STEPHEN: Under rule 376 when a point of order is raised, any other Member can contribute his opinion on that point of order. It is on that basis that I am standing.

The position is absolutely clear and covered by so many rulings.

Three objections were raised, firstly that more than one subject has been mentioned in the motion. The issue is simple. We have stated "acts of commission and omission", and on that basis we have sought to censure. And the rule says that the acts of commission and omission must be specifically stated. Therefore, we have specified what exactly the acts of commission and omission are on which we want to censure, so that it may not be a perambulatory or unrestricted discussion. It should be limited to these subjects.

What is stated here is:

"Whereas a censure motion must set out the grounds or the charges on which it is based and is moved for the specific purpose of censuring Government for certain policies and action...."

It is not one. The kernel of the issue is acts of omissions and commissions specified, so that it may not be a comprehensive free for all discussion. The specification is there. My hon. friend there challenged me whether I could cite an example from the United Kingdom. That is there in the House of Commons debate 1926 (Censure motion) pages 21 to 24. House of Commons Debate 1945-46—23, 35 columns and the House of Commons Debate 1952 53, column 1783. Therefore, in the House of Commons, there is a precedent. As far as censure motions are concerned, there is no specific provision in the rules. Such a motion is governed by the rules applicable to motions in general and can be admitted as 'No-day-yet-named-motion'. The Censure motion can be moved against Council of Ministers or individual Minister or group of Ministers for their violated acts and may express regret, indignation, opinion or surprise of the House of the failure. Motion would be specific, self-explanatory so as to record the reasons for the censure precisely. As far as the precedent is concerned, I submit that in 1968 a motion was moved by Mr. Madhu Limaye and

[Shri C. M. Stephen]

half-a-day was taken for discussion. Article 75, the scope of rule 184, all these questions were discussed. The Speaker took time to give a ruling. Finally he came out with a written ruling covering the whole area. Then he said that "admissibility is my affair, fixing the time is Government's affair. Admitted—I have done, time—the Government fixes; that is not my affair." There the wording is 'disapproval'. The motion was against Morari Bhai. The House rejected it. The second was Mr. Jyotirmoy Bo-u's motion against Mr. L. N. Mishra. There, the wording was none of these but 'resolve that the Minister should be removed from the Cabinet'. All I am saying is that this matter is completely covered by the decision of the Speaker at that time. All these aspects had been considered. It is not as if I have not considered them. We went into the rules. It is not a no-confidence motion where I should put it to the vote of the House asking 50 members to rise in their seats. It was a censure motion. The Speaker could admit it. The Government must find time; the Leader of the House must find time we had a no-day-yet-named-motion or whatever it is under Rules 184 and 185. There are a number of opportunities for the Speaker to admit a motion. Time can be fixed only by the Leader of the House. In the case of a no-confidence motion, the Speaker has got full powers and immediately he puts it before the House and if 50 members get up, then it is discussed. But in the censure motion, time has to be found by the Leader of the House and the Government. The Speaker secured the consent of the Leader of the House, because only after he agreed, it is being brought on a particular day and particular time. All I am saying is that it is completely covered by the ruling both of this House and the House of Commons and therefore, the objection may please be over-ruled.

SHRI JYOTIRMOY BOSU (Diamond Harbour): Sir, Mr. Stephen, in

his wisdom has chosen to refer to my motion... (*interruptions*). You cannot go on misquoting. I had tabled a motion against late Mr. L. N. Mishra and, in that, I had drawn specific attention of this House to the particular paragraphs taken out from Justice Kapoor Commission's Report on the misdeeds of the Bharat Sewak Samaj. Here comes the question, whether I had tabled a motion against late Mr. L. N. Mishra as a member of the Cabinet. It was not so. The motion was on the misdeeds committed by him when he was not a member of the Cabinet. Therefore a line of difference has to be drawn. That has been misquoted. Otherwise, I had no desire to get up. If you kindly send for the motion of mine and go through the motion, you will see that what Mr. Stephen has said about my motion is incorrect.

SHRI HARI VISHNU KAMATH: I am sorry to say that Mr. Stephen has referred to the rules of procedure in the House of Commons. We are governed here by our rules of procedure. Only in respect of privileges, immunities and rights, we are on a par with the House of Commons, not with regard to any other matter. (*Interruptions*). We are prepared to face them. We are not afraid of them. We have faced them many times. (*Interruptions*). Let them bring a No-Confidence Motion.

SHRI RAM JETHMALANI (Bombay-North-West): Mr. Speaker, Sir, while you are deciding these points of order, it is the duty of all of us to tender to you what in our conscience we feel to be correct advice. Speaking for myself, nobody can deny that there is substance in the points of order which have been raised. But when all is said and done, these objections are technical objections and can easily be met by making proper changes in the motion. The truth remains that we are to deal with the substance of parliamentary

sovereignty and parliamentary democracy. I think, it does not behave us to defeat a motion of this kind by bringing in technical objections of this kind. Therefore, through you, Sir, I wish to appeal to my own colleagues that we will be creating an impression in the minds of the public that the allegations which really have no basis... (Interruptions). Whatever have something in them. We should not create the impression that we have something to hide... (Interruptions).

SHRI SAMAR GUHA: We are not afraid of them; we have faced them many times. Let them straightway bring a No-Confidence motion. There is no provision for bringing a motion of this kind under the rules. We are ready to face them. Let them have the courage to bring a No-Confidence motion.

SHRI RAM JETHMALANI: I wish to say that in regard to allegations which are, on the face of it, false and frivolous, we will be creating an impression in the minds of the public that we have something to fear. We do not wish to hide anything. Let us go on with the substance of the motion.

श्रीधरजी बलबीर सिंह (होशियारपुर) : अध्यक्ष महोदय, एक बात सीधी है। जेठमलानी जी ने कहा कि मोशन में घबराने की कोई बात नहीं है लेकिन अगर हर बात को हर तरीके से लाकर यहाँ पर बात करना चाहें तो उसमें देखा जायगा कि हम रूल पर अमल करते हैं या नहीं। हमें बड़ी खुशी है कि हमारे स्पीकर, माहब सुप्रीम कोर्ट के रिटायर्ड जज हैं और वह रूल पर पूरी तरह अमल करेंगे। रूल में बड़ा क्लीअर है। यह घबराने की बात कहते हैं मैं कहता हूँ ये सेंसर मोशन ले जाएं फिर हम बनाएंगे कि ये क्या बात करते हैं और हम क्या बात करते हैं? ये किस मोशन पर बात करना चाहते हैं? असली मोशन ले जाएं और फिर

बात करें। यह तो ये बैंक डोर ने लेकर आया। रूल में बड़ा क्लीअर है कि क्या क्या बातें हो तो यह मोशन ऐडमिट हो सकता है। यह मोशन तो जिस शकल में आया है सेंसर मोशन है। तो इस तरह इसे क्यों उठाते हैं, बाकायदा सेंसर मोशन ले जाएं फिर यह हाउस उस पर डिस्कस करे। अगर एक मिनिस्टर्स ने कोई बात गलत की है कि मारी तो कौमिल ग्राफ मिनिस्टर्स उसके लिए जिम्मेदार है। यह मारी मिनिस्ट्री के लिए सेंसर है।

MR. SPEAKER: The same point they have made.

श्रीधरजी बलबीर सिंह : समावाहट की बात यह है कि आप दोबाग उस को देखें तो उसके रूल बड़ा क्लीअर है कि यह मोशन इन शकल में ऐडमिट नहीं हो सकता जिस में यह आया है। यह आउट ऑफ ऑर्डर है। यह एक ही प्वाइंट पर नहीं है, रिसेंट आकरेंस की बात नहीं है अर्जेंट पब्लिक इम्पॉर्टेंस की बात नहीं है। यह तो तीन वाक्यात को लेकर मोशन है।

एक बात जो उन्होंने हाउस ऑफ कामन्स की कही है तो हाउस ऑफ कामन्स के प्रेसीडेंट तो तब लावू होंगे जब किसी मामले में हमारे रूल साइलेंट हों। उस समय आप हाउस ऑफ कामन्स के प्रेसीडेंट्स को देख सकते हैं। लेकिन अगर हमारे रूल में कोई बात डेफिनिट तौर पर दर्ज है जो हाउस ऑफ कामन्स की बात वह नहीं कर सकते।

THE PRIME MINISTER (SHRI MORARJI DESAI): We are spending time on debating whether such a motion is in order under the Constitution or not. From the very beginning, I felt personally that if there is to be a censure motion, it should be against the whole Ministry or against the Prime Minister. But I did not want to take shelter under that convention and, therefore, when you admitted it I did not raise any objection. I beg of my friends not to press their objections. Let them raise it

[Shri Morarji Desai]

and then they will know what it means.

SHRI SOMNATH CHATTERJEE (Jadavpur): The question is that it is a matter of procedure. I quite appreciate the sentiments which prompted the Leader of the House to make an observation which he did to bring it to the notice of the House. I am not here trying to stop the discussion on the motion for a minute. This is a matter which may have a bearing in the future, because these similar matters may be raised in future, because today, the Leader of the House may agree that this may be discussed. But there are various matters which may come up in future. After all, you have to give a ruling on this. Without expressing anything on the desirability of this motion or otherwise, the question is whether our rules permit this. So far as the motion chapter is concerned, it is Chapter 14. My submission before you and before the House is that in respect of those matters which have nowhere been provided otherwise in the rules, this motion chapter and the motion should be taken recourse to.

So far as making allegations against the Minister in his capacity as Minister are concerned, there is a definite provision for a no-confidence motion for which a particular procedure has been laid down. Then if a Minister or a Member of the House has misled the House the provision for raising a question of privilege is there. If I mislead the House or if a Minister misleads the House deliberately, then that is a matter of breach of privilege for raising which the procedure is laid down: it postulates an enquiry and giving opportunity to the Minister and all that. Sir, kindly see the present motion. Only assumptions are there. It reads:

"That having considered the acts of commission and omission on the part of the Home Minister with respect to the following matters.."

Then three instances are given, and the Mover infers them to be true and correct. This is a matter of pure inference drawn by the Mover. Without giving an opportunity to the Minister concerned, on certain assumptions of facts or inferences drawn by him, the motion is framed which is really sought to be a substitute for a non-confidence motion. What should have been done in a particular manner cannot be sidetracked and brought under a different category. What cannot be done directly cannot be done indirectly. I do not have to tell you this, Sir. Therefore, the question of procedure is involved. In future it may come up. So far as discussion of this particular motion is concerned, the House can go on, and we shall make our submission on that. But that is not the issue at all. The question is this. It proceeds on the basis of inferences drawn by the Mover of the motion—on which there is no accepted position, the facts are not admitted. It says that there has been a deliberate misleading of the House. That is not admitted. Then the question is about irresponsible statements. I could understand if the Minister had said, "All this I admit." In respect of that there could be disapproval. Every issue is a dispute as to fact. That is why there is a procedure for that. If the Home Minister makes a false statement, the entire Council of Ministers should be held responsible for which 'no-confidence' has been provided. Then for breach of privilege, opportunity should be given to the Minister to make his statements clear to prove or disprove them. Therefore this is really trying to sidetrack the rules—what Mr. Stephen has noted.

So far as the previous ruling is concerned, we do not know what was the language of that motion, whether it

proceeded on admitted facts or not, that was the subject matter in that motion, we do not know, we do not have the motion before us, we do not know. Therefore, for future guidance we require your ruling after considering the facts, so that, apart from the merits of this motion, for future we may be guided.

SHRI HARI VISHNU KAMATH: Of course, the Leader of the House has made an appeal. But I am sorry I cannot withdraw my point of order. I will read out the motion moved by Mr Jyotirmoy Bosu against Mr. Lalit Narain Mishra. The wording is not a censure motion at all. On the 18th December, 1974, Mr. Jyotirmoy Bosu moved the following motion in the Lok Sabha:

"That this House resolves that Shri Lalit Narain Mishra, a Member of this House.."

"...a Member of this House and a member of the Cabinet, be removed from the membership of this House.."

like the motion which Pandit Jawaharlal Nehru moved in 1951 against Mr. Mudgal in this House, saying that he be removed from membership of the House. That is not censure at all. There is no question of censure. If it says, 'be removed from membership of the House for committing serious impropriety and malpractice as could be seen from the Report of the Commission of Enquiry' etc., etc. There is no question of censure at all and no disapproval in that motion. Therefore I would again request you to consider the point of order raised. Though we are not against the motion, we have discussed this subject often in this House. Once, twice, thrice, this matter has been discussed in the House. Therefore, if it is allowed to be discussed again, such matters may be raised again and again and it will become a dangerous precedent for the future.

MR. SPEAKER: I have heard all the sides. There are three points that arise from the discussion. One is whether the motion is admissible under the rules, the second is whether the three allegations are opposed to Rule 186 of our Rules and the third is whether any particular portion is objectionable and therefore it should be removed from the text of the motion.

SHRI JYOTIRMOY BOSU: What about the Constitutional requirements?

MR. SPEAKER: I will come to that, do not be in a hurry.

As soon as this motion came up before me, I myself had doubt whether, in view of the joint responsibility of the Cabinet, a censure motion could be moved against an individual Minister. I carefully went through our Rules as well as earlier precedents. On examination of the Rules I did not find a rule either for or against. In areas which are not covered by rules I am of the view that I am governed by previous precedents. I therefore went through the previous precedents and, in accordance with the previous precedents, I came to the conclusion that this motion has to be admitted. I have therefore admitted it and it is no more open to objection.

The second question that arises is whether it is in accordance with Rule 186. Rule 186 provides that, in order that a motion may be admissible it shall satisfy the condition that it shall raise substantially one definite issue. In fact, when the original notice was given, it was vague and defective and we therefore had to ask the sponsors to modify it so that it may raise one definite issue. The one definite issue raised is that the Home Minister—according to them—has given incorrect information to Parliament and he should therefore be censured. The three instances mentioned are only illustrations and they all relate to one issue, the issue being that he had given incorrect information to the House. *(Interruptions).*

[Mr. Speaker]

I am giving my ruling, not your ruling.

Therefore, I thought there was no breach of Rule 186. Now, after the motion was admitted it came to my notice that a criminal case is pending in respect of the Belchi affair. When a criminal case is pending, one of the important aspects of the matter is, what is the motive for the offence. Therefore, since this has gone to the court, any discussion on that point is likely to prejudice the trial of the case. I therefore rule out the first portion, that is, (a) which came to my notice only after admitting it. The censure motion will therefore be confined only to (b) and (c) and will not extend to (a).

SHRI SHYAMNANDAN MISHRA:
What about Rule 338?

MR. SPEAKER: I have gone through it and it is only after going through the relevant rules that I came to this decision. Now, I have given my ruling and the House will proceed.

SHRI SHYAMNANDAN MISHRA:
You must give a ruling on whether, when a subject has already been discussed in a session, it can be taken up again in the same session. Please give a definite ruling on that.

MR. SPEAKER: That is not an obligatory or mandatory rule.

SHRI SHYAMNANDAN MISHRA:
No, Sir, it is mandatory.

SHRI JYOTIRMOY BOSU: Your attention was pointedly drawn to Art. 75(3). We would like to have your ruling as to whether this motion comes within the provisions of Art. 75(3). We want a clear ruling on that.

MR. SPEAKER: I have covered it.

SHRI JYOTIRMOY BOSU: No, Sir, you have not covered it. Kindly give a ruling on the submission made by

Mr. Kamath drawing the attention of the House to the provisions of Art. 75 (3).

MR. SPEAKER: I have given my ruling.

SHRI M. N. GOVINDAN NAIR (Trivandrum): Sir, in your ruling, you have said that you have admitted this censure motion on the ground that the Home Minister gave incorrect information and this incorrect information was about Behchi incident. (interruptions).

PROF. P. G. MAVALANKAR: Sir, what about (C)? What is there to mislead the House?

SHRI HARI VISHNU KAMATH: B. I. D. is mentioned here in (C), there is no B.I.D. here.

PROF. P. G. MAVALANKAR: Sir, are you allowing discussion on (b) and (c) or only on (b) ... (interruptions).

SHRI M. N. GOVINDAN NAIR: I can quite understand that the discussion here should not give any room for prejudicing the enquiry that is taking place. Here the question is, what was the incorrectness in the statement that has been made. If this is left out, the very basis for your admitting this itself goes. Therefore, I would request you to reconsider your ruling.

MR. SPEAKER: I do not want to reconsider.

SHRI SHYAMNANDAN MISHRA: You were pleased to say with regard to Rule 338 that it is not mandatory. Pleased read it. It says it 'shall not raise'. How do you say it is not mandatory?

MR. SPEAKER: I have said it.

SHRI SHYAMNANDAN MISHRA: That is very mandatory. The rule is very clear; it says: "it shall not raise." It is not a ruling then.

MR. SPEAKER: It has nothing to do with it here.

SHRI SHYAMNANDAN MISHRA: It shall not' is the wording.... (Interruptions).

PROF. P. G. MAVALANKAR: How do you allow (c)?.... (interruptions).

SHRI HARI VISHNU KAMATH: In (c), Leader of the BLD is mentioned, not a minister.

MR. SPEAKER: I am not going to listen to anything; my decision is final.

THE PRIME MINISTER (SHRI MORARJI DESAI): After the ruling, I would request the hon. Members that they should accept it. You have not to question the ruling.

SHRI SAMAR GUHA: We honour you, Sir, but when in the future you may not be here and some other Speaker comes, he would be guided by the precedents. We are afraid of the future, we are not afraid of any discussion on any matter. You have covered in your own way some of the objections that have been raised from our side, but the question regarding the distinction between a no-confidence motion and censure motion has not been clarified. In our rules there is no provision whatsoever of any kind of censure motion. There is only one kind of censure motion and that is expressing lack of confidence not in any individual Minister for which there is no provision....

16 hrs.

SHRI MORARJI DESAI: May I draw the attention of my hon. friend there that once a ruling has been given by the Speaker, it must not be challenged. I do not agree with him. That is not right.

SHRI SAMAR GUHA: I am challenging it.

MR. SPEAKER: You are only questioning it.

PROF. P. G. MAVALANKAR: We are seeking your guidance.

SHRI SAMAR GUHA: We are only seeking clarification on your ruling for our guidance.

There is nothing as 'censure motion' in the Rules of Procedure. There is only one provision. According to Art. 75 sub-section (3) of the Constitution the Council of Ministers shall be collectively responsible to the House of People. There cannot be any kind of censure motion against any individual Minister. You please clarify this for the sake of future guidance as to how a censure motion can be brought.... (Interruptions). You please clarify. Let us get ourselves educated for the future. How does it comply with the provisions of Art. 75(3) of the Constitution where it is said that the Council of Ministers shall be collectively responsible to the House of People? If it is so, how will you call it a censure motion? If it is a substitute for a no-confidence motion, then how can it be brought against one single Minister for which there is no provision either in our Constitution or in the Rules of Procedure.

We want your clarification and guidance for the future.

AN HON. MEMBER: It is on (b) alone and not (a) and (c).

MR. SPEAKER: I have given the ruling. Not on (a).... (interruptions). If you want to re-open it, then they will also re-open it.

Yes, Mr. Stephen.

SHRI C. M. STEPHEN (Idukki): I am thankful to you for permitting me to move this motion.

I beg to move the following:—

“That having considered the acts of commission and omission on the

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part of the Home Minister with respect to the following matters, namely:—

- (a) that he has been misusing the floor of the House to make baseless and irresponsible statements as instanced, among others, by his allegation on the 13th July, 1977 while replying to the debate on demands for grants for the Home Ministry that there was a preparation and thinking ("Vichar") on the part of the previous government to shoot the political leaders in detention.
- (b) that he, misusing his official position meddled, with the affairs of independent constitutional bodies as evidenced, among others, by his conduct in withdrawing from the file of the Election Commission a letter dated the 5th May, 1977, he had written in his capacity as the leader of the B.L.D.

this House hereby records its indignation against and disapproval of the conduct of the Home Minister.' "

May I assure you and my very valued friends on the opposite that I have sought the leave of the House to move this motion not in a spirit of acrimony and not with a feeling of animosity to the government or to the Minister concerned.

I rise in fact with a heart full of sorrow. (*Interruptions*) but, Sir, with the full conviction that in moving this motion I am discharging a duty which rests on me in my capacity as a Member of the Parliament and as a citizen of this country.

I have absolutely nothing against the Home Minister. I have never talked to him and I have never moved with him in close quarters. But over a long number of years, I have been, as

a political worker, seeing his activities, watching his activities and honestly speaking, I have developed a feeling of appreciation for certain characteristics of his and still I have got a feeling of alienation from him also. I remember him as a prominent man of the All India Congress Committee in the meetings I have been attending. I have still got the memory of the speech he made opposing the Resolution for Co-operative Farming and I felt a deep sense of appreciation for him at that time, not because I agreed with the stand he took, in fact I disagreed with the stand he took, but myself having been rebel mentally I felt drawn to him for the courage which he showed in opposing an Official Resolution.

Subsequently when he got away from the Congress after having been elected to the Assembly when he got up after 18 days of his election, there by leading or inaugurating which subsequently became the notorious Aya Ram Gaya Ram movement. I felt a feeling of endless revolt against him.

That Ministry fell and he raised his voice against Jan Sangh and R.S.S. and he called the R.S.S. 'Nikarwalas' I felt again drawn to him mentally although I did not know him and he did not know me. I am only tracing the relation. Perhaps, I have nothing against him; I do appreciate the firmness that he has been showing. Only I wish he had a little bit of the regality of the Home Minister is expected to have—Home Minister, etc. like Vallabh Bhai Patel, Govind Vallabh Pant. I wish he had that sort of regality.

(*Interruptions*)

MR. SPEAKER: May I request the members to hear him patiently so that they may be heard later.

SHRI C. M. STEPHEN: In the course of the last few years the moral standard in our country, the public standard of this country, the level of

political conduct in this country irrespective of any party, everybody—all of us have a share in it, have been coming down. Now, we have come to a stage in which the unquestionability of the judges is under shadow, the unquestionability of the Prime Minister is under shadow, unquestionability of the political leaders is under shadow. There is a crisis of condence in the public of this country and I feel whoever I am, I also share it.

AN HON. MEMBER: You alone.

SHRI C. M. STEPHEN: Well, I free the entire lot—my friends—from that guilt. I accept the whole guilt. But I am postulating the fact and this is the national problem which we have got to face upto.

I have been watching the performance of Chaudhriji here with all the respect I have got for him by reason of his age, by reason of his experience, by reason of his political career. Nevertheless I have felt that by certain of his conducts, he has not done well by this House, he has not done well by the Harijans, he has not felt himself drawn towards the down-trodden and the people who are suffering. I have developed that sort of feeling. Permit me and forgive me that he is symbolising himself rightly or wrongly to the persons who are watching him as a person who is against the land reform, as a person who is against the Harijan Class, as a person who is against the down trodden people, as a person who has got a misconceived notion about Gandhian economy and about the economic structure that has got to be.

This sort of feeling has developed.

MR. SPEAKER: Are you not transgressing the limit?

SHRI C. M. STEPHEN: The purpose is not to defeat the government, which I know, is not possible. I also realise it; it is not possible. Whether you believe me or not I don't want this

motion to succeed, either, because I don't want the Government to fall.

AN HON. MEMBER: Pathetic.

SHRI C. M. STEPHEN: This Government, having been elected by the people must be in power for a certain period, according to me. This country is large enough, our problems are complex enough and we can ill-afford the game of toppling any structure. Therefore it is not brought with that purpose. This motion has been brought with the purpose of focussing attention on certain tendencies which are developing in the administration, in our conduct, and to focus attention on how we are being assessed, you and we, both of us are being assessed by outsiders. May I say this? May I by a sort of recollection bring to your notice that I remember I was shouting from the other benches when we were there, when things were defended, which ought not to have been defended. Well, Sir, this was done. I am only putting it to you—things which ought not to have been defended, have been defended, but for party discipline it was put up. I only appeal to my friends that let us so conduct ourselves as Members of Parliament thinking objectively. I am not saying that they must give a go-by to party discipline and all that. But there are certain issues on which we must make an approach on a larger angle, on a higher plane. This is all that I have got to state initially.

Sir, I must say, I was disappointed by your ruling that Belchi incident should not be discussed. I submit to your ruling. I do not go into it. Therefore I come to the next part of the motion. It says:

“that he has been misusing the floor of the House to make baseless and irresponsible statements as instanced, among others, by his allegation on the 13th July, 1977 while replying to the debate on demands for grants for the Home Ministry that there was a preparation and

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thinking ("Vichar") on the part of the previous government to shoot the political leaders in detention."

This is a basic thing. When a Minister—particularly a Home Minister—comes to the House and makes a statement of fact, he must be able to substantiate that statement of fact. This courtesy he must show to the House. This justice he must show to himself. This floor of the House is no place for rumours. It is no place for wild inferences. A statement of fact once made has got to be substantiated. The statement of fact made was this. It says 'They were preparing for the day'. I have got the Hindi portion translated because I don't know Hindi. 'They were preparing for the day when certain people must be shot down as happened in the Dacca jail. The thinking (vichar) was to shoot certain persons right from Jayaprakashji if necessary. I asked Dr. Karan Singh and other friends something over which one may get furious.' This is a statement of fact. Facts ought to have been substantiated by the Home Minister, who has been in the Home Ministry, who has access to the files of the Ministry, when making an assertion, that there was a 'Vichar' to shoot down persons from Jayaprakashji downwards.

This is not a legal postulation. This is a statement of facts. But, the next day, he was challenged to substantiate the statement of facts. And, Sir, our Leader of the Opposition raised a question and asked him to substantiate the statement of facts. This was what he said:

"I said that there was a thinking and there was a preparation for that and this preparation does not mean that the police had been given the orders or the army had been

called or they were consulted or there was any scheme in black and white. As a prelude to this, the right to live was suspended. Everything else, if necessary, will follow."

Now, Sir, instead of substantiating, he makes a confession that no order was ever issued to anybody, there was nothing in black and white, no scheme formulated, no military or nobody was consulted. The point I am putting forth is this that the Home Minister of India make a serious statement of facts. Should not the Home Minister substantiate that statement of facts? I have underlined the words statement facts. Instead of that, this was what he said:

"No arguments now; what I was going to say was this that I did not say that. Rather the Attorney-General, Shri Niren De, who was the Government Lawyer said before the Supreme Court in November 'today, nobody in India has even the right to live'."

He has said before the Supreme Court interpreting the Presidential Ordinance. If this was not a fact, a communication should have been issued by Government contradicting it.

Now, he says that because Shri Niren De, arguing, came to an interference that this could have occurred. May I put it to the friends? Is it enough? On the question of Shri Niren De's arguments, two things arise—(1) whether he had put forth this argument. Sir you were in the Supreme Court

MR. SPEAKER: I was not there.

SHRI C. M. STEPHEN: Not at that time. You sat as a Judge in the Supreme Court. In the judiciary, well, Sir, if a major point is made, if the case is based on a major point, in the judgment, that statement will

find its place. Here is the judgment with me. Mr. Shanti Bhushan, show me where it was stated by the judges that this plea was raised in the Supreme Court, went through the whole judgment. No suggestion or observation anywhere in this case alleging that Shri Niren De based his case on this argument or this argument was ever raised.

The second question is: whether Mr. Niren De made the statement at all. Now, Mr. Niren De himself—I am not saying that his statement must be accepted—has come out with a statement repudiating the Prime Minister's statement. Who is to be believed—that is a different matter. Now, he has come out with a statement contradicting the Prime Minister's statement. He must come out with a statement; no lawyer worth his salt will make an argument like this. He said that he did not make an argument like this.

Now Shri Charan Singh is relying on what has appeared in the press. Well, Sir, he gave such a sanctity to whatever appeared in the press.

Well, Sir, in one of these cases, this is what he said about his opinion about the press. In Rajya Sabha, when discussing the Beichi—I am not going into it now—a press report that appeared on Beichi matters was discussed there—the reply of the Minister was this:

“According to the press report appeared on the crimes it was reported....

He says: (Interruptions).

SHRI HARI VISHNU KAMATH: Sir, I rise on a point of order. Beichi has been disallowed.

MR. SPEAKER: The Home Minister has not relied on that. Every single paper reported the statement

purported to have been made by the Attorney General in the court. No one paper has ever denied it until the other day.

SHRI C. M. STEPHEN: With your permission, may I submit all the paper cuttings here? I could come across only one press cutting—not all the papers—and that is what I remember.

That apart, what I am now saying is that Mr. Niren De has come out with a statement like this. Not that everything hangs on that; The Home Minister is not depending on any press statement at all. He has discounted the press statement completely.

Now, Sir, assuming that was the argument what the government did was that a presidential order came and on that presidential order the court has said what it means. That is reported in June edition of All India Reporter. This is not the first time that a presidential declaration came. I quote:

“...Unquestionably the court's power to issue a writ in the nature of *habeas corpus* has not been touched by the President's order but the petitioner's right to move this court for a writ of that kind has been suspended by the order of the President passed under Article 359(1)”.

So, Sir, it is not the fundamental right which is suspended. What is suspended is the right to move the court for a writ. That is what is suspended. (Interruptions).

Sir, they have got the right to reply. Let me have my say. I quote further:

“The President's order does not suspend all the rights vested in a citizen to move this court but only his right to enforce the provisions of Article 21 and 22. Thus as a

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result of the President's order aforesaid the petitioner's right to move this court but not this court's powers under Article 32 have been suspended during the operation of the Emergency with the result that the petitioner has no *locus standi* to enforce his right, if any, during the Emergency."

The point I am emphasising is that this is not a new situation. There was such a situation in 1962 and then in 1964. I have read the ruling and I do understand that it is not as if the entire Article 21 was suspended. Nobody said that as a reason of that there was proposal to kill anybody. Now, an extra-ordinary situation arises and a certain action is taken. Sir, may I put this question directly to you?

MR. SPEAKER: I would't answer it.

SHRI C M STEPHEN: I am not putting the question to you but through you to the House. What I am saying is in 1964 such a situation was there. The Constitution of India provides that under Article 359(1) the right for enforcement of Article 21 may be suspended. That is provided for action thereunder. If the Government comes to conclusion that a situation under this has arisen, when Article 21 must be suspended, the Constitution contemplates that the Article 21 be suspended. Is it that the Constitution contemplates? The moment this is suspended, persons in jail can be shot down. That can become legal. Is it the nature of our Constitution the moment it is suspended? It is not an extra-constitutional suspension which takes place. Our Constitution provides for a promulgation under Article 352. Our Constitution provides for a Presidential Order under Article 359(1). Our Constitution provides that the provision under 359(1) can cover the sus-

pension of the fundamental rights such as specified.... Now, if the Constitution provides that an order issued in accordance with that, would it mean that the legal implication will be such that anybody can be shot dead ... (Interruptions).

DR. MURLI MANOHAR JOSHI (Almora): I was a detenu and the Advocate General argued that if I was shot dead in the jail, then I had no legal remedy. Five persons died in Naini Central jail. Two died in the room in which I was detained. One of them was Dr. S. Sinha. (Interruptions).

SHRI C. M. STEPHEN: Now, what I am saying is if the Government feels that this is the consequence of the Presidential proclamation, may I put a question to them? Do they feel that the legal consequence of the proclamation under Article 359 covering Article 21 amongst other fundamental rights, is that shooting down is possible? If that is the legal understanding shared by the Government, and if they feel that it is dangerous, then why in the course of 3 or 4 months, when they have been in power, they have not come out with a motion to amend the Article 359 so that this danger is taken away. They have not moved any motion to this effect. (Interruptions). But the fact of the matter is, according to me, that this is not the implication at all. This is one point.

The second point is: if under the Emergency killing of persons who are under detention has ceased to be a crime that can be done. Mr. Charan Singh's argument is: "you have cleared a legal deck". Therefore, he concedes that the clearing of the legal deck is necessary for shooting down of the people. You say it is clear. Legal deck is the question. Whether the legal deck has been cleared and whether by the proclamation the Government has become powerful and

free to shoot down whomsoever they like? That is the argument (*Interruptions*)

Now, I am trying to argue a case. If you are patient enough to listen, you can listen. I am trying to argue a case. Kindly bear with me and hear me and you can reply to these points when your chance comes. I am not making any vilificatory remarks against anybody. I am only trying to explain the point of law, as I understand it. If Mr Charan Singh's position is that as a result of this proclamation the Government has become free to shoot whom they like to shoot, if that is the position if that is correct then we know during the Emergency there were cases of torturous killing like the Rajan's case in Kerala. If that was lawful, then a case of murder cannot be now because that murder case has been registered (*Interruptions*). For Heaven's sake, keep quite. Al! that I am saying is that it is not the legal consequence of the power that had been assumed.

Thirdly if the government's intention was to shoot or kill people, how is it that Mr Charan Singh was released in February 1976, when other people remained in jail, Chaudhury Charan Singh was released from jail in February 1976. The moment it was reported that JP was ill

SHRI GAURI SHANKAR RAI (Ghazipur) You are sorry for the early release (*Interruptions*)

MR SPEAKER Please sit down Mr Joshi. I know it is an emotional subject but you must give a patient hearing.

AN HON MEMBER Is he relevant?

SHRI C M STEPHEN I shall summarise my argument. If the Government issued an order, as permitted by the Constitution. Nobody in his sense, according to me, should

take up the position that the Constitution of India is framed in such a manner that an order that is permitted by the Constitution can have the effect of legalising the shooting of people.

SHRI GAURI SHANKAR RAI Then what for an Ordinance' (*Interruptions*) You shameless sychophants

SHRI C M STEPHEN Now therefore the conduct of the government itself would show that this charge is absolutely baseless—the conduct of the government in releasing persons far before their time one after another could not be explained. Anybody who was feeling sick was given protection assistance release were taking place (*Interruptions*)

SEVERAL HON MEMBERS No

SHRI C M STEPHEN Shouting will not take you anywhere. I shall repeat the whole question I was asking. Why exactly it is that they are shying away from bringing forward the amendment to the Emergency clause. They are not coming forward with the amendment (*Interruptions*)

Therefore I am submitting that the moment the Home Minister submitted here that he has no record, no evidence, no plot and no allegation that any order was issued to anybody, that there was not even a consultation with anybody the moment he made the confession here, he was repudiating the statement he originally made. The fundamental principle is that a statement of fact made by you has got to be substantiated. Having violated that principle, he owes it to himself, he owes it to this House to tender an apology for the wrong statement he made first. Nothing has come so far. This is all I wanted to say about it. My friends may characterise the Constitution of India as carrying in its womb, a provision

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which would end up in the annihilation and the shooting of the people. But my loyalty to the Constitution does not permit me to agree to that position at all. If they agree to that position, let them amend that and let them put it on the proper level. This is all I want to say. If you can bring forward the amendment, do it. We have repeatedly said that with respect to 42nd amendment, you can count on our support. Don't say, you do not have two-thirds majority. We will give you two-thirds majority. Come forward with your amendment. But you are not prepared to come forward with your amendment. You will not be able to come forward with your amendment. *(Interruptions)*.

THE PRIME MINISTER (SHRI MORARJI DESAI): If the Congress Party gives assurance that it will support the Bill for amending the Constitution in this House and in the Upper House, I will do it tomorrow.

(Interruptions).

MR. SPEAKER: Please sit down. What the Prime Minister says is, if the party, which means through its leader, the Congress Party, commits itself to support the repeal of the 42nd amendment both in this House as well as Rajya Sabha, he will immediately bring the amendment to repeal it.

(Interruptions).

MR. SPEAKER: Why don't you give an opportunity to the Leader of the Opposition to say one or the other?

SHRI YESHWANTRAO CHAVAN (Sabara): I am rather surprised to hear the Prime Minister insisting on my commitment first as to what they should do. I am really surprised that the Government has not consulted us as to what Bill they should bring and what its construction should be. I have already said in the very first

session that let us know what your formulations of your constitutional amendment Bill are and we are prepared to discuss the same.

MR. SPEAKER: This incidental question arose because Mr. Stephen said, "We are willing to support it both in this House and in the other House." Therefore, the Prime Minister wanted to know whether he is speaking on behalf of his party.

SHRI VAYALAR RAVI (Chirayinkil): You are the Speaker. You are not a Janata Party man *((Interruptions))*. You are supporting the Government.

SHRI K. LAKKAPPA (Tumkur): You should act as a judge here. *(Interruptions)*.

SHRI C. M. STEPHEN: The burden of my argument is very simple. They speak one thing and do another thing. After having taken up the position that a notification under article 359(1) can have the constitutional consequence of annihilation of the people of this country—we have not taken up that position; they have taken up that position—although months have gone by, they have not cared to rectify that position in the Constitution. Although they have taken up the position that the 42nd Amendment is wrong, they have not initiated a dialogue, although months have gone by. They have not brought forward any proposal. They have not consulted us as to which provisions should be retained and which should not be. For example, is it your position that the directive principle which provides for the participation of labour in the management should be deleted? Is it your position that the provision that administrative forums will have to be created in order that the citizens' grievances may be heard and disposed of should be deleted? Is it your position that the preamble stating that the country must be a socialist

country should be changed? Therefore, there are provisions in that amendment which I am sure some of my friends on the other side will cling to and will want to keep. Therefore, it is not as if the 42nd Amendment is a Bible for us which cannot be touched. There are areas which must be touched and amended. Therefore, do not shirk; come forward. We are there to see that the question of two-thirds majority does not arise. Wherever it has to be amended, we are here to support you. (*Interruptions*). Sir, I am satisfied if Mr. Shanti Bhushan listens. Let others shout. My position is that you yourself having made a commitment about the 42nd Amendment, we do not want to pin you down to the entirety of the 42nd Amendment. After having made a commitment about the 42nd Amendment, after having made all denunciations about the Emergency and Article 352, after having done all that, merely going on with a sort of vituperative campaign saying that the consequences of this would have been this and that, but never trying to rectify it, is not an honourable stand to take. This is what I have got to say. I am very clear in my mind that as far as our position is concerned, the Leader of the Opposition has explained the position that there is no closed door, there is a vast area where we and they can cooperate and that the entire Parliament will come forward and support. Anything wrong that is done to the correction of it is there, but there are certain areas in the 42nd Amendment, which I am absolutely sure, when we settle down to discussion you will agree that those clauses must be retained. If not, then we will see. I, therefore, charge the Home Minister with having made the 'irresponsible and baseless statement'. The statement made is irresponsible because that is a statement which has no basis, which reflects on the character of the Constitution. That is, therefore, irresponsible and baseless be-

cause when challenged, he had to make a confession saying that "I have no evidence to give in support except that I draw the inference from what Mr. Niren De said." That is not the position for the Home Minister of India to take. Having said that, he has to apologise to this House or to withdraw the statement that he has made.

Now I come to the third part—about the Election Commission part of this Motion.

(*Interruptions*).

There was a discussion on this Election Commission. What happened was, as I understood, as the record of the discussion in the Rajya Sabha goes, Chaudhury Sahib wrote a letter on the 5th of May to the Election Commission in his capacity....

MR. SPEAKER: How much more time you would like to take?

SHRI C. M. STEPHEN: I will take 15 minutes more. I will accept the facts of the case as stated by Chaudhury Saheb and Mr. Shanti Bhushan in the Rajya Saha. I do not want to go beyond that. What are the consequences? Whether the conduct was fair is a matter I would leave to the hon. Members. About the status of the Election Commission, we know that the Election Commission is supposed to be an independent constitutional body. Its staff and everything is under the Home Ministry not like the Parliament which is not under anybody, but which is entirely under the Speaker. The staff of the Supreme Court is not entirely under Government, but it is entirely under the Supreme Court. But the staff of the Election Commission happens to be under the Home Ministry.

SOME HON. MEMBERS: Under the Law Ministry.

SHRI C M STEPHEN I am sorry, it is under the Law Ministry I thank you for correcting me

The facts of the case as I understand are these. On the 5th a letter was written. More than that on the 5th four Parties came to a decision to merge themselves into a Janata Party and for that merger certain procedures had to be gone through.

SHRI HARI VISHNU KAMATH Sir I am on a point of order. Your predecessor has ruled that party matters should not be discussed in the House (*Interruptions*). There was a ruling on whether party matters can be raised or not.

MR SPEAKER He is not discussing party matters. He is discussing the action of the Home Minister.

PROF P G MAVALANKAR What is being discussed—the conduct of the Home Minister or the affairs of the party? (*Interruptions*)

SHRI C M STEPHEN Please see (c) of my motion and say whether it has got anything out of order.

MR SPEAKER I have ruled that portion to be in order. I am not reopening it.

SHRI C M STEPHEN Mr Shanti Bhushan raised the argument in the Rajya Sabha—and the Prime Minister did it in his Press conference. The argument raised was: The BLD leader wrote a letter, the BLD leader withdraws the letter and the letter is returned back to the file. What is wrong? That is the question. I am trying to answer that question. This is related to the Election Symbols (Reservation and Allotment) Order. On the 1st May a decision is taken that the 4 constituent parties will merge themselves into one after the merger, the Election Commission will have to recognize the new party. It will have to give a symbol to that party (*Interruptions*). Why are they interrupting if they have got a strong case?

Therefore, all the 4 constituent parties, according to the procedure, will have to write to the Election Commission Section 16 of the Election Symbols (Reservation and Allotment) Order reads as follows—Mr Shanti Bhushan mentioned it in the Rajya Sabha.

“When two or more political parties—one or some or all of whom is a recognized political party or are recognized political parties—join together to form a new political party, the Commission may after taking into account all the facts and circumstances of the case hearing such representatives as the newly-formed party and other person as desired to be heard, and having regard to the provisions of this Order, decide whether the newly-formed party should be a national party or a State party and the symbol would be allotted to it. The decision of the Commission under paragraph (1) shall be binding on the newly-formed political party and all the components thereof.”

Under this Order, the Election Commission is exercising a quasi-judicial function and it exercises a quasi-judicial function on the basis of the letters the respective merging parties are to write to the Election Commission. The four parties write letters to the Election Commission on the 4th that is Congress (Organization), Jan Sangh, Socialist Party and the BLD write letters. On the 5th the Commission receives the letters. On the basis of this the proceedings are to start. And the Election Commission has to give a final decision, a quasi-judicial decision. I call it quasi-judicial because the section provides that he must hear the constituent parties that he must hear the representatives of the new party and that he must hear others. Therefore, the decision is to come after hearing these parties. A decision so vital which is to come after hearing all these parties is on a quasi-judicial basis.

On what basis do the proceedings start? The proceedings start on the basis of these letters which these constituent parties write to the Election Commission. It is not as if the letter written is anybody's property. That letter, once written to the Election Commission, becomes a public document because that letter is open to inspection by persons who are to appear before the Commission to argue before it. The Evidence Act is very clear that a document which a party is entitled to look into, to inspect, is a public document. A private document kept in public custody which is liable to be examined, and which any other party is entitled to examine, is a public document.

Here is a public document connected with quasi-judicial proceedings which have been started. Then one of the parties gets a brain-wave. One of the parties wants to withdraw the letter. What is the method to be adopted? Even if you want to withdraw, the normal method should be that you write a letter saying that you repudiate your previous letter. What has happened here? Chaudhuri Saheb telephones to the Election Commission. The Election Commissioner asks for the letter. On the basis of that, the Election Commissioner sends back the letter. What the Election Commissioner did is none of our concern. That the Election Commissioner in his wisdom kept a copy is for his safety. That the Election Commission put a covering letter is for his safety. What we are concerned with is Chaudhuri Saheb's telephoning.

Why do you telephone? Why don't you write a letter? Why do you not choose to keep it in the file there? I am not saying that Chaudhuri Saheb would have spoken a lie subsequently, but supposing the affected parties did not together subsequently? Supposing the letter was not returned, what would have happened? What would have happened is that the other three parties would not have got the

symbol. The merger would not have been recognised. A breach of trust must have been committed. That is not my concern, but I am answering the argument that it is inconsequential. I say that the conduct of Chaudhuri Saheb in telephoning and not writing is not so innocent, in just getting the letter back without leaving a trace of that letter there is not innocent. He has done something that nobody should do.

May I put another question? Supposing a puny clerk in the Election Commission's office had released that letter back, would you not take disciplinary action against him? Would you not say that he has not conducted himself properly? Certainly you would have taken disciplinary action against him. Supposing these four parties were in the opposition and supposing one of you phoned, would that letter have been released? Let us think about it. Certainly not. Therefore, we have got to consider very seriously how it is that the Election Commissioner, Mr. Swaminathan, with all his experience, was persuaded immediately to release that letter. That is a matter which is not very much connected with my motion, but there are circumstances prevailing in the Election Commission's office, there is a subjective feeling that he is subject to somebody. This is a matter which you and I will have to consider when we are thinking of the Election Commission and all that.

My main legal argument is this. It is not as if the letter was the property of the BLD. Who wrote that letter? That letter was written by Mr. Rabi Ray. Chaudhuri Charan Singh writes as BLD leader, that is what they vow. Chaudhuri Saheb says, "Send back the letter". not as Home Minister, but as BLD leader. The letter is written not by a BLD leader but by a Socialist leader. (*Interruptions*).

Now I make a very serious allegation. In my visualisation of things,

[Shri C M Stephen]

here is a case of the entrustment of a document with a high quasi-judicial authority. That document is for a purpose. The purpose is the determination of the question of recognition and the determination of the allocation of a symbol. He is the custodian, the trustee, of that letter. The relationship is not between him and Chaudhuri Saheb only. Once the letter becomes part of the documents which are to be the basis of a quasi-judicial proceedings, the Election Commissioner is a trustee holding that letter for and on behalf of the parties, for and on behalf of the people of this country. He is a trustee holding that letter for and on behalf of anybody who is entitled to appear before the Election Commission. That letter he disposes of. That letter is a property. That property having been entrusted to him, cannot be disposed of other than in accordance with the law.

MR. SPEAKER: There are a large number of speakers.

SHRI C. M. STEPHEN: Therefore, my position is this. This is a case which comes under section 405 of the Penal Code. There is a breach of trust committed. Section 405 says that whoever, being in any manner entrusted with a property, uses or disposes of that property in violation of any direction or prescribed mode in which it has got to be disposed of, commit a breach of trust. This breach of trust was committed by the Election Commission, and this comes under section 409, being a breach of trust by a public servant. The punishment given for that is very severe.

Here is a public servant who has committed an offence which can be punished with imprisonment for life. What is the role of Chaudhuri Saheb? I submit that Chaudhuri Saheb abetted that crime. Abetment of that crime will have to meet with the same punishment.

This is not a simple matter. Mr. Shanti Bhushan argued in the Upper House that documents in a court could be got back. Mr. Shanti Bhushan is far superior to me in the matter of legal acumen and knowledge, and I did not expect this from him. This is covered by the Civil Procedure Code. You just cannot take it away. Would you say that a person will be in order if he just rings up a Supreme Court Judge or any Judge to release a paper—I am emphasizing this conduct—not by letter, not by an application, but by telephoning? Is such conduct permissible? Would you agree to that conduct? Supposing you telephone a magistrate and ask him to send a letter back, would the magistrate do that? Would you hold his conduct as proper if he did? You will not. Then, let us hold the scales even. The sections of the Criminal Procedure Code are so clear. Therefore, I am submitting that the Home Minister of India has done something which even an ordinary citizen of this country should not have done. The Home Minister of India has done something of which an ordinary citizen of the country should be ashamed of doing. The argument for taking back the letter from the Election Commission was that he did it as BLD Chairman. If he did it as Home Minister, I would certainly say that there can be some justification, but not as Mr. Charan Singh occupying the Home Minister's seat and ringing up and getting back that letter. May I put it to the Prime Minister, to the Home Minister and to the Law Minister, whether this conduct by any citizen in this country is permissible and above reproach? Therefore, the result is that nobody has got confidence in anybody; anything can be done now. Let this state of affairs not happen here. That is all I have to say. Things must have happened in the past, let there not be repetition and such situations should not arise.

The Home Minister has meddled with a constitutional authority; he

has meddled with the judges, but I do not want to go to other cases about tribunals, writing letters and all that. He had the courage to meddle with a constitutional authority because he feels that he is the Home Minister of India and his telephone will be accepted and acted upon. He was not disappointed because the Election Commission sent back the letter to him. This is a most reprehensible conduct which created a storm in their own party. But I do not want to go into that that is none of my business, and I do not want to go into that. On the basis of this he has betrayed the trust that the people have put in him by giving him this extreme power. But by using that power he has done something which is reprehensible and he has instigated an officer to commit a crime under the Penal Code. He has got to be castigated for that and he has got to be condemned for that. This is all I have to say. On these two grounds, I move the censure motion for the dispassionate consideration of the House and for the acceptance of the House.

MR SPEAKER Motion moved

"That having considered the acts of commission and omission on the part of the Home Minister with respect to the following matters namely —

- (a) that he has been misusing the floor of the House to make baseless and irresponsible statements as instanced among others by his allegation on the 13th July 1977 while replying to the debate on demands for grants for the Home Ministry that there was a preparation and thinking ('Vichar') on the part of the previous government to shoot the political leaders in detention,
- (b) that he misusing his official position meddled with the affairs of independent

constitutional bodies as evidenced, among others, by his conduct in withdrawing from the files of the Election Commission a letter dated the 5th May, 1977, he had written in his capacity as the Leader of the BLD,

this House hereby records its indignation against and disapproval of the conduct of the Home Minister"

Shri Unnikrishnan

SHRI SHYAMANANDAN MISHRA

That is not the practice

SHRI KANWAR LAL GUPTA (Delhi Sadar) The practice in the House is that once a motion has been moved, the other side speaks

MR SPEAKER I am sorry, I thought that there are two sponsors of the motion and, therefore I called him

Shri Shyamanandan Mishra

SHRI SHYAMANANDAN MISHRA

Mr Speaker Sir, I must say right in the beginning that the hon mover of the motion had no right to disappoint us in the manner in which he has done. Never had the solemnity of the House been cheated in this manner. We were prepared for a more solemn occasion and we were prepared for more serious charges, if they were in their possession. Before what has happened is that we have found him speaking with so much of diffidence and lack of conviction that our guns must remain spiked and I must say, that they will have to be used on a somewhat later occasion.

I was almost thinking of congratulating the hon Home Minister for having been singled out for such a singular honour. I have no doubt that many in this House and outside would envy this kind of a distinction for which he has been so carefully and after due consideration, hand-picked.

[Shri Shyamnandan Mishra]

I am told that there is a grand strategy behind this motion and this (grand strategy) is not only to take them out of the slough of despondency but to divide this great party.. (Interruptions).

MR. SPEAKER: Please sit down.

SHRI M. V. KRISHNAPPA (Chikballapur): I am prepared to obey. When our Member, Mr. Stephen, was speaking on this side, half of his time was taken away by the Members on the other side in heckling him because they are in a larger number. (Interruptions). If they continue like that, I can also heckle them. One man will do. They should behave properly. We are prepared to obey. I do not want heckling from them or from this side. But they should have realised earlier.

SHRI SHYAMNANDAN MISHRA: Otherwise, what did the hon. mover of the motion mean by saying that they were supporting the Government but hating the hon. Home Minister.

SHRI C. M. STEPHEN: Who said it? I did not say. (Interruptions).

SHRI M. N. GOVINDAN NAIR: Sir, you must protect us from both the sides. We want to hear the arguments from both the sides. I am trying to understand the arguments raised by both the sides. Unfortunately, when somebody speaks here, others shout from there and, when somebody speaks there, others shout from here. We are not able to hear both the sides. Therefore, please save us from these shouting so that we can follow the arguments of both the sides.

MR. SPEAKER: You make an appeal to your colleagues on both the sides.

SHRI SHYAMNANDAN MISHRA: I would only ask my hon. friends to realise that the unity of this great

Party is built on solid rocks, that it was founded in the fire of a struggle, that, all of us are bound together by hoops of steel and nobody is going to rend us as under. There should be absolutely no doubt about it.

The hon. Home Minister had said some time back and probably there was a dark insinuation when the hon. mover of the resolution was referring to the letter being removed from the archives of the Election Commission that there was some intrigue in the mind of the hon. Home Minister—that the unity of the party would break only on the dead body of Chaudhuri Charan Singh. Therefore, there is absolutely no question of any.... (Interruptions).

Now, Sir, I was submitting that there could be no greater testimony to the integrity of the hon. Home Minister and to his effectiveness than this motion of censure. To the people, what does their censure mean? If they praised Choudhuri Charan Singh, he would have come in for public condemnation, and if they have expressed their indignation about him, I must say that the people are going to compare the criticise with the object of their criticism. And what is going to be their preference, can there be any doubt about it? They have already made their choice recently.

Now, Mr. Speaker, it is also very clear why the hon. Home Minister has been hand-picked for the attack. He happens to be the leader not only of the country, but of a State which has seen the exit of the erstwhile leader of their party. They will have to concede that it is because of the support the Janata Party had under the leadership of Chaudhuri Charan Singh that the electorate (Interruptions).

AN HON. MEMBER: He is discussing party matters.

SHRI SHYAMNANDAN MISHRA: That the electorate rejected Mrs.

Indira Gandhi lock, stock and barrel. Therefore, we are quite prepared for all the venom and animus that they can pour upon the hon Home Minister.

This is also very clear that the hon Home Minister had been attacked only in those respects in which has been recognised to be holding certain principles. Now, can there be any contradicting the fact that he is recognised as one of the best administrators in the country? When the hon mover of the resolution was speaking about certain aspects of the hon Home Minister having impressed him, I think, it must mainly be the fact that he is recognised to be one of the best administrators in the country. And yet he is being attacked for meddling with certain affairs of an independent or constitutional body.

Now may I beg this point out of the first way?

The hon mover of the motion was saying—probably he thought that he was carrying conviction so far as this letter of the President of the BLD to the Election Commission was concerned—that this letter was a quasi legal document and therefore it formed part of the papers which belonged to the people and he had no right to remove it. Now, this sounds on the face of it, somewhat plausible. But may I say that it will not bear scrutiny even for a moment. Is not a plaint filed before the court taken away and amended? If that was so here was not even a case of an amendment. I really do not know, I have not concerned myself with the details of it, but if the letter was written by the Secretary of the BLD and it was sought to be read by the President of the BLD there is absolutely nothing objectionable about it. The President had to look into it carefully whether the letter was perfect. Does my hon friend suggest that if the letter to the Election Commission was suffering from certain defects and weaknesses they should not have been removed? I am speaking only in a theoretical way, I do not know the

exact position. If the fact of surrender of the symbol by the BLD was not clear and categorical, and the act of surrender had to be made plain, then should it not have been the duty of the President of the BLD to have a look at that letter? But there might have been many other considerations.

SHRI C M STEPHEN The Prime Minister has said that if the letter was corrected then there would have been something wrong about it. The case is that the letter, as taken away, was returned in the same way. No correction at all. The Prime Minister has said that if there was a correction, then it would have been found fault with. (*Interruptions*)

SHRI SHYAMNANDAN MISHRA: He is supporting me.

SHRI C M STEPHEN I am not supporting you.

SHRI SHYAMNANDAN MISHRA: A question arises whether any public interest was injured or affected thereby. Does the hon Member suggest that public interest has been affected adversely? Then was there anything clandestine about it? This was not done secretly. The Chief Election Commissioner had recorded in the file that the letter was called back by the President of the BLD. There was nothing hush-hush, there was nothing clandestine, there was nothing secret about it. The paper was not removed, the paper was taken out only to be returned. And there is nothing to which one can take any objection. So I really do not know what is made out of that episode. How does it reflect upon the integrity of the hon Home Minister? How does it reflect on any public interest adversely? And how is it made out that it was done in an objectionable manner—that is, it was secretly removed or stolen from the archives of the Election Commission?

[Shri Shyamnandan Mishra]

SHRI C. M. STEPHEN: Telephoning and getting the document was a public affairs!

SHRI SHYMNANDAN MISHRA: If it was a public thing, it remained a public thing; it was returned to the public office in a proper manner.

So, I am quite in order in holding the view that these people have nothing to substantiate their charge. This motion has even turned out to be a motion of tribute so far as the hon. Home Minister is concerned and so far as they are concerned, it is a motion of despair and frustration; it could have come out of that state of mind only. Otherwise these people could have waited for some other occasion, although we are not going to provide them with any opportunity of that kind....

SHRI C. M. STEPHEN: Wait: let us see.

SHRI SHYMNANDAN MISHRA: Yes; let us see.

AN HON. MEMBER: You should vote for this as a tribute.

SHRI SHYMNANDAN MISHRA: Mr. Speaker, you would be wondering may be, even curiously asking him as to what could be the reason for this motion.

The reason for this motion, to my mind, is the 'emergency' Commission appointed by the Hon. Home Minister to go into the excesses committed during the dark nights of the Emergency. That is the answer.

The answer is the 'Maruti' Commission which has been instituted by the Hon. Home Minister to go into the misdeeds of their erstwhile leader and her domineering son.

The answer lies in the 'Bansilal' Commission. (I do not know whether I am using the correct terms).

So, we were prepared for this kind of attack from their side.

The answer, to say the least, lies in the disclosure the Hon. Home Minister was forced to make the other day that the services of the ex-Chief Justice of the High Court were employed to influence the judgment of an acting judge in the election case of Mrs. Gandhi. (*Interruption*).

Sir, we treat this motion as a motion not against the Hon. Home Minister but as a motion against the Government, against the Party and against the restoration of democracy in this country. The letter is what they are smarting under; they have not really reconciled themselves to the restoration of democracy in this country. Our illustrious leader, the Prime Minister, has decided that the Home Minister need not participate in this debate. That is, so because our leader has considered it as a motion against the party, against the Government and not as a motion against an individual Minister. You can see the dignity and stature of our Prime Minister from the fact that he has asked the Home Minister not to intervene in the debate as he would take care of it. But what is their position? They, who claim to be great democrats to their fingertips now, think that the villain of the piece is Mrs. Gandhi. That is their sense of honour. Our sense of honour is evident from the fact that everyone is behind Chaudhuri Charan Singh. Our sense of honour is that we say we collectively stand or fall. But their sense of honour is that they say the villain of the piece is Mrs. Gandhi and they must get a certificate of innocence from us! What were they doing when we were clamped behind the bars? When Mahatma Gandhi went on fast at the Aga Khan Palace, there was an Aney, a Bhabha to resign. But what did these honourable gentlemen do when Loknayak Jayaprakash Narain was almost breathing his last? And yet they would like us to believe that they were quite innocent and it was Mrs. Gandhi who was guilty.

SHRI C. M. STEPHEN: Who said that.

SHRI SHYAMNANDAN MISHRA: That is what you are all doing. I am asking you to contrast or compare your position with our position. We are taking, in this matter, the honourable position which an honourable Party would take and which any great leader like our Prime Minister would take.

SHRI ANNASAHAB GOTKHINDE (Sangh): He says "our Prime Minister". Is the Prime Minister not the country's Prime Minister?

SHRI SHYAMNANDAN MISHRA: In this context, it is not without significance that the hon'ble mover of the motion is my hon. friend, a very lovable friend, Shri Stephen, but not the Leader of the Opposition. Shall it go unnoticed? I do not say that the hon. Leader of the Opposition is pusillanimous, or that he has not approved of the motion which has been moved by the hon. Member, nor do I suggest that he is not going to support it if it comes to voting in this House. Still, we cannot help observing that the hon. Leader of the Opposition never comes to the defence of Mrs. Gandhi when she is under attack. We cannot also help observing that this motion legitimately belonged to the domain of the Leader of the Opposition. But your leader did not come forward to move this motion. Can there be a greater discomfiture, my hon. friend, Mr. Stephen?

After the motion has been denuded of one of the much-trumpeted things, the second aspect of the matter is the statement of the hon. Home Minister in this House regarding the thinking, *Vichar*, about the shooting of the leaders. I will come to the legal aspect of it later. But it goes appear to me that Chaudhury Charan Singh must be Mrs. Gandhi in order to make his statement acceptable to them. The difficulty of the hon. Home Minister is, that neither he can change his biological specie, nor his political specie. That is his difficulty. I am

thinking about his political specie mostly. Chaudhry Charan Singh will never turn a dictator in order to make his statement acceptable to the other party, to the other part of the House.

But let me recount what these people have swallowed hook, line and sinker from their erstwhile leader, Mrs. Gandhi. Why are you straining at a gnat, as the saying goes? (*Interruptions*) Mrs. Gandhi said similar things without any basis, in fact in a much worse form, and you did not have the guts to oppose her or to contradict her... (*Interruptions*)

Did not Mrs. Gandhi say on the 7th of January, 1975, after the assassination of Shri L. N. Mishra, that it was a part of a dangerous plan and this was only a rehearsal? The hon. Home Minister spoke about *vichar* and thinking. But here is a definite charge that there was a plan, and this was a rehearsal. And yet, our hon. friends, at that time stomached all this.

SHRI C. M. STEPHEN: Even now we are stomaching it. That was part of the plan. We stand by it. What about bombing the Chief Justice?... (*Interruptions*) What about the dynamites? What about the bombing of the Chief Justice of the Supreme Court?

SHRI SHYAMNANDAN MISHRA: Would my hon. friend ask the citizens of the world, not only of this country, whether they to believe that there was something like a plot in the dynamite case—a charge which they had trumped up against Mr. George Fernandes? ... (*Interruptions*) You may go even out of the frontiers of your country and ask whether or not they believed that it was a trumped up charge.

Yet you do not hang your head in shame.

SHRI C. M. STEPHEN: You read the *Sunday* magazine. Mr. Reddy has written an article admitting it.

" SHRI SAUGATA ROY (Barrack-pore): I rise on a point of order.

There is a revision petition in the Baroda Dynamite case which is at present pending in the Delhi High Court. Earlier you have ruled out the Belchi incident because it is *sub judice*, but you are allowing them to raise this.

MR. SPEAKER: Mr. Mishra, if there is a revision petition pending, please do not refer to it.

SHRI SHYAMNANDAN MISHRA: It is not Mr. S. N. Mishra who has raised this subject. If my hon. friend thinks that it would prejudice the proceedings before the court, the guilty party is my hon. friend....

MR. SPEAKER: If the matter is pending before the court, nobody can refer to it.

SHRI SHYAMNANDAN MISHRA: Mrs. Gandhi said on that occasion, that is, on 7th January 1975, that she knew that their target was not the Railway Minister, although his killing was not a mistake and that it was a rehearsal. Then, paying homage to Mr. Mishra, Mrs. Gandhi said, "Everybody knew who Mr. Javaprakash Narayan's target was ... (*Interruptions*)"

I ask you whether you would not realise in your cooler moments that even a saintly person like Jayaprakash Narayan was not spared! The clear charge of Mrs. Gandhi was that Mr. Jayaprakash Narayan was after her blood and the real target was she (Mrs. Gandhi). Now, this is the kind of charge you make and try to get away with. Nobody from that side had ever come forward and told Mrs. Gandhi that that was not done and must not have been done.

Not only that, Mrs. Gandhi also said that if she had been killed, it would have been said that she died as a result of her own design. Her linking

of Shri Jayaprakash Narayan and his statements as also his movement with the murder of Mr. L. N. Mishra, and then suggesting that actually it was she that the murderers were after has been a much more serious charge that has been levelled against the movement and against all of us who are involved in this movement. And, yet, at that time when we raised our voice against this in this House, none from that side had ever come to support us.

Further, I will take you to 19th September 1975. Since we happened to be in jail, we had much quieter moments to reflect on all these things. She said on September 19, 1975 while reacting to the statement of President Ford on the internal situation in this country:

"Would this country be considered more democratic had a large number of people been killed after June 29, if myself, my family and the Chief Ministers and others who support me had been annihilated."

The hon. Home Minister said about a few leaders. She spoke of a large number of people who might have been killed. That was the plot she suggested. Does anyone of you believe in your heart of heart that Shyamnandan Mishra, Chaudhury Charan Singh and Shri Morarji Desai were moving with bombs to destroy you? Did you really believe that? But here is your erstwhile leader who said that a large number of people would have been killed and she herself, her family and also the Chief Ministers of the country would have been killed after June 29. This is a much more serious and much more concrete charge than had been made by the hon. Home Minister.

This Mrs. Gandhi said while commenting on the reaction of President Ford on the internal situation in this country. But she is also on record having said that in this country political workers were only put behind the bars while in some other countries

they were even killed. This is a statement by Mrs. Gandhi. What did it all mean? What was this dark hint about?

Let us come to another instance—an interview given by Mrs. Gandhi to the Australian Broadcasting Commission Television which was televised in Australia on October 25, 1975. This was one of the questions and answers.

Q You have said that talk of assassination plot is not without substance. Do you really think there was a possibility of organised political murder?

Ans. Of course, there was and there is

Of course, there was and there is—these are clear and definite charges. If there is murder in your statements, there would have been real murders. If there is murder in your eyes, there is murder in your statements, there is murder in your thinking, this murder would out. That is the kind of thing which the hon. the Home Minister was pointing out—you have been thinking all the time on this line.

My hon. friend the Mover of the Motion was referring to the statement made by the ex-Attorney General—Shri Niren De two days back. But what has Mr Niren De said? To my mind Shri Niren De has not contradicted what the hon. Home Minister had said. I am reading out. I will not leave anything to your mercy. What has he said?

The point was not that the fundamental rights were merely suspended, and it was open to a citizen to go to the court after the emergency; the point was that during the period of emergency you die, you go to the grave. What does it mean? Could the Home Minister say that the entire future was going to be in your hands? There was bound to be the end of emergency and after the emergency the laws would have to be restored to the previous position, if at all the people of India mattered. Here the Attorney General
1908 LS—12.

says that the right to life was indeed suspended during the emergency. So if the right to life was suspended during the emergency, there was no remedy in court. Then how is the position of hon. Home Minister contradicted by the ex-Attorney General, I really do not know? The other point that I would like to make in the context of the ex-Attorney-General's statement is this. He had said that he was living in a state of constant terror and panic, and that he was apprehensive about the security of life of his dear wife. Can there be a greater condemnation of your regime than that the Attorney General was shaking in his shoes, there was a tremor down his spine all the time as to what would happen to his dear wife who used to come from Sweden to this country.

I leave it to you to judge whether or not a legitimate inference could be made that you were going to get into a murderous mood and perhaps you could go even to the point of lunacy. You could argue this way.

The hon. Mover of the Resolution had said this was not the plea on which the case was built by the ex-Attorney General. But this was the crux of the matter. Therefore, it was squarely and clearly posed by Mr. Justice Khanna: What would happen to a citizen if he was shot dead by a constable or any member of the executive? Then the Attorney General in effect, said this throwing up his hands in horror: "Your Lordship, you and I, both are helpless in this matter." Sir, that was the state of utter helplessness in which the entire country found itself. So, we were then not the citizens of a modern State. We were just like animals and slaves; we had no right to life and we lived only by their mercy. That was what the Home Minister had said in his inimitable words:

अगर हम जीव जिन्दा थे तो उनकी नज़रें
नायत परसे ।

This is what the Home Minister had said. If we were alive, it was because

[Shri Shyamnandan Mishra]

of the compassion in the eyes of the honourable lady, the Prime Minister; more correctly, it was because of her sympathy, it was because of her mercy it was by her grace and kindness. The real grace of Urdu could not be properly communicated through any translation of 'Nazre Inayat'.

Thus a legal framework of a thoroughly authoritarian regime had been or was being evolved. The citizens had no right of entry to the court of law. What does the bar at the threshold theory mean? It only means "Mr. Citizen, you cannot enter the precincts of the court during the period of emergency." When you took that plea, you did not do so in an off-the-cuff manner. Surely, it was not the off-the-cuff speech of the honourable Attorney General, it was after the High Court had pronounced on this issue and after due deliberation had taken place in Delhi.

It was not only the statement of the Attorney-General, it was a plea made after full deliberations in Delhi. The Attorney-General had not made this plea to the Supreme Court on the spur of the moment. Then, how do Mr. Speaker we explain this?

Would not the hon. gentlemen also think about it a little more coolly that they had been a party—not in this House but in the other and in their party too—to a law being passed immunising the Prime Minister against any criminal offence that she might have committed or she might commit. What was it all for, for immunising her from all the criminal offences? It was passed in the other House, in the Rajya Sabha
(Interruptions).

So Sir, what was it meant for? What was it against which the safeguard was being provided? Probably, any reasonable person would think that the safeguard was against any possible offence that might be committed by the then Prime Minister. Otherwise,

what was the need for it? You all had been a party to that at least in your own party meeting. Please say if you had not been party to that. (Interruptions)

Then, Mr. Speaker, would you not also recollect that they were trying to insulate certain laws from being challenged in the court—particularly the law which related to the declaration of certain people as anti-national? Anybody could be declared as anti-national and this law could not be challenged in the court. So what was the framework that was being evolved?

MR. SPEAKER: Mr. Mishra, now you are going out of the line. Anti-national law has nothing to do with this. You have covered the ground which he has covered.

SHRI SHYAMNANDAN MISHRA: Sir, this was one of the grounds that was sought to be covered.

MR. SPEAKER: Up-till now you were on the line of Mr. Stephen. If you go into the anti-national law, that has no bearing at all.

SHRI SHYAMNANDAN MISHRA: This was one of the elements in a particular framework which had to be reckoned with. I would not expand that.

Finally, summing up, Mr. Speaker, I would say that the two issues on which my hon. friend, the mover of the Motion has tried to attack the hon. ble Home Minister are the ones on which the hon. Home Minister stands erect; in fact it is their heads which must bend, not the head of the Home Minister. (Interruptions) Mr. Speaker, I do not even have to say very strongly that I oppose this motion because the motion itself is inherently so weak that it will fall down. It will not require the force of number. Probably, wisdom may prevail upon them, when it comes to the final reckoning, to withdraw the motion. I still hope it is going to be so.

So, with these words, I have formally to say that I oppose this motion. While I am opposing it, I feel it has already fallen down inherently.

MR. SPEAKER: Before we proceed any further, I want to say that four-hour's time has been allotted by the Business Advisory Committee for this Motion. It was to start at 3 P.M. but it had started at 4 P.M. Is it the pleasure of the House that we will sit up to 7 O'clock today and have one hour tomorrow?

SEVERAL HON. MEMBERS: No, no.

SHRI VASANT SATHE: Sir, I have my half-an-hour discussion which is put down at 6-30 P.M.

MR. SPEAKER: We will come to that.

SHRI VASANT SATHE: I do not know how you rule that out? The Order paper says that it will be taken up at 6.30 P.M. or as soon as the preceding items of business is disposed of whichever is earlier. You have already decided that it will be taken up at 6.30 P.M.

श्री कंचर लाल गुप्त : मेरा कहना यह है कि माटे साहब का जो हाफ़-एन-आवर का डिम्केशन है, उस को न लिया जाए और बल को सस्पेंड कर दिया जाए और यह जो मोशन है, इस को आज ही खत्म करना चाहिए ।

स्वामीय अँर एडिक्टर कश्यप कत्री (श्री राज नारायण) : मैं यह मुझाव दगा कि इस मोशन पर बहस आज खत्म हो जाए और प्राइम मिनिस्टर साहब का जो रोल-ऑफ़ हो, वह कल हो ७.० ।

श्री जनेश्वर दिक्ष (इलाहाबाद) : मेरा क्याल है कि आज ये लोग देर तक बैठना नहीं चाहते हैं क्योंकि श्रीमती इन्दिरा गांधी की पार्टी कर्नाटक हाउस में है। वहाँ बात-बात पर प्रश्न कि क्या बोलें ।

PROF. P. G. MAVLANKAR: Sir, we began the discussion at 4 P.M. instead of 3 P.M. My submission is that we can go upto 8 P.M. and finish it today. The Half-an-Hour discussion can be postponed to some other day with the consent of the House. (Interruptions)

SHRI VASANT SATHE: How it is possible?

MR. SPEAKER: The matter is entirely for the House—and not for the Speaker—to decide. At 6.30 P.M. there is Half-an-Hour discussion. It is open to the House to sit as per schedule or postpone the Half-an-Hour discussion. For that somebody has to move....

SHRI KANWAR LAL GUPTA: Sir, I move that Half-an-Hour discussion be postponed. (Interruptions).

THE PRIME MINISTER (SHRI MORARJI DESAI): May I suggest, Sir, that this can be carried on till 7 P.M. Then there is a Half-an-Hour discussion which can go from 7 P.M. to 7.30 P.M. I will reply to the discussion tomorrow.

18 hrs.

MR. SPEAKER: I am entirely in the hands of the House, because this is a matter to be decided by the House and not by the Speaker. The Prime Minister suggests that this Resolution shall go on till 7 O'clock. From 7 O'clock to 7.30, half-an-hour discussion can go on and we will adjourn the House after that. This resolution will be continued tomorrow. Now, is this the pleasure of the House?

SOME HON. MEMBERS: Yes.

SHRI KANWARLAL GUPTA: Only the Prime Minister will reply tomorrow.

PROF. P. G. MAVALANKAR: Only the Prime Minister will speak tomorrow and nobody else.

MR. SPEAKER: May I suggest a compromise? We will go on till 7 O'clock.

[Mr Speaker]

Mr Stephen will reply after the Prime Minister's reply. He will reply tomorrow. Two things will be left for tomorrow. Now, we will go on till 7 O'clock. (Inter-jections) Now, I take the pleasure of the House that this will go on till O'clock. The half an hour discussion will start at 7 O'clock today and tomorrow Mr Stephen will reply after the Prime Minister's reply. (Interruptions)

SHRI SAMAR MUKHERJEE (Howrah) How can we discuss this motion within 7 O'clock? You have extended it for tomorrow also. Now it is already past 6.00 P.M. How can you give chance to other political parties? (Interruptions)

SHRI VASANT SATHE One Member will speak for one hour and another Member will speak for another hour, that is till 7.00 P.M. I had given notice of my motion and it has been shown in the agenda against my name. Now you cannot delete my name.

MR SPEAKER On neither side shouting will make a good argument. Quiet argument is stronger than shouting. There is more conviction in a quiet argument than in shouting. Some people think that shouting is the only argument. Hereafter I am limiting the time to 10 minutes for every Member.

MR K. P. UNNIKRISHNAN (Badli Gara) Sir, as I sat listening to my esteemed friend Mr. Shyamnandan Mishra for whom I have great respect, I thought it was one of the most extraordinary performances of his in this House, extraordinary in the sense that I cannot conceal my disappointment about the performance of Mr. Mishra. He said that the mover's speech was disappointing. But the tone of adulation which I heard for the Home Minister—I have no quarrel if you want to make him your Prime Minister, you can make him the leader of your Party so that your problem of disappointment will be solved.

Now as for Mr. Stephen's disappointing performance to which Mr. Mishra referred, I can understand this. Naturally truth hurts, not only hurts some time but something it stings also, as I shall prove later.

The whole question involved in this motion, the thrust of this motion, revolves around ministerial responsibility. When we say acts of commission and omission when we mention certain specific acts, the main or central thrust of the whole motion of censure, as in the case of previous precedents in the House of Commons, as in the previous precedents in this House also, and as Mr. Madhu Limaye would agree with me, the main thrust is of ministerial responsibility. I should say that there are two aspects of this responsibility. Ministers are not only collectively but also individually responsible for the conduct of the policies of the government. It means that they have to be responsive to the public demands and responsible to the movements of public opinion. You in your wisdom said that we should not discuss certain things which were *sub-judice*. That of course I hope will not be extended to say that protection to the Harijans and the rights of the Harijans cannot be debated in this motion or in other motions because this is not the only one specific instance in Bihar. The Centre is constitutionally bound, the Home Ministry is bound and consequently the Home Minister is bound and responsible for the protection of the life and property of Harijans in this country.

SHRI SHYAM NANDAN MISHRA What about the Andhra incidents?

SHRI K. P. UNNIKRISHNAN When the life and property of Harijans and Tribals are endangered we are entitled to raise it and that is why we have raised it today. Since you in your wisdom had said that we should not mention or deal with the Belchi incident, I do not want to mention that.

No government can pursue irresponsible policies and abdicate its constitutional duties as well as moral responsibilities or deny the right of parliamentary scrutiny and control of the executive. Nobody can shut us out about debating certain aspects which surround this motion

I have two faces of Chaudhury Charan Singh, the Home Minister before me. One is quite unlike many others sitting here, that of a great freedom fighter—I respect him as a nationalist and freedom fighter—quite unlike Mr. Jvotirmoy Bosu—he is not here—who was serving the British army during those days when Chaudhury Charan Singh as well as the leader of the opposition were in jail, unlike Nanaji Deshmukh for whom I have respect, who was organising Swayam Sevaks whom Chaudhury Saheb used to call 'Knickerwalas'. I have respect for him as a great nationalist, as a man of conviction

AN HON. MEMBER: What did you do?

SHRI K. P. UNNIKRISHNAN: I have gone on record in this House saying that here I see a man who was as straight as a rod, a man who was responsible for zamindari abolition in his state, an opponent of communal politics as represented by the Rashtriya Swamam Sevak Sangh. I did not agree with him on many things; Mr. Stephen referred to his views in Nagpur Congress; I do not want to go into those aspects.

But I have another picture of the Home Minister, I should not like to say that he brought the politics of defection to this country but he is known in recent political history as number one or ace defector. Here I have the anatomy of a defector before me; this House has before it. I do not want to say that he did so out of opportunism, because he always talks about his convictions; he would argue that it was not because he wanted to be the Chief Minister of U.P. that he defected. Suddenly one fine morning in

March 1967, he realised that all that he stood for had gone wrong. (*Interruptions*).

MR. SPEAKER: Mr. Unnikrishnan, if I allow you, I will have to allow them also. This is a censure motion and not a no confidence motion.

SHRI MORARJI DESAI: I would like to suggest to my hon. friend that this is related to a particular issue. Why is he bringing in all the other things here?

(*Interruptions*)

SHRI K. P. UNNIKRISHNAN: I understand that the Home Minister is very sensitive and in deference to the wishes expressed by the Leader of the House, I shall not go to Shri Charan Singh's past. But, as was made clear, the main allegation against him is that he makes baseless and misleading statements in the House and outside and he does not discharge his duties in protecting the downtrodden, the Harijans and the tribals of this country. This has been confirmed by the report of his own party men. He does not care for public opinion and goes against it and makes pronouncements in this House. So, this is the picture which emerges from his performance in this House during the last hundred days.

As far as your ruling is concerned, I shall not go into details. I shall only invite your attention to the fact that nine to ten Members of Parliament from his own party had constituted an Enquiry Commission and....

MR. SPEAKER: What cannot be done directly, you cannot do indirectly. I will not allow it.

SHRI K. P. UNNIKRISHNAN: As I have said, protection of Harijans, tribals—I hope you will agree with me—is the constitutional responsibility of the Home Minister and the Government. My main charge is that he has failed in the discharge of his duties in protecting these interests as

[Shri K. P. Unnikrishnan]

evidenced by many of his acts of commission and omission. I am sure you cannot have any objection to that.

Now here emerges from the so-called Election Commission case, the political anatomy or the anatomy of the political morality of a man called, Charan Singh, the Home Minister of India. The 'Statesman' first and the 'Patriot' of Delhi brought out a news concerning the withdrawal of this letter and it was disputed. Mr. Shanti Bhushan contested the point and said that nothing was clandestinely removed from the files, there was journey of a letter from Election Commission Office to Charan Singh's Office and back again, sealed and delivered by my friend, Mr. Rabi Ray. On 5th May, 1977, the letter was sent by Shri Charan Singh; received on 6th May in the Office of the Election Commission. On 8th May, because something had happened in between, Shri Charan Singh, the Home Minister, desired the return of the letter. It is astounding that he has not kept any copy of the letter. It is not that he did not keep a copy of that letter! It was only that the official communication, which was sent on behalf of a particular recognised party, had to be withdrawn for purposes other than legitimate. That was the crucial point. On 8th May it was returned to Mr. Charan Singh. What happened on 10th May? Because it was delivered back to the Election Commission on 11th May. So, between these dates something happened. Using his power and influence, using his high office of Home Minister, he deliberately and illegitimately saw to it that letter of importance like this was removed. That is my charge. I do not know what he wanted in return for a symbol! But whatever it may be, here is the anatomy of a ruthless political operator.— I do not want to say 'blackmailer'— who is prepared to do anything for the sake of power and in furtherance of his ambition. That is the gravamen of my charge today in this censure motion.

It is not confined to this. There is another thing which is very serious. On 13th July, when he spoke in this House, he spoke very well, with all the gifts he has. He spoke with great determination and conviction. He said:

"We should not think that since we have become MPs and Ministers, our relations have got a right to get anything done." "Corruption is prevailing from top to bottom. Political leaders are also not free from it. The moral fibre in the country has completely collapsed"—

I am prepared to agree with him to a large extent as far as generalities are concerned. I have quoted from the authentic English translation of his speech in 13th July....

MR. SPEAKER: You have 2 minutes more.

SHRI K. P. UNNIKISHNAN: There should not be any impression that you are shutting me out on this point. There is a surgeon in Willingdon Hospital, New Delhi, who holds an M.S. degree from Agra University. Sometime in 1973 or 1974, it was discovered that this surgeon had left an instrument in a patient's abdomen and stitched it up. Dr. Thanawala, who was then Superintendent of the hospital got an X-ray done and found it out. The Union Health Ministry ordered an enquiry....

SHRI GAURI SHANKAR RAI: How is it relevant?

MR. SPEAKER: Let him finish in two minutes.

SHRI K. P. UNNIKISHNAN: According to its report, the doctor tried to put the blame on the nurses. A written warning was entered in the personal file of this doctor kept in the Health Ministry. In April 1977, after Chaudhuri Charan Singh became Home Minister and after his protégé Shri Raj Narain became Health Minister, confidential orders were issued

to remove the written warning from the personal file of the surgeon.

स्वास्थ्य और परिवार कल्याण मंत्री
(श्री राज नारायण): माननीय सदस्य बिल्कुल असत्य चार्ज लगा रहे हैं (व्यवधान)

SHRI K. P. UNNIKRIISHNAN: The entire personal file of this surgeon is a closely guarded secret. Who is this VIP surgeon? He happens to be the son-in-law of Chaudhuri Charan Singh. Only a casual reference.... (Interruptions).

श्री राज नारायण : अध्यक्ष महोदय, मैं आप को प्रिविलेज मोशन का नोटिस अभी दे देता हूँ। (व्यवधान)

MR. SPEAKER: Your time is over. I have to allow other members also.

MR. SPEAKER: You will kindly sit down now.

(Interruptions)

MR. SPEAKER: He is raising a point of order.

SHRI SAUGATA ROY: Sir, why did he order us to sit down?

MR. SPEAKER: Many times you say "Sit down". But you forget that both sides have no authority. I agree.

गृह मंत्री (श्री चरण सिंह) : यह बात ही नहीं हुई, जो यह कह रहे हैं वह बिल्कुल गलत है। मैं आपसे यह पूछने वाला था कि क्या जो कुछ कहा जा रहा है वह रेकॉर्ड है डिबेट के लिए, उस पर उन्होंने कहा कि आप बैठ जाइए, तब मैं ने कहा था कि मैं नहीं बैठूंगा. आप को बैठना चाहिए। (व्यवधान) नहीं, आप ने मुझसे कहा था कि बैठ जाइए। मैं ने हा कहा कि मैं नहीं बैठूंगा, मुझे आप से कहना है। ... (व्यवधान) ... मैंने उन को एंडर्स किया था।

मैं आप के जरिए कहना चाहता हूँ उन्होंने मुझसे कहा था बैठ जाइए। (व्यवधान)

अध्यक्ष महोदय, मैं यह जानना चाहता हूँ कि जो यह मेरे ऊपर परसनल अटैक किया गया है यह कहां तक रेकॉर्ड है ? इस डिबेट इसका क्या वास्ता है और साथ ही यह कहना चाहता हूँ कि अगर माननीय दोस्त इस बात को साबित कर दे कि कोई चार्ज मेरे मन-इन-ला पर था, कोई चार्ज था जिसके बारे में मुझे नहीं मालूम है और साथ ही यह साबित कर दें कि मैंने इन से कहा अपने साथी हेल्थ मिनिस्टर से और उनकी वजह से कोई गियायत की गई है तो मैं रिजाइन करने के लिए तैयार हूँ वगना शराफत का तकाजा है ही झूठ रिजाइन।

(Interruptions)

MR. SPEAKER: Please sit down. The Home Minister raised a point of order to say that this is wholly irrelevant for the present debate and is not in order. The charge is one of censure and not of no-confidence Motion. If the charge is one of censure, our rules provide that you must specifically mention what you are going to say and you are not allowed to travel out. To some extent, Mr. Stephen has travelled out though not to a large extent, and to some extent Mr. Mishra also has travelled out. But so far as Mr Unnikrishnan's present charge is concerned, it is wholly outside the relevancy and therefore, I rule it out.

(Interruptions)

SHRI SHYAMNANDAN MISHRA: I must submit that I have not travelled outside the scope of the subject.

श्री राजनारायण : प्वाइंट ऑफ आर्डर। यह सेंसर मेरा है। मैं इस के ऊपर प्रिविलेज का नोटिस देता हूँ क्योंकि अग्निपट्ट प्रपोज्यूनिटी प्रवेल करनी चाहिए।

Everything has happened within the eye of the House. Therefore, I raise the question of privilege.

SHRI K. P. UNNIKRIISHNAN: Before you listen to me fully, if they get wild....

MR. SPEAKER: There is no additional charge that you can add in a censure motion.

(Interruptions)

MR. SPEAKER: I do not allow. If you deal with that subject further, I may expunge it.

SHRI K. P. UNNIKRISHNAN: Sir, I am only raising a poser to him. He can deny it.

MR. SPEAKER: In a censure motion, it does not arise.

(Interruptions)

SHRI K. P. UNNIKRISHNAN: As I said earlier, there are two facets. I would like to know which one is correct. That is the crucial point before the House. Which one is correct? That is the crucial point before the House. Here we have both. I want to know from the Home Minister. I have not said that he has put pressure (Interruptions) I would like him to enlighten us.

MR. SPEAKER: Not in this debate. Please go on to any other point. You have already taken much time.

SHRI RAJ NARAIN: You have just now said that he pressurized Raj Narain to do this.

SHRI K. P. UNNIKRISHNAN: I would like to know from the Home Minister also about the impounding of certain passports.

MR. SPEAKER: I would not allow it. Please don't take it up.

Rule 353 says:

"No allegation of a defamatory or incriminatory nature shall be made by a member against any person unless the member has given previous intimation to the Speaker and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply;..."

You have given no such notice. Therefore, I don't allow it.

SHRI GAURI SHANKAR RAI: On a point of order, Sir. After your ruling, the entire statement made by my friend has become irrelevant and it should be expunged. I would like you to expunge it, if it is not proper.

MR. SPEAKER: Mr. Unnikrishnan please conclude.

SHRI K. P. UNNIKRISHNAN: This government is a government of commissions, for commissions and by commissions. It has no other purpose beyond that. (Interruptions) We have no quarrel, as far as our basic assessment and respect for Mr. Morarji and Mr. Charan Singh are concerned. They remain. We don't want to say that our respect for Mr. Morarji Desai is more and that for Chaudhuri Saheb is less. As I have already pointed out, it is not our intention. Our intention is this: As we have understood it, there were specific acts of commission and omission on his behalf, and he was not discharging constitutional responsibilities. That is why we brought forward this motion. Now that we have come from total revolution to total prohibition, I don't know where this government led by Mr. Morarji Desai is going to land us. My grievance against the Prime Minister is—it is clear he has tried to assess his Rajya Sabha performance—he has not sought an explanation from the Home Minister, nor sought his resignation from the Council of Ministers for such acts of omission and commission.

SHRI RAM JETHMALANI (Bombay North-West): Mr. Speaker, Sir, after hearing with great interest the very long speech of my hon. friend, Shri Stephen, in support of this motion, where he argued like a lawyer, I am afraid I will have to give, and he will have to take, a good bit of the very medicine that he tried to dispense to others in this House.

He started as an accuser by telling the Home Minister "Oh! you have made a false and baseless statement and, therefore, abused the privilege of membership of this House". But, having said that, somewhere along the line he forgot that he was the accuser and he started another line of argument by telling us that the Home Minister the other day made a statement, and it is his duty to substantiate that statement. Now, the two things are apparently different to a lawyer—whether the Home Minister has now to satisfy this House that the statement which he made was a true statement, or whether it is for Shri Stephen to satisfy the House that the statement made by the Home Minister was a false statement. The two things are absolutely different.

Shri Stephen was right that the Home Minister has made a statement of fact. But I hope Shri Stephen realises that there are statements of facts and statements of facts. Some are statements of facts which can be seen, but there are other statements of facts which can only be inferred from circumstantial evidence. When the Home Minister talked about the intention of the previous government to kill those who were detained, he was speaking about an inference which he raised from other circumstantial evidence, and he was not speaking about facts which anybody could have seen. So, the problem before this House is whether the inference which the Home Minister made about the intention of the previous government was an inference which was justified or not. Now, in the first place, I want to ask the distinguished gentlemen on the other side....

AN HON. MEMBER: Distinguished?

SHRI RAM JETHMALANI: Under parliamentary conventions of courtesy, it is not permissible to call a spade a spade.

Whenever we talk about the emergency, whenever we talk about the excesses of the emergency, every distinguished member on that side is always

anxious to tell us "we never knew what was happening in the emergency, we are absolutely innocent, we never knew what the government was doing, we never knew what the bureaucrats were doing". This is the attitude which they adopted, Shri Lakkappa included. It was the same attitude which was adopted by the Nazis in post-war Germany. Whenever I used to visit Germany, I used to ask the Nazis what happened to those six million Jews who were slaughtered during the war. Each of them hung down his head in shame and said "yes, we suspected something was happening, but we really did not know that people were being killed in this manner". It is exactly the attitude which they have now adopted on the other side.

Now, if I accept that, as you want us to accept that, then I am afraid none of you from your personal knowledge can get up and say that your Prime Minister did not entertain the intention to kill some of the leaders. First of all, you must confess that you were the confidantes of the Prime Minister, first of all, you must be prepared to tell us that you knew everything that the Prime Minister was doing, and then alone are you competent witnesses to come and tell this House that the Prime Minister had no such intentions.

The other day, Shri Stephen will recall, I got up in this House and said that our commissions of inquiry are now trying to determine the truth, and that the task of determining the truth cannot be performed unless the accomplices in the crime come forward and give evidence and make frank disclosures. When I said that, there was a furore from the gentlemen on the other side. They got up and said "why are you calling us accomplices? We knew nothing of the crimes that have been alleged" and Dr. Karan Singh was one among them who very vehemently protested that day. Therefore, my first submission to this House is that none of these gentlemen who now come and speak of Mrs. Gandhi's innocence is

[Shri Ram Jethmalani]

competent to speak about innocence of the Prime Minister, that is absence of intention on her part to kill some leaders.

SHRI A. BALA PAJANOR (Pondicherry): The Member is casting aspersions on the present Prime Minister.

SHRI RAM JETHMALANI: I expect that these distinguished Members of the Opposition should have that much common sense to judge whether I am referring to the present Prime Minister or the ex-Prime Minister.

SHRI A. BALA PAJANOR: If it is reported in the press, the people outside cannot understand it.

MR. SPEAKER: You are wrong Mr. Jethmalani. You should have used it as ex-Prime Minister.

SHRI RAM JETHMALANI: I stand corrected.

Mr. Stephen challenged us today that if the Home Minister makes a statement which casts a reflection on somebody, he must be prepared to substantiate that statement. Before we reach the stage of the Home Minister or the Prime Minister replying to the debate I take this challenge and I am going to substantiate that what the Home Minister said was and is true.

My friend, Mr. Stephen is right that a mere argument raised in a court by a law officer of the state is not enough to come to the conclusion that there was an intention on the part of the Government to kill people. But when I say that these statements of the Attorney-General in the case of a person who has no other antecedents about that person....

MR. SPEAKER: No personal attack on the Attorney-General.

SHRI RAM JETHMALANI: I am not even talking of the Attorney-General. I am sorry, I have been misunderstood. I will not say even one

word about him. I am pointing out something else.

What I am submitting to the House is that normally speaking, from the mere fact that the Attorney-General argued that during the period of emergency there is no right to life and liberty, it does not follow that the Government of the day wanted to kill those who were in detention. I accept Mr. Stephen's first major premise of the argument. But that otherwise insufficient piece of evidence in the case of a Government or a Government whose Prime Minister is not totally free from any unsavoury antecedents, raise a strong inference of crime. I want to place before the House the totality of the circumstantial evidence which totally justifies the inference of the Home Minister raised from the statement of the Attorney-General.

First of all, a point of fact was raised whether the Attorney-General at all made that statement in question before the Supreme Court. Mr. Stephen said that he did not find that in the record of the judgment. Let me give the House the genesis of that argument. That argument first started in the Bombay High Court, in a state which was under the over-lordship of the small Chavan of Maharashtra. I am not talking of the distinguished gentleman who is sitting here as the Leader of the Opposition. If anybody wishes to verify it, he can refer to volume 77 of the Bombay Law Reporter and he will find that the Government pleader exactly said that—and the Judges quoted verbatim his argument—if the State shoots down somebody or starves a prisoner, there is no right of recourse to a court of law. It was not merely an aberration of the Attorney-General but this sick, this wicked argument had gone down to the lower strata of the legal officials of the Government and it has been pleaded in the High Courts. So far as the Attorney-General's role in the Supreme Court is concerned, I do not have to go to the law reports because I myself appeared in the court and I myself

listened to the argument of the Attorney-General. It is after his argument that I had to get up and remind the judges of the Supreme Court that there is a country by the name Uganda which had lost its democracy. The Chief Justice of that country was kidnapped from his chamber and was not heard of for two years. It was after two years that the dictator made a cryptic statement that the Chief Justice died a natural death. He was the Chief Justice who had drafted the Preventive Detention Act. He had been kidnapped from his Chamber by the police and secretly killed. I said this in the context of the Attorney-General's argument that there is no right to life and liberty in this country. I told the learned judges that in this country everybody is a potential *de tene* including each of the judges sitting in the court. Therefore, I want this House to accept once and for all that the Attorney-General did make this statement whatever his subsequent denials might be. The Attorney-General made that argument and it has been reported in the newspaper called 'The Evening News' which was published by Mr. Lakhanpal. No other newspaper dared to report these proceedings. The issue of the paper is still available and anybody who wishes to verify it, can see it.

18.40 hrs.

[SHRI SONU SINGH PATIL *in the Chair*]

Let us go further and see what further evidence we have in the past of the last Government and the Prime Minister of that Government. Apart from the fact that the Attorney-General made his point, showing that there was the conspiracy to kill or intention to kill, have we forgotten something which today is being investigated somewhere? During the course of my election campaign, there was not a single election speech in which I have not publicly said that there is *prima facie* evidence—and when I said *prima facie* I mean to the satisfaction of a court of law—to send the ex-Prime

Minister up for trial. She may be committed to the court of sessions on the charge of murder. I repeated it in a hundred meetings. If Mrs. Gandhi today wishes to challenge me, I am prepared to repeat it outside the precincts of this House that there is enough *prima facie* evidence to try her on charge of murder. I do not wish to go into the detailed facts of the Nagarwala case.

SHRI SAUGATA ROY: You do not have guts.

SHRI RAM JETHMALANI: I have guts which I showed throughout my election campaign.

SHRI SAUGATA ROY: On a point of order.

MR. CHAIRMAN: I am not allowing him to refer to this incident.

SHRI RAM JETHMALANI: If the issue before the House is whether the Home Minister's statement that there was an intention to kill is correct, then all evidence which shows that intention to kill, is relevant and must be pointed out to this House and if it cannot be pointed out to this House, the motion must not be allowed to be debated and the motion must be withdrawn. If the charge is made, then we are entitled to present all the evidence which shows that they entertained a design to commit murder not only of specific individuals but in general of all those who were detained in our country. If money can be withdrawn in lakhs on telephonic instructions. (*Interruption*)

MR. CHAIRMAN: Wherever I find that something is irrelevant, I will stop him.

SHRI RAM JETHMALANI: Those who are living in glass houses, should not throw stones at others. The only person who had a motive to do away with Mr. Nagarwala was the person who was interested in concealing the fact of the money being withdrawn from the bank. (*Interruptions*).

SHRI C. M. STEPHEN: On a point of order, Sir. My point of order is that the matter concerning the Nagarwala case is before the Tribunal and it is under judicial scrutiny. There is a rule which says that the member shall not refer to any matter on which the judicial decision is pending. There is another rule which says that matter which is before a tribunal shall not be referred to. Both the rules apply to this. This matter is before the Tribunal and it is pending judicial scrutiny. Therefore, he should be barred from referring to that matter.

MR. CHAIRMAN: I have heard you. The point is, he is not going into the merits or the demerits of the case. He is only making a reference to that so far as it has got relevance to the motion. There is no point of order. I rule it out.

SHRI C. M. STEPHEN: It says that the member, while speaking, shall not refer to any matter which is under judicial scrutiny, the word used is, "refer".

MR. CHAIRMAN: No more argument.

SHRI RAM JETHMALANI: I do not wish to go into the details of the case. But I wish to point out to them and I wish to point out to the people of this country that the Home Minister had before him the context of the behaviour of the ex-Prime Minister in the Nagarwala case and, if in the context of the facts of that case known to him he also heard the Attorney-General making these fantastic claims before the Supreme Court, was he not as a reasonable man entitled to come to a conclusion that you people intended to kill. (Interruptions) Let me leave Mr. Nagarwala out for the time being. Can you forget the Rajan case in Kerala? Are you not the murderer of Mr. Rajan? Did not the Home Minister know that your Government was responsible morally and politically for

the murder of Mr. Rajan? If the Home Minister believed that you were capable of doing that, surely, as a reasonable man, he was entitled to draw an inference that you people had the intention to kill. (Interruptions)

I wish to tell them something which they probably do not know yet. The lawyer of Mr. Sunder has given an interview. Sunder is a dacoit and, normally, I would not believe the word of a dacoit against the word of any other respectable person. But now we have the word of one dacoit against the word of "Mr. Sanjay and between the two if I have to decide, I will still decide in favour of Mr. Sunder rather than any body else. May I tell you that the lawyer of Mr. Sunder has given an interview?

MR. CHAIRMAN: You should avoid such expressions.

SHRI RAM JETHMALANI: I must give the facts to the House. (Interruptions)

MR. CHAIRMAN: Please do not use the strongest expression which I will unnecessarily

SHRI VASANT SATHE: Kindly listen to my point of order.

MR. CHAIRMAN: I have told him not to use unnecessarily the strongest expression. (Interruptions)

SHRI VASANT SATHE: Have you deleted it? (Interruptions) Sir, listen to my point of order. (Interruptions)

SHRI RAM JETHMALANI: Their interruptions do not frustrate my speech; these will only prolong it.

SHRI VASANT SATHE: Kindly listen to my point of order. You must sit down. You must allow me. I was absolutely shocked. The hon. Speaker ruled under Rule 353 that any reference to the son-in-law of Chaudhuri Charan

****Expunged as ordered by the Chair.**

Singh which was made must have an earlier notice because Rule 353 says: "No allegation of a defamatory or in-criminatory nature shall be made by a member against any person unless the member has given previous intimation to the Speaker." On that ground, he was stopped. I would like to know whether he has given any notice. He can call anybody; **he can call anybody he likes. I do not mind. The only question is that he should give a notice and therefore will it be in order. If he has not given, it must be expunged from the records. You cannot give in the same breath (*Interruptions*) you give another ruling and the Speaker gives another ruling. This cannot be done. You allow it and I will also say so. I do not mind even saying so. But allow me also to say something. (*Interruptions*).

MR CHAIRMAN Order, order. However we may be conscious about various deeds or misdeeds of Mr. Sanjay Gandhi, that matter is still under consideration of the Commission. I only want (*Interruptions*) to avoid that expression of a **with reference to that. So, that word may be expunged. (*Interruptions*) I said that it should be expunged.

SHRI SURATH BAHADUR SHAH:
On a point of order.

MR. CHAIRMAN: What is your point of order.

SHRI SURATH BAHADUR SHAH (Kheri): You have the plea to have that expunged. I agree with you, but can another adjective be used instead?

MR. CHAIRMAN: That is not the point of order. (*Interruptions*).

SHRI RAM JETHMALANI: I want to tell the House that it gives me no pleasure at all to mention the

name of Mr. Sanjay Gandhi or indeed of his mother. When I mention these names, it causes me physical agony and I get emotionally upset. (*Interruptions*). I have to do it as a part of my duty of presenting the facts which I think my friend is aware of. (*Interruptions*) Now, I wish to tell the House about the statement made to the *Morning Echo*. I do not believe in mincing words. Here is the lawyer of Mr. Sunder who claims that Sunder confided to him shortly before his death. He told him that he stood in danger of being killed by the police because he had been repeatedly requested to cause to be killed or to kill a Janata leader which he had refused to do from time to time.

18.55 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

As a lawyer, until a person is finally convicted, I am prepared to assume his innocence. Mrs. Gandhi may be innocent but I am speaking from the point of view of the Home Minister, a Home Minister who has all the material in his possession. When he hears the Attorney-General making those fantastic claims in the Supreme Court, will he not jump to the conclusion that these gentlemen did intend to kill. I am not going into the merits of the accusations, but the fact is that this was the evidence which was available to the Home Minister, and the Home Minister drew those conclusions. And those conclusions are such that a reasonable man may have drawn, though Mr. Sathe may not draw them. Mr Chavan may not draw them. The point is this: were they conclusions which a reasonable man can draw? If the Home Minister could draw those conclusions, then he did not make a false statement before this House and his statement cannot become a subject-matter of a motion of closure.

**Expunged as ordered by the Chair.

[Shri Ram Jethmalani]

Lastly, I thought that the second Mover of the motion at least would attempt to grapple with the point as to why did Mrs. Indira Gandhi and her Government and her cohorts find it necessary to bring an amendment, before this House, of the Constitution under which she was claiming immunity from crimes committed by the Prime Minister, what was the necessity for this. Has any justification been shown till today? Has it been shown that the Prime Minister's claiming immunity—for the first time in the history of our democracy—for crimes committed by her is justified? The inference is that she did commit crimes. I think, these gentlemen on the other side would be well advised to withdraw this motion and not press it because the more you press the motion the more evidence you will have of your ignoble designs to kill, and that is not going to be good either for your Party or for Parliamentary democracy. We are willing to let bygones be bygones. But do not persist in mud-slinging against a distinguished member of this Government. That is all that I have to say.

MR. DEPUTY-SPEAKER: We have to start the half-an-hour discussion at 7 O'Clock according to the direction of the Speaker....

SHRI J. RAMESHWARA RAO (Mumbai): The time for this debate may be extended by half an hour.

MR. DEPUTY-SPEAKER. There is no question of extending the time..

SHRI SAMAR MUKHERJEE: No other Party has been given a chance to speak. If you conclude the debate now, it becomes a debate between the Janata Party and the Congress Party and we will have been completely kept out of this discussion. That is why I suggest that we may continue this.

SHRI SOMNATH CHATTERJEE (Jadavpur): We must be given our chance.

SHRI VASANT SATHE: Mr. Deputy-Speaker, Sir, having heard the hon. Member from the other side....

MR. DEPUTY-SPEAKER: Let us first decide whether we are going to extend the time and if so for how long.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): I would not mind if the debate is continued upto 7.30 p.m. and the half-an-hour discussion is taken up from 7.30 to 8.00 p.m.

MR. DEPUTY-SPEAKER: Let us extend the time upto 7.30 p.m. and try to accommodate as many as possible. Mr. Sathe, you will take ten minutes. Then I will call a Member from CPM. At 7.30 p.m. we can take up the half-an-hour discussion.

19.00 hrs.

SHRI VASANT SATHE (Akola): I want to take up only two points. Unfortunately, the entire trend of the argument of the two speakers who have spoken just now from the other side appears to be that two wrongs (i.e. if you give an example of another wrong from this side) make one right and would justify whatever the Home Minister had said. But the Home Minister had, in this House, made a positive charge and my friend Mr. Jethmalani who is an eminent lawyer knows the law regarding circumstantial evidence. First, let us see what the charge was. The charge was:

“तैयारियां हो रही थीं उस दिन कि चन्द आदमियों को झूठ कर दिया जाय जैसे डाका की जेल में झूठ कर दिया गया था।”

This is a positive allegation and not an inference. A positive allegation has been made the preparations were

going on that some persons will be shot in the jail just as it had been done in Dacca.

“जरूरत पड़े तो जयप्रकाश जी से ले कर सब को शूट कर देने का विचार था।”

Now, when a charge like this is made—anyone who has a little knowledge of law knows that circumstantial evidence must be such that it will lead to one and only one conclusion. Can it be shown that the circumstance, namely the speech or statement of Mr. Niren De in the Court about a hypothetical proposition as to the effect of suspension of Art. 21 leads to only one conclusion that there was a positive plan to shoot. Incidentally, if you read Art. 21, it does not give the right to live; the right to live is natural. Art. 21 does not give that right; it only says that no one shall be deprived of life or the right to liberty except in accordance with the law. So, therefore, it is neither here nor there if an argument is advanced that, on the basis of what Niren De has said one can come to the conclusion that this is a ‘circumstance’, whatever Mr. Jethmalani might say. Now, unfortunately, Charan Singh Sahib did not have the vicious mind which Mr. Jethmalani had and, therefore, he was thinking only of the immediate circumstance and his mind did not go back by eight years to a particular thing which was never proved. I do not know whether he is going to improve now by taking advice or a hint from Mr. Jethmalani so as to say that that was the ‘circumstance’. Mr. Deputy Speaker, you are also an experienced man and you know that in a court of law this thing cannot for a minute be taken as the circumstance which would lead to this conclusion.

Another elementary principle of law is that intention or motive is inferred or deduced from an action. If a person commits a crime, from that crime or from his action, you

can infer his intentions or his motivation. Therefore, let us see immediate actions of the then Government. If the intention was to shoot certain people based on an argument advanced in January or April, 1976, but arrests were made in June, 1975, the desire to shoot and kill them should have been soonafter.

“यह तैयारियां थीं”

Now, let us take up the post June, 1975 period. Let us see what was the behaviour of the Government in this period. The first person to be released was Shri Jayaprakash Narayan on an intimation that his kidney was not functioning properly. He was not satisfied with the treatment being given to him in the best medical institute, like the Chandigarh institute, and he was released and allowed to have treatment in the hospital of his choice. He was released completely.

AN HON. MEMBER: After his kidneys had been damaged.

SHRI VASANT SATHE: If you are now suggesting that some medicine or injection was given to him to damage his kidneys; I do not know; that also can be an allegation which the fertile brain of Shri Jethmalani can make.

The next person to be released was Shri Syamnandan Mishra, the eloquent spokesman; he was all the time on parole. The third person to be released was hon. Shri Charan Singh himself, after five months and not parole, but completely, I do not know, what were the circumstances; he is the best man to tell what was that was going on between him and the then Government. There were so many rumours.

क्या विचार था। क्यों बाहर रहे लगाना, क्या गुप्ततया चर्चा हो रही थी बड़ी जेलिंग पर, बाहर रहकर वे ही बता सकते हैं।

Then, Shri Atal Bihar Vajpayee, who was under house arrest was

[Shri Vasant Sathe]

allowed to go regularly to the Medical Institute for his treatment. Practically, one of the stormy petrels here was allowed to have his second honeymoon in Jaipur.... (Interruptions).

SHRI JYOTIRMOY BOSU: Sir, I want to rise under Direction 115 to make a statement of personal explanation.

MR DEPUTY-SPEAKER: Let him continue.

SHRI JYOTIRMOY BOSU: If you treat it lightly, I have got to be very firm. This is not the first time that he is maligning me. He has been telling lies on the floor of this House.

SHRI VASANT SATHE: You get a report from Jaipur jail and you will know what he was doing there.

SHRI JYOTIRMOY BOSU: Mr. Sathe, on behalf of Mrs. Indira Gandhi, has been maligning their political opponents. In Hissar jail I was kept in solitary confinement. Bansal wanted to harm me. I had a heart attack.

MR. DEPUTY-SPEAKER: If both of you speak simultaneously, you will not go on record. You can reply to him later if you want. But let him finish.

SHRI VASANT SATHE: Any one leader, can they point out, who was in any manner, leave alone shooting, physically harmed to the knowledge or under the instructions of the Government? Not one case can they point out. If a case like the Rajan's case has taken place in some State you cannot connect it to the Government of India and say that there was a plan here.

Therefore, prima facie, you will find that this allegation, particularly, was completely baseless, false and a lie, a Goebbelsian lie and Choudhury

Charan Singh is a strange combination of Gandhi and Goebbels. Why? Because he believes in Gandhian principle:

माधन और माध्य शुद्ध होना चाहिये ।

Means and ends must be fair. What are the ends that he wants to achieve by such type of lies, such blatant lies repeatedly said? It is only to provoke the people and if the people believe him, then they will feel that here was a government which wanted to shoot the people in jail.

SHRI SOMNATH CHATTERJEE: On a point of order. Shri Sathe is so much surcharged with emotion that he is using unparliamentary words. The word 'lie' is unparliamentary.

श्री राजनारायण : "लाई" शब्द अनपार्लियामेन्ट्री है ।

SHRI VASANT SATHE: I was only saying 'Goebbelsian technique of telling a lie'.

श्री चरण सिंह : हम पर हम ने ऐतराज नहीं किया, लेकिन अगर "लाई" कहेंगे तो उस पर ऐतराज होगा ।

SHRI VASANT SATHE: If I have said that he has lied, I withdraw the word 'lie'. He has spoken untruths.

MR DEPUTY-SPEAKER: Please conclude.

SHRI VASANT SATHE: Unfortunately today, my fear is that this is the same propaganda which was carried on in this country by certain elements, which have been referred to by Mr. Morarji Desai in his book which provoked Godse to kill the Father of the Nation. This is the type of atmosphere that such untruths and Goebbelsian lies will create. Is that the intention? *Kya Yahu Vichar Hai* in making such baseless allegations?

Unfortunately we suffered and are still suffering from a sun stroke, but the other side seems to be suffering from moon-stroke. Moon in English is called Luna and in Sanskrit Indu. A man who suffers from the stroke of Luna is called a lunatic and, therefore, the entire Janata Party, at present, appears to be suffering from the stroke of Luna, that is, Indu.

Please do not keep on repeating 'Those 19 months, those 19 months'. When a pin gets stuck in a record, you feel like breaking it. I hold, Sir, that Mr. Charan Singh is guilty of misleading the House and misleading the country.

SHRI JYOTIRMOY BOSU: I rise under Direction 115. Shri Sathe once before had said things which had no relation with truth.

After I was arrested, I was kept in complete solitary confinement in a cell in Hissar Jail where even the yard gate with hard iron gratings was covered with two blankets stitched on all sides.

In Hissar Jail they tried to make me a lunatic. They tried all sorts of mental tortures. I had a heart attack. On 27th July 1975 the ECG machine was brought. ECG was done. ECG had detected my heart trouble, but the ECG script was not given to me. I was told that there was no complaint. But in an affidavit before the Delhi High Court they had affirmed 'Yes, Mr. Bosu had heart ailment'.

Then my father was dying. They kept the news concealed from me. The hon. Home Minister knows because he was in Tihar Jail. I was brought from Hissar to Tihar, for arguing my own case before the Delhi High Court. In the meantime, my 85 year old father died.

(Interruptions)

I was given such medicine which in the opinion of a most eminent cardiologist, a Professor Emeritus, could have done serious damage to me. I was kept completely bed-ridden because I had a serious myocardial infarction. I was dying. That was what exactly Mrs. Gandhi wanted to do. Mr. Bansj Lal in a dinner party at the house of a Minister had said, "I want him to be kept with lunatics so that he becomes a lunatic".

I was shifted from West Bengal to Jaipur where I was kept again completely separate from other persons. But because the Government was battered by two High Court Judges, I am glad to say—Justice Rangarajan was one of them and the other was a Judge of the Calcutta High Court, the Government did not dare to do that sort of thing. But in Jaipur my son who used to come to me to interview me sometimes, developed trouble with his brain. The Professor of psychiatry, Jaipur College and Hospital—an eminent Psychiatrist of Calcutta, advised Rajasthan State Government through the Central Government that unless the boy is allowed to stay with his parents he would become a lunatic. On the insistence of the State Government they had brought my wife and son to stay with me for a few weeks just before my release. These are borne out by documents. Let Mr. Charan Singh institute an enquiry and let a White Paper be published so that people may know the truth.

They are preaching lies, they are**
(Interruptions)

SHRI K. LAKAPPA: He has uttered un-parliamentary words.

SHRI VASANT SATHE: What more can**

MR. DEPUTY-SPEAKER: All these un-parliamentary words will be expunged. This is not the way to have repartee in Parliament.

SHRI SAMAR MUKHERJEE (Howrah) : I have stood to oppose this censure motion. We are speaking on the basis of our experience. I am very much glad to see that these people are accusing the ex-Prime Minister, Shrimati Indira Gandhi that she was planning to murder the opposition leaders. The politics of murder started from 1970 in West Bengal. We were the worst victims. From that time onwards we were telling throughout the country that the ruling party, the ruling clique, has started the politics of murder, and its consequences would be very very dangerous. Now I am glad that the entire country has got that experience. The country has known how the ex-Prime Minister was the main culprit in organising this murder. These are political murders

SHRI JYOTIRMOY BOSU : They should be flogged *prohabe*.

SHRI VASANT SATHE : You Naxalites, you killed professors in Rabinathan Tagore's Shantineketan.

SHRI SAMAR MUKHERJEE : Mr. Deputy-Speaker, Sir, my point is this ..

MR. DEPUTY-SPEAKER : I request them not to shout because Mr. Samar Mukherjee's speech is being interrupted.

SHRI SAMAR MUKHERJEE. Mr. Deputy-Speaker, Sir, at that time itself we were warning the whole country that the country is heading towards totalitarianism. We have got all our documents published relating to 1970, 1971 and 1972 and the subsequent years. Here are our documents. In our party Congress we have declared in 1972 that there were tendencies of one-party dictatorship. In West Bengal we have passed through a reign of semi-fascist terror. Thousands and thousands of our members have been attacked. Our leading cadres have been

murdered. There was political murders of our leaders. Hemanta Basu, President of All India Forward Bloc was murdered openly just before 1971 election, in broad daylight. After murdering Hemanta Basu, immediately, the then Chief Minister announced that this was the action of the CPI(M), without going through an enquiry. He was in North Bengal at that time. Murder took place in Calcutta. Immediately he went to the Radio Station and said, CPI(M) has done this. What was the motive behind his announcement? They wanted to get political advantage in the election. Then the dead body of Hemanta Basu was taken from North Calcutta to South Calcutta, a distance of 8 miles. What was the slogan? The slogan was, CPI(M) murdered Hemanta Basu. Still you know what was the result of the election in 1971. Out of 40 parliamentary seats our party won 20 parliamentary seats in 1971, despite these political murders. Therefore, we are in the thick of this politics with Mrs. Indira Gandhi right from those times and Mrs. Indira Gandhi had been continuing, perpetrating this thing from those very times.

The Home Minister has said that there was a plan. It was not from just this time. There was a plan—she had that plan—right from the beginning and we know it. I may read out from Jyoti Basu's pamphlet to prove that. It was categorically told that there were plans of political murders by Shrimati Indira Gandhi herself.

Sir, in the past, whenever we had raised that matter on the floor of this House, we had been denounced. Now, through the experience of my friends, they have come to realise that what we told at that time had its basis. We, Marxists believe that people learn through their bitter lives' experiences. That was why we waited for so many years and we are very glad that you have got similar experiences and that

is why we have come closer today. And Shrimati Indira Gandhi has been completely overthrown from the Government. (*Interruptions*) Sir, so long as this Government is prepared to fight the authoritarianism, we will be with them. Mr. Deputy-Speaker, Sir, the debate is now going on and Mrs. Indira Gandhi and the Ruling Congress had a plan to murder and what not. In 1970 and 1977, if you analyse the course of developments, from that time onwards, we told that what was happening in West Bengal, that was bound to happen in the rest of the country in future. We have been proved absolutely correct. (*Interruptions*) After this Parliamentary Election, I have heard the radio announcing that 1972 election was the rigged one. The C.P.M.'s accusation then had proved absolutely correct.

Even Shri Jayaprakash Narayan did not believe us before. He has got his own experience. Once he went to Calcutta to address a meeting in the University Institute. There gangsterism was perpetrated against him. Shri Jayaprakash Narayan from that day accepted from his personal experience that he was quite clear that Congress had completely abandoned democracy and that they had taken the path of gangsterism with murders (*Interruptions*). Sir, in 1972—before 1972 elections—Shri Jyoti Basu and some Members of Parliament visited the Prime Minister—I was myself present—and we raised the question of the murders and gangsterism etc. perpetrated before 1972 elections. The Prime Minister even did not listen to our talks. But, immediately she told that all these were blatant lies. We understood the meaning of it—why she acted in this way—from that day onwards we told the public that she had a plan behind her.

Sir, Shri Jyoti Basu wrote this pamphlet from which I am quoting "After the rigged election in 1972, and even a cursory glance of that would show, what the Prime Minister had in mind. She said that these were

blatant lies and not facts." (*Interruptions*)

SHRI C. M. STEPHEN: Sir, I rise on a point of order.

MR. DEPUTY-SPEAKER: Let me listen to his point of order.

SHRI SAMAR MUKHERJEE: The Prime Minister certainly knew what was happening. (*Interruptions*)

SHRI C. M. STEPHEN: Sir, I am on a point of order.

MR. DEPUTY-SPEAKER: Yes, what is your point of order?

SHRI C. M. STEPHEN: The point of order is this. Before you took the Chair, the Speaker was scrupulously observing that nothing outside this specific matter could be raised by the hon. Members. The motion is very specific. He was very particular about that. The hon. Member is speaking not on this particular motion but on something else.

MR. DEPUTY-SPEAKER: I see your point. Mr. Mukherjee, please be relevant.

SHRI SAMAR MUKHERJEE: This Motion says that the Home Minister has accused the Congress Government saying that there was a preparation and thinking, a plan, of murdering opposition leaders. But we know that the then Prime Minister had a plan even in 1972. We realised in 1972 that she had a plan. The point is that the authoritarianism has its ugly character and it has grown and reached a stage and it was at its highest peak when there was this second emergency. The whole country was turned into prisons and the whole politics was a politics of torture; politics of terror and murders.

Sir, had she been not defeated at the polls the logical result would have been that many leaders would have been got killed. There is not the slightest doubt about it. What had happened in Chile would have been

[Shri Samar Mukherjee]

repeated here. That has to be understood. What is totalitarianism? Though there was not a plan to shoot one particular leader on a particular day. But the logical result of totalitarianism would be mass murder of the Opposition leaders and the liquidation of the entire opposition forces so as to retain herself in power. This is the logical result. Sir, the credit should be given to the people of India. Credit may also be given to Indira Gandhi and her government because by putting all the Opposition in jail her government helped the Opposition forces to unite against totalitarianism. Sir, it seems no lesson has been learnt by my friends sitting on the Opposition benches today. I would say they are living in a fools' paradise. This censure motion has been brought as a political cover to all the crimes committed by the ex-Prime Minister and that is why I totally oppose this censure resolution.

MR. DEPUTY-SPEAKER: Mr. Govindan Nair. He is not here. So, we take up now the next item on the agenda. The Prime Minister will reply tomorrow. Mr. Sathe

19.34 hrs.

HALF-AN-HOUR DISCUSSION ENGAGEMENT OF WORKERS THROUGH CONTRACTORS

SHRI VASANT SATHE (Akola):
Sir, I am raising this discussion regarding engagement of workers through contractors.

19.34-1/2 hrs.

[SHRI SONU SINGH PATIL in the Chair]

Sir, as I said, I was inviting the attention of the House to the situation of contract labour, particularly in the iron-ore mines. Sir, the matter has arisen out of the condition of iron-ore mines employees in Bhilai. There because of the conflict between the contractors and the contract labour a very unfortunate incident occurred where more than a dozen employees were

shot dead in Bhilai. Therefore, the question is a larger implication,—during the President's rule in Madhya Pradesh. The problem is wider. But in the reply which was given by the Ministry, it was stated that the Minister of Steel and Mines, Shri Biju Patnaik, gave this reply on 28th July 1977 where he said that "the employment of contract labour to total labour in public sector Iron Ore Mines under various undertakings is indicated below." In Bhilai steel plant, it is stated that it is 60.98 per cent. See the magnitude of the contract labour. In Rourkela Steel plant, it is 47.52 per cent. In the National Mineral Development Corporation Limited, it is 55.86 per cent. In Bolani Iron Ore Limited, it is 45.78 per cent. According to the terms and conditions of the Employment of the Contract Labourers, the statement says that they are regulated in accordance with the Contract Labour Regulation and Abolition Act and the rules framed thereunder. The management of public sector mines tries to ensure that the interests of contract labours are safeguarded and statutory provisions are observed. But in these places, although the statutory minimum wage is Rs. 11.20, the workers get less than Rs. 5.0 and the rest of the amount goes to the contractors

Now, this is a well known thing. The Contract Labour Regulation and Abolition Act of 1970 says that a contract labour is a labour which is employed for occasional and intermittent process. Therefore, when we know that in a number of industries these workers work not for months but for years—together. Can they be called intermittent or of casual nature? Therefore, my humble submission is kindly imagine that out of the total employees nearly 61 per cent of employees are contract labour and they work there for years together. According to the policy of the present Government, they want to have employment-oriented programme of industrialisation. And here in Bhilai, they are threatening to mechanise the digging of iron ore by complete mechanisation