

bridge on 27th instant, in the company of the State Chief Engineer, Public Works Department (Roads), Rajasthan who is incharge of the bridge at present, Addl. Chief Engineer, U.P., Public Works Department, Lucknow and Engineer-in-Chief, Madhya Pradesh, Public Works Department.

From the information available, it is learnt that pier No. 17 of this bridge which supports R.C.C arch spans, and provided with well foundations taken to rock has settled by about 2ft., and consequently the road surface and arches on either side of the pier have developed cracks, and the roadway for a stretch of about 200 ft. had depressed itself. Till the investigations are undertaken and necessary repairs are carried out, it is not considered desirable to pass any vehicular traffic along the bridge. In the meanwhile, the traffic has been diverted along the following alternative routes:—

- (i) Indore-Kotajapur-Delhi;
- (ii) Shivpuri-Kota-Jaipur-Delhi.
- (iii) Shivpuri-Jhansi-Kalpi-Bhognipur and the West to Agra or East to Kanpur.
- (iv) Gwalior Bhind-Ettawah for light traffic not exceeding 5 Tonnes on account of limited capacity of the Pontoon Bridge across Chambal near Ettawah on this road.

All the concerned civil authorities have been informed of the same.

Since no vehicular traffic can be allowed on this bridge in its present condition, alternative arrangements are being made for providing a temporary bridge close to the existing bridge. In this connection, the Director General (Road Development) had contacted the Director General of Works of Army Engineer-in-Chief's Branch and also the Uttar Pradesh Public Works Department, who have with them ready stock of the Pontoon Bridge. Action is being taken to provide the same from either of them and put up the pontoon bridge as early as possible.

Since the pontoon bridge could be used at site only till the monsoon period, the feasibility of decking the railway bridge, one mile downstream, is also being explored in consultation with the Railway authorities. In case the decking of the railway bridge is not feasible, it may be necessary to run a ferry during the monsoon period.

As there is a depth of water of about 30ft. around this pier and also as there is some current in the river, special arrangements for detailed investigations of the foundation strata as well as the damage caused to the foundations are being undertaken.

12.40 hrs.

RE. ALLEGED WRONG STATEMENTS BY MINISTERS

MR. SPEAKER: I request hon. Members not to get up any time they like, there is no use. Unless I call them they should not speak. (*Interruptions*)

मैने श्री मिश्र को ये कामजात भेज दिए थे ।
 उन्होने मुवह भुझे मिल कर कहा था कि
 इम बारे मे कुछ डाउट्स है ।

I shall ask the Minister to make a statement Would you like him to make it today or tomorrow? All right, today. Shri Shukla.

THE MINISTER OF STATE (DEFENCE PRODUCTION) IN THE MINISTRY OF DEFENCE (SHRI VIDYA CHARAN SHUKLA) During the discussion on the Motion on the Government policy in regard to manufacture of car in this House on 22nd December, 1972, references were made to the alleged irregularities in land acquisition and alleged violation of Defence Departments orders by Shri Jyotirmoy Bosu and Shri Shyam Nandan Mishra. In his speech, the Minister for Industrial Development dealt with the criticism relating to land acquisition and pointed out that no irregularities had been committed. He also assured the House that if there were any irregularities or allegations

[Shri Vidya Charan Shukla] :

and there was proper documentation in regard to them, this would be looked into. It was at this stage that Shri Shyam Nandan Mishra interrupted him with a question 'What about the defence installations? How are they going to take them away from there now?' It was in response to this question that I had stated that "nothing has to be taken away. There is no objection from them." I had stated so because no shifting of the Defence installations was necessary and that there was no objection from them to continue there. The basis for this statement of mine was on the following grounds:

The Indian Works of Defence Act 1903 provides for imposition of certain restrictions on the use and enjoyment of land in the vicinity of such works of defence for which a declaration under section 3(1) is made. The details of these restrictions are given in section 7 of the Act. This section also provides that the restrictions will apply from and after the publication of notice mentioned in section 3(2). The manner of imposing these restrictions is also laid down in the Act itself. There is also provision for relaxation of these restrictions with the approval of the authorities concerned. A declaration under Section 3 of the Indian Works of Defence Act 1903 was issued in the Gazette of India under SRO No 315 on 15-12-1962, specifying a limit of 1,000 yards from the crest of the outer parapet of the Army Ammunition Depot at Gurgaon in the State of the then Punjab as a restricted zone. This Depot was closed down in 1960 and its premises were taken over by the Air Force. In 1968, it was decided to derequisition 415 acre land in district Gurgaon which was in the possession of the Ministry of Defence. This information was furnished to the House in reply to Starred Question No 235 on 31st July, 1968. This also included a part of the land occupied by the Air Force Depot. In view of these changes a fresh declaration under the Indian Works of Defence Act 1903 was required to be published in order to

continue any restrictions. Such a declaration was published in the Gazette of India on 11 January, 1969 vide SRO No. 6.

However, the legal requirement to make the publication of this declaration effective was inadvertently not complied with. The law requires that the Collector of the District concerned shall cause public notice of the substance of the Notification to be given at convenient places in the locality. For this purpose, as provided in law, a sketch plan of the land prepared on a scale not smaller than 6 inches to the mile showing the boundaries in question is to be provided to the Collector. This was not done. Neither the State Government nor the Collector of Gurgaon was sent a copy of this declaration or the statutory sketch map. Consequently the Collector did not cause the public notice of the substance of this declaration. Nor was the sketch map made available for inspection in the office of the Deputy Commissioner of Gurgaon. Consequently the restriction contemplated under section 7 did not commence. It may also be mentioned that even after the publication of the declaration in the Gazette, the Collector of Gurgaon was informed that the question of issuing a Notification was under consideration. It is relevant to note that all this happened much before M/s. Maruti Ltd. was even conceived of. The letter of intent was issued on 30th September, 1970, i.e. 1-1/2 years after all this happened. Maruti Motor Limited was incorporated on 4th June, 1971.

Moreover, the Schedules appended to the declaration published in the Gazette are vague and do not identify either the land which was to be subjected to restrictions or the outer parapet of the defence work to which these restrictions related. The position thus is that apart from the fact that the declaration did not identify the lands in question, it was also not promulgated in accordance with the provisions of law. As such, it remained inoperative. There could thus be

no question of its infringement. With a view to taking suitable action, the Ministry of Defence is looking into the question as to how this declaration was not properly promulgated.

In actual practice also there have been violations within the restricted zone after the issue of the 1962 declaration. Some constructions were there even before 1962. Till May 1969, there were 521 constructions and a number of wells and Tube-wells inside the restricted zone. When the area was under the occupation of the Army, permission was also granted to certain constructions within this zone. Several constructions have come up in this area since the declaration notified in the Gazette on 11th January, 1969.

It will, therefore, be appreciated that no legally enforceable restrictions existed in this area after the Army Ammunition Depot had been closed down in 1966. It is on the basis of the above facts and the information furnished by me to the Minister of Industrial Development, he stated in the House that there was no infringement of any prohibition as far as the defence works were concerned. My statement too should also be read in this context.

The letter dated 11th March, 1971 of the Officer Commanding, Air Force Unit, now produced by Shri Shyam Nandan Misra does not pertain to the declaration of 11-1-1969. It refers to the restrictions imposed under the Indian Works of Defence Act 1903 on the utilisation of land by agencies other than Air Force and also the general question of land acquisition by the Government of Haryana with reference to Defence Ministry's letter of 13-8-1956. As regards the restrictions imposed under the Indian Works of Defence Act, I have already explained at length earlier. I would like to repeat that there was no operative declaration under the Act of 1903 in respect of this area. The circular letter of the Ministry of Defence dated 13-8-1956 was in connection with cer-

tain suggestions made to the Governments of Hyderabad, Madhya Pradesh, Orissa, Travancore & Cochin and PEPSU, about constructions of buildings and other structures in the vicinity of air force installations. The letter indicated that some legislation was contemplated on those lines. However, such legislation has not come up. The Defence Ministry's letter also provided for mutual consultations between the Central and State Governments whenever necessary to settle such matters. Accordingly, the matter has been under examination in consultation with the Government of Haryana with reference to the facts on ground.

In view of this, there was no inconsistency or contradiction in my statement or in the statement of the Minister of Industrial Development and there was also no attempt at *suppressio veri* and *suggestio falsi* as now alleged.

SHRI SHYAMNANDAN MISHRA (Begusarai): Sir, may I submit....

MR. SPEAKER: If you have any objection, please send it to me. I will examine it.

SHRI SHYAMNANDAN MISHRA: Just now the hon. Minister has made a statement. I have a right to contradict whatever he has said in his statement for the consideration of the House. I would like the House to judge it. Privilege is a matter of concern for the entire House. In fact, what happens in the House of Commons is that when the hon. Speaker is pleased to consider that there is a *prima facie* case, it is the Leader of the House who comes forward with a motion of privilege, because the question of privilege, is a matter of concern for the entire House. I would like to make a comprehensive statement on what the Minister has just now glibly stated.

SHRI H. N. MUKERJEE (Calcutta—North-East): Before he makes that comprehensive statement, may I point

[Shri H. N. Mukerjee]

out very humbly that this is not a matter between my friend, Shri Mishra, and the Government? This is a matter where Shri Mishra, as a responsible Member of Parliament, has brought to our notice certain correspondence from the air force authorities which seems to contradict what was stated by the Ministers on the other side. We are concerned not only because of the fact that apparently the Minister did say something which was misleading the House—let it remain there for the time being—but the House is also in possession of material which has got to be shifted by an appropriate authority, material which suggests that even objections made on the ground of the defence and security of the country are hushed up and circumvented by methods . . . (Interruptions) I cannot pronounce on the rights of the matter, but what has come before the House is serious enough. You in your discretion and authority may immediately refer the matter to the Committee of Privileges or, if you do not feel like doing so, you may ask the House to make up its mind in regard to the reference of this matter to the Committee. We have already had a rigmarole on a subject which perturbs everybody.

SHRI PILOO MODY (Godhra): Sir, did you understand the statement? Anybody who has listened to the statement cannot come to a conclusion whether he was right or wrong in the matter. Surely, this requires further investigation. Are you going to do it? Or, the House in session is going to do it? Or, let it be legitimately sent to the Privileges Committee to make the necessary enquiries.

We cannot just accept the Minister's statement *per se* without even understanding it, whether it is right and correct.

SHRI JYOTIRMOY BOSU: (Diamond Harbour): On a point of order, Sir, I am reading out from the de-

bate of that day where Mr. Subramaniam says:

"I am saying it on his behalf. My saying it is much more responsible than even his saying it."

Before we proceed . . . (Interruptions)

SOME HON. MEMBERS: What is the point of order? (Interruptions)

SHRI JYOTIRMOY BOSU: I maintain that the 1962 order is still in force. Whatever they have done is to jeopardise the security of the country. . . (Interruptions).

SHRI SHYAMNANDAN MISHRA: One further submission that I want to make is that the buck cannot be so easily passed on by the Minister of Industrial Development to the Minister of State for Defence Production. There are two important elements in the assertion made by the Minister of Industrial Development. One is that he consulted the Minister of Defence if the House is pleased to give him the benefit of doubt, that the Minister of Defence in this context meant the Minister of State for Defence Production, that is another matter. But, if it is not, then the Minister of Defence also will have to stand some cross-examination at our hands. (Interruptions)

Secondly, I would like to say that the Minister of Industrial Development in the first flush of vanity, of being a member of the Cabinet said, "What I say is more responsible than what the Minister of State for Defence Production has said or could say," meaning thereby that as a member of the Cabinet, his assertion was to be taken more seriously than a junior Minister's assertion, meaning thereby also, at the same time, that he being a member of the Cabinet was quite aware of the collective responsibility, and the collective responsibility in this matter had been effectively brought about by consultations with other Ministers.

These are three elements in this matter which bring the Minister of Industrial Development as actively in the vortex of controversy as the Minister of Defence. Therefore, the statement which he has made and which you were pleased to pass on to me is not enough. He has also to make a fuller statement in order to exculpate himself from the responsibility which we cast on him.

MR. SPEAKER: He has already said that he sticks to what he had said. (*Interruptions*).

THE MINISTER OF INDUSTRIAL DEVELOPMENT AND SCIENCE AND TECHNOLOGY (SHRI C. SUBRAMANIAM): If you read my statement, when I made a reference to the Defence Minister, certainly, I did not refer to Shri Jagjivan Ram. I was referring to Shri Shukla Ji. Certainly, I did not refer to my senior colleague whom I have asked to be present here. I made a reference to the Minister of Defence Production. It was understood by the Members in that light because everybody asked him to say it. I had consulted him and said, "I have got information from you. Why do you also want to say it?" It is only in that light I mentioned.

It is not as if I want to get away from the controversy. If there is any controversy, I am in it because I have participated in the debate. That is quite different. But the fact should be clear as to what I stated. I stated that I had asked the Defence Minister, when I said Defence Minister, it was Defence Production Minister. He was here and I consulted him and, on that basis, I made the statement.

13 hrs.

SHRI SHYAMNANDAN MISHRA: After this clarification by him, another point arises. The Minister of Defence Production is not the Minister concerned directly with this responsibility. Therefore, he consulted a wrong person. (*Interruptions*) He

will have to clarify this. He consulted a wrong person—whose responsibility is not there. As Minister of the Cabinet rank.....

अध्यक्ष महोदय : वह कह दे कि जगजीवन राम जी हैं तो क्या कोई और बात कहेंगे ?

श्री श्यामनन्दन मिश्र और कहेंगे । अभी तक उनकी कांसेन्स बाकी हैं । इस कैबिनेट में अगर किसी की कांसेन्स बाकी है तो केवल जगजीवनराम जी की ही बाकी है । इसलिए आप इस बात को तो रहने ही दीजिए ।

Where the matter relates to no less a thing than the security of India, where the installations at Palam, if at all, after the 1962 war and then the two subsequent wars, have been further strengthened, the conscience of Shri Jagjivan Ram will certainly assert that these regulations have to be enforced strictly. Let the Defence Minister say.

MR. SPEAKER: He has already said it.

SHRI SHYAMNANDAN MISHRA: Let me make a statement for the consideration of the House. I will reply point by point to the statement made by the Minister, and let the House judge....

MR. SPEAKER: There is no debate.

SHRI SHYAMNANDAN MISHRA: I will prove....

SHRI ATAL BIHARI VAJPAYEE (Gwalior): We would like to go through the statement made by the Minister.

SHRI SHYAMNANDAN MISHRA: You can go through my statement also.

SHRI INDRAJIT GUPTA (Alipore): The House should be given time. We must have a little time to consider the statement.

MR. SPEAKER: I do not deny the right of the House. We have been doing it in the past, and we do it now. But I must know on what matters he is not satisfied. Mr. Shyamnandan Mishra, you give those points to me and I will examine them. And, if need be, I will put it to the House.

SHRI PILOO MODY: I would like to know whether you are going to be the judge in the matter. If you are, I would like to move a motion that the Privileges Committee be dissolved and the powers be entrusted to the Speaker.

MR. SPEAKER: Unless I am satisfied about it, why should I give any ruling over it. On the one hand, you are taking it in the House; you are starting a discussion on it. On the other hand, you are asking for it without my holding it in order. I cannot allow it.

SHRI H. N. MUKERJEE: The House is in possession of a certain matter. This matter can be disposed of only by the House or by a committee of the House. At this stage you cannot go into the proceedings and veto it one way or the other because already you have permitted a discussion and the whole world would know about certain things.

MR. SPEAKER: I do not deny that the House is seized of this matter. I agree to it, but we must know what I should put. At least, I have the right to put before the House that the House has a right to give its decision on these matters. I must know.

SHRI SAMAR GUHA (Contai): On a point of order, Sir.

Just now the hon. Minister has made a long statement in the House and you have also admitted that the whole House is seized of the matter—the matter of privilege that has been raised by my hon. friend, Mr. Mishra. Now, as has been pointed out, I want to know as to what would be the procedure, whether the explanation given by the hon. Minister will satisfy the

House or not. We cannot have it right now because he has hurriedly read out a long statement. That needs scrutiny by the members.

SHRI PILOO MODY: It took three days to draft it.

SHRI SAMAR GUHA: We do not understand the position. Therefore, I make a submission that if you want to dispose of the matter which the House is seized of, then certainly, you should give some time to the Members to go through it and without a proper discussion in the House, it is not possible that you could dispose of it.

MR. SPEAKER. I have no objection. Let the House decide it. . . (Interruptions). If the House decides it, it will be put to the House. You can have a discussion now.

SHRI SHYAMNANDAN MISHRA: No, no. We cannot do it.

श्री जटल विहार के बाजपुरवाली अध्यक्ष जी मेरा निवेदन यह है कि आपने मिश्रा जी को एक मामला उठाने की इजाजत दी फिर आपने मंत्री महोदय की कहा कि वे बक्तव्य दें। मंत्री महोदय का बक्तव्य भी आ गया। अब सदन को उसे पढ़ने और उस पर विचार करने का मौका मिलना चाहिए। मिश्रा जी अपनी बक्तव्य दे सकते हैं और सदन उसको भी सफुलेट कर दीजिए। फिर मामला सदन में आना चाहिए जिस पर चर्चा हो सकती है।

MR. SPEAKER: I agree to it.

Now we pass on to the next item (Interruptions) Mishraji, if you want to speak again, there is no use speaking now. You just send it to me.

SHRI S. M. BANERJEE (Kanpur) Only half a minute. (Interruptions)

MR. SPEAKER: If it is the pleasure of the House that it should be put to the House, I will put it to the House. (Interruptions) and it will be decided by the House. I will fix time for it.

Mr. Mishra, you can speak at that time.

SHRI FRANK ANTHONY (Nominated—Anglo-Indian): I am rising on a point of order.... (Interruptions)

MR. SPEAKER: All right, I will give you time. You better study it.

SHRI FRANK ANTHONY: I have just studied it. But, with great respect, you are putting a long-winded statement like this to the House. There are at least two palpably contradictory legal statements.... (Interruptions) which place a grave doubt on the legality of what has been done. You cannot just put it to the House.... (Interruptions) How can you put it to the House?... (Interruptions).

MR. SPEAKER: I cannot listen to everybody. I can listen to one Member at a time. Let me listen to Mr. Frank Anthony.

SHRI FRANK ANTHONY: In the statement, Mr. Speaker, as I read it,—there is the acceptance of the position..

MR. SPEAKER: There is no question of any discussion just now. If you want to discuss, you can discuss it in a regular manner.

SHRI PULO MODY: We have to study.

SHRI INDRAJIT GUPTA: This statement, I am told, was made available to Mr. Mishra. I would humbly submit this. If Mr. Mishra—only Mr. Mishra—who has had the advantage of studying this statement beforehand, has any submission to make on the statement, let him do so. We also must have some time to study the

statement and ponder over it before we can have a discussion.

(Interruptions)

MR. SPEAKER: I would request all of you to sit down.

AN HON. MEMBER: There is a point of order.

MR. SPEAKER: Let me hear the point of order.

श्री शंकर दयाल सिंह (चतरा) : मान्यवर मेरा व्यवस्था का प्रश्न है। सदन की मर्यादा आप से चलती है और सदन का काम रूल्स और रेगुलेशन से चलता है। दो माननीय सदस्यों सर्व श्री एम० एन० मिश्रा और श्री ज्योतिर्मयबसु ने एक प्रश्न उठाया था। आज उस पर मंत्री महोदय ने वक्तव्य दिया। वक्तव्य के बाद कोई इस बात की आवश्यकता नहीं है कि उस पर बहस हो क्योंकि जो कुछ भी है वक्तव्य में कहा गया है वह सदन के सामने है और जो कुछ उन्होंने कहा था वह भी आप के सामने है। अब ज्यादा बहस की कोई आवश्यकता नहीं है। आप मारे मामले को देख ले और फैसला करें।

अध्यक्ष महोदय : मैंने मिश्रा जी को कहा है कि जो कुछ इस के बारे में आप को कहना है या तो मुझे लिख कर भेज दीजिए, या अभी कह दीजिए। और उस के बाद जो बाकी बात करनी है वह मैं करूंगा, और इस को पढ़ने का समय दूंगा उस के बाद तय करूंगा।

श्री शंकर दयाल सिंह : आप ने कहा कि मिश्रा जी अपनी बात कह दें। आप उनसे लिखित ले ले उस के बाद उस को आप देख लें। क्योंकि अभी अगर मिश्रा जी अपनी बात कहने को उठेंगे, तो फिर ज्योतिर्मय बसु जी भी उठ जायेंगे, और फिर वही गड़बड़ होगी।

MR. SPEAKER: I will listen to only his objection on the statement of Shri Shukla. I am not allowing any other Member. There is no point of order.

SHRI A. P. SHARMA (Buxar): You have said that Mr. Mishra should send a statement to you or that Mr. Mishra only can speak. You have suggested two alternatives. Either it should be in writing..

अध्यक्ष महोदय : आप बैठिये ।
श्री इत को मत पढ़िये, मुझे सुनने दीजिए ।

श्री ए० पी० शर्मा . सुनने के बाद
इन को कहने का कोई हक नहीं होना
चाहिए ।

MR. SPEAKER: I will examine it Now, Shri Mishra.

SHRI SHYAMNANDAN MISHRA: Mr Speaker, Sir, let me make it quite clear to the House that I am raising this matter in no spirit of sensation-seeking or scandal-mongering although there might be plenty of scandals about it. I will try to raise it purely on a technical level and purely as a matter of privilege. In spite of great provocations to the contrary—and the hon. Minister has given me sufficient provocation by saying that it was done much before the Maruthi Limited was conceived,—I am not bringing Maruthi Limited; I did not bring that earlier too.

It is because, Mr. Speaker, I want this matter to be discussed very objectively and dispassionately as a matter of privilege.

Also, Mr. Speaker, I do not want to go into the many political controversies or issues of public morality that might be surrounding this issue.

Sir, I say this, because, I am conscious of the fact that privilege or contempt is a juridical concept. I propose to deal with it as one would deal with a matter of law, and I would seek the indulgence of the

House in establishing that there is the question of privilege or contempt involved in this matter.

My submission is that the two Ministers made false statements, knowing them to be false and believing them not to be true, with the intention to mislead the House. The ingredients of privilege or the concept of privilege in this case is that there was absolute clarity on both sides. The questions were absolutely clear and the answers were also equally clear. There was specificity about it, and there was definiteness about it, and there was no vagueness in any way.

At that precise moment, the letter of the commanding officer was in existence. This is a material fact. May I submit for the consideration of the House that this letter has not been denied by the two Ministers? So this letter was in existence at that point of time. The Ministers have not denied either the existence or the knowledge of this letter.

Now, may I ask you whether any Minister can take a stand 'I do not know what the subordinates had done.' May I remind the House in this connection of what Mr. Ivor Jennings had said in *Cabinet Government (Third Edition)* at page 499? He says there:

"A Minister cannot hide behind the error of a subordinate...."

SHRI N. K. P. SALVE (Betul): We know the law of privileges well...

SHRI SHYAMNANDAN MISHRA: He may be an all-knowing person.

Then, Mr. Ivor Jennings says:

"within a department..."

MR. SPEAKER: Let the hon. Member be brief.

बरा जल्दी कीजिए

SHRI SHYAMNANDAN MISHRA:

जल्दीबाजी से तो बहुत गल्ती हो जायगी,
हुज़ूर ।

How can I do *jaldeebaji* in this matter? This is such a serious matter that I would like to deal with it in all solemnity.

SHRI PILOO MODY: You did not say '*jaldee, jaldee*' to Shri Yeshwantrao Chavan yesterday when he was reading out the budget speech.

MR. SPEAKER: Let the hon. Member please mention only the points why he does not agree with the hon. Minister.

SHRI SHYAMNANDAN MISHRA: I have also to adduce the reasons why I am not agreeing with him.

Mr. Ivor Jennings further says:

"Within a department, there must be a substantial delegation of power, but the most essential characteristic of the civil service is the responsibility of the Minister for every act done in his Department."

I would quote Lord Morrison again. He says that the proper answer of the Minister (*Interruptions*) Let my hon. friends please hear me. If they go on interrupting like this, I shall put everything on record. It will go on for days, because there seems to be a determined attempt... (*Interruptions*).

SHRI N. K. P. SALVE: Just a minute. It is an important and delicate matter. It is important for the House that we have to maintain a certain dignity of the House. We expect Shyam Babu....

SHRI SHYAMNANDAN MISHRA: I am not yielding.

SHRI N. K. P. SALVE: At least he should start by establishing a *prima*

facie case that there has been a wilful default on his part, an endeavour on his part, to mislead the House.

SHRI SHYAMNANDAN MISHRA: I am establishing it.

SHRI N. K. P. SALVE: We know all these laws from England. *Prima facie*, it appears from the statement that there is no case for a breach of privilege of this House. First a *prima facie* case has to be established that there was wilful default on his part in misleading the House.

SHRI SHYAMNANDAN MISHRA: I will read out my statement.

The proper answer for the Minister is to accept the responsibility and the proper duty of Parliament is to demand the head of the Minister and not any other official.

SHRI PILOO MODY: The heads of both the Ministers.

SHRI SHYAMNANDAN MISHRA: Objection was taken by the Commanding Officer, whose letter I produced in this House. He was the competent authority authorised to take action under the law and not a busy-body. If you go to the Act of 1903, you will find that this officer, the Commanding Officer, is competent to take action under the Act. The Minister does not deny the knowledge of his letter, nor does he question the validity and propriety of the objection. (*Interruptions*).

SHRI DINESH CHANDRA GOSWAMI (Gauhati): On a point of order.

MR. SPEAKER: May I request you to resume your seat? I have requested him to finish his observations and be very brief (*Interruptions*).

SHRI SHYAMNANDAN MISHRA: This is none of their concern. I cannot be brought to the point of mutilating the truth.

SHRI DINESH CHANDRA GOSWAMI: My point of order is this. There is a procedure relating to a privilege motion. A member may raise a privilege issue and it will be up to the Speaker to give consent to it or not to give consent to it....

MR. SPEAKER: No question of privilege. I allowed him to make a statement and the Minister to clarify. If he is not satisfied on any point, we will get the information and decide later. *(Interruptions)*.

SHRI R. S. PANDEY (Rajnandgaon): It is up to you to have given an opportunity to Shri Mishra. First of all, you discussed it in your chamber with him. Then you permitted him the other day to say something with regard to a question of privilege. He made a statement. Later on, you gave an opportunity to Shri Shukla to clarify. Now it is up to you to decide whether this is to be taken up. I do not want to challenge your ruling....

MR. SPEAKER: The Minister has made a written statement. I have asked him to let me know on what points he is not satisfied so that I may get further information and decide. *(Interruptions)*.

SHRI R. S. PANDEY: I do not want to challenge your ruling. You are the competent authority...

MR. SPEAKER: I am sorry. Will you please let me proceed with the business?

श्री प्रदल बिहारी बाजपेयी : अगर कांग्रेस मेम्बर वहाँ चर्चा नहीं चाहते, तो सारे मामले को प्रिविलेज कमेटी को भेजा जा सकता है और वहाँ चर्चा हो सकती है ।

SHRI R. S. PANDEY: Let it be decided by the Speaker. Let him send it to the Privileges Committee. Or if you want the House to decide it let the House decide it. *(Interruptions)*.

MR. SPEAKER: They do not know what is the issue. They are interrupting like this .

SHRI SHYAMNANDAN MISHRA: My submission was that the validity or the propriety of this letter is not questioned in any part of the note or in any part of the statement that the hon. Minister has just now made. So the question of deliberate concealment of this letter is there, because at the time when there was objection, there was a denial of it. The Minister does not question the validity or even the propriety of the objection, and therefore, it is wrong to say that there was no objection in existence.

MR. SPEAKER: Kindly wind up.

SHRI SHYAMNANDAN MISHRA: Yes, Sir. How the wilfulness, the deliberateness is established is....

MR. SPEAKER: Kindly tell me, number by number, the issue.

SHRI SHYAMNANDAN MISHRA: I am coming to it, Sir. Mr. Shukla cannot even take the plea that he was taken by surprise on that occasion because had I not submitted to you that letter written by me as late as 22nd November, asking specifically these questions,—may I read it for the benefit of this House—*(Interruptions)* Why don't you allow me to go through it fully? This is not the way, Sir. Now, let the House know that this is the letter dated 22nd November, one month before the debate on the small car (that is, the Maruti Limited) took place. My letter says:

"My dear Shuklaji,

I would like to know at the earliest if there are certain rules prohibiting any construction within a particular distance from a defence installation: more precisely, is there any notification by which a safety belt of 1,000 yards should be provided around an ammunition dump, air force and other military installations. I am

told that a Gazette of India notification No—so and so—specifically relates to this matter. I would appreciate if you will kindly furnish me with a copy of this gazette or of any other relevant notification and also if the rules in this regard are strictly enforced, have prosecutions been invariably launched against the violators or the matter taken up in any other manner. If the instances of the violations are not many all of them may please be mentioned.

I had asked for specific, definite information as far back as the 22nd November one month before the discussion took place in this hon House.

I ask you Mr Speaker as the guardian of our rights is it not the right almost a privilege of a Member, to seek information from an hon Minister? The Minister here also on this point, has committed a breach of privilege which appertains to the Members of the House. Until this moment—I repeat it a dozen times and let the House take note of this—up to this moment, my letter remains unanswered.

Here, I wanted to say this. One may take the plea that there were many pieces of information which had to be collected. But I asked for the gazette notification. What was fishy about the gazette notification which he could not supply me? (*Interruptions*) I had also asked—I was not able to get hold of it.

MR SPEAKER Please wind up. I have listened to you.

SHRI SHYAMNANDAN MISHRA
I am closing. A point I wanted to make; and it is this. Emboldened by the avoidance to supply the information, and conscious that the lack of information may disable me from challenging him, what had he to say? He resorted to this statement wilfully. There is that nexus; this, I wanted to bring out.

I am now coming to the legal points with regard to the notification. With your permission, I will just read out,—because they relate to the legal points—in a few minutes.

MR SPFAKER Do not make it a regular debate.

SHRI SHYAMNANDAN MISHRA
No Sir, it will be over within a few minutes. According to the Minister of State for Defence, there was notification No 350 dated 15-12-1962 specifying a limit of 1000 yards from the crust of the outer parapet of the ammunition depot Gurgaon and it was a restricted zone. Now he says that the depot was closed down in 1966 and those premises were taken over by the Air Force (*Interruptions*). Please bear in mind it was not taken over by S N Mishra a private person nor by the Commerce Department unrelated to Defence it was taken over by the Air Force.

The Minister says that there was no legally enforceable restriction after the depot had been closed down in 1966. I must say how untenable it is, or shall I say how unsound in logic it is. It is the height of illogicality—that is what I am trying to establish. In order to continue the restriction the Minister says a fresh notification was necessary. May I say again that this is a very perverse argument.

SHRI VIDYA CHARAN SHUKLA
One link in this chain is missing in his speech a certain area 415 acres was derequisitioned and therefore a new notification was necessary some area which remained under the Army depot was given. He is trying to gloss over this fact.

SHRI SHYAMNANDAN MISHRA
We shall come to that later. The Minister says that the notification dated 11-1-1969 issued with the intention of

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derequisitioning 415 acres including 258 acres occupied by the depot never came into operation in law and as such there could be no infringement of the notification dated 11-1-1969.

Assuming that the notification dated 11-1-1969 was inoperative, the contentions made by the Defence Production Minister are wholly untenable for the following reasons. It has not been alleged that the notification dated 15-12-1962 was not issued or published in accordance with the law; there is no doubt the notification issued in 1962. Therefore it was a valid and effective notification. It has not been alleged that the notification dated 15-12-1962 was ever cancelled or withdrawn or modified. Thirdly, under section 3(3) of the Act, once a declaration is made by a notification it shall be a conclusive proof. If you permit me, I shall read the relevant provision in the Act. It would be a conclusive proof that it is necessary to keep the land free from construction.

MR. SPEAKER: On the one hand you say 1969. On the other hand you say 1962.

SHRI SHYAMNANDAN MISHRA: I am taking my stand on both. (Interruptions).

MR. SPEAKER: Mr. Vajpayee says, "Don't go into the merits".

SHRI ATAL BIHARI VAJPAYEE: Let both the statements be circulated to the members and let the House be given an opportunity to discuss it.

SHRI SHYAMNANDAN MISHRA: So, it is a conclusive proof that it is necessary to keep the land free from buildings and other installations. Therefore, once a declaration is made, restriction attaches to the land, irrespective of the object for which the declaration was initially made—vide section 7 of the Act. There is no provision in the Act for the automatic expiry or withdrawal of the notification

or of its ceasing to have effect. Once a declaration is made, the only provision for the withdrawal of the restrictions is contained in Section 38 of the Act, which contemplates issuing appropriate orders by the Central Government. In the present case, no such order under section 38 was made. Perhaps a notification may be withdrawn by another notification. But, no such subsequent notification was made either. As once a declaration is made, it is conclusive proof of the requirement of the land, mere closure of the Ammunition Depot, as is being alleged, in 1966 would not and could not mean that the declaration or the notification ceased to have effect. The notification remains valid and effective until and unless the same is validly rescinded.

In the present case, assuming the Depot was closed, according to the Minister's own admission, the premises were taken over by the Air Force. Therefore, there remained a work of defence. "Work of Defence" has not been defined in the Act. Therefore, anything done or any work carried on in relation to defence will be a work of defence. Thus, there could not be any automatic termination or expiration of the notification, as there remained a work of defence.

Assuming that the Depot was closed down in 1966, but as the notification was neither withdrawn nor cancelled, as soon as the Air Force came on to the premises (which was bound to have its own installations) or as soon as the Explosive Depot was located there, as has been stated in the letter dated 11-3-1971 of the Commanding Officer, the notification dated 15-12-1962 immediately became effective and operative. Here you find a direct contradiction between what the Commanding Officer said and what the Minister has submitted to the House. The Commanding Officer says that the Depot was in existence. The Minister says... may be it was re-located there. Thus, when the land acquisition notice was issued on 24-3-1971, there was a valid

and effective notification, which was and is still in full operation.

The Act does not provide that a notification will be unenforceable merely because a particular work of defence is not there. It can only be rescinded in the manner in which I have stated

Then I come to the notification dated 11-1-1969. It is the contention of the Defence Minister that the notification dated 11-1-1969 was not effective, nor enforceable, because the lands were not properly identified, the Schedules appended to the notification were vague and no sketch plan was sent to the Collector and the notification was not published in the manner prescribed by law. These pleas are not acceptable as admittedly the notification containing the declaration was made and such declaration is conclusive proof that the land was required. The Schedules sufficiently describe the lands. In some of the items the entire area was taken. Thus, there was no uncertainty or ambiguity. A declaration under section 3 has to contain only general description. Detailed description and particulars have to be given after a proper measurement following the declaration—*vide* section 8 of the Act. Preparation of sketch plan under section 3 could only be directory and not mandatory and as such could not affect the validity of the declaration. The district and the territorial divisions where the lands are situate are clearly mentioned. Here I would like to refer to AIR 1957 SC 912 where the Supreme Court has been pleased to say in the context of the Union Public Service Commission that 'may' does not mean something compulsory, it is only directory.

The Act only requires public notice to be given of the substance of the declaration. The mode of giving such notice is not prescribed. Therefore, if any declaration was in fact made, which under section 3(3) would afford conclusive proof, that would be sufficient to attach restrictions to the land.

Provision regarding publication of notice can only be directory and not mandatory. Thus, non-publication cannot affect the effectiveness of the declaration.

The fact that when the area was under the occupation of the army, permission had to be taken and granted for making construction on the lands in question, shows and conclusively proves that the people concerned were fully aware of the notification and the Government also gave effect to the same. Now the hon. Minister has stated that permission had been granted in certain cases. If permission had to be granted in certain cases, it had to be granted in the context of the restriction. If there was no restriction, the question of permission did not arise.

The hon. Minister has given a strange argument. He has stated that there are a number of violations. The violations also can be determined only when the lands are identifiable and when the restrictions attached to the lands are identifiable. Otherwise, violations cannot be determined. So, on his own admission, there were restrictions attached to the land. Even if the notification dated 11-1-1969 was not effective the earlier notification which admittedly covers the land in question, was operative on the appropriate date.

May I also, for the benefit of the House, say that the peasants of Haryana in the affected village had come forward before the authorities stating that these lands fall within the restrictions imposed by the Act. That is as far back as 1969. If a notification is meant for the general public it is gazetted. It is a strange argument to make that the gazette notification and the details of it were not conveyed to the Collector or the State Governments. Do you think that the government will send a notification to every citizen by registered post? It will only be published in the gazette. When the peasants knew this they brought it to the notice of the concerned authorities

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as far back as 1969 So, it seems that the persons affected knew what the author of the notification did not know—for very good reasons'

Therefore my submission would be that in view of all this, there are no tenable arguments advanced by the hon Minister May I also say that what he has submitted to the House is an insult to this House?

SOME HON MEMBERS No, no

SHRI PILOO MODY I am terribly insulted

SHRI SHYAMNANDAN MISHRA Since this has not only the element of contempt this has also the culpability in respect of the violation of a particular Act, relating to the Defence of works Act, let all those persons sitting on the other side and, particularly, on the Treasury Benches ponder over this that if this matter is taken to the court—it is indeed a matter which is actionable in the court—and, here, the culpability for violation of both the privilege and contempt of the House and also of the Defence of India Act is involved (Interruptions)

MR SPEAKER That is for the court to decide.

SHRI SHYAMNANDAN MISHRA. The way in which he has treated the House with arguments which are wholly untenable (Interruptions) My submission, therefore, is this

Finally, in 1967 or 1968, the present Finance Minister but at that time the Home Minister, Mr. Y. B Chavan, had come forward before the House to say that he would like the matter—because it related to him—to be referred to the Committee of Privileges It was Mr Atal Bihari Vajpayee who had brought up the matter which related to the printing of the Budget. Later on, he took the stand that political motivations were introduced (Interruptions) My submission is, because there are issues of

defence and security of the country involved, let the Minister himself come forward and ask for reference of this matter to the Privileges Committee That will help us to investigate the matter fully

MR SPEAKER On the one hand you say it is for the House and, on the other hand you are asking for the reference to the Privileges Committee

Now I will not allow any further discussion (Interruptions)

SHRI SHYAMNANDAN MISHRA Already, this has been done

Even Profumo came and made amends Let some of the Profumos on the other side also make amends

MR SPEAKER Now, I call Shri Atal Bihari Vajpayee and Shri Samar Guha Motions under Rule 377

SHRI JYOTIRMOY BOSU What is your ruling? Would you circulate all the statements to the Members and fix some time?

MR SPEAKER There is no question of circulating Everything spoken in the House is considered as circulated That will come to you

SHRI JYOTIRMOY BOSU What about fixing the time for it?

MR SPEAKER If you want to put it to the House, I will put it to the House Do you want it to be put to the House? Yes. So, I will fix the time

12.50 hrs.

MATTER UNDER RULE 377
REPORTED ARREST OF A PAKISTANI
SPY IN MEBRUT

श्री बडल बिहारी वाजपेयी (गालियर):
राज के समाचार पत्रों में एक खबर छपी है।
वह खबर बड़ी गंभीर है और इसमें
कहा गया है कि मेरठ में एक बाबूत पकड़ा