

and do not produce a marketable surplus. If you want to bring about self-sufficiency, it is necessary that a large number of cultivators in every village are able to earn not only for their living but earn enough so as to save and invest for their welfare and the betterment of their surroundings. Unless this is done, we cannot expect to go very far.

Unfortunately, there is a lot of vested interest in land in all the parties in this country. While our socialist friends feel enthusiastic about nationalisation of banks, in which they have little stake, they do not feel equally enthusiastic about land reforms in which they have a stake. There is also one important reason which is a political one. Today the poor cultivators are going to towns in search of employment. The richer ones go to towns either for entertainment or for urban living. Therefore, it is the villages which suffer. That being the case, the villages are vulnerable and a demagogue can get response by painting any rosy picture of change.

If you really want to create a stable society which will offer resistance to all pressures, I think it is necessary that the society you create must have the capacity to resist. If you create such a society, I maintain it will not only be resistant to political exploitation from within but also to aggression from without.

Prof. Ranga and Shri Trivedi reminded us of our failure to clear the Chinese out of the parts of the country they occupied by their aggression.

Mr. Speaker: At 4 p.m. the Prime Minister was to make a statement. He can continue afterwards.

16.05 hrs.

STATEMENT RE. ALLEGATIONS AGAINST SOME CHIEF MINISTERS AND OTHER MINISTERS OF STATE GOVERNMENTS

Mr. Speaker: The hon. Prime Minister.

Shri P. K. Deo (Kalahandi): Before the Prime Minister makes a statement, may I point out that I had given notice of a call attention motion on the same subject? So I may not be denied the privilege of putting questions.

Mr. Speaker: Simply because he had tabled an adjournment motion . . .

Shri P. K. Deo: Call attention notice.

Mr. Speaker: Then at the most he can be allowed one question.

The Prime Minister and Minister of Atomic Energy (Shri Lal Bahadur Shastri): Mr. Speaker, Sir, as the House is aware . . .

श्री बागड़ी (हिसार) : इस के अन्दर हर पार्टी के मेम्बर को मौका मिलना चाहिये ।

अध्यक्ष महोदय : अब मैं पहले से कैसे इकरार कर दूँ ।

श्री यशपाल सिंह (कराना) : प्रधान मंत्री जी को अपने वचनों का पालन करना चाहिये ।

अध्यक्ष महोदय : मैं ने आप से विनय की कि आप बार बार इस को न उठायें । यह ठीक नहीं है कि हर वक्त इस बात को उठाया जाये । जो मैं ने सुबह कहा था उसी के मुताबिक काम चलेगा ।

Shri Lal Bahadur Shastri: As the House is aware, a memorial dated 28

[Shri Lal Bahadur Shastri]

July 1964, containing allegations against Shri B. Patnaik, Shri Biren Mitra and some Ministers of the Orissa Government was submitted to the President on 13th August 1964. The memorial was signed by Shri Rajindra Narain Singh Deo, Leader of the Opposition in the Orissa Vidhan Sabha and 62 others of that State. Supplementary memoranda were submitted to the President on 21st September, 1964 and on 12th October, 1964.

I requested a committee consisting of some of my Cabinet colleagues to examine the matter.

The Home Minister sent the memorial dated 28th July along with a statement of the supplementary allegations to Shri B. Patnaik and Shri Biren Mitra for their comments. Shri Biren Mitra was further informed that where an allegation was against any of his colleagues in the State Cabinet, he might also wish to have their comments before making his own observations.

The Committee carefully examined the comments received from Shri B. Patnaik, Shri Biren Mitra and the Ministers concerned.

श्री किशन पटनायक (सम्बलपुर) :
मिनिस्टर्सों के नाम क्या क्या थे ?

अध्यक्ष महोदय : आप सुनिये ।

श्री किशन पटनायक : स्टेटमेंट में नाम तो आ जाना चाहिये ।

अध्यक्ष महोदय : क्यों आ जाना चाहिये ।
बे जो स्टेटमेंट देना चाहते हैं उस की इजाजत मैं ने दी है पढ़ने के लिये ।

Shri Lal Bahadur Shastri: The Committee came to the conclusion that their examination of the material available did not reveal that Shri Patnaik or Shri Mitra had personally derived any pecuniary benefit from the various transactions in which they were concerned.

Shri Hari Vishnu Kamath (Hoshangabad): Question.

Shri Ranga (Chittoor): Question.

Shri Lal Bahadur Shastri: The Committee, however, found that in several transactions, improprieties were definitely involved for which responsibility had to be borne by Shri Patnaik and Shri Mitra. The Committee felt that the normal standards of public conduct had not been maintained. The findings of the Committee which were accepted by the Central Cabinet were communicated to Shri Patnaik and Shri Mitra. Shri Mitra has since submitted his resignation from the office of the Chief Minister of Orissa. Shri Patnaik had resigned from the Chairmanship of the State Planning Board and does not now hold any office under the State Government.

In regard to Shri Nilamoni Routray, certain allegations related to a period during which he was not a Minister. The Committee felt that it would not be appropriate to consider those allegations.

Shri Hari Vishnu Kamath: Shri Tripathy also.

Shri Lal Bahadur Shastri: In regard to another allegation relating to a period when he was a Minister, the Committee came to the conclusion that there was not sufficient material to justify any adverse inferences being drawn against him. Similarly, in the cases of Shri Sadashiv Tripathy and Shri Brindaban Naik, the Committee found that there were no grounds for any adverse inference being drawn.

A letter dated the 23rd July, 1964, containing allegations against the Mysore Chief Minister, was received from Shri R. K. Prasad, President, Dis-Congress Committee, Kolar, and nine members of the Mysore Legislature. A communication dated 5th August, 1964 signed by twenty persons, 17 MLAs and two MLCs of Mysore State and one MP, was also received. As requested by the Chief Minister, Mysore, the

Home Minister sent to him for his comments copies of the above documents on 13th August, 1964. The Chief Minister sent his comments on 16th November, 1964 along with the comments of other Ministers of his Cabinet against whom too allegations had been made.

A memorandum was presented on 17th December, 1964 to the President by 25 MLAs and 3 MLCs of Mysore. All the allegations made in this memorandum were covered in the earlier communication sent to the Home Minister.

The same Committee of the Cabinet was requested to consider this matter also. On a consideration of the allegations against the Chief Minister and some of the Ministers of Mysore and the available material and comments, the Committee came to the conclusion that there was no ground for the Central Government to take any further action.

A memorandum containing allegations against the Chief Minister, Bihar, and some of his colleagues signed by 6 MLAs and 3 MLCs of Bihar State and one MP was received by the President on the 14th October, 1964. It was sent to the Bihar Chief Minister for his comments. On a consideration of the allegations and the material gathered thereon, the Cabinet Committee came to the conclusion that there were no grounds for the Central Government to take any further action.

I know some Hon'ble Members may like to pursue this matter further.

Shri Hari Vishnu Kamath: Of course, we will.

Shri Lal Bahadur Shastri: But I would submit to the House that the Cabinet Sub-Committee has devoted much time to it and made a very careful examination. On the basis of their findings, I came to the conclusion that it is only in the case of Orissa

that some action was called for. Shri Biren Mitra and Shri Patnaik have already tendered their resignations. I would appeal to you that this matter be allowed to end there.

Shri Hari Vishnu Kamath: No, let them disgorge their ill-gotten assets.

Shri Lal Bahadur Shastri: We, who are privileged to hold public offices and positions of responsibility should always fully realise the need for the maintenance of the right standards of conduct. Only then will we deserve public confidence and support. At the same time we should give no encouragement to the creation of an atmosphere of distrust and suspicion. Effective administration then becomes difficult. If we bury the past and look ahead, I feel confident that we will open a new chapter.

Shri P. K. Deo: In view of the startling revelations, I quote: "On the total purchase of these items valued at Rs. 60 lakh....."

Mr. Speaker: Where are you quoting from?

Shri P. K. Deo: From the CBI report . . . (Interruptions.)

Mr. Speaker: I might be allowed to regulate the proceedings here.

Shri Rama Chandra Mallick (Jaipur) Sir, I rise on a point of order . . . (Interruptions.)

Mr. Speaker: He does not want me to deal with that? A point of order has come.

श्री नबु लिये (मोघर) : मेरा एक व्यवस्था का प्रश्न है ।

अध्यक्ष महोदय : पहले ही व्यवस्था चल रही है, और क्या होगा ।

श्री नबु लिये : आपने जो फरमाया, उसके बारे में मेरा व्यवस्था का प्रश्न है ।

अध्यक्ष महोदय : पहले ही व्यवस्था का प्रश्न चल रहा है। वह एक खत्म हो जाए तो दूसरा प्रश्न लिया जा सकता है।

Shri Rama Chandra Mallick: Mr. P. K. Deo just now and Mr. Hari Vishnu Kamath earlier had read out something and said that it was from the CBI report.

Mr. Speaker: It has not yet been read out.

Shri Rama Chandra Mallick: Since it was read out by Mr. Kamath . . .

Mr. Speaker: I cannot take cognisance of what had happened when I was not here. I cannot give a decision about an issue that had arisen in my absence. . . . (Interruptions.) I am not allowing him to quote from the CBI report.

Shri P. K. Deo: Under what rule, Sir, you bar me from exercising my privilege to quote from a document which has come to me this morning and for which there has been a precedent this morning; in spite of a protest from the Treasury Benches, the Deputy-Speaker gave a ruling and said he was quite competent to quote and allowed him. In spite of this ruling, how can you occupying the same Chair, rule differently now?

Mr. Speaker: The issue arose in the morning so far as I can gather from the observations made by the Maharaja Sahib as well as by that Member.

Shri P. K. Deo: I never made any speech.

Shri Ranga: It was Mr. Kamath who quoted.

Mr. Speaker: I follow it. Whatever decision was taken at that moment was under the circumstances that were there. I cannot interfere in that now. When a fresh issue arises I will have to take a decision. Therefore, it cannot be enquired from me how I can take a decision

differently. . . . (Interruptions.) I might be allowed to proceed. I was putting before the House that when a Presiding Officer is there in the Chair and something arises, he has every right to take a decision and his decision cannot be reviewed or revised by any other chairman or presiding officer. But if another presiding officer is in the chair at some other time and an issue arises which may be akin to the previous one, the then presiding officer is not precluded from holding some view which may not be in exact conformity with the one that has been held by a different presiding officer. That was what I was submitting because it has been put to me: how can I hold such a view?

Shri P. K. Deo: Under which Rule you are debarring me?

Shri H. N. Mukerjee (Calcutta Central): Sir, my submission is that there is no question of your holding something in contravention of what has been held earlier. Earlier today, certain matters had been placed before the House and the House has taken cognisance of the material which Mr. Kamath has provided. Therefore, I submit that it is open to any Member at the present moment to refer to the earlier proceedings in the House, germane to the point which the Prime Minister has tried to elucidate and to ask for further information if he is entitled to put his question and you, Sir, have told him that he was entitled to do so. Therefore, my submission is that he is quite entitled to refer to whatever was divulged before the House by Mr. Kamath which could not be contested in regard to its factual basis by the Government and which could have been laid on the Table of the House, if that was the direction of the Speaker or Chairman.

Mr. Speaker: My handicap is that I do not know what had happened earlier. I could not go through them. . . (Interruptions.)

Shri Shinkre (Marmagoa): The Deputy Speaker said that he would allow the whole report to be placed on the Table of the House.

Mr. Speaker: I am expressing my ignorance of all that had happened in the morning. I was not present. I have not heard that. It is my first reaction which I am just putting to the hon. Members. If a document is not accessible to the Members or is a secret document, I am putting a hypothetical question, supposing it concerns the defence of the country . . . (Interruptions.) You may not agree with me.

Shri Ranga: You are imagining impossible questions. Why do you bring in defence?

Mr. Speaker: Leave defence altogether. I take another case. If a document is not accessible to Members

Shri Ranga: You may make it available now. On many occasions, it has been done. . . . (Interruptions.)

Mr. Speaker: Kindly give me a patient hearing. I will give them an opportunity. I might be allowed just a few minutes. I put it to the hon. Members. Supposing there is a document just like the one we have in question take that also; it is admittedly a confidential document.

Shri P. K. Deo: Confidential to them, not to us.

Shri Ranga: It should have been placed on the Table of the House . . . (Interruptions.)

श्री मधु लिमये : अध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है, मैं घरसे से आप से कह रहा हूँ ।

श्री अध्यक्ष महोदय : अब मेरे ऊपर व्यवस्था का प्रश्न होने लगा है । मुझे कह तो लेने

दीजिए, बाद में आप अपना प्रश्न उठा सकते हैं ।

श्री मधु लिमये : जो आप कह रहे हैं, उसी के सम्बन्ध में मुझे कहना है ।

अध्यक्ष महोदय : मुझे कह तो लेने दीजिए ।

A document is there. Presumably it is confidential.

Shri Dinen Bhattacharya (Serampore): But actually, it is not confidential.

Mr. Speaker: Now, the only course which we can just guess, make a conjecture of, is that if it has reached some hon. Member, at least the person, the citizen, who is instrumental in taking that to the Member has not acted lawfully and in a legal manner. Either it is theft, robbery or something—(Interruption).

Several hon. Members: No, no.

Shri Daji (Indore): Then it gives the impression that it is theft. We cannot do our duty here. (Interruption). It is a question of privilege. You should save us. He is a very important Member of Parliament. (Interruption).

Mr. Speaker: Order, order. Would they listen to me? They must first listen to me.

Shri Daji: It is a wrong impression given to the people. If they are made to feel that when a communication is sent to us, it is a theft, then we cannot carry on.

Mr. Speaker: I must repeat that the person who has taken it out of that lawful custody . . .

Shri Daji: It is not a theft. (Interruption).

Mr. Speaker: Order, order. Then, I will hear the Members first. I shall call them one by one.

Shri S. M. Banerjee rose—

Mr. Speaker: I shall call him in his turn. Let him wait. Shri Ranga.

Shri Ranga: Just as the Chair expects that we should all be decorous, be considerate and be charitable to the Chair, and to each other, so also we expect the Chair to display similar sentiments and avoid the mention of such words as have been mentioned just now.

Shri Daji: What I submit is that this question is one of privilege. One of the most cherished privileges of a Member of Parliament is to get a communication uninterrupted. We are not even supposed to divulge, or we cannot be asked to mention whatever the source of our information. So cherished is the privilege of a Member of Parliament. If these remarks of the Chair go out to the country, that if any document is sent to us—I do not understand this “legal custody”, for after all, what is this legal custody—and is taken out of legal custody, then there is an end! If it is legal custody, the custodian must have got it legally. But if the custodian himself has passed it on to Mr. Patnaik to reply to the charges, maybe he has got it from Mr. Patnaik. How do we presume that it is illegal custody. Even the presumption that it is illegal custody is a reflection that from legal custody it has become one of illegal custody. Illegal can be a matter of theft. It is an insult to Members of Parliament. It deters us from our duties. These remarks, when they go out to the country will give the impression that the communications are interrupted. On the contrary, the Speaker is the custodian of our privilege; from whatever custody, a citizen get a document and send it to the Member of Parliament so that the grievances of the citizens are properly ventilated.

Dr. M. S. Aney (Nagpur): I do object to the expression “whatever the source”.

Several Hon. Members rose—

Mr. Speaker: Order, order. Members should have patience. The issues as they arise can be decided by discussion and I am just allowing the discussion. Why should they be so impatient?

Shri S. M. Banerjee (Kanpur): My submission is this. Here is a document which is in the possession of one of the hon. Members. The Deputy-Speaker did not stop that hon. Member; he even allowed him to place it on the Table of the House. But after hearing you,—I am sure this may not be your final ruling—it appears that it was a sort of a theft or anybody who has done it has committed a crime. May I invite your attention to two documents, very valuable documents, supposed to be secret to this Government? They were allowed in the papers. One was the Dalmia-Jain enquiry: the report of the Solicitor-General, Shri Daphtary. The question was asked, and the hon. Minister of State in the Ministry of Home Affairs, Shri Hajarnavis wanted to raise an objection and he wanted to shelve the whole issue by saying that it is supposed to have been a confidential document, and it was a question of theft.

Now, in your wisdom—I am sure if the proceedings are seen, it will be clear—you have made some observations. Then there is another document which was produced by my hon. friend Shri Daji. It was the auditor's report on the Ruby Insurance Co., which has been concealed from this House even today; it was produced and placed on the Table of the House. The third instance is this: Shri Masani read out from a prescribed book. It was asked as to why he was not arrested. He was not at all arrested; he was allowed to quote from it. He went out after quoting from it without being arrested.

May I appeal to your sense of justice and impartiality that in this case, an important issue is involved? A

great person is involved, Mr. Patnaik and also Mr. Biren Mitra. The members of the syndicate are interested. They call it "character assassination." I appeal to your sense of justice and impartiality to protect our right. Otherwise, if such a ruling is given, it will give a handle to those who are indulging in corruption to continue to do so in the name of rooting our corruption. Politically, there will be nothing left for us except to walk out from this House and go back to our people and say we were not able to do our duty. (Interruption).

Mr. Speaker: He has argued, but why should he threaten me? It is not fair.

Shri S. M. Banerjee: To me you are a Daniel. You are a Daniel to us.

Mr. Speaker: Order, order. What he has been saying is not at all fair. Has he given me previous notice?

Shri S. M. Banerjee: I am really sorry for that.

Mr. Speaker: He is sorry so many times.

श्री मधु लिमये : अध्यक्ष महोदय इस विषय पर फैसला देने के पहले अच्छा होता कि आप कहते कि जो आज इस के सम्बन्ध में पहले फैसला दिया गया है वह क्या है, वह पढ़ा जाता। एक बात तो मैं आप से यह निवेदन करना चाहता हूँ ताकि आप को पता चले कि क्या फैसला रहा था।

दूसरी बात यह है कि मैं यह जानना चाहता हूँ कि किस नियम के आधार पर आप ने जब मيمबर साहब बोल रहे थे उन से कहा कि आप उस दस्तावेज से कोई वाक्य या जुमला नहीं ले सकते हैं और सदन के सामने नहीं रख सकते हैं। तीसरी बात यह है कि यह चोरी और भ्रष्टाचार का मामला है। उस के बारे में प्रधान मंत्री जी ने अभी कहा कि एक समान आदर्श हमारे व्यवहार का

होना चाहिए। अब समान आदर्श जो है उन के ऊपर विचार करने के लिए और वह समान आदर्श निश्चित करने के लिए यह आवश्यक हो जाता है कि इन मंत्रियों के खिलाफ जो आरोप किये गये थे उन के बारे में उन्होंने जो खुलासा दिया उस के बारे में जांच कर के जो रिपोर्ट आ गई और फिर जो मंत्रिमंडल की उपसमिति थी उस ने अपनी राय दी थी यह सारे जितने कागजात हैं वह जब तक सदन के सामने नहीं आते हैं, समान आदर्शों के बारे में हम कैसे चर्चा कर सकते हैं? मैं तो यह चाहूंगा कि इस सरकार की ओर से ही यह सारे कागजात आ जायें। अगर सरकार इस के लिए तैयार नहीं है तो जिस सदस्य ने—श्री कामत ने हवाला दिया, मैं उन्हें धन्यवाद देना चाहता हूँ आप के मार्फत कि उन्होंने भ्रष्टाचार और चोरी के मामले को बाहर लाने के लिए, जनता के सामने लाने के लिये अच्छा काम किया है और उन को इस की इजाजत दी जाय।

Shri Shinkre: Irrespective of the question whether the CBI report was confidential or not, and I for myself take it as not confidential, I say the Prime Minister has ended his statement by appealing to the House to refrain from proceeding further with the issue. As such it is highly important that the report should be known. The Members should consider whether the evidence before the sub-committee of the Cabinet was properly considered or not, and therefore, I would appeal to you to see that this report is presented to the House and made known to the hon. Members.

Shri H. N. Mukerjee: I felt rather it was unlike you,—

Mr. Speaker: If I had been heard, probably he would not have any objection. I was not heard.

Shri H. N. Mukerjee: I know, but at the same time....

Mr. Speaker: But, at the same time, if I had been allowed to say what I wanted to say, probably the matter would have been cleared. At least he would not have arisen.

Shri H. N. Mukerjee: Like Judges, who have to administer justice and also to make sure that it should also be seen that justice is being administered, in the case of our Speaker, our expectation is that not only is justice being done but also the appearance is that justice is actually being done. Therefore, my personal feeling is—I say it with regret—that certain expressions had been let fall in the course of your remarks which unfortunately were interrupted from time to time. The main point is that just as journalists have the right, have the indubitable right to have “scoops,” as they call it, and never to divulge the sources of their information, so Members of Parliament, where the public interest demands it—and in this case the public interest certainly demands the vigilance of Members of Parliament—have the right to utilise documents which obviously the Government is keeping away from the public while the Press is making all kinds of statements in regard thereto. Shri Kamath did have the distinction this morning of having brought before the House a document which the Minister of External Affairs, Shri Swaran Singh, tried to resist, but the Deputy Speaker was in the chair and with perfect validity he held that Shri Kamath was within his right in placing those facts before the House.

My submission, however, is that in view of what the Prime Minister has asked the House to consider, I feel it is incumbent that the House gets to the root of the matter. Having got some inklings, as to what the CBI seems to think in regard to this case, it becomes necessary for the House to consider what the CBI investigation report purported to say and what the Cabinet Sub-Committee, composed of whoever it might be, decided in regard to that matter and the Prime

Minister accepted that decision. Therefore, it becomes incumbent, in the interest of probity in public life, that Parliament has an opportunity of discussing this matter. It is not merely a question of Shri Deo being permitted to ask a question here or a question there. It is a very much larger question which Shri Shastri, in the interest of his own Government and in the interest of parliamentary probity, should be the first man to come forward and agree with us to have a parliamentary discussion on this whole question which throws a flood of light on *sadachar* and *dura-char* in this country.

Shri U. M. Trivedi (Mandsaur): Sir, the question before us is a very simple one. The report of the CBI is said to be confidential.

Mr. Speaker: What does he think about it?

Shri U. M. Trivedi: It means that either you have seen that report or a communication has been made to you that it is confidential.

Mr. Speaker: I assure him that I have not seen it.

Shri U. M. Trivedi: I knew you have not seen it. Therefore, I say that this is not confidential. This document is such a public document that half of the people sitting today in the Central Hall have read it. Such a document is not a confidential document. It does not deserve the name “confidential document.” It is not even a secret document. The difference between a secret document and a confidential document is this. In the case of a confidential document, people who want to hide their own secrets, their own misdeeds, want to keep a document as confidential. A secret document is one where the necessity to keep it a secret arises on account of national interest. These confidential documents have absolutely no value in the eye of law. These confidential documents have always been treated in course as public

documents, unless and until for specific reasons of public policy they are to be treated as confidential. This point has not been placed before the House in any manner, that this is such a document which should be kept away from the House. It is now in the possession of a Member of the House. He offered to place it on the Table of the House but the Government refused to have it. The Government did not accept the challenge. Under those circumstances, the question that was put by Shri Deo with reference to that particular document, which was itself a subject matter having been discussed before, I should say most respectfully, was quite relevant. Of course, you might be justified in saying that those who had access to it might have committed a theft or something of that sort. Probably you wanted to say something more but there were some interruptions and you were not allowed to complete the sentence. But, Sir, we all feel very touchy about it. Naturally, people come to us. Some documents are passed on to us. I had occasion last time to pass on a document to the Railway Minister. There has been no reply to it, probably he has swallowed it. They do not want to give a reply to these things. They twist these things. When documents are placed on the Table, it is better that they are replied to. In this particular instance, the question is coming from the inherent information that is in the possession of a Member. It is not necessary to divulge before anybody as to how he has obtained it. The question can be put even on the basis of hypothetical propositions or even on the basis of information received by a Member from whatever sources it may be. I should say he is justified in putting this question.

Shri M. R. Masani (Rajkot): Mr. Speaker, before you give your final ruling in this matter, I will be grateful if you will kindly allow me to make a submission. The freedom of expression of members of this

House and of Parliament is sacred and restricted only according to the Rules. As far as I can make out, everything can be said on the floor of the House which is not precluded by one or the other rule of the Rules of Procedure. That is the position in England and it is the position here. I have been glancing through the rules to find out what are the limitations on the freedom of speech, which my hon. friend was trying to exercise, which can be prevented. What are the limits to that freedom of speech? As far as I can make out, it is rule 352 of the Rules of Procedure that lays down what are the things a member may not refer to in his speech. If you kindly refer to rule 352, it says that, when a member is on his legs, he shall not refer to things which come under the eight categories that I shall read out. (i) refer to any matter of fact on which a judicial decision is pending. It is quite clear that no judicial decision is pending on this matter because this has not been referred to a court of law.

Shri Daji: They dare not.

Shri M. R. Masani: (ii) make a personal charge against a member that does not apply. (iii) use of offensive expressions about the conduct or proceedings of Parliament or any State Legislature: that does not apply. (iv) reflect on any determination of the House except on a motion for rescinding it: that is not relevant. (v) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms: that also does not apply. (vi) use of the President's name for the purpose of influencing the debate: not applicable. (vii) utter treasonable seditious or defamatory words: not applicable. (viii) use his right of speech for the purpose of obstructing the business of the House: not applicable.

So, with all respect, I would like to submit that unless the quotation that my hon. friend was about to make or that he was going to utter can be brought within one or the other of the eight sub-clauses of this rule, any

[Shri M. R. Masani]

other attempt to place any restriction on free speech would be an invasion of a very dear liberty of Members of Parliament. We have a public duty to perform and it is possible some confidential document may be against the public interest to bring out in public. But, on the contrary, there are other public confidential documents which it is in the highest public interest to bring out because facts are sought to be suppressed by Government. This has been done repeatedly in the British House of Commons by member after member over the last hundred years, when members have come to the House and read from documents which were secret so far as Government were concerned, but they cease to be secret on the floor of the House on account of our privilege. I, therefore, respectfully urge in this case that there can be no question of public interest because that has been clearly over-ruled by the Rules of Procedure.

Shri Hari Vishnu Kamath: Sir, I do not propose to make any fresh argument or submission, but in the national interest, to save the time of the House, I am prepared to lay the document on the Table of the House or, if that is not acceptable to you, I shall hand it over to you. You may compare it with the original and see whether it is authentic.

श्री बागड़ी : अध्यक्ष महोदय

अध्यक्ष महोदय : आपने तो कहा था कि एक एक मੈम्बर हो। आपका मੈम्बर तो एक हो गया। अच्छा कहिये आप क्या कहना चाहते हैं।

श्री बागड़ी : मुझे दो बातें अर्ज करनी हैं इस सम्बन्ध में। एक बात तो यह है कि यह सदन इस देश का सब के लिए मान योग्य है। सरकार तथा देश की मान्यता और उच्चता इस सदन की मार्फत रखी जाती है। अगर

कोई भी व्यक्ति हानिकारक चीज भी इस सदन से छिपाता है तो सदस्यों को अधिकार है कि वे उसे इसके सामने लायें। जो भी विधान को नुकसान पहुंचाता है देश के हित को नुकसान पहुंचाता है फिर चाहे वह कोई मੈम्बर हो या सरकार हो इस सदन के प्रत्येक माननीय सदस्य को अधिकार है कि उसको सामने लाये। सरकार की गलती और चोरी को भी बताना प्रत्येक माननीय सदस्य का अधिकार क्षेत्र में आता है।

यह जो भ्रष्टाचार का लांछन है जोकि इस देश में सर्व व्याप्त है उस भ्रष्टाचार को यदि कोई सरकारी किताब भी छिपाती है और उस चीज को कोई इस सदन के अन्दर लाता है तो वह इस सदन की और देश की बहुत बड़ी सेवा करता है। जिस माननीय सदस्य ने इस चीज पर प्रकाश डाला है उसने बहुत बड़ी सेवा की है फिर उसको छिपाने वाला कर्म चाहे सरकारी कर्मचारी का हो या सरकार का कर्म हो, वह कर्म चोरी का है। जो सरकार का कर्म है वह चोरी का है सदस्य का कर्म चोरी का नहीं है। वह उस का मानव धर्म है।

दूसरी बात मैं यह अर्ज करूंगा कि मैंने जो चोरी का शब्द इस्तेमाल किया है वह इस लिये किया है कि माननीय अध्यक्ष महोदय ने चोरी का शब्द इस्तेमाल किया है। मैं पहले भी एक शब्द के लिये सजा भुगत चुका हूँ। मैं चाहूंगा कि अगर चोरी का शब्द इस सदन के अन्दर अमाननीय है तो अध्यक्ष इस चोरी के शब्द को वापस ले लें ताकि सदन की सभ्यता और मान्यता कायम रह सके।

Dr. L. N. Singhvi (Jodhpur): Mr Speaker, I think, at the moment we are on the narrow question of whether Shri P. K. Deo, while asking the question, could have utilised information which is supposed to be contained in the CBI Report. The right of

interpellation of Members of Parliament is certainly not less than the right enjoyed by journalists or the right of cross-examination in course of law where, as you are aware, we always use information which may be in our knowledge and we confront the witness or whoever is answering the question with that piece of information. It is the right of the Government certainly either to admit that information or to say that it is wrong or to say that it is not in the public interest to say anything on the matter. That is true. But so far as the right of Members of Parliament is concerned to utilise information as long as it is employed with full sense of responsibility, it cannot be deterred or in any way abridged. It is true that the sense of responsibility imposes certain self-restraint on our functioning or on our utilisations of any documents which are classified by the Government as confidential or secret because the whole fabric of administration may be undermined if we do not use our discretion with full sense of responsibility; that is why the Rules of Procedure require that if we want to utilise any document, we should be prepared to place it on the Table of the House or make it available to you. In this case Shri P. K. Deo did not want to refer initially to the CBI Report. He started it by confronting the Minister with a certain fact, a certain allegation. When you asked him as to whether this was based on any authentic information with him, he naturally had to put before you what source of information he had in the matter. Therefore my submission is that he is perfectly in his right to utilise a particular piece of information which is in his possession and if you desire him to disclose, to disclose before you in this House or otherwise the source of information. But so far as the utilisation of this piece of information is concerned, I am sure, you would consider that he is perfectly within his rights to use that piece of information, confront the Government with it and to elicit the information based on that from the Government.

Mr. Speaker: The hon. Minister.

The Minister of Home Affairs (Shri Nanda): The hon. Speaker will, of course . . .

Some hon. Members rose—

Mr. Speaker: So many hon. Members from the Congress side also want to speak? I thought, the Home Minister's statement was enough.

Shri Raghunath Singh (Varanasi): This is a legal question and I want to say a few words.

डा० सिधवी ने कानून शहादत का कुछ जिक्र किया। लेकिन जाब्ता फौजदारी का यह नियम है कि प्रापर कस्टडी से डाकुमेंट आना चाहिये। अगर कोई आदमी किसी की रजिस्ट्री की कापी कोर्ट में ला कर फाइल करे तो कोर्ट उसे नहीं लेगा। इस के लिये जरूरी है कि प्रापर कस्टडी से डाकुमेंट आये। इस वक्त यह डाकुमेंट प्रापर कस्टडी से आया है या नहीं यह चेन्नर को देखना है। अगर यह प्रापर कस्टडी से आया है तो हिन्दुस्तान में जो कानून जारी है उस के अनुसार आप इसको एक्सेप्ट कर सकते हैं। अगर प्रापर कस्टडी से नहीं आया है तो नहीं एक्सेप्ट कर सकते हैं।

दूसरी बात मैं यह कहना चाहता हूँ कि यह एक बहुत खराब परम्परा होगी अगर इस प्रकार के कागजात जो कि सीक्रेट हैं कांफिडेंशल हैं, उन को हम स्वीकार कर लें। अगर हम एक बार उन को स्वीकार कर लें तो जितने आफिसर्स हैं वह किसी न किसी के खिलाफ कागजात ले कर सदस्यों के पास आयेगे और यह टेबल कागजात से भर जायेगी। इस लिये यह परम्परा बहुत खराब है और इस को यहां पर न रखा जाये।

Dr. L. M. Singhvi: That is the rule of evidence which is not applicable to cross-examination.

Shri Raghunath Singh: That is the law of this country.

[Shri Raghunath Singh]

सीक्रेट और कांफिडेंशल डाकुमेंट्स की एक सैंकटिटी होती है उन का एक महत्व होता है। अगर इस प्रकार के डाकुमेंट्स यहां आने लगे तो हम डिफेन्स के भी ला सकते हैं, फारेन अफेयर्स के भी ला सकते हैं। फिर इस का कोई अन्त नहीं होगा।

कुछ माननीय सदस्य : जरूर लायेंगे।

(Interruptions)

श्री भागवत झा आजाब (भागलपुर) : वह लोग हमें बोलने क्यों नहीं देते हैं। जब वे बोलते हैं तब हम उन की बात सुनते हैं वे लोग भी जरा सुनें।

श्री रघुनाथ सिंह : मैं कहना चाहता हूँ कि अगर इस प्रकार की परम्परा हो गई तो इस का कोई अन्त नहीं होगा। इस संसद् में 500 या 700 मेम्बर हैं। हर एक मेम्बर के पास एक एक डिपार्टमेंट के सीक्रेट कागज ला कर रखे जायेंगे। यहां पर श्री फीरोज़ गांधी का जिक्र किया गया। वह जब इस जगह से बोल रहे थे तो उन्होंने कहा कि वे इस डाकुमेंट को फलां फलां के पास से लाये हैं। फलां फलां आदमी ने उन को दिया है। जहां तक मुझे याद है उन्होंने उस वक्त पंजाब नैशनल बैंक का हवाला दिया था कि वहां से वे उसे लाये थे। उसके बेसिस पर ही मैं जानना चाहता हूँ कि श्री कामत ने जो इन को पाया है तो वे बतलायें कि इन को कहां से लाये हैं? (Interruptions)

अध्यक्ष महोदय : जरा दूसरी साइड भी तो सुन लें।

श्री रघुनाथ सिंह : श्री फीरोज़ गांधी ने पंजाब नैशनल बैंक का हवाला दिया था। यहां पर मूंडा कांड का हवाला दिया गया। मैं उस के बारे में कह रहा था....

अध्यक्ष महोदय : इतने डिटेल्ड बहस की जरूरत नहीं। आप सिर्फ अपना प्वाइंट बयान कर दें।

श्री रघुनाथ सिंह : उन्होंने ने इस तरह से कहा कि वे इस डाकुमेंट को पंजाब नैशनल बैंक से लाये हैं और उसे पढ़ कर सुनाया था। उन्होंने साबित किया कि वे इस को प्रापर कस्टडी से ले कर आये हैं। इस वास्ते मैं कहना चाहूंगा कि सी० पी० सी० का जो प्रोसीजर है, चूँकि हमारा कानून इस मामले में साइलेंट है, इस वास्ते जो अदालती प्रोसीजर है उसे हमें ऐडाप्ट करना चाहिये जबकि कोई स्पेसिफिक ला नहीं है।

(Interruptions)

अध्यक्ष महोदय : यह बात तो ठीक नहीं है कि जब मैं दूसरे मेम्बर साहब को बोलने के लिये कह रहा हूँ तो दूसरे उन को न सुनें। मुझे भी बोलने से मना कर दिया। जब तक मैं खड़ा हूँ दूसरा कोई मेम्बर नहीं बोल सकता।

Shri Narendra Singh Mahida (Anand): I rise on a point of order.

Mr. Speaker: Let us hear the point of order.

Shri Narendra Singh Mahida: How do we know that his document is a real one? It should be compared with the original one and then a decision given.

Mr. Speaker: There is no point of order.

श्री मधु लिमये : मेरा व्यवस्था का प्रश्न है। आप यह फैसला दीजिये कि किस नियम के अन्तर्गत आप ऐसी मांग कर रहे हैं।

अध्यक्ष महोदय : वह तो यहां मसानी साहब ने कह दिया।

श्री सौर्य (अलीगढ़) : कोई भी डाकुमेंट हो, चाहे कांफिडेंशल हो या नान-कांफिडेंशल हो और चाहे किसी के सम्बन्ध में भी आये, यदि उस कांफिडेंशल डाकुमेंट का कोई भी भाग इस सदन में आ चुका है, गलत या सही इस से ताल्लुक नहीं, तो वह कांफिडेंशल नहीं

रह जाता और उस पर प्रश्न पूछा जा सकता है ।

श्री अ० प्र० शर्मा (बक्सर) : श्री दाजी ने अभी इस सदन में प्रिविलेज का सवाल उठाया । क्या मेम्बर पार्लियामेंट हो जाने के बाद सब का यह प्रिविलेज हो जाता है कि वह जो चाहें कर सकते हैं ।

कुछ माननीय सदस्य : नहीं, नहीं ।

Shri Daji: What is relevancy about it?

अध्यक्ष महोदय : जितना कहा गया है उतना ही कहें ।

श्री अ० प्र० शर्मा : मैं कहना चाहता हूँ कि मैं ने मेम्बर पार्लियामेंट के प्रिविलेजेज जानने की कोशिश नहीं की । लेकिन यह जानना जरूरी हो जाता है कि पार्लियामेंट के मेम्बर के कुछ कर्तव्य और ड्यूटी भी होती है । कोई आदमी जोकि इस सदन का सदस्य नहीं है, जो गैर जिम्मेदार है और इस सदन के बाहर है, वह कुछ कहे, क्या यह अधिकार और प्रिविलेज है कि पार्लियामेंट के सदस्य कहीं जा कर उसे कह सकते हैं चाहे वह डिफैमेटरी हो या कुछ हो ।

दूसरी बात मैं फ्रीडम आफ स्पीच के सम्बन्ध में कहना चाहता हूँ । श्री मसानी साहब ने कहा .

अध्यक्ष महोदय : अब अगर हम बुनियादी बातों पर लम्बी चौड़ी जिक्र करते चले जायेंगे तो ठीक नहीं होगा । जो चीज सामने है सिर्फ उसी पर बोला जाय तो अच्छा है ।

श्री अ० प्र० शर्मा : मैं एक लफ्ज में खत्म करता हूँ ।

मेरे कहने का मतलब यह है कि अगर पार्लियामेंट के मेम्बर यह समझने लगे कि

वे जो चाहें सो कर सकते हैं और इस तरह के सीक्रेट डाकुमेंट्स को ला सकते हैं, तो मैं समझता हूँ कि यह स्थिति हमारे लिए बहुत खतरनाक होगी ।

श्री भागवत झा आजाद : अध्यक्ष महोदय, मैं समझता हूँ कि यह इतना बड़ा प्रश्न इस रूप में इसलिए उठ गया है कि हमने इस रिपोर्ट को जरूरत से अधिक महत्व दिया है ।

इस सम्बन्ध में मैं आपके सामने एक विचार रखना चाहता हूँ । वह यह है कि लोक सभा के पटल पर ऐसी रिपोर्टें रखी जाती हैं जिन में कोई महत्व की बात हो या जिनके पीछे कोई विशेष तथ्य हों । आये दिन सरकार मामलों की जांच पुलिस की रिपोर्ट के आधार पर करती है, चाहे वह रिपोर्ट पुलिस दरोगा की हो या सुपरिटेण्डेंट पुलिस की हो । उसका ही एक संगठित रूप यह सी० बी० आई० है । आज जिस मामले का जिक्र हो रहा है उसके बारे में अपनी राय निश्चित करने के लिए सरकार के पास एक मात्र यह सी० बी० आई० की ही रिपोर्ट नहीं है । बल्कि सरकार के पास इसकी निर्णय के लिए बहुत सी रिपोर्टें हैं, सरकार के पास अपनी रिपोर्टें हैं और भी अन्य रिपोर्टें हैं जिन के बल पर सरकार ने अपनी राय निश्चित की है और जिस राय की घोषणा प्रधान मंत्री ने की है । अगर इस रिपोर्ट को सदन के पटल पर रखा जायेगा तो इसका अर्थ यह होगा कि यह जो पुलिस रिपोर्ट देश के सामने है उसके ही आधार पर राय कायम की गयी है, इस के अतिरिक्त सरकार के पास और कोई रिपोर्ट नहीं है । अगर इस रिपोर्ट को सदन पटल पर रख लिया गया . (Interruptions)

मैं ने आप की बात सुनी, आप मेरी बात भी सुन लीजिए ।

सरकार के प्रधान मंत्री ने अपनी राय की घोषणा की है और वह राय लोक सभा

[श्री भागवत झा आज़ाद]

के मारफत देश के सामने रखी है। आज अगर इस रिपोर्ट को सदन के पटल पर रख लिया गया तो इस का मतलब यह होगा कि इस रिपोर्ट के ही आधार पर सरकार ने यह राय कायम की है (Interruptions) मुन लीजिए बागड़ी साहब, यह पटवारी की बात नहीं है।

सरकार ने अपनी राय निश्चित करने के लिए और भी बहुत सी जाचें की हैं। इसलिए मेरा निवेदन यह है कि अगर आप इस रिपोर्ट को सदन पटल पर रखने की अनुमति देंगे तो इस का अर्थ यह होगा कि इस रिपोर्ट को देखने के बाद देश के सामने चित्र का सही रूप नहीं आवेगा और तब सरकार को उन तमाम चीजों को जो उसकी जांच के आधार हैं देश के सामने रखना होगा। एक तो मेरा कहना यह है।

और दूसरी बात मैं यह कहना चाहता हूँ कि अगर आप इसकी आज अनुमति देंगे तो आगे आने वाले दिनों में हम लोक-सभा के माननीय सदस्य लोगों को इस बात का बढ़ावा देंगे कि वे ऐसी रिपोर्टों को जिन को गोपनीय समझा जाता है चुरा कर लाएं। यह ठीक है कि माननीय सदस्य स्वयं नहीं चुरायेंगे लेकिन वे अन्य लोगों को इसके लिए उकसाएंगे।

अभी श्री बनर्जी साहब ने रुबी इंश्योरेंस कम्पनी की रिपोर्ट का हवाला दिया। वह रिपोर्ट गोपनीय नहीं थी पर उस को सरकार ने प्रकाशित नहीं किया था। इसी तरह पांडेय रिपोर्ट थी स्माल कार के बारे में, वह भी गोपनीय नहीं थी, पर उस को भी सरकार ने प्रकाशित नहीं किया था। वह हमारे पास आ गयी तो हम ने उस का हवाला दे दिया। तो इस प्रकार की रिपोर्टों में और इस रिपोर्ट में फर्क होना चाहिए। आये

दिन सरकार अनेक मामलों में पुलिस आफिसर्स की राय लिया करती है। अगर इस तरह की रिपोर्टों को सदन के पटल पर रखा जायगा तो इससे सदन पटल की प्रतिष्ठा कम होगी और यह उचित नहीं होगा। ऐसी रिपोर्टों को पटल पर रख कर उसके सम्मान को कम नहीं होने देना चाहिए।

Shri P. R. Patel (Patan): According to my understanding, the question before you is this, namely whether any thing that would be a criminal offence under law should be allowed to be done in this House. We have certain privileges here. We would not be prosecuted for whatever we do here. We would not be prosecuted for whatever we say here in any court of law in this country or anywhere else.

So we have got those privileges. I have my privileges. But suppose I do something, here which is an offence, will you permit me to commit that offence before you in this House? That is the problem.

Shri P. K. Deo: It is not an offence.

Shri P. R. Patel: The question is this. Here is a piece of paper that has been produced. It is a confidential one according to the Opposition and the hon. Member who produced it.

Shri P. K. Deo: Question. We never said that.

Shri P. R. Patel: Any piece of paper, any police investigation report, under the law, cannot be exposed to anybody. So here is a piece of paper. It was lying with some officer, may be x, y or z. Or it may be lying with me, a private gentleman. Suppose that document is read here. Unless I say that a particular person has lent it to me, the other conclusion

would be that it is stolen by somebody (*interruptions*). Suppose it is a stolen document and I am reading from it. So I am reading a document that is stolen, to my knowledge. The question is whether that is an offence. Abetment is also an offence.

Shri Raghunath Singh: Sec. 411, IPC. It is an offence (*Interruptions*).

श्री मधु लिमये : अध्यक्ष महोदय, मैं चाहता हूँ कि आप व्यवस्था के प्रश्न का फैसला करें। यह तो साधारण बात हो रही है।

अध्यक्ष महोदय : आप बैठ जायें। मुझे फैसला करने दीजिये।

श्री मधु लिमये : मेरा निवेदन है कि आप व्यवस्था के प्रश्न का फैसला दीजिये।

अध्यक्ष महोदय : उसी प्रश्न को तो सुन रहा हूँ।

Shri P. R. Patel: So what I submit is this. Suppose I read that document which, to my knowledge, I have got from somebody who says that he got it from a certain person, that is one thing. But so long as I do not say that I got the document from x, y or z, *prima facie* the presumption would be that it is a stolen document, to my knowledge . . .

Some hon. Members: No, no.

Shri P. R. Patel: . . . In that case, it is an offence. The question before you will be, whether you will permit anybody to commit an offence here in this House, in Parliament. We are lawmakers. We must respect law, because we wish that the people should respect law. If we ourselves commit some breaches which are offences, I think it would not be proper to permit us to do so.

Shrimati Renu Chakravarty (Barrackpore): This matter has been agitating the public mind. Everybody has been waiting for this report as

well as to find out what Government wants to do on that report. There is no question of an offence on our part. Rather I would say that it is an attempt by Government to cover up the offence.

What has happened? The position is that we are being prevented from knowing what are the actual facts and what is the report. Yet, we find that these entire findings have come out already in the press. Shri Atulya Ghosh has already sent a congratulatory letter saying that Shri Biren Mitra is completely absolved and that this is the first time that a character assassination had taken place, as a result of which the name of the Congress had been brought down to mud. This is an open statement which has been flashed in papers. Yet we are being precluded from knowing what is the truth.

After hearing the Prime Minister, I think it has been a very good thing that Shri Kamath has been able to bring before this House the real facts and the real report. Therefore, I say that it is our duty as Members of Parliament to make every effort to find out at every stage whatever information we can get which is in the public interest, and to expose it before the people. We have to prevent misleading of the people and see that the truth comes out. That is our stand.

I would beg of you not to rule that we are trading in lies or theft.

17 hrs.

Mr. Speaker: Before any other Member is called, I must explain my position.

Shri M. R. Masani: Sir, may I draw your attention to the time? It is 5 O'clock we can continue tomorrow.

Shri P. K. Deo: You may give your ruling tomorrow.

Mr. Speaker: I am not concluding it now. I will have to listen to the Home Minister also. I am giving no ruling on it. I am really conscious of the gravity of the situation.

[Mr. Speaker]

An objection has been taken by Mr. Bagri.

माननीय सदस्य, श्री बागड़ी, ने कहा कि चूंकि मैंने "चोर" का लफ्ज़ इस्तेमाल किया, इसलिए वह हाउस की डिग्नटी को कम करता है और उस को वापस ले लिया जाये। चूंकि उन्होंने यह सवाल उठाया है, इसलिए मैं हिन्दी में कह रहा हूँ। कई और मेम्बरों ने भी इस पर जोर दिया। मुझे अफ़सोस है कि मेरी बात को सुना नहीं गया है, मुझे बन्द कर दिया गया। जब मैंने "चोर" का लफ्ज़ कहा, तो कुछ मेम्बर साहबान ने उसी वक्त कह दिया कि वे सुनने के लिए तैयार नहीं हैं।

श्री मधु लिमये : आप उस को [वापस लीजिए और मामले को ख़त्म कीजिए।

अध्यक्ष महोदय : मैं उस वक्त मेम्बरों के राइट्स और प्रिविलेजिज़ को चैलेंज नहीं कर रहा था कि वह कोई कम्प्यूनिकेशन नहीं ले सकते हैं या उन को कोई कम्प्यूनिकेशन नहीं भेजी जा सकती है। मैं यह कह रहा था कि मेम्बर साहबान सोचें कि हो सकता है कि सी० बी० आई० की जो रिपोर्ट मेम्बर साहब के हाथ में आई, उस को सी० बी० आई० के दफ़तर के किसी आदमी ने पास-आन किया हो या डाक से भेजा हो।

श्री स० मो० बनर्जी : उस से हमारा क्या ताल्लुक है ?

श्री बागड़ी : कोई चोरी का मामला दर्ज नहीं किया गया है।

श्री मधु लिमये : आप यह कैसे कह सकते हैं कि दफ़तर के किसी आदमी ने दिया होगा ? हो सकता है कि किसी मंत्री ने ही दिया हो, क्योंकि आप जानते हैं कि मंत्रि-मंडल में काफ़ी फूट है।

अध्यक्ष महोदय : अगर किसी मंत्री ने दिया है, तो भी वही बात है। अगर किसी

मेम्बर साहब की कस्टडी में कोई चीज़ है, तो मैं उस को मुजरिम नहीं कह रहा हूँ। न ही मैंने उस वक्त यह बात कही थी। यह बात नहीं है कि मैं इस वक्त कोई और पोझीशन ले रहा हूँ। मैंने यह नहीं कहा है कि मेम्बर मुजरिम है या उसने कोई गुनाह या आफ़ेंस किया है। मैंने उस वक्त कहा था कि जिस आदमी ने वहां से यह पेपर लिया है,

श्री हरि विष्णु कामत : चाहे वह मंत्री हो या दूसरा।

अध्यक्ष महोदय : कोई भी हो। क्या माननीय सदस्य इस बात से इत्तिफ़ाक़ नहीं करते कि जो आदमी वहां से इस को लाया, उसने एक नाजायज़ काम किया ?

श्री रघुनाथ सिंह : बिल्कुल।

अध्यक्ष महोदय : चाहे कोई भी आदमी वहां से यह पेपर ले कर चाहे मेम्बर को डाक से भेजे, चाहे मेम्बर के घर छिप कर छोड़ जाये, चाहे वह किसी आदमी को दे, जोकि मेम्बर को पास आन कर दे,

श्री हरि विष्णु कामत : पर्सनली दे।

अध्यक्ष महोदय : चाहे उसने किसी तरह भी किया हो, जहां तक उसका ताल्लुक है, .

Shri P. K. Deo: They have done a patriotic duty.

अध्यक्ष महोदय : . . . वह चोरी है। (Interruptions)

कुछ माननीय सदस्य : नहीं, नहीं।

अध्यक्ष महोदय : मैं इससे इत्तिफ़ाक़ नहीं करता हूँ।

श्री बागड़ी : अध्यक्ष महोदय, "चोरी" के शब्द पर मुझे एतराज़ है। इसकी जांच की जाये।

अध्यक्ष महोदय : जांच हो या न हो, वह दूसरा सवाल है । मैं मेम्बरज की गुड सेंस को अपील कर रहा हूँ कि . . .

श्री बागड़ी मैं इसी बात पर तो आप की व्यवस्था चाहता हूँ ।

अध्यक्ष महोदय : माननीय सदस्य बैठ जायें और मुझे कह लेने दें । यह ठीक नहीं है कि जब मैं बोल रहा हूँ, तो मुझे इन्टरप्ट किया जाये । मुझे भी अपनी बात कहने दी जाये । सब मेम्बर साहबान अपनी-अपनी बात कहते रहे हैं । क्या मुझे इतना हक भी नहीं है कि जो कुछ मैं कहना चाहता हूँ, उस को कह सकूँ । मैं मेम्बर साहबान से उस वक्त यह कह रहा था कि अगर हम इस बात को एनकरेज करेंगे, तो इस के नतायज क्या होंगे, वे इसको सोचें ।

श्री बागड़ : अच्छे ।

अध्यक्ष महोदय : हां, इस बारे में दो खयाल हो सकते हैं । श्री बागड़ी के खयाल में अच्छे हों और दूसरों के खयाल में अच्छे न हों । इस में मतभेद भी हो सकता है ।

मैंने जो लफज़ इस्तेमाल किया था, उसका मतलब यह था कि जिस आदमी ने यह पेपर वहां से लिया इस इरादे से कि वह पास-भ्रान करे—उसने इसमें पब्लिक इन्ट्रेस्ट समझा हो या कुछ भी समझा हो, लेकिन जिसने इस तरह क्लेडेस्टाइन मैनर में इस पेपर को ले कर इस तरह से इस्तेमाल करने के लिये पास-भ्रान कर दिया, वह कोई सीधी आनेस्टी की बात नहीं है ।

श्री हरि विष्णु कामत : गवर्नमेंट जो इसे छिपा रही या दबा रही है, क्या वह पब्लिक इन्ट्रेस्ट में है ?

अध्यक्ष महोदय : गवर्नमेंट इस को दबा रही है, पब्लिक में नहीं ला रही है, छिपा रही है, वह दूसरी बात है ।

Shri Daji: Even in law, the man who has committed a breach of the Official Secrets Act has not committed a theft; he is not supposed to have committed a moral offence. It may be a technical offence. The word theft is wrong. At the worst, the breach of the Official Secrets Act may entail a punishment against him. But it is not theft. It may not be a moral offence. We shall not accept it as theft.

अध्यक्ष महोदय : आप के एक्सेप्ट करने का सवाल नहीं है । अगर कोई डाकुमेंट इस तरह लिया गया है और आनेस्टी नहीं लिया गया है, तो वह जरूर थैफ्ट कहा जायेगा ।

Some hon. Members: No.

Shri Daji: Let us refer it to the Supreme Court for opinion. It cannot be called theft.

Mr. Speaker: I have no authority to refer it to the Supreme Court.

Shri Daji: Let us have the Attorney-General to explain it.

अध्यक्ष महोदय : अगर हाउस यह समझेगा कि एटार्नी-जनरल को बुला कर उनकी ओपीनियन ली जाये, तो मुझे उस में कोई एतराज नहीं है ।

Shri S. M. Banerjee: The report of Attorney-General was laid on the Table of the House by Shri Daji.

अध्यक्ष महोदय : मुझे यह बात समझ में नहीं आती कि जो बात बिल्कुल आबवियस है, उस से भी इन्कार किया जाये । जिस किसी ने भी यह डाकुमेंट वहां से हासिल किया—चाहे वह कोई भी हो—और आगे पास-भ्रान कर दिया, उसके बारे में भी कहा जाता है कि उसका काम ठीक है ।

श्री बाजी : ठीक का सवाल नहीं है ।

अध्यक्ष महोदय : मैं वह नहीं मान सकता कि जिस ने भी यह किया, वह ठीक किया।

श्री हरि विष्णु कामत : शायद गवर्नमेंट ने दिया हो।

अध्यक्ष महोदय : जिस आदमी ने भी दिया, उसने जुर्म किया। (Interruptions)

श्री हरि विष्णु कामत : यह चोरी नहीं हो सकती।

Shri Daji: It might have been there; how do we know that the document was taken? Someone might have sat through the whole night and copied it. Is there any other alternative? What is the law? What is the illegal gain that the man sought? It may be a breach of the Official Secrets Act. It is not theft.

Shri Raghunath Singh: It was a breach. It is a crime (Interruption).

Mr. Speaker: Order, order. I would not allow such things. I must have my say.

श्री मधु लिमये : आप पंद्रह मिनट से बोल रहे हैं, लेकिन 'चोरी' शब्द वापस नहीं ले रहे हैं। श्री कामत ने चोरी नहीं की। जहां तक मेम्बर का सवाल है, कोई चोरी नहीं हुई है।

श्री बाजी : उन्होंने यह नहीं कहा है।

श्री किशन पटनायक : उस में मेम्बर भी इन्क्लूड है।

श्री रघुनाथ सिंह : मेम्बर साहब को चोर नहीं कहा—चोर उस को कहा, जो लाया है।

श्री मधु लिमये : उस कार्यवाही को पढ़ा जाये, ताकि हम जान सकें कि क्या कहा है।

श्री बागड़ी : चोरी के बारे में मैं सफ़ाई देना चाहता हूँ कि दफ़ा 411 के मातहत चोरी का माल लेना भी चोरी है।

अध्यक्ष महोदय : माननीय सदस्य अब बैठ जायें।

Shri A. P. Jain (Tumkur): I stood up thrice or four times. Because I have not shouted, I have not been given a chance. (Interruption)

Shri N. C. Chatterjee (Burdwan): Sir, all that I want to point out is this. There is a complete confusion on this subject. There is a difference between the admissibility of a document before a tribunal and the confrontation of a witness. If it is a question of admissibility of a document, you must prove the source of that and all that. But when it is a question of confrontation of a witness in the witness box, it does not matter at all what source you get it. We are not accepting *ipse dixit* what a Member has said. One hon. Member has got some information. He wants the Prime Minister or some other hon. Minister to say whether it is correct or not. It is a pure question of confrontation. When it is that issue, the issue is a very narrow one. It is for the Prime Minister or any other Minister to say that it is not true, or it is partly true or that he would not answer it in the public interest. I submit that it will be really infringing upon the privilege of a Member and putting unfair fetter on his right to say that he cannot even confront when he has got some information. Of course, he has to act reasonably. Sir, I say, you have done it yourself. Every lawyer has done it. It does not matter how you get the document. You have the right under the Evidence Act. You can put it to the witness and ask whether it is true.

Mr. Speaker: All the provisions of the Evidence Act do not apply here.

Shri N. C. Chatterjee: I am not talking only technically on the basis of the Evidence Act. I am submitting

that this is consistent with the principles of natural justice.

Shri A. P. Jain: I am afraid the issue has been very much clouded. Hon. Members have argued as if we are arguing a case in a court of law. They have referred to certain provisions of the Indian Evidence Act saying that the document must come from proper custody. They have also argued whether it constitutes an offence under Section 411 of the Indian Penal Code or it does not constitute an offence under Section 411 of the Indian Penal Code. But I submit with great respect that the use of word "theft" by you was not a correct and proper. I say this with great respect. Whatever that may be, it is not a theft under the Indian Penal Code. Theft has been defined under the Indian Penal Code. The leakage of a secret document is an offence which essentially falls under the Indian Official Secrets Act. Not only a person who passes on the communication but the person who receives the communication, irrespective of the fact whether he is a Member of Parliament, the Speaker or a Minister, unless it is done within the purview of his office—is guilty of the offence. I will refer to Section 5(2) of the Official Secrets Act. It reads as follows:

"If any person voluntarily receives any secret, official code, pass-word, sketch, plan, model article, document....."

Shri Maurya: Is it applicable in this House?

Shri Raghunath Singh: You cannot do illegal things here.

Shri A. P. Jain: "...or information knowing or having reasonable grounds to believe that at the time when he receives it that the code, pass-word, sketch, plan, model article, document or information is communicated in contravention of this Act, he shall be guilty of offence under this Act."

Punishment is prescribed under this law. The clause says that any person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years or with fine or with both. Now the position is that the receipt of a document or information is an offence. It is for you to decide whether the document or information which has been received in a manner which constitutes an offence should be allowed to be used here... (*Interruptions.*)

Shri Maurya: You must remember that this offence was permitted to be committed by the Chair.

Shri A. P. Jain: The issue before you is whether you can allow the use of a document, you can allow a person to use an information which has been illegally and unlawfully received, whether it is in the public interest to allow a member to make use of it. That is the issue; not whether he has committed an offence. I am sorry the word "theft" was used which, unfortunately, created a furore. The issue before the House is whether it is in the public interest for a member to make use of an information received illegally and which constitutes an offence under the Official Secrets Act. . . . (*Interruptions.*)

श्री आंकार लाल बरवा (कोटा) :
अध्यक्ष महोदय, इस सम्बन्ध में मैं यह कहना चाहता हूँ कि पहले भी इस तरह का एक केस हो चुका है। पांच रुपये छः आने श्री हुमायूँ कबिर की कार पर खर्च किये गये थे। इसी इनक्वायरी के माफिक उस केस में भी इनक्वायरी हुई थी। बाहर से पेपरिंग मंगा कर सभा पटल पर तब भी रखे गये थे और उन को हाउस में पढ़ा गया था। मैं कहना चाहता हूँ कि चाहे डाकुमेंट एक रुपये का हो या हजार रुपये का हो, उसे सभा पटल पर रखना बहुत जरूरी है। क्योंकि इसी प्रकार की व्यवस्था पहले हो चुकी है और आज से कई महीने पहले यहां

[श्री अंकार लाल बेहवा]

पर डाकुमेंट पड़े जा चुके हैं और सभा-पटल पर रखे जा चुके हैं, इस वास्ते इसकी भी इजाजत होनी चाहिये ।

Dr. M. S. Aney: Shri N. C. Chatterjee, a very able lawyer, has made a subtle distinction between the use of a document for confrontation and for its admissibility. The question of production from proper custody arises only for the purpose of its admissibility but not for the purpose of confrontation. I want to ask him whether a document can be used for confrontation of a witness without being produced and admitted in evidence, in other words without being admissible or not. I don't think that it can be done.

Shri K. C. Sharma (Sardhana): I have a submission to make. When such a question was raised in the British Parliament, Gladstone said: "government is not a wooden instrument of Parliament; Parliament can govern the government; but government will govern the country". Government need not peep into everything pertaining to administration. It may reveal only when it feels necessary for the citizen rights under the law of the land. . . . (Interruptions) No democratic Parliament will look into minor details of every sub-

ject of administration. (Interruptions).

Mr. Speaker: Shri Sharma has given us some time to relax. I do not think I can give a decision just now. I am yet to hear the Home Minister. After hearing him I will announce my decision; not even tomorrow but the day after. I will consider all the aspects. But, again, I must just remind Shri Jain that even though this has been made a specific offence under the Official Secrets Act, that is a different thing altogether. There are cases when the definition of "theft" might apply and yet, because there is a special provision, under the Official Secrets Act they might be proceeded with. So, there is nothing wrong in that use. My only misfortune was that I was not heard completely.

Shri S. M. Banerjee: On a point of clarification?

Mr. Speaker: No clarification at this moment. (Interruption). Now the House stands adjourned till 11 O'clock tomorrow, the 23rd February, 1965.

17.21 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, February 23, 1965/Phalgun 4, 1986 (Saka).