

12.51 hrs.

**CORRECTION OF ANSWER TO
STARRED QUESTION NO. 799**

The Minister of Co-operation (Dr. P. S. Deshmukh): Sir, while answering Shri Kodiyian's supplementary question on 2nd September, 1958, I had stated that so far as the new agricultural colleges are concerned, the Central Government had promised to pay 75 per cent of the non-recurring and 25 per cent of the recurring expenditure by way of loan only and that there was no subsidy.

The correct position, however, is that insofar as the new agricultural colleges are concerned, the Central Government has promised to pay 75 per cent of the non-recurring expenditure as grant (i.e. subsidy) and 25 per cent of the non-recurring expenditure by way of interest bearing loan.

12.52 hrs.

MOTION OF PRIVILEGE

**STATEMENT BY CHIEF MINISTER OF
KERALA**

Mr. Speaker: I had promised to give my ruling regarding my consent on the privilege motion. I have heard all sides and I have practically made up my mind on what ought to be done in this matter. I hold under rule 225(1) that the matter proposed to be discussed is in order and I give my consent under rule 222.

Shri M. R. Masani (Ranchi-East): Mr. Speaker, I am grateful to you for the consent that you have given, and I formally move for leave of the House to raise a matter of privilege arising out of the action of Shri E. M. S. Namboodiripad, Chief Minister of Kerala.

The facts briefly are that on the 21st of September, the *Times of India* of Delhi, the *Amrit Bazar Patrika* of Calcutta and some other newspapers published the text of a Press Trust of India message dated Trivandrum,

September 20th, which reported the news of a telegram being issued by the Chief Minister of Kerala to our Home Minister. The message alleged that this information reached the Press Trust of India through official sources in Trivandrum. It went on to say that this telegram requested the Home Minister to request you, Sir, not to permit a debate on the situation in Kerala until the Communist Ministry of Kerala had an opportunity to state their view on the memorandum submitted to the Speaker. The message then went on to quote extracts from this telegram, one of the extracts being the allegation made by Mr. Namboodiripad that some Members of Parliament, who raised the question "had tried to slander the State Government in the name of explanation." This report of the contents of the telegram has remained uncontradicted till this day.

The fact of the telegram is not denied and it is now in the possession of the House. The fact of this telegram was mentioned to us by the Home Minister the other day when he said that this telegram was the reply to the one which he had himself sent at your instance to elicit certain information from the Kerala Government.

The Minister of Home Affairs (Pandit G. B. Pant): I did not exactly say that.

Shri M. E. Masani: It is in the proceedings I saw this morning.

Pandit G. B. Pant: A telegram has been received.

Shri M. E. Masani: I will quote what the Home Minister said if I am given a minute. It is in the proceedings of the 23rd that the Home Minister said that he had sent a telegram to the Chief Minister of Kerala to elicit certain information and this telegram came in reply to that.

Pandit G. B. Pant: I never said that.

Shri M. R. Masani: I stand corrected.

Pandit G. B. Pant: What I said was this. I was asked by the Speaker to refer to the Kerala Government the papers that had been placed here in connection with the motion made by Shri Asoka Mehta and I had received a telegram from Kerala in which these two matters have been mentioned—one relating to this motion and the other relating to Dr. Menon's motion. But I did not say that I had sent a telegram. I had said that I had referred these two matters. It does not make any difference, one way or the other. But I had not sent any telegram. To say that would be, I think, not correct.

Shri M. R. Masani: I apologise to the Home Minister.

A communication was sent by the Home Minister along with certain papers were sent and this elicited a reply on that point and on another point covered by the communication made by the Home Minister.

Then, the fact of the telegram is also known to the Chair, to whom the telegram was in fact shown, but was not wholly read. Lastly, the fact of the telegram is also confirmed by no other person than Shri Namboodiripad himself, because you, Sir, read before the House the other day the text of a later telegram received from Shri Namboodiripad in which not only does he confirm that he had sent such a telegram but he also confirms that the word "slander" had been used in that telegram. May I quote a sentence from that telegram to show that there is no denial that the word "slander" had been used against the hon. Members of this House although an attempt has been made to explain away the use of that word? What Mr. Namboodiripad says in his second telegram is—I am quoting from the proceedings of the House:—

"Context makes clear my meaning that if State not allowed to present correct fact a one-sided version from a Member may

appear as slander on Kerala Government."

Now only an appropriate Committee which investigates into the texts of these telegrams can say whether or not it is a fair explanation or whether it is a distortion or a new meaning sought to be put on the original telegram. The fact, however, remains that the quotation made by the press report that some members were trying to "slander the State Government" has not been contradicted by Mr. Namboodiripad up till today.

The second telegram says that no aspersion was cast on anybody. But I may submit there is not any kind of apology or expression of regret for a wrong committed. To call a man a slanderer and then to say "no harm is meant" is adding insult to injury. The word "slander" is a very strong word. I do not want to read the dictionary meaning at the moment, but hon. Members of the House know that there are two essential ingredients in slander—one is lying or mendacity and the other is deliberate malice. And when hon. Members of this House like Shri Asoka Mehta and Dr. K. B. Menon and others are accused of mendacity and malice when they are doing nothing but their duty to this country, I think that this House owes it to itself to go to the protection of those members in order to secure free and unfettered discussion in Parliament, free from intimidation of any kind from outside.

Therefore, I respectfully beg leave of the House to raise this matter of privilege. May I say that I consider myself in this instance a humble instrument of the House trying to protect its privileges and its dignity?

Shri V. P. Nayar (Quilon): Under rule 225(2) I have objection to leave being granted.

Shri Naushir Bharucha (East Khandesh): What is your ruling? Will the first telegram be laid on the Table of the House or not?

Mr. Speaker: That will also have to be considered. It is up to the House to do whatever it decides.

Shri Khadilkar (Ahmednagar): May I put forward a plea? The Law Minister pointed out the other day that the first telegram was a confidential document. So, how can the Committee go into that document, unless the Committee or the House is in possession of that document? How can we support the motion?

Mr. Speaker: There are various stages. First stage is consent, then leave and then, thirdly, moving the motion. The motion will be either for reference to the Committee of Privileges or for disposal in this House. Hon. Members will certainly have full opportunity to say what they like regarding this—whether it is going to be infructuous or useful, what steps ought to be taken etc. At this stage, leave has been asked for and there has been objection. Now let me see whether the motion has got the support of the required number of Members. How many Members are prepared to stand in favour of that? I find that more than 25 Members are in favour of it. So leave is granted.

Shri M. R. Masani: I move....

Shri V. P. Nayar: I want to raise a point of order.

Mr. Speaker: Let the motion be made.

Shri M. R. Masani: Mr. Speaker, Sir, I move:

"That the attention of the House having been drawn by an hon. Member on September 23 to the telegram sent by Mr. E. M. S. Namboodiripad, Chief Minister of Kerala, to Pandit G. B. Pant, Home Minister, extracts from which are contained in a report based allegedly on official sources, issued by the Press Trust of India from Trivandrum on September 20 and published in the *Times of India*, Delhi, and *Amrita Bazar Patrika*, Calcutta, on September

21 in the course of which Mr. Namboodiripad has attributed the motive of slander to some hon. Members of this House;

and having taken note of the subsequent telegram from Mr. Namboodiripad to Pandit G. B. Pant, which was read to this House by the Hon'ble the Speaker on September 23;

This House resolves that the matter be referred to the Committee of Privileges for investigation as to whether a breach of privileges of the House and of the Hon'ble Members concerned has been committed; and whether any contempt of the House thus committed has been adequately purged; and that the Committee be requested to present its report and recommendations for appropriate action at the first day's sitting of the next Session of the Lok Sabha."

13 hrs.

This is the mildest possible motion which, in the circumstances, could possibly be presented to this House and I am putting it in these very modest and mild terms because I really hope that this will be a non-contentious motion and that, if it cannot be passed with complete unanimity, it will be passed with that near unanimity which was already shown when the hon. Members were asked by you to rise in their seats.

I have said earlier that this is not a light charge to make against hon. Members of the House. Let us consider the implications of the word 'slander'. The Oxford Dictionary calls it "a false statement or report, a malicious representation, a false or malicious statement or utterance intended to injure, defame or cast reflection on the person about whom it is made; to defame, to calumniate; to assail with slander, to traduce, to misrepresent or vilify." In other words, a deliberate motive, a dishonest and malicious motive is an essential part of slander. It is not as if an hon.

Member makes an incorrect statement who can be corrected and told that this is not true. What is attributed here is that the hon. Members concerned went out of their way, out of malice, out of a mendacious motive to attribute to the Kerala Government things that they had not done or for which it is not responsible. It becomes impossible for the hon. Members of this House, who are engaged in their duty to the country and this Parliament to carry on their work if they are to be interfered in this matter and maligned in this manner. Dr. K. B. Menon has told us that it has humiliated him that this charge was made against him when he was doing nothing more than to supply to you material which you yourself had asked for so that you can come to a decision. Therefore, I think it is time for the House not to take things so lightly.

I have seen that technical objections are around the corner when this question of privilege is being raised, but we are not concerned with technicalities at this stage. If my motion was one of finding anyone guilty of contempt, then certainly I admit that there would be room for controversy and argument. But what this motion says is that the House refer the whole matter including the second telegram in which the Chief Minister of Kerala has sought to put himself right, though not adequately so, to the Committee of Privileges led by our own hon. Deputy-Speaker to investigate the matter, to hear all parties concerned and then to report to us, firstly, whether or not a breach of privilege and contempt of House has been committed and, secondly, whether, if it was committed, the second telegram constitutes adequate amends, apology or redress for the wrong that was done

I think it is a motion to which no responsible hon. Member of this House, who really treasures our democratic liberties could have any objection and only those who want to apologise for people of their own Party, right or wrong, could possibly object to this non-contentious, neutral motion refer-

ring the matter to the appropriate Committee led by our own hon. Deputy-Speaker.

The Chief Minister of Kerala in his message to the hon. Home Minister which was shown to you and to which a reference is made in his second telegram, expected a great deal of forbearance, tolerance and fairness from this House. Those who go to equity should come with clean hands. Under your guidance this House has been forbearing. It has refrained from debating a matter which many of us wanted to debate this Session because you, Sir, very fairly pointed out that the highest requirements of equity required abstention on our part from discussing it. But what does the Chief Minister of Kerala do in return? Does he show the slightest courtesy to hon. Members of this House? Does he respect the integrity of this House? On the contrary, in the very telegram where he asks for consideration, he shows an utter lack of understanding or tolerance which is characteristic of the Party to which he belongs.

Shri A. K. Gopalan (Kasergod) rose—

Shri Tangamani (Madurai): He can refer to a particular person. I submit that he is not entitled to cast aspersions against the Party. (*Interruption*). Can he refer to a particular Party?

Mr. Speaker: The hon Member will confine himself to the individual.

Shri Tangamani: A point of order was raised (*Interruption*).

Shri Tangamani: A point of order was raised but you said, Sir, "Let me consider what the mover says."

Shri A. K. Gopalan: The point of order is whether such a privilege motion can be moved at all. You must tell us about that. We are now having a discussion without hearing the point of order that was raised.

Shri Tangamani: A point of order was sought to be raised much earlier and we are having a discussion before the point of order is disposed of.

Raja Mahendra Pratap (Mathura): I take objection to it.

Shri Tangamani: A point of order can be raised at any time.

Shri V. P. Nayar: May I request you to give a ruling about the point of order. Earlier when I had indicated that I desired to raise a point of order, I thought your ruling was that you would allow Shri Masani merely to move the motion. It was never your intention, as far as I understood, that a speech would be made and all the points would be covered by him. In that case, my point of order should have been allowed to be raised.

Pandit Thakur Das Bhargava (Hissar): May I submit that so far as the matter of expression of opinion with regard to the characteristics of the whole Party is concerned, I do not think it is justified. I would, in the circumstances, with a view to keeping good relations amongst ourselves, request Shri Masani to kindly withdraw his words so far as the Party is concerned. When he is talking about a particular person, he need not say that the whole Party is bad or good, intolerant or otherwise (*Interruption*). I would, therefore, request him for the sake of good relations to withdraw his words.

Shri A. K. Gopalan: What I want to say is that you should not allow a discussion on it. Our point is: when there is no jurisdiction for this House to discuss this how can we discuss it? You should first decide about the point of order.

Shri H. N. Mukerjee (Calcutta—Central) and **Shri P. S. Daulta (Jhajjar)** rose—

Mr. Speaker: Order, order. Hon. Members will kindly understand the procedure that I have been following and intend to follow in this case also. I do not want to chalk out a new procedure. The procedure is that whenever a point of order is raised, the motion is allowed to be moved and all that the hon. Mover wishes to

say is allowed to be said. Then the motion is placed before the House—not put to the vote of the House. As soon as I place a motion before the House, I would allow any hon. Member who wishes to raise a point of order to do so and say why we ought not to proceed with the motion. That is the procedure that we have been following all along. I am going to do so now also. I am going to allow Shri Nayar to raise all his points at that stage. After all, the House is not going to come to a hasty conclusion in this matter. We will have a full debate on this matter.

In the meanwhile Pandit Bhargava said something by way of advice to Shri Masani regarding what he has said. Shri Masani may do what he likes.

Shri A. K. Gopalan: I want to point out that there is a difference between this case and other cases of privilege. In this case our contention is that as far as the privilege motion itself is concerned, it is a thing that cannot be discussed here. That is so even in respect of your placing it before the House. We did not want to raise it at that stage because you said that it could be done after he has moved the motion.

Now, the question is whether Parliament has jurisdiction to discuss it or to take it up irrespective of whether you give consent or not. Only after hearing us on the point of jurisdiction and giving your ruling discussion can take place. That is our request. Shri V. P. Nayar says that according to the Constitution and according to the other rules of Parliamentary Practice, this question which we are discussing is about something that is confidential. That we have not got and even if anybody has got it, his submission is that it should not be disclosed. So, what are we discussing? So, you may please allow us to point out that the whole question of further discussion depends upon your

ruling on the point of order that has to be raised.

Unless that is raised and you say that there is no point of order the House cannot take it up and discuss it. So, you must at least allow us to say that this cannot be discussed here and hear our point of order and then give a ruling as to whether it is in order or it is out of order.

Shri Tangamani: We would like to know at what stage a point of order is to be raised.

Mr. Speaker: I have already explained that.

Shri H. N. Mukerjee: The point of order goes to the root of the matter. We are quite ready to listen to what Shri Masani and his friends say and to answer them in kind if necessary. But when the point of order purports to go to the root of the matter itself, it is only fair for you to listen to the point of order and if you do not accept it you tell us so. We shall be prepared to answer Shri Masani and his friends to show that the discussion ought not be allowed. But if you do not allow us because they have a majority in this House, to ride roughshod over the rights of the opposition.

Mr. Speaker: No, no. I am not yielding to any majority anywhere. All that I would say is that, so far as the point of order is concerned, I have already told the House the practice that we are adopting. What is the point of order, unless I know what exactly the motion is? As soon as he formulates the motion, immediately he must say that he has made this motion and give his arguments why I should accept it. I will immediately hear why we should not accept it at all and have further discussion. Hon. Members have a right to ask me not to allow discussion. I am not allowing any discussion. Hon. Member makes merely a motion and then supports that motion. Hon. Members have a right to say. As soon as I place

it before the House, he can say, No, this ought to be rejected without further ado and then call upon me, if it is a point of order, and ask me to decide one way or the other. Then, we will proceed. Discussion has not started at all. Unless the House is seized of a particular matter, there cannot be a point of order relating to the matter. We must know what exactly it is. Therefore, hon. Members will bear with patience. I do not want to cause any injustice or any harm to any particular side of the House.

Shri Tangamani: The point is formulated.....

Mr. Speaker: That is my ruling. (*Interruption*). That is my ruling. Order, order. This is the way in which we have been disposing of points of order.

Shri H. N. Mukerjee: There is difference between the substance of a matter and the form or technicality of it. If a question arises in regard to the form of the matter, the propriety or form of the matter, that has to be disposed of first of all. As regards substance, we are quite ready to listen Shri M. R. Masani and his friends for any length of time and answer to the best of our capacity. As far as the form is concerned, as far as the propriety of having a discussion of this in the way it has already started is concerned, certain things which go to the root of the matter are going to be formulated by our friends here. You should only, in fairness, listen to us and then ask Shri M. R. Masani to proceed when he is very welcome to tell whatever he has to say.

Shri Dasappa (Bangalore): May I know what is it that he said when he said that he would answer in kind? (*Interruption*)

Mr. Speaker: That is nothing. So far as hon. Members... (*Interruption*) Order, order. I am sorry, there is an amount of excitement—naturally. Hon. Members will see that even when he asked for leave, he is oblig-

[Mr. Speaker]

ed under the rules to make a statement. All that he is now saying, he has said already. I wanted to see whether he is saying anything new. That is all I am anxious about. There is nothing new which he has said. Therefore, as soon as he concludes, I will call upon the hon. Member to raise his point of order. I am really sorry that the ordinary procedure is not allowed to be adopted so far as this matter is concerned.

Shri H. N. Mukerjee: It is not my point of order; it is Shri V. P. Nayar's point of order. I do not know what it is. I do not know what exactly is the content of what he is going to say.

Mr. Speaker: I did not refer to Shri H. N. Mukerjee. Shri V. P. Nayar's point of order. I am going to allow him to say.

Shri M. R. Masani: I see nothing unparliamentary or offensive in saying that a particular political party is guilty of intolerance. It is a matter of opinion, which is perfectly legitimate and a matter of history. However, in deference to my esteemed friend Pandit Thakur Das Bhargava's suggestion, I shall leave these people and their party alone.

The point I was making is this. The Chief Minister of Kerala, while asking for the greatest amount of consideration and restraint on our part, has, as is quite clear from his own action, refrained from showing any consideration or even courtesy to hon. Members of this House. I am not suggesting that if we make mistakes, people outside should not criticise us. That would be a very monstrous proposition. What can be criticised, and is often criticised quite rightly is the wisdom of the Members of the House individually or even collectively. But, what cannot be questioned is their honesty. That is a very fundamental distinction. To say that we are foolish, unwise and that we do not serve the interests of the country is all right, provided it is understood that we do it with the best of motives and

intentions. But to say that Members of this House are actuated not by the interests of the country, but by malice, by a desire to lie, by a desire to misrepresent and vilify people, is a very serious charge to make against Members of this House. This is very important because, this House, like the British House of Commons, is the master of its own procedure and is the sole judge of the legitimacy of anything that any of us may do in this House subject to your directions. If somebody outside arrogates to himself the right of sitting in judgment on the honesty and *bona fides* of our colleagues here, then I think we cannot allow such a charge, such an allegation go unchallenged.

As I said in the beginning, it might have been possible to move a stronger motion arriving at a decision that contempt of Parliament had been committed, that a breach of privilege had been committed, and asking this House through you to summon Shri Nambudripad to the Bar of the House to atone for his guilt. I am not going that far because I think the Committee of Privileges is the appropriate body to find out whether such a situation has arisen. Therefore, once again, I would ask the House to pass this motion with as near unanimity as possible—that we refer the whole matter, both the telegrams, both the offending and the other message, to the Committee of Privileges for a report which may be made to us on the first day of the next session when we meet in November.

Shri V. P. Nayar: My point of order is that Shri M. R. Masani's motion is outside the jurisdiction of this House to consider. Shri M. R. Masani, in his motion alleges that the Chief Minister of Kerala has used certain words in a telegram as reported in the press. That would not satisfy the mandatory requirements of rule 223 which says—I shall read it—

"A member wishing to raise a question of privilege shall give

notice in writing to the Secretary before the commencement of the sitting on the day the question is proposed to be raised. If the question raised is based on a document, the notice shall be accompanied by the document."

I can understand if Shri M. R. Masani's argument is that he is basing it only on an alleged paper report. That is different. You will agree that if that is the only material, nothing can be done by way of contempt and the House has no jurisdiction at all. It is not the document on which Shri M. R. Masani basis his claim of breach of privilege having been committed. He wants to proceed against, not the editor who published it, who may have violated the Official Secrets Act, not the man who sent the news who may have violated the Official Secrets Act, but the person who is alleged to have been responsible for such a document. Therefore, my first point is that unless that is produced by Shri M. R. Masani, this motion is unmaintainable and as such, it cannot be discussed in the House.

The second point is, even granting that we have a right to call for the document, I submit that by no stretch of imagination can we ever think either discovering that document or by any other process compelling the production of that document here. It is a document in which a telegram has been sent by the Chief Minister of the State to the Home Minister of the Union, both of whom are committed by the oath of secrecy which they have taken not to disclose the contents of any official communication. For your information and for the information of the House, I may be permitted just to read the oath of secrecy to which my hon. and esteemed friend the Home Minister as well as the Chief Minister of Kerala are bound. At the time when they assumed office, they took this solemn oath:

"...I will not directly or indirectly communicate or reveal

to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister."

(Daughter) Don't laugh. When I am interrupted, I am not at all worried. I do not have to seek for inspiration from outside as my hon. friend has.

My only submission is this. Is it the duty of the Home Minister, to disclose it for the purpose of discharge of his duty as Minister? Is he obliged to produce this document? If it is so, if the hon. Minister says that in order to enable him to function as Home Minister, in order to enable him to discharge his duties of Home Minister, it is necessary, it is incumbent upon him to produce this document, Shri M. R. Masani may have a case. In so far as the Chief Minister of Kerala and the Union Home Minister are bound by the solemn oath which they have made before assuming office that they shall not disclose to any person—mark the words—even the Speaker of the Hon. House is no exception, any person ..

Some Hon. Members: No, no

Shri V. P. Nayar: .. even this House is no exception.—To any person he is not bound to disclose. By any stretch of imagination it is not possible for us to consider that there is any rule or any process by which we can compel discovery of the document or compel production of the document. The case here is slightly different

Then, to the great discomfiture of Shri Masani and to his discomfort, here it is a document sent by one person to another. I know from the way in which the hon. Home Minister argued the case the other day, that he is not willing; he has been extremely reluctant to place this document, because it will embarrass the entire machinery. In such a case he knows

[Shri V. P. Nayar]

serious consequences will flow from such an act because we know that several correspondences, in which Members are referred to, are being sent by officials. Therefore, in his wisdom he thought, and he also made himself very clear, that he was not personally in favour of the document being produced.

Even supposing the hon. Home Minister were in favour of that, I would, in all humility, ask you whether it is right and proper to ask for the production of the document unilaterally without the consent of the other person who sent the document who has taken the same oath and who is also bound by the same oath of maintaining secrecy. How is it possible, which is the rule? I searched the entire procedure. There is no rule here or anywhere else which I could find which will justify the interference of this House in compelling the Chief Minister of Kerala to produce the original of the telegram in which, it is alleged in a paper, that there are some references.

Then, I would also raise this question of jurisdiction from what we have in the two rules to which you were kind enough to refer the other day—rules 42 and 41 (2) (xx). This gives a clear idea of the spirit of the rules. May I read them?

You were pleased to refer to these rules in particular at the time when the matter was discussed here on the 23rd. These two rules give us an idea of the spirit. Rule 41 (2) (xx) says:

"it shall not ask for information.—let alone the question of privilege; this House is barred from even asking for information—

"...regarding Cabinet discussions, or advice given to the President in relation to any matter in respect of which there is a constitutional, Sta-

tutory or conventional obligation

I ask in all humility whether there is not a constitutional responsibility—a constitutional, statutory or conventional obligation.

There is not merely a constitutional obligation, there is also a statutory obligation, there is also a conventional obligation in the matter of disclosing the information which is contained in an official telegram.

It was not sent to my hon. friend the Home Minister in his capacity as anything except the Home Minister and for the time being the Leader of the House. It was not sent by Shri E. M. S. Namboodripad in his capacity as Shri E. M. S. Namboodripad to Pandit Govind Ballabh Pant at all. It was, and Shri Masani cannot deny it, in the course of official correspondence that this telegram, in which the alleged passage is reported, has been sent. Therefore, it makes it very clear that this is a document with a constitutional, statutory and conventional obligation not to disclose the contents.

Raja Mahendra Pratap: May I say a word, from a purely neutral standpoint? I have to say that passions should not be allowed, there should be peace of mind. We should not fight as two parties.

Mr. Speaker: I want to clear up one matter. It is true that day I myself referred to rule 41 (2) (xx), because I then felt that this may stand in the way. Whatever cannot be asked by way of questions ought not to be raised in the House. But on a second reading, even then I felt that this rule 41 (2) (xx) may not apply. I would like to have some clarification, because the hon. Member refers to this as an authority in favour of his position. The rule 4(a)(xx) says:

"it shall not ask for information regarding Cabinet discussions..."
This is not a Cabinet discussion.

Shri V. P. Nayar: Certainly not.

Mr. Speaker: "...or advice given to the President.....—
President here—

"... in relation to any matter in respect of which there is a constitutional, statutory or conventional obligation not to disclose the information;"

That is, so far as advice to the President is concerned. I am mentioning what is passing in my mind, and I would like to have a clarification of this. The President and the Government here stand in the same relation, so far as the Constitution is concerned, as the Governor and his Cabinet in the State. If that person had referred anything to the Governor there, that is the constitutional advice under the Constitution itself. That ought to be kept a secret, no question ought to be asked here as to what kind of advice has been given by the Cabinet to the President. A letter written by a State Government to Central Government is not advice that is given to the President. That is my difficulty.

Shri V. P. Nayar: That was exactly the spirit in which I was also arguing. I only stated that reading these two rules together, one could get at the spirit of the entire rules, and I was not pointing this rule as having stood in the way. Rules 42 and 41 (2) (xx) taken together will give an idea of the spirit behind the whole rules of our procedure. In rule 42 it is very clear; I am only submitting that in a class of certain documents, in a class of certain correspondence, even the right to ask a question, to elicit information, is denied to this House.

Mr. Speaker: That is so far as rule 41 is concerned.

Shri V. P. Nayar: I did not submit it as an authority, but I only submitted it as something which enables us to understand the spirit . . .

Mr. Speaker: Very well, I agree.

Shri V. P. Nayar:...which follows immediately after that . . .

Mr. Speaker: One other matter. The hon. Member referred to rule 42. Even there, after I read it I had my own doubts about it. It says:

"In matters which are or have been the subject of correspondence between the Government of India and the Government of a State . . .

—of course, this is a subject of correspondence between the Government of India and the Government of Kerala—

"... no question shall be asked except as to matters of fact . . ."

Whether the word "slander" has been used there or not is a matter of fact. I am not coming to any conclusion.

"... and the answer shall be confined to a statement of fact."

If the hon. Home Minister is asked whether it is not a fact that this alleged sentence has been used there as reported in the press, I do not know what he can say and what he can withhold.

Shri V. P. Nayar: That is exactly the point which I want to argue. You have made my task easier by coming to the point, because I submit that the hon. Home Minister can at best be asked whether as a matter of fact a particular word has been used in the telegram or not. If—for example, I put it this way—the hon. Speaker asks the hon. Home Minister whether the word "slander" has been used . . .

Mr. Speaker: Not "slander"; "slander" by itself I need not ask.

Shri V. P. Nayar: "Slander" or any other word.

Mr. Speaker: The hon. Member will bear with me. If it is only for the purpose of finding out whether there is a word like "slander" in the dictionary, I need not ask him. He will kindly bear with me.

Raja Mahendra Pratap: Shri Masani has proved that the use of the word . . .

Mr. Speaker: The hon. Member is irrepresible.

Now, the point is: the subject matter of this is a question of fact. They are relying on some document outside; the original of the document of which this purports to be a copy is with him. We are on the question whether it is a confidential document. It may be between the one and the other. Rule 42 supports that this is a confidential document. But if it is a confidential document in the course of correspondence, is there any possibility of the hon. Minister disclosing any portion? A portion relating to a matter of fact can be disclosed. The question is whether that sentence can or cannot be given as a matter of fact. If he gives that and if it supports this motion or tallies with this allegation that is the point on which Shri Masani can come to the House.

Shri V. P. Nayar: That is exactly the point on which I would say the hon. Home Minister cannot, so long as he is bound under the oath of secrecy not to divulge any information contained in official correspondence save for the purpose of discharging his official duties. It is not certainly the hon. Home Minister's official duty to protect the rights of this House. Certainly not. For any other purpose, what is the right of the hon. Home Minister to protect the privileges or see that contempt is not unpunished? The whole point here is whether the Home Minister is competent, in view of his being bound down by an oath of secrecy, to divulge the text of a telegram extracts from which, as

published in the press, allege that something has been said which may be construed as having caused a contempt.

Mr. Speaker: I have noted down both the points.

Shri V. P. Nayar: I do not want to burden you with many judicial decisions on the acceptability of such documents or on the discovery of such documents. Nevertheless, I would like you to hear me for a minute, on how or why such documents have been prohibited from being looked into or from being discovered by any process.

There is a class of documents, as we all know, which not even the courts can have in their custody.

Mr. Speaker: Right.

Shri V. P. Nayar: You, Sir, know the law very much better than I do or anyone of us does. Therefore, I need not submit all this to you. This is a very important matter in which the courts have consistently held that a document like this can never be compelled to be discovered. I would only pass on certain books after reading one or two sentences, because I do not want to take up the time of the House.

Here is a decision in the *Times' Law Report* of 1941-42 which discusses the production of documents and says what ought to be the test of such documents.

"The test may be found to be satisfied either by having regard to the contents of the particular documents or by the fact that documents belong to a class which on grounds of public interest must as a class be withheld from production."

My humble question to you is whether this does not belong to a class of documents which should be withheld on this account, namely, withheld from production on account of the public interest involved.

Shri Nath Pal (Rajapur): I do not want to interrupt. But, for the clarification of the point of order, may I ask . . .

Mr. Speaker: Later on, not now, Shri V. P. Nayar has said three points.

Shri V. P. Nayar: I submit that it is entirely a different question if the House proceeds, for the alleged publication of the report, against a newspaper editor or a correspondent. I suggest that even that does not arise in this case. But that is a different matter. Even then, my hon. friend's motion is for bringing the Chief Minister of the Kerala State to the Bar of this House for condign punishment, as he would have it. That apart, where is the right of this House to get the document on which the Chief Minister's guilt or otherwise could be established? My point, therefore, is that in so far as this House has no power to compel the production of the document, which is a secret document between a Minister and a Minister, and which it is the duty of anyone who comes across such document not to publish in view of the provisions of the Official Secrets Act, where lies the question of our jurisdiction to consider this motion?

Secondly, as I submitted before, we must look at it from another angle also, namely that this is a very serious matter; I would submit to the House and to my hon. friends over there who are extremely anxious to maintain the smooth functioning of the various State Governments, that this is a matter which will be of very grave consequences and this is a matter in which the House should stand as one man to reject this frivolous motion. (Interruptions)

Mr. Speaker: We are going away from the one to the other.

Shri Tangamani: Are we not going to be asked to speak? . . .

Shri Sadhan Gupta rose—

Mr. Speaker: Order, order. Shri Sadhan Gupta also may resume his seat.

Shri V. P. Nayar only wanted to raise a point of order as to why we ought not to proceed further with this discussion or the motion before the House, and why I should not even place it before the House. That is what I understand him to say. I have only allowed the Mover to make the motion. Now, we have heard the point of order. After hearing the point of order, I shall allow the hon. Member and he will get an opportunity. Apart from that, if I allow this motion to continue, then he will have an opportunity to speak on the merits of this.

Now, the hon. Member Shri V. P. Nayar is giving me only the points as to why this motion ought not to be allowed. As I understand it, he says that the original document is not here, but, under rule 223 the document ought to be here, the original document by itself cannot be got at, and therefore, we ought not to proceed, and so far as the document is concerned, the original ought not to be produced in any shape or form, because under the rules, no question can be asked on that. Also, he says that under rule 41, it is in the nature of an advice given to the President. Lastly, he quoted also some law cases. Now, let me hear the hon. Minister.

Shri V. P. Nayar: One more minute, if you would forgive me.

It is not such an easy matter. I shall not give the text of the rulings, but I shall only give the citations which will enable you to come to a conclusion. I would very much request you to read Phipson's 'On the Law of Evidence' (page 197), then the Times' Law Reports for 1895, Chattenham vs. Secretary of State . . .

Mr. Speaker: The hon. Member can pass on all that.

Shri V. P. Nayar: I shall give them, but I want them to be on record also

Pandit Govind Malaviya (Sultanpur): May I interrupt for a moment? ...

Shri V. P. Nayar: I am only giving the references and then I shall sit down.

Pandit Govind Malaviya: My hon. friend has been arguing all this time, and he is now going on to read to us some law points and some case law with regard to the law of evidence. While the law of evidence is a very sacred part of the legal world, which is always to be honoured and respected, I submit respectfully that this House is a sovereign body, and while it should always take into account... (Interruptions) I shall come to that point also. I wish to make....

Mr. Speaker: I am not going to allow him.

Pandit Govind Malaviya: I beg to submit . . .

Mr. Speaker: I am very sorry I am not going to allow the hon. Member.

Shri Tangamani: This is not Banaras Hindu University.

Mr. Speaker: Hon. Members must know what exactly we are doing. There cannot be an objection to the hon. Member's quoting some ruling. The hon. Member Pandit Govind Malaviya may say that we ought not to be strictly bound by the law of evidence; therefore, we have to go into it. Shri V. P. Nayar is only trying to support his point of order. When he is finishing, why should there be any objection? I thought Shri V. P. Nayar had finished.

Shri V. P. Nayar: I shall just finish. I shall give you the list of the rulings which will certainly be very relevant to the point before us.

The next case is *Asiatic Petroleum Co. Ltd. vs. Anglo-Persian Oil Co. Ltd.* reported in the *Times Law Reports*.

Mr. Speaker: What does it say?

Shri V. P. Nayar: It is about whether anybody has a right to compel the production of, or discover a document which is a document belonging to a class of privileged documents, and other matters which are incidental thereto. I am submitting this ruling not because I have a feeling that we should necessarily be guided by these rulings, but because a similar question has not so far been raised in the House, and I thought that it would be helpful for us in coming to a conclusion if we drew the salient rules which have been observed elsewhere in the courts also, in the matter of finding out whether the rule should be applied here. We have no specific rules in the rules of procedure which will determine the issue. Therefore, I would request you to kindly refer to the 1942 *Times' Law Reports* in the case of *Duccan vs. Campbell Laird*.

Dr. Sushila Nayar (Jhansi): I wish to raise a point of order.

Mr. Speaker: I would not allow the hon. Member to raise it now.

Dr. Sushila Nayar: I wish to raise a point of order. If a point of order cannot be raised....

Shri V. P. Nayar: I am myself raising a point of order. I submit there is point of order on a point of order. I am already on a point of order.

I would submit once again, before I resume my seat, that this House should reject this motion, because it has no jurisdiction at all to entertain a motion like this, for this clear and specific reason that this House has no power for compelling the production or the discovery of a document which is a document in the course of official correspondence where the Chief Minister and the Home Minister are both equally bound down by the oath of secrecy which they have solemnly taken before each assumed his office.

Mr. Speaker: Very well.

Dr. Suhila Nayar: May I raise my point of order now?

Mr. Speaker: Why should the hon. Member be in such a great hurry? I have got one question to ask of the hon. Member Shri V. P. Nayar.

I am asked to give a ruling on the point of order. That is so far as the original document is concerned; it is a matter as to whether the original can be produced or not. But what is the kind of secondary evidence that can be given?

The other day, the second telegram was placed before me, and while I was discussing as to whether in the absence of the original document, we could proceed, and I was suggesting to the Home Minister to produce that telegram, subsequently, or later on, however, I referred to the very document that was placed before us, which contained a reference regarding slander. I shall read this out, and I should like to have an explanation from the hon. Member, before I come to a conclusion, whether that itself does not take the place of the other document which has been withheld or is not being produced.

The telegram proceeds:

"I never intended to publish this telegram. On the contrary, meant for your consumption only. Moreover never intended to cast aspersions or reflection on any Member of Parliament or his conduct or proceedings of House. Context makes clear my meaning that if State not allowed to present correct facts an one-sided version from a Member may appear as slander on Kerala Government. Never meant to make imputation on Member but pleaded that if Kerala Government's case not before House impression would be damaging to Government."

All that I want to know is this. For some reason or other the original cannot be produced and we cannot get at

it. Cannot secondary evidence of this nature be given? Let me put the question whether the newspaper cannot be taken as secondary evidence. If for some reason it could be said that it is not good secondary evidence, cannot the second telegram be taken as secondary evidence because the hon. Chief Minister who was responsible for the earlier telegram has referred to it in the second telegram? In this second telegram there is an attempt apparently not to contradict the statement of fact as it has appeared but only to explain it away.

Pandit Thakur Das Bhargava: I would invite attention to section 91 of the Evidence Act. These telegrams do not partake of the nature of document mentioned therein.

Mr. Speaker: All that I say is that there is no attempt to contradict the statement he is alleged to have made but he is trying to explain it away.

Shri Tangamani: I will make a submission about this, Sir. There are two telegrams and the contents of one of those telegrams is the subject-matter of this motion. Nearly 80 minutes were spent in discussing whether the first telegram should be laid on the Table of the House or not. At one time you directed that the hon. Home Minister should lay the first telegram on the Table of the House. Subsequently, the Law Minister intervened and requested the House not to press for production of that telegram. Then, you told us that a copy of the second telegram had been handed over to you. Any copy which is made available to you, you will make it available to the House also and on that basis, that was placed on the Table of the House.

My submission about the second telegram, with all due respect to the Home Minister, is that this telegram also is not meant to be given to the Speaker because the telegram itself says... (Interruptions.) It asks the Home Minister to explain to the Speaker certain things. So, having

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got the facts about a particular telegram, it is open to the Home Minister to tell the Speaker certain facts. A summary could have been given; an idea could have been given. I do take objection to the handing over of the second telegram itself. The other point I would like to add is whether the Home Minister was right in handing over the telegram. I am not now taking up the question whether it was right or not on the part of the Home Minister to have given a copy of the second telegram to the Speaker. But, having given it, it was right on your part to have laid it on the Table of the House.

The objection that was raised by the Law Minister and the hesitancy that was shown by the Home Minister with regard to the first telegram apply equally to the second telegram also so much so . . .

Mr. Speaker: The hon. Member goes on speaking. Wherever I have doubts I mentioned to ask something. Let him hear me first. How can he explain before he knows what I want to ask? We will assume that this second telegram also is a confidential document and should not have been placed before us. Let us assume that like the first telegram the Home Minister could have said that he was not going to place it before us. Somehow or other it has come. The hon. Member is himself a lawyer. Does he mean to say that if by some hook or crook a confidential document comes up, we should not look into it. Once it comes before us should I take the authority to say that we must not look into it? (*Interruptions.*)

Shri Naushir Bharucha: Not by crook, Sir.

Pandit Thakur Das Bhargava: Section 91 of the Indian Evidence Act is there, Sir, which does not delay secondary evidence of such documents.

Dr. K. B. Menon: Sir, . . .

Mr. Speaker: Dr. Menon will kindly resume his seat. Mr. Anthony.

Shri Frank Anthony (Nominated—Anglo Indian): Sir, I would like to make a few observations in reply to my friend, Mr. Nayar.

Dr. Sushila Nayar: Sir, I want to make a few observations. Other hon. Members rose afterwards.

Mr. Speaker: Yes; Dr. Sushila Nayar.

Dr. Sushila Nayar: My humble submission is this. A few days ago, the whole matter was brought up here and, as some hon. Members have stated, nearly 90 minutes were taken to discuss the pros and cons of the question whether the document should be placed before the House or not. After listening to everyone who spoke, you were pleased to state that you reserved your ruling and that you would give it afterwards. This morning you gave your ruling that, after hearing both sides as to what is permissible and what is not, you consider that this matter should appear before the House. After that ruling has been given, I am extremely pained to see that the whole matter is re-opened. (*Interruptions.*)

May I have the indulgence of my hon. friends? I have been listening to them patiently. Why not they listen to me for two or three minutes.

My humble submission is that to raise this whole matter over again and say these are confidential documents or otherwise is out of order. I submit, in all humility, that, for myself, I feel sorry that these documents which were of a confidential nature should have leaked out. I feel sorry that the hon. Chief Minister of Kerala should have used this unfortunate term, which, in my opinion, if he had looked into the dictionary and seen the meaning before he used it, he would not have used. The whole thing having taken place . . . (*Interruptions.*)

Mr. Speaker: Order, order. The hon. Member does not confine herself to the point of order.

Dr. Sushila Nayar: I am just confining myself to that, Sir.

Therefore, what I wish to say is this. You have given your ruling that the matter is before us and hon. Members have risen in support of the original motion. Now, only two things are before the House, (a) the matter be referred to the Privileges Committee and (b) that the House decide the matter itself.

The House has already agreed that this is a matter of *prima facie* breach of privilege and it has to be decided whether it is a breach of privilege or whether it is not. Now, we cannot reopen the whole matter. You have given your ruling and we have accepted that ruling, and, hon. Members have risen after that in support of the motion.

In all humility, my submission is that only two issues are before the House, whether it should be decided by the Privileges Committee or whether it should be decided by the House itself. There is no third issue and this discussion that has gone on, I humbly submit, is completely out of order.

Shri Frank Anthony: May I make a submission, Sir?

Shri Sadhan Gupta (Calcutta—East): I have another point of order.

Mr Speaker: Mr Frank Anthony

Shri Frank Anthony: May I submit with respect that this alleged point of order is very clearly just a red herring. I do not believe that you are called upon to deal at all with the question whether this is a privileged document. Assuming that it is a privileged document or that privilege can be claimed for it, this is a matter which has been remitted or will be remitted to the Privileges Committee.

Now, my hon. friend has cited something from the *Times Law Reports*. He has asked you to look up Phipson. I submit with the utmost respect that the Privileges Committee will not be circumscribed by the provisions of the Indian Evidence Act. Even assuming that they have to accept the precedents cited under the Indian Evidence Act, what is the position under the Indian Evidence Act? A mere *ipse dixit* by way of a claim of privilege does not invest a document with privilege. The hon. Minister may say, 'I claim privilege.' The Court will have the discretion to see whether, in fact, the affairs of State are involved, whether any public interest or public security is at stake. A mere claim of privilege does not invest the document with privilege.

But, in this particular case, the Home Minister has been pleased to say that he does not claim privilege. Who is going to claim privilege *vis-a-vis* this House? The Chief Minister of Kerala has no *locus standi vis-a-vis* this House. It is only the Home Minister who can claim privilege; and the Home Minister has been pleased to say that he does not claim privilege. Thus, Sir, the whole discussion has been, to my mind, though not completely irrelevant, has been completely in vacuum. This is rather misconceived because the reference has been with regard to the copy of a document.

What are we discussing? As my hon. friend, Pandit Thakur Das Bhargava, pointed out, where is the original of this document. The original of the document is not with the Home Minister. The original of the second telegram is not here. It is only a copy, a secondary thing, because the Government produces the telegram that was delivered to them. I say, this is not proof. You must get the proof from the telegraph office. Can the telegraph office claim privilege? I say, 'No.' We can summon—the Privileges Committee can summon if they deem it necessary—the original from the telegraph office. I do not

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understand this. My friend, Shri Nayar has pointed out this . . .
(Interruptions.)

Shri V. P. Nayar: You have your admirers there.

Shri Frank Anthony: I just do not understand this question why we are so agitated about this. It may or may not be called for. My friend who has made this motion has made it very clear and he bases his grievances and claims, breach of privilege on the Press report. That is the document on which he has based his grievance. I submit that so far as this alleged point of order is concerned this House is a *functus officio*. You have disposed of it when you gave your consent. When you gave your consent, your attention was focussed whether this was in order. Pointed attention was drawn to this fact. Everything has been taken into consideration and you were pleased to give your consent. We went one stage further. The House was asked to give leave to this motion and the House has granted leave. Now, under Rule 226, the only thing that the House can do now is this. There is no question of a motion or a point of order. That can only be considered by the Speaker when he gave his consent. That is when he specifically considers the point of order and the reasons given for that point of order. You, Sir, have said that it is in order and the House also has said that it is in order when it gave leave. All that we are now concerned is and all that we can also do, under rule 226, is to summarily reject this frivolous and untenable point of order . . .
(Interruptions.)

Shri Tangamani: I do object to this. Is his point of order not frivolous? If we raise a point of order, it is frivolous and if he raises it, it is not frivolous? It is for you, Mr. Speaker, to say whether a point of order is frivolous.

Shri Frank Anthony: Under rule 226, all that the House can do now is to decide here and now whether Shri

Namboodripad is in contempt and whether he should be arrayed before the House—that is not the motion put before us—or in the alternative, whether it should refer the matter to the Privilege Committee. That is all that we can do.

Raja Mahendra Pratap: Would you not allow me to speak, Sir?

Shri Dasappa: Sir, may I know whether the handling over of the telegram at Trivandrum to the counter at the telegraph office is not sufficient publication; whether its despatch to Delhi and receipt at the telegraph office counter is not sufficient publicity? I would like to put a question whether these things are not themselves sufficient? May I also know whether the telegram is sent in code or in ordinary language?

Raja Mahendra Pratap: Sir, you have allowed everybody; you may kindly allow me five minutes. Why not I also be allowed? I beg to say that Shri Masani has said that the Chief Minister had said in his telegram something against us and has said that we have malice and so on. But Shri Masani himself proved by his speech that we are using bad words against the Chief Minister. So, Sir, I beg to say that this discussion should not be continued in the spirit as it is continuing. We speak like Kauravas and Pandavas, inciting each other. For God's sake, I say let us have peace, peace of mind. We should all fraternise and we should all see the good of the country. With peace of mind, let us discuss things. This is not a question between the Congress and the Communists . . .

Mr. Speaker: The hon. Member is an elderly Member of the House. This is not a general platform where anything can be said at any time. The hon. Member must always address himself to the subject matter. We are discussing a point of order but he is talking about and going to other business. Unless and until I call upon

him, no hon. Member is entitled to go on like this; all hon. Members are entitled to stand up in his seat and catch my eye. But unless I call him, he ought not to speak. I am really sorry that hon. Members go on, again and again, doing this without my calling them and they go on speaking. It is very useful but it is not right.

Pandit G. B. Pant: Sir, I think I have indicated my attitude towards this motion when it was discussed in the House last time. I am really not happy that all these proceedings should have taken place and should have been considered necessary. I even then suggested that I would feel relieved if the House were pleased to close the matter.

So far as the telegrams go, I was really somewhat hurt by one of the hon. Members who remarked that I had been guilty of breach of confidence. I think, if anything, I have been guilty of over-scrupulousness and not of any breach. I would be sorry if I departed from the standards which I want to be observed in this House and by the Government.

Here is a telegram received by me. The telegram has been sent to me so that I may bring its contents to the notice of the Speaker and the plea on behalf of the sender of the telegram for the Speaker's acceptance of his point of view. I did that. Am I guilty of breach of confidence because I carry out the directions of a friend?

If I did not do that, I would be blamed for not having done what I had been asked to do and motives would probably have been attributed to me. I did what I was asked to do. Lest there should be any sort of misunderstanding about what I had been asked to convey to the Speaker, I showed him the telegram itself because anything that I might have said might perhaps not convey and completely satisfy the wishes of the Chief Minister who had been good enough to wire to me. I respected his confidence by conveying his wishes

through the telegram to the Speaker not only orally but by showing him the telegram itself.

An. Hon. Member: Did he ask for it?

Pandit G. B. Pant: Nothing less than that would be just and fair to him. It could well have been argued that though I may have spoken to the Speaker, still I may not have conveyed to the Speaker all that the sender of the telegram wanted me to convey. To say that in the circumstances I have been guilty of breach of confidence is something which is somewhat shocking, obnoxious..... (*An Hon. Member: Preposterous*) and altogether misconceived.

Well, I showed the telegram. The telegram that I showed was in exoneration of what had appeared in the papers. It was intended to secure an exoneration and not to fasten the guilt. So my attempt was to produce the telegram which would have satisfied the Speaker—the Speaker represents the House,—and also satisfied those who had some doubts that Shri Nambodripad thought that the first telegram that he had sent to me was confidential and also that the words that he had used were not used with malicious intentions. It was with a view to securing the exoneration of the sender of the first telegram and with a view to getting any misunderstanding that might be there removed that I considered it my duty to a friend to do so. But, for that, to tell me that I have been guilty of breach of confidence is something which I for one can neither understand nor misunderstand. Its significance is such that I can only say that the very elements of justice have been ignored by the gentleman who used those words.

So far as this motion and the telegram are concerned, well, I am not in a position to say much. I cannot resist the wishes of the House. Ultimately, this House is the master of Government, and if this House directs me to do a thing, even if I may be in

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a position to claim privilege—whether I am entitled to in this case or not, I am not going into that matter fully because I have not given careful thought to that—I would not resist the wishes of the House. The House is ultimately the master of everything and it can claim privilege for it. If the entire House insists on our doing a thing, it becomes difficult for any member of Government to say: "I will not bother about what the House wishes, I shall do what I consider to be right in my own view of the matter."

I pleaded that that motion should not be pressed. I would have been really glad if it had not been; but the hon. Speaker in his wisdom has been pleased to take a different view, and he has, so far as his own initial attitude towards this is concerned, received the support of a fairly large number of Members of this House.

So, so far as the question of privilege goes I do not say anything technical, but I wish that in view of the statement of Shri Namboodripad that it was a confidential document, the Committee or the Speaker might be good enough not to ask me to produce it. If I am asked to, I say I would not resist the call; but I would appeal and plead with them not to make me produce a document about which the sender has said that it is and it was intended to be a confidential document.

Well, Sir, as to the merits of the case, as to the points of order, I think it is not a matter in which I am interested in particular, because the privileges of the House do not involve any issue between the Government and the Opposition. The privileges of the House are to be protected by every Member of the House, whether he is . . .

Shri P. R. Patel (Mehsana): So far as Congress Governments are concerned you are not prepared for anything, but if there is anything against the Communist Government you jump upon it.

Pandit G. B. Pant: I do not know if, after all that I said in this connection previously and after all that I have said today, the hon. Member is justified in the remarks that he has made. Even otherwise, I do not think, when we are having a privilege-motion, it is generous on the part of any hon. Member to say that one is actuated by extraneous motives in adopting a certain line in this House. At least, I think, I have not so far exposed myself to that charge. I have tried to deal with every matter on its merits, whether it is concerning Kerala, whether it is concerning U.P. or whether it is concerning Bengal (Interruption).

Shri S. M. Banerjee (Kanpur): Sir, only this morning I was not allowed to read a telegram.

Pandit G. B. Pant: If there are hon. Members who hold otherwise, they can please themselves; I am not going to argue with them because, if actions cannot satisfy, words certainly cannot go further. But I have tried to do what has appeared to me to be fair.

Sir, so far as the points of order or other arguments are concerned, a member of Government has hardly any greater interest in those matters than any other hon. Member of this House. I am not interested, particularly, in supporting or in resisting any point of view. I have, in a way, tried to say a few words, especially as you were pleased to call upon me to do so. I do not think I want to complicate matters further. I have tried to simplify them to the best of my ability.

Mr. Speaker: It is unfortunate that on a point of order unnecessary heat should have been produced and, of all persons, the action of the hon. Home Minister in regard to this matter should have been challenged. As far as the proceedings are concerned, nobody has been more fair than the hon. Home Minister. When he produced the second telegram, it was for the intent purpose of convincing me and,

through me, the House that the Chief Minister did not intend anything by the use of that expression, and also for the purpose of appealing to the House that no action need be taken so far as this matter is concerned. The hon. Minister has said that there could be nothing more appealing than the words used by the Chief Minister himself. Therefore, there is nothing wrong in the second telegram being placed before me.

The second telegram refers to the previous telegram that was intended to be absolutely confidential, even though that telegram itself does not say that it was meant to be confidential.

Shri Nagi Reddy (Anantapur): Everything between a State and the Centre is not marked confidential. It will not be written on every letter that it is confidential.

Shri Tangamani: It is not that because a person claims it it cannot be said to be confidential.

Mr. Speaker: Order, order. Hon. Members are getting impatient. I only wanted to say, the hon. Home Minister seems to have, notwithstanding the fact that the previous document was not marked confidential—though ordinarily it need not be marked confidential—and there was pressure from a large section of the House that the document ought to be produced—I also suggested to him that if he has no objection he may produce it—desisted from producing this document. It was also suggested to him that it was an after-thought that in a later telegram it was said that the earlier one must be treated as confidential. Even then the hon. Home Minister resisted the pressure put on him to produce that document. Therefore, to take objection against the conduct or action of the hon. Home Minister from this side rather looks strange. So, let us give up this kind of recriminations on one side or the other, and let us come to the point of order.

Nothing is to be gained by getting excited. So far as the point of order is concerned, Shri V. P. Nayar referred to rule 223 which says:

“A member wishing to raise a question of privilege shall give notice in writing to the Secretary before the commencement of the sitting on the day the question is proposed to be raised. If the question raised is based on a document, the notice shall be accompanied by the document.”

In the absence of the original itself there can be secondary evidence. So far as this document is concerned, the document on which this motion of privilege has been brought is the report of *The Times of India*. He has filed that document. It is one thing to say that it is not a document; it is another thing to say that it is not a document which you can take as a pucca, good proof, of the original itself. That is another matter. But so far as the document is concerned, I feel, and I felt, that he has satisfied the requirements of rule 223. Hence it was that under rule 225 I said that the notice was in order.

“The Speaker, if he gives consent under rule 222 and holds that the matter proposed to be discussed is in order . . .”

I said here this morning that I hold that this matter which is proposed to be discussed is in order, and then gave my consent. Therefore, I allowed this. It is not that immediately as soon as a point of order is raised I can say that there is nothing in the point of order. I heard it. Therefore, technically, the requirements of rules 222, 223 and 225 have been satisfied.

[Mr. Speaker]

When once the matter goes to the Committee of Privileges or even when it is discussed, the following procedure is to be adopted; Rule 270 says—

“A Committee shall have power to send for persons, papers and records:

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Speaker whose decision shall be final”—

if they have got a doubt—

“Provided further that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State”.

As to whether it comes under “safety or interest of the State”, when the matter goes before the Privileges Committee, that Committee will decide, and the Government may adduce its arguments whether it can be produced or not.

Rules 41 and 42—I put the question to Shri V. P. Nayar, and as I already explained, those terms did not apply to this. Under those circumstances, I do not find that there is any point of order. So far as this matter is concerned, therefore, the discussion will proceed before the Committee to adopt such measures as they think fit, and if they get the document or otherwise, they can get along with such material as is available to them.

Shri Bimal Ghose (Barrackpore): The Deputy-Speaker pointed out the other day that a convention has been established. If we accept it, can we remit it to the Committee of Privileges or has it to be referred to the Kerala Assembly?

Mr. Speaker: The point has been raised, I think, and I have answered that point.

Shri Bimal Ghose: There was a question of the procedure that was adopted by the Rajya Sabha and the Lok Sabha, and so, that would also apply to the other Legislative Assemblies.

Shri Sadhan Gupta: Point of order.

Mr. Speaker: I am not here writing a text-book. On whatever point is raised, there is a point or an objection or a point of order, and then I will be called upon to answer!

Shri Sadhan Gupta: My point of order is that this motion cannot be discussed by the House, because it does not *prima facie* disclose a question of privilege.

Mr. Speaker: I have already given the ruling. I said I would call upon him afterwards when I admit it. I have heard the points, and know the discussions of the previous day which extended to 90 minutes according to the calculation of an hon. Member. Then, this morning, I gave my consent to its being raised. Rule 225 specifically says that I must be satisfied and say that this is in order or not. I did say that it is in order and allowed the hon. Member to apply for leave. So far as the question whether it is in order or not is concerned, it is not as if it has been brought in just now today. The other day it was all discussed and whatever had to be said has been said. Under these circumstances, there is nothing in this point of order. I will place this motion before the House.

Shri Sadhan Gupta: My submission is this. You yourself said when Shri Nayar was raising the point of order that the point of order would only be raised when the motion was made or after seeing what the motion was about. We had not the motion before the House. We had only a proposal for a motion. Now that the motion

has been moved, everything has been placed before the House—

Mr. Speaker: Order, order. I will answer it immediately. The point was this. After I give my consent, whatever at one stage is completed, it is not my intention that we should go on reopening it from stage to stage. Shri V. P. Nayar raised the point, after I gave my consent to the motion, and he objected to leave being granted, I did not say that merely because leave had been granted and therefore I was not going to allow this point of order. I said we will assume that leave was being granted and the motion was being made; that the matter is still inchoate and that I would allow him to raise the point of order. If this had already been disposed of by my giving consent that there is a question of privilege, I would have normally treated it under rule 225.

An Hon. Member: Strange.

Mr. Speaker: It is not a question of being strange. The question under 226 comes later on. Before that, some other steps have to be taken, and therefore, I had to decide it under rule 225, which I decided. I shall now place this motion before the House.

Dr. K. B. Menon (Badagara): I would like to say—

Mr. Speaker: Is it a speech? I am not going to allow.

Dr. K. B. Menon: Not a speech. Will you please permit me to move an amendment?

Mr. Speaker: Unless I place the motion before the House, how can there be an amendment?

Shri Sadhan Gupta: My submission is—

Mr. Speaker: I have heard him. I have given a ruling.

Shri Sadhan Gupta: Unless the motion is there, how can we know what facts are there?

Mr. Speaker: Order, order. There are two things. One is a motion which has been moved today; and another is, this, namely, he asked for my consent for raising the question of privilege. That was already placed before me on which I gave my consent. As I said, it is in order. The same thing has been put in the form of a motion. The motion can be made to the Privileges Committee or it can be made for the disposal by the House itself. I have already given my consent. There is no more question of any point of order.

Motion moved:

“That the attention of the House having been drawn by an Hon'ble Member on September 23 to the telegram sent by Mr. E. M. S. Namboodripad, Chief Minister of Kerala to Pandit G. B. Pant, Home Minister, extracts from which are contained in a report based allegedly on official sources issued by the Press Trust of India from Trivandrum on September 20 and published in the *Times of India*, Delhi and the *Amrit Bazar Patrika* Calcutta on September 21, in the course of which Mr. Namboodripad has attributed the motive of slander to some Hon. Members of this House;

and having taken note of the subsequent telegram from Mr. Namboodripad to Pandit G. B. Pant, which was read to this House by the Hon'ble the Speaker on September 23;

This House resolves that the matter be referred to the Committee of Privileges for investigation as to whether a breach of privileges of the House and of the Hon'ble Members concerned has been committed; and whether any contempt of the House thus committed has been adequately purged; and that the Committee be requested to present its report

[Mr. Speaker]

and recommendations for appropriate action at the first day's sitting of the next Session of the Lok Sabha."

What is the amendment by Dr. K. B. Menon?

Dr. K. B. Menon: Shri M. R. Masani, in moving his motion—

Mr. Speaker: What is the amendment?

Dr. K. B. Menon: My amendment is that a contempt has been committed and that the Chief Minister of Kerala be brought before the Bar of this House.

Shri Tangamani: Contempt of what? There is no contempt. It is a motion of privilege. Do you create another contempt of the House?

Shri H. N. Mukerjee: There is a limit to political vendetta; it is not propriety.

Mr. Speaker: The hon. Member evidently wants to say that there are two courses open. One is, the house may itself dispose of it, or the matter may be referred to the Committee of Privileges.

Dr. K. B. Menon: I beg to move:

That for the last paragraph of the original motion, the following be substituted, namely:—

"This House resolves that a contempt of the House has been committed by Shri E. M. S. Namboodripad, the Chief Minister of Kerala State and that he should be called to the Bar of the House on the first day of the next session."

Mr. Speaker: This amendment also is now before the House, along with the main motion. He evidently wants to say that the House should dispose of it and decide whether the hon.

Chief Minister should be brought here. This amendment has been moved only now. Though no prior notice has been given, I take it that the hon. Member, Dr. Menon, wants that the House itself should dispose of this matter, and....

Dr. P. Subbarayan (Tiruchengode): That is really what he wants.

Mr. Speaker:the hon. Chief Minister of Kerala may be brought here for giving explanation and so on.

Shri A. K. Gopalan: Now that you have given your consent to the motion, I want to say that this is the first time in the history of this Parliament that the correspondence between the Centre and a State has been taken into consideration. It has also been said several times that the Chief Minister of Kerala should be brought to the Bar of the House. I have to say that this very greatly affects the relationship between the Centre and the States in future. The discussion is over, but I want to continue the discussion. According to article 355 of the Constitution itself, it is the duty of the Centre to see that the States are protected. In this case, instead of protecting the States.... (Interruptions). I want to be heard. I will speak louder if I am not allowed to be heard. It is your duty to protect us here and give me a chance to speak. (Interruptions). It is the duty of the Government to protect a State, whether it is a Communist State or Congress State. But by their action, the Government here have shown that they have not only not protected a State (Interruptions). This is the first time that this has come and as a resultant of the action that has been taken now, we walk out of the House.

An Hon. Member: For the rest of the session.

(Shri A. K. Gopalan and some other hon. Members then left the House).

Raja Mahendra Pratap: I also leave the House.

(Raja Mahendra Pratap then left the House).

Dr. Ram Subhag Singh (Sasaram): I repudiate the insinuations that were made against the hon. Home Minister. But I do feel that the acceptance of this motion will open a road to a great controversy. (Interruptions).

श्री प्र० सि० दौलता (झज्जर) : हम १३ स्टेटस को यहाँ लायेंगे, सम्पूर्णानन्द को रोज़ यहाँ रखेंगे।

श्री रघुनाथ सिंह (वाराणसी) : प्रच्छन्न आइयेगा, देखा जायेगा।

Shri M. L. Dwivedi (Hamirpur): Order may be restored.

Dr. Ram Subhag Singh: I notice that the hon. Members of the House are feeling great anxiety over the matter and they think that the prestige of some of the Members of the House is at stake. The entire controversy arose because of the publication of an alleged text of a telegram sent by the Chief Minister of Kerala to the hon. Home Minister and that alleged text is that some Members of Parliament who raised the question tried to slander the State Government in the name of explanation. In the second telegram, the Chief Minister has replied.....

Shri Mahanty (Dhenkanal): On a point of order. After the House comes to a particular decision, he is having an analysis of what has happened.

Dr. Ram Subhag Singh: The difficulty is that certain Members do not realise the gravity of the problem. (Interruptions). The whole difficulty is that some hon. Members, without listening to what I say, go on passing remarks. If they listen to me carefully, they will realise that I am as much concerned about the gravity of the matter as they are. This entire controversy cropped up, as I said, due to the publication of the alleged text of the telegram and that text is really

slanderous. If it was intentionally sent by the Chief Minister to the Home Minister, it is certainly objectionable and if it is objected to, I have nothing to say against that.

Shri D. C. Sharma (Gurdaspur): Is the motion now under discussion, Sir?

Dr. Ram Subhag Singh: It is under discussion. It is also true that we are possessed of the power to punish the person who passes any remarks against any Member of the House or against the House as a whole. But I think that we should exercise that right very scrupulously and judiciously. This is the first occasion in the history of this House that a matter of this nature has come up here.

Shri Bimal Ghose: It is second.

Dr. Ram Subhag Singh: I accept it is the second occasion. That matter was disposed of by the Privileges Committee, I believe. That matter arose because of the remarks made by a Member in the Rajya Sabha. But this remark has been made by the Chief Minister of a State.

In the second telegram, which you were good enough to read out, a few minutes before, the Chief Minister has tried to explain his position. It is said in that that he did not intentionally use that word. I think that we have demonstrated adequately the feeling of the House. It has also been demonstrated before the country that if any Member or any citizen passes any remark against a Member of this House or against the House as a whole, he can be dealt with very effectively by the House.

In view of the explanation given and in view of the anxiety shown by the Members of the House, I honestly feel that if we do not drop the matter, we will be opening a road of controversy in the House, which will make the smooth running of the democracy very difficult.

Mr. Speaker: The House will stop with this and proceed to the next item. At 2-30, Private Members' business has to be taken up.

Shri Braj Raj Singh: What about this?

Mr. Speaker: This will stand over.

INDIAN ELECTRICITY (AMENDMENT) BILL*

The Deputy Minister of Irrigation and Power (Shri Hathi): On behalf of Hafiz Mohammad Ibrahim, I beg to move for leave to introduce a Bill further to amend the Indian Electricity Act, 1910.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Electricity Act, 1910."

The motion was adopted.

Shri Hathi: I introduce the Bill.

SALARIES AND ALLOWANCES OF MEMBERS OF PARLIAMENT (AMENDMENT) BILL*

Shri Satya Narayan Sinha: I beg to move for leave to introduce a Bill further to amend the Salaries and Allowances of Members of Parliament Act, 1958.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Salaries and Allowances of Members of Parliament Act, 1958."

The motion was adopted.

Shri Satya Narayan Sinha: I introduce the Bill.

POINT OF INFORMATION

14-28 hrs.

Shri S. M. Banerjee (Kanpur): I have received this telegram from Shri Jagdish Awasthi: It reads as under:

"Arrested on 23rd September at 3 p.m. Not produced within 24 hours before any magistrate. Lodged in District Jail, Kanpur, in ordinary class. Constitution violated. Rights and privileges ignored. Please intervene."

I beg to submit that the case of Shri Jagdish Awasthi is not the only case; thousands of men have not been produced before the magistrates. I would request the hon. Home Minister to say something about this, whether any Constitutional rights exist in U.P. or not and whether the democratic rights have been completely ignored by the Chief Minister of U.P., who is acting in this manner.

Mr. Speaker: Order, order. I cannot allow any discussion on this.

Shri S. M. Banerjee: The hon. Home Minister should take notice of it.

Mr. Speaker: I shall ask the hon. Home Minister to find out. What the hon. Member says is that Shri Awasthi was arrested and in accordance with the law, he was not brought before the magistrate within less than 24 hours. I would ask the hon. Home Minister to try to find out what exactly the situation is.

Shri S. M. Banerjee: Shall I lay the telegram on the Table of the House?

Mr. Speaker: He need not lay it on the Table. He may pass it on to the hon. Home Minister.

Shri Braj Raj Singh (Ferozabad): You were pleased to announce the other day that Shri Mohan Swarup was arrested at Pilibhit. But the place of