

MESSAGES FROM THE LOK.
SABHA

I. Committee on Public Accounts.

II. The Mental Health Bill, 1987.

SECRETARY GENERAL: Sir, I have to report to the House, the following messages received from the Lok Sabha, signed by the Secretary General of the Lok Sabha: —

'I am directed to inform you that Lok Sabha at its sitting held on Thursday, the 19th March, 1987, adopted the following motion: —

"That this House do recommend to Rajya Sabha that Rajya Sabha do agree to nominate seven members, from Rajya Sabha to associate with the Committee on Public Accounts of the House for the term beginning on the 1st May, 1987 and ending on the 30th April, 1988, and do communicate to this House the names of the members so nominated by Rajya Sabha. "

2. I am to request that the concurrence of Rajya Sabha in the said motion, and also the names of the members of Rajya Sabha so nominated may be communicated to this House.'

II

"I am directed to inform you that the Mental Health Bill, 1986, which was passed by Rajya Sabha at sitting held on the 26th November, 1986, has been passed by Lok Sabha at its sitting, held on the 19th March, 1987, with the following amendments: —

Enacting Formula 1.

Page 1, line 1 —

for 'Thirty-seventh' substitute
'Thirty-eighth'
Clause 1

2. Page 1, line 5, —

for '1986' substitute '1987'

2. I am, therefore, to return here with the said Bill in accordance with the provisions of rule 121 of the Rules of Procedure and Conduct of, Business in Lok Sabha with the request that the concurrence of Rajya Sabha in the said amendments be communicated to Lok Sabha. "

Sir, I lay the Bill on the Table.

**FUNCTIONING OF PARLIAMENTARY
SYSTEM OF GOVERNMENT**

MR. CHAIRMAN: Before I allow Mr. M. S. Gurupadaswamy to raise the point, I wish to announce that I am going to give the ruling immediately after the point raised by Mr. M-S. Gurupadaswamy to set at rest all other matters.

SHRI LAL K. ADVANI: (Madhya Pradesh) Sir, I would plead with you that this a matter on which it is not sufficient that you hear Gurupadaswamy and give your ruling.

MR. CHAIRMAN: I will allow everybody, all persons. Time allowed is half an hour.

SHRI LAL K. ADVANI: Sir I would plead with you... (*Inter-, ruption*).

MR. CHAIRMAN: You cannot plead with me after I have agreed. Half an hour is allowed. At 12.30 I will give my ruling. For half an hour, I will give five minutes to everybody who wants to say -anything on the matter.

Five minutes for everybody is the strict condition. Now, Mr. Gurupadaswamy.

SHRI M. S. GURUPADASWAMY (Karnataka): Mr. Chairman, Sir, with your permission, I would like to raise a very important matter concerning the Parliamentary System of Government and Democracy. While doing so, I would try to abide by your directive. I promise you, I will be within the

parametres set by you. (*Interruptions*).

SOME HON. MEMBERS: No. there are no parameters now.

MR. CHAIRMAN: I request hon. Members not to disturb any speaker even though you may differ from the speaker. You must have the patience and the Parliamentary etiquette to hear points of view which are against yours. It applies to both sides of the House. ...

SHRI M. S. GURUPADASWAMY: Sir, I would like to make one preliminary remark. I am not speaking for my party or for the Opposition, but I am speaking for the entire House because the question involved is... (*Interruptions*).

SOME HON. MEMBERS: Not for the entire House. (*Interruptions*).

MR. CHAIRMAN: May I appeal to all the Members of the House to allow the Member to speak... (*In-teritiptions*)... You may not see a crisis, but he may see a crisis. Why do you object to his seeing a crisis? ... (*Interruptions*).

SOME HON. MEMBERS: He is not speaking for the entire House. (*Interruptions*).

MR. CHAIRMAN: Will all of you please keep quiet? You must allow any Member to express whatever he wants to express. Hard words do not break any bones. (*Interruptions*)

SHRI M. S. GURUPADASWAMY: After hearing me they will see that I speak for the entire House. (*Interruptions*).

MR. CHAIRMAN: All of you are unnecessarily delaying my ruling!

SHRI M. S. GURUPADASWAMY: Mr. Chairman, Sir, in England, there is the Parliament. (*Interruptions*). You object to that also? Sir, the

Crown in Parliament constitutes Parliament. The Crown is a constituent part of Parliament. In the same way, in India also, Sir, the President and the House of Parliament that is, the House of the People and the Council of States, constitute Parliament. The President inaugurates the Budget Session and he has not two responsibilities which are not adumbrated, which are not included, in the Constitution itself, but which are accepted by and large. One is that the President can call anybody who has got a majority, who enjoys a majority, in Parliament to form the Council of Ministers, to form the Cabinet. This is one thing. The second thing is "that he can dissolve Parliament. These are the two discretionary powers of the President.

SOME HON. MEMBERS: No. (*Interruptions*).

SHRI M. S. GURUPADASWAMY: Please listen to me. these are the discretionary powers of the President. In England also, the Crown enjoys the same discretionary powers; The Crown can call anybody who enjoys a majority support in the House of Commons to form the Government and the Crown has not the power to dissolve Parliament. The same thing is followed in India too. My point is that the President cannot be divorced from the Constitutional set-up, from the parliamentary set-up. Therefore, whenever we refer to the President blank objection should not be taken by anybody because he is a part of the parliamentary system, he is the Head of the State and he is governed by certain provisions in the Constitution.

Sir, I invite your attention to article 78. There it is clearly stated that the Prime Minister, who is the Head of the Government, should keep the President informed of all vital matters discussed in the Cabinet. Second, the President can get information of any vital matters discussed and decided upon by the Cabinet. Even.

[Shri M. S. Gurupadaswamy] in the case of decisions taken by individual Ministers the President can intervene and refer that matter to the Cabinet for consideration. Therefore, Sir, the President has not certain duties and responsibilities under the Constitution to exercise. It is the duty of the Prime Minister to apprise the President about all the things that are going on inside the Government. He has got the right to be informed. This 'right to be informed cannot be abridged or taken away by any pretext, for any reason. Sir, for the first time in our short parliamentary career we have come across a lack of understanding between the President and the Prime Minister. That has given scope for constitutional issue to which I am referring today. The constitutional issue has arisen out of the correspondence between the President and the Prime Minister, which is the talk of the street today.

SOME HON. MEMBERS: No.

SHRI M. S. GURUPADASWAMY; You cannot deny that. That is the property of the public. It is the property of the whole country. You cannot deny that.

The constitutional issue, the deadlock, if I may say so, between the President and the Prime Minister is straining our Constitution, straining the parliamentary institution. Therefore, Sir, the Parliament which is the sovereign body of the nation has got to take notice of this fact.. Sir, the President, under article 78 of the Constitution, has certain powers for the main purpose of enquiring collectivity and solidarity among the members of the Council of Ministers. It is the responsibility of the President to see that there is a harmonious blending between Parliament and the Council of Ministers. It is the responsibility of the President as Head of the State to see that the Constitution is preserved and protected. Sir, you see the oath which the President

takes. His oath is different from the oath which is taken by us, Members-of Parliament. The President has to protect, preserve, the Constitution, . whereas we take the oath saying that we owe allegiance to the Constitution. There is a difference. When there is a violation of the Constitution, constitutional directive, then Parliament is attracted. It is Parliament, Parliament alone, which can debate such constitutional issues. I say that there is a deadlock. "(Interruption) It is a deadlock.

MR. CHAIRMAN: All this will be covered by my ruling.

SHRI M. S. GURUPADASWAMY: I draw your attention to one thing which I told you in the Chamber. If you take the position that the correspondence between the President and Prime Minister is confidential and the Parliament cannot debate it, if you take that position, I quote the instance of England. Years back, at the time of abdication of Edward VIII there was a long correspondence between the Prime Minister and the Crown. And this was debated and Edward VIII had to abdicate because there was a unanimous Resolution passed in Parliament that he had to abdicate because he was not carrying out the will of Parliament, therefore, Sir, my contention is that the correspondence between the Prime Minister and the President (*Interruptions*)

MR. CHAIRMAN; I am going to meet all these points. Please have faith in me.

SHRI M. S. GURUPADASWAMY: My contention is that the correspondence, or the letters between the Prime Minister and the President are not sacrosanct. The Official Secrets Act cannot cover this area. For that matter, all Acts come under the Constitution. They cannot override the provisions of the Constitution. Therefore, we are entitled to debate this issue threadbare. The correspondence and the letters which pass

on between the President and the Prime Minister are not so sacrosanct and that they can be held back from the Parliament which is paramount. In all such matters and particularly all matters concerning the Constitution. The Parliament has got constitutional responsibility and (constitutional powers given to it by the Constitution to safeguard the Constitution, to preserve the Constitution and to protect the Constitution. In this context, I say, Sir, that you should allow the House to debate the correspondence which took place between the President and the Prime Minister. The House should know it. The country should know it. The people should know it.

MR. CHAIRMAN: Mr. Sukomal Sen. Please don't repeat. Five minutes only.

SHRI SUKOMAL SEN (West Bengal): Sir, the controversy that has arisen between the Prime Minister and the President is not a new one. Actually it started two years back. Now, it has come to a very serious turn. It is causing deep concern to the entire nation. Not only to the Parliament, but to the entire nation. Repeatedly, this issue was sought to be raised in the House. But it was not allowed. The controversy which was raised is actually boiling down to a constitutional crisis. Anything that transpires between the President and the Prime Minister cannot be secret. Things are coming out in the newspapers. The Prime Minister, has replied to the President. We do not know what is what. I demand that all the papers and correspondence that has gone between the President and the Prime Minister should be placed before the House. They should be the subject for a discussion. Now, - this correspondence and these letters are the property of the nation because these things have come out already in newspapers.

I would like to mention that while concluding the debate on the Presidential Address, the Prime Minister, in this House, blamed the opposition saying that the opposition is politicising the office of the President. But I would like to point out that it is not the opposition which is politicising the office of the President. It was politicised by the ruling party long back, two years back. They are doing that repeatedly. Two days back, the Prime Minister said at the Calcutta Airport that he stands by what he said in the Rajya Sabha. But the President's letter which has come out in the 'Indian Express' and which has been printed by other papers also categorically contradicts the Prime Minister's statement. It shows that the Prime Minister is misleading the House and the nation. In view of this I demand that there should be a full-fledged discussion in this House and the Prime Minister should be here. He should apologise for his conduct because he has misled the House, he has misled the nation and he has hit at the very root of democracy. I demand that he should come and apologise. I request you kindly to allow us to debate this issue.

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): Sir, the present controversy is very unfortunate. If it is a matter between two individuals we would not have bothered much. We all know, in the past also, cordiality lacked between the President and the Prime Ministers at different times. But, Sir, this time there is an unprecedented controversy questioning the authority of the President himself and also there is a deliberate attempt to denigrate the high office of the President of India. That is the most unfortunate and dangerous thing which we see in this controversy. It is not a question of two individuals' behaviour, how they are behaving towards each other. Sir, a few months ago, we all know, in a press confer-

[Shri Parvathaneni Upendra] once the Prime Minister himself said that he was not briefing the President after his foreign visits. He said, "I have broken so many conventions. What is wrong in that?" That itself shows his attitude towards the high office of the President of India. Sir, if you see the distinction, here is the lead of Government representing a majority party, maybe a high majority in an electoral verdict, but on the other side is the President of India, lead of State, symbolising the whole nation, and in a country like ours it is the President who will have to keep up the unity of this country. Therefore any attempt to denigrate the high office of President must be resisted and must be thwarted.

Sir, when this controversy arose, when the so-called letter was published, neither the Rashtrapati Bhavan or the Prime Minister's office denied, therefore, two questions arose in this: my predecessors have pointed out, one is the President's right to be insulted, to be informed, which he also has his right. It is for the Prime Minister to clarify. And the President, rightly or wrongly, feels that he being bypassed he is not being consulted and that point has to be answered by the Prime Minister to the Parliament and to the nation.

MR. CHAIRMAN: Mr. Upendra...

SHRI PARVATHANENI UPENDRA; no. Sir...

MR. CHAIRMAN: I cannot allow it to go on record.

SHRI PARVATHANENI UPENDRA: please hear me. I may tell you it...

MR CHAIRMAN: Mr. Gurupada may rightly confine himself to the statement that there is a letter. The contents are going into the contents of the

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letter which you cannot do because the letter itself is not an authentic document. I have not, received any...

SHRI PARVATHANENI UPENDRA: I am only referring to the substance. Article 86(2).. -.

MR. CHAIRMAN: No, no....

SHRI PARVATHANENI UPENDRA; The President has a right.

MR. CHAIRMAN; Has he sent a message under that article?

SHRI PARVATHANENI UPENDRA; Under article 86(2) the President has a right to send a message-but the article does not specify the modality of sending the message.

MR. CHAIRMAN; It shall be sent either to the Speaker or... Read article 86(2).

SHRI PARVATHANENI UPENDRA; He can send through, the Government also. It does not preclude him. I think he has asked the Government to place it before the House under article 86(2).

MR. CHAIRMAN; No reference to the contents of the letter will go on record.

SHRI PARVATHANENI UPENDRA; One more pointy Sir.

MR. CHAIRMAN; No, no.

SHRI PARVATHANENI UPENDRA; How can you say, no, no?

MR CHAIRMAN; The only question on which I have allowed you to speak is this one. This morning I have discussed it with them. The only question is whether any communication between the President and the Prime Minister can be discussed, not about the merits of the case. You

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are now going into the merits of the case. The short point before us is whether this Parliament can discuss a communication between the President and the Prime Minister. You have your turn, Mr. Advani, now.

SHRI PARVATHANENI UPENDRA; I also take it as a message under article 86(2). Therefore the whole correspondence, President's letter as well as Prime Minister's reply, must be placed before the House for discussion.

SHRI LAL K. ADVANI; Mr. Chairman, this present phase of controversy started with the Prime Minister's Reply to the President's Address Debate in Parliament. I am of the view that if that reply had not been made in the House, perhaps, things would not have arrived at this stage. We have had comments in the press, editorials, comments outside by Opposition parties, etc., on this issue of relationship between President and the Prime Minister, critical of the Prime Minister and the Government. But never before have things come to the present pass wherein people belonging to various walks of life, including jurists, including eminent luminaries in the legal field, believe that there is a Constitution crisis... (*Interruptions*).

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H. R. BHARDWAJ): Except Mr. Jethmalani who else has said! No jurist has said it.

SHRI LAL K. ADVANI; In the course of his reply to the debate on the President's Address, the Prime Minister said; Whenever there has been an issue of national interest, there has been no question of not keeping the President, informed or not keeping the President briefed. We have not reduced the President to discussing mundane political business.

MR. CHAIRMAN; May I interrupt? The short issue before me is, can

correspondence between the President and the Prime Minister be discussed in Parliament? And Mr. Gurupade swamy and all others who came, said that this is a matter that they will raise. Now you are going to raise of the substance of the issue. I will rule it out because first of all it is no relevant now to this discussion. I there are other ways that you can bring it, I will look into. But you cannot discuss the correctness or otherwise of a statement made by the Prime Minister in the course of his reply to a debate.

SHRI LAL K. ADVANI. I do not know what exactly was conveyed to you...

MR. CHAIRMAN: That is the point. Merely because you were absent, you cannot have a right to raise it.

THE LEADER OF THE HOUSE (SHRI VISHWANATH PRATAP SIS GH): Just to put on record. The Prime Minister, whatever he said, was in response to a point raised by the Members of the Opposition.

SHRI LAL K. ADVANI; I know that. What my submission relates to is that this Parliament should not be gagged in a matter which is vital, far as the functioning of the Constitution is concerned, so far as the functioning of Parliament is concerned.

MR. CHAIRMAN: Provided it has the power to do it. Therefore, commit yourself to powers of Parliament.

SHRI LAL K. ADVANI: And it therefore that I started with the Prime Minister's statement admitting that the Prime Minister had not made the statement, perhaps we would not have been in a position to raise it as we are... (*Interruptions*)... Mr. Chairman I would plead with you... (*Interruptions*). I have not said a word...

THAKUR JAGATPAL SINGH (Madhya Pradesh); Who opened the issue in the House?

SHRI LAL K. ADVANI: I know that; I can mention the name. One of the members of the Council of Ministers started bringing in the President in the House. I would be the last person to do it. I would never do it.. (*Interruptions*). Don't ask me to mention the name. Everyone of you knows. It is this statement that invited that letter about which there is a dispute whether that should be 'laid on the Table; whether it should be -discussed or not. But the fact is that this- letter has been published and that letter says that the Prime Minister has been wrong on facts. The Prime Minister has thereby misled Parliament. The Prime Minister ... (*Interruptions*)

SOME HON. MEMBERS: No.

MR. CHAIRMAN; Please sit down all of you. The point which I have to decide and which has been raised all along, in these weeks—you" were away on some other work—is whether Parliament will have the power to discuss a matter relating to the communication between the President and the Prime Minister. As for the question whether what he said is right or not, you can raise it in some other way. Here, the only question is. is the question of communication bet-'ween the President, and the Prime Minister a matter which can be raised in the House? This is the only point which is now relevant and, therefore, you have to confine, yourself to that.

SHRI LAL K. ADVANI: Mr. Chairman, Sir, I would like this Parliament to discuss whether the Prime Minister has misled the House or not. This is one. Secondly, whether the Prime Minister has violated the Constitution or not. These are the two issues, whether the Prime Minister has been guilty of violating the Constitution...

SOME HON. MEMBERS: No..

SHRI LAL K. ADVANI; If Parliament cannot discuss these issues, what is Parliament for?

MR. CHAIRMAN: Mr. Advani, please sit down... (*Interruptions*) Don't create unnecessary heat. We want to shed more light and less heat.

SHRI H. R. BHARDWAJ; He has no 'light, absolutely no light.

MR. CHAIRMAN: The point really is this. There are ways, many ways, in which matters can be raised in Parliament by way of a Resolution, by this, that and the other. By questioning...

SHRI PARVATHANENI UPEN-DRA; Sir, I have given a notice of privilege.

MR. CHAIRMAN: I am going to say, it is out of order. The point really is this, whether any communication between the President and the Prime Minister can be debated in the House. This is the only point. If you want to raise other matters, you can come to me with other notices. Then, I will have the time to enquire into it, to look into it. If you have the right, I am not the person who will stop you. But if you do not have the right, I am not the person who will allow you also.

SHRI- LAL K. ADVANI; Mr. Chairman, Sir, I have not raised the issue of the communications. I am confining myself to only two specific issues. If these issues cannot be discussed in Parliament, which are vital for the functioning of Government, if Parliament is intended for discussing only mundane matters...

MR. CHAIRMAN: You can raise it in a different way.

SHRI LAL K. ADVANI: This morning my colleagues told me that a short-duration discussion was being

permitted. I said, I am willing for a discussion.. !.

MR. CHAIRMAN: I did not permit.

SHRI LAL K. ADVANI: I said, I am willing for a short-duration discussion on whether Parliament! has been misled or whether the Constitution has been violated.

MR. CHAIRMAN. - This only shows that I should not discuss it with Members here. I only said, as I told you just now, that there are other methods, procedures, by which you can raise the issue and that I will look into it then; if it is permissible under the rules, I will allow you; if it is not permissible, I will not allow you. But this debate is entirely on, the privilege of the House in relation to the communication between the President and the Prime Minister. I want you to confine yourself to that.

SHRI LAL K. ADVANI; Mr. Chairman, in the past, there have been occasions when on crucial issues affecting the whole country you have yourself said that we can debate it.

MR. CHAIRMAN; You come to me.

SHRI LAL K. 'ADVANI; I say, there are two issues involved here. These are. One, this House has a right to be informed correctly, about facts and for the first time we have come to know from the highest authority in the country that the Prime Minister has misled the House.

SOME HON. MEMBERS; No.

THE MINISTER OF HOME .
AFFAIRS (SHRI BUTA SINGH): Sir. this is precisely the game.

SHRI LAL K. ADVANI; The' second question I would like to. raise is, there are articles...

MR. CHAIRMAN: Not under this. You can raise it by way of a motion..

SHRI LAL. K. ADVANI; Articles 74, 77 and 78 have been violated by the Prime Minister. These are the issues. I want these should be discussed before you give your ruling. Thank you, Sir.

SHRI J. P. GOYAL (Uttar Pradesh): Sir, an impression has been created about the British conventions and Parliament. I would submit that in our Constitution only under article 105, clause 3 it is given that regarding the privileges of Members of Parliament, so long as privileges are codified by Parliament, the British conventions will be enforced. There is nothing in the Constitution that if a provision of Constitution is violated by anybody, that will not be enquired into by Parliament or Parliament will become important and that it cannot be looked into even if the Constitutional provisions have been violated by anybody, however high the man might be. The question is what is Parliament? Vide article 79 Parliament consists of the President, and the two Houses of Parliament. Therefore, President is not above Parliament; President is part of Parliament., If the conduct of a Member of Parliament can be considered, if the conduct of a Minister can be considered, why can't the conduct of the President be considered by Parliament? The President can be impeached by us. The Prime Minister can, by a no-confidence motion, be ousted if he is not carrying out the provisions of the Constitution. Therefore, in my submission, the question before the House is whether article 78 has been violated or not. And if the provision of article 78 has been violated in a given case, the question is whether the Parliament is so powerless as it cannot discuss the communications between the Prime Minister and the President. It is not a personal communication, it comes within the meaning of Article 73 of the Constitution. Therefore, the question is whether Parliament can discuss the matter or not.

Under the Seventh Schedule there is an entry 97. Of course, it is about

[Shri J. P. Goyal]

the legislative business of the Parliament. It says: Any other matter not enumerated in List II or List III including any tax not mentioned in either of these Lists. Therefore, Parliament can discuss it. If Parliament can enact or legislate on any matter, it can also discuss any matter whatsoever. Our Rules of Procedure, and Conduct of Business also do not forbid anything to be discussed in this House. Article 78 talks about "it shall be the duty of the Prime Minister". Prime Minister is part of this Parliament, being a Member of Parliament himself. We are, therefore, asking the Prime Minister, is it correct what the President has said? When there is violation of the Constitution, Parliament has full jurisdiction to discuss the matter. Parliament is supreme in this country. Even the Judges of the Supreme Court can be impeached, even the Judgements of the Courts can be discussed. So, where is it written that this cannot be discussed in Parliament? There is no use talking about British conventions. Britain does not have a written Constitution. If we had to look to the British conventions the Constituent Assembly should not have taken three years to produce our written Constitution. There was no need to have the written Constitution for us. So, that is not the question.

Now the question is whether, the Prime Minister has performed his duty under article 78. The whole controversy is between the President and the Prime Minister and they are parts of Parliament. The Parliament is asking the Prime Minister to place the communication on the Table of the House. Both, the President and the Prime Minister, are responsible to Parliament. Therefore, why don't you keep everything before the House? Parliament is supreme, not Mr. Shiv. Shankar, not Mr. Bhard-waj, not even Mr. Rajiv Gandhi or the President. You are responsible to us, you are accountable to us.

SHRI N. K. P. SALVE (Maharashtra): Sir, on a point of order.

MR. CHAIRMAN: Please sit down: You will only create disorder.

SHRI N. K. P. SALVE: Sir, it is opening a Pandora's box. If one of them had said even one thing that is relevant, if they had cited one...

SHRI PARVATHANENI UPEN-DRA: Is it for you to say that?

MR. CHAIRMAN: I will give you an opportunity.

SHRI N. K. P. SALVE: Sir, I don't want to add to the confusion. How long can one speak? Already forty minutes are over. (Interruptions).

MR. CHAIRMAN: He is a greater lawyer.

श्री सुरज प्रसाद (बिहार): महोदय, देश के अन्दर एक संवैधानिक संकट पैदा हो गया है। हमारे देश के संविधान के मुताबिक अगर प्रधान मंत्री के पद की गरिमा, मर्यादा और प्रतिष्ठा है तो राष्ट्रपति के पद की भी गरिमा, मर्यादा और प्रतिष्ठा है। दोनों के बीच में संवैधानिक सम्बन्ध हैं और इसलिए इस संवैधानिक सम्बन्ध का पालन होना चाहिये। देखा यह जा रहा है कि यह जो संवैधानिक सम्बन्ध है इसका अनुपालन नहीं हो रहा है देश के अन्दर। संविधान की धारा के मुताबिक जो कुछ भी मंत्रिमण्डल का फैसला हो उसकी सूचना राष्ट्रपति जी को दी जानी चाहिए। कोई अगर यह कहता है कि यह सूचना किसी के जरिये राष्ट्रपति जी को भेज दी जायेगी तो यह संविधान का अनुपालन नहीं है। अखबारों में यह समाचार प्रकाशित हुआ है कि राष्ट्रपति जी को मंत्रिमण्डल के फैसले की सूचना दी जा रही है या तो कोई जूनियर मंत्री के जरिये या सरकारी अधिकारी के जरिये...

MR. CHAIRMAN: That point is not under discussion now. The point under discussion is: can the correspondence between the President and Prime Minister...

श्री सुरज प्रसाद : मैंने कोरसपोंडस की चर्चा नहीं की। मैंने इस तरह के पत्र व्यवहार की चर्चा नहीं की। मैंने कहा कि शिखवार में यह सूचना आई है कि इस तरह की सूचना राष्ट्रपति जी को दी जा रही है। कह रहा हूँ . . .

MR. CHAIRMAN: It can be discussed. That is your point.

श्री सुरज प्रसाद : दूसरी बात यह कहना चाहता हूँ कि प्रधान मंत्री जी ने इस तरह की सूचना देने से इन्कारा है इस प्रकार से उन्होंने संविधान का उल्लंघन किया। पार्लियमेंट में इस तरह का जवाब देकर उन्होंने संसद को मर्यादा का भी हनन किया है।

MR. CHAIRMAN: Mr. Matto. Nothing of what Mr. Suraj Prasad says will go on record. Three minutes for Mr. Matto and two minutes for Mr. Gopalsamy. After that I will give my ruling.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Sir, I think, an unnecessary controversy is sought to be raised. Why I say that is. *it* you see Art. 86(2), it says:

"The President may send message to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

SHRI LAL K. ADVANI: Sir, he is suggesting a course of action how Parliament can discuss it.

SHRI GHULAM RASOOL MATTO: My point is. I have seen at least two

papers saying that the letter purported to have been sent by the President is not genuine; it is not the correct copy. At least in two papers I have seen that. The Prime Minister is very categorical... Please let me have my say. My point of view is that when the Prime Minister is very categorical that the correspondence between the President and Prime Minister is confidential, this House can take cognizance provided a message is received by the Chairman from either the President or the Prime Minister.

MR. CHAIRMAN: Now, Mr. Gopalsamy, two more minutes only. So, I am not going to allow anymore.

SHRI V. GOPALSAMY (Tamil Nadu): Sir, the British Constitution is compared to a horse galloping forward, its head looking backwards, because of the role of conventions in the Constitution. Sir, when we say we follow the British conventions or Constitution on the role of conventions, then the man who has broken the conventions is none other than

our honourable "Prime Minister (*Interruptions*)... He himself stated, "I have broken a hundred conventions."

MR. CHAIRMAN: Come to the point.

SHRI V. GOPALSAMY: The President of India is not a decorative Head of State. He is not a mere symbol as stated by one member of the Ministry, Mr. Tiwari. He has stated in the *Illustrated Weekly*...

MR. CHAIRMAN: No, you are not talking relevant things. The relevant thing before the House today is only this—and I have repeated it times without number—namely, whether the correspondence, between the Head of State and Head of Government can be discussed in this Parliament. That is the only point-----(*Interruption*)...

SHRI V. GOPALSAMY: Sir, the President of India is not a decorative Head as stated by one member of the Ministry. He is not a mere symbol, i... (*Interruptions*)...

SHRI N. K. P. SALVE: It is unmitigated irrelevance.

SHRI V. GOPALSAMY; Sir, the dignity of the highest institution of the country should be protected whereas our honourable Prime Minister has broken the convention... (*Interruptions*)... Sir, he*

MR. CHAIRMAN: This will not go on record. Now I am satisfied that there has been a full discussion on this subject... (*Interruptions*)...

SHRI PARAVATHANENI UPEN-DRA: How could it be?

SHRI LAL K. ADVANI: There has been no discussion. The crucial issues that I raised were not relating to this limited issue. There has been no discussion on that... (*Interruptions*)...

HULLING BY CHAIRMAN);

Re. Letter Appearing in Indian Express of 13. 3. 87 Purported to have been written by President to Prime Minister.

MR. CHAIRMAN: Honourable Members, on the morning of March 13, 1987 a certain Delhi-based news paper published what purported to be the text of a letter written by the President of India to the Prime Minister of India.

Shri Jaswant Singh obtained the permission of the Chair to read in the House a communication addressed by him to the Chairman which

•Not recorded

inter alia sought a clarification on issues which, according to him, arose as follows:

(a) The veracity of this purported letter;

(b) The manner in which the newspaper gained access to such correspondence between high officers of State;

(c) Vital questions relating to the security of information and confidentiality of governance;

(d) The question arising from the Prime Minister having made a statement in Parliament, which the text of the purported letter appeared to refute.

Describing the issue as "not merely a privilege issue" but one that had Constitutional aspects to it, Shri Jaswant Singh appropriately concluded his remarks with the statement that Parliament should do nothing that might bring it in conflict with the office of the Head of State. Sarvashri Gopalsamy and Nirmal Chatterjee were permitted to associate themselves with the observations of Shri Jaswant Singh.

Shri Gopalsamy had earlier sought to raise this matter as an issue of privilege. On being apprised of the relevant rules in this regard, he, however, withdrew, his notice reserving his right, if any, to raise it again.

I also received, later, notices of Breach of Privilege against the Prime Minister from Sarvashri¹ Jaswant Singh, Upendra and Lakshmana. Shri Jaswant Singh supplied me his viewpoint in regard to interpretation of Articles 74 and 78. Shri Upendra again raised the matter on March 17, urging upon me to expedite my ruling.

After hearing their explanations, I informed them that I would go into the matter in depth. I also received on March 19, 1987, a letter signed by Shri Samar Mukherjee and eight