

श्री टी० एन० चतुर्वेदी (उत्तर प्रदेश) : पचौरी भी शामिल कर लीजिये ।

श्री राजू परमार (गुजरात) : वह तो हैं ही ।

एक माननीय सदस्य : पचौरी जी द्वारा ही तो उद्बोधन हो रहा है ।

MR. CHAIRMAN: How long will you take?

श्री सुरेश पचौरी : मैं अभी समय लूंगा । प्रधानमंत्री जी आ गये हैं, वे यदि वक्तव्य देना चाहते हैं तो दे दें । मैं उसके बाद बोलूंगा ।

STATEMENT BY MINISTER

Regarding Shri Ram Jethmalani's resignation from Union Council of Ministers

THE PRIME MINISTER (SHRI ATAL BIHARI VAJPAYEE): Mr. Chairman, Sir, certain statements have been made by Shri Ram Jethmalani, former Union Minister for Law, Justice and Company Affairs, with regard to the Chief Justice of India and the Attorney General of India. I have gone through those statements. My Government does not share the views of Shri Jethmalani with regard to the subject matter on which he has spoken. We completely disagree with his perception of the facts. The Government believes in promoting a harmonious relationship between the different wings of the State. Without going into the question of the correctness of any possible view involved on the issues on which Shri Jethmalani corresponded with the hon. Chief Justice of India, I was of the opinion that even the difference of opinion between the Chief Justice of India and the Law Minister should not create any imbalance in the harmonious relationship. Thus, in order to ensure that this harmonious relationship is not only maintained but also strengthened, I exercised my prerogative and asked Shri Jethmalani to resign. I have gone into the text of his statement issued yesterday, that is, 27th July, against the Chief Justice of India and the Attorney General of India. I reiterate that my Government completely disagrees with his perception.

THE LEADER OF THE OPPOSITION (DR. MANMOHAN SINGH): Mr. Chairman, Sir, I thank the hon. Prime Minister for the statement that he has made. I submit to him, through you, Sir, that this statement doesn't clarify all the doubts that we have in this matter. This matter is figuring in public debates. Therefore, I have a few specific queries which I would request the hon. Prime Minister to attend.

Sir, Mr. Jethmalani has stated that he has been sacked. He has further alleged that the Prime Minister was pressurised or manipulated by some persons to sack him. This is a grave charge. Will the Prime Minister be kind enough to tell us if there is any truth in these allegations? He has mentioned the circumstances which have led him to ask for the resignation of Shri Jethmalani. But the matter cannot rest here in view of what has been stated by Shri Jethmalani.

Secondly the public statements of both Shri Jethmalani and the learned Attorney General bring out that the relation between these two high dignitaries was far from being cordial. Both have levelled grave allegations amounting to impropriety, if not misconduct, against each other. Will the Prime Minister be kind enough to go into these allegations and counter-allegations, and inform the House about the results of any such investigation? We need a firm assurance in this matter.

Sir, the third issue relates to the public statements of the former Law Minister. These statements bring out that the relation between the executive and the judiciary is also far from being normal, leave aside cordial.

We are greatly distressed about this sad state of affairs. Will the Prime Minister inform us of the steps he is planning to take to end this state of mistrust and lack of confidence between the two vital branches of the Government? Fourthly, there is a question of some secret documents of the Government being in the possession of the former Law Minister. The hon. Law Minister said yesterday that he would look into the matter. We would like to know from the hon. Minister as to what action is being contemplated by the Government against the learned former Law Minister. Thank you.

MR. CHAIRMAN: Shri Nitopal Basu; Please seek short clarifications.

SHRI NILOTPAL BASU (West Bengal): Mr. Chairman, Sir, the statement which has been just now read out by the hon. Prime Minister addresses nothing because he has reiterated certain general principles, which the polity of the country has been informed over the years, about the maintenance of normalcy and harmony between the executive and the judiciary. The statement has not addressed the specific issues which have led to this kind of unseemly developments. The statement of the hon. Prime Minister shows that he had exercised his prerogative. We would like to know from in detail about the timing of the exercising of that prerogative. It appears from the statement that it has been quite a protracted process. Now why has he exercised this prerogative at this point of time? What were the steps taken by the hon. Prime Minister at different stages when this development was taking place? There is no mention about this in the statement. Secondly, there are two very serious issues which have been raised by Shri Ram Jethmalani in his public statement. We have also gone through the statement very carefully and cautiously. There are two fundamental questions which have been raised by Shri Ram Jethmalani. One issue relates to holding brief for the Hinduja power company by the learned Attorney General. Whether the Law Minister gave permission or not, that is not relevant. As a matter of principle, can a Principal Law Officer of the country hold brief for a private company or not? We know about the well-known Bofors case. In this case the perception of the Government is at variance with that of the Hinduja's case. By having them on his clientele will the Attorney General not be prejudiced in advising the Government on the Bofors case. This issue is of vital importance. We all know about the well-known and well-stated position of the Government on the Bofors issue. We would like to know whether the Government had taken this into consideration as well when it had allowed the Attorney General to take up that case for the Bofors company, as admitted by the Attorney General.

My next question is about the well-known telecom case. Mr. Chairman, Sir, if you allow me, I can authenticate and place on the Table of the House - it is already a public document - the two versions of the Attorney General's opinion which he had given to the Government in pursuance of the telecom migration case. The first opinion was given on 6th January, 1999 and the second opinion was given on 16th January, 1999. Here Shri Ram Jethmalani has raised a fundamental question. What is the prerogative of the Attorney General? Can he give an opinionated observation on policy issue? Or can he advise the Government on the legality of its action?

Now, a cursory reading of the two opinions, that of 6th January and that of 16th June, 1999, which are totally at variance with each other, reveals that it is an opinionated observation and in the realm of policy making which is beyond the mandate of the Attorney-General. And, I think, the fundamental issue is this. What is the prerogative and purview of the Attorney-General? Those are the issues which have to be addressed by the Government. And, fourthly, the point is that the Government has already moved the Bill on Right to Information. Therefore, in keeping with that spirit, I would like to know whether the Government is prepared to place all the papers, which have been referred to in Shri Jethmalani's statement, on the Table of the House so that the House can take a view, because there are troubles which cannot be pushed under the carpet. For the sake of the prestige and the dignity of this institution, we do not want to join issue with the Government on those issues at this point of time. But, I think, in consistent with the stand taken by the Government, as reflected in the piloting of the Right to Information Bill, those facts should also come up because these are the issues which the public at large and the media in particular are discussing and it will not be in keeping with the role that Parliament was conceived of in the Constitution that we do not take cognisance of all those serious issues which vitally affect the future of this institution, the future of the Indian polity and the Indian society.

SHRI C.M. IBRAHIM (Karnataka): Sir, I am very happy that the Prime Minister has taken the right stand. डेमोक्रेसी में जुडीशियरी सब से बड़ा पिलर है। आज तक 50 साल के इतिहास में किसी लॉ मिनिस्टर ने इस्तीफा देने के बाद इस प्रकार के बयान को आम जनता के सामने लाने की कोशिश नहीं की थी। हालांकि जिस वक्त वह लॉ मिनिस्टर थे उस वक्त उनको काफी ओपरच्युनिटीज थीं, लेकिन उन्होंने ऐसा नहीं किया। बस मैं सिर्फ एक क्लैरीफिकेशन चाहता हूँ कि सरकार इस पर क्या एक्शन लेगी? इसकी ज्यादा चर्चा बाहर नहीं होनी चाहिए क्योंकि चीफ जस्टिस, अटॉरनी जनरल का आज सारी दुनिया में हिन्दुस्तान की जुडीशियरी में एक निष्कलंक इतिहास है। उस पर कोई कलंक नहीं लगा है। जुडीशियरी की वजह से इस देश में डेमोक्रेसी को काफी सफलता मिली है और जनतंत्र भी बचा हुआ है। इस प्रकार की चर्चा और जिस व्यक्ति से बार-बार, जिस तरह से स्टेटमेंट आया है, यह एक चैलेंज है। यह चैलेंज जुडीशियरी को भी है और यह चैलेंज सरकार को भी है। इस पर आप क्या कदम उठाएंगे इसकी सफाई आप देंगे? मुझे उम्मीद है, यह जो काम आपने किया है पहले ही अगर कर देते तो शायद इस वक्त यह नहीं आता। फिर भी प्रधान मंत्री जी, आपने जो करना था, आपने किया, लेट हुआ लेकिन ठीक हुआ।

श्री रामगोपाल रादन (उत्तर प्रदेश): श्रीमान्, यह मसला देश के दो बहुत विद्वान वकीलों के बीच का है इसलिए मैं उसकी चर्चा नहीं कर रहा हूँ और दोनों व्यक्तियों ने कल फैम स्टेटमेंट के जरिए बहुत दलीली से और बहुत संभलकर अपनी बात कही, लेकिन प्रधान मंत्री जी का यह बयान उन दोनों वकीलों से भी ज्यादा दलीली से दिया गया बयान है। हम कितने चीज से असहमत हो सकते हैं, यह जानते हुए भी कि वह सत्य है या असत्य है। इसमें कही भी यह प्रकट नहीं होता है कि जो आरोप-प्रत्यारोप हुआ है दोनों के बीच में, उसमें कोई सत्यता है या नहीं। मैं माननीय प्रधान मंत्री जी से जानना चाहता हूँ कि क्या वे आरोप, जो लगाए गए हैं, सत्य हैं या सिर्फ आप डिसएंगी करते हैं, सत्य होते हुए भी ?

SHRI T. N. CHATURVEDI (Uttar Pradesh): Mr. Chairman, Sir, I am of the view that the Prime Minister has made the right statement at the right and the most appropriate time after taking into account the facts, the various views of different opposition parties and also what has appeared in the Press. I think the statement really answers all the questions that have been raised. It addresses itself to all the issues and the misgivings that have been mentioned in the House earlier and even today. In the first place, when it is said in the statement that we completely disagree with the perception of facts, it fully bears out that - whatever may be the factual accuracy or otherwise in the statements - so far as the Government is concerned, it does not consider them as the right ones. That is why this question of *satya* or *asatya* does not arise. In the second place, I would like to mention that all along the Prime Minister's emphasis has been on two very important facts. The first one is the question of maintenance of a harmonious relationship between the different wings of the State because all the wings of the State are subservient to the Constitution. It is not a question of one being superior to the others. Many a time, questions have been raised in this House itself. I will not go into that. But there was a case filed against a former Minister in the Allahabad High Court and then there was a very long discussion in this House and only one or two persons at that time upheld the so called majesty of the law and of the Constitution; I will just like to remind this House. Many a time, there have been other questions of PIL. In the PIL, too, question has been raised. But I have no doubt that all the sections of the House are interested in the... *(Interruptions)* I will also like to mention that... *(Interruptions)* I will also like to mention that references have been made to the Attorney General, another constitutional authority. Even while asking for certain clarifications, I think needless statements have been made which may cast or which may be construed to having cast reflections so far as the Attorney General is concerned, whereas the Government and the Prime Minister have very

categorically mentioned that any perception of people in this regard is absolutely unfounded. (Interruptions) I will also like to mention that many questions have been asked. (Interruptions) My question is this. Is it not a fact that what the Prime Minister has said sets at rest all the controversies because this question has to be seen in the light and the context of the harmonious relationship between the different wings of the State and that there should not be any imbalance - a phrase which the hon. Prime Minister has used - not only between the Chief Justice of India and the Law Minister, but amongst the three wings envisaged in the Constitution, about which the hon. Members have very often spoken? Sometimes, Parliament's supremacy has been sacrificed. So, I think the statement of the hon. Prime Minister sets at rest all controversies, doubts and misgivings which have needlessly been raised by some of the Members.

श्री रायदेव मंडारी (बिहार) : सभापति महोदय, प्रधानमंत्री जी ने अपने बयान में कुछ बातों पर प्रकाश डाला है मगर प्रधानमंत्री जी को अभी बहुत सी बातें कहनी हैं जो सदन उनसे जानना चाहता है। महोदय, प्रधानमंत्री जी ने हारमोनियस रिलेशंस की बात कही है। बहुत अच्छी बात है कि जो सरकार के महत्वपूर्ण विंग्स हैं, उनके बीच अच्छे रिलेशंस होने चाहिए, हारमोनियस रिलेशंस होने चाहिए लेकिन ये बातें एक-दो दिनों में नहीं हुई हैं। मैं समझता हूँ कि शायद कई दिनों से या कई महीनों से इनके बीच एक अंतर्गुह चल रहा था जिसकी जानकारी प्रधानमंत्री जी को होगी और अगर प्रधानमंत्री जी ने पहले स्टेप लिया होता तो शायद यह नीबट नहीं आती।

महोदय, जेठमलानी जी ने यह भी कहा है कि उन्होंने प्रधानमंत्री जी से मिलने का कई बार प्रयास किया, वे अपनी बातें उनके सामने रखना चाहते थे मगर प्रधानमंत्री जी से उन्हें मिलने का समय नहीं मिला और यह बात धीरे-धीरे काफी दूर तक चली गई और आज प्रधानमंत्री जी को यहां आना पड़ा सफाई देने के लिए। महोदय, यह बहुत गंभीर मामला है। सरकार के इतने महत्वपूर्ण विंग्स एक-दूसरे के खिलाफ आरोप लगा रहे हैं। इसलिए जितना गंभीर यह मामला है, उतनी ही गंभीरतापूर्वक इसकी जांच भी होनी चाहिए।

महोदय, जेठमलानी जी ने यह भी कहा है कि उन्होंने चीफ जस्टिस के परामर्श के बिना एम.आर.टी.पी. के चेयरमैन के रूप में जस्टिस बी.एम. लाल की नियुक्ति की थी। उनका यह कहना है कि इस नियुक्ति में चीफ जस्टिस के परामर्श की कोई जरूरत नहीं थी। मैं प्रधानमंत्री जी से इस संबंध में जानकारी चाहूंगा कि क्या ऐसे मामलों में विधि मंत्री को अधिकार है कि वे बिना चीफ जस्टिस के परामर्श के सीधे यह नियुक्ति करें ?

सभापति महोदय, मैं कहना चाहूंगा कि यह बहुत ही गंभीर मामला है। देश आज प्रधानमंत्री जी की तरफ देख रहा है। इतने बड़े कॉन्स्टीट्यूशनल विंग्स के बीच आरोप-प्रत्यारोप हुए हैं। इसलिए प्रधानमंत्री जी से मैं अनुरोध करना चाहूंगा कि वे विस्तार से इस मामले की जांच कराएं और एक बार फिर सदन में आकर पूरी बातों का खुलासा करें। धन्यवाद।

SHRI KULDIP NAYYAR (Nominated) : Sir, I am referring to a particular subject, and I agree with the Prime Minister on what he is saying about the Chief Justice. But this refers to the two letters which I wrote to the Prime Minister. Some time last year, I wrote a letter to the Prime Minister, when my question in this House regarding Shri Ram Jethmalani's certain way of functioning was rejected, and it was said that information cannot be given in public interest. Sir, I wrote to the Prime Minister that I could understand if it was some defence matter, but why secrecy regarding Shri Ram Jethmalani's way of functioning? He did not reply, but he told me on phone that he had referred the matter to the Attorney General. This was last year. Then I met him and he said, "You can check with the Attorney General." I did approach the Attorney General who said it would take him some time to look into the file. The Attorney General took some months, but then, very recently, he said that he had sent back the file to the Prime Minister.

One of the things was M.S. Shoes Company. There were allegations in the House regarding how Mr. Ram Jethmalani was trying to favour the company. So, in the last letter which I wrote very recently to the Prime Minister I had said, "I have checked with the Attorney General and the Attorney General is very evasive but he has assured that the file was sent back. What is the view of the Attorney General? I await your reply." Five days later, Mr. Jethmalani was asked to resign. *(Interruptions)* I have not attacked anybody but I have given the factual information.

My information is that the Attorney General has written in that file that there should be a further probe by the CBI into the affairs of Mr. Ram Jethmalani and that Mr. Ram Jethmalani should be kept out of the inquiry. Now, in place of that, firstly, I would like that those adverse remarks of the Attorney General should be placed before the House. Sir, this is what I have raised. This is what the Prime Minister has promised that he would refer it to the Attorney General. It follows that I should be told as to what the Attorney General has said.

The second thing I would like to implore upon the Prime Minister is that, when he knows certain things, then why did he give a clean chit to him? If I have read the statement correctly, he has said that there was nothing against Ram Jethmalani as far as other charges against him are concerned. Whatever it may be, I would like that those adverse remarks be made public. Also, please tell us what has happened.

SHRI J. CHITHARANJAN (Kerala): Sir, the hon. Prime Minister has made it clear that the Government did not share the views expressed by Ram Jethmalaniji, and he had also said that he disagreed with his perceptions. But, in this case, already Shri Ram Jethmalani has made certain allegations against the Attorney General as also against the Chief Justice of India. By the mere making of a statement that you do not agree with what is said by Jethmalani, things do not see an end. Suspensions have been already created in the minds of the Members as also in the public because it has come in the Press also. Therefore, will the hon. Prime Minister make the position clear with regard to the allegations so that the doubts in the minds of the hon. Members as also the public are cleared?

SHRI N.K. PREMACHANDRAN (Kerala): Sir, with due respect I submit that the statement made by the Prime Minister is incomplete. It also creates a cloud of suspicion in the country. The message is that there is a conflict between the judiciary and the executive.

In his statement, the Prime Minister has said, "My Government does not share the views of Shri Jethmalani with regard to the subject matter on which he has spoken. We completely disagree with the perception of the facts." Again, it is said, "The Law Minister should not create any imbalance in the harmonious relationship." That is the opinion of the hon. Prime Minister. Sir, it creates a doubt that there is a conflict between the judiciary and the executive. After resigning from the post of a Minister, Mr. Jethmalani has made a statement. Now, he is not the Law Minister. The former Law Minister makes specific allegations against the Constitutional authorities of our country, especially the Chief Justice of India and the Attorney General.

Therefore, I would like to know as to what steps the hon. Prime Minister is going to take because he disagrees with the views of Shri Jethmalani. He has been making specific allegations in the public. Therefore, a dispute has arisen. How are you going to resolve this dispute? What steps the Government is going to take to bring out the truth because there are some allegations before the country and this House levelled by the former Law Minister? This dispute has to be resolved by way of an inquiry and by taking further action in the matter. The second clarification that I want to seek is that yesterday the hon. Law Minister stated that Mr.

Jethmalani is in possession of certain documents which are confidential and secret. He also stated before this House that it was a criminal offence. I would like to know whether the Government would take some steps in this regard because he is in possession of some secret documents. These are the two clarifications that I want to seek. Thank you.

श्री राजीव शुक्ल (उत्तर प्रदेश): सभापति जी, मैं माननीय प्रधान मंत्री जी से एक-दो बातों पर स्पष्टीकरण चाहता हूँ। मैं उनके बयान से बिल्कुल सहमत हूँ कि जब उन्हें लगा कि चीफ जस्टिस के साथ जो एक रिश्ता लॉ-मिनिस्टर का होना चाहिए वह बिगड़ रहा है तो उन्होंने अपने अधिकारों का इस्तेमाल करके उनसे इस्तीफा मांगा। मेरे ख्याल से जेठमलानी जी से सदन के सभी सदस्य परिचित हैं। यहां पर काफी वकील हैं जो इस इश्यु को बहुत अच्छी तरह से जानते हैं। उनकी लीगल ओपिनियन क्या है यह तो मुझे पता नहीं है। पूरे माहौल से ऐसा लग रहा है कि जेठमलानी जी ने जो किया उसकी उन्हें सजा मिली और उनके साथ किसी को सहानुभूति भी नहीं है और न किसी की श्रद्धा है। लेकिन उन्होंने जो कुछ कहा है या जो आरोप लगाए हैं, उनको एक तरफा बिल्कुल इग्नोर कर देना या उनको छोड़ देना भी उचित नहीं है। हो सकता है कि उनकी बातें सही हों। अगर कल किसी ने टेलीविजन देखा हो तो उसको पता होगा कि कल किस तरह से तू-तू, मैं-मैं हो रही थी। एक तरफ जेठमलानी जी हैं और दूसरी तरफ अटार्नी जनरल अपने पद पर बैठे हुए हैं। कल जिस तरह से आरोप-प्रत्यारोप चल रहा था और जिस तरह से वह बोल रहे थे उससे मुझे नहीं लगता कि सार्वजनिक जीवन में उच्च पदों पर बैठे हुए लोगों को इस तरह से लड़ना चाहिए। जेठमलानी जी ने जो आरोप लगाए हैं, उनको भी बिल्कुल तिरस्कृत करके या दरकिनारा करके रख देना, यह उचित नहीं है। सरकार का उन आरोपों के बारे में क्या रुख है या उनको वह इग्नोर करती है, यह स्पष्ट होना चाहिए। मेरे ख्याल से उन आरोपों को गम्भीरता से लेकर अगर कोई कार्रवाई हो सकती है तो वह की जानी चाहिए। सिर्फ जेठमलानी जी को विलन बनाकर छोड़ देना उचित नहीं है।

SHRI SWARAJ KAUSHAL: Mr. Chairman, Sir, I thank you for this opportunity. I am sorry that the statement of the Prime Minister is vague on a couple of counts. The first is that throughout the Statement reference is made to the Chief Justice and the Law Minister on two occasions. . I have seen the earlier statement of the Government as well. Now, in the statement itself the language is, "Certain statements have been issued by Shri Ram Jethmalani former Union Law Minister for Law, Justice and Company Affairs with regard to the Chief Justice of India and the Attorney General of India." Then I come to the concluding part, "I have gone into the text of his statements issued yesterday against the Chief Justice of India and the Attorney General of India. I reiterate that my Government completely disagrees with his perception." Sir, the Chief Justice is occupying a very high Constitutional position. He heads the judiciary. You cannot discuss his conduct in the House. While in the case of Attorney

General I would say that he works under the overall supervision and guidance of the Law Minister. The two officers cannot be bracketed together. As regards the Chief Justice, please see the middle part of the statement, "Without going into the question of the correctness or any possible view involved on the issues on which Shri Jethmalani corresponded with the hon. Chief Justice of India..." Here you are creating further doubts about the correctness of the views of the Chief Justice. Why to create this doubt now? Why don't you convey to the Chief Justice what the entire House feels? We cannot discuss his conduct. We are not in agreement with Mr. Jethmalani as regards what he says about the Chief Justice of India. As regards the Attorney General, if the Attorney General opines and says that the former Law Minister ought to be prosecuted by the CBI, well, he deserves some kind of a comment from the Law Minister.

I think he asked for it; and, in that case, we should not brush aside the statement of Shri Jethmalani as regards the Attorney General. Since the Attorney General is an important officer and a functionary of the Government, I think the learned Attorney General should be advised to restrain himself from making the kind of statements that he is making right now.

SHRI R. K. ANAND (Bihar): Sir, for the benefit of the Members, I would like to say that when a Minister assumes charge of the office, he takes the oath of secrecy which is contained in the Third Schedule of the Constitution. I would like to read that part of the oath. It says, '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 available to me as a Minister in the Union, except as may be required for the due discharge of my duties as a Minister.' If you read the Statement of the former Law Minister we find that he has breached the oath of secrecy. I would like to ask the Prime Minister, what action is proposed to be taken against the former Law Minister.

SHRI C. RAMACHANDRAIAH (Andhra Pradesh): Sir, I was about to seek the same clarification as my predecessor. I do not want to bring the Prime Minister into a more precarious position. He is already in a predicament. Sir, politically, he has taken a decision by exercising his prerogative, by asking the Minister to resign. Sir, the Minister is under an oath of secrecy. He has violated it. So, other than this action, what action

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is the Government going to take so that in future, ministers can procure the information by virtue of their capacity as Minister and use it, according to their convenience, to blackmail the Government or the Prime Minister and other Ministers. Sir, the second aspect is, nobody has gone into the veracity of the allegations that have been levelled by Mr. Jethmalani. So, is it fair on the part of the Government to initiate action against a person who has levelled allegations against other persons though they are the highest Constitutional authorities and dignitaries? Sir, will the Government initiate action against him? It may not initiate action against the Chief Justice? But will it initiate action against the Attorney General so that the avowed objective of creating total harmony among the various wings of the Government can be achieved? That is one aspect. The second aspect, is, I am aware that the documents that have not been referred to by Mr. Jethmalani are not the property of this House because they have been laid on the Table of the House. But can the Chair allow the Members to have access to those documents?

SHRI KAPIL SIBAL (Bihar): Thank you, Mr. Chairman, Sir. I am a little, not a little but deeply disabled by the statement that has been made by the Prime Minister today because it seeks to put under the carpet all the issues that have arisen on account of Mr. Jethmalani's statement. What worries me more, Mr. Prime Minister, is your Statement here to the effect - I quote - "My Government does not share the views of Shri Jethmalani with regard to the subject-matter on which he has spoken. We completely disagree with his perception of the facts." Now, fact number one which Mr. Jethmalani has made in his statement is that, with respect to a power project in Andhra Pradesh, the learned Attorney General gave an opinion to a private party who was also at the same time being investigated by the CBI. You cannot possibly disagree with those facts. Admittedly, when an Attorney General gives an opinion to a private party, he disables himself in the process to advice the Government in the Bofors investigation because the private party happens to be a client in another case. That is point. That is point number two.

Point number three is, I invite your attention to article 76(2) of the Constitution of India. This is what it says. I quote, "It shall be the duty of the Attorney-General to give advice to the Government of India upon such

legal matters, and to perform such other duties of a legal character, as may, from time to time, be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force."

MR. CHAIRMAN: Just one minute. It is 1 o'clock. We will continue till this is over.

SHRI KAPIL SIBAL: It is clear from this article that whatever advice the Attorney-General has to give has to emanate either from the President of India or from the Government of India or in the discharge of his functions conferred on him under the Constitution or under any other law. He cannot give advice to any private party in view of article 76(2) of the Constitution. And I am surprised as to how the hon. Prime Minister says that he completely disagrees with Mr. Jethmalani in regard to the facts, because the fact is that the Attorney-General gave an advice in favour of Hindujas, when the Government of India itself was involved in the counter-guarantee. What is the reason for it? The reason is simple. And, he says so in his statement; I quote that. I would like to have a clarification from the hon. Prime Minister on this. This is what he says regarding the Bofors investigation. He says, "To the best of my knowledge, no serious investigation is taking place even now." This is his statement. This is his statement, as of yesterday, and the hon. Prime Minister, in one day, has conducted an inquiry and says that he completely disagrees with that perception. In one day! What inquiry did the hon. Prime Minister conduct? I would like to know as to what inquiry did you, Mr. Prime Minister, conduct between yesterday and today to find that the investigation is going on as desired by this Government and you are in complete disagreement with what Mr. Jethmalani has said.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY) : No chargesheet has been filed.

SHRI KAPIL SIBAL: I am sorry. Oh! I am talking about the investigation which is going on now. Because, a chargesheet is yet to be filed with reference to some other people because investigation is still going on, as you know, Mr. Law Minister, and the Attorney-General had given advice to those people and had also been advising the Bofors Investigation. What is that public perception? It is that the Attorney General is a pliable

person. This is what Mr. Ram Jethmalani has said. That is exactly what Mr. Ram Jethmalani has said.

The next point is this. The Law Minister knows about it. This Attorney-General also gave a private advice to Mr. Kishore Chand Chabria, without seeking a permission from the Law Ministry. In the past, it was the subject matter of a case in the Delhi High Court. This Attorney-General is in the habit of giving private advice, contrary to article 76(2) of the Constitution. What is the answer of the hon. Prime Minister and how does the Prime Minister say, in his statement, solemnly, that he completely disagrees with Mr. Jethmalani? I am sorry to say, Mr. Prime Minister, the matter cannot, possibly, rest here. I had, in fact, expected that the hon. Prime Minister would, once and for all, clarify all the issues that have come up before the people of this country; not just the issue relating to the Attorney-General. It is not as if the differences with the hon. former Law Minister did not exist prior to yesterday. They existed over the last several months. Then how is it that you sacked him only yesterday? It is because you have realised that this Government would be embarrassed. You have realised that you may be put in the dock...*(Interruptions)*...Not you; but the Government...*(Interruptions)*... So, I would like to know...*(Interruptions)*...

SHRI B.P. SINGHAL: Address the Chair...*(Interruptions)*...

SHRI KAPIL SIBAL: What I would like to know from the hon. Prime Minister is, is he willing to conduct a thorough inquiry, through an independent agency, in respect of all that had happened and brought out by Mr. Jethmalani, not only in respect of his statement, but also other matters relating thereto? In the fitness of things and in the context of the probity of the constitutional office that the Attorney-General holds, I think, you should request him to step down before that inquiry is conducted. We expect this, at least, from the hon. Prime Minister and from the Government, which, in fact, swears by probity in public life and transparency in public life. That is the least I expect from this Government. *(Interruptions)* No; Rs. 7 lakhs in seven days. In the hay, he got Rs. 7 lakhs. But that's a matter between the Government and the Attorney General. I don't want to enter into that controversy. In fact, what you give to your Attorney General, is a matter between you and the Attorney General. It is his concept of his responsibilities as to what he charges. That has nothing to do with us. But what concerns us is the manner in which the Attorney General used his

office and the manner in which he has given private opinion to a private party. This is not the first time that he has done it. In this context, Mr. Prime Minister, we do expect a thorough inquiry. We expect transparency from this Government.

SHRI ARUN JAITLEY: Sir, I am very grateful for the opportunity you have given to me. Certainly, the Prime Minister would be responding to a lot of questions which have been raised. My friend, Shri Kapil Sibal, has levelled certain allegations against the Attorney General. I must confess that Mr. Sibal, being a former law officer of the Government, is certainly in the know of both the precedents and factual situations. So, I expect him, at least, to know certain procedures. We have also here a former Law Minister, Shri Bhardwaj. The Attorney General is appointed by the Government. Somebody said he is subordinate to the Law Minister. It is not a factual position. He is an independent constitutional authority, created under the Constitution. When an Attorney General is appointed, it is his duty, under the Constitution, to advise the Government of India and to appear on behalf of the Government of India. There are terms of appointment which, *inter alia*, enable law officers of the Government, if they are ever called upon to advise in any private matter, or, to appear in a private matter, to seek the prior permission of the Law Ministry. This is not the first time that the Law Ministry has granted such a permission. Mr. Bhardwaj is here. He, probably, knows that during his tenure permissions to law officers to appear in private briefs on some occasions have regularly been granted even in the past. Mr. Sibal and myself had occasion to have been law officers in the same Government. We are aware of this precedent. *(Interruptions)*

SHRI KAPIL SIBAL: During my tenure, as Solicitor General, I never *(Interruptions)* gave any private advice to any private client. *(Interruption)* The issue is not of Government's permission. *(Interruptions)* Let him point out even a single instance of my giving any private advice. Please do not...*(Interruptions)* It is a question of propriety. It is not a question of permission. *(Interruptions)* I am not in any pending investigation... *(Interruptions)*

SHRI ARUN JAITLEY: It is certainly a question of propriety. Mr. Sibal would realise that I have not said that Mr. Sibal had been doing it. I certainly don't say that. I have no fact before me to say that. But it has

been a settled practice. Mr. Bhardwaj, former law Minister, who is sitting here, cannot dispute that in the past... *(Interruptions)*

SHRI HANSRAJ BHARDWAJ (Madhya Pradesh): As he has taken my name, I would like to clarify that... *(Interruptions)*

DR. BIPLAB DASGUPTA: You have taken his name. He has a right to speak. *(Interruptions)*

SHRI ARUN JAITLEY: Yes, yes; he has a right, but I am not yielding. Let me complete. There are several precedents... *(Interruptions)* Yes; I am consciously referring to it because there have been several precedents where law officers, including Attorney Generals, have been permitted to appear in private briefs. I am prepared to place the entire list before any Member of this House if he wants to see that. In this particular case, when Mr. Sorabji was consulted by a lawyer, he refused any consultation. On 3rd May, 1999 he wrote to the Law Minister, It has nothing to do with the Bofors investigation. In the Bofors case, part-chargesheet has been filed. The CBI is investigating the rest of the matter. He wrote to the Law Minister, who at that time was also the Power Minister, "In relation to the interpretation of a particular counter-guarantee, my opinion is being sought, and I have been told that the Power Ministry also desires that I should advise on the implications of the counter-guarantee." His letter to the Law Minister, who was also the Power Minister at that time, clearly says, "I have been orally informed by the advocate representing the queries. He set out the two queries that the Government of India is anxious to have an opinion about the true scope and effects of the counter-guarantee. The Law Minister, who was also the Power Minister, went into the whole question, passed an order, directed that he may be permitted to do so on a written consent. This was a permission which he sought on 3rd May, 1999; saying "since it has been brought to my notice, is there any objection that the Government has, or, does the Government permit me?"

On the 21st May, 1999, the Law Ministry specifically permitted Mr. Soli Sorabjee to give that. *(Interruptions)*

SHRI KAPIL SIBAL: Why did the Attorney General seek the permission? *(Interruptions)*

SHRI ARUN JAITLEY: We are taking up the issue, Mr. Sibal. *(Interruptions)*

SHRI KAPIL SIBAL: Why did the Attorney General seek that permission? *(Interruptions)* Was he short of advice? *(Interruptions)*

SHRI ARUN JAITLEY : The issue is between the Attorney General and the Government of India. *(Interruptions)*.

SHRI KAPIL SIBAL: Why did the Attorney General seek that permission? *(Interruptions)* That is why I am talking of propriety. *(Interruptions)* I would like to know why he sought the permission of the Government of India. *(Interruptions)* This is not fair. *(Interruptions)* This is not in the fitness of things. *(Interruptions)*

MR. CHAIRMAN: Let him speak *(Interruptions)* Let him speak and then Mr. Bhardwaj can speak. *(Interruptions)*

SHRI ARUN JAITLEY: Mr. Chairman, Sir, I am prepared to place before this House the entire list of cases where law officers in the past have sought permission under the Congress Government, under the United Front Government, to appear in private cases, or, advise in private cases, and the Law Ministers have granted that permission. *(Interruptions)*

SHRI KAPIL SIBAL: The issue is not that. *(Interruptions)* Therefore, it is a case of bofors. *(Interruptions)*.

श्री संघ प्रिय गौतम (उत्तर प्रदेश): सभापति महोदय, बिटा लीजिए इन्हें ..(व्यवधान) ..

SHRI ARUN JAITLEY: I am afraid . . . *(Interruptions)* . . . a power project . . . *(Interruptions)* I want only one minute.

MR. CHAIRMAN: Let him complete. *(Interruptions)*

SHRI JIBON ROY (West Bengal) : Who sought the permission? *(Interruptions)*

SHRI NILOTPAL BASU (West Bengal): This is a political question. *(Interruptions)*

MR. CHAIRMAN: Mr. Nilotpal Basu, let him complete. *(Interruptions)* Let him complete. *(Interruptions)* So, Mr. Sibal, let him complete. *(Interruptions)*.

SHRI KAPIL SIBAL: He has not answered the question; that is the point. *(Interruptions)*.

MR. CHAIRMAN: Let him complete. *(Interruptions)* No, Mr. Jibon Roy, let him complete. *(Interruptions)*.

SHRI ARUN JAITLEY: A power project has been granted to a private party in the State of Andhra Pradesh. In relation to the counter-guarantee on that power project, if an interpretation is sought, I fail to understand how it can be suggested that that interpretation on counter-guarantee has some bearing on the Bofors case merely because the promoters happen to be persons under investigation. *(Interruptions)*

श्री संघ प्रिय गौतम : सभापति महोदय, बिदा लीजिए इन्हें .. *...(व्यवधान) ..*

SHRI ARUN JAITLEY: It is a counter-guarantee of the Government of India and the Attorney General mentioned . . . *(Interruptions)*

SHRI KAPIL SIBAL: So, the Government of India should have sought the opinion. *(Interruptions)* Why did the Hinduja seek opinion? *(Interruptions)* And why did the Hinduja seek permission? *(Interruptions)*

MR. CHAIRMAN: Let him complete. *(Interruptions)*.

SHRI ARUN JAITLEY: It is a counter-guarantee . . . *(Interruptions)*

MR. CHAIRMAN: Let him complete. *(Interruptions)*. After that, Mr. Bhardwaj will speak. *(Interruptions)*

श्री संघ प्रिय गौतम : सभापति महोदय, आपने तय किया था कि बीच में नहीं बोलेगे ... *...(व्यवधान)...*

SHRI ARUN JAITLEY: It is a counter-guarantee of the Government of India and that's why the learned Attorney General in his request

mentioned. 'with regard to the interpretation of this counter-guarantee, my opinion is being sought. Is the Government of India prepared to permit me and give a No-Objection to the granting of the advice?' *(Interruptions)* The Government of India said so. *(Interruptions)*

SHRI KAPIL SIBAL: Why did the Attorney General seek the permission of the Government of India? *(Interruptions)*

SHRI ARUN JAITLEY: There is absolutely...*(Interruptions)*. There is absolutely no violation of any procedure or propriety. It is perfectly in accordance with the precedents and conventions. The Attorney General was right when he sought the permission of the Government of India. He set out the complete facts. After going into the facts, the Government of India granted him the permission. *(Interruptions)* There is absolutely no violation of any convention or precedent. *(Interruptions)*

SHRI KAPIL SIBAL: In other words, you are permitting the future Attorney Generals to give private advice. *(Interruptions)*

SHRI ARUN JAITLEY: This is wrong. *(Interruptions)* In the past also, Attorney Generals had been permitted to appear in private matters. This is not the first time that it has happened. *(Interruptions)*

SHRI JIBON ROY: Where? *(Interruptions)*

SHRI KAPIL SIBAL: No; I am sorry, that is not the point. *(Interruptions)*

Mr. Jaitley, that is relating to only part-heard matters and not in fresh matters. I have never sought it. You have never sought it. *(Interruptions)*

SHRI S.S. AHLUWALIA (Bihar) : Mr.Chairman, Sir, are we discussing the conduct of the Attorney General in this House? *(Interruptions)*

SHRI KAPIL SIBAL: That is the subject-matter. *(Interruptions)*

SHRI MD. SALIM (West Bengal) : If necessary, we would discuss it. *(Interruptions)*

SHRI S.S. AHLUWALIA: You are talking about the Hinduja power project. Who had sanctioned that power project? *(Interruptions)*

SHRI MD. SALIM: You are accountable to Parliament. *(Interruptions)* We will discuss it. It is the right of the House. *(Interruptions)*

SHRI KAPIL SIBAL: Let him come to the House. *(Interruptions)* We can discuss it.

AN HON. MEMBER: Under what law, under what rule? *(Interruptions)*

SHRI KAPIL SIBAL: According to article 88 of the Constitution, the Attorney General can come to the House to give an explanation. *(Interruptions)*

श्री सुरेश पचीरी (मध्य प्रदेश): सभापति महोदय, पहले भी इस सदन में हुआ है। अटार्नी जनरल से संबंधित जब कोई बात उठाई गई है तो अटार्नी जनरल को इस सदन में आने के लिए कहा गया है। 1963 में जब डिप्टी फाइनेंस मिनिस्टर ने स्टेटमेंट दिया था तो इस सदन ने प्रस्ताव पारित किया और अटार्नी जनरल इस सदन में आए। ऐसी बात नहीं है। अटार्नी जनरल का जब भी रेफरेंस आया है तो इस सदन ने प्रस्ताव पारित करके बुलाया है। अटार्नी जनरल से संबंधित यहां पर बहुत गंभीर बातें उठाई गई हैं। इसलिए अटार्नी जनरल को सदन में बुलाया जाए ताकि दूध का दूध और पानी का पानी हो जाए। खुद प्रधानमंत्री जी ने यह कहा है कि सारे तथ्य उजागर होने चाहिए लेकिन तथ्य उजागर नहीं हुए। इसलिए अटार्नी जनरल को इस सदन में बुलाना आवश्यक है।

SHRI MD. SALIM: The Attorney General should be summoned. *(Interruptions)*

SHRI KAPIL SIBAL: The Prime Minister is going out. How can he go? *(Interruptions)*

MR. CHAIRMAN: Let him complete. *(Interruptions)*

SHRI MD. SALIM: What is this, Sir? *(Interruptions)*

SHRI KAPIL SIBAL: Now we should walk out. The Prime Minister has gone. *(Interruptions)*

श्री सुरेश पचीरी : अटार्नी जनरल को सदन में बुलाया जाए। ...*(व्यवधान)*...

SHRI MD. SALIM: This is very unfortunate. *(Interruptions)* प्राइम मिनिस्टर तो चले गए। ...*(व्यवधान)*...

SHRI KAPIL SIBAL: The Attorney General must come. *(Interruptions)*

श्री सुरेश पचीरी : प्रधानमंत्री तो गए अब क्या करेंगे। ...*(व्यवधान)*...

SHRI T.N. CHATURVEDI: The Prime Minister is coming back. *(Interruptions)*

SHRI KAPIL SIBAL: The Attorney General should come to this House. *(Interruptions)*

SHRI MD. SALIM: We are discussing the Prime Minister's statement. How can he go? *(Interruptions)*

AN HON. MEMBER: On a point of order, Sir. *(Interruptions)*

श्री सुरेश पचीरी : मान्यवर,...*(व्यवधान)*... सदन की परम्परा रही है कि ...*(व्यवधान)*... अटार्नी जनरल को सदन की प्रोसीडिंग्स में भाग लेने का अधिकार है । ...*(व्यवधान)*...ऐसी बात नहीं है कि पहली बार यह बात हो रही है । 1963 और 1996 में जब इस प्रकार की बात उठी थी

MR. CHAIRMAN : After Mr. Jaitley, you can speak ...*(Interruptions)*...

SHRI MD. SALIM : Sir, I want to know whether Shri Ram Jethmalani will come to the House or not. ...*(Interruptions)*... Sir, the Government appoints the Attorney-General to defend it. Here, one Law Minister has been sacked. Now, another Law Minister is defending the Attorney-General. ...*(Interruptions)*..

श्री सुरेश पचीरी : सभापति महोदय, अटार्नी जनरल को सदन में बुलाया जाए । ...*(व्यवधान)*...बहुत सी बातें माननीय सदस्यों ने सदन में उठाई हैं । ...*(व्यवधान)*...अटार्नी जनरल को हाऊस में बुलाया जाए ताकि स्थिति स्पष्ट हो जाए । ...*(व्यवधान)*...

श्री मोहम्मद सलीम : अदालतलिया जी से हम सहमत हैं ... (व्यवधान)... १३ हाऊस को अधिकार है। ... (व्यवधान)...

MR. CHAIRMAN : Please sit down. I am not able to hear anything. ... (Interruptions)... I am not able to hear anything, who is saying what. What I suggest to the Members is that, let Mr. Jaitley complete. Then Mr. Bhaidwaj will have his say, and, after that, if there is anything, we can certainly consider as to how to go about it. Everything should be done in a systematic manner. If all the Members speak at the same time, neither I will hear nor anybody else will hear. ... (Interruptions)...

SHRI C. RAMACHANDRAIAH : Sir, I am on a point of order. Sir, the State of Andhra Pradesh has sanctioned the project and they have asked ... (Interruptions)...

SHRI PRANAB MUKHERJEE : How does the project come here? ... (Interruptions)...

SHRI C. RAMACHANDRAIAH : Kindly allow me for a minute so that you can understand. ... (Interruptions)... Without hearing me, how can you ascertain the facts?

MR. CHAIRMAN : As every Member has a right to raise point of order, he is raising a point of order. Let me hear him. Either I will reject it or accept it. ... (Interruptions)...

SHRI C. RAMACHANDRAIAH : Just because we are here, do not think we will support everything. Don't arrive at such a conclusion ... (Interruptions)... Sir, the State of Andhra Pradesh has sanctioned the project, and it has asked the Hindujas to open the escrow account. ... (Interruptions)...

AN HON. MEMBER : It has nothing to do with this issue. ... (Interruptions)...

SHRI C. RAMACHANDRAIAH : You are losing your case by this way. ... (Interruptions)...

AN HON. MEMBER : Under which rule is he speaking?
...(Interruptions)...

MR. CHAIRMAN.: He will quote some rule. You also know.
...(Interruptions)... Please, please.

SHRI C. RAMACHANDRAIAH : If you kindly bear with me for a couple of minutes, you will understand. Sir, the Hindujas have approached the IDBI for financial assistance. They want to have the financial closure within the stipulated time. Sir, the IDBI is the creation of the Government of India. The Government of India owns it 100%. There is one State Government. The opinion has been sought about the escrow account. Will it not be against a public sector undertaking or the State Government? Can an opinion be given against the IDBI -- which is the creation of the Central Government -- or against the State Government? Will he be permitted? I question the prudence and the propriety of the Law Minister. How has he given the permission? ...(Interruptions)...

SHRI ARUN JAITLEY: Sir, on the first issue, I have already made the statement that the Attorney General sought the permission. As per the practice, the permission was granted. There was no deviation from any procedure or practice. The Attorney General committed no impropriety. There is absolutely none.

SHRI NILOTPAL BASU: Sir, the point is not of procedure.
...(Interruptions)...

MR. CHAIRMAN: No; no, please. I will ask Mr. Bhardwaj to speak. .. (Interruptions)... No. Don't interrupt. When Mr. Bhardwaj speaks, nobody should interrupt him.

SHRI ARUN JAITLEY: No impropriety is involved in this. The Attorney General sought the requisite consent, which was granted to him.

A question was also raised with regard to the content of the statement of the former Law Minister with regard to the amount of fee etc. paid to the Attorney General for the advice sought by the Government from him on the telecom matter. I have read in the newspaper today the statement of the Attorney General. I have also verified the facts. The

Attorney General gives advice on matters, on which his advice is sought. It is between the Attorney General and the client involved the concerned Ministry of the Government of India at that time. The Attorney General raises his bills to the Government for the appearances he puts up in courts. The Law Ministry clears those Bills. The Law Ministry has cleared those bills. I see absolutely nothing unconventional or unprecedented in the matter. Everything has been done according to the procedure, and the former Law Minister himself who made the statement yesterday, had cleared all those bills. ... *(Interruptions)*...

MR. CHAIRMAN: Please don't interrupt.

SHRI ARUN JAITLEY: With regard to the third factor, some hon. Members want to know whether the Chief Justice is being consulted in the matter relating to the appointment of the MRTP Commission Chairman. I wish to clarify that the process of consultation with the hon. Chief Justice is on.

SHRI KAPIL SIBAL: What about Mr. Chhabria?

SHRI ARUN JAITLEY: Well, this is not an issue that has been...

SHRI KAPIL SIBAL: You know the facts.

SHRI ARUN JAITLEY: I am sorry, Mr. Sibal. *(Interruptions)*...

Yesterday, when the statement was made, you were certainly entitled to object to it. But I urge upon you earnestly: please don't translate the references from the cases that you are arguing in courts and that are *sub judice*....*(Interruptions)*....

SHRI KAPIL SIBAL: I am not. The fact is that he gave a private opinion to Mr. Chhabria, and he never sought the permission of the Government.

SHRI ARUN JAITLEY: Let me illustrate it.

SHRI KAPIL SIBAL: These are the facts.

SHRI ARUN JAITLEY: These are certainly issues

SHRI KAPIL SIBAL: You cannot seek the protection under '*sub judice*' because the people of the country know it.

SHRI ARUN JAITLEY: It is not fair. (*interruptions*)

MR. CHAIRMAN: No, please. Mr. Bhardwaj.

SHRI HANSRAJ BHARDWAJ: Mr. Chairman, Sir, I am not aware of what this Government is doing with its Attorney General or its Law Minister. The new Minister perhaps is not aware of what has gone on. I have been putting question and questions. This Government has not heard me, and this is the fate that it is meeting today.

Attorneys General hold a constitutional office primarily to advise the President. They are not to do private practice. If they do so, the Government has to own the responsibility for it. I do not know how much opinion this law officer in this Government has given. I remember, in 1985 or 1986, a law officer argued a case against the interest of the Government, in the Delhi High Court. The Chief Justice, Shri Prakash Narayan, wrote to the Delhi Administration. He was dismissed. I do not remember whether it was in 1986 or 1987. Primarily, law officers are appointed to defend the interest of the State. If the State makes an exception, they can do so under rule 7 of the rules on appointment of law officers. That is done where the Government feels that there is no State interest involved in it. That is the prerogative of the Government.

SHRI ARUN JAITLEY: I am grateful for this clarification. Please also state whether you gave such permissions or not.

SHRI HANSRAJ BHARDWAJ: But, Mr. Jaitley, I do not find a case in the last 50 years where a Law Minister had to go for an Attorney General. It should have been the other way round because he is accountable to the Cabinet.

It happened with one Attorney General during my tenure. He did something. I never permitted him to do that. The Opposition raised that

question on the floor of the House. Next day that Attorney General was out. He is no more in the world today. I will not mention his name. These new precedents are being set up.

I have no regard for that Law Minister. It was unfortunate that your Prime Minister appointed him. He knows how his Government went out of office within 13 days of his being appointed as Law Minister. It is well-known to the Prime Minister and to Mr. Joshi, particularly. It was unfortunate to have a Law Minister who had no regards either for the Judiciary or for the Attorney-General or for the Prime Minister. It is for you to judge. I know, whenever I did not want my law officer to appear, and if he appeared, the next day, he was no more in the Law Ministry. It is for you to decide. Why do you drag me into this controversy?

SHRI ARUN JAITLEY: I am grateful to Mr. Bhardwaj, at least for pointing out Rule 7 under which law officers are granted permission to appear.

SHRI KAPIL SIBAL: The point is not that. It is a matter of propriety.

MR. CHAIRMAN: On the clarifications, the Prime Minister will now speak.

श्री अटल बिहारी वाजपेयी : सभापति जी, इस चर्चा में महत्वपूर्ण सदस्यों ने भाग लिया है और बातें भी महत्वपूर्ण कही गई हैं। एक बात मेरे ध्यान में आई है कि सदन का या सदन के कुछ सदस्यों का रुख कल अलग था और आज कुछ अलग है। मैं नहीं जानता ऐसा क्यों है? लेकिन जो मैंने वक्तव्य दिया है उसमें स्थिति को स्पष्ट करते हुए भी यह सावधानी बरती गई है कि एग्जीक्यूटिव और जुडीशियरी के बीच में कोई दरार नहीं होनी चाहिए। न्यायपालिका एक महत्वपूर्ण स्तम्भ है। स्वतंत्र न्यायपालिका हमारे गणतंत्र का आधार है। इसीलिए हम सदन में जजों के व्यवहार की चर्चा नहीं करते। उनके आचरण को चुनौती नहीं देते। प्रधान मंत्री के नाते मेरी यह जिम्मेदारी थी कि मैं देखूँ कि जुडीशियरी और एग्जीक्यूटिव के बीच में यह जो संतुलन है यह सही संतुलन कायम रहे। मतभेद हो सकते हैं। "मुँडे मुँडे मतिर भिन्नः"। लेकिन मतभेदों को प्रकट करने का माध्यम क्या हो और किन विषयों को लेकर मतभेदों को सार्वजनिक किया जाए या न किया जाए? जो भी सलाह देनी है जिसको सलाह देनी है, वह सलाह निजी तौर पर दें, अपने दंग से दें। उसका सार्वजनिक प्रचार नहीं होना चाहिए। मेरे मित्र जेठमलानी की मुश्किल यह है कि उन्होंने चुप रहने की कला का अभी तक अभ्यास नहीं किया है। वे चुप नहीं रह सकते। कई बार ऐसे मौके आए जब उन्हें मित्रतापूर्ण दंग से कहा गया कि जो विषय आपके अधिकार क्षेत्र में नहीं आते उन पर आप बोलते हैं, फिर आप कहते हैं कि यह मेरी व्यक्तिगत राय थी। यह कोई

अच्छा तरीका नहीं है। लेकिन मैं इसमें विफल रहा हूँ। जब मैंने देखा कि प्याला लबालब भर गया है और जुडीशियरी के और एग्जीक्यूटिव के बीच में बड़ी गहरी खाई खुद रही है, तो मैंने जेठमलानी जी से कहा कि आप त्याग-पत्र दे दीजिए। उन्होंने त्याग-पत्र दे दिया। अब वह कहते हैं कि मुझे बर्खास्त किया गया है। अब मैं नहीं जानता कि दोनों में क्या अंतर है। लेकिन मैंने त्याग-पत्र मांगा, उन्होंने त्याग-पत्र दे दिया। हमने उसे स्वीकार कर लिया। प्रधान मंत्री के नाते मैंने अपने अधिकार का उपयोग किया, दायित्व का निर्वाह किया। क्या सदन मेरे इस अधिकार को चुनौती देना चाहता है ?

कई माननीय सदस्य : बिल्कुल नहीं।

श्री अटल बिहारी वाजपेयी : क्या किसी की नियुक्ति के लिए या किसी को उसके पद से हटाने के लिए, मंत्री को हटाने के लिए प्रधान मंत्री को कटघरे में खड़ा किया जाएगा ?(व्यवधान) आप पूछ सकते हैं कि किन परिस्थितियों में ऐसा हुआ।(व्यवधान)

श्री खान गुफ़रान जाहिदी (उत्तर प्रदेश): आपके अधिकार को चैलेंज कहाँ किया?... (व्यवधान)

श्री अटल बिहारी वाजपेयी : धन्यवाद-धन्यवाद।

DR. BIPLAB DASGUPTA: When you knew the character and ability of the person to challenge, why did you make such a person as Law Minister twice?

श्री अटल बिहारी वाजपेयी : सभापति महोदय, अब मैं इसका क्या उत्तर दूँ। डा० मनमोहन सिंह जी ने कहा कि क्या मेरे ऊपर दबाव डाला गया था, क्या मुझे मेनिपुलेट किया गया था। किस बात के लिए ? जेठमलानी को हटाने के लिए या हटाया न जाए, इस बात के लिए ? दबाव का तो सवाल ही पैदा नहीं होता और मैं किसी दबाव में आकर काम करूँ, यह मेरी प्रकृति नहीं है, यह मेरा स्वभाव नहीं है। जिस दिन ऐसा दिखाई देगा कि दबाव डाला जा रहा है किसी गलत काम को करने के लिए, तो मैं सदन में नहीं रहूँगा, मैं संसद में नहीं रहूँगा। लेकिन जो कदम उठाया गया, सोच-समझकर उठाया गया, विचार-विनिमय के बाद उठाया गया। कानून मंत्री को हटाना एक कठोर कदम है और संसद के पूर्व फैसला करना था और इसके लिए उन्हें अवसर दिया गया था कई बार। अब सदन जानना चाहता है, कब-कब अवसर दिया गया था, क्या बात हुई, यह तो मेरे और उनके बीच में प्रेमालाप है, इसमें मैं सदन को भारीदार नहीं बना सकता, लेकिन उनके रहने के कारण संतुलन बिगड़ रहा था इसलिए हटा दिया गया। यह आरोप लगाए गए थे, जो आरोप लगाया गए हैं, अभी भी आज लगाए गए हैं, हमारे मित्र श्री कुलदीप नैयर कहाँ हैं ? शायद वे पाकिस्तान गए हों। मैं कोई टिप्पणी नहीं कर रहा हूँ.. ..(व्यवधान)..

DR. BIPLAB DASGUPTA: Why did you mention Pakistan?
...(Interruptions)...

SHRI MD. SALIM: It is a very uncharitable comment.
...(Interruptions)...

SHRI KHAGEN DAS (Tripura) : It is very unfair. ...(Interruptions)...

श्री एन०के०पी० साल्वे (महाराष्ट्र): आप भी तो गए थे पाकिस्तान । ..(व्यवधान)...

श्री अटल बिहारी वाजपेयी : सभापति महोदय, बोफोर्स के मामले में कड़ाई से जांच हो रही है । श्री जेठमलानी का यह आरोप सही नहीं है कि शायद इसीलिए बोफोर्स के मामले में दिलाई बरती जा रही है । दिलाई बरतने का सवाल ही नहीं है, मगर मामला उलझा हुआ है, सालों से चल रहा है और हम उसमें धीरे-धीरे प्रगति कर रहे हैं, लेकिन सारे सबूत जुटाए बिना मामले को अदालत में ले जाना ठीक नहीं है । कुछ मामले अदालत में गए हैं, कुछ लोगों के खिलाफ गए हैं, लेकिन जिनके लिए यह चर्चा हो रही है, हिन्दुजा ब्रदर्स के लिए जो चर्चा हो रही है, उन्होंने नागरिकता बदल ली है, वे भारत आने से इन्कार कर रहे हैं, लेकिन उनका बयान जरूरी है, उसके बिना पूरा केस बनेगा नहीं, मामला बनेगा नहीं, उस दिशा में हम लोग लगे हुए हैं । जब मैं प्रतिपक्ष में था, तब मैं बोफोर्स की बात कर रहा था, आज तो मुझसे लोग पूछते हैं और मैं जानता हूँ कि मेरे लिए कोई जवाब देना मुश्किल होता है । लोग पूछते हैं कि भाई, आप तो कहते थे कि हम 15 दिन में कर देंगे, आपके नेता ने कहा था कि हम महीने भर में कर देंगे, लेकिन क्या हुआ ? मैंने कहा कि प्रतिपक्ष में बैठकर कुछ बातें करना आसान होता है, जब सत्ता में आते हैं तो कठिनाइयाँ समझ में आती हैं । ... (व्यवधान).. यह कोई कन्फेशन नहीं है .. (व्यवधान)...

SHRI PRANAB MUKHERJEE : Thank you for your candid admission.

श्री अटल बिहारी वाजपेयी : मगर हमारे आचरण पर कोई संदेह नहीं कर सकता, ईमानदारी पर शक नहीं किया जा सकता । जो देर लग रही है, वह प्रशासनिक कारणों से लग रही है, अदालती कारणों से लग रही है, पर हम उसे जल्दी करना चाहते हैं । बोफोर्स की तोपों ने लड़ाई में बहुत अच्छा काम किया है और आपको शायद याद नहीं होगा, जब राज्यसभा में बोफोर्स के मामले पर बहस हुई थी तो मैं इसी सदन का सदस्य था और मैंने उस समय भी कहा था कि तोप कैसी है, इसकी बहस नहीं है । तोप अच्छी है, तोप खरीदनी चाहिए मगर तोप की खरीद में जो गोलमाल हुआ है, वह नहीं होना चाहिए था । अब हम उस गोलमाल का पता लगाना चाहते हैं । जेठमलानी जी का आरोप सही नहीं है ।

सभापति महोदय, एक मामला और उठा है कि कुछ सीक्रेट डॉक्यूमेंट्स, कॉन्फिडेंशियल डॉक्यूमेंट्स पब्लिश कर दिए गए हैं । श्री जेठमलानी जी कहते हैं कि उन्होंने खुद फोटोस्टेट कॉपी निकालकर अखबार वालों को दी हैं । अब ये आचरण ठीक नहीं है । मंत्री पद से जो हट जाता है, उसकी भी कुछ जिम्मेदारियाँ होती हैं लेकिन हम जांच कर रहे हैं । उन्होंने जो कुछ कहा है, उसकी जांच कर रहे हैं और जांच के लिए एक कमेटी का निर्माण किया गया है जिसमें

लेजिस्लेटिव डिपार्टमेंट के चीफ विजिलेंस ऑफिसर हैं। उनको यह निर्देश दिया गया है कि वे इस मामले की पूरी जांच करके तथ्यों को सामने लाएं। सारे तथ्य सामने आने के बाद पता लगेगा कि किस तरह से लीक हुआ, कौन जिम्मेदार है? वैसे तो अब हम सूचना संबंधी विधेयक ला रहे हैं, क्या कॉन्फिडेंशियल है और क्या सीक्रेट है, इसकी नए ढंग से परिभाषा की जा रही है लेकिन एक मंत्री के नाते श्री जेठमलानी जी का व्यवहार ठीक नहीं है। अपने साथ कागज ले जाना, यह ठीक नहीं है। अगर हम चाहते तो हम भी बोफोर्स के कागज ले आते। कम से कम अब तो मंगा ही सकते हैं मगर हम उसमें दखल नहीं दे रहे हैं। सी.बी.आई. जांच करने के लिए स्वतंत्र है। उस पर कोई दबाव नहीं डाला जा रहा है, किसी दिशा में कोई दबाव नहीं डाला जा रहा है और हम इस परंपरा को कायम रखना चाहते हैं, इस परंपरा को मजबूत करना चाहते हैं।

सभापति महोदय, सदन के कुछ माननीय सदस्यों ने एटॉर्नी जनरल की आलोचना की है। मुझे विश्वास है कि संविधान की सीमाओं को देखते हुए ही उन्होंने अपने उद्गार प्रकट किए होंगे। एटॉर्नी जनरल स्वयं उत्तर दे रहे हैं मगर हमने उनको मना किया है। कल यह बहस हुई थी लेकिन उनकी भी कठिनाई है। वे कहते हैं कि मुझे कटघरे में खड़ा कर दिया गया है। मैं अपनी सफाई भी नहीं दे सकता।

श्री नीलोत्पल बसु : हाऊस में आकर दें।

श्री रामदेव थंडारी : जो बाहर बोल रहे हैं, वह यहां आकर भी बोल सकते हैं।

श्री अटल बिहारी वाजपेयी : आप पूरी बात तो सुन लीजिए।

SHRI KAPIL SIBAL: Article 88 of the Constitution entitles the Attorney-General to come to this House and give an explanation. Please let him come.

श्री अटल बिहारी वाजपेयी : आरोप अखबार में लगाए गए हैं।

श्री कपिल सिब्बल : धारा 88 कहती है कि वे आ सकते हैं और अपना जवाब यहां दे सकते हैं।

श्री अटल बिहारी वाजपेयी : उनको हमने स्पष्ट कर दिया है।

श्री कपिल सिब्बल : उनको बुलाइए।

श्री अटल बिहारी वाजपेयी : इस सदन में जो अपनी सफाई आप नहीं दे सकते, अपनी रक्षा आप नहीं कर सकते, उनकी सफाई देना सरकार की जिम्मेदारी है। वे एक संवैधानिक पद पर हैं।

श्री कपिल सिब्बल : आप क्यों उनको सफाई देगे ?

श्री अटल बिहारी वाजपेयी : अगर कल उन पर इस तरह के आरोप न लगाए जाते तो न तो वे वक्तव्य देकर अपनी सफाई देते और न ही हमारे मित्र श्री अरुण जेटली को सारा विवरण सदन के पटल पर रखना पड़ता ।

श्री जीवन राय : इधर ले आइए । थोड़ी पूछताछ करेंगे ।

श्री अटल बिहारी वाजपेयी : उन्होंने जो मामला उठाया था उस पर उनसे बातचीत होती रही है, पत्र-व्यवहार भी हुआ है। एटार्नी जनरल को इस मामले की देखभाल के लिए सौंपा गया था। एटार्नी जनरल ने अपनी रिपोर्ट दी है और उसमें एम०एस० शूज के बारे में स्पष्ट राय रखी है। मैं उद्धृत करना चाहता हूँ। यह उनका पत्र है सोली सोराबजी का जो श्री अरुण जेटली को लिखा गया है। पूरा पत्र मैं नहीं पढ़ रहा हूँ, उसका एक हिस्सा जो संदर्भ से जुड़ा हुआ है उसी को उद्धृत कर रहा हूँ : Regarding M.S. Shoes, on the main question of sanction for prosecution, my answer was in the negative and in favour of Ram. However, I did opine about the need for further investigation in view of the leakage of the file containing the notes and orders of the Minister and their reproduction by M.S. Shoes in the litigation against the Government. इसकी जांच हो रही है और तथ्य सदन के सामने रखे जाएंगे, सारे देश के सामने रखे जाएंगे। किसी साथी से बिछड़ना एक कष्टदायक बात है। जिस तरह की राजनीति देश में चल रही है और जिसमें मैं भी उलझ गया हूँ उसमें कभी-कभी वेदना होती है, पीड़ा होती है। हम किधर जा रहे हैं, कहाँ जाकर रुकेंगे? लेकिन संसद है, संसद को छूट है। लेकिन उसके बावजूद भी यह प्रयत्न बना रहना चाहिए कि हमारे देश में जुडिशियरी, एक्जीक्यूटिव और संसद इनके बीच में समतोल बना रहे, संतुलन बना रहे। भारत संसार का सबसे बड़ा लोकतंत्र होने का दावा करता है और यह जो दृश्य कल दिखाई दिया, थोड़ा सा उमर कर सामने आया वह लोकतंत्र की कमजोरी मैं नहीं मानता हूँ, वह लोकतंत्र की शक्ति है, क्योंकि आखिर में जाकर सभी इस राय के हो जाते हैं कि जो न्यायपूर्ण है वह होना चाहिए और गलती अगर कोई भी करे तो उसको माफ नहीं किया जाना चाहिए। और इसी आधार पर हम चल रहे हैं और पूरा विश्वास दिलाता हूँ कि इस मामले में हम जो कुछ करेंगे सोच समझकर करेंगे, आपको विश्वास में लेकर करेंगे।

MR. CHAIRMAN: The House is adjourned for lunch till 2.30 P.M.

The House then adjourned for lunch at forty-eight minutes past one of the clock.

The House reassembled after lunch at thirty-seven minutes past two of the clock, THE VICE-CHAIRMAN, SHRI T.N. CHATURVEDI, in the Chair.