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Supreme Court reserves verdict in disqualified MLAs' case

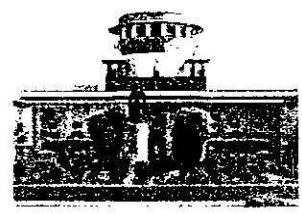
They offered their resignations to bring down government, says Kapil Sibal

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Noting that genuineness and motive are linked by an umbilical cord, senior advocate Kapil Sibal, for the Congress, said it is an open secret that the dissident MLAs offered their resignation *en masse* to bring down the Congress-Janata Dal (Secular) government in Karnataka.

The arguments in the Supreme Court came on the last day of the hearing before a Bench led by Justice N.V. Ramana. The Bench reserved the case for judgment.

Mr. Sibal said the petitions, filed by the disqualified MLAs, raised several questions of law impacting the polity of the country and should be referred to a Constitution Bench. "We are in politics. It is not an era of secrecy. In politics, we know



who is going where and what is happening," he said.

Mr. Sibal said the Speaker was entitled to an inquiry into the resignations submitted by the MLAs by going into the subsequent and preceding events. "There is an umbilical cord between genuineness and motive. He may get information prior and subsequent to the conduct of the MLAs," he said.

"Genuine resignation means he does not want to be a member of the House, and not that he wants to re-

sign to become a Minister. The Speaker has to look into the circumstances and there is no bar on resigning and getting elected. It depends upon the nature, motive and materials before the Speaker. Acceptance of resignation has to be issue-based," senior counsel argued.

Solicitor General Tushar Mehta on Thursday suggested that the Speaker take a fresh call in the case of the 15 disqualified MLAs under the anti-defection law.

Mr. Mehta is appearing for the Speaker's office. The court is hearing the MLAs' petitions against their ouster by former Speaker K.R. Ramesh Kumar. Mr. Ramesh Kumar was replaced by Vishweshwara Hegde Kageri, when the Congress-Janata Dal (Secular) government fell and the BJP came to power. Mr. Mehta said the case

should go back to the Speaker's table rather than the Supreme Court decide on it. He said legislators had the right to resign.

Mr. Mehta argued that it was "not defection if you give up membership of a political party for reasons of conscience; then you resign and go back to face the public mandate. This is recognition of the MLAs' right to resign". The Solicitor General submitted that for an MLA, his constituency was sovereign. A party whip could not stop him from doing good for his electorate. In such cases, the legislator might opt to resign rather than continue his participation in an ineffectual government. Senior advocate Rajeev Dhavan, for the JD(S) leader, said defection was the biggest evil in politics. He said it reduced politics to a "trade".