

COMMITTEE OF PRIVILEGES

(SIXTH LOK SABHA)

THIRD REPORT

21 NOV 1978

(Presented on the November, 1978)



LOK SABHA SECRETARIAT
NEW DELHI

November, 1978/Agrahayana, 1900 (Saka)

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**Corrigenda to the Third Report
of the Committee of Privileges
(Sixth Lok Sabha)**

<u>Page</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
1	13	45	47
2	2	1st	21st
23	23	up the the	up the
44	5	It	At
45	14	forture	fortune
46	6	It	I
46	4 from bottom	at	as
69	1	Mr.	M/s.
78	7	This	That
90	12	affairs	affair
91	42	owned	controlled and managed
94	16	send "another"	sent another
96	15	provisions	provision
98	2	even	event
103	12	former	formal
112	15	before any	before in any
112	30	essential	essential
112	37	45	47
112	38	141	144
116	19	Committee also	Committee
117	7	and would	and
121	39	and of	and
123	10	covered	covered
125	11	C. B. I.	C. B. I. ;
128	14	Bharich	Bharij
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133	12	proceeded	proved
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	(from bottom)		

<u>Page</u>	<u>Line</u>	<u>For</u>	<u>read</u>
135	1	other	others
136	6	emabated	emanated
141	11	supplied	supplies
144	15	reasons	reason
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145	11	connection	concoction
151	24	Beacause	Because
152	10	ignorance of	ignorance on
153	8	of evil	of her evil
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154	35-36	complaints	complaint
157	14	constitute	constitutes
158	19	deserve	deserves
162	10	raise	to raise
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180	15	replies	replied
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184	17	consequence	consequences
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185	11	these	those
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<u>Page</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
187	4	honest	honest
187	5	incriminating	incrimination
188	for line 20	<u>read</u> Gandhi is a person accused of an offence. Under Art. 20(3) she	
190	10 (from bottom)	set	set up
193	2 (from bottom)	admitted	admittedly
194	11	question	questions
194	19	by or	by /or
194	20	order/or practice	order, practice
202	12	Industry	Inquiry
203	18 & 19	<u>delete</u> the words:	

WITNESS

Shri T.A. Pai, (former Minister of
Industry and Civil
Supplies)

205	25	<u>The Committee</u> <u>then adjourned</u>	<u>The witness</u> <u>then withdrew</u>
262	19	effect	affect
262	26	unpunished	unpunished
264	1 (from bottom)	furore	furore
265	2	Prime Miister	Prime Minister
266	11	preferred	referred

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*Printed Separately in Volume II.

PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(1977-79)

*1. Professor Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Professor P. G. Mavalankar
8. Shri R. Mohanarangam
9. Dr. V. A. Seyid Muhammed
- **10. Shri Narsingh
11. Shri Narendra P. Nathwani
12. Shri Meetha Lal Patel
13. Shri B. Shankaranand
14. Shri Madhav Prasad Tripathi
15. Shri Ravindra Varma.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

*Appointed Chairman with effect from 5-8-1977 *vice* Shri K. S. Hegde resigned from the Committee.

**Nominated with effect from 31-8-1977.

THIRD REPORT OF THE COMMITTEE OF PRIVILEGES (SIXTH LOK SABHA)

I. Introduction and procedure

I, the Chairman of the Committee of Privileges, having been authorised by the Committee to submit the Report on their behalf present this Third Report to the House on the question of privilege raised¹ by Sarvashri Madhu Limaye and Kanwar Lal Gupta, MPs, and referred² to the Committee by the House on the 18th November, 1977, against Shrimati Indira Gandhi, former Prime Minister of India, and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in the Fifth Lok Sabha on Maruti Ltd.

2. The Committee held 45 sittings to ascertain facts and arrive at their conclusions regarding the allegation of breach of privilege and contempt of the House against Shrimati Indira Gandhi, former Prime Minister, Shri R. K. Dhawan, then Additional Private Secretary to the former Prime Minister and Shri D. Sen, former Director, Central Bureau of Investigation.

The relevant minutes of these sittings form part of the Report and are appended hereto.

3. At their first sitting held on the 29th November, 1977, the Committee decided to hear Sarvashri Madhu Limaye and Kanwar Lal Gupta, MPs, who had raised the above question of privilege in the House. The Committee also decided that they might be requested to produce before the Committee relevant documents, including certified copies of the proceedings of the Shah Commission of Inquiry relating to this matter.

4. At their second sitting held on the 6th January, 1978, the Committee examined Sarvashri Kanwar Lal Gupta and Madhu Limaye, MPs. Thereafter, the Committee decided that Shrimati Indira Gandhi, former Prime Minister, Shri D. Sen, former Director of Central Bureau of Investigation and Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister, be asked to state, in the first instance, what they might have to say in the matter for consideration of the Committee by the 21st January, 1978.

¹. L.S. Deb., dt. 15-11-1977, cc 242-52, dt. 16-11-1977, cc 208-36 and dt. 17-11-1977, cc 225-52.

². *Ibid.* dt. 18-11-1977, cc 221-37.

5. At their third sitting held on the 24th January, 1978, the Committee perused the letter³ dated the 1st January, 1978, received from Shrimati Indira Gandhi requesting for extension of time upto 7th March, 1978, for submitting her written statement to the Committee. The Committee decided to grant her extension of time upto the 1st March, 1978, for the purpose.

The Committee then perused the letter⁴ dated the 21st January, 1978, received from Shri R. K. Dhawan, and acceded to his request for extension of time by one week for submitting his written statement to the Committee.

The Committee then perused the contents of the letter⁵ dated the 20th January, 1978, received from Shri D. Sen, former Director of C.B.I.

Thereafter, the Committee decided to examine in person Sarvashri T. A. Pai and D. P. Chattopadhyaya, MPs, former Ministers of Industry and Civil Supplies and Commerce, respectively, and the following four concerned officers who were alleged to have been obstructed and harassed in this case :

- (1) Shri R. Krishnaswamy, Director, Department of Heavy Industry.
- (2) Shri A. S. Rajan, Development Officer, Directorate-General, Technical Development.
- (3) Shri L. R. Cavale, Chief Marketing Manager, Projects and Equipment Corporation.
- (4) Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation.

6. At their fourth sitting held on the 10th February, 1978, the Committee examined on oath Shri D. P. Chattopadhyaya, MP, former Minister of Commerce.

7. At their fifth sitting held on the 11th February, 1978, the Committee examined on oath Shri R. Krishnaswamy, Director, Department of Heavy Industry and Shri A. S. Rajan, Development Officer, Directorate-General, Technical Development.

At their sixth sitting held on the 22nd March, 1978, the Committee decided to postpone the evidence of Shri T. A. Pai, M.P., to 23rd March, 1978, and that of Sarvashri L. R. Cavale, P. S. Bhatnagar and D. Sen to subsequent dates.

³. See Appendix I.

⁴. See Appendix II.

⁵. See Appendix III.

8. At their seventh and eighth sittings held on the 23rd and 29th March, 1978, respectively, the Committee examined on oath Shri T. A. Pai, MP, former Minister of Industry and Civil Supplies.

9. At their ninth sitting held on the 30th March, 1978, the Committee examined on oath Shri L. R. Cavale, Chief Marketing Manager, Projects and Equipment Corporation.

10. At their tenth sitting held on the 31st March, 1978, the Committee examined on oath Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation.

Thereafter, the Committee directed that the Ministries of Industry, Commerce and Home Affairs might be asked to furnish to the Committee the following records/documents in respect of (a) Shri R. Krishnaswamy, Director, Department of Heavy Industry, (b) Shri A. S. Rajan, Development Officer, Directorate-General, Technical Development, (c) Shri L. R. Cavale, Chief Marketing Manager, Projects and Equipment Corporation and (d) Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation :—

- (a) Complete official records regarding suspension/transfer/CBI inquiries/Court cases against them from 1975 onwards ;
- (b) Charge-sheets given to them and replies furnished by them to the charge-sheets and action taken thereon ;
- (c) Their Confidential Reports during the period of their service ;
- (d) CBI records relating to the investigation of cases against them, the findings of CBI and the action taken in respect of each of them ;
- (e) Conduct Rules governing the above-mentioned Officers.

The Committee further directed that the following documents might also be obtained for perusal by the Committee :—

- (a) Business Associateship Agreements entered into by STC/PEC with M/s. Batliboi and Company for the import of Machine Tools for the years 1972 to 1975.
- (b) Red Book (Import Policy for the years 1973, 1974 and 1975).

11. At their eleventh sitting held on the 4th April, 1978, the Committee examined on oath the following officers of M/s. Batliboi and Co. Ltd., New Delhi :—

- (1) Shri J. S. Mathur,
Liaison Officer.

(2) **Shri L. M. Adeshra,**
Resident Deputy General Manager.

(3) **Shri B. M. Lal,**
Deputy General Manager.

12. At their twelfth sitting held on the 5th April, 1978, the Committee examined on oath the following officers of the Projects and Equipment Corporation of India Ltd., New Delhi :—

(1) **Shri B. C. Malhotra,**
former Chief Personnel Manager.

(2) **Shri R. K. Tarneja,**
Chief Personnel Manager.

(3) **Shri L. K. Dhawan,**
Director.

13. At their thirteenth sitting held on the 6th April, 1978, the Committee examined on oath Shri Vinod Parekh, former Chairman, State Trading Corporation of India Ltd., New Delhi.

14. At their fourteenth sitting held on the 25th April, 1978, the Committee examined on oath Shri M. N. Misra, former Director, Personnel, Projects and Equipment Corporation and Shri S. S. Khosla, former Assistant Development Officer, Directorate General of Technical Development.

15. At their fifteenth sitting held on the 26th April, 1978, the Committee examined on oath Shri Mantosh Sondhi, former Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry).

The Committee then directed that the Ministry of Industry (Department of Heavy Industry) might be asked to furnish to the Committee, the original file relating to Starred Question No. 656 regarding purchase of machinery by M/s. Maruti Ltd., answered in Lok Sabha on the 16th April, 1978.

16. At their sixteenth sitting held on the 27th April, 1978, the Committee examined on oath Shri S. M. Rege, former Secretary, M/s. Maruti Limited.

17. At their seventeenth sitting held on the 28th April, 1978, the Committee noted that according to the Motion adopted by the House on the 18th November, 1977, referring this question of privilege to the Committee, the Committee were required to present their Report to the House within a period of six months. The Committee decided that as the Committee had yet to take the evidence of a number of witnesses, hold

deliberations and then prepare and consider the draft Report, a motion might be moved⁶ in the House by the Chairman seeking extension of time for presentation of their Report to the House on the matter.

18. At their eighteenth sitting held on the 14th June, 1978, the Committee examined on oath Shri N. K. Singh, former Special Assistant to the then Minister of Commerce.

The Committee then decided that Shri B. D. Kumar, former Chairman, Projects and Equipment Corporation of India Ltd., who was then employed as Consultant to the Economic and Social Commission for Asia and the Pacific, Bangkok, might be asked to send immediately a full statement of facts known to him regarding action against Sarvashri L. R. Cavale and P. S. Bhatnagar of Projects and Equipment Corporation, for consideration of the Committee.

19. At their nineteenth sitting held on the 15th June, 1978, the Committee further examined on oath the following witnesses :—

- (1) Shri B. C. Malhotra,
former Chief Personnel Manager,
State Trading Corporation of India Ltd.
- (2) Shri R. Krishnaswamy,
Director,
Department of Heavy Industry.
- (3) Shri Mantosh Sondhi,
former Secretary,
Ministry of Industry and Civil Supplies,
(Department of Heavy Industry)

20. At their twentieth sitting held on the 16th June, 1978, the Committee examined on oath Shri S. M. Ghosh, former Joint Secretary, Ministry of Industry and further examined on oath Shri R. Krishnaswamy, Director, Department of Heavy Industry.

6. The following motion was adopted by the House on the 11th May, 1978 :

“That this House do extend by four months the time for presentation of the Report of the Committee of Privileges on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation and harassment of certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.”

The time for presentation of the Report of the Committee was further extended by the Speaker on the 2nd September, 1978, as the House was not in Session then, upto the last day of the first week of the next Session of Lok Sabha, i.e., Winter Session, 1978.

21. At their twenty-first sitting held on the 19th June, 1978, the Committee examined on oath Shri D. Sen, former Director, Central Bureau of Investigation.

The Committee then considered two letters dated the 16th June⁷ and 19th June⁸, 1978, received from Shrimati Indira Gandhi who had been asked to appear before the Committee on the 21st and 22nd June, 1978. Shrimati Indira Gandhi had stated therein that in view of what she had said in her statement enclosed with her letter dated the 16th June, 1978, she did not think it necessary to attend the proceedings of the Committee, "at any rate at this stage".

The Committee, however, directed that Shrimati Indira Gandhi be asked to appear before the Committee on the 21st and 22nd June, 1978, as asked earlier.

22. At their twenty-second sitting held on the 20th June, 1978, the Committee examined further on oath Shri D. Sen, Director, Central Bureau of Investigation.

The Committee also examined on oath Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister.

23. At the twenty-third sitting held on the 21st June, 1978, the Committee examined further on oath Shri R. K. Dhawan.

The Committee also considered a letter⁹ dated the 21st June, 1978, from Shrimati Indira Gandhi requesting postponement of the proceedings of the Committee as she was not feeling well on that day. The Committee decided that she might be asked to appear before the Committee on the 22nd June, 1978, provided her state of health permitted.

24. At their twenty-fourth sitting held on the 22nd June, 1978, the Committee considered a further letter¹⁰ dated the 21st June, 1978, from Shrimati Indira Gandhi stating that as she was still indisposed, she might not be in a position to appear before the Committee on the 22nd June, 1978. The Committee decided that Shrimati Indira Gandhi might be asked to appear before the Committee on the 5th July, 1978, and also on the 6th July, 1978, if required.

The Committee then examined further on oath Shri R. K. Dhawan.

7. See Appendix IV.

8. See Appendix V.

9. See Appendix VI.

10. See Appendix VII.

25. At their twenty-fifth sitting held on the 5th July, 1978, the Committee considered a written statement¹¹ dated the 5th July, 1978, received from Shrimati Indira Gandhi. The Committee also heard her submissions on the legal point as to why she was not obliged to take oath or make affirmation before making any submissions to the Committee on the question of privilege against her.

26. At their twenty-sixth sitting held on the 6th July, 1978, the Committee deliberated on the legal points raised by Shrimati Indira Gandhi in her statement dated the 5th July, 1978, and decided to seek the legal opinion of the Attorney-General of India on the legal points raised by Shrimati Indira Gandhi and also to hear him at a subsequent sitting.

27. At their twenty-seventh sitting held on the 7th July, 1978, the Committee examined further on oath Shri T. A. Pai, MP, former Minister of Industry and Civil Supplies.

The Committee also examined on oath Shri B. D. Kumar, former Chairman, Projects and Equipment Corporation.

The Committee then considered and approved the legal points¹² for reference to the Attorney-General of India for his opinion.

28. At their twenty-eighth sitting held on the 21st July, 1978, the Committee considered the question whether in view of the F.I.R.¹³ lodged against Shrimati Indira Gandhi and others for criminal offences under various sections of the Indian Penal Code, the issue of double jeopardy could arise and whether the provision contained in Article 20(2) of the Constitution would be attracted if the Committee of Privileges continued their proceedings in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

The Committee decided to refer the matter to the Attorney-General of India for his opinion.

29. At their twenty-ninth sitting held on the 29th July, 1978, the Committee considered the written opinion¹⁴ given by the Attorney-General of India on the legal points referred to him.

¹¹. See Appendix VIII.

¹². See Minutes of sitting held on 7-7-1978.

¹³. See Appendix IX.

¹⁴. See Appendix X.

The Committee also discussed with the Attorney-General of India the legal points raised by Shrimati Indira Gandhi before the Committee at the same sitting.

The Committee then decided to refer certain further points¹⁵ to the Attorney-General of India for his opinion.

The Committee also decided that Shrimati Indira Gandhi and Shri R. K. Dhawan might be asked to appear again before the Committee for giving further evidence, on the 19th and 20th August, 1978.

30. At their thirtieth sitting held on the 19th August, 1978, the Committee first considered a letter¹⁶ dated the 16th August, 1978, received by the Chairman from Shri B. Shankaranand, a member of the Committee, stating *inter alia* that he had to undergo a major operation in a Bombay Hospital recently and had not received any notice of the sitting of the Committee. He had contended that "any meeting so held will be irregular, illegal and unauthorised as it is without intimation to me and particularly so as I am the only member representing my Party on the Committee... I am keen that the interest and the views I represent do not go by default". The Committee, however, after having discussion on the points raised by Shri B. Shankaranand in his letter, decided to continue their proceedings.

Shrimati Indira Gandhi was then called in and asked by the Chairman to take oath or make an affirmation. Shrimati Indira Gandhi, however, stated that she was not "legally bound to take the oath or to answer any interrogatories". She then read out a written statement¹⁷ dated the 19th August, 1978, in support of her contention, stating *inter alia* that "a formal First Information Report has been registered by the Delhi Special Police Establishment and investigation has already been ordered against me. . . . I am, therefore, now a formal accused on the same charges on which I have been summoned to appear before the Lok Sabha Privileges Committee. . . . my answers are bound to be also 'self-incriminating' whether examined on oath or not".

Shrimati Indira Gandhi was thereafter asked to withdraw to enable the Committee to deliberate on the matter.

After a thorough discussion, the Committee felt that the contentions of Shrimati Indira Gandhi were not tenable and the Committee decided to proceed further with her examination.

15. See Minutes of sitting held on 29-7-1978.

16. See Appendix XI.

17. See Appendix XII.

Shrimati Indira Gandhi was again called in and the Chairman informed her that the Committee had considered all the points that she had raised in her submission before the Committee, but that the Committee did not agree with her arguments. She was then asked again to take an oath or make an affirmation and make a statement after hearing the main pieces of evidence that had been produced before the Committee. Shrimati Indira Gandhi, however, stated that she had already stated her case and that it was her "inalienable right not to say anything" against herself. Shrimati Indira Gandhi was thereupon told that she could be apprised of the main pieces of evidence and that if she wanted to make a statement thereon, she could do so. Shrimati Indira Gandhi, however, declined to make a statement or answer interrogatories.

The Committee then examined further on oath Shri R. K. Dhawan.

31. At their thirty-first sitting held on the 24th August, 1978, the Committee authorised the Chairman to fix the programme of sittings of the Committee and matters connected therewith.

32. At their thirty-second to forty-second sittings held on the 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 29th and 30th September, and 3rd and 12th October, 1978, the Committee deliberated on the matter and arrived at their conclusions.

33. At their forty-third to forty-fifth sittings held on the 26th, 27th and 28th October, 1978, the Committee considered their draft Report and adopted it.

II. Motion of Privilege : Reference by the House to the Committee of Privileges

34. Shri Madhu Limaye, MP, gave notice¹⁸ of a question of privilege dated the 10th October, 1977, against Shrimati Indira Gandhi, former Prime Minister and Shri D. Sen, former Director, Central Bureau of Investigation, for alleged intimidation and harassment of certain officers for collecting information for reply to a question tabled during Fifth Lok Sabha regarding Maruti Ltd.

Shri Madhu Limaye, in his notice of question of privilege, stated, *inter alia*, as follows :—

"The Maruti question referred to before the Shah Commission¹⁹ was my question. I faced a number of difficulties in getting it admitted. Finally it was put down for answer in a terribly

¹⁸. See Appendix XIII.

¹⁹. See enclosure to Appendix XIII for news report in *Times of India* dt. 30-9-1977, re. proceedings of Shah Commission.

mutilated form in the winter session of 1974. When I protested, it was again put down for answer in the Budget Session of 1975. But the answer was evasive.

The fact is that the Secretariat of the then PM was responsible for the non-admission and mutilation of my question. It was the then PM's Secretariat which was responsible for the evasive reply of the Industry Minister.

Now it is clear that when the officers of the Industry Ministry were trying to collect information for the purposes of preparing an answer to my question the then Prime Minister ordered the searches of the Officers' houses. She had fabricated charges prepared against them. In view of the revelations made before the Shah Commission it is absolutely clear that the PM not only interfered with the work of Parliament, she intimidated and harassed the Officers for doing their duty towards the Lok Sabha. This is gross contempt of Parliament and must be punished as a breach of privilege of the House.

My charge of contempt of the House is against the following persons :—

- (1) Mrs. Indira Gandhi, who directed raids against the Officers for collecting information for parliamentary questions.
- (2) Mr. Sen, the then Director of the CBI who conducted these raids on the basis of fabricated charges.

If necessary, Mr. Bishan Tandon, then Joint Secretary in the PM's Secretariat and Mr. Shakdher, then Secretary-General of the Lok Sabha, may also be asked to testify. If found involved they should also be hauled up."

35. Subsequently, Shri Kanwar Lal Gupta, MP, also gave notice²⁰ of a question of privilege dated the 18th October, 1977, on the above subject against Shrimati Indira Gandhi, former Prime Minister, Shri R. K. Dhawan, Additional Private Secretary to the former Prime Minister and Shri D. Sen, former Director, Central Bureau of Investigation.

Shri Kanwar Lal Gupta, in his notice of question of privilege stated, *inter alia*, as follows :—

"I give notice of my intention to raise a question of breach of privilege against the following persons for obstructing, harassing and instituting false cases against four Officers of the Ministry of Heavy Industry, Directorate-General of Technical Development and Projects and Equipment Corporation who were

²⁰ See Appendix XIV.

collecting information on behalf of the Minister on import of machinery by Maruti Private Limited in order to prepare a reply for a question tabled during the Fifth Lok Sabha :—

- (1) Shrimati Indira Gandhi,
Former Prime Minister of India.
- (2) Shri R. K. Dhawan,
Additional Private Secretary to the former Prime Minister.
- (3) Shri D. Sen,
the then Director of Central Bureau of Investigation.

This has been substantiated by the statement of Shri T. A. Pai, the then Minister of Heavy Industry, on whose behalf the concerned Officials were collecting information for answering questions in Parliament and of the other concerned Officers.

The.....reports of the proceedings of the Shah Commission held on the 29th and 30th September, 1977, and reported in the newspapers of the 30th September and 1st October, 1977, respectively, clearly establish the facts of the case and the breach of privilege involved therein.

The Officers were collecting the information required for answering the question on 'Maruti' in the Parliament. They were the agents of the Minister who was supposed to answer the question on the basis of the information to be collected by those Officers. The Central Bureau of Investigation raided their houses, harassed them and tortured them. The only fault of theirs was that they were collecting information for the House at the instance of the Minister. I have gone through the *May's Parliamentary Practice* and *Kaul-Shakdher* book but there is no parallel to this case because nowhere in any democratic country of the world, the leader of the House had ever misused his or her office to obstruct the functioning of the House of which he or she was the leader. In this case, Mrs. Gandhi, with the active connivance of the Central Bureau of Investigation Chief and Mr. Dhawan hatched this conspiracy and ruined the careers of these Officers and stopped their source of livelihood and thus threw them and their family members on the street just because she wanted to hide the misdeeds and corruption of Sanjay Gandhi and the misuse of Government machinery by her from the House."

•

36. On the 15th November, 1977, Sarvashri Madhu Limaye and Kanwar Lal Gupta sought²¹ to raise the above question of privilege in the House. The Speaker, however, observed that he was examining the matter and would decide it in a day or two.

37. On the 16th November, 1977, Shri Madhu Limaye raised²² the question of privilege in the House and stated, *inter alia*, as follows :—

“The facts are very simple. Mrs. Gandhi’s son was issued a letter of intent (of which the period was extended several times) and finally an industrial licence to manufacture a cheap and hundred per cent indigenous car on the condition that no import licence will be asked for or given and that no machinery of foreign origin will be allowed to be used in the manufacture of this car. From the very beginning, I was critical of the Project and I doubted the ability of Mr. Sanjay Gandhi to manufacture any car or the genuineness of his promise of not using any imported machinery for producing it.

In 1974, I began to receive reports about the circumvention by Maruti Ltd. of the conditions laid down by the Government and willingly accepted by Mr. Sanjay Gandhi. When I got hold of the Annual Report and Accounts of Maruti Ltd. for the year 1973-74, I found a mention at pages 16-17 of the machinery installed or in the process of installation in the factory. The Maruti report made no mention of the fact that part of the machinery was imported machinery of foreign origin. Naturally they wanted to conceal from the general public the fact that conditions of licence had been blatantly violated by them. When I learnt that the imported machinery had been obtained by Maruti Ltd. through Batliboi & Sons, I tabled a question in the House in the 1974 Winter Session of the Lok Sabha. The question made a reference to pages 16 and 17 of the Maruti report and stated whether part of the machinery installed was of foreign origin.

After creating a lot of difficulties about the admission of the question, finally the Lok Sabha Secretariat admitted it in a mutilated form (Unstarred Question 4175 on 11-12-1974), of course, without reference to me, and with the inevitable result that a negative answer was conveniently given. The mutilation consisted in the fact that the reframed question asked whether Maruti report mentioned that foreign machinery had been installed. It was ridiculous to have framed such a question.

²¹. L.S. Deb., dt. 15-11-1977, cc 242-52.

²². L.S. Deb., dt. 16-11-1977, cc 208-36.

The distortion was introduced at the instance of the Prime Minister's Secretariat. When I strongly protested and kicked up a row in the House itself the question was admitted in the original form and was set down for answer on 12-3-1975 (U.S.Q. 2980). Again the reply was evasive. Now what went on behind the scene during these days has been exposed before the Shah Commission.

When I persisted in my effort to elicit the embarrassing information about the imported machinery, and when the Speaker finally admitted it in the original form, the Industries Minister had no choice but to start enquiries. When his officers approached Maruti, the then Prime Minister's son must have strongly protested to his mother. Mrs. Gandhi was furious, as Shri T. A. Pai, the then Industries Minister, testified before the Shah Commission. She took unusual steps to protect her son and wreak vengeance on the officers who had shown the temerity to start enquiries about imported machinery in obedience to the order of Parliament. The Officers must be deemed to have been in the service of Parliament".

I emphasise this fact—

'The Officers must be deemed to have been in the service of Parliament since they were collecting information for answering a Parliamentary question'..... The C.B.I. Director was summoned and without probing the truth or otherwise of the fabricated charges made against the Officers by the Prime Minister and others, the CBI carried out raids and searches. Officers were harassed. One of the Officers, Shri Cavale, was not only suspended but his wife was also harassed by the C.B.I.

Apart from the inhumanity of the whole affair and apart from the blatant abuse of power the pertinent question in this connection is the gross contempt committed by the former Prime Minister of the rights, privileges and immunities of the Members of Parliament and of the whole House".

38. Shri Vasant Sathe, M.P., raised the point that under rule 224 of the Rules of Procedure and Conduct of Business in Lok Sabha, a question of privilege should be restricted to a specific matter of recent occurrence. In this connection, he stated, *inter alia*, as follows :—

"The matter must be of recent occurrence. It has come to light today. If it is a matter of old occurrence, then can this House dig up a matter which is already being inquired into ?

Another thing I would like to know is that the matter is *sub judice*. It is being inquired into by the Shah Commission. The Shah Commission is yet to give its Report. Can you consider this as a matter of privilege ?”

The Speaker, thereupon, ruled as follows :—

“Please let me give a ruling. It is a point of order ; it is not a debate. I have considered both the points raised by Mr. Sathe before according my consent. So far as the point that it must be a matter of recent occurrence is concerned, the question is that it has not been definitely decided. Authorities have taken the view that when a matter comes to light at a later stage, Parliament has a right to take it into consideration. As far as the Shah Commission aspect is concerned, these also I have gone through the entire matter. I have gone through the terms of reference of the Shah Commission. They are confined to Emergency Excesses and matters connected with them. This event has taken place much earlier than the declaration of the Emergency. Therefore I thought it was not necessary to go by that consideration.”²³

39. While speaking on the matter, Shri Kanwar Lal Gupta, M.P., stated,²⁴ *inter alia*, as follows :—

“अध्यक्ष महोदय, मेरे जो प्रिविलेज मोशन का सवाल है, वह एक लिमिटेड सबजेक्ट पर है कि इस सदन को प्रोपरली फंक्शन करने का अधिकार है। मेरा मतलब शाह कमीशन आदि से कुछ नहीं है। यह सदन ठीक तरह से फंक्शन कर सके, इस सदन के सदस्यों को उनके सवालों का जवाब ठीक तरह से मिले, उसमें अगर कहीं आधा आती है, तो यह ब्रीच आफ प्रिविलेज होता है। इसलिए मेरे ब्रीच आफ प्रिविलेज का जो मोशन है, वह श्रीमती इन्दिरा गांधी के बिलाफ है, श्री आर० के० धबन और श्री डी० सेन, दि देन डाइरेक्टर, सी०बी०आई० के बिलाफ है।

for obstructing, harassing and instituting false cases against some officers who wanted to collect information for giving a correct answer before the House. That is my plea. That is the basis.

अध्यक्ष महोदय, मैं आपके सामने यह प्रार्थना कर रहा था कि सदस्य को सवाल करने का अधिकार है और मंत्री महोदय से यह आशा की जाती है कि वे सवाल के उत्तर में ठीक जवाब दें। अब मंत्री महोदय किस आधार पर जवाब देंगे? जो डाकुमेंट्स उपलब्ध है, एवीडेंसिज है, उनके आधार

²³. L.S. Deb., dt. 16-11-1977, cc. 213-14.

²⁴. L.S. Deb., dt. 16-11-1977, cc 208—36.

पर अपने अधिकारियों को कहेंगे कि इसका ठीक से जवाब दीजिए। अगर मंत्री महोदय ठीक जवाब नहीं देते हैं तो इस सदन को यह अधिकार है और आपको भी यह अधिकार है कि मंत्री महोदय को कहा जाए कि वे ठीक से जवाब दें। अगर वे जानवृत्ता कर गलत जवाब देते हैं तो उनके खिलाफ ब्रीच आफ प्रिविलेज आ सकता है। अगर जवाब सही नहीं आता है, उसके "आने में बाधा आती है तो ब्रीच आफ प्रिविलेज आता है। मेरा कहना है कि यह जो टेंडेंसी थी रोकने की और जो उस सवाल का जवाब इकट्ठा करेगा उसको पकड़ने की, उसको गिरफ्तार करने की, हैरास करने की, थोट देने की, इसका मतलब यह है कि भूतपूर्व प्रधान मंत्री, उनके प्राइवेट सेक्रेटरी मिं धबन और मिं सेन जिन्होंने उनको गिरफ्तार किया, उनकी सारी कार्रवाई इसलिए थी कि जो सवाल लिये जी ने पूछा था मारुति के बारे में वह चीज़ सदन के सामने न आए, देश के सामने न आए और यह पालियामेंट पूरी तरह से फँक्शन न करे, इसका जो प्रेस्टीज़ है वह नीचे जाए, इसका प्रेस्टीज़ ठीक न रहे, इसकी सावरेनटी को खत्म करने की एक तरह से यह कोशिश थी।

इसकी स्पोर्ट में मेरा काम केशल एक है कि मैं आपके सामने प्राइमा फेसाई केस बता दूँ। जो डेफीनीशन है उस हिसाब से ये तीनों लोग दोषी हैं। अमी शाह कमीशन का जिक किया गया है। उसके वर्डिक्ट को मैं मानता हूँ। उसका वर्डिक्ट नहीं आया है। लेकिन मुझे शाह कमीशन के वर्डिक्ट की जरूरत नहीं है। अगर मैं उसका ओनस स्फिट कर देता हूँ यह साबित करके कि प्राइमा फेसाई केस है तो फिर उसके बाद, प्रिविलेज कमेटी की मर्जी है और वह चाहे तो श्रीमती इंदिरा गांधी को बुलाए, धबन साहब को बुलाए, सी०बी०आई० के डायरेक्टर को बुलाए और उसके बाद अपना निर्णय दे कि क्या यह चीज़ ठीक है या नहीं। उस स्पोर्ट में मैं मिं पाई के स्टेटमेंट को कोट कर रहा हूँ:—

[Translation—

"Mr. Speaker, my privilege motion is on a limited subject, that this House has a right to function properly. I am not concerned with Shah Commission and all that. My point is that the House should function properly and its members should get proper replies to their questions and if there is any obstruction in it, it is a breach of privilege. So my motion about breach of privilege is against Shrimati Indira Gandhi, Shri R. K. Dhawan and Shri D. Sen, the then Director of C.B.I. for obstructing, harassing and instituting false cases against some Officers who wanted to collect information for giving a correct answer before the House. That is

my plea. That is the basis. . . Mr. Speaker, I was submitting that members have a right to ask questions and it is expected from the Minister to give correct answers to the questions asked. The Ministers' replies will be based on the available documents and evidence. The Ministers will ask their officials to prepare correct replies on that basis. If a Minister does not reply correctly, the House and also your Honour have the right to ask him to give correct answer. If he knowingly gives wrong answer, a motion of breach of privilege can be brought against him. If the answer is not correct and there is any obstruction in it, it is a breach of privilege. . . The intention of preventing the officials from collecting relevant information, prosecuting them, harassing and threatening them was that the ex-Prime Minister, her Private Secretary Mr. Dhawan and Mr. Sen who arrested them, wanted that the question asked by Mr. Limaye about Maruti should not come before the House and the country and the Parliament should not function properly. It was their effort to lower down the prestige and sovereignty of the Parliament. In its support, my effort is to tell you about the *prima facie* case. As per the definition all these three persons are guilty. The Shah Commission had just now been referred to. I accept the verdict of the Shah Commission. Its verdict has not come. But I do not need the Shah Commission verdict. If I shift the onus after proving that it is a *prima facie* case, then it is for the Privileges Committee to call Shrimati Indira Gandhi, Shri Dhawan and the C.B.I. Director and then give its decision whether it is proper or not. I am quoting Mr. Pai's statement in support of it :]

"Former Heavy Industry Minister T. A. Pai deposed that Mrs. Gandhi was 'upset and furious' over the action of the officials who, he thought, were doing their legitimate duty in collecting material in response to a Parliament question. In Mr. Pai's presence, Mrs. Gandhi had called her Additional Private Secretary, Mr. R. K. Dhawan and told him to ask the C.B.I. Director to start inquiries against the officials and raid their houses.

According to him, the action against the officials was 'vindictive' and he had done his best to protect them to the extent he could. Mr. Pai alleged that it looked that his Ministry was under a seige for some time. What was being done to the officials was an effort to blackmail and demoralise everybody to prevent them from carrying on their normal functions."

अब जो मंदी है जिससे यह आशा की जाती थी कि वह सवाल का जवाब ठीक दें, वह स्वयं यह कह रहे हैं कि चूंकि मैंने यह कहा कि आफिसर समझ का जवाब लाए और वह लाने के लिए गया, इसलिए उसको तंग किया गया, सी०बी०आई० ने तंग किया, उसको ऐरेस्ट किया और स्वयं इंदिरा गांधी नाराज हो गई, जाल पीला हो गई और कहा कि उनको पकड़ा जाए। मुझे तीनों का कैस बताना है। इंदिरा गांधी का, धवन का और डी सेन का। मैंने इंदिरा गांधी का इनवाल्वमेंट बता दिया है। अब धवन का बता रहा हूँ।

[Translation—

“Now the Minister from whom the correct answer is expected states that he asked the Officials to collect information and when they were doing so, they were harassed by the C.B.I. and arrested. Shrimati Indira Gandhi became angry, upset and furious and ordered for their arrest. I have to tell you about the involvement of the three—Shrimati Indira Gandhi, Shri Dhawan and Shri D. Sen. I have told about the involvement of Shrimati Indira Gandhi. Now, I am telling you about Shri Dhawan.”]

“In his inconclusive testimony, Mr. D. Sen, former C.B.I. Director, said he had ordered the investigations on the basis of the information provided by Mr. R. K. Dhawan, the Additional Private Secretary to the then Prime Minister, who had stated that Mrs. Gandhi had received the complaints from some MPs and others.”

Mr. Pai again said :

“I knew why she (Mrs. Gandhi) was angry because the previous day Mr. R. K. Dhawan (Additional Private Secretary to the then Prime Minister) had told me about it. She said my Officers were talking of political corruption when they themselves were corrupt. Before I could say anything in reply to her, she called Mr. Dhawan and ordered that their houses should be raided.”

अध्यक्ष महोदय, इसका मतलब साक है कि क्यों वह इंदिरा जी की विभिन्न के अनुसार उन्होंने काम नहीं किया और वह ठीक सदन को सूचना देना चाहते थे, इसलिए इंदिरा जी ने, धवन ने और आखिर में सेन साहब ने यह कार्यवाही कर के उन लोगों को टोर्चर किया।

[Translation—

“Mr. Speaker, it is clear that he did not work according to the wishes of Shrimati Indira Gandhi and he wanted to give correct information to the House, so Shrimati Indira Gandhi, Shri Dhawan and lastly Mr. Sen took this action against them and tortured them.”]

In conclusion Mr. Pai said :

"On the face of it, I felt the charges (against these Officers) were ridiculous and that there were other reasons. Officers were doing their legitimate duty and I had asked them to collect as much information (about Maruti) as possible, because I wanted to go by facts. I think they were perfectly right in doing their legitimate duty. I even wrote to her (Mrs. Gandhi) that my Officers were being harassed."

अध्यक्ष महोदय, मैं और ज्यादा समय नहीं लेना चाहता। आफ़िससं क्या कहते हैं जिनको तंग किया गया वह भी इसके साथ रेलीबैंट है, इसको देखा जाये वह क्या कहते हैं।

[Translation—

"Mr. Speaker, I do not want to take much time but it may also be seen what the Officers, who were victimised, say, which is also relevant."]

'Mr. Krishnaswamy said he discussed the matter with the Joint Secretary and the two decided to send a team of technical officers to the Maruti Plant. The two Officers, who visited Maruti were denied any information. The answer to the Parliamentary Question was prepared without any information from Maruti Ltd. He said he had simultaneously contacted Officials in PEC and DGTD with the hope of getting the required information.'

हम 18 महीने जेल में रहे तब ध्यान नहीं आया। अब जब यह पाप सामने आ रहे हैं तो प्राप चिल्ला रहे हैं। (ध्यानधान)।

मेरा कहना यह है कि जो मेज पालियामेंटरी प्रैंकिट्स में कहा गया है डायरेक्ट और इनडायरेक्ट टेंडेंसी ओबस्ट्रक्ट दि हाउस; इसकी इन्होंने कोशिश की है और इंदिरा जी, जो इस सदन की लीडर थीं वह इस सःजिश में शामिल थीं कि ठीक तरह से यह सदन फंक्शन न करे।

मैं समझता हूँ कि प्राइमो-फैशी केस मैंने प्रापके सामने रखा है, प्राप इसको प्रिविलेज कमेटी को भेज दें। वह इंदिरा जी को, धब्बन को बुलायेगी और अगर ठीक समझे कि इसमें जान है तब तो उनको सजा दे, अन्यथा छोड़ दें।

[Translation—

"We were in jail for 18 months. Then it was not taken notice of. Now when these misdeeds are coming to light, they are shouting.....(interruptions). I wish to say that as stated in May's Parliamentary Practice, 'direct

or indirect tendency to obstruct the House' has been attempted to be committed by them and Shrimati Indira Gandhi, who was then Leader of this House, was involved in the conspiracy that this House should not function properly.

I think I have placed a *prima facie* case before you. You may kindly send it to the Privileges Committee. The Committee may call Shrimati Indira Gandhi, Shri Dhawan and if it is found that a case of breach of privilege has been committed by them they may be punished otherwise they may be acquitted."]

40. After some discussion, Shri Madhu Limaye, MP, moved* the following motion :—

"That the question of breach of privilege and contempt of the House against Shrimati Indira Gandhi and others be referred to the Committee of Privileges with instructions to report within a period of six months."

41. During the discussion*, on the above motion on the 16th, 17th and 18th November, 1977, some amendments to the motion were moved by certain members which after some discussion were either withdrawn by the concerned members with the leave of the House or were negatived by the House.

The original motion moved by Shri Madhu Limaye, M.P. (*See* para 40 above) was adopted by the House on the 18th November, 1977.

III. Findings of the Committee

A. Background

42. On the 18th November, 1974, Shri Madhu Limaye, MP, gave notice of the following question regarding import of plant, machinery and equipments for Maruti Limited :—

"Will the Minister of Industry refer to the Maruti Ltd. Annual Report and Accounts for 1973-74 filed with the Registrar of Companies, Delhi, and state :—

- (a) whether a part of the plant, machinery and equipments installed and in the process of installation, referred to at pages 16-17 of the said report has been imported from abroad;
- (b) if so, the details of the imported terms of Plant, machinery and equipments ; and
- (c) the magnitude of the imports as a percentage of the total value of the plant machinery etc. mentioned in (a) ?"

*L.S. Deb., dt. 16-11-1977, cc 208-36.

^{**} Ibid., c 221., dt. 17-11-1977, cc 225-52 and 18-11-1977, cc 221-37.

The above question was admitted in the following form and included in the list of questions dated the 11th December, 1974, as Unstarred Question No. 4175 :—

“Will the Minister of Industry and Civil Supplies be pleased to state :

- (a) whether according to the Maruti Limited Annual Report and Accounts for 1973-74 filed with the Registrar of Companies, Delhi, a part of the plant, machinery and equipments installed and in the process of installation, referred to at pages 16-17 of the said report has been imported from abroad ;
- (b) if so, the details of the imported items of plant, machinery and equipments ; and
- (c) the magnitude of the imports as a percentage of the total value of the plant machinery etc. mentioned in part (a) ?”

The following answer was given to the above question by the Minister of State in the Ministry of Industry and Civil Supplies (Shri A. C. George) on the 11th December, 1974 :—

“(a) No such statement has been made in the Annual Report and Accounts, referred to above.

(b) & (c) : Do not arise.”

43. Subsequently, the following Unstarred Question No. 2980 tabled by Shri Madhu Limaye, MP, regarding “Machinery in Maruti Car Factory, Gurgaon” was included in the list of questions dated the 12th March, 1975 :—

“Will the Minister of Industry and Civil Supplies be pleased to refer to the mutilated question on the installation of imported machinery in the Maruti Factory tabled by a Socialist Party MP during the Winter Session of Parliament and state :—

- (a) whether part of the machinery installed or in the process of installation in the Maruti Car Factory in Gurgaon District of Haryana has been fabricated in and imported from foreign countries ;
- (b) if so, the details of this imported machinery ;
- (c) the total value of such imported machinery ;
- (d) whether any import licences were sought by the Maruti Limited and given by the Government for importing this machinery ; and
- (e) if so, whether use of imported machinery is consistent with the conditions attached to the Letter of Intent and/or industrial licence issued to Maruti Limited ?”

The following answer was given to the above question by the Minister of State in the Ministry of Industry and Civil Supplies (Shri A. C. George) on the 12th March, 1975 :—

- “(a) to (c) : Messrs. Maruti Limited did not seek any import licence for importing machinery nor were they given any such permission. Some of the machinery installed in Messrs. Maruti Ltd., have been purchased by the firm from within the country from the dealers in machine tools who are allowed to sell them on 'stock and sale' basis.
- (d) No, Sir.
- (e) The industrial licence stipulated that no import of capital goods would be allowed. No imports have been asked for or given.”

44. Subsequently, Shri Jyotirmoy Bosu, MP, gave notice of the following question regarding “Purchase of Machinery by M/s. Maruti Ltd.” which was admitted as Starred Question No. 656 and included in the list of questions dated the 16th April, 1975 :—

“Will the Minister of Industry and Civil Supplies be pleased to refer to the reply given to Unstarred Question No. 2980 on 12th March, 1975 regarding Machinery in Maruti Car Factory, Gurgaon and state :

- (a) the names, addresses and full particulars of the dealers in the country from whom M/s. Maruti Ltd. has purchased machinery etc.;
- (b) full details of such purchases including value of each category of purchase;
- (c) main line of business of the dealers from whom such purchases have been made;
- (d) whether some of those dealers are also importers of machinery; and
- (e) if so, the facts thereof?”

B. Efforts to collect information for answer to Starred Question No. 656.

45. An advance copy of the above-mentioned provisionally admitted Starred Question No. 656 was received in the Department of Heavy Industry on the 5th April, 1975. On the 7th April, 1975, the Department of Heavy Industry, Ministry of Industry and Civil Supplies addressed a letter to Lok Sabha Secretariat, stating *inter alia*, “the details sought for in the above question relate to a matter which is not the concern of the Government of India. It is, therefore, submitted that it will attract the provisions

of rule 41(2) (vii)⁷⁷ of the Rules of Procedure and Conduct of Business in Lok Sabha". The question was, however, admitted as Starred Question No. 656 and included in the List of Questions for oral answers dated the 16th April, 1975.

On the 9th April, 1975, a letter was addressed by the Ministry of Industry and Civil Supplies (Department of Heavy Industry) under the signature of Shri V. P. Gupta, Under Secretary, to Shri L. R. Cavale, Chief Marketing Manager, PEC, stating :—

"In connection with a Parliament question we require information regarding names and addresses of the various dealers in the country dealing with imported machinery for stock and sale during the last four years. I shall be grateful if you kindly make available the above information to the bearer of this letter."

Another letter dated the 9th April, 1975, was addressed by Shri S. M. Ghosh, Joint Secretary, Ministry of Industry and Civil Supplies, to Shri S. M. Rege, Secretary, Maruti Ltd., stating as follows :—

"As mentioned to you on the telephone by Krishnaswamy, we are deputing Shri S. S. Khosla, Assistant Development Officer, Directorate General of Technical Development, to obtain from you the following information in order to enable us to reply to a Parliament Question :—

- (1) Total value of machinery purchased and installed in Maruti Ltd.
- (2) Particulars of machinery purchased on stock and sale basis installed in Maruti Ltd. and sources from whom the machinery were obtained.
- (3) Total value and particulars of machinery of indigenous origin installed in Maruti Ltd. and sources from whom the machinery were obtained.

Shri Khosla will meet you in your factory at 10.30 A.M. on 10-4-1975. I would be grateful if all assistance to obtain the above information is rendered to Shri Khosla."

46. In this connection, Shri R. Krishnaswamy, Director, Department of Heavy Industry, in his evidence before the Committee on the 11th February, 1978, has stated, *inter alia*, as follows :—

"Sometime in the month of March-April, 1975, a number of questions were tabled on Maruti and related matters. I was in charge of the automobile industries and as a part of my

⁷⁷. Rule 41(2)(vii) provides as follows :—

"(vii) it shall not relate to a matter which is not primarily the concern of the Government of India."

charge, the Maruti Factory was within my charge, since it was supposed to be engaged in the manufacture of automobiles. It was for me to handle any matter connected with Maruti. A series of questions were tabled and one of the questions by Shri Madhu Limaye, which was put down for answer on 12th March. In this question, he had asked for certain information regarding machinery imported and used at Maruti Ltd., and we had given our answer. Our answers were to the effect that as far as the Ministry was concerned, we had not allowed the import of such machinery as such imports were not permitted to them in terms of the Letter of Intent.

Following this question, there was another question by Shri Jyotirmoy Bosu to be answered on 16th April. This question was in the nature of asking for further details and follow-up of the question which Shri Madhu Limaye had asked. He asked for certain detailed names and addresses of the suppliers of the machines, and certain other facts. After this question was admitted, we got the notice. Since I was incharge of the automobile industry, I was given the question for collecting the required information. We had an internal discussion in the Ministry and my Joint Secretary and I decided that we would request Maruti to furnish the information so that it could be authentic. I was asked to ring up the the Secretary of the Company, Mr. Rege, I spoke to him on the 9th April and I told him about this question and the need to collect certain information. As the information was required in great detail, we would like to send two of our officers from the DGT, who could also assist in collecting the information. We assumed that these two technical officers could go around the factory and look at the machines and establish their place of origin and they could possibly also say something about the value. This was the type of information required by Shri Jyotirmoy Bosu. When I spoke to Shri Rege, he said : 'Yes, you could send two officers'. On 10th April, we sent two officers of the DGT, Shri Khosla as also Shri Bharij. They went with a letter from Shri Ghosh, Joint Secretary to Shri Rege, in which three-four heads were given under which we wanted the information. These officers reached there, but around 10.30 A.M. they spoke to me on the telephone and said that they were not being allowed to collect any information . . . In fact they said that they were not being allowed inside the factory even and they were made to sit outside Mr. Rege's room. When I asked them if I could speak to Mr. Rege. He was not available then.

But a little later he came on the phone and when I told him that in pursuance of the previous day's telephone call, I sent these Officers and they should be allowed to collect the information, he told me that he had to consult his Managing Director and as the Mg. Director was busy, he could not contact him and that he would only be able to tell me after he consulted his Mg. Director whether these Officers could be allowed to collect the information. So I asked him how long he would take. He said that he was not certain how long it would take because they had a Board meeting that day and that all the Directors of the Company were also present. So after some discussion, since he said that he was not sure whether these officers would be allowed to collect the information that day. I asked him whether they could come back and he would furnish the information. He said he would do that after consultation with the Mg. Director. So, I called these Officers back to the Ministry. Later, in the day I tried again to contact Mr. Rege but he was not available.

Now round about the same time on the 10th I sent a letter to Mr. Cavale of the Projects and Equipment Corporation because there was a possibility that if imported machines were in the factory, it could have been supplied by the agents of the PEC. So, I wrote to Mr. Cavale and asked him to collect and furnish information which he might have on the subject. This letter was actually addressed by my Under Secretary, Mr. Gupta to Mr. Cavale. Again, on the same day, I asked Mr. Rajan of DGTD to also contact firms like Batliboi and others He was Development Officer in DGTD.

I asked him to contact the suppliers of machine tools so that if they had any information, they could also supply it. The idea was that apart from getting the information from Maruti itself, any other agencies which might have the information, we thought we should contact and get all this information, and then frame the reply to the question asked by Mr. Bosu.

On the 10th from Maruti Ltd., itself there was no information forthcoming and on 11th again I spoke to Mr. Rege in the morning and he again said that he was unable to consult his Mg. Director who was very busy and that I should contact him sometime in the afternoon of 11th. On 11th evening again I spoke to him. He said, 'I have no information but we would be working the next day (the next day was a Second Saturday)'

and that 'I could contact him on that day'. On the 11th there was no information from PEC or from any of the parties whom Mr. Rajan contacted.

According to our Ministry's time-table, the draft answer had to be submitted to the Minister by the 11th because our question-day was Wednesday and our system was that on the Friday before Wednesday the draft answer and notes for supplementaries had to be submitted to the Minister. The next day was Second Saturday. So we thought that we could hold on for another day and see what information we could get before submitting the draft answer.

At 10 O'clock that night, that is on the 11th, Secretary, Mr. Sondhi rang me up. He asked me whether I had personally sent telegrams to many of the private firms asking for information regarding this question. I told him that I have not done that but I would tell him the next day as I was coming to office, and explain to him what had been done to collect the information. I was bound to give a draft reply also on the same day. I had also explained to him that until that moment I had not got any information at all on which to base the draft. The next day, *i.e.* on the 12th I went to office and met the Secretary and since we were already one day late for submission of answer, Mr. Sondhi said that I should draft the reply on the basis of whatever information I had with me—and that was almost nothing at all—and so I prepared a draft reply, made out a note for supplementaries and sent it across to Mr. Ghosh's (our Joint Secretary) residence. This was the sequence of events until the reply to the question was drafted."

47. Shri S. M. Ghosh, then Joint Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry), in his evidence before the Committee on the 16th June, 1978, has stated, *inter alia*, as follows :—

" . . . Following a discussion with my Director, Mr. Krishnaswamy, I had directed him to collect certain information which we considered relevant for answering a Parliament question and wanted to get this information from this concern. Therefore, before the Development Officer visited, I saw that it was important and so I wrote to the Company to render the information which was needed, in our view, to answer the Parliament question.

Mr. Krishnaswamy discussed with me the developments with regard to this question several times and he was keeping me informed as to what sort of information was gathered.

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As a matter of fact, when this question came, I had a discussion with Mr. Krishnaswamy. I told him that to answer this question we had to have this information. I told him that on one side he could write to the Company and try to get as much information as he could get and on the other, as it is a matter of stock and sale and was operated by the Ministry of Commerce through the STC, he should also try to get information from them.

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The information was being collected and we had not completely collected the information. As a matter of fact, I do not think that we did get complete information of the stock and sale of equipment which was made available to Maruti Limited. I went to the Minister's house and I was told by the Minister that no further information need be collected, apart from what we had already collected, for answering that question. I rang up Mr. Krishnaswamy, and he told me that he had instructions from Mr. Sondhi, the Secretary, that no further information need be collected."

48. Shri Mantosh Sondhi, then Secretary, Ministry of Industry & Civil Supplies (Department of Heavy Industry) in his evidence before the Committee on the 26th April, 1978 has stated, *inter alia*, as follows :—

".... we had a set procedure in our department. Whenever questions are sent to the Parliamentary Section—we had a Parliamentary section—they used to mark them to the officers concerned and it was expected that practically all the information that was required to enable the Minister to give a reply should be collected. In this particular case I came to know that there was a question like this, when late in the evening of 11th April, Mr. Pai sent for me and he said that it had been reported to him that some of our officers were harassing certain firms for getting necessary information.

I had not seen the question by that time. But I was quite surprised because I fully knew that they discharged their duty with a certain amount of decorum and dignity and there could not be any question of harassment.

That night I rang up Krishnaswamy. I asked whether he had taken any steps which would amount to harassment.

He said he had done nothing. He was keeping in touch with Maruti Limited and DGTD and Projects and Equipment Corporation for getting some information. I left it at that and we agreed to meet in the following morning. It was a second Saturday. He came and told me about what he had been doing and also the problems that he had faced—in the sense that he could not get information from Maruti Limited. He had also not been able to get much information from Projects & Equipment Corporation and since we were one day late by way of putting up a draft reply, we felt, it was best to give reply on whatever information was available."

Subsequently, in his evidence before the Committee on the 15th June, 1978, Shri Mantosh Sondhi has stated, *inter alia*, as follows :—

" . . . it was necessary to get from Maruti information such as value of the equipment, from whom they purchased, when they purchased, etc. Otherwise, the reply would have been incomplete.

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.... Full details of such purchase, including the value of each category of purchase, the main line of business of the party from whom such purchases have been made, etc., could only have been obtained from Maruti and may be, to some extent from Projects & Equipment Corporation. Since this was not available, the reply given was that 'this information is not normally collected by the Ministry, and, therefore, cannot be given'."

49. Shri A. S. Rajan, Development Officer, Directorate General, Technical Development in his evidence before the Committee on the 11th February, 1978, stated, *inter alia*, as follows :—

"There was a question in the Parliament on 16th April raised by Shri Jyotirmoy Bosu In connection with this Parliament question, Shri Krishnaswamy rang me up (round about 10th April, 1975) and asked me to give information about the machinery imported by Maruti. I did not have that information with me and I asked him to get in touch with the Projects & Equipment Corporation or Batliboi & Co., their agents. He asked me to ring up Batliboi & Co. I, therefore, gave a ring to them and asked them to get in touch with Mr. Krishnaswamy and to supply whatever information they have on this subject."

50. The above statements of Sarvashri R. Krishnaswamy and A. S. Rajan have been corroborated by Shri T. A. Pai, M.P., then Minister of

Industry and Civil Supplies, in his evidence before the Committee on the 23rd March, 1978 when he stated, *inter alia*, as follows :—

“ . . . Shri Krishnaswamy was working as Deputy Secretary in the Ministry of Heavy Industry. There were a spate of questions in Parliament on Maruti Limited and he was required to collect information and submit to the Minister for a reply. One of the questions was whether Maruti Ltd. has imported any machinery and they were not permitted to import machinery under the terms of the licence granted to them. The Ministry had not given any permission, but it was possible for Maruti Ltd., to purchase or get imported to particular types of Machinery wanted under stock and sale arrangement of the Projects & Equipment Corporation. The Ministry was totally unaware of what was happening. Shri Krishnaswamy in the course of gathering this information to reply to this question had got in touch with Shri Rajan, an officer of the DGTD to ascertain. Shri Rajan also was directed to contact the Projects & Equipment Corporation who in turn informed him that M/s. Batliboi must have imported and supplied this machinery to the Maruti. Shri Krishnaswamy contacted M/s. Batliboi through Shri Rajan. He also seems to have made efforts to ascertain these facts from the Maruti factory.”

51. Shri S. S. Khosla, then Assistant Development Officer, DGTD, who had been deputed by Shri S. M. Ghosh, then Joint Secretary, Department of Heavy Industry, for collecting the requisite information from the factory of Maruti Ltd., in his evidence before the Committee on the 25th April, 1978 has stated, *inter alia*, as follows :—

“Shri S. M. Ghosh, then Joint Secretary, Department of Heavy Industry, had written a D.O. letter No. 10(57) /'75-AEI-I dated 9th April, 1975 to Secretary of M/s. Maruti Ltd., to furnish information on the machinery installed with M/s. Maruti Ltd. He had also directed that this letter may be taken in person by an officer from the DGTD for collecting information as it was required urgently in connection with a Parliament Question. Accordingly, the undersigned (then Assistant Development Officer in Auto Directorate of DGTD) and Shri S. K. Bharij were deputed to collect this information on 10th April, 1975.

On reaching the premises of M/s. Maruti Ltd. on 10th April, 1975, the letter was handed over to the Secretary of M/s. Maruti Ltd., Shri Rege. Shri Rege expressed his

inability to furnish the required information as the same was not readily available with him. He said this could be compiled and sent within two days. We also requested him to permit us to visit the plant and note down the details of the installed machinery. Shri Rege ruled out this possibility also.

Thereupon, on my request Shri Rege explained the position to Shri R. Krishnaswamy, then Director in the Department of Heavy Industry on telephone. I also talked to Shri Krishnaswamy seeking his advice. He instructed us to come back to the office. On reaching office, senior officers were informed about this."

52. In this connection Shri L. R. Cavalc, Chief Marketing Manager, Projects and Equipment Corporation, in his evidence before the Committee on the 30th March, 1978, has stated, *inter alia*, as follows :—

".... During the second week of April, 1975, I received a letter by hand delivery from Ministry of Industrial Development requesting me to furnish the addresses of our business associates dealing in the import of machine tools from East European countries. The letter further stated that this was required in connection with a Parliament Question and the letter was signed by an Under Secretary Mr. V. P. Gupta. I handed over a cyclostyled copy giving the addresses of our business associates specially for machinery.

On 14th April, 1975, I received a telephone call from one Mr. Krishnaswamy, Director, Ministry of Industrial Development. He requested me to let him know what machine tools have been imported and supplied to M/s. Maruti Limited. He also informed me that this information was required in connection with a Parliament question. I informed Mr. Krishnaswamy that he should write to us officially since we have a definite procedure in dealing with Parliament Questions. Immediately thereafter I called Mr. P. S. Bhatnagar, one of my D.M.Ms., and informed him that there appears to be a Parliament Question and it may become necessary for us to furnish the details at a short notice in regard to import and supply of machine tools to M/s. Maruti. Therefore, he should check up with our Finance and keep the details ready and also contact our business associates like M/s. Batliboi for the required information . . ."

53. Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation (then Deputy Marketing Manager, Projects & Equipment Corporation), in his evidence before the Committee on the 31st March, 1978, has stated, *inter alia*, as follows :—

“.... That in the 2nd week of April, 1975, I was called by my Chief Marketing Manager, Shri L. R. Cavale, and was given a letter from the Ministry of Heavy Industry asking me to give him a list of the business associates of the machine tools which was required by the Ministry of Heavy Industry in connection with some Parliament question. I gave this list of business associates of machine tools to my Chief Marketing Manager. Thereafter, again I was called by him and was advised to give him the details of the machines supplied to M/s. Maruti. I contacted among other business associates M/s. Batliboi (Mr. Mathur) on telephone to ascertain if they have supplied any machines to M/s. Maruti. He informed me on telephone that they have supplied some machines to M/s. Maruti. I requested him to furnish the details of the same. Mr. Mathur of Batliboi told me that he will check up the details and let me know the same....

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That on 15-4-75 between 3-30 P.M. and 4.00 P.M. Mr. Mathur of Batliboi alongwith Mr. Adeshra called on me. I enquired from Mr. Mathur whether he has brought the required information or not. He said 'Yes' and gave a letter to me which I could not even go through as just at that moment I was called by my Director, Shri L. K. Dhawan, who asked me if I am collecting any information regarding supply of machine tools. I told him 'Yes, Sir' but under instructions of my Chief Marketing Manager. He instructed me to hand over to him all the papers whatever I had in this connection. I went to my table and collected all the papers I had in this connection and handed over the same to him.”

In answer to a query from the Committee whether he had first checked up the position from the files of P.E.C., Shri P. S. Bhatnagar stated :—

“Since it was an old case, I rushed to Finance, but I could not get anything there. It was a parliamentary question and Mr. Cavale was after me to get the information. I tried here and there but I could not get it.”

54. The above statement of Shri P. S. Bhatnagar that he had contacted M/s. Batliboi & Co. on telephone to ascertain if they had supplied any machines to M/s. Maruti Limited and that the representatives of M/s. Batliboi & Co., had supplied the requisite information to Shri P. S. Bhatnagar on the 15th April, 1975, is corroborated by the following statements made before the Committee by Shri J. S. Mathur, Liaison Officer and Shri L. M. Adeshra, Resident Dy. General Manager, Batliboi and Co. Ltd., New Delhi, respectively, in their evidence on the 4th April, 1978 :—

- (i) J. S. MATHUR : “.... I remember to have received a telephonic call from Shri P. S. Bhatnagar, Deputy Marketing Manager, PEC, sometime at the end of second week of April, 1975 requesting me to furnish information about machine tools imported through PEC and supplied to M/s. Maruti Ltd. I had told Mr. Bhatnagar that the information asked for was already contained in the Quarterly Sales Returns submitted to their office. However, since he desired that the information should be again supplied to him as the same was required by his superior officer, the same was collected and furnished by letter dated 15-4-75. The said letter was handed over on the same day to Shri Bhatnagar in his office. Shri L. M. Adeshra, Resident Deputy General Manager of the Company was also with me on that occasion.”
- (ii) L. M. ADESHRA : “.... Shri J. S. Mathur, Liaison Officer in my office informed me sometime at the end of 2nd week of April, 1975 that he had received a telephone call from Shri P. S. Bhatnagar requesting him to furnish information about Machine Tools imported through PEC and supplied to M/s. Maruti Ltd. Since the information asked for was already contained in the quarterly sales returns submitted to PEC, Shri Mathur was asked to inform Shri Bhatnagar accordingly. However, since Shri Bhatnagar desired that the information should be again supplied to him as the same was required by his superior officer, the same was collected and furnished by letter dated 15th April, 1975. A photocopy of the said letter is annexed* herewith and initialled as true copy. The said letter was handed over the same day to Shri Bhatnagar in his office. I was also present in Shri Bhatnagar's office along with Shri Mathur on that day. I had also inquired from Shri Bhatnagar, at that time, if his superior officer, Shri Cavale, who required the information was in office and was told that Shri Cavale was not in his office”

*8. See Appendix XV.

55. The statement of Shri P. S. Bhataagar that he had handed over to Shri L. K. Dhawan, Director, Projects and Equipment Corporation, the information regarding supply of machine tools to M/s. Maruti Ltd., which had been supplied to him by M/s. Batliboi & Co., has been confirmed by Shri L. K. Dhawan in his following statement during his evidence before the Committee on the 5th April, 1978 :—

“.....Mr. B. D. Kumar, who was the Chairman, said that there was some information being collected with regard to supply of machines to Maruti. I said : 'I know nothing about it.' He said : 'Please check if there are any papers and I would like to have those papers.' I called Mr. Bhatnagar on the same day and said : 'Are you collecting any information ?' He said : 'This is a letter which came from the Ministry of Industry asking about the list of our associates. There was a telephone call on the basis of which I asked Batliboi to give me the list.' I think he gave me two papers. One was that letter and the other was one paper which I immediately went and gave to Mr. B. D. Kumar. I hardly saw them.”

56. In this connection, Shri B. D. Kumar, then Chairman, Projects & Equipment Corporation, in his evidence before the Committee on the 7th July, 1978, has stated, *inter alia*, as follows :—

“.....I went to the office of the P.E.C. and contacted Shri L. K. Dhawan, the Executive Director of P.E.C. in his office. He contacted Shri Bhatnagar and collected the relevant file from Shri Bhatnagar and informed me that Shri Bhatnagar was trying to collect material for a reply to a question in Lok Sabha relating to supply of machinery to Maruti Co. and for which question an urgent note had been received from the Department of Heavy Industry, in the Ministry of Industrial Development. The Department was reminding the officers of the P.E.C. for necessary material.....

I returned to the Ministry of Commerce and handed over the relevant file to Shri N. K. Singh and indicated briefly to him the action which was taken for collecting the information required by the Department of Heavy Industries for preparing an answer to a question in Lok Sabha.....”

57. The Committee observe that the purpose of the three questions, namely, (i) U.S.Q. No. 4175 tabled by Shri Madhu Limaye, M.P., and answered in the House on the 11th December, 1974, (ii) U.S.Q. No. 2980 tabled by Shri Madhu Limaye, M.P. and answered in the House on the 12th March, 1975 and (iii) S.Q. No. 656 tabled by Shri Jyotirmoy Bosu, M.P., and answered in the House on the 16th April, 1975, was to seek

information regarding the imported Machine Tools installed in the factory of Maruti Ltd. This information was not, however, made available to the House by the Government in reply to the first two questions tabled by Shri Madhu Limaye, M.P. The answer given to S.Q. No. 656 tabled by Shri Jyotirmoy Bosu, on the 16th April, 1975 by the Minister of State in the Ministry of Industry and Civil Supplies (Shri A. C. George) was as follows :—

“THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY AND CIVIL SUPPLIES (SHRI A. C. GEORGE) : (a) to (e). Government does not collect nor is any industrial unit required to furnish detailed information with regard to machines purchased locally. Government has, as such, no information.”

58. As the above answer also did not give the information sought regarding imported Machine Tools installed in the factory of Maruti Ltd., the following supplementaries were put by Shri Jyotirmoy Bosu and answered by Shri T. A. Pai, the then Minister of Industry and Civil Supplies :—

“SHRI JYOTIRMOY BOSU : Sir, I have already given a notice under Direction 115 alleging that the hon. Minister, Shri A. C. George had misled the House in the matter of giving information on Maruti's importation of industrial hardware.

In that context, may I ask the hon. Minister to tell us correctly and truthfully whether it is a fact that regarding a limited company of Ring Road, Lajpat Nagar, Delhi and also of 414/2, Vir Savarkar Road, Prabha Devi, Bombay, there was an arrangement between Maruti and the said company to hand over the import documents to another company of Home Street, Bombay for clearing such imported hardware and whether Government is aware of this fact or not. I am now in possession of the full documentary evidence.

THE MINISTER OF INDUSTRY AND CIVIL SUPPLIES (SHRI T. A. PAI) : So far as we know, the licence under which the Maruti came into existence was on a condition that the design would be indigenous and no imports would be allowed. The Ministry has not been asked for imports; nor have we permitted any imports. If such allegations are made, I am unable to verify them and give the informations.

SHRI JYOTIRMOY BOSU : My Question has not been answered.

MR. SPEAKER : How does it arise from this ? The Minister has replied to the question.

SHRI JYOTIRMOY BOSU : There is information that Maruti used industrial hardware as dummy. I have given information about two firms—one having an office in Delhi and the other at Bombay. I am not giving the names just now but I shall give that in due course. I am asking the hon. Minister whether it is a fact that the import documents were handed over to the firm at Home Street, Bombay while the Delhi firm cleared the consignment through their dummy office. That is how the consignments to Maruti Limited at Gurgaon came by Black and Berg and the cargo arrived in August 1973 at Bombay.

Is that correct or not ? Be careful. I have got all the documents.

SHRI T. A. PAI : So far as I am concerned, whatever be my relations with Government and the particular company, I can furnish the information. What an individual party does outside, how am I expected to furnish information if the hon. Member wants me to furnish the information ?

MR. SPEAKER : Please do not make it a debate. Ask a straight question. I think he has given his answer.

SHRI JYOTIRMOY BOSU : There is no shadow of doubt. I am alleging that although the import licences were not given and taken in the name of Maruti, the dummy firms used that for importation of industrial hardware solely for the use of Maruti Ltd. That is how they hoodwink. I can give evidence on it and I take the full responsibility on it. I have got documents.

MR. SPEAKER : There is no question of taking responsibility. The question asked is replied to by him. If there is anything else, that is a different matter.

SHRI JYOTIRMOY BOSU : They are fully in the know how to bypass the rules and laws. They used the industrial hardware as dummy.

MR. SPEAKER : This cannot arise out of this.

SHRI JYOTIRMOY BOSU : They used this as dummy. They cannot trespass the conditions in letter or in spirit.

SHRI T. A. PAI : So far as I am concerned, I strongly deny the allegation that we have done anything wrong in helping the Maruti to get anything imported. But, I am unable to answer every allegation because it looks as if we can furnish any information that is called for.

SHRI JYOTIRMOY BOSU : I am sure the Minister is misleading the House."

59. The Committee observe that it is quite obvious from the records and the evidence of the various witnesses before the Committee quoted above, that the four officers, *viz.*, Sarvashri R. Krishnaswamy, A. S. Rajan, L. R. Cavale and P. S. Bhatnagar, against whom action was taken by Government and investigations made by the Central Bureau of Investigation, were making efforts to collect information for answer to S. Q. No. 656 tabled by Shri Jyotirmoy Bosu, M.P., as directed by their senior officers and in the legitimate discharge of their official duties.

60. There were three sources from which the requisite information could be collected, namely, (i) Records of the Projects and Equipment Corporation, (ii) Batliboi and Co. Ltd., and other Business Associates of Projects and Equipment Corporation under stock and sale arrangements and (iii) the factory of the Maruti Ltd., where the imported Machine Tools were installed. As a result of discussions between Shri S. M. Ghosh, then Joint Secretary and Shri R. Krishnaswamy, then Director, in the Department of Heavy Industry, Ministry of Industry and Civil Supplies, it was decided to try all these three sources so that the requisite information could be collected and compiled before the deadline for putting up the draft answer and the Note for Supplementaries to the Minister.

The requisite information was not readily available in the records of Projects and Equipment Corporation and, therefore, Shri P. S. Bhatnagar requested M/s. Batliboi & Co. to supply the same. M/s. Maruti Ltd., did not, however, furnish the requisite information to Shri S. S. Khosla, Assistant Development Officer, Directorate General of Technical Development, who alongwith Shri Bharij, another official, had gone to their factory alongwith a letter addressed by Shri S. M. Ghosh, Joint Secretary, Department of Heavy Industry to Shri S. M. Rege, Secretary, M/s. Maruti Ltd.

M/s. Batliboi and Co., was the only source, which furnished the requisite information to Shri P. S. Bhatnagar of Projects and Equipment Corporation on the evening of the 15th April, 1975 which was ultimately passed on to Shri N. K. Singh, then Special Assistant to the Minister of Commerce.

This information did not, however, reach the Ministry of Industry and Civil Supplies for preparing the draft answer and the Note for Supplements for Starred Question No. 656 which was to be answered on the 16th April, 1975. So this information was not given to the House.

61. As regards action to collect the requisite information from M/s. Maruti Ltd., it has been stated before the Committee that there was nothing irregular or unusual in this respect. In this connection, in response to a query from the Committee, Shri R. Krishnaswamy, Director, Ministry of Industry and Civil Supplies, informed the Committee as follows in his evidence before the Committee on the 16th June, 1978 :—

“. . . In terms of provision 19 of the Industries (Development & Regulation) Act 1951, powers of inspection have been given to the Central Government for ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in the Industries (Development & Regulation) Act or the rules made thereunder. The person authorised by the Central Government shall have the right to enter and inspect any premises and order production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking and can also examine any person having the control of or employed in connection with, any industrial undertaking. The relevant provision is quoted below :—

‘Industries (Development & Regulation) Act 1951—Chapter IV—Miscellaneous : Page 25

19(1) For the purpose of ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right—

- (a) to enter and inspect any premises;
- (b) to order the production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking; and

- (c) to examine any person having the control of or employed in connection with, any industrial undertaking.
- (2) Any person authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.'

Under the above provision the Central Government can nominate DGTD or any other person as authorised person."

The following questions put to Shri R. Krishnaswamy and answers given by him to those questions on this matter are reproduced below :—

Question : You had sent the officers to Maruti to collect the information. Do you mean to say that the information was to be collected as per provisions of the Section which you have just now mentioned ?

Answer : We did not specifically invoke this provision.

Question : The purpose for which the officers were sent to the factory, was that purpose to be served as per the provisions of this law that you are quoting ?

Answer : The purpose was to collect the information which we needed for answering the Parliament question and for that purpose, they had gone to take the inventory of the machinery available in the Maruti. It was for this purpose that we sent these two officers.

Question : Whether the officers were legally competent to collect the information ?

Answer : They were legally competent but we did not invoke this particular Act at that time. We could have authorised them under this Act.

Question : Why did you not invoke the law ?

Answer : Our experience has been that no factory normally turns out any officer. It has never happened.

Question : Did you bring this matter to the notice of your superiors saying that under these circumstances whether this provision of the law should be invoked by taking

necessary action? Actually, this question was in my mind when he was asking questions—why did you not try to get information directly by invoking this provision of the law?

Answer : As soon as we got a notice about the admission of the question, we sent our officer because in our experience we have never met with any resistance in supplying information at any time. By the time, we found that no information was forthcoming and there was already some delay in submitting information to the Minister, we had to prepare an answer. We did not go into the other question whether we could compel them within the meaning of this law. Then the question was answered."

C. Action taken against the four Officers Collecting Information

62. The following four Officers who were engaged in the process of collection of information for preparing an answer to Starred Question No. 656 tabled by Shri Jyotirmoy Bosu, M.P., regarding purchase of Machinery (including imported Machine Tools) by M/s. Maruti Ltd., were proceeded against Departmentally. CBI investigations for corruption charges were started against them and they were harassed in other ways also :—

- (1) Shri R. Krishnaswamy, Director, Department of Heavy Industry.
- (2) Shri A. S. Rajan, Development Officer, Directorate General of Technical Development.
- (3) Shri L. R. Cavalc, Chief Marketing Manager, Projects and Equipment Corporation of India Ltd.
- (4) Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation of India Ltd.

63. In this connection, Shri R. Krishnaswamy, in his evidence before the Committee on the 11th February, 1978, has stated, *inter alia*, as follows:—

"The question was answered on the 16th. Sometime before the actual answer, I do not have the exact date of the incident, but it might have been Friday, preceding the reply to the question Mr. Rajan was called by Shri Pai in his house as he had an office in his house.

Rajan reported to him. He was asked what was he collecting information about and what was the question and what had happened and whether he had threatened one of those suppliers of Machine Tools—*i.e.* Batliboi? These questions were asked of Rajan. It was Friday preceding the date of the question *i.e.* 11th. I cannot give the exact date but as far as my recollection goes it was on the 11th before my draft answer to the Minister.

Actually that night Mr. Sondhi rang me up. I was not surprised because I had known during the day that Rajan had been questioned by the Minister and his Special Assistant. Thereafter on the 18th Rajan reported to me, that he was in office around 2 O'Clock. He was given a message that CBI constables and inspectors were in his house and were waiting for him to return. He mentioned that to me and he was going to see the Minister about that time.

When I went back home that evening, I found that I was being followed by a scooter with two people sitting on the back. When I slowed down, they slowed down. When I stopped, they also stopped. They might have been following me earlier, but I observed them on the 18th and when I reached home they parked themselves just opposite to my house.

I wanted to check whether I was in fact being followed. I immediately went thereafter to a friend's house. I found that they followed me to my friend's house also. From there I went to Mr. Sondhi's house and reported to him that I was being followed on the 18th. Now this continued for about two or three weeks. Sometimes there was a scooter following me, sometimes an Ambassador Car with 4 or 5 people. I knew they were sitting outside my office in Udyog Bhavan also watching who were the visitors coming etc. I was under surveillance, close surveillance I should say, from that date onwards. I reported the facts as they were known to me to Mr. Sondhi as well as to Mr. Pai through his Special Assistant. On the 3rd of May, around 7-30 or 8, a party of CBI, consisting of one Deputy Superintendent and a few Inspectors, came to my house and showed me a warrant of search and they said that they were going to proceed with the search. I asked them whether they had informed my Secretary because I knew that Secretary was not in town. They said that they had taken care of that part of it and that the Secretary would be informed. I told them that I would allow them to proceed and that I will inform my Minister as to what is happening. I could not get the Minister. I spoke to Mr. Ghosh who was my Joint Secretary

and requested him to keep the Minister informed that my house was under search. They went through whatever there was and the search continued till about two or three. They made some inventories. They took some papers from me and then they took me to my office. They made a search thereof my papers and then they left around 5 or 6 O'Clock of that evening. This was on the 3rd of May..... They took a Warrant from the Court. What they have done was, that on 2nd May, they registered a case under the Prevention of Corruption Act and they took a warrant from one of the Metropolitan Magistrates in Delhi and they came there with that warrant..... After the search was made nothing further was heard from them. I continued to handle the same subjects and I continued to work in the Ministry. But sometimes in August of that same year..... after promulgation of emergency, a letter was written, I understand, to the Ministry in which they said that since there was a CBI case against me, the investigations would be hampered if I continued to remain in position and that I should be transferred or reverted to my parent department. I belong to Railway Service and I was on deputation to the Ministry. I still had about 7 or 8 months of my tenure to go. I would have finished the next March, that is, 1976, I protested against this, because, I said, if I were to be sent out, it would mean, there would be a sort of suspicion that there was something against me. My request was that I should be continued in the Ministry until the CBI were able to prove whether they had anything against me or otherwise. But then I was told, under the circumstances then prevailing, I should go on leave and go back to the department because that was the only way in which they could make the CBI close my case. This was what I was advised by my senior officers. In August this happened. They filed a court case against me under the Punjab Excise Act. When they came to my house they were able to recover some quantity of liquor which was with me. So a Court case was filed sometime around August of that year alleging that I had breached the Punjab Excise Act. Round about the same time, my wife was summoned by the Directorate of Enforcement on the ground that she had violated some provisions of the FERA. I was not clear what it was. I forgot to mention one thing. When they searched my house, within a couple of days following, they searched my father's locker in Madras. He retired from IA & AS and in 1962 he had a locker in Madras. That was opened on a warrant from Delhi and that was also searched. I was still on leave. There was a detailed examination by the CBI of me sometime in November.

No report was filed. I was already on leave for about four months. And then there was no word from the CBI as to what they had found against me. I felt personally that if I were to join back in Government service, I must be cleared totally before I join my parent department. My own position in my parent department was such that the people there would not have understood what had happened to me whereas, in my own Ministry, people understood what has happened to me. And so, I extended my leave on half pay for another two months hoping that the CBI report would be submitted by then. But, then, the CBI had made no move to submit a report. My leave was coming to a close. In February I joined the Railways back at Delhi. The report by the CBI was finally submitted some time in May or June 1976 to the Department of heavy Industry. They examined the report and sent it to the Chief Vigilance Commissioner some time in September 1976.....

In March 1977, the Delhi Court acquitted me in the case of alleged violation of the Punjab Excise Act. We did not hear further from the Enforcement Branch. So, I presumed that we did not violate the Foreign Exchange Regulations Act. That is all the information about this."

64. Shri A. S. Rajan, Development Officer, Directorate General of Technical Development, in his oral evidence before the Committee on the 11th February 1978, has stated, *inter alia*, as follows :—

"Round about 14th April 1975, Mr. Pai, Minister of Industrial Development, called me to his residence and asked me whether I had given any information pertaining to Maruti and whether I have given any instruction to the PEC to supply information pertaining to Maruti. I informed the Minister that Mr. Krishnaswamy asked me to give a ring to Batliboi. I told him that I did not have any information about Maruti to be given to anyone..... The Minister asked me to put on record that I contacted Krishnaswamy, that Krishnaswamy gave me a ring and on his insistence I contacted Batliboi & Co. and then I asked Batliboi to get in touch with Krishnaswamy to give information pertaining to Maruti.

Round about 15th April 1975 I got a ring and the caller said that he was from the PM's Secretariat and he introduced himself as R. K. Dhawan. He enquired from me whether I had given any information either to Shri Krishnaswamy or to Shri Bhatnagar of PEC and whether I had threatened PEC of the consequences

if the required information was not supplied by them. I told the caller that I did not give any information to anybody and for that matter, I have no information. I told him, 'if you require any information, you should get in touch with the Department of Heavy Industry'....on 18th April 1975, within two days of the incident, I was in my office and I got a call from my house that some people from the CBI were in my house. I brought this to the notice of my Secretary, Technical Development, Shri B.J. Sahaney, and Mr. M. Sondhi, Secretary, Department of Heavy Industry. When I went to my house, I found CBI officers were waiting for me and they told me that my house be searched. The next day I reported this matter to my Secretary again and then I had become a victim of circumstances I do not know..... They took some papers from me. They were my personal papers..... Then, I had been subjected to various hardships.... People talked very ill of me. I was very much harassed. I had a mental shock because for no fault of mine, police conducted raids. Police raids in house means complete demoralisation and consequently my wife became very seriously ill and I had to suffer mental agony. My wife almost died. She became hysterical..... The charges are disproportionate wealth and some favours shown to some firms.... The name of the firm is 'R.K. Machine Tools'.

.....harassment by police officers was there asking me to bring this and bring that.... My Department asked me for my explanation on these favours which I explained to my Department.

They could not find anything..... They have absolved me of these. Sir, may I submit that not only I suffered, but my promotion, the normal promotion which I would have got in 1976, was denied to me because of the CBI case. Actually this case had been examined about seven or eight years ago, and the head of the Department had already pronounced that there was no *mala fide* on my part. And this old case was linked up with this now and I was charged on that.... The same thing which was closed eight years back was reopened. On that plea only my house was searched.....

Question : Is it a fact that you later on went to Sanjay Gandhi and met him?

Answer : Yes.

Question : Through somebody? With whom did you go?

Answer : With Mr. B. M. Lal of Batliboi.

Question : On what date did you go?

Answer : Two or three months after the raid.

Question : Why?

Answer : Because the whole thing happened to be about Maruti. Since nothing had come out of my sufferings and since it happened to be about Maruti, I thought probably I might go and explain the matter to him.

Question : Mr. Lal of Batliboi introduced you. What did he tell about you?

Answer : He said : 'He is Rajan. His house has been raided, and it is about Maruti. You may be able to help him out of this'.

Question : What did he ask you then? Can you give us a gist of the conversation?

Answer : I just told him that a question came in Parliament and I gave some information. The whole episode was about Maruti, and I explained to him that I had nothing to do with it. I had not done anything but my house was raided.....

Question : What did Sanjay Gandhi ask you?

Answer : He asked me nothing. I just told him. Then he asked : 'Why were you collecting information about Maruti?' I said 'I was not collecting, it was the Ministry which was doing this'. He did not say anything else.

Question : How did you come to know that the whole thing was done because of the question on Maruti?

Answer : On the 10th April, I was asked by the Ministry; on the 14th I was called by the Minister who never calls me on matters like this; on the 15th Mr. Dhawan rang me up and on the 18th, my house was raided. Within a week, I got in so much of difficulty and mental agony.

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Question : For the departmental inquiry, did they take up only R. K. Machine Tools or anything else?

Answer : There were two things : R. K. Machine Tools and Daulat Engineering.

Question : Showing favours in respect of What? Raw materials?

Answer : Import of raw materials."

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65. Shri L. R. Cavale, Chief Marketing Manager, Projects and Equipment Corporation of India Ltd., in his evidence before the Committee on the 30th March 1978, has stated, *inter alia*, as follows :—

“On 16th April 1975, when I came to the office, I was informed that Mr. Bhatnagar was suspended. It about 10.30 in the morning, I received a transfer order transferring me to Madras with immediate effect. This transfer order was dated 16th April 1975. However, it was withdrawn and a fresh one was issued dated 15th April, 1975, without any change in the contents. I met Mr. L. K. Dhawan, our Executive Director, and informed him about my transfer. Mr. L. K. Dhawan expressed his great surprise and advised me to contact Mr. B. D. Kumar, Chairman, PEC (the then Controller of Imports and Exports). My efforts to meet Mr. B. D. Kumar did not succeed at Udyog Bhavan. I, therefore, met Mr. Vinod Parekh, the then Chairman STC, and protested to him strongly first of all about my transfer and then the suspension of Mr. P. S. Bhatnagar. Mr. Parekh told me that in order to avoid further complications and possible harassment to me I should accept the transfer and go to Madras and relax there. I did not accept this contention.

On 16th April 1975, evening I met Shri P. J. Fernandes, the then Director General of Bureau of Public Enterprises (Addl. Secretary, Ministry of Finance) presently Secretary, Ministry of Finance, narrated to him the whole thing. Mr. Fernandes informed me that he will contact Mr. Parekh and find out the exact situation. Accordingly, on 17th April, evening Mr. Fernandes called on Mr. Parekh at STC’s office and I understand Mr. Vinod Parekh clearly indicated that STC had nothing against me but I have been transferred to Madras due to certain other pressures from the Ministry and others.

Mr. Fernandes was not satisfied with the explanation given by Mr. Vinod Parekh. After a couple of days I met Mr. Vinod Parekh at his residence and informed him that my family and I were under great duress and I was mentally upset and also that I was not in a position to accept the transfer order of STC transferring me to Madras without giving me proper and prior notice and without assigning any reason. Mr. Vinod Parekh again reiterated and informed me that I will be in great trouble if I did not accept transfer order. I went on a long leave in order to reorganise myself in regard to my transfer.

On 3rd May, 1975, one Mr. Chander Bhan, D.S.P., C.B.I. visited me with a search warrant along with some seven other people. The allegations against me were that I have assets disproportionate to my known sources of income. I, therefore, submitted myself to the search and afterwards Mr. Chander Bhan brought me to the office and conducted the search of my cabin. He seized two files, one pertaining to import of my car and the other to my stay in Rotterdam, Holland. He also seized my fixed deposit certificates worth about Rs. 12,000, bank pass books and some L.I.C. papers.

I again contacted Mr. Vinod Parekh at his house and protested against the harassment caused to me. Mr. Vinod Parekh suggested that since I was very highly qualified man with good experience, I should resign S.T.C. and seek my fortune elsewhere. He also informed me that if I continue in S.T.C., I would get into more trouble and harassment would increase. I, therefore, waited for completion of my Earned Leave and then on 1st June, 1975, I submitted my resignation letter indicating that due to the events which have happened during the months of April and May, 1975, I am resigning with a protest and on principles. Mr. Vinod Parekh did not accept this letter and instead he suggested that I should give a very simple letter of resignation which would be accepted across the table.

On 15th of June, 1975, under pressure, I submitted a simple letter to Mr. B. C. Malhotra, Chief Personnel Manager, who accepted it immediately and gave the letter of acceptance. I packed my bag and baggage and left for Bombay. I was unemployed during this period. Against regular advertisements I applied to MICO Bosch, Bangalore; for a Senior Manager post. I was selected by their Managing Director and Chairman and later on their Chairman informed me that since I was a victim of Sanjay Gandhi he cannot absorb me in his company.....

My wife is a B.A. (Hons.) and Post Graduate degree holder in Political Science and Economics from the University of Manchester. She has been working even since 1963. She was working in Delhi with M/s Sobhagya Advertising Agency. Since CBI enquired about her at Sobhagya, she lost her job immediately. Her efforts to join back Finlays Textiles in Bombay where she was previously employed also did not succeed since CBI had enquired there also.....

I had Life Insurance Policy worth Rs. 75,000. When I resigned STC I had converted the policy from Salary Saving Scheme to regular payment. In doing this there was a delay and I had to take a fresh medical examination for reinstating the policy. LIC Bombay after conducting the examination rejected my case without assigning any reason. It was shown a letter from CBI by LIC Ferozeshah Mehta Road office indicating that they are investigating my case and no action should be taken."

66. Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation in his evidence before the Committee on the 31st March, 1978, has stated, *inter alia*, as follows :—

"....I got a telephone call on 16-4-1975 before lunch from Shri R. K. Dhawan from the former Prime Minister's Sectt., who enquired whether I was collecting any information in regard to supply of machine tools to M/s. Maruti. I said, "Yes". I brought this fact to the notice of my Chief Maketing Manager, under whose instructions I was collecting the information. He told me to collect the information and give it to him. Again the same day after lunch I got a telephone call from Shri R. K. Dhawan, advising me not to collect this information and stop its collection. I replied that I would certainly do so and requested him to kindly inform my Chief Marketing Manager, Shri Cavale, under whose instructions I was collecting this.....

I left the office as usual on 15-4-1975 and an order placing me under suspension was served on me at my residence on 15-4-1975 by Shri B. C. Malhotra, the then Chief Personnel Manager at about 10.30 P.M. in the night. He was accompanied by Shri R. K. Tarneja who is now Chief Personnel Manager in the Projects and Equipment Corporation of India.

After two or three days of my suspension, a raid was conducted by the CBI in my house on a charge of possession of disproportionate assets to my known sources of income, which after thorough enquiry was not established. On 29-4-1975, I was served a charge sheet saying that I have committed gross misconduct and misbehaviour inasmuch as I kept the representatives of the firms, M/s. Batliboi & Co. waiting for unduly long time on 15-4-1975 and coerced them to part with certain information, which was a shock to me at earlier to this, nothing adverse was communicated to me. I refuted the charge in my reply which was sent to the Management within the stipulated period but I was not intimated any action till I was reinstated on 1-9-1976. On my reinstatement,

I was served with another charge sheet dated 3rd September, 1976 charging me for not informing the purchase of certain items to the Management as required by STC Conduct Rules and that I misrepresented the fact in a note prepared by me in regard to some price increase. Even on these two minor points, our Chief Vigilance Officer, Mr. N. R. Sircar censured me and on the earlier charge sheet which was served on 29-4-1975, I was issued simple warning.

Because of my suspension, a few of my juniors were promoted and thus I was superseded. My supersession would not have happened if I would not have been suspended which was unwarranted. I was put to great mental agony for no fault of mine while discharging my official duties.....”

67. The statements made by Shri R. Krishnaswamy, Director, Department of Heavy Industry, regarding action taken against him, have been corroborated before the Committee by Shri Mantosh Sondhi, former Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry) in his evidence before the Committee on the 26th April, 1978, as follows :—

“...In this particular case I came to know that there was a question like this, when late in the evening of 11th April, Mr. Pai sent for me and he said that it had been reported to him that some of our officers were harassing certain firms for getting necessary information. I had not seen the question by that time. But I was quite surprised because I fully knew that they discharged their duty with a certain amount of decorum and dignity and there could not be any question of harassment.

That night I rang up Krishnaswamy. I asked whether he had taken any steps which would amount to harassment. He said he had done nothing. He was keeping in touch with Maruti Limited and D.G.T.D., and Projects and Equipment Corporation for getting some information. I left it at that and we agreed to meet in the following morning. It was a second Saturday. He came and told me about what he had been doing and also the problems that he had faced—in the sense that he could not get information from Maruti Limited. He had also not been able to get much information from Projects and Equipment Corporation and since we were one day late by way of putting up a draft reply, we felt, it was best to give reply on whatever information was available....

.....I think it was 3rd May, I was away from Delhi and I came back from Madras. I was told by my Private Secretary at the Airport that Shri Krishnaswamy's house had been searched. This came as a great shock to me because he was known to me for the last many years and his integrity was beyond reproach. I was naturally very upset about it. I went to Shri Pai late at night and asked if that was true.....

From my memory I can say it was 3rd or 4th of May. I was all the more surprised because it was a convention when there are certain allegations against a senior officer of the Ministry, it is customary for the C.B.I. to first check up with the Secretary or Joint Secretary or with the Minister whether there was any *prima facie* merit in the allegation which had been made. So I asked Mr. Pai whether permission was taken, before the search was carried out. But I found subsequently, the next day, that no permission was taken. But, while the search had started, they had informed the Joint Secretary who informed the Minister. The allegation was that he had assets disproportionate to his known sources of income. In a matter like this it should be possible for the CBI to investigate the matter discreetly without resorting to this extreme step of searching the officer's house.

As you know, Government officers are supposed to give information every year about their assets, about their immovable properties and things like that. If the CBI had contacted us, we could have given them all the information they required before they took this extreme step of searching his house, which is really very demoralising.

In this case, all that was not done. He was also put under police surveillance; this I know because he used to come to my house quite often. He was naturally very perturbed. He was being followed even when he came to see me. All this amounted to harassment.

CBI made this enquiry and at that time there was one other case about him regarding possession of liquor. That case was filed in a court of law. But I think finally nothing happened. He was acquitted. There was some complaint about his wife also and the Enforcement Directorate was pursuing the matter. But I know nothing came out of it.

Finally when we got a report from the CBI, we went into it in great detail. We found that based on that, there was nothing really which could be said against the officer. So based on that, we sent

a report to the C.V.C. to say that the case may be closed and they accepted our recommendation.....

I went to the Minister. I talked to him. He was very upset. He did write to the Prime Minister about this matter also."

68. In this connection, Shri T. A. Pai, M.P., former Minister of Industry and Civil Supplies, has in his evidence before the Committee on the 23rd March, 1978, stated, *inter alia*, as follows:—

"Shri Krishnaswamy in the course of gathering this information to reply to this question had got in touch with Shri Rajan, an officer of the DGTD to ascertain. Shri Rajan also was directed to contact the Projects & Equipment Corporation who in turn informed him that M/s. Batliboi must have imported and supplied this machinery to the Maruti. Shri Krishnaswamy contacted M/s. Batliboi through Shri Rajan. He also seems to have made efforts to ascertain these facts from the Maruti factory.

This seems to have upset Shri Sanjay Gandhi, and Shri R. K. Dhawan, P.S. to the then Prime Minister, contacted me and complained that my officials were harassing M/s. Batliboi, and that they insulted them in the presence of some European visitors. It was my duty to find out the truth and therefore, I sent for the Manager of M/s. Batliboi who denied any kind of harassment from my officers who were only seeking some information and it was not true that any foreigners were present at that time. I had also contacted Shri Krishnaswamy and told him while dealing with the public there should not be impression of any pressurisation.

Next day, I think it was about the middle of April 1975, Shrimati Indira Gandhi had returned from some tour. She called me to her residence No. 1, Safdarjung Road. She was completely upset and furious. She accused my officers of being corrupt while they were talking of political corruption. She referred to the harassment to the Manager of M/s. Batliboi. She was very angry and she also told me that I had advised her against Shri Sanjay.

I thought it was not worthwhile replying to her as I felt she was unreasonably angry. She also called Shri Dhawan and told him to ask Shri Sen to start CBI enquiries against all these officers. Subsequently, I heard Shri Rajan's house was raided by the CBI without permission of DGTD. Shri Rajan complained to me about this. Shri Krishnaswamy also complained that he was being pursued by the CBI. Subsequently, Shri Krishnaswamy's

house was also raided, and contrary to the practice, the Additional Secretary in charge of the Department of Personnel was informed about this when the search was already going on. Later on I was informed that the Secretary, Heavy Industry, Shri M. Sondhi, was also under surveillance, because he was supposed to have made some comment in a private party about political corruption.

But I do not know what upset these people because this question could have been answered by me without any problem. The question was whether any licence had been granted for import of machinery and whether they had purchased some imported machinery from anybody in India. We did not permit them to import any machinery because it was against the terms of the licence.

On whether they have bought any machinery locally, I had found out there was one loophole, you see, under the various contracts that were entered into with the East European countries, I think machinery to the extent of Rs. 5 to Rs. 6 crores was being imported. This was under the stock and sale agreement. I think about 50% of the machinery imported from those countries came under this. This did not require any licence to purchase. Anybody could pay money in rupees and buy this machinery. This machinery was also imported. Imports were arranged by the Projects and Equipment Corporation, under the Ministry of Commerce, and all that they had to do was to get a clearance from the DGTD, that these machines were not made in India, and that their imports were allowed. They were practically sold against rupees; and they were as freely available as any Indian machinery.

If this question had been asked, there was no problem for me to say, 'Yes'. There was nothing wrong technically. It was only a loophole which had been provided for, that had been taken advantage of.....

But I don't even now really know what upset these people so much. In fact, Mr. Dhawan telephoned to me a few days prior to this complaint, and he named the officers also. He mentioned Mr. Krishnaswamy and Mr. Rajan. I did not know Mr. Rajan as an officer, by name. I knew Mr. Krishnaswamy, because he was working under the Ministry of Heavy Industry. Therefore, I knew him.

They were harassing outsiders because certain answers had to be collected and they mentioned the name of M/s. Batliboi. If anybody had complained to me that my officers were harassing anybody, I would have deemed it my duty to enquire. I myself sent for the Manager of Batliboi, because the complaint was that the officer insulted the Manager in the presence of some Europeans. I asked : 'Did my officers contact you?' He said: 'Yes'. 'What is it about?'—I asked. 'They wanted to know whether any machinery was imported'. I was told. I asked: 'Were they rude ?' Even while asking for information, one can be rude.

They said, 'No'. Then I asked: 'Were any Europeans present there ?' He said: 'No'.

So, I knew that the complaint that Mr. Dhawan had brought to my notice was absolutely false. Of course, I did not pursue it, because it was not a query from the Prime Minister herself. If she had wanted me to clarify I would have done it. Since Mr. Dhawan asked me to do it—and since I for one did not attach more importance to it than required—I kept quiet.

The very next day, when Mrs. Gandhi called me, she brought the complaint to my notice. She was very angry. Unfortunately, I could not tell her that this information was all wrong, and that I had satisfied myself. So, I kept quiet; and in a moment of anger, she asked Mr. Dhawan to see that these people were proceeded against. The charges that she made, were not that they were collecting information. She did not make any reference to the questions. She only alleged corruption; but I knew that the previous day the complaint that had been made to me related to Mr. Krishnaswamy and Mr. Rajan.

....I wrote to her a letter when I knew that it was going to take a serious turn, when I saw that Rajan's house was raided and Krishnaswamy's house was raided, I did it because of this background, otherwise, I would have never known it, even if their houses had been raided. When their houses were raided, I called Rajan and asked him what the charges against him are. He said "Sir, I have bought a house and they say it is 'assets in excess'....

....I had found that the charges were not very serious. So, I wrote a letter to her: "My officers were only doing their legitimate duty in collecting information about this question. Now they are being harassed. And you told us that I should give them

protection whenever they were harassed. Now I seek your "intervention". I sent this letter because I thought that later on when she cooled down she could reconsider whatever she had said.

But in reply I got a letter¹⁹ strongly worded. 'I am amazed that you have linked up this matter of the question and the raids. Here are the charges against them', and she enclosed a list of charges framed against these officers. And then I knew I would not be believed unless these charges were investigated and they were proved to be innocent. It was a very difficult position for me to face.

Subsequently, I heard that two officers of the PEC got into difficulties. As I could see, all their fault was only this. First, Krishnaswamy had contacted Mr. Rege of the Maruti factory for information, and he made it clear that he was not asking for his private benefit, that he had to prepare an answer for a question, and so he wanted the information. Mr. Rege himself had said, "we do not have the information" or something like that. Naturally, he got into touch with Mr. Rajan, who is the DGTD officer connected with machinery imports. He said that the information could be got from PEC, one Mr. Cavale. The last officer said that the information could be got from those from whom the import had been ordered. He got in touch with them.

I found that for all the trouble that these four people were involved in supposed criminal charges their only fault was that one was asking for information from the other. All the four of them got into difficulties merely because of the Question asked. If the Question had not been asked, these people would not have had the trouble. That is all that I can say. Later on, Mr. Sondhi also was being pursued.....

....My whole Ministry came into trouble, I do not know why, what for. I was thinking why this Question was so important, whether it was an effort to demoralise the Ministry, because I did not know what else was coming. In fact, to a very large extent it had demoralised the officers because they had done nothing.....

In the course of five years, this is the only confrontation that I had. On any other matter, I must say, at no point of time, she had interfered with my answers or the questions which were looked after by me exclusively....

¹⁹ See Appendix XVI.

....Justice Shah asked me only one question: Were the Officers going out of the way to collect the information? I said, no. They were asked to get as much information as possible and it was their duty to furnish the information to me.

Question: Even without collecting the information, you could have answered the Question in the Lok Sabha?

Answer: No."

69. As regards the harassment caused to Shri A. S. Rajan, Development Officer, DGTD, Shri B. M. Lal, Deputy General Manager, Batliboi & Co. Ltd., in his evidence before the Committee on the 4th April, 1978, has stated, *inter alia*, as follows:—

“....Some months later Mr. A. S. Rajan, Development Officer, DGTD contacted me and told me that he was being harassed. Mr. A. S. Rajan knew that my Company had regular dealings with Maruti Ltd. and that I had come to know Mr. Sanjay Gandhi; he requested me to introduce him to Mr. Gandhi to enable him to personally explain his difficulties and the harassment caused to him. As Mr. Rajan was known to me since long and I sympathised with him, I tried to introduce Mr. Rajan to Mr. Sanjay Gandhi.

I had come to know Mr. Sanjay Gandhi in the course of our business. Only after three to four weeks I could get an appointment with Mr. Gandhi and requested Mr. Rajan to accompany me. The meeting took place at the Factory premises of M/s. Maruti Ltd. During this meeting I introduced Mr. Rajan to Mr. Gandhi. When Mr. Rajan explained the harassment caused to him Mr. Gandhi replied after listening to him that he had no knowledge about the matter but assured him that he will try to look into the matter....

He was in a very pitiable shape. He came to me if this could be done. I said, 'All right. I will try'. That was after 3 months of this event.....

He told me that his house was searched. That was enough that something has gone wrong somewhere.”

70. As regards the action taken against Sarvashri L. R. Cavale, Chief Marketing Manager and Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation, Shri D. P. Chattopadhyaya, M.P.,

former Minister of Commerce, in his evidence before the Committee on the 10th February, 1978, has stated, *inter alia*, as follows:—

“....One evening in April 1975, I was called by the then Prime Minister to her residence and I went there. It was a little after evening, it may be 7 O 'clock, may be even a little after that. I found her in a very angry frame of mind and she told me in her rather unusual voice that there are very grave allegations against some of my Officers. Whether she said some of my Officers or one or two of my Officers or Officers of Mr. Pai's Ministry—I do not remember exactly. She was very emphatic on that point that there were grave allegations against some Officers. So she went on for some time. She was talking on her own. I asked her when she stopped talking or rather cooled down just one question—what is the allegation? She said that the allegation is that they are harassing they are intimidating the people, they are unnecessarily causing delay and thereby they are bringing a bad name to the public sector organisations, instead of serving the people, they are harassing the people and you must do something about it, you must take some disciplinary action. The only thing I asked her was 'Are you really satisfied that these allegations are genuine?' She said: 'Yes'. 'Very senior people and some MPs have brought these allegations to me'. I must say one thing to you at this point. I never saw her, so angry and in such an upset state of mind and insisting that somebody should be suspended. I may say, neither before that nor after that. And at that point of time, I had no reason to believe that she did not apply her mind to the matter she was talking to me viz., misdemeanour, negligence of duty, causing harassment by my officers. So I found that it was almost futile to discuss the matter with her on that point because she made up her mind and she took the decision. I came back—to the best of my recollection—to Office though late in the evening, and I sent a word to the concerned Officers; I could not do anything myself. So, I sent a word to the Chairman of Projects & Equipment Corporation....

I think, it was Mr. B. D. Kumar, who was at that time the Chief Controller of Imports & Exports and concurrently though temporarily holding the office of the Chairman of PEC and also STC.

I told him that this is the opinion of Mrs. Gandhi, the then Prime Minister and that she was very emphatic on this point that some grave allegations have been conveyed to her and that some MPs had also, according to her version, conveyed the allegations to her. She was very emphatic that some disciplinary action should

be taken and what can be done about it? Presumably, they had consultations between themselves—I say 'presumably' because they did not discuss the matter before me—I sent a word and—then they told me through my Special Assistant that if something has to be done about it, then it is rather unusual thing and they conveyed to me that action could be taken if the Minister i.e. myself, could give a formal order. So, therefore, at that stage, I gave a formal order that Mr. Bhatnagar should be suspended and departmental disciplinary action should be taken against him.....

Question: Was the name of Mr. Bhatnagar mentioned by the then Prime Minister?

Answer: She mentioned Mr. Bhatnagar's name and the names of the others were not known to me.

Question: You asked the Officers to take action against him only?

Answer: Yes.

....I did not have the foggiest idea, the vaguest of the information as to what was all about it. But because of her fury, I passed that order with some reservation in my mind. I would request you to bear in mind that there too I said 'departmental action and nothing else.' After that order was passed, I do not know after how many days, I came to know that some other people have been arrested and harassed and the reason behind it was that they were engaged in collecting information about Maruti. Shri Pai was the Minister in charge of answering the questions. The people of my Ministry and Mr. Pai's Ministry were engaged in the same sort of activity. The PEC people were in charge of importing certain equipment and some company called Batliboi was importing. My people asked Batliboi for whom they were importing those spares. These were the questions they were asking. May be they were asking a little at length or very intensively, for that was called for, for giving supplementary information to the Minister because the question was likely to be taken up within a few days. I presume that officers of the Heavy Industry Department went to PEC office to give this information, so that if some additional information was sought on the floor of the House, this could be obtained from my office. This I came to know later on.

....when Mrs. Gandhi was upset and insisted on taking disciplinary action, I agreed to take action only at the departmental level. The CBI people entered into the picture and registered cases over

our head. Our Ministry had nothing to do with that. We did not register any case against them. We did not ask the CBI to come into the picture. I realised later on that some injustice has been done and they were subjected to harassment and punishment beyond all proportions. So, Mr. Bhatnagar was restored to his service during the time I was Minister, sometime in the latter half of 1976. So far as Mr. Cavale is concerned, I do not think he was suspended. He was transferred. I am saying from memory because I have no records before me. He refused to go on transfer. But he did not lose his job. Recently he has been given that position.

First I felt uneasy when after a few days it was brought to my notice that the institution of cases, harassments and raids were all connected with the collection of information regarding Maruti. So, I could at that time dissociate this matter of so called allegations of harassment, intimidations or delaying customers and thereby hampering the reputation of the organisation from Maruti affairs. I could realise it immediately after that, but by that time the thing went beyond our control. The CBI stepped into the picture at the behest of some others. So, the case was instituted before we could proceed with our departmental enquiry. But what the CBI tried to find out, they could not. As soon as we discovered that the CBI could not do what they wanted to do or what they were asked to do, we restored his job, which was within my administrative control.

Question: When Mrs. Gandhi got into a state of frothy anger, how long were you with her?

Answer: Ten or fifteen minutes.

Question: When did you come to know that it was connected with the Maruti affair?

Answer: After some seven days or so when I heard from Mr. Pai and also other people in the Ministries. So, that night I could not follow the background, but later on I heard."

71. Shri D. P. Chattopadhyaya, M.P., former Minister of Commerce, had recorded the following note on the 15th April, 1975 and sent it to the Chairman, Projects and Equipment Corporation, Shri B.D. Kumar:—

"For some time I have been receiving persistent complaints about the behaviour of certain officials of the Projects & Equipment Corporation, a subsidiary of the STC, towards their business clients and associates. A specific case was brought to my notice today where Shri P. S. Bhatnagar, Deputy Marketing Manager, PEC, kept the representatives of a firm waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained was unbecoming of a public servant. I would like the Chairman, PEC, to take suitable disciplinary action against the officer.

Sd/-

D. P. CHATTOPADHYAYA
15-4-1975."

72. The action taken against Shri P. S. Bhatnagar in pursuance of the above note of Shri D. P. Chattopadhyaya, former Minister of Commerce, is indicated by the following notes and orders recorded by Shri B. D. Kumar, then Chairman, Projects and Equipment Corporation, the Chairman, State Trading Corporation of India Ltd., and other officers concerned:—

"I had occasion to point out the other day to Director (Shri L. K. Dhawan) that the performance of Shri Bhatnagar as Deputy Marketing Manager in the Inter-departmental meetings has *not* been altogether satisfactory and requested him that he should be shifted from the present seat. *As discussed*, Chairman, S.T.C. is requested to take suitable action against the officer.

Sd/-

B. D. KUMAR
15-4-1975

Chairman, S.T.C. Nec. action Sd/- 15-4-75 D(M).

This matter was discussed today when Chairman, STC, Chairman, PEC, myself and CPM (Malhotra) were present. The consensus of opinion was that P. S. Bhatnagar, DMM II (PEC) Engineering, be placed under suspension immediately. CPM should take steps to serve the suspension orders personally today itself. Charge-sheet will be issued to him shortly.

Sd/-

M. N. MISRA
15-4-75

CPM

Suspension orders were personally served by me to P. S. Bhatnagar on 15-4-75 and his signature obtained on our copy.

Sd/-

B. C. MALHOTRA
15-4-75"

73. In this connection Shri B. D. Kumar, former Chairman, Projects and Equipment Corporation, in his evidence before the Committee on the 7th July, 1978, has stated, *inter alia*, as follows:—

“....Shri N. K. Singh, the then Special Assistant to the then Commerce Minister—Prof. D. P. Chattopadhyaya, saw me in the afternoon (at about 4.00 p.m.) on or about the 14th April, 1975 in my office. He stated that the then Commerce Minister was told by the former Prime Minister—Smt. Indira Gandhi that a Deputy Manager of the P.E.C.—Shri Bhatnagar had behaved badly with the representative of M/s. Batliboi and in an unbusinesslike manner. He made their representative wait outside his office for an unduly long time and as soon as he met him, he warned the representative about action to follow if he failed to furnish certain information. Shri N. K. Singh added that the former Prime Minister was very much annoyed with Shri Bhatnagar's unbusinesslike behaviour. Shri Singh further stated that the then Commerce Minister had desired that the officers concerned should be transferred immediately.

Since I was not aware of the case itself, I replied to Shri N. K. Singh that I would immediately go to the Office of the P.E.C. to ascertain the facts and collect the relevant file and on return place through him to the then Commerce Minister the facts and handover the documents as required. Immediately thereafter I went to the office of the P.E.C. and contacted Shri L. K. Dhawan, the Executive Director of P.E.C. in his office. He contacted Shri Bhatnagar and collected the relevant file from Shri Bhatnagar and informed me that Shri Bhatnagar was trying to collect material for a reply to a question in Lok Sabha relating to supply of machinery to Maruti Co. and for which question an urgent note had been received from the Department of Heavy Industry, in the Ministry of Industrial Development. The Department was reminding the officers of the P.E.C. for necessary material. I was further informed that Shri Bhatnagar had asked the representatives in Delhi of the agents in India of the East European Suppliers of

Machinery, imported into India for stock and sale basis, to furnish the required information. He had received some information from a few agents other than M/s. Batliboi whom he had asked to expedite.

I returned to the Ministry of Commerce and handed over the relevant file to Shri N. K. Singh and indicated briefly to him the action which was taken for collecting the information required by the Department of Heavy Industry for preparing an answer to a question in Lok Sabha. He stated that since Smt. Gandhi was very angry with the concerned officers of the P.E.C., action for transferring the officers out of Delhi be taken forthwith and the S.T.C. be informed immediately.

After about half an hour or so, Shri N. K. Singh saw me again and stated that certain decisions had been taken regarding Shri. Bhatnagar and Shri Cavale. Since the administrative responsibilities for taking any action against the officers of the P.E.C. rested with the Chairman of the S.T.C., Shri N. K. Singh contacted Shri Vinod Parekh, the then Chairman of the S.T.C. and communicated that it was desired by the former Commerce Minister that orders for suspending Shri Bhatnagar and transferring Shri Cavale should be issued immediately. At his request, I accompanied Shri N. K. Singh to Shri Parekh's office on Janpath. There was a brief discussion in the room of Shri Parekh where Sarvashri M. N. Misra (Executive Director—Personnel) and Malhotra (Chief Engineer—Personnel) were called. Shri N. K. Singh repeated the need for taking immediate action on the lines already indicated by him. The latter officers were asked by the Chairman of S.T.C. to take necessary action for placing Shri Bhatnagar under suspension and for transferring Shri Cavale and the orders were to be served on the officials concerned forthwith....

The officers were discharging their responsibility in collecting the material asked for by the Department of Heavy Industry and the file at that time did not indicate that they had done anything wrong....

....The officers were discharging their duty in collecting the material which was needed for Parliament question. The complaint came through Shri N. K. Singh and he also said that that was the desire of the Minister that the officers should be transferred and later on he said that one of the officers should be suspended....

It was my duty to bring to the notice of the higher authorities that the action proposed was not warranted on the basis of those facts. But here in this case the orders came from the higher authority i.e., the Minister and they were to be carried out immediately....

....In the discussions which were held in the office of the Chairman, the point was how the officer should be placed under suspension, whether unbusinesslike behaviour was one of the reasons in the service conduct rules on which an officer could be placed under suspension. Here it is stated that the chargesheet should be served. When an officer is placed under suspension, some reason for suspension should be given.

I do not say it has to be invented. But service rules were consulted and it was pointed out that unbusinesslike behaviour was one of the reasons for taking action against an officer....

The orders were that it should be carried out immediately and reported; the letter should be issued the same night."

74. Shri N. K. Singh, former Special Assistant to the then Minister of Commerce, in his evidence before the Committee on the 14th June, 1978, has stated, *inter alia*, as follows:—

"....Sometime in April, 1975—I do not recollect the exact date, but perhaps it was sometime in the middle of April, 1975—Prof. D. P. Chattopadhyaya, whose Special Assistant I was at that point of time, gave me a ring at my office at around 7 p.m. and asked me to come to his residence. His house is only a stone's throw from Udyog Bhavan and I reached there shortly after 7 p.m. Professor Chattopadhyaya then told me that he had received serious complaints of harassment of STC clients by one Mr. Bhatnagar, a Deputy Marketing Manager in the STC, and that he had decided to place the officer under suspension, pending the initiation of departmental action against the officer and that while he had himself tried to get in touch with Mr. Parekh, Chairman of the STC, and Mr. Kumar, who was at that time Chairman of the Projects and Equipment Corporation, a subsidiary of the STC, he had been unable to get them on the telephone. He therefore wanted me to immediately go and convey this instruction both to Mr. Parekh and to Mr. Kumar. Professor Chattopadhyaya also told me that I should ring up a senior officer, Mr. Cavale, who was superior to Mr. Bhatnagar, and ask him whether he had received any complaints regarding Mr. Bhatnagar harassing STC clients.

I left Professor Chattopadhyaya's residence at 7.30 p.m. after about 15 minutes stay there. I came back to my office and tried to ascertain Mr. Cavale's number. Most of my personal staff had left office by then but I had a copy of the STC Directory with me.

I contacted Mr. Cavale and asked him whether there had been any incident in the office in which one of the officers, Mr. Bhatnagar, was supposed to have harassed any STC client. Mr. Cavale replied in the negative, but he said that some representative of one Messrs. Batliboi had met Mr. Bhatnagar during the day. My conversation with Mr. Cavale was very brief, because my main instruction was to convey Minister's order to Mr. Kumar and Mr. Parekh.

I then tried to ring up Mr. Kumar but, unfortunately, could not get him. Then I went to Mr. Kumar's office and informed him of the instruction of the Minister. Thereafter, Mr. Kumar and I went to Mr. Parekh's office in STC, where Shri Parekh was still working. I had already informed Mr. Kumar that the Minister wanted to contact him or Mr. Parekh to convey his instructions personally but he could not get them over the phone and that was why he had sent me. Mr. Parekh said that he would like to ascertain the rules and regulations in this regard. He contacted Mr. Misra, Director incharge of personnel, and Mr. Malhotra, who was next to Mr. Misra in the STC handling personnel matters. They had a discussion on how they would go about suspending Mr. Bhatnagar.

After I had returned to my office from the Minister's residence, and before I went to the STC office, the Minister was apparently able to contact Mr. Kumar directly and so Mr. Kumar was already aware of the Minister's views on the subject. Mr. Kumar was reinforced about the Minister's view because he had also received a note from Minister by the time I reached him.

Mr. Parekh began a discussion on the mode of suspension and the rules and regulations. Now that I have conveyed the message, it was entirely up to them to decide the manner in which they would carry out the orders of the Minister. So, I went home straight at about 8.30 p.m. from STC. Next morning I informed the Minister that in accordance with his instructions the previous evening, I had conveyed his orders to Mr. Kumar and Mr. Parekh. He told me that in the meantime he had spoken to Mr. Kumar himself and given him the instructions....

I have worked with Prof. Chattopadhyaya for a sufficiently long time.

He was not a man normally to get excited or exercised. But when I went to him, he seemed to be fairly exercised over the matter. When he mentioned about his decision about Mr. Bhatnagar's suspension, my first reaction was that this was something which was *prima facie* arbitrary. Normally, if I may say so, it would have been possible for me to bring to the notice of the Minister the manner in which suspension can be done and the procedure to be followed. But this was one of those cases where I found him unusually glum and he used pompous language. So, it was very clear that he had made up his mind and he had taken the decision....

The next day I informed the Minister that in pursuance of his order, I had met Mr. Kumar and Mr. Parekh. I also gave him the substance of my conversation.

The factual position is that when I went to his house, I found that his car was parked in a particular place, where it used to be parked only when he has been somewhere or is to go somewhere. As I drove my car, I found his car in that position. It was quite unusual for me to find his car in that place at that time. So, I enquired in colloquial Hindi from his Private Secretary, I asked : आई क्या बात है । साहब बुलाये हैं ।

(Translation : What is the matter, the Minister has called me?)
And he told me : प्राइम मिनिस्टर हाउस से साहब आये हैं ।

(Translation : Saheb has come from Prime Minister's House.) After that, the Minister did not tell me what he discussed with the Prime Minister. I thought it was quite audacious on my part really to ask him anything about it.

Question: You knew in any case that he had met the Prime Minister.

Answer: That is what I learnt about it.

Question: Did he dictate the note to you about the order of suspension of Mr. Bhatnagar?

Answer: No, Sir. What really happened was this. He told me this orally, and apparently subsequently, after my leaving his house, he must have dictated this note and also sent it to Mr. Kumar, because when I went to see Mr. Kumar, he had been able to speak to Mr. Kumar or Mr. Parekh. So, after I left, apparently Mr. Kumar must have come back to his room from whichever meeting there was. His Private Secretary must have connected him to the

Minister and they must have also spoken to each other, and also the Minister must have dictated the note and sent it down to Mr. Kumar.

Question: That you knew subsequently?

Answer: Mr. Kumar had this note when he entered Mr. Parekh's room. There was a piece of paper which he said was the note which he had received from the Minister.

....I forgot to mention one thing. Some ten days or perhaps a fortnight after this order on Mr. Bhatnagar was carried out, Mr. Bhatnagar sought an interview which I readily granted. He came and broke down and he told me that the suspension was wholly unjustified, that he had done nothing to warrant this very harsh step. He also told me that in the meantime the CBI had raided his premises and had apparently registered a case or something like that. I had the fullest sympathy with Mr. Bhatnagar....

Question: Since you had worked with other Ministers also, were you not at any time, convinced that all these cases of suspension were either baseless or *malafide*?

Answer: When the CBI report finally came to the Ministry and the memorial submitted by Mr. Bhatnagar was examined at our instance by Director, Vigilance in consultation with the CBI and the CBI closed this case, the file came up to the Minister for authorising the STC to finally revoke the suspension order, well, it was an eye-opener to me. I did realise that it was arbitrary and unjust action."

75. As regards the transfer of Shri L. R. Cavale and suspension of Shri P. S. Bhatnagar, Shri Vinod Parekh, then Chairman of the State Trading Corporation of India Ltd., in his evidence before the Committee on the 6th April, 1978, has stated, *inter alia*, as follows:—

"....One evening, fairly late, I think about 7 p.m. or 7.30 p.m., when I was working in my office, Mr. B. D. Kumar, who was then the Chairman of the Projects and Equipment Corporation, a subsidiary of the STC, along with other jobs which he was doing in the Ministry such as holding the portfolio of Controller of Imports and Exports, and Mr. N. K. Singh, who was Special Assistant to the then Commerce Minister, came and saw me. They told me that the Commerce Minister was very much disturbed that some officers of the Projects & Equipment Corporation have been reported to be rude to some customers of the Corporation and that their behaviour was bad and that some action was called for.

My reply was that these were officers of the Projects & Equipment Corporation and they were only on the STC cadre and they belonged to the Projects & Equipment Corporation and therefore, it was up to the Chairman of that Corporation to tell us what was wanted to be done.

The Chairman of the Corporation said that he wanted one officer to be suspended and one officer to be transferred. Because it was a personnel matter, I called the Personnel Director, Mr. Misra and the Personnel Chief Manager, Mr. Malhotra, and we had a discussion in front of all the people—Mr. B. D. Kumar, myself, Mr. Singh, Mr. Mishra and Mr. Malhotra—at which the decision was taken that one officer should be suspended and one officer should be transferred. I had no information whatsoever or even the slightest suspicion that it had anything to do with Maruti or any questions in Parliament. In STC we did not have this information, we were not told about it and we were merely told of the annoyance of the Minister regarding the rude behaviour of some officers in the Projects & Equipment Corporation, on the basis of which this action was taken.

Question: Mr. Cavale in a statement before the Shah Commission and also before this Committee has said this. I quote:

“Due to certain events which took place during the month of April, 1975, I was forced to resign STC/PEC by the then Chairman of the STC, Mr. Vinod Parekh, and the Chairman of the PEC Mr. B. D. Kumar (the then Chief Controller of Imports and Exports) on 15th June, 1975.”

What have you to say about this?

Answer: I would not agree with this statement, because he was positively not asked by me to resign. He was transferred from Delhi to Madras. He was an officer of the PEC. It was merely a technicality that people working in the PEC were on the books of the STC, because it was a division of STC, which was transferred to PEC when it was formed. And the Personnel Department of STC, on the instructions of the Chairman of the PEC, had issued his transfer orders from Delhi to Madras. Mr. Cavale saw me several times. I was sympathetic to him. I said: ‘Once a transfer order is issued, it is difficult to cancel it.’ In no case did I advise him to resign. In fact, I believe he has quoted me as a reference for employment for other jobs that he applied for, subsequently.

Question: Why was the transfer order issued?

Answer: That was the result of the meeting held in my room at which Mr. B. D. Kumar and Mr. N. K. Singh saw me and said that this is what the Minister wants to be done. The Chairman, PEC, was in concurrence with that particular decision."

76. In this connection, Shri M. N. Misra, former Director, Personnel, Projects & Equipment Corporation, in his evidence before the Committee on the 23th April, 1978, has stated, *inter alia*, as follows:—

“....On 15th April, I was called by the then Chairman of STC, in the company of the then Chairman of the PEC, Mr. B. D. Kumar and the Officer on Special Duty Mr. N. K. Singh. All these three gentlemen came to my room at about 7.45 p.m. when I was still working and they asked me to accompany them to the Mini Board Room. There, I was given to understand that hon. the then Minister of Commerce Mr. Chattopadhyaya had received a number of complaints about Mr. P. S. Bhatnagar in terms of behaviour unbecoming of an Officer. It was also implied that apparently, he was living beyond his means, and that he was not a very straight-forward officer. To this I replied that I could take or initiate action only if I got a complaint in writing. And it was only when we got the complaint in writing from the Minister of Commerce, and on the basis of that, that we had a meeting—which, I told you, took place and the Chairman of PEC and Chairman of STC and Officer on Special Duty Mr. N. K. Singh, Chief Personnel Manager, Mr. Malhotra were present and it was decided and this was the cause....

....At that time, we did not realise the implications of this. As the Personnel Director, when I received a complaint from no less a person than the Minister himself, of the Ministry under whose charge we come, of getting written complaints and that we should take immediate action and having heard from the then Chairman of the PEC that his performance has not been satisfactory and having also been told that he has been apparently living beyond his means, it was felt that action should be initiated.....

....we did not discuss about Shri Cavale at all. As a matter of fact, when Shri Cavale was transferred to Madras, even in the normal course he could have been posted there. I was not even present here at that time. The then Chairman, Shri Parekh told the Chief Personnel Manager—I may have been on tour at that time—to

transfer him. Even in the normal course, he could be transferred. It was not a demotion. He was transferred to Madras. Of course, at that time, we did not understand the implications of it. . . .

Question: It is said here that the performance of Bhatnagar was not altogether satisfactory. Did it have reference to the complaint that he kept the representatives of a firm waiting? Is that what you are referring to or anything else?

Answer: Also coercion in trying to obtain information. We did not know what that was. I presume it has reference to both the above. The note also refers to inter-departmental meetings. Since it is also written immediately after the Minister's note, I presume it has reference to both.

Question: You came to the conclusion in the note which you signed that the consensus was that Bhatnagar be placed under suspension immediately, i.e. after assessing the various complaints against him?

Answer: All the four of us were present there. It was based on what Mr. B. D. Kumar, Chairman, PEC, said and on Mr. N. K. Singh's complaint about what the Commerce Minister had felt.

Question: Does it mean that you did not act simply on the letter of Chattopadhyaya?

Answer: Let me clarify one thing. We received this note from the then Commerce Minister. It was verified further or elaborated further by the Special Assistant, Mr. N. K. Singh, who said there were also many other things being investigated, about which we would hear later on. Further, the PEC Chairman said that he had not found his performance satisfactory. Obviously he agreed with the views of the then Commerce Minister.

77. Shri B. C. Malhotra, former Chief Personnel Manager, Projects & Equipment Corporation, in his evidence before the Committee on the 5th April, 1978, has stated, *inter alia*, as follows:—

“. . . . I left the office at about 7 p.m. on 15th April, 1975, and went straight to my Guest House where I was staying with my family. At about 7.30 p.m., I received a call from PS to Chairman that I was required in the office immediately. I reached the office at about 8.00 p.m. and went straight to the Mini Board Room where the then Chairman of STC, Shri Vinod Parekh, the then Chairman of PEC, Shri B.D. Kumar, Director (Personnel), Shri M. N. Misra and Shri N. K. Singh, Personnel Assistant to the Commerce Minister, were present. Certain decisions had

apparently been taken by the senior officials present in the Mini Board Room and I was asked whether I could issue suspension orders in respect of Shri P. S. Bhatnagar who was at that time working in the PEC. I mentioned to them that I did not know the technicality involved in the process. Then I was advised to call Shri R. K. Tarneja, the then Personnel Manager, STC, issue these suspension orders and deliver the same personally to Shri P. S. Bhatnagar at his residence the same evening. In accordance with these instructions, I personally went to the residence of Shri P. S. Bhatnagar at about 10.30 p.m. and handed over the suspension order to him. The duplicate copy was duly signed by Shri Bhatnagar. Shri R. K. Tarneja, the then Personnel Manager, STC, also accompanied me to Shri Bhatnagar's residence. There was a CBI case also against Shri Bhatnagar. On the advice of C.V.C., his case was proceeded with and accordingly a minor penalty of 'censure' imposed on him. Shri Bhatnagar was thereafter reinstated and all his dues paid to him in full.

The then Chairman, STC, Shri Vinod Parekh asked me also on 15-4-75 to issue orders transferring Shri L. R. Cavale, who was then working in the PEC from Delhi to Madras. These orders were accordingly issued on the morning of 16th April, 1975. However, as Chairman had asked me to issue these orders on the 15th April, 1975, the issue of orders bearing another date was not considered proper and I was asked to issue the orders bearing the date 15th April, 1975. Accordingly, the orders already issued were withdrawn and another order without any change in contents was issued bearing the date of 15-4-75.

Shri Cavale proceeded on leave in the first instance and later submitted his resignation which was accepted by the Committee of Management."

78. Shri R. K. Tarneja, then Personnel Manager, Projects & Equipment Corporation, in his evidence before the Committee on the 5th April, 1978, has stated, *inter alia*, as follows:—

"....At about quarter to 9 or so, in the night, the staff car came to my house and the driver told me that Mr. B. C. Malhotra wanted me in the office. I went to the office and there I was told by Mr. Malhotra that Mr. Bhatnagar had to be suspended and he asked me to see whether the suspension order was all right. I am not in the vigilance and I was not concerned with it and in any case, I said: let me see it. It was typed and he asked me to accompany him for delivering it at Mr. Bhatnagar's house and I accompanied him.

Question: Did you have any other conversation with Mr. Malhotra in his office except drafting the suspension order of Mr. Bhatnagar?

Answer: I asked him why he was being suspended. Except that there was no other talk.

Question: When you asked him why he was being suspended, did he give any reason?

Answer: He said that those were the instructions from the top."

79. Shri L. K. Dhawan, Director, Projects & Equipment Corporation, in his evidence before the Committee on the 5th April, 1978, has stated, *inter alia*, as follows:—

"Shri Cavale was working directly under me and Shri Bhatnagar was reporting to Shri Cavale. After the issue of orders for transfer and suspension by the Personnel Department of the STC, Shri Cavale and Shri Bhatnagar met me separately. From the conversation with them, it appeared that some officer in the Ministry of Industry had rung up Shri Cavale and wanted information about machine tools imported on stock and sale basis from East European countries and supplied to Maruti. He had indicated that this was required in connection with a Parliament question. Shri Cavale had asked him to send the request in writing, but in the meantime had asked Shri Bhatnagar to collect the information. Shri Bhatnagar contacted Batliboi & Co. who are one of the associates importing stock and sale machine tools. Apparently the action against them was taken for trying to collect this information.

Although I was the Executive Director incharge, I was neither consulted nor informed beforehand of the action taken. I had, however, felt very unhappy on the action taken and had mentioned this to the then Chairman, PEC. I was informed that this was as per instructions from the top.

Question: Who is your top?

Answer: When I mentioned to the then Chairman, after this action had been taken that this action was not called for and there seemed to be nothing against these officers, I was informed that the action had been taken on instructions from the top. The word perhaps 'right from the top' might have been used, I cannot recollect now. And I understood from the word 'top' that this had come as a result of instructions from No. 1, Safdarjang Road.

Question: Mr. Bhatnagar had said in the memorandum that when Mr. Batliboi and others were there, he got a ring from you.

Answer: No, no, let me explain this. Mr. B. D. Kumar, who was the Chairman, said that there was some information being collected with regard to supply of machines to Maruti. I said: 'I know nothing about it.' He said: 'Please check if there are any papers and I would like to have those papers.' I called Mr. Bhatnagar on the same day and said: 'are you collecting any information?' He said: 'this is a letter which came from the Ministry of Industry asking about the list of our associates. There was a telephone call on the basis of which I asked Batliboi to give me the list.' I think he gave me two papers. One was that letter and the other was one paper which I immediately went and gave to Mr. B. D. Kumar. I hardly saw them."

80. After the suspension order³⁰ dated the 15th April 1975 was served on Shri P. S. Bhatnagar, Deputy Marketing Manager Grade II, Projects & Equipment Corporation, on the 15th April 1975 late in the night, a memorandum³¹ dated the 29th April 1975 containing a charge-sheet against him was served on him. The charges and imputations framed against Shri P. S. Bhatnagar read as follows:—

"STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI P. S. BHATNAGAR, DMM, PEC.

ARTICLE:

Shri P. S. Bhatnagar, while functioning as Deputy Marketing Manager, in Projects and Equipment Corporation (a Subsidiary of STC) committed gross misconduct and misbehaviour inasmuch as he kept the representatives of the firm—Messrs. Batliboi and Company—waiting for an unduly long time on 15-4-1975 and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Limited Employees (Conduct) Rules, 1967.

STATEMENT OF IMPUTATIONS IN SUPPORT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI P. S. BHATNAGAR, DMM, PEC.

For sometime persistent complaints have been received about the misbehaviour and misconduct of Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation

³⁰ See Appendix XVII.

³¹ See Appendix XVIII.

(a Subsidiary of STC) towards the business clients and associates. On 15-4-1975 he kept the representatives of the firm—Messrs. Batliboi and Company—waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Limited Employees (Conduct) Rules, 1967 and also constitutes misconduct and misbehaviour on his part."

In reply to the charge sheet, Shri P. S. Bhatnagar in his explanation has stated, *inter alia*, as follows:—

".... Allegation No. 1.... The Complaint No. 1 of the firm is not correct as they were not made to wait even for a minute what to say for an unduly long time.

Normally representatives of the firms are seen with prior appointments but here M/s. Batliboi had no appointment with me on 15-4-75 for their visit. However, they called on the undersigned of their own for furnishing certain information which was asked verbally from them along with the other firm. Despite of the fact that I was busy with other persons who were already sitting with me I promptly attended M/s. Batliboi & Co. as they told me that they had brought the required information which was only pending from them as the others had already furnished. Hence the question of waiting for an unduly long time does not arise. The moment I collected the information which was asked by my superiors, I was immediately asked by the Director (D)—to hand over all the relevant papers pertaining to this information, which I did without any delay.

Allegation 2: An urgent information that was collected by me as directed by my boss was to be furnished to him on the priority basis positively by 15-4-75. As per instructions from my boss, the requisite information was collected from several business associates in the usual official manner I had no personal interest whatsoever in collecting this information except carrying out my official duties.

A few business associates who were also asked to furnish the similar information regretted verbally for not furnishing this information, were not further persuaded. Similarly B. B. had also the choice to regret but instead of this they preferred to furnish the information so the question of coercing them for furnishing the information does not arise.

I delivered to him on priority basis position by 15-4-75. I had no personal interest whatsoever in collecting this information except carrying out my official duties as per instructions given by my superiors. As per the instructions from my boss the requisite information was collected from several business associates in usual official manner. Out of the business associates who were requested to furnish this information, one or two verbally regretted for not furnishing the information and thereafter, they were not insisted. In the similar way, M/s. Batliboi & Co. were rather free to furnish the information or also refuse the same. So, the question of putting special pressure on them for furnishing the information does not arise. The information collected was handed over along with all relevant papers to Director (D) on 15-4-75.

I am working in STC since 1957 and feel proud to say that no complaint about my misconduct or misbehaviour against anyone in any position was ever brought to my notice by my superiors, colleagues or others with whom I have official dealings.

In view of the facts stated above, the allegations made against me are not justified and the complaint lodged by M/s. Batliboi & Co. can only be out of some misunderstanding."

Subsequently the order of suspension of Shri P. S. Bhatnagar dated the 15th April 1975, was revoked by the State Trading Corporation of India, *vide* their order³⁸ dated the 1st September 1976.

However, the State Trading Corporation of India issued an order³⁹ on the 3rd December, 1976, stating, *inter alia*, as follows:—

".... AND WHEREAS the undersigned, after due consideration of his representation dated the 1st May 1975 and all the relevant facts of the case is of the opinion that his behaviour with the business associate concerned was lacking in some respects inasmuch as he sought to extract some information from the said representative in an unbecoming manner.

However, taking a lenient view, Shri Bhatnagar is hereby warned for his behaviour and is advised to show due courtesy to the business associates to the Corporation. Any recurrence of such incident will make him liable to strict disciplinary action."

³⁸ See Appendix XIX.

³⁹ See Appendix XX.

81. In this connection, the Committee examined Shri J. S. Mathur, Liaison Officer, Batliboi and Co. Ltd., New Delhi, and Shri L. M. Adeshra, Resident Dy. General Manager, Batliboi and Co. Ltd., New Delhi. Shri J. S. Mathur in his evidence before the Committee on the 4th April 1978, has stated, *inter alia*, as follows:—

“.... I affirm that I did not convey to any representative of Maruti Limited that the fact of collection and supply of the information contained in the said letter dated 15th April 1975. I also affirm that I did not make any complaint against Shri P. S. Bhatnagar regarding his behaviour to anyone and there was no cause to make any complaint.

Question: You had dealings with Mr. Bhatnagar?

Answer: Yes.

Question: You should have met him several times. Was he courteous or rude?

Answer: He was never rude. He was very co-operative. There was no problem.

Question: On the day you supplied the information, were you made to wait by Mr. Bhatnagar?

Answer: No, not at all.

Question: Now, would you say that there was no occasion for Mr. Bhatnagar or any other officer of the PEC to get angry with you or any of your officers?

Answer: There was no occasion for them to get angry with me.

Question: Was there any foreigner present when you talked to Mr. Bhatnager.

Answer: No.

Question: Did you ever mention about the behaviour of Mr. Bhatnagar to Mr. R. K. Dhawan?

Answer: No.”

Shri L. M. Adeshra, Resident Dy. General Manager, Batliboi & Co. Ltd., in his evidence before the Committee on the 4th April 1978, has stated, *inter alia*, as follows:—

“.... I did not convey to any one in Maruti that the above information was being collected. I also affirm that I did not make any complaint against Shri P. S. Bhatnagar regarding his behaviour to anyone.

Question: How many people were present with Shri Bhatnagar at that time when you met him?

Answer: Nothing abnormal.

Question: No, he is asking as to how many people were present at that time.

Answer: Mr. J. Mathur and myself. One Sales Engineer was with Mr. Mathur and Mr. Bhatnagar was there.

Question: Only four of you?

Answer: Yes.

Question: You were there for half-an-hour with him?

Answer: No. Hardly ten minutes.

Question: What else did you tell? Will you enlighten us on that?

Answer: The question was asked to me by the Shah Commission in the context of evidence given by Shri T. A. Pai in which he mentioned that he had called the Manager of Batliboi & Company. Mr. Pai was asked by the Counsel for the Shah Commission, "Who this person was?" and he said: "I do not remember his name". Then Mr. Khandalawala, the Counsel, questioned whether it was Shri Adeshra. He said: 'I do not know'. And when Mr. Pai called the Manager and asked him whether there was harassment, the reply was that there was no harassment. On this question I was called by the Commission to say what had happened during the meeting with Mr. Pai. I told the Commission that Mr. Pai asked me this question and I gave the same reply confirming what Mr. Pai had deposed before the Commission.

Question: What else?

Answer: Nothing else. But then I said I was not harassed by the officers of the Ministry of Mr. Pai. The counsel asked whether anybody else was harassed. I said: 'Not to the best of my knowledge'. These are the two questions put to me. Another question was asked of me whether there were some foreigners present when the information was being collected, to which I replied: 'I do not recollect'."

82. Shri R. K. Dhawan, former Additional Private Secretary, to the then Prime Minister, in his evidence before the Committee on the 20th and 21st June 1978, has denied that he had made any telephone calls to

Sarvashri A. S. Rajan, P. S. Bhatnagar and T. A. Pai in connection with the collection of information regarding Maruti Ltd. In this connection, he made the following statements before the Committee on the 20th June, 1978:—

“.... As per case history prepared by the hon. Commission, it is mentioned that I forbade Shri Bhatnagar and Shri Rajan from collecting information regarding M/s. Maruti Limited. I quote an extract from the case history:—

‘On 15-4-1975, Shri R. K. Dhawan, Shrimati Indira Gandhi’s Private Secretary contacted Shri A. S. Rajan and Shri P. S. Bhatnagar on telephone and forbade them for collecting information on Maruti Pvt. Limited.’

I have told the hon. Commission that there is no truth in this and I did not contact these Officers.

It may be interesting to point out that as per official records, the answer to the said question had already been approved on the 14th April. When the reply had already been finalised on the 14th April, it is not understood what information the said Officers were collecting on the 15th April. The statement of Shri Bhatnagar and Shri Rajan is totally false and they were not collecting any information....”

The following questions put to Shri R. K. Dhawan and the answers given by him before the Committee on the 21st June, 1978, are also reproduced below:—

“Question:.... Mr. A. S. Rajan stated in his statement before this Committee that on 15-4-75 he got a ring from Mr. R. K. Dhawan who enquired about the information given either to Shri Krishnaswamy or to Shri Bhatnagar about Maruti and whether he had threatened PEC of the consequences if the required information was not supplied by them. Mr. Rajan asked you to contact the Department of Heavy Industry in this connection. Is this statement of Mr. Rajan correct or incorrect?

Answer: Totally false.

Question: Mr. L. R. Cavale informed this Committee that Shri Bhatnagar told him that he had a telephone call from Shri R. K. Dhawan of the Prime Minister’s Secretariat asking whether he was collecting information from Batliboi; if so, why was he collecting it; and it was not necessary, and you told him that he should not collect that information. Is it a fact?

Answer: It is totally false. I never telephoned to Bhatnagar and Rajan.

Question : Mr. Bhatnagar told this Committee that he got a telephone call from you and that you enquired whether he was collecting any information in regard to the supply of machine tools to Maruti Limited. In the afternoon, after lunch, he received another telephone call from him advising him not to collect that information, stop collecting it. Mr. Bhatnagar asked you to contact his higher officer, Mr. Cavale, under whose instructions he was collecting the information. Is this statement truthful?

Answer : Totally false.

Question : This is all part of one single question. Mr. Mantosh Sondhi informed this Committee during evidence that he did not know Mr. R. K. Dhawan, but on being asked whether he contacted you, he said you had contacted him and asked why the licence was not being issued when the trials on Maruti had been carried out. In reply, Mr. Sondhi told you that the whole thing was under consideration and that after taking a decision, he would let you know.

Do you think there is any truth in this statement of Mr. Sondhi?

Answer : There is no truth....

Question : Mr. T. A. Pai informed this Committee that Mrs. Gandhi called Mr. Dhawan in his presence and told him to ask Mr. Sen to start CBI enquiries against all these four officers against whom she had received some complaints of their being corrupt and also causing harassment to the management of Batliboi. Mr. Pai further informed this Committee that Mr. Dhawan telephoned him a few days prior to these complaints and he named the officers also. He also stated that Mr. Dhawan must have carried to Mrs. Gandhi the impression that these officers were corrupt and Batliboi was being harassed in the name of a Parliamentary Question. Do you think this statement is correct or incorrect?

Answer : Totally incorrect, totally false.....

.... Mr. Pai might have been very close to Mrs. Gandhi, I do not know, but he was very unhappy on my personal account, that I know to my personal knowledge. This is a fact which can be borne out and Mr. Sen will be able to bear me out that some complaints had been received.....

.... Then you referred about Mr. Rajan and Mr. Bhatnagar. I never knew that they were collecting any information and the parliamentary question was pending. If I had to ask for some such information, I knew that Senior officers were there and I would have spoken to them. Why should I speak to Mr. Bhatnagar and Mr. Rajan? Then Mr. Bhatnagar said something about giving a ring. I did not give a ring. Similarly, Mr. Rajan also says in his statement that Mr. Dhawan rang up and wanted to get in touch with Mr. Krishnaswamy. I never got in touch with Mr. Krishnaswamy, without knowing what they were and what was their telephone No. If I had to do something, then certainly I would go to the next officer and ask him to do it. I did not go there. I do not go to Mr. Krishnaswamy. How is it that I rang up those officers finding out whether any question was pending, whether any reply was pending and all that? I never knew about it and I never gave them any ring.

Question : In regard to Mr. Pai you have suggested some motive. In regard to other persons, can you suggest any personal motive?

Answer : Since I do not know Mr. Bhatnagar I would not say that he had any motive at all.

Question : As far as the others are concerned, they have said you gave them a telephone ring. Were they giving false evidence against you? Can you suggest any motive for it?

Answer : I would not suggest any motive in their case since I did not know them.

Question : Therefore, so far as the others are concerned, you cannot suggest any motive?

Answer : No, I do not know of any motive."

D. Action by Central Bureau of Investigation against the four officers collecting information for answer to a question in Lok Sabha.

83. Shri D. Sen, former Director, Central Bureau of Investigations in his evidence before the Committee on the 19th June, 1978, has stated, *inter alia*, as follows :—

“.....Information about each of these 4 officers was given to me personally by Shri R. K. Dhawan (as I have stated before the Commission, I had discussed this matter with Shri B. N. Tandon,

the then Joint Secretary in Prime Minister's Secretariat and he had said that papers or information coming from Shri Dhawan should be treated as coming from this Secretariat as Shri Dhawan also belonged to this Secretariat). Shri Dhawan came to my office in North Block personally for this purpose on the 14th or 15th April, 1975. The information against each officer except Shri Cavale was conveyed to Shri Rajpal on 15-4-1975 and he was asked to verify the information against each of these officers and submit a report within five days. The information against each of the four officers given to me by Shri Dhawan was that the Prime Minister had received complaints from MPs to the effect that these four officers (Names and designation of all the officers were given by Shri Dhawan except, as far as I can recollect now, the exact designation of Shri Cavale in the STC was not given and I ascertained it myself), were corrupt, had large assets and were favouring certain firms. From the fact that he had come personally to give this information and that the complaints had been passed on to me by the Prime Minister made it quite clear that the matter could brook no delay.

....cases of corruption in which Prime Minister himself or herself desires quick investigation are rare and therefore utmost speed in the finalisation of these cases is necessary.....

....I might add that such speed in registration of cases i.e. registering a regular case as soon as such action seems necessary under Section 157 of Cr. P.C. is usual when the information comes from the Prime Minister.....

....I was at no time aware that these four officers were collecting any information regarding Maruti affairs in order to prepare a reply for a parliament question. In view of this fact, I humbly submit that there was never any intention at all on my part to exercise any power or authority in order to deter them from doing their duty in connection with collection of material for answering the Parliament question or to victimise them for having done such duty."

Question : Did you note down the exact words of what he told you?

Answer : I did not note down, but as soon as Mr. Dhawan left, I called Mr. Rajpal and he noted this on the very day, the 15th. It was on the file.

Question : Did Mr. Dhawan give the full names of these officers?

Answer : He gave their surnames and designations.

Question : Have you noticed that Mr. Dhawan in his statement and in the statement which he made before the Shah Commission—I am not concerned with the Shah Commission because he has communicated the same to us—he categorically said, not once, but innumerable times, that he mentioned no designations and no full names whatsoever?

Answer : This is not correct. If there is a name of 'Bhatnagar', there are hundreds of Bhatnagars. We could not find out in one day who is that Bhatnagar. He said : 'Mr. Bhatnagar working in the STC'.....

Question : According to your version, although it is contradictory from the version of Mr. Dhawan, Mr. Dhawan gave you the surnames and also the specific designations of those officers.

Answer : Excepting in the case of Mr. Cavale about whom he said that he was working in the STC. He did not give his exact designation.

Question : You yourself have said that the words Mr. Dhawan used were 'check up the antecedents' of these four officers.

Answer : That is what Mr. Dhawan said. I said this was untrue and that he had told me that an investigation should be made. I cross-examined him on this point because Mr. Dhawan stated that he had given me this information for checking up the antecedents of the officers. I cross-examined him on that and said 'You did not ask me to check up their antecedents but told me to investigate into the allegation. I also told him that the antecedents of an officer are checked at the time of first appointment and that on an actual complaint only an investigation can be made.

Question : Investigation of what?

Answer : Investigation into the allegation of disproportionate assets....

Mr. Dhawan told me that these four officers, according to certain MPs are corrupt and they have very large assets, which in legal language would mean assets disproportionate to their known sources of income, and this complaint has to be investigated. I immediately called Shri Rajpal and gave him this information. I would add that if it were a question of checking antecedents, as I said, antecedents are checked when the man joins the service for the first time, secondly, CBI does not make any enquiry about antecedents, it only investigates cases. Antecedents are checked by IB. Thirdly, if I was asked to check only the antecedents, I was not bitten by a bug to start an enquiry."

84: The following questions put to Shri D. Sen and the answers given by him before the Committee are also reproduced below :—

Question : That is during the Emergency, You had learnt that the original source of the grievance against these officers were some Members of Parliament. Did you at any time throughout this investigation—either during preliminary enquiry or formal investigation—try to discover the identity of any Member of Parliament?

Answer : No, Sir.

Question : Is there anything anywhere in your record to show that initially you had been told that Members of Parliament were responsible for giving this information?

Answer : There is nothing in writing about it.

Question : Do I take it that except for the oral word, there is nothing at all to show that any Member of Parliament had given any information to the Prime Minister?

Answer : This is only what Mr. Dhawan told me; that is all.

Question : What was the information available with your department even before the 15th April about this officer, Rajan? Was there any information collected between the 15th and 16th?

Answer : No. He had shown favours to R. K. Machine Tools and Daulat Ram.

Question : In which year?

Answer : In my note it is not given.

Question : Did you bother to find out?

Answer : The year was 1969.

Question : Is it the year in which the favour was shown or the year in which it came to your notice?

Answer : The year in which it came to our notice.

Question : There were no particulars of the favours supposed to have been shown by Rajan six years ago?

Answer : In this note it was not given.

Question : Before taking a decision whether an F.I.R. should be filed or not, did you take the simple precaution of finding out what your department was doing with this for six long years?

Answer : It was under correspondence with the Department.

Question : Can you tell me whether, as a result of investigation, at any stage, it was discovered that the assets were disproportionate to the known sources of income.

Answer : As a result of the investigation, it was found that the assets were not disproportionate to the known sources. He was found guilty of favouring these two firms. That is all.

Question : How many such cases originated from the Prime Minister, in the year 1974, 1975 and 1976?

Answer : There must be similar cases but I cannot say off hand.

Question : In your statement you have stated that whenever any verbal or other instructions come from the P.M. you take it seriously; otherwise it will tantamount to dereliction of duty. You acted with promptness in the case of these four officers; cannot you recall one case where such complaint originated from the office of the Prime Minister?

Answer : When I say dereliction of duty, it was not in the context of the Prime Minister; I said that in the context of section 157 Cr. P.C.

Question : Can you recall a similar case where the complaint originated from the source of the office of the Prime Minister?

Answer : Sir, I am sorry, I cannot recollect at this time, but I quoted one case here which refers to Pandit Nehru's time. There have been some other cases also.

Question : Has it ever come to your knowledge that any complaint as this one was brought to your notice as complaint made to the Prime Minister by M.Ps. and then it was directed to you for making investigation? Is there any such single case?

Answer : I am sorry, I do not remember.

Question : This vague thing won't do. Please do not hesitate to say anything here. You have been the Director of CBI since 1971. You said that there were so many occasions. I want to know a single case which has been directed to you for investigation and where you have found that this was a complaint made to the Prime Minister and the Prime Minister wanted it to be investigated by you.

Answer : In a number of cases M.Ps. send their complaints in writing to me.

Question : I want to know from you whether you had the occasion of inquiring into any case which was directed to you from the office of the Prime Minister and it was told that the Prime Minister received the complaints in respect of this case from the M.Ps. and on the basis of the strength of those complaints made by the M.Ps., the office of the Prime Minister directed you to investigate in this matter.

Answer : I am very sorry, at this distance of time I don't remember any.

Question : A man of your position, when you dealt with thousands of cases, when you so glaringly elaborated the things, could you not remember even one case? You do not remember even a single case which was directed by the Prime Minister on the complaints of M.Ps.?

Answer : If I am given some time, I might be able to see the files and tell you."

85. The Committee have carefully gone through the records of the Central Bureau of investigation relating to the investigations made by them against Sarvashri R. Krishnaswamy, A. S. Rajan, L. R. Cavale and P. S. Bhatnagar, at the instance of the former Prime Minister Shrimati Indira Gandhi. The important features of the investigations made by the Central Bureau of Investigations against each of the four officers concerned are given in the succeeding paragraphs.

(a) Case of Shri R. Krishnaswamy, Director, Department of Heavy Industry

86. The following information was given to the Central Bureau of Investigation against Shri R. Krishnaswamy : —

“Shri Krishnaswamy, working in the Ministry of Heavy Industries, is a corrupt officer and by his corrupt practices has acquired assets disproportionate to his known sources of income.”

87. The name of the complainant or the source of the above information is not however mentioned.

88. Shri D. Sen, Director, Central Bureau of Investigation ordered investigation of the above complaint on the 15th April, 1975. The investigation was started and a Preliminary Enquiry Report was submitted by the investigating officer on the 16th April, 1975. After some further investigations Preliminary Enquiry was registered on the 27th April, 1975. The Preliminary Enquiry was converted into a registered case and an F.I.R. was recorded

on the 2nd May, 1975 which contained the following charges against Shri R. Krishnaswamy :—

“Shri Krishnaswamy who has been working in various capacities in the Railways as Divisional Safety Officer from 1963 to 1965, Senior Commercial Officer (Reservations) from Sept. 1966 to March 1967 and as Senior Commercial Officer (G) Northern Railways when he proceeded on deputation as Deputy Secretary, Ministry of Industrial Development where on promotion he is working as Director since 1973. He has official dealings with some firms whose representatives are contacting him.

It is further alleged that Shri R. Krishnaswamy is in possession of large number of shares of as many as 18 to 20 companies and also owning and maintaining a car. It is also suspected that the officer has not taken permission/given intimation to the competent authorities for his having possessed the aforesaid shares. He is also heavily insured and is paying good contribution towards G.P. Fund. The above facts disclose commission of misconduct by Shri R. Krishnaswamy.”

89. On the 3rd May, 1975, a search was carried out in the house of Shri R. Krishnaswamy by the Central Bureau of Investigation.

90. On the 21st October, 1975, a charge-sheet was filed in the Court against Shri R. Krishnaswamy under the Excise Act for possessing foreign liquor in excess of the prescribed quantity.

91. The final outcome of the investigation against Shri R. Krishnaswamy by the Central Bureau of Investigation was that “there is no case at all against Shri Krishnaswamy in regard to the allegation of possession of disproportionate assets”. Shri R. Krishnaswamy was also acquitted by the Metropolitan Magistrate, New Delhi on the 4th March, 1977 in the case under the Excise Act.

(b) **Case of Shri A. S. Rajan, Development Officer, Directorate General of Technical Development**

92. The following information was given to the Central Bureau of Investigation against Shri A. S. Rajan :—

“Shri Rajan working in DGTD is a corrupt Officer and by his corrupt practices, has acquired assets disproportionate to his known sources of income.”

93. The name of the complainant or the source of the above information is not however mentioned.

94. Shri D. Sen, Director, Central Bureau of Investigation, ordered investigation of the above complaint on the 15th April, 1975. The investigation was started and a Preliminary Enquiry Report was submitted by the investigating officer on the 16th April, 1975. After some further investigations, an F.I.R. was recorded on the 17th April, 1975, which contained the following charges against Shri A. S. Rajan :—

“Information has been received that Shri A. S. Rajan, Development Officer, DGTD is a corrupt officer and has by corrupt and illegal means or by otherwise abusing his official position as public servant has amassed assets which are disproportionate to his known sources of income as he is living beyond his means.

It is further learnt that Shri A.S. Rajan had shown undue favour to M/s. R. K. Machine Tools, Ludhiana in the matter of recommendation for grant of automobile parts.

It is also learnt that the firm M/s. Daulat Ram Industrial Corporation (P) Ltd., Ludhiana was granted Licence No. P/D/2167008 dated 13-1-1969 of the value of Rs. 3.50 lakhs by the CCI & E, New Delhi for the import of raw material excluding stainless steel strips/scrap. The firm, subsequently sent application to DGTD on 18-1-1969 to allow them to import stainless steel scraps to improve the quality of their product. This application was processed by Shri A. S. Rajan, Development Officer who recommended that the party might be allowed to import stainless steel scraps worth Rs. 40,000. On the basis of the recommendations made by Shri Rajan for ulterior consideration the licence issued to the said firm was amended and was allowed to import the stainless steel scraps.

The above information discloses the commission of criminal misconduct against Shri A. S. Rajan, Development Officer, DGTD and the two firms namely M/s. R. K. Machine Tools, Ludhiana & M/s. Daulat Ram Industrial Corporation (P) Ltd., Ludhiana punishable under sections 120-B IPC r/w 5(2) Prevention of Corruption Act, 1947 & offence u/s 5(2) r/w 5(1)(d) & (e) of P.C. Act-II of 1947.”

95. On the 18th April, 1975, a search was carried out in the house of Shri A. S. Rajan by the Central Bureau of Investigation.

96. The final outcome of the investigation against Shri A. S. Rajan by the Central Bureau of Investigation was that “.....no case of disproportionate assets may be said to have been made out.” As regards allegation of having shown undue favours to M/s. R. K. Machine Tools, Ludhiana,

"no malafide on this score could be established against Shri Rajan." In regard to M/s. Daulat Ram Industrial Corporation of Ludhiana also, "no malafide was established".

(c) Case of Shri L. R. Cavale, Chief Marketing Manager, Projects and Equipment Corporation of India Limited

97. The following information was given to the Central Bureau of Investigation against Shri L. R. Cavale :—

"Shri L. R. Cavale, Chief Marketing Manager, Machine Tools, Projects and Equipment Corporation, New Delhi is a corrupt officer and by his corrupt practices, has acquired assets disproportionate to his known sources of income."

98. The name of the complainant or the source of the above information is not however mentioned.

99. The Joint Director (D), Central Bureau of Investigation ordered investigation of the above complaint on the 21st April, 1975. The investigation was started and a Source Information Report was submitted by the investigating officer on the 22nd April, 1975. After some further investigations a Preliminary Enquiry was registered on the 28th April, 1975. The Preliminary Enquiry was converted into a Registered Case and an F.I.R. was recorded on the 3rd May, 1975 which contained the following charges against Shri L. R. Cavale :—

"Information has been received that Shri L.R. Cavale accused is living beyond his means and in possession of certain items of assets, moveable and immovable including a flat in Bombay, which are disproportionate to his known sources of income and that he has not given intimation or obtained prior permission of the competent authority for acquisition of these items of assets. The correctness of this information has been verified by making enquiries into a PE 4/75 registered in this Branch."

100. On the 3rd May, 1975, a search was carried out in the house of Shri L. R. Cavale by the Central Bureau of Investigation.

101. The final outcome of the investigation against Shri L. R. Cavale by the Central Bureau of Investigation was that "the allegation of possession of disproportionate assets on the part of Shri L. R. Cavale may be dropped."

(d) Case of Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation

102. The following information was given to the Central Bureau of Investigation against Shri P. S. Bhatnagar :—

“Shri Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation, 6th Floor, Chandralok Building, is a corrupt officer and by his corrupt practices, has acquired assets disproportionate to his known sources of income.”

103. The name of the complainant or the source of the above information is not however mentioned.

104. Shri D. Sen, Director, Central Bureau of Investigation ordered investigation of the above complaint on the 15th April, 1975. The investigation was started and a Preliminary Enquiry Report was submitted by the investigating officer on the 16th April, 1975. After some further investigations, an F.I.R. was recorded on the 17th April, 1975, which contained the following charges against Shri Bhatnagar :—

“A reliable information is received that Shri P. S. Bhatnagar, Deputy Marketing Manager, Grade II, Projects and Equipment Corporation, Chandralok Building, New Delhi, is a corrupt officer and he by corrupt and illegal means or by otherwise abusing his official position, has acquired assets disproportionate to his known sources of income. It is further alleged that Shri Bhatnagar is leading a luxurious and costly living.”

105. On the 18th April, 1975, a search was carried out in the house of Shri P. S. Bhatnagar by the Central Bureau of Investigation.

106. The final outcome of the investigation against Shri P. S. Bhatnagar by the Central Bureau of investigation was that “no evidence has come to light to show possession of any immoveable assets..... I therefore agree with the unanimous recommendation of the branch officers and the Head Office legal officers that the allegation of disproportionate assets is not substantiated.”

107. Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister, in his evidence before the Committee has denied that the “names and designations of all the officers were given by Shri Dhawan except.....the exact designation of Shri Cavale”, to Shri D. Sen, then Director, Central Bureau of Investigations, as stated by Shri D. Sen before the Committee. Shri Dhawan also denied the statement of Shri D. Sen that “he had told me that an investigation should be made”. The statement made by Shri D. Sen before the Committee that Shri R. K. Dhawan went to his

office personally in North Block for conveying him information about the four officers concerned, has also not been admitted by Shri R. K. Dhawan. In this connection, Shri R. K. Dhawan, in his evidence before the Committee on the 20th June, 1978, has stated, *inter alia*, as follows :—

“The then Prime Minister had received some reports against certain officers from M.Ps. and others and she desired me to pass on those names to the concerned department for checking their antecedents. At that time nobody else was present. I passed on these names to Shri D. Sen, former Director of CBI, and told him that the Prime Minister had received complaints about these officers and she wanted their antecedents to be checked. This was the only direction given to me by the Prime Minister.”

108. The following questions put to Shri R. K. Dhawan and answers given by him before the Committee are also reproduced below :—

“Question : Do you now recollect what were the exact wordings of the instructions that you received from Mrs. Gandhi?

Answer : She said that some M.Ps. had complained about these officers. This has to be got checked up.

Question : Did she mention the names of those officers?

Answer : Yes.

Question : What are the names that she spelt out to you?

Answer : I have already deposed before the Shah Commission. They were S/Shri Krishnaswamy, Rajan, Cavale and Bhatnagar.

Question : Did she give you only the names or other particulars of the officers?

Answer : She gave only the names.

Question : Did she mention the designation?

Answer : I never knew the designations till I appeared before the Shah Commission.

Question : Did it not strike you that there will be hundreds of Cavale, Rajan, Bhatnagar in the Central Government and how one has to identify which Rajan was in her view?

Answer : The names were given to the Director, CBI. He, as a Director, I thought, that and in case he did not know he would find that out.

Question : Who gave the names to the Director, CBI?

Answer : Names were given by me. It was in a very ordinary manner that I mentioned about this to get the matter checked up whether there was any truth in that.

Question : Did you believe that without giving designation, they will be able to do something? There are so many Bhatnagars?

Answer : If they would not have been able to get proper persons, they would come to us.

Question : Do you mean to say that Mr. Sen has given a concocted story and he did not tell the truth? He was categorically saying that— you mentioned the designation of the officers.

Answer : Mr. Sen is totally wrong; he is failing in his memory. I only mentioned the names and not the designations.

Question : Did you go to the office of Mr. Sen to communicate the instructions given to you by Mrs. Gandhi?

Answer : I do not remember whether I went to his office or he had come to PM's house; I do not remember where and when the instructions were given to him.

Question : I shall refresh your memory. Mr. Sen said that you went to his office to communicate the instructions of the former Prime Minister. Would you accept it?

Answer : I would not accept it, at the sametime I would not like to dispute it because I do not remember.

Question : Did you know that Mr. T. A. Pai was called by Mrs. Gandhi to see her immediately?

Answer : It is not to my knowledge.

Question : Do you know that Prof. D. P. Chattopadhyaya was also called?

Answer : It is not to my knowledge.

Question : Now, is it right that the only information available with the Prime Minister on that day and, therefore, the information communicated by the Prime Minister to you was that officers bearing these names who worked in two Ministries, were involved?

Answer : I do not know what information the Prime Minister had. I was given the information that these are the names, some M.Ps. and others are complaining and so the antecedents should be checked. What was the information available with the Prime Minister I do not know; what I was given, I know.

Question : Now, did it appear to you odd that if the Prime Minister wanted action to be taken against four officers or enquiries to be made about four officers she should not have given any further particulars other than the names? Did it appear to you to be strange?

Answer : The Prime Minister never wanted action to be taken and she never wanted enquiries to be made. She only wanted the antecedents to be checked.

Question : In this case please tell me instead of getting the confidential records or asking the officer under whom these officers were working, why did you go to the C.B.I.?

Answer : I thought the best course will be to go to C.B.I.

Question : I am suggesting that you went to C.B.I. because such were the instructions from the Prime Minister.

Answer : No, not at all.

Question : Even after the matter was brought to your notice, even now, admittedly, you do not know when and where this message was given by you?

Answer : Yes.

Question : You do not know?

Answer : I do not know whether I went to Mr. Sen I do not remember when and where this information was given. The date and place I do not remember."

109. Shri T. A. Pai, M.P., former Minister of Industry and Civil Supplies, in his evidence before the Committee on the 23rd March, 1978, however, stated that the then Prime Minister, Shrimati Indira Gandhi, had told Shri R. K. Dhawan in his presence "to ask Shri Sen to start C.B.I. enquiry against all these officers" and "to have their houses raided". Shri T. A. Pai has thus corroborated the statement of Shri D. Sen in this respect.

110. In this connection, it may be mentioned that Shrimati Indira Gandhi, in her written statement filed before the Shah Commission of Enquiry on the 21st November, 1977, stated *inter alia*, as follows :—

"I received complaints from some persons including M.P.s. about those officers, amongst others. I told Mr. Dhawan to pass on the complaints to the authorities concerned in order to verify whether there was any truth in the allegations.

Mr. Chattopadhyaya seemed to have forgotten that I had also spoken to him on various occasions regarding complaints concerning officers other than those named in the Commission. However, I did not suggest any specific action against anybody."

III. The Committee, after a careful examination and analysis of the records and evidence before the Committee, observe that the following basic facts emerge therefrom :—

- (i) Shrimati Indira Gandhi called both those Ministers, namely, Shri T. A. Pai, then Minister of Industry and Civil Supplies and Shri D. P. Chattopadhyaya, then Minister of Commerce, whose officers were collecting information for preparing an answer to S. Q. No. 656 tabled by Shri Jyotirmoy Basu and answered in Lok Sabha on the 16th April, 1975, seeking information regarding imported Machine Tools installed in the factory of Maruti Ltd.
- (ii) She called both of them separately before S.Q. No. 656 was answered in Lok Sabha on the 16th April, 1975 and made a common complaint to them in an unusually angry mood that their officers were harassing M/s. Batliboi & Co., coercing them to part with certain information and had insulted them in the presence of some Europeans.
- (iii) A few days earlier to that, Shri R. K. Dhawan, then Additional Private Secretary to the former Prime Minister, Shrimati Indira Gandhi, had made the same complaint to Shri T. A. Pai on telephone who had then called the Manager of Batliboi, Shri L. M. Adeshra and enquired from him and had found the complaint unfounded and baseless. This fact was corroborated before the Committee by Shri L. M. Adeshra.
- (iv) Both Sarvashri J. S. Mathur and L. M. Adeshra of M/s. Batliboi and Co., who had personally gone to Shri P. S. Bhatnagar, D.M.M., P.E.C., to deliver the requisite information, testified before the Committee that there was no harassment or coercion to them, that they had not been insulted, that no Europeans were present and that they had not been made to wait for an unduly long time.
- (v) Shri P. S. Bhatnagar, D.M.M., P.E.C., was suspended from service on the 15th April, 1975 late at night on the orders of Shri D. P. Chattopadhyaya, former Minister of Commerce, at the instance of the former Prime Minister, Shrimati Indira Gandhi, on the charge of harassing the representatives of M/s. Batliboi and Co.

- (vi) Harassment and action against the four officers, namely, Sarvashri R. Krishnaswamy, A. S. Rajan, L. R. Cavale and P. S. Bhatnagar was initiated only after they had contacted the Secretary of Maruti Ltd. and M/s. Batliboi & Co. to collect the requisite information for S. Q. No. 656.
- (vii) Other officers, namely, Shri S. M. Ghosh, Joint Secretary, and Shri V. P. Gupta, Under Secretary, Department of Heavy Industry who had only signed the letters to Shri S. M. Rege of Maruti Ltd., and Shri L. R. Cavale of P.E.C., probably were not taken note of for action as they did not directly come into contact with M/s. Maruti Ltd. and M/s. Batliboi & Co.
- (viii) Shri R. K. Dhawan played an active role in the whole affairs inasmuch as it was he who telephoned Shri T. A. Pai, Shri A. S. Rajan and Shri P. S. Bhatnagar and sought to deter the officers concerned from collecting the requisite information for S.Q No. 656. He also personally went to Shri D. Sen in his office to give orally the particulars of the four officers concerned and asked him to investigate the charges of corruption against them.
- (ix) There is no record of alleged complaints of corruption from some M.Ps. against the four officers concerned on the basis of which Shrimati Indira Gandhi told Shri R. K. Dhawan to ask Shri D. Sen to make investigations as a result of which the houses of the officers concerned were raided by C. B. I. and were harassed in various ways.
- (x) Shri D. Sen directed investigations against the four officers concerned on the basis of only oral complaints from Shri R. K. Dhawan. Before initiating such serious actions against the four officers concerned, he did not care to have written complaints from Shri Dhawan. He did not even record the source of original complaints although they were received from the former Prime Minister, Shrimati Indira Gandhi through her Additional Private Secretary, Shri R. K. Dhawan. Shri D. Sen also showed rather extraordinary zeal and speed in making investigations and recording F. I. Rs. against the officers concerned. He did not even attempt to find out and contact the concerned M.Ps. and others who had allegedly complained to Shrimati Indira Gandhi against the four officers and verify the allegations from them.
- (xi) The common complaint against the four officers concerned that they were corrupt officers and possessed assets disproportionate to their known sources of income was not established against anyone of them and the complaint proved to be baseless and unfounded.

- (xii) During the process of investigations, certain allegations of minor and insignificant nature of much earlier period were foisted on the officers concerned as a result of which they were sought to be harassed and penalised.
- (xiii) Shri R. K. Dhawan in his evidence before the Committee has contradicted everybody whosoever had attributed anything to him. Thus, he described as "totally false" the statements of Sarvashri T. A. Pai, A. S. Rajan and P. S. Bhatnagar that he had telephoned to them regarding collection of information etc. He also contradicted Shri D. Sen who had said that (i) Shri Dhawan gave him the names and designations of the four officers concerned, (ii) that Shri Dhawan asked him to investigate the complaints against the four officers concerned and that (iii) Shri Dhawan came personally to his office to make the complaints. But Shri Dhawan was unable to explain why all of them should depose against him except in the case of Shri T. A. Pai to whom he attributed some motive but which Shri T. A. Pai denied before the Committee. The evidence of Shri Dhawan does not, therefore, appear to be truthful, reliable and credible. It may be mentioned that Shri R. K. Dhawan was a shareholder and a promoter of Maruti Ltd. and was thus personally interested in its affairs.
- (xiv) Shri D. Sen was unable to recall even a single instance, apart from a very old instance of late Prime Minister Shri Jawaharlal Nehru's period, where complaints of corruption etc. against officials emanated from the Prime Minister, as in the present case. Shri R. K. Dhawan also could not give any such instance.
- (xv) As the witnesses were deposing before the Committee about past incidents which occurred about three years back, there are some minor discrepancies in the timings of events as related by the various witnesses before the Committee, which do not, however, materially effect the credibility of the basic facts which stand fully corroborated by the concerned witnesses.
- (xvi) The evidence before the Committee clearly reveals that the action against the concerned four officers was taken and C.B.I. investigations against them were initiated at the instance of Shrimati Indira Gandhi, former Prime Minister, because they contacted M/s. Maruti Ltd. and M/s. Batliboi & Co. to collect information about imported Machine Tools installed in the factory of Maruti Ltd., which was prohibited under the licence granted to M/s. Maruti Ltd. by Government. Collection of such information and giving it to Parliament would have been embarrassing to M/s. Maruti Ltd. which was owned by her son Shri Sanjay Gandhi.

E. Objections Raised by Shrimati Indira Gandhi on certain constitutional and Legal Aspects

112. The Committee at their sitting held on the 6th January, 1978, decided that Shrimati Indira Gandhi be asked to state, in the first instance, what she might have to say in the matter for the consideration of the Committee. Shrimati Indira Gandhi in her written statement²⁴ dated the 1st March, 1978, stated, *inter alia*, as follows :—

“.....the matter under consideration concerns the 5th Lok Sabha which is dissolved. I am advised that all contempt proceedings or breach of privilege of the House do not enure beyond the life of the House. It was so decided in the case of Shri T.N. Kaul.”

“In order to attract the disciplinary jurisdiction of this Hon’ble House, the conscious disobedience or obstruction must be to a servant or agent of the House acting in course of duty of the House.”

113. Shrimati Indira Gandhi was then asked to appear before the Committee in person on the 21st and 22nd June, 1978 for oral evidence. She, however, sent a letter dated the 16th June, 1978, enclosing a statement²⁵ for being placed before the Committee and stating that in view of what she had said in her statement, she did not think it necessary for her to attend the proceedings of the Committee, “at any rate at this stage”.

114. Shrimati Indira Gandhi, in her aforesaid statement stated, *inter alia*, as follows :—

“I am entitled to the constitutional guarantee enshrined in Article 21 of the Constitution which provides that no person shall be deprived of his personal liberty except in accordance with procedure established by law.... In Maneka Gandhi’s case, the Supreme Court has further held that the procedure under Article 21 of the Constitution must be fair, just and reasonable and that one of the requirements of such procedure is that the Tribunal must be impartial..... This Hon’ble Committee consists mainly of members who owe allegiance to the Janata Party and I have reasonable apprehension of the influence of the Janata Party’s openly declared antagonism towards me on those members.”

“.....the matter concerned the 5th Lok Sabha which stood dissolved and that breach of privilege of the House did not enure beyond the life of the House.... I am fortified in this regard by the provisions of Rule 222 of the Lok Sabha Rules under which the

²⁴. See Appendix XXI.

²⁵. See Appendix IV.

motions in the present case had been admitted..... A bare perusal of the rule shows that the question of privilege can be raised only by that person who is a 'member' and not a former member. It is therefore necessarily implied that the expression 'the House' in this rule does not include a dissolved House. It means the House of which the person raising the question is a member and whose privilege is involved..... The observation made by *May* in his 'Parliamentary Practice' that 'contempt committed against one Parliament may be punished by another', to which reference was made by Shri Madhu Limaye during the debate, is not applicable to the Lok Sabha where the question of privilege has been codified in a specific rule. Even *May* has qualified his observation with an expression of doubt and has chosen to confine it to cases of libel against Parliament... The observation of *May* has to be confined in any circumstance to cases of libel."

"The matter under consideration is not of 'recent occurrence'. It is alleged to have taken place in April, 1975....Mr. Pai as the principal and the officers as his agents were aware of the alleged 'obstruction' in April, 1975. They ought to have raised the question of privilege at that time before the House of which they have been described to be the officers."

".....this Hon'ble Committee is not competent to consider the question of privilege in the present case and at any rate I am not liable to make any submission on merits until my preliminary objections are considered and decided."

"None of these officers was an officers of the House, or employed by it or entrusted by it with the execution of any of its orders."

"The proceedings of Shah Commission and any statements made by any person before it cannot be transplanted and used against me in the proceedings before this Hon'ble Committee. This Hon'ble Committee has to hold an independent inquiry, record evidence by itself after affording to me the right of cross examination of each witness and full defence, and form its own conclusions on the basis of such evidence. The proceedings of the Commission or the findings recorded by it are wholly irrelevant in the present proceedings."

"The proceedings before this Hon'ble Committee are criminal in nature and I am an accused. I am liable to be punished with imprisonment. The Government is also threatening to prosecute me

in this matter on the basis of the findings of Shah Commission. I cannot, therefore, be compelled to be a witness against myself or give evidence before this Hon'ble Committee in view of the provisions of Article 20 of the Constitution. However, I do submit that the allegations against me are utterly untrue."

"I cannot be placed in double jeopardy. If the proceedings pending in the court of Shri P.K. Jain are allowed to stand, the present proceedings cannot continue as they are based on the specific ruling of the Hon'ble Speaker that Shri J.C. Shah had no jurisdiction to hold an inquiry in this matter. His order directing my prosecution and his complaint make no distinction between this matter and the other matters in which he held the inquiry. Therefore the complaint, as a whole, is vitiated."

115. Shrimati Indira Gandhi who was again asked to appear before the Committee for giving evidence in the matter on the 5th July, 1978, send "another" statement³⁶ dated the 5th July, 1978, wherein she stated, *inter alia*, as follows :—

"....While reiterating all that I have said in my earlier statement, I should like to add a few words. I respectfully submit that I cannot be compelled to depose before this Hon'ble Committee in these proceedings.... Under article 20(3) of the Constitution, 'no person accused of an offence shall be compelled to be a witness against himself'."

"....When I am facing the prospect of imminent prosecution I cannot be compelled to disclose my defence in advance. No accused has ever been called upon to do so. If I depose before this Committee my defence in the imminent criminal cases is bound to be prejudiced and indeed preempted. Worst of all, any adverse finding against me by this Committee will hand as a compulsive pall over any criminal court.

Fairplay is a fundamental principle of natural justice recognised by our Supreme Court. In fact, the right enshrined in Article 20(3) of the Constitution is available to me in these proceedings in view of the imminence of my prosecution on the same allegations."

³⁶. See Appendix VIII.

When Shrimati Indira Gandhi appeared before the Committee on the 5th July, 1978 and she was asked by the Chairman to take oath or affirmation, she stated :—

“I have already sent you a statement in which I have expressed my difficulty. While I have the greatest respect for the House and the Committee, consisting of so many senior Members present today, I find myself in a very peculiar position.”

The following questions then put to Shrimati Indira Gandhi by the Chairman and replies given by her thereto, are given below:—

“Question : Whatever you have said, it will be very difficult for the Committee to get it on record unless and until you take the oath. Oath has to be taken first.

Answer : I am told that only a witness can take an oath. Here I am not a witness.

Question : Whatever it is, it is the procedure. Unless and until oath or affirmation is taken, nothing can be got on record of the person or the witness, whatever it may be. You may raise the point. You have sent us three statements. Certainly we will give a hearing to you and we will consider and give our opinion.

Answer : Once I take an oath, I am open to cross-examination because I become a witness. My whole point is that I am not here as a witness. I am here as an accused.”

Shrimati Indira Gandhi was thereupon asked to withdraw to enable the Committee to deliberate on the matter.

After some discussion, the Committee decided that she might be heard without taking oath/affirmation on the legal point as to why she was not obliged to take oath/affirmation before making any submissions to the Committee on the question of privilege against her.

Shrimati Indira Gandhi was then called in again and the Chairman informed her as follows :—

“.....it is the opinion of the Committee that you will be permitted to make a submission, strictly on the legal points—why you feel that you are not obliged to take oath or affirmation; but on the merits of the case, you are not to make any submission before you take oath or affirmation.”

In reply, Shrimati Indira Gandhi stated :—

“I will read out my statement. I don't think it deals with the merits at all. I will try to go by that; if I enter into something which you think concerns merit, please remind me.”

Shrimati Indira Gandhi then read out the written statement³⁷ dated the 5th July, 1978, sent by her to the Committee earlier that day. She was asked by the Chairman whether she had any other points to make in addition to her statement. Shrimati Indira Gandhi stated that she had nothing further to add to her statement. The Chairman then informed Shrimati Indira Gandhi, *inter alia*, as follows :—

“.....the following are examples of the contempt by a witness; refusing to be sworn or to take upon himself a corresponding obligation to speak the truth..... This may or may not be attracted. After we discuss the points you have raised, we will come to a decision as to whether that provisions is attracted or not.”

116. After careful consideration of the objections raised by Shrimati Indira Gandhi on certain constitutional and legal aspects in her aforesaid statements dated the 1st March, 16th June and 5th July, 1978, the Committee referred the following points to the Attorney-General of India for his opinion :—

- (1) Whether, in view of the provisions of Article 20(3) of the Constitution, Shrimati Indira Gandhi has a right not to take the oath for giving evidence before the Committee of Privileges in this case ?
- (2) Whether she has a right to refuse to give evidence before the Committee of Privileges in this case even without taking oath ?
- (3) Whether she can be examined by the Committee of Privileges with or without oath in this case with an option to her not to answer particular questions which may be self-incriminatory ?
- (4) Whether in view of the F.I.R. lodged against Shrimati Indira Gandhi and others for criminal offences under various Sections of I.P.C., proceedings for taking action for committing an alleged breach of privilege and contempt of the House can be continued against them by the Committee of Privileges keeping in view the provision contained in Article 20(2) of the Constitution ?

37. See Appendix VIII.

- (5) Whether the question of double jeopardy will arise if the Committee of Privileges take further proceedings in the matter.
- (6) Whether a breach of privilege alleged to have been committed against an earlier Lok Sabha can be examined and punished after its dissolution by the new Lok Sabha ?
- (7) Whether officers of the Ministry of Industry and Commerce who were allegedly obstructed or harassed for collecting information to prepare a reply to a question to be answered in Lok Sabha could be deemed to be officers or servants of the House or employed by the House or entrusted with the execution of orders of the House or could be deemed to be in the service of the House?"

117. As regards the first three points, the Attorney-General of India in his Opinion³⁸ dated the 23rd July, 1978, has stated, *inter alia*, as follows:—

"In order to answer these questions one must determine whether Article 20 is available in proceedings before the Lok Sabha or its Privileges Committee. Article 20 with the marginal note reads as under :—

"Protection in respect of 20(1) No person shall be convicted of
conviction for offen- any offence except for violation
ces. of a law in force at the time of
the commission of the act charged
as an offence, nor be subjected
to a penalty greater than that
which might have been inflicted
under the law in force at the
time of the commission of the
offence.

- (2) No person shall be prosecuted and punished for the *same offence* more than once.
- (3) No person accused of any offence shall be compelled to be a witness against himself'."

"Sub-article (3) does not give blanket protection to a person accused of an offence nor do the decisions of the Supreme Court speak of any absolute right or protection. Sub-article (3) does not lay down that a person accused of an offence shall not be a competent witness or shall not be

^{38.} See Appendix X.

compelled to give testimony but speaks of not being *compelled* to be a witness against himself. In any event, the Court has spelt out that a person accused of an offence cannot refuse to answer questions other than those which are incriminatory in the way explained by the Court. There is no protection against every question nor is there any protection or immunity granted by Article 20 to a person accused of an offence to refuse to appear or answer questions. The protection is limited to any witness being compelled to answer questions which have a tendency to incriminate that person in present or in future....

Answers to the three questions may now be given as under :

Question (1)—Whether, in view of the provisions of Article 20(3) of the Constitution, Shrimati Indira Gandhi has a right not to take the oath for giving evidence before the Committee of Privileges in this case ?

Article 20(3) does not deal with the question whether a person has a right not to take the oath. It must be answered by the requirements of the Rules of the Lok Sabha and the Privileges Committee. While the decisions of the Supreme Court speak of a Court or Judicial Tribunal authorised to take legal evidence or oath, the last one in Nandini Satpathy's case³⁹ did not deal with this aspect of the matter but it held that an accused person cannot be compelled to answer incriminating questions at a pre-trial stage where no question of administering an oath could conceivably arise.

Question (2)—Whether she has a right to refuse to give evidence before the Committee of Privileges in this case even without taking oath ?

The answer must depend on the Rules of the Lok Sabha and the Privileges Committee and their legal effectiveness. Rules are made presumably under Article 118 read with Article 105 and are thus in accordance with law; if an oath is required by a rule, then, there is no question of any person having any right or option in the matter.

Question (3)—Whether she can be examined by the Committee of Privileges with or without oath in this case with an option to her not to answer particular questions which may be self-incriminatory ?

³⁹. A.I.R. (S.C.) 1978, 1025.

If the rule requiring oath is mandatory, then it is clear that she can have to right to refuse to take oath but she would certainly have the right (unless she waives the privilege) under Article 20(3) not to answer any question which is self-incriminatory. Actually, the rule only enables the Committee to administer oath; whether it be administered or not is left to the discretion of the Committee."

118. As regards point Nos. 4 and 5, the Attorney-General of India in his Opinion⁴⁰ dated the 8th August, 1978, has stated *inter alia*, as follows:—

"The Committee has now desired that I should give my opinion on the following questions :

- (1) Whether in view of the F.I.R. lodged against Shrimati Indira Gandhi and others for criminal offences under various Sections of the Indian Penal Code, proceedings for taking action for committing an alleged breach of privilege and contempt of the House can be continued against them by the Committee of Privileges keeping in view the provision contained in Article 20(2) of the Constitution; and
- (2) Whether the questions of double jeopardy will arise if the Committee of Privileges take further proceedings in the matter.

I will take up the second question first. The relevant Article is Article 20(2). It reads 'No person shall be prosecuted and punished for the same offence more than once'. The ratio of the Supreme Court decisions on sub-article (2) may be stated. The constitutional right guaranteed by Article 20(2) against double jeopardy can be invoked where there has been a prosecution and punishment in respect of the *same offence* earlier before a court of Law or a Tribunal required by law to decide the matters in controversy judicially on evidence on oath which it must be authorised by law to administer in accordance with the procedure prescribed by law which creates the offence.

.....It is only when a person is prosecuted and *already* punished for an offence by a competent Court or a Judicial Tribunal that the person cannot be prosecuted or punished for the same offence by another competent Court or Judicial Tribunal. In other words, it is only where a person has been both prosecuted and punished at a formal trial by a Court of competent jurisdiction or a Judicial Tribunal that the constitutional guarantee or protection

⁴⁰. See Appendix XXII.

is given by Article 20(2) against double conviction and the question can arise at all.....”

“In my opinion, offences under Sections 167, 182, 186, 189 and 211 and 448 are distinct from the offences pending consideration before the Privileges Committee. Before the Committee the charge is of a breach of privilege or contempt by reason of one of the accused before the Privileges Committee directing raids against the officers collecting information required for Parliamentary questions and by one of the accused conducting these raids on the basis of fabricated charges. It is alleged that the officers of the Ministry of Industry, who were collecting information for the purpose of preparing an answer to a question, were intimidated and harassed in the discharge of their duties towards the Lok Sabha and that such acts constitute obstruction of the Lok Sabha in the performance of its functions and/or obstruction of a member or officer of such House in the discharge of his duties. None of the sections of the Indian Penal Code mentioned in the First Information Report have anything in common with the charge before the Lok Sabha or the Privileges Committee. The only section which calls for a special reference is Section 186 of the Indian Penal Code which makes punishable any person who voluntarily obstructs any public servant in the discharge of his public functions. Even if the offence of obstruction before the Privileges Committee arises out of the same facts or some of the same facts, it cannot be said that the offence is the same as the one in Section 186 of the Indian Penal Code.

I will now turn to the first question. So far as I can see, the filing of the First Information Report against the accused cannot preclude the Committee from continuing the proceedings; there is no such bar under Article 20(2) or under any general law. Even Article 20(2) applies only where the persons accused before the Committee have *already* been punished by another Court or Judicial Tribunal and even then the other Court or Judicial Tribunal would have jurisdiction to determine whether the earlier prosecution and punishment, was in respect of the same offence. The Committee has jurisdiction to continue the proceedings and punish, but whether it should do so or not, lest prosecution and punishment by it should make possible the plea of protection by the accused before the Court trying the offences under the Indian Penal Code, is not a question of law, I must refrain from dealing with it.”

119. As regards point Nos. 6 and 7, the Attorney-General of India, in his opinion⁴¹, dated the 8th August, 1978, has stated, *inter alia*, as follows :—

“At page 161 of *May's Parliamentary Practice* it is stated :

‘It also appears that a contempt committed against one Parliament may be punished by another; and libels against former Parliaments have often been punished. In the debate on the privilege of Sir R. Howard in 1625 Mr. Selden said : ‘It is clear that breach of privilege in one Parliament may be punished in another succeeding.’’

The use of the word ‘appears’ in the first sentence shows that the statement is a cautious one and is made on the basis of an authority which is not available to me; the last sentence is, however, categorical. But the question then is whether such power subsisted at the date of commencement of the Constitution. The precedents themselves go back some centuries but it is significant that even in the Nineteenth Edition of *May's Parliamentary Practice* the statement that such a power of privilege exists is mentioned with no comment that such power or privilege has fallen into desuetude or lapsed. This is understandable because such occasions do not arise often and in view of *May's* statement it may be assumed that such a power exists.....”

“The second question on which my opinion is sought is whether the persons who were collecting information and who were harassed or impeded or obstructed could be regarded as officers and servants of the Lok Sabha. It was really the responsibility of the Minister concerned to collect the required information so that he could answer the question put in the Lok Sabha. I do not see how any agency employed by the Minister or public servants or persons entrusted with the work could be regarded as servants or officers of the Lok Sabha. In *May* at page 136 it is stated :

‘It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.’

41. See Appendix XXII.

This statement falls into three parts—(1) any act or omission which obstructs or impedes either House of Parliament in the performance of its functions; or (2) any act or omission which obstructs or impedes any member or officer of such House in the discharge of his duty; or (3) any act or omission which has a tendency, directly or indirectly to produce such result. At page 154, *May* states :

'It is a contempt to obstruct officers of either House or other persons employed by, or entrusted with the execution of the orders of, either House, while in the execution of their duty.'

In my opinion, the persons who suffered harassment were neither officers and servants of the House nor were they employed by, or entrusted with the execution of the orders of, either House. There were no orders given by the Lok Sabha; it was the Minister who had asked for material and no execution of any order of either House was involved.

It seems to me that while persons whom the concerned Minister asked to collect information cannot be regarded as officers or servants of the House, the question would remain whether the acts or omissions, namely, the orders made by certain persons to carry out raids or arrests obstructed or impeded the Lok Sabha in the performance of its functions."

120. The Committee, after careful and thorough consideration of the points raised by Shrimati Indira Gandhi in her statements, dated the 1st March, 16th June and 5th July, 1978, in the light of the legal opinion given by the Attorney-General of India on the matter, observe that the Committee have the power to administer oath or affirmation to a witness under rule 272(1) of the Rules of Procedure and Conduct of Business in Lok Sabha, which provides as follows :—

"A Committee may administer oath or affirmation to a witness examined before the Committee."

According to well established Parliamentary precedents and conventions refusal by a witness to take oath or make an affirmation when asked to do so by the Committee, would amount to a breach of privilege and contempt of the House.

121. Article 20(3) of the Constitution does not lay down that a person accused of an offence shall not be compelled to give testimony, but speaks only of not being compelled to be a witness against himself. A person accused of an offence cannot refuse to answer a question other than those which are

self-incriminatory. There is no protection or immunity under Article 20 of the Constitution to a person accused of an offence to refuse to appear or answer questions. If a witness feels that the answer to any particular question that may be asked by the Committee is likely to incriminate him in any prosecution, he may point it out and the Committee may decide his plea on merits.

122. The Constitutional right guaranteed by Article 20(2) against double jeopardy can be invoked where there has been a prosecution and punishment in the same offence earlier before a Court of Law. The offence of breach of privilege or contempt of the House is quite distinct from the offences under the Indian Penal Code which have been mentioned in the First Information Report registered against Shrimati Indira Gandhi. Shrimati Indira Gandhi has neither been prosecuted nor punished so far at a former trial by a court of competent jurisdiction or a judicial Tribunal for the same offence, namely, the offence of breach of privilege and contempt of the House against Shrimati Indira Gandhi and others which is under consideration of the Committee.

123. When Shrimati Indira Gandhi appeared before the Committee again on the 19th August, 1978, the Chairman informed her, *inter alia*, as follows :—

“As already intimated to you, your statements dated 1st March, 16th June and 5th July, 1978, have been considered by the Committee. The Committee have the power to administer the oath or affirmation to you under Rule 272 of the Rules of Procedure of Lok Sabha. The only option available to you is to either take oath or make an affirmation. Refusal to take oath or make an affirmation when asked by the Committee to do so, would amount to a breach of privilege and contempt of the House, about which you must be aware as well.

Should you feel that the answer to any particular question that may be asked by the Committee is likely to incriminate you in any prosecution, you may point it out and the Chairman/Committee will consider your plea and decide it on merits.

The question of double jeopardy does not arise in this case at all, as you have neither been prosecuted nor punished so far at a formal trial by a court of competent jurisdiction or a judicial tribunal for the same offence.

Now, Madam, please take the oath or make an affirmation, as you like.”

Shrimati Indira Gandhi, however, stated that she was not “legally bound to take the oath or to answer any interrogatories.” She then read out a written statement dated the 19th August, 1978, in support of her contention,

stating *inter alia* that "a formal First Information Report has been registered by the Delhi Special Police Establishment and investigation has already been ordered against me.....I am, therefore, now a formal accused on the same charges on which I have been summoned to appear before the Lok Sabha Privileges Committee.....my answers are bound to be also 'self incriminating' whether examined on oath or not".

Shrimati Indira Gandhi was thereafter asked to withdraw to enable the Committee to deliberate on the matter.

After a thorough discussion, the Committee felt that the contentions of Shrimati Indira Gandhi were not tenable and the Committee decided to proceed further with her examination.

Shrimati Indira Gandhi was then called in again and the Chairman informed her as follows :—

"Mrs. Gandhi, we have taken into consideration all the points that you have raised in your submission before this Committee. But the Committee are of the opinion that your arguments do not conform to the views of the Committee. I want to again draw your attention to the fact that by not taking oath or affirmation you will be subjecting yourself to a breach of privilege or contempt of the Committee and of the House thereafter if the Committee so decides and recommends it or the House so decides. However, to give you all opportunity in fairness to our intention to deal with your case, the Committee desires to apprise you of the main pieces of evidence that had been produced before this Committee. On oath or affirmation, if you like you can make a statement thereon after hearing these pieces of evidence that have been produced before this Committee."

Shrimati Indira Gandhi, however, stated: "I have already stated my case.....It is my inalienable right not to say anything against myself."

The Chairman, thereupon, asked Shrimati Indira Gandhi again to take oath or make an affirmation.

Shrimati Indira Gandhi replied : "I have given my submission and reasons as to why I cannot submit myself to taking an oath or affirmation, or answer any interrogatories.....I cannot assist the Committee."

The Chairman, thereupon, told her that she could be apprised of the main pieces of evidence and that if she wanted to make a statement thereon, she could do so.

Shrimati Indira Gandhi replied : "If I make a statement, if I answer interrogatories, it comes to the same thing."

124. The Committee then examined the question whether a breach of privilege alleged to have been committed against an earlier Lok Sabha can be examined by a subsequent Lok Sabha.

Before finding an answer to this question, it requires to be examined,—
(i) whether Parliament is a permanent and perennial institution and as such it continues to exist as long as the Constitution providing it exists, and
(ii) whether precedents exist in the House of Commons, U.K. and Lok Sabha which refer to a case of alleged breach of privilege and contempt of the House of Commons or of Lok Sabha having been dealt with by a subsequent House of Commons or Lok Sabha.

125. As regards the question whether the institution of Parliament is a continuing body or not, *May* has stated the position as follows :—

" 'A Parliament' in the sense of a parliamentary period, is a period not exceeding five years which may be regarded as a cycle beginning and ending with a proclamation. Such a proclamation (which is made by the Queen on the advice of her Privy Council) on the one hand, dissolves an existing Parliament, and, on the other, orders the issue of writs for the election of a new Parliament and appoints the day and place for its meeting. This period, of course, contains an interregnum between the dissolution of a Parliament and the meeting of its successor during which there is no Parliament in existence: but the principle of the unbroken continuity of Parliament is for all practical purposes secured by the fact that the same proclamation which dissolves a Parliament provides for the election and meeting of a new Parliament."

[*May's Parliamentary Practice*, page 259]

Further, Article 79 of the Constitution of India provides as follows :—

"There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People."

In this connection, the following provision in Article 94 of the Constitution is also pertinent :—

".....whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution."

126. In India, till 1967, the practice was that the earlier Lok Sabha was dissolved by the President only after the General Election to the subsequent Lok Sabha was held and a lame-duck session of the earlier Lok Sabha also used to be held after the General Election to the subsequent Lok Sabha till 1962. This practice was in vogue for maintaining or ensuring continuity of the institution of the Parliament. This practice has been discontinued after 1967, but such discontinuance does not affect the essential character of the continuity of the institution of Parliament.

127. Article 79 of the Constitution quoted in paragraph 125 above, does not say that 'there shall be an elected Parliament', but says that 'there shall be a Parliament'. This Article thus ensures continuity of the institution of Parliament.

128. In regard to the effect of the dissolution of Lok Sabha, *Kaul and Shakdher* in their book "Practice and Procedure of Parliament" have stated as follows :—

"Dissolution, as already stated, marks the end of the life of a House and is followed by the constitution of a new House. The consequences of a dissolution are absolute and irrevocable. In Lok Sabha, which alone is subject to dissolution under the Constitution, dissolution 'passes a sponge over the parliamentary slate'. All business pending before it or any of its committees lapses on dissolution. No part of the records of the dissolved House can be carried over and transcribed into the records or registers of the new House. In short, the dissolution draws the final curtain upon the existing House."

[*Kaul and Shakdher*, 2nd Edition, page 162]

It says : "all business pending before it or any of its Committees lapses on dissolution. No part of the records of the dissolved House can be carried over and transcribed into the records or registers of the new House....."

The dissolution of Lok Sabha does not imply discontinuity of the institution of Parliament; it only means that pending business of one Lok Sabha ceases to operate in the next Lok Sabha in which all business is required to start *de novo*.

129. In view of the above, the continuity of the institution of Parliament remains ensured even after dissolution of Lok Sabha.

130. As regards the question whether a case of alleged breach of privilege against Parliament in one Lok Sabha can be raised in the subsequent Lok Sabha, nothing has been specifically stated either in the Constitution of India

or the Representation of the People Act or the Rules of Procedure and Conduct of Business of the House.

In the absence of any such clear provision, Article 105(3) of the Constitution will apply which provides as follows :—

“In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may be from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.”

In this connection, the Attorney-General of India, in his opinion says :—

“In my opinion, the new Parliament would have no jurisdiction unless such jurisdiction or power itself may be claimed under Article 105 as a power enjoyed by the House of Commons at the date of the commencement of the Constitution.”

131. Thus, in deciding the issue, Lok Sabha shall have to depend on the practice and precedents in vogue in the House of Commons, U.K. In this connection, the position has been stated by *May* as follows :—

“It also appears that a contempt committed against one Parliament may be punished by another; and libels against former Parliaments have often been punished. In the debate on the privilege of Sir R. Howard in 1625 Mr. Selden said : ‘it is clear that breach of privilege in one Parliament may be punished in another succeeding’.”

[*May*, 19th Edition, page 161]

May has cited three cases in support of the above statement, two of which have been traced and their summaries are appended.⁴² For the third case, the relevant Journal or Debates of the House of Commons, U.K., are not available.

132. The three cases cited by *May* occurred during the 16th and 17th centuries. But there has also been a recent case in the House of Commons, U.K., where a Member has been found guilty of a contempt committed during a previous Parliament. This is the case of Mr. John Cordle, whom a Select Committee on Conduct of Members, reporting⁴³ on 13th July, 1977, found

⁴². See Appendices XXIII & XXIV.

⁴³. H. C. 490 (1976-77).

had been guilty of a contempt in taking part in a debate in 1964 without declaring an interest. The House of Commons unanimously agreed⁴⁴ with this finding on the 26th July, 1977. No punishment was inflicted, since the Member resigned his seat after the publication of the Report.

This aforesaid recent case conclusively establishes that the House of Commons, U.K., possesses the power to punish a contempt of the earlier House of Commons. In terms of Article 105(3) of the Constitution of India, the Lok Sabha also, therefore, possesses the power to punish a breach of privilege and contempt of the earlier Lok Sabha.

133. It may be stated that in Lok Sabha there is a recent precedent, namely, *Tulmohan Ram's case*, where the Fifth Lok Sabha referred to the Committee of Privileges on the 8th June, 1971, a case which was under consideration of the Committee of Privileges of the Fourth Lok Sabha and had lapsed on the dissolution of Fourth Lok Sabha. The power to deal with a breach of privilege and contempt of the House committed against an earlier Lok Sabha was thus exercised by the Fifth Lok Sabha in that case.

In *Tulmohan Ram's case*, the question whether the privilege case raised originally in the Fourth Lok Sabha could be taken up by the Fifth Lok Sabha, was not specifically raised. But the basic fact remains that a privilege case raised in the Fourth Lok Sabha was taken up in the Fifth Lok Sabha, thus setting up a precedent that a case of breach of privilege relating to the earlier Lok Sabha can be taken up by a subsequent Lok Sabha.

134. As regards the case of Shri T. N. Kaul, the Speaker had observed in that case as follows :—

“On 1st April, 1977, Shri Jyotirmoy Bosu sought to raise a question of privilege against Shri T. N. Kaul, the then Ambassador of India in U.S.A. for certain remarks made by him on television network in USA in July, 1975. Shri Bosu stated that Shri Kaul had *inter alia* said that ‘political leaders had not been jailed but detained in houses’.

Shri Atal Behari Vajpayee, the Minister of External Affairs, made a statement in the House on 1st April, 1977 in regard thereto. He, *inter alia*, said that clarification had been called for from Shri Kaul and Shri Kaul's contention was that he had no intention of distorting the facts and that his remarks were based on the information then available with him. Shri Kaul also submitted that if his remarks based on incomplete information had hurt anyone, it was unfortunate but he had no intention of making a wrong statement. Shri Vajpayee had stated that the remarks of Shri Kaul were not based on facts.

⁴⁴. H. C. Deli. 26-7-1977 cc

I have carefully considered the matter. In order to constitute a breach of privilege, the impugned statement should relate to the proceedings of the House or to Members in the discharge of their duties as Members of Parliament. It may be seen that the impugned statement of Shri Kaul related to political leaders and not to Members of Parliament as such, although Members of Parliament are also political leaders.

Secondly, Shri Kaul's remarks were made in July, 1975, when the Fifth Lok Sabha was in existence. The matter cannot be raised as a privilege issue in the Sixth Lok Sabha.

In the circumstances, no question of privilege is involved in the matter."

[*L.S. Deb.*, dt 7-4-1977, cc. 11-12]

135. Rule 224 of the Rules of Procedure and Conduct of Business in Lok Sabha, *inter alia*, provides :

"The right to raise a question of privilege shall be governed by the following conditions, namely :—

**

**

**

(ii) the question shall be restricted to a specific matter of recent occurrence;

**

**

** "

The Speaker in his ruling in the case of Shri T. N. Kaul laid emphasis on "the right to raise a question of privilege" regarding "a matter of recent occurrence".

The Speaker's ruling clearly implied that the matter relating to the question of privilege had been published in press in July, 1975 and, it was, thus, within the scope of knowledge of the members of Lok Sabha and as such the question of privilege regarding that matter could have been raised during the Fifth Lok Sabha and not during the Sixth Lok Sabha.

Here the emphasis on the words Fifth and Sixth Lok Sabha was laid to indicate the time lag between the occurrence of the incident and raising of the matter in Lok Sabha. If the Speaker considered that an incident which had occurred during the Fifth Lok Sabha could not be raised as a question of privilege in the Sixth Lok Sabha, this consideration would have received primacy over the main consideration whether the subject matter of the question of privilege related to "the proceedings of the House or to Members in the discharge of their duties as Members of Parliament", which was the real deciding factor in that case.

*

136. However, if the literal meaning of the words 'Fifth Lok Sabha' and 'Sixth Lok Sabha' are accepted as indicating two successive Lok Sabhas, the earlier precedent of *Tulmohan Ram's case* can be stated to have been neutralised or cancelled by the later precedent of *T.N. Kaul's case*. If such a too liberal interpretation of the earlier precedents is taken into consideration, then the practice and precedents of the House of Commons, U.K. and the latest ruling, of the Speaker in the present case on the point raised by Shri Vasant Sathe, MP, on the 16th November, 1977 in the House, are to be considered as precedents for decision on the issue whether a question of privilege regarding an incident which occurred during the earlier Lok Sabha can be dealt with by the subsequent Lok Sabha.

137. The facts about the present case, which is under consideration of the Committee came to public notice for the first time after the Sixth Lok Sabha had been constituted and, as such, it could not be raised during the Fifth Lok Sabha. In this connection, it may be stated that Shri Vasant Sathe had raised the following point on the 16th November, 1977, when this matter was being considered by the House :—

"When the matter is as old as more than a year or two, can we consider whatever action was taken against that officer to be of recent occurrence ? The matter must be of recent occurrence. It has come to light today. If it is a matter of old occurrence, then can this House dig up a matter which is already being inquired into?"

The Speaker, thereupon, gave the following ruling:—

"..... So far as the point that it must be a matter of recent occurrence is concerned, the question is that it has not been definitely decided. Authorities have taken the view that when a matter comes to light at a later stage, Parliament has a right to take it into consideration."

138. The Committee, are therefore, of the opinion that a breach of privilege committed against an earlier Lok Sabha can be examined and punished after its dissolution by the succeeding Lok Sabha.

139. The Committee have carefully considered the point whether officers of the Ministry of Industry and Civil Supplies and Ministry of Commerce who were allegedly obstructed or harassed for collecting information to prepare a reply to a question to be answered in Lok Sabha can be deemed to be officers or servants of the House or employed by the House or entrusted with the execution of orders of the House or can be deemed to be in the service

of the House or in the performance of its functions and whether the obstruction and harassment caused to them can be treated as a breach of privilege and contempt of the House.

140. In this connection, the position has been stated in *May's Parliamentary Practice* as follows :—

“It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.”

(*May*, 19th Edition, page 136)

“It is a contempt to obstruct officers of either House or other persons employed by or entrusted with the execution of the orders of either House, while in the execution of their duty.”

(*May*, 19th Edition, page 154)

“Neither House will suffer any person, whether an officer of the House or not, to be molested for executing its orders or the orders of its committees or on account of anything done by them in the course of their duty.”

(*May*, 19th Edition, page 155)

141. The Committee are of the view that Parliament has an inherent right to seek information from the Government on matters of general public interest through questions and other methods provided for in the Rules of Procedure of the House. Although, technically it is the responsibility of a Minister to furnish information to the House, the Minister himself does not and cannot collect the information. For this purpose, there is an in-built machinery in the Government and officials collect information on behalf of a Minister for furnishing the same to Parliament. He must, in the nature of things, act through Departmental subordinates. Any obstruction or harassment to such officials, either to deter them from doing their duty or to impair the will or efficiency of others in similar situations, would impede and stifle the functioning of Parliament. Such officials should, therefore, be deemed to be in the service of the House and entrusted with the execution of the orders or the performance of the functions of the House, and any obstruction or harassment caused to them while doing their legitimate duties in collecting such information asked for by Parliament can be treated as a

contempt of the House. It is contempt because in the words of *May*, these are ways "which directly or indirectly obstruct or impede Parliament in the performance of its functions". It is not necessary that the said officers should technically be employees or officers of Parliament in the narrow sense. In a broad sense, all persons who serve or advance the purposes and functions of Parliament are deemed to be its officers for the limited purpose of the law of contempt.

142. The Committee are, therefore, of the opinion that the obstruction and harassment caused to the concerned officers of the Ministry of Industry and Civil Supplies and the Ministry of Commerce for collecting information to prepare a reply to a question to be answered in Lok Sabha may be treated by the House as a breach of privilege and contempt of the House after considering the question of privilege on its merits.

F. Conclusions

143. At no time before any country of the world, where Parliamentary democracy prevails, has a Committee of Privileges had to deal with such an unusual and extraordinary matter as happens to be the case with the present Committee. Never before a Leader of the House having enjoyed the office of the Prime Minister of a country for 11 years has been charged with causing obstruction, intimidation and harassment of Government Officials who are assisting in the performance of the functions of the Parliament. Such conduct is bound to affect adversely the functioning of a Parliamentary democracy.

Parliament, as a democratic system of governance, is the supreme manifestation of the sovereign will of the people. If its functioning is allowed to be stifled or subjected to administrative interference, the very foundation of Parliamentary democracy is likely to be undermined or shaken. When such attempts pass off unpunished and unchecked, elements of authoritarianism are bound to creep into a democratic system, gradually eroding the essential foundation of democracy. In such an eventuality, a system of Parliamentary democracy would undoubtedly suffer erosion of faith of the people.

The present case has several unusual and unique features. The Committee have, therefore proceeded with extreme caution and analysed every issue involved with particular care and objectivity.

The magnitude of the task with which the Committee were faced can be understood by the fact that the Committee held 45 sittings covering about 141 hours to examine the matter in depth and arrived at their correct conclusions. The Committee had to examine a large number of witnesses and in case of some of them more than once.

144. The Committee provided several opportunities to Shrimati Indira Gandhi, Shri R.K. Dhawan and Shri D. Sen against whom the case of breach of privilege and contempt of the House has been instituted, to have their full say and explain their position in regard to the allegations made against them.

The Committee recorded a mass of evidence in the process and called for many records and documents from the Government and the witnesses as well who gave evidence before the Committee. In order to give a fair chance to the accused persons, the Committee gave them all possible opportunities whenever they sought for and granted their requests for extension of time to submit their written explanations and also for postponement of their personal appearance before the Committee if a particular date did not suit them, even though the Committee had to seek extension of time twice from the House and the Speaker for presentation of the Report of the Committee to the House. Keeping in view the necessity for utmost objectivity and thoroughness, the Committee sat for long hours, both during sessions and when the House was not in session, sometimes continuously for more than a week at a stretch. The members availed themselves of as many as about 52 hours in making their analysis of the issues of facts and law involved in the matter.

145. Besides hearing several times Shrimati Indira Gandhi, Shri R. K. Dhawan and Shri D. Sen the Committee examined on oath the following witnesses at great length :—

- (1) Shri Kanwar Lal Gupta, MP.
- (2) Shri Madhu Limaye, MP.
- (3) Shri D. P. Chattopadhyaya, MP.
(former Minister of Commerce).
- (4) Shri R. Krishnaswamy,
Director,
Department of Heavy Industry.
- (5) Shri A. S. Rajan,
Development Officer,
Directorate General of Technical Development.
- (6) Shri T. A. Pai, MP.
(former Minister of Industry and Civil Supplies).
- (7) Shri L. R. Cavale,
Chief Marketing Manager,
Projects and Equipment Corporation of India Ltd.

- (8) **Shri P. S. Bhatnagar,**
Deputy Administration Manager,
State Trading Corporation of India Ltd.
(former Deputy Marketing Manager, Projects and Equipment
Corporation of India Ltd.).
- (9) **Shri J. S. Mathur,**
Liaison Officer,
Batliboi and Co. Ltd.,
New Delhi.
- (10) **Shri L. M. Adeshra,**
Resident Dy. General Manager,
Batliboi and Co. Ltd.,
New Delhi.
- (11) **Shri B. M. Lal,**
Deputy General Manager,
Batliboi and Co. Ltd.,
New Delhi.
- (12) **Shri B. C. Malhotra,**
Group Executive,
State Trading Corporation of India Ltd.,
(former Chief Personnel Manager, Projects and Equipment Cor-
poration of India Ltd.).
- (13) **Shri R. K. Tarneja,**
Chief Personnel Manager,
Projects and Equipment Corporation of India Ltd.
(former Personnel Manager, Projects and Equipment Corporation
of India Ltd.).
- (14) **Shri L. K. Dhawan,**
Director,
Projects and Equipment Corporation of India Ltd.
- (15) **Shri Vinod Parekh,**
former Chairman,
State Trading Corporation of India Ltd.
- (16) **Shri M. N. Misra,**
Executive Director,
State Trading Corporation of India Ltd.
(former Director, Personnel, Projects and Equipment Corporation
of India Ltd.).

- (17) Shri S. S. Khosla,
Development Officer,
Directorate General of Technical Development,
(former Assistant Development Officer, Directorate General of Technical Development).
- (18) Shri Mantosh Sondhi,
Secretary,
Ministry of Steel and Mines,
(former Secretary, Ministry of Industry and Civil Supplies, Department of Heavy Industry).
- (19) Shri S. M. Rege,
former Secretary,
M/s. Maruti Ltd.
- (20) Shri N. K. Singh,
Secretary,
Irrigation and Electricity Department,
Government of Bihar,
(former Special Assistant to the then Minister of Commerce).
- (21) Shri S. M. Ghosh,
Secretary,
Energy and G.A.D. Industries,
Mines and Power Department,
Government of Gujarat,
(former Joint Secretary, Ministry of Industry).
- (22) Shri B. D. Kumar,
(former Chairman of Projects and Equipment Corporation of India Ltd.).
- (23) Shri S. V. Gupte,
Attorney-General of India.

146. The Committee also perused, relevant records, files and documents running into about 4,000 pages. These have been mentioned in the Report at the relevant places and certain important documents have also been appended to the Report.

147. The Committee gave several opportunities to Shrimati Indira Gandhi to appear before the Committee and state the true facts of the case and have her say before the Committee to explain the position in regard to allegations made against her. She in fact appeared before the Committee twice and submitted four written statements. In these statements, she raised only objections on certain constitutional and legal aspects without giving

her version of the facts about the case. While appearing before the Committee, she declined to take oath or make affirmation on both the occasions and instead preferred to read out her written statements, submitted before the Committee.

The Committee, in addition to obtaining the written opinion of the Attorney-General of India, had a full discussion with him on the objections raised by Shrimati Indira Gandhi on certain constitutional and legal aspects and other matters relating thereto. When Shrimati Indira Gandhi appeared before the Committee on the second occasion, the Committee assured her that she would not be compelled to answer any self-incriminatory questions. Nevertheless, she stuck to her position and declined to state her version of the events and facts before the Committee or answer any questions by the Committee regarding the allegations against her. Further, she was given an opportunity to explain the facts and circumstances found against her in the evidence before the Committee even without taking oath/affirmation. However, she declined to avail of this opportunity as well. This attitude on her part has deprived the Committee of her version of the facts regarding the allegations against her.

148. The Committee also regret that in her written statement⁴⁵ dated the 16th June, 1978, submitted to the Committee, she chose to make the following remarks casting aspersions on the fairness and impartiality of the Committee :—

“.....the hostility of the Janata Party towards me personally has become almost its *raison d'etre*. Its proclaimed design to harass me, to denigrate me, to send me to prison on some ground or the other has become a part of its national policy and its principal preoccupation. This Hon'ble Committee consists mainly of members who owe allegiance to the Janata Party and I have reasonable apprehension of the influence of the Janata Party's openly declared antagonism towards me on those members.”

149. The above remarks by Shrimati Indira Gandhi are most unfortunate, specially because they have been made by a person who occupied the high office of the Prime Minister of the country and who had been a Leader of the House for about 11 years. She cannot be considered to be ignorant of the well known parliamentary norms and conventions that while all Parliamentary Committees reflect the party position in the House but they function strictly on non-party basis and members of the Committee are found not to express their views or opinions in accordance with their party affiliation but essentially on the merits of the issues involved, while functioning as members of the Committee. It is on record that in the course of

⁴⁵. See Appendix IV.

deliberations in the Committee of Privileges, members belonging to the same Party expressed different views and stated their opinions quite frankly and without any inhibition. No Party is known to have ever issued any whip to its members asking them to express their views or take a decision on any particular lines in the Committee.

The Committee are of the view that such remarks cast aspersions on the Committee and would amount to a breach of privilege and contempt of the Committee.

150. The Committee are also of the opinion that refusal by Shrimati Indira Gandhi to take an oath/affirmation and to depose before the Committee and answer any questions regarding the facts of the case, even without taking an oath/affirmation and even after she had been assured by the Committee that she would not be compelled to answer any self-incriminatory questions, also constitutes a breach of privilege and contempt of the Committee.

151. In regard to this case of privilege, the Committee have strictly confined themselves to the examination of the question of alleged breach of privilege and contempt of the House by Shrimati Indira Gandhi, former Prime Minister, Shri R. K. Dhawan, former Additional Private Secretary, to the then Prime Minister and Shri D. Sen, former Director, Central Bureau of Investigation, for alleged obstruction, intimidation, harassment and institution of false cases against Shri R. Krishnaswamy, Director, Department of Heavy Industry, Shri A.S. Rajan, Development Officer, Directorate General of Technical Development, Shri L. R. Cavale, Chief Marketing Manager, Projects and Equipment Corporation, and Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation, who were collecting information for preparation of an answer to Starred Question No. 656, tabled by Shri Jyotirmoy Bosu, M.P. and included in the list of Questions for oral answers dated the 16th April, 1975 during the Fifth Lok Sabha.

152. Shri Madhu Limaye, M.P. while raising the question of privilege in Lok Sabha on the 16th November, 1977, against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in Lok Sabha on Maruti Limited, had also alleged that his Unstarred Question No. 4175 answered in Lok Sabha on 11th December, 1974, had been admitted in a mutilated form "at the instance of the Prime Minister's Secretariat" and that the then Prime Minister's Secretariat was pressurising the Lok Sabha Secretariat in the matter of determining the admissibility of questions for discussion in the House. Shri Madhu Limaye had urged that this matter might also be examined by the

Committee of Privileges and that Shri Bishan Tandon, the then Joint Secretary in the Prime Minister's Secretariat and the concerned Officers of the Lok Sabha Secretariat who might be responsible for mutilation of his question might be examined by the Committee of Privileges.

After detailed consideration of the matter, the Committee are, however, of the opinion that the principal question of privilege before the Committee is against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in Lok Sabha on Maruti Limited. The allegation made by Shri Madhu Limaye regarding mutilation of his question and alleged pressurising of Lok Sabha Secretariat by the then Prime Minister's Secretariat regarding admissibility of questions, is a separate matter, and, as such, the Committee decided not to take it into consideration.

The Committee, therefore, decided to keep themselves confined to the task of the examination of the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in Lok Sabha on Maruti Limited.

153. The Committee, while considering this case have kept in mind the need to follow scrupulously the principles of natural justice, and the general principles underlying the Indian Evidence Act while analysing and interpreting the evidence tendered before the Committee and in arriving at their conclusions. The Committee do not however, consider that the Indian Evidence Act as such is applicable to the proceedings before the Committee or that the technical rules regarding interpretation of evidence embodied therein are strictly binding on the Committee, because the Committee do not function as a Court of Law, but are guided by the Rules of Procedure of the House and the conventions, practices and precedents in vogue in dealing with such cases.

154. The Committee observe that Starred Question No. 656 tabled by Shri Jyotirmoy Bosu, M.P., referred specifically to Unstarred Question No. 2980 by Shri Madhu Limaye, M.P., answered in Lok Sabha on the 12th March 1975, seeking information regarding the imported items of plant, machinery and equipment installed in the Maruti Car Factory in Gurgaon District, Haryana. Shri R. Krishnaswamy, Director, Department of Heavy Industry, Shri A. S. Rajan, Development Officer, Directorate General of Technical Development, Shri L. R. Cavale, Chief Marketing Manager and Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation, were officially collecting this information under the orders of their

senior officers, for preparing an answer to Starred Question No. 656 and a Note for Supplementaries for the Minister of Industry and Civil Supplies.

As the requisite information was not readily available in the records of the Projects and Equipment Corporation, Shri P. S. Bhatnagar contacted M/s. Batliboi and Co., and other Business Associates of Projects and Equipment Corporation, who had sold the imported Machine Tools under the Stock and Sale arrangements to M/s. Maruti Ltd. In this connection, Shri R. Krishnaswamy also contacted M/s. Maruti Ltd.

M/s. Batliboi and Co. furnished the requisite information to Shri P. S. Bhatnagar on the 15th April, 1975 evening. This information was given to Shri B. D. Kumar who passed it on to Shri N. K. Singh, then Special Assistant to Shri D. P. Chattopadhyaya, former Minister of Commerce and it did not reach the Minister of Industry and Civil Supplies who replied the Starred Question No. 656 on the 16th April, 1975.

Shri P. S. Bhatnagar was suspended from service later in the night on the 15th April, 1975, in pursuance of the orders of Shri D. P. Chattopadhyaya, the then Minister of Commerce, at the instance of Shrimati Indira Gandhi, former Prime Minister, on the charge of harassing the representatives of M/s. Batliboi and Co. and coercing them to part with certain information in an unbecoming manner.

155. Sometime before Starred Question No. 656 was answered in Lok Sabha on the 16th April, 1975, Shrimati Indira Gandhi called at her residence Shri T. A. Pai, then Minister of Industry and Civil Supplies, and Shri D. P. Chattopadhyaya, then Minister of Commerce, and complained to them against the conduct of Sarvashri R. Krishnaswamy, A. S. Rajan, L. R. Cavale and P. S. Bhatnagar. She also told Shri R. K. Dhawan, then her Additional Private Secretary, to ask Shri D. Sen, former Director, Central Bureau of Investigation, to start enquiries against Sarvashri R. Krishnaswamy, A. S. Rajan, L. R. Cavale and P. S. Bhatnagar, on charges of corruption and raid their houses. Shri R. K. Dhawan personally went to Shri D. Sen and told him accordingly. Shri D. Sen immediately started investigations against the concerned four officers and their houses were raided by the Central Bureau of Investigation although there was no written complaint from anybody. Shri D. Sen neither asked Shri R. K. Dhawan to give the complaints against the concerned officers in writing nor did he himself record the complaints received by him from Shri R. K. Dhawan orally.

156. The Committee observe that as a consequence of the investigations by the Central Bureau of Investigation, Sarvashri R. Krishnaswamy, A. S. Rajan, L. R. Cavale and P. S. Bhatnagar were harassed in various ways and F.I.R.s were recorded against them. The charge of corruption could not, however, be established against any one of the concerned four officers.

157. After careful consideration of the records and evidence before the Committee, they are of the opinion that Sarvashri R. Krishnaswamy, A.S. Rajan, L.R. Cavale and P.S. Bhatnagar were proceeded against Departmentally and investigations by the Central Bureau of Investigation were started against them because they were collecting information for preparing an answer and a Note for Supplementaries for Starred Question No. 656 tabled by Shri Jyotirmoy Bosu and answered in Lok Sabha on the 16th April 1975. The concerned officers were also sought to be obstructed and intimidated while they were in the process of collecting the requisite information, by Shri R.K. Dhawan who telephoned to Shri T.A. Pai and complained to him against them and also telephoned to Sarvashri A.S. Rajan and P.S. Bhatnagar themselves with a view to prevent them from collecting the requisite information.

158. The Committee carefully noted that the Central Bureau of Investigation did not investigate any complaint against any Officer of the Government of India at any time which directly originated from Shrimati Indira Gandhi since she became the Prime Minister in the year 1966. This was the solitary instance when Shrimati Indira Gandhi as Prime Minister, directly made complaints against four Officers of the Government. She also directly asked Shri D.P. Chattopadhyaya to take immediate action against the two Officers of his Ministry. Thus, the steps taken by Shrimati Indira Gandhi were unusual, extraordinary and exceptional in nature.

These four Officers, namely, Shri R. Krishnaswamy, Director, Department of Heavy Industry, Shri A.S. Rajan, Development Officer, Directorate General of Technical Development, Shri L.R. Cavale, Chief Marketing Manager and Shri P.S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation, were engaged in the collection of certain information regarding Maruti Limited in connection with the preparation of an answer to Starred Question No. 656 on the 16th April, 1975 in Lok Sabha. The Maruti Limited was controlled and managed by Shrimati Indira Gandhi's son, Shri Sanjay Gandhi and according to the conditions of the licence issued by the Government to that Company, the Company was not permitted to import any plant, machinery or equipment from outside. To obviate this difficulty, the Maruti Limited, by-passing the direct legal constraint on the Company, purchased imported plant, machinery or equipment from M/s. Batliboi and Company, who had the permission to supply such imported machinery to any Company on stock and sale basis.

The transaction of purchasing the imported plant, machinery or equipment by the Maruti Limited was a surreptitious method of circumventing the stipulated condition of the licence issued to the Company which specifically debarred it from importing any plant, machinery or equipment from outside. If this device of outwitting the law taking advantage of the lacun a

found in it, or that of any local importer having been used as a dummy by M/s. Maruti Ltd., was found and brought to the knowledge of Lok Sabha, the matter would have, quite likely created a furore in the House against the Maruti Limited and for that matter it would have caused as well embarrassment for the then Prime Minister, Shrimati Indira Gandhi and lowered her prestige in the public eye.

Thus, the attempt on the part of the four Officers of the Government, who were engaged by the concerned Ministries to collect information about imported plant, machinery and equipment installed in the factory of the Maruti Limited extremely annoyed Shrimati Indira Gandhi. In order to punish these four Officers, who dared to collect certain information regarding Maruti Limited, and inhibit any attempt in future to collect such information,—the then Prime Minister, Shrimati Indira Gandhi arbitrarily ordered the Central Bureau of Investigation to investigate certain alleged complaints of corruption against them and asked Shri D.P. Chattopadhyaya also to take immediate disciplinary action against two of the concerned Officers. The steps taken by Shrimati Indira Gandhi ultimately proved to be nothing but an arbitrary action as the allegations of corruption made against those four Officers were found to be false and unfounded and all of them were exonerated of the allegations of corruption investigated by the Central Bureau of Investigation and consequently all of them were reinstated in service.

Although these four Officers acted under instructions from their superior Officers like Shri Mantosh Sondhi, Secretary, Department of Heavy Industry and Shri S.M. Ghosh, Joint Secretary of that Department and others, they were picked up for intimidation and harassment as they were directly involved in the task of collecting certain information regarding Maruti Limited and steps taken against them were not likely to attract the attention of Parliament. Such a move proved effective, as the steps taken against these four Officers remained outside the knowledge of either the Parliament or the public, until the Emergency was lifted. On the other hand, if steps were taken against senior Officers like Shri Mantosh Sondhi and Shri S.M. Ghosh and others, in all probability, that could not have escaped the attention of the Parliament or public, tending to cause immediate embarrassment to the then Prime Minister, Shrimati Indira Gandhi. Thus, as targets of arbitrary measure,—four comparatively junior Officers were chosen instead of their senior Officers being picked up for the purpose, under whose instructions they were engaged in collecting the requisite information regarding Maruti Ltd.

The main facts and of circumstances of the present case of privilege lead to the inescapable conclusion that Shrimati Indira Gandhi misused her office of Prime Minister with an intention to protect the interest of the Maruti Limited controlled and managed by her son.

159. The Committee are of the opinion, therefore, that Shrimati Indira Gandhi, former Prime Minister, has committed a breach of privilege and contempt of the House by causing obstruction, intimidation, harassment and institution of false cases against the concerned officers, Sarvashri R. Krishnaswamy, A. S. Rajan, L. R. Cavale and P. S. Bhatnagar who were collecting information for preparing an answer and a Note for Supplements for Starred Question No. 656 tabled by Shri Jyotirmoy Bosu, M.P., and answered in Lok Sabha on the 16th April, 1975. She has also committed a breach of privilege and contempt of the House by her refusal to take oath/affirmation and depose before the Committee and answer questions by the Committee. She has further committed a breach of privilege and contempt of the House by casting aspersions on the Committee in her statement dated the 16th June, 1978, submitted to the Committee. These two actions by her have aggravated the original breach of privilege and contempt of the House committed by her.

160. The Committee are also of the opinion that Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister and Shri D. Sen, former Director, Central Bureau of Investigation, have committed a breach of privilege and contempt of the House by causing obstruction, intimidation, harassment and institution of false cases against the concerned officers, Sarvashri R. Krishnaswamy, A. S. Rajan, L. R. Cavale and P. S. Bhatnagar.

IV. Recommendations of the Committee

161. The Committee recommend that Shrimati Indira Gandhi, former Prime Minister, Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister and Shri D. Sen, former Director, Central Bureau of Investigation, deserve punishment for the serious breach of privilege and contempt of the House committed by them.

162. In view of the unprecedented nature of the case and the importance of the issues involved in maintaining the authority, dignity and sovereignty of Lok Sabha and upholding the principles underlying the system of Parliamentary democracy, the Committee consider it desirable to leave it to the collective wisdom of the House to award such punishment as it may deem fit, to Shrimati Indira Gandhi, Shri R. K. Dhawan, and Shri D. Sen, for the serious breach of privilege and contempt of the House committed by them.

SAMAR GUHA

*Chairman,
Committee of Privileges.*

Dated the 27th October, 1978.

NOTE BY SHRI HITENDRA DESAI

I do not think that the present Lok Sabha (Sixth Lok Sabha) can take cognizance of and punish, for contempt of Parliament of the Fifth Lok Sabha. The matter does not appear to be quite free from doubt.

2. The rule dealing with Privilege lays down as follows :—

“Rule 222. A member may, with the consent of the Speaker, raise a question involving a breach of privilege, either of a member or of the House or of a Committee thereof.”

The words used are “the House” and “a Member”. That means the former-member is not covered under Rule 222, and “The House” means “The existing Lok Sabha”.

3. I have tried to get at the precedents. In *Tulmohan Ram's case*, the subsequent Lok Sabha did consider the breach of privilege committed in the previous Lok Sabha, but this point was not raised in that case. As the Attorney-General has rightly said that this cannot be quoted as a precedent.

4. We have, however, the recent case of Shri T. N. Kaul. The facts are that on the first of April, 1977, Shri Jyotirmoy Bosu, a member, sought to raise the question of privilege against Shri T. N. Kaul, former Ambassador of India in U.S.A., for certain remarks made by him on a television network in U.S.A. in July 1975, about the detention of political leaders. The Speaker, amongst other things, ruled: “Shri Kaul's remarks were made in July, 1975, when the Fifth Lok Sabha was in existence. The matter cannot be raised as a privilege issue in the Sixth Lok Sabha.” Therefore, it appears the present Lok Sabha cannot punish or take cognizance of breach of privilege of the previous Lok Sabha. I also rely on the following observations made in Basu's Commentary on the Constitution of India, Vol. 2, p. 628—**EFFECT OF PROROGATION AND DISSOLUTION ON PROCEEDINGS FOR CONTEMPT.**

Prorogation, as has been pointed out earlier (p. 518, ante), means a suspension of the business of a session. The result of prorogation is that any matter which was pending in the House at the date of prorogation must be renewed in the next session after prorogation, as if the matter had never been introduced before. It has been laid down by our Supreme Court that prorogation does not debar House from proceeding against a breach of

privilege which took place during a previous session. It only means that the old proceedings which suspended by a prorogation must be revived by a fresh motion in the new session.

As to dissolution, the Court pronounced no opinion but since a dissolution puts an end to the very life of a Parliament and calls for a fresh election it follows that a subsequent Parliament cannot take cognizance of a breach of privilege which took place during the life of the previous Parliament nor can it revive proceedings in contempt which may have been started during the life of the previous Parliament. While in the case of prorogation it is the same Parliament which reassembles after prorogation in the case of dissolution it is a new Parliament altogether and it cannot take upon itself the business of punishing for a contempt against the previous Parliament."

5. On the facts of the case I am not satisfied that the charge against Smt. Indira Gandhi is proved. I, therefore, hold that she has not committed any breach of privilege.

6. The only evidence which deserves consideration against Smt. Indira Gandhi is the testimony of Shri T. A. Pai, a former Minister in her cabinet. I have treated his evidence with respect that it deserves. But it suffers from several infirmities. In the first place, Shri Pai's relation with Smt. Gandhi were strained. Shri Pai in his evidence deposes :—

"I did not want to oblige her by resigning, I wanted to fight it out. I wanted to be dismissed."

Here Shri Pai clearly gives expression to his anger. His evidence therefore suffers from a bias.

7. Then, apart from other contradictions his version before Shah Commission of his talk with Smt. Gandhi was :—

"She also called Shri Dhawan and told him to ask Shri Sen to start C.B.I. enquiries against all these officers."

His version before the Committee at several places is that Smt. Gandhi told to raid their houses. In my opinion, this casts a doubt on the incident of what talk transpired between Smt. Gandhi and Shri Pai. And this is the main piece of evidence against Smt. Gandhi.

8. There is another circumstance which requires to be noted. It is in evidence that Smt. Gandhi replied on 7-5-76 to a letter written by Shri T. A. Pai. Smt. Gandhi's reply letter has been produced. Therein she has categorically denied allegation at the earliest point of time. She writes:—

“Your presumption that the C.B.I. searched the houses of some officers of your Ministry because of their enquiries in connection with answers to Parliament question to which you have referred to in your letter, is totally baseless.”

Now it is difficult to understand why the letter written by Shri Pai is not forthcoming. But it is clear that Shri Pai in this letter found fault only with C.B.I. he does not refer to his talk with Smt. Gandhi. In my opinion this is the most important circumstance which casts a doubt on the version of the talk Smt. Gandhi had with Shri Pai in their meeting in the middle of April, 1976. These circumstances do not seem to have been properly weighed in the report of the Committee.

9. Shri Pai, in fairness admits that Smt. Gandhi has never mentioned to him about Maruti. He says:—

“I did not get the impression that she wanted me to withhold the information or be careful at the time of answering the question.”

10. Under the circumstances, and in the absence of independent corroboration, it would not be prudent to hold Smt. Gandhi guilty of the charge.

Sd/-

HITENDRA DESAI

Dated 3rd November, 1978.

NOTE BY SHRI RAM JETHMALANI

1. I endorse the conclusions reached in the report but would like to indicate my reasons in some detail. Perhaps I am only articulating what is already implicit in its text.

2. Mrs. Indira Gandhi, the Prime Minister of India in April 1975, her private secretary, Mr. R. K. Dhawan, and Mr. D. Sen, the then Director of the C.B.I., are charged with contempt of Parliament under the following circumstances:—

A. Mr. Madhu Limaye, a Member of the Lok Sabha, gave notice of the following Question to be answered by the Minister of Industry :—

- (a) whether a part of the machinery installed or in the process of installation in the Maruti Car Factory in Gurgaon District, Haryana, has been fabricated in, and imported from foreign countries;
- (b) if so, the details of the imported machinery ;
- (c) the total value of such imported machinery.

B. By some curious manipulation, this Question was altered and it was answered in its distorted form as Question No. 4175 on the 11th December, 1974. The form which the Question assumed was :—

- “(a) Whether according to the Maruti Limited Annual Report and Accounts for 1973-74, filed with the Registrar of Companies, Delhi, a part of the plant and machinery and equipment installed and in the process of installation referred to at pages 16 and 17 of the said Report has been imported from abroad ;
- (b) If so, the details of the imported items of plant, machinery and equipment; and
- (c) The magnitude of the imports as a percentage of the total value of the plant, machinery, etc. mentioned in part (a).”

C. The answer to this Question was made in the Lok Sabha by the Minister of State for Industry as follows :—

- “(a) No such statement has been made in the Annual Report and Accounts referred to above;
- (b) & (c). : Do not arise.”

D. It was obvious to Mr. Limaye that his Question had been deliberately distorted out of shape and the answer returned did not convey the information that he was looking for. He, therefore, carried on some correspondence with the Speaker. Mr. P. K. Patnaik, the Additional Secretary, finally confessed to Mr. Limaye that the question had been altered, "due to mis-understanding and inaccurate appreciation of the implication of the question". He added, "We own the mistake and express our regret."

E. The question, as originally framed by Mr. Limaye, appeared in the Lok Sabha on 12th March 1975 as Question No. 2980. The following answer was returned once again by the Minister of State :—

"No, Sir. M/s. Maruti Limited did not seek any import licence for importing machinery nor were they given any such permission."

F. For some reasons, Mr. Limaye could not persist with his demand for information but the thread was taken by another Member of the Lok Sabha, Shri Jyotirmoy Bosu. Soon thereafter, he gave notice of the following Question :—

"Will the Minister of Industry and Civil Supplies be pleased to refer to the reply given to Unstarred Question No. 2980 on 12th March 1975, regarding Machinery in Maruti Car Factory, Gurgaon and state :—

- (a) the names, addresses and full particulars of the dealers in the country from whom M/s. Maruti Ltd. has purchased machinery etc.;
- (b) full details of such purchases including value of each category of purchases;
- (c) main line of business of the dealers from whom such purchases have been made;
- (d) whether some of these dealers are also importers of machinery; and
- (e) if so, the facts thereof ?"

G. This question eventually appeared as Question No. 656 on the 16th of April 1975. How this question was dealt with in the Lok Sabha by the Minister of State for Industry, as well as the Minister himself, is described hereafter. Some important transactions which took place between the answer to Mr. Madhu Limaye's Question No. 2980 on the 12th March 1975 and on the 15th April 1975, must first be recounted.

H. Mr. R. Krishnaswamy was, at the relevant time, the Director in the Department of Heavy Industry. He was in charge of the automobile industries, and the Maruti Factory fell within his charge. Mr. Bosu's question was sent to him for collecting the required information. He conferred with the Joint Secretary of his Ministry and a decision was taken that Maruti Limited should be requested to furnish the information. In their judgement, this would be more authentic. He was instructed to ring up the Secretary of the company, Mr. Rege. He spoke to him on the 9th April 1975 and intimated his need for certain information relevant to Mr. Bosu's question. Mr. Krishnaswamy suggested that it would be better that two technical officers should visit the factory, look at the machines and establish their place of origin and assess their value. Mr. Rege seemed to concur in this course. Accordingly, on the 10th April 1975, two officers of the Directorate General of Technical Development, Shri Khosla and Shri S. K. Bharich, visited the factory. To establish their credentials they took with them a letter from Shri S. M. Ghosh, Joint Secretary of the Ministry. This letter read as under :—

“Dear Shri Rege,

As mentioned to you on the telephone by Shri Krishnaswamy, we are deputing Shri S. S. Khosla, Assistant Development Officer, Directorate General of Technical Development, to obtain from you the following information, in order to enable us to reply to a Parliament Question :—

- (1) The total value of machinery purchased and installed in Maruti Limited.
- (2) Particulars of machinery purchased on stock and sale basis, installed in Maruti Limited and sources from whom the machinery were obtained.
- (3) Total value and particulars of machinery of indigenous origin, installed in Maruti and sources from whom the machinery were obtained.”

Shri Khosla, who was then the Assistant Development Officer in D.G.T.D., in the company of Shri S. K. Bharich, delivered the letter of Mr. Ghosh to Mr. Rege on the 10th April 1975. Mr. Rege, however, expressed his inability to furnish the required information as the same was not readily available with him. He said that the information would be compiled and sent within two days. With an express request that the two officers should visit the plant and note down the details of the installed machinery, Shri Rege expressly refused to comply. Both Mr. Rege and the officers talked to Krishnaswamy on phone. In accordance with Krishnaswamy's instructions, the two officers returned to their office and conveyed the result to their senior officers.

I. Shri Krishnaswamy spoke to Rege on the 11th. Rege told him he was unable to consult his Managing Director who was very busy. He asked Shri Krishnaswamy to contact him later in the afternoon. This was done and yet no further information was forthcoming. Rege advised Krishnaswamy to contact him on Saturday, the 12th, on which day Maruti was supposed to be working.

J. Mr. A. S. Rajan at the relevant time was Development Officer in the D.G.T.D. In connection with Mr. Bosu's Question, Shri Krishnaswamy rang him up on the 10th April 1975, and asked for information about the machinery imported by Maruti. As the information was not available with Mr. Rajan he asked Shri Krishnaswamy to get in touch with the Projects and Equipment Corporation or M/s. Batliboi and Company, their agents. Rajan got in touch with them and merely requested them to contact Krishnaswamy and supply whatever information they could on the subject in question.

K. Mr. L. R. Cavale, was at the relevant time the Chief Marketing Manager of the PEC, a subsidiary of the State Trading Corporation of India. He was in charge of entire exports and imports of engineering goods and equipment other than textile machinery. In the first half of April 1975 he received a letter from Mr. V. P. Gupta, Under Secretary, Ministry of Industrial Development, asking for addresses of their business associates dealing in the import of machine tools from the East European countries. The text of the letter is as follows:—

“Dear Shri Cavale,

In connection with a Parliamentary Question we require information regarding names and addresses of the various dealers in the country dealing with imported machinery for stock and sale during the last four years. I shall be grateful if you kindly make available the above information to the bearer of this letter.

Sd/-

V. P. GUPTA.”

He was informed that this information was required in connection with a Parliamentary Question. On the 14th April 1975, Mr. Krishnaswamy called him on the phone and requested that he be supplied full information about machine tools that had been imported and supplied to Maruti Limited. He was also informed that this was required in connection with a Parliamentary Question. Mr. Cavale, while asking Mr. Krishnaswamy to make a written request called Mr. P. S. Bhatnagar, his Deputy, and directed him to collect the necessary information because Mr. Cavale thought that the information might have to be supplied at short notice. Bhatnagar was also asked to

check up with the Finance as well as with M/s Batliboi for the required information. Mr. Bhatnagar compiled a list of the business associates and supplied it to Mr. Cavale. The latter, however, wanted the details of the machinery supplied to Maruti Limited, and on this he had to contact Mr. Mathur of M/s Batliboi and request for the necessary information.

L. By afternoon the net result of the efforts of these officers to collect information for the purpose of Mr. Bosu's question was that nothing could be ascertained save that some machinery had been supplied by Batliboi to Maruti which was imported machinery. It is referred to as "machinery obtained on stock and sale basis". The volume and value thereof could not be ascertained because Maruti had refused to yield the necessary information and Batliboi had only promised to compile it and furnish it. According to the Ministry's time table, the draft Answer had to be submitted to the Minister by the 11th of April, 1975. Wednesday was the question day for that Ministry and on the previous Friday the draft Answers and comments for possible supplementaries were required to be submitted to the Minister.

M. On Saturday the 12th April, 1975, Krishnaswamy went to his office. He met the Secretary of the Department Mr. Sordhi who directed to him to draft a reply on the basis of whatever information was available. The information being too scanty and almost no information at all, a draft was prepared which in the nature of things, had to be avasive and unsatisfactory. What happened in Parliament on the 16th April 1975 is reproduced herein below *verbatim* from the Parliamentary proceedings of that day:

"The Minister of State in the Ministry of Industry and Civil Supplies : (Shri A.C. George) ; (a) to (e)—Government does not collect nor is any industrial unit required to furnish detailed information with regard to machines purchased locally. Government has, as such, no information.

Shri Jyotirmoy Bosu : Sir, I have already given a notice under Direction 115 alleging that the Hon'ble Minister, Shri A. C. George had misled the House in the matter of giving information on Maruti's importation of industrial hardware.

In that context, may I ask the Hon'ble Minister to tell us correctly and truthfully whether it is a fact that regarding a limited company of Ring Road, Lajpat Nagar, Delhi and also of 414/2, Vir Savarkar Road, Prabha Devi, Bombay, there was an arrangement between Maruti and said company to hand over the import documents to another company of Home Street, Bombay for clearing such imported hardware and whether Government is aware of this fact or not. I am now in possession of the full documentary evidence.

The Minister of Industry and Civil Supplies (Shri T.A. Pai). : So far as we know, the licence under which the Maruti came into existence was on a condition that the design would be indigenous and no imports would be allowed. The Ministry has not been asked for imports; nor have we permitted any imports. If such allegations are made, I am unable to verify them and give the information.

Shri Jyotirmoy Bosu: My question has not been answered.

Mr. Speaker: How does it arise from this ? The Minister has replied to the question.

Shri Joytirmoy Bosu : There is information that Maruti used industrial hardware as dummy. I have given information about two firms—one having an office in Delhi and the other at Bombay. I am not giving the names just now but I shall give that in due course. I am asking the Hon'ble Minister whether it is a fact that the import documents were handed over to the firm at Home Street, Bombay while the Delhi firm cleared the consignment through their dummy office. This is how the consignment to Maruti Limited at Gurgaon came by Black and Berg and the cargo arrived in August 1973 at Bombay. Is that correct or not ? Be careful I have got all the documents.

Shri T.A. Pai: So far as I am concerned, whatever be my relations with Government and the particular company, I can furnish the information. What an individual party does outside, how am I expected to furnish information if the Hon'ble Member wants me to furnish the information ?

Mr. Speaker : Please do not make it a debate. Ask a straight question. I think he has given his answer.

Shri Jyotirmoy Bosu : There is no shadow of doubt I am alleging that although the import licences were not given and taken in the name of Maruti, the dummy firms used that for importation of industrial hardware solely for the use of Maruti Limited. That is how they hoodwink. I can give evidence on it and I take the full responsibility on it.

Mr. Speaker : There is no question of taking responsibility. The question asked is replied to by him. If there is anything else that is a different matter.

Shri Jyotirmoy Bosu : They are fully in the know how to bypass the rules and laws. They used the industrial hardware as dummy.

Mr. Speaker: This cannot arise out of this.

Shri T. A. Pai : As far as I am concerned, I strongly deny the allegation that we have done anything wrong in helping the Maruti to get anything imported. But I am unable to answer every allegation because it looks as if we can furnish any information that is called for.

Shri Jyotirmoy Bosu : I am sure the Minister is misleading the House."

N. On the day previous, that is, the 15th April 1975, some important events which are the subject matter of these proceedings, took place with amazing rapidity. Against three of the four officers namely Krishnaswamy, Rajan and Bhatnagar, in the records of the CBI, Delhi, proceedings were instituted under the Prevention of Corruption Act. Something more disastrous happened on that day to Bhatnagar. By the evening of that day he was placed under suspension and the order of the suspension was served on him at his residence late in the night by two officers of the Ministry. On the same day Cavale was ordered to be transferred to Madras. He did not comply and instead proceeded on earned leave. For some curious reason, which it is not easy to discern, police proceedings against Cavale started after six days, that is, only on the 21st April 1975. It may be recalled that Cavale had not directly contacted either Maruti or Batliboi, whereas Krishnaswamy had contacted Rege on the 9th, 10th and 11th of April 1975. Rajan had contacted Batliboi, and so had Bhatnagar. It is not necessary to speculate whether this circumstance accounts for the interval of six days so far as Cavale is concerned.

O. The CBI record discloses some further relevant facts which may now be briefly recapitulated:

- (a) The confidential service record of each of the officers shows that they had no adverse remarks of any kind.
- (b) On the next day, that is the 16th of April, 1975, enquiry was started against Krishnaswamy. On the 27th April a formal preliminary enquiry was ordered. On the 2nd May 1975 a regular crime report was lodged. On the 3rd May his house was searched. On the 29th July 1975 he was arrested for a trumped up prohibition offence in respect of some alcohol said to have been found during the search of 3rd May 1975. On the 18th August 1975 he was transferred to Railways. He, however, proceeded on leave. On the 4th March 1977 he was acquitted by the Court in the prohibition case. The final outcome of the investigation was that he was totally innocent.

(c) The proceedings against Rajan show the same pattern. The enquiry was started against him on 16th April, 1975. A report was submitted on the same day. Regular crime report was registered on the 17th April 1975. The allegation was that he had shown favours to two firms of Ludhiana, M/s. R.K. Machine Tools and M/s. Daulatram Industrial Corporation [some] six years earlier namely in January 1969. On the 18th April 1975 his house was searched. The final outcome of the investigation was that the allegations of disproportionate assets were found to be unsubstantiated. In the dealings with the two Ludhiana firms no *malafides* were established. Some trumpery allegation that he had sold ancestral land without information to the Department was held to be proceeded. Departmental action was proposed but even on this he was totally exonerated.

(d) The proceedings against Bhatnagar show exactly the same pattern as in the case of the remaining two. Within 24 hours of the complaint, a preliminary report of the 16th April 1975 purported to disclose that he was working as agent of Cavale, and that he had been suspended by STC. On the 17th April, 1975, regular crime report was registered on the allegation of disproportionate assets. On 18th April 1975 his house was searched. The final outcome of the investigation was that no corruption was established but some piffling allegations were held proved calling for some departmental action.

(e) So far as Cavale is concerned, within 24 hours secret source report was recorded, the allegation being that he collected some money from Batliboi and Company and others who were importing through the PEC and that he had purchased a flat in Bombay. On the 28th April 1975 a regular crime report was registered on the allegation of disproportionate assets. His house and office were searched. On the 15th June 1975 he resigned his office. The final outcome of the investigation showed no disproportionate assets. A trumpery allegation was held proved that his wife was in employment but the fact has not been intimated to the Department.

The Charges

3. The charge against the first respondent Mrs. Indira Gandhi is that the transfer of Cavale to Madras, the suspension of Bhatnagar, the police proceedings instituted against all the four officers, against three on the 15th April 1975 and against the fourth on the 21st April 1975 were all master-

minded and ordered by her. Maruti Limited in which her son Sanjay Gandhi had a substantial interest and of which he was the Managing Director at the relevant time, had obtained an industrial licence, one of the conditions of which was that no imported machinery shall be used. The object of Mr. Madhu Limaye's Questions as well as Mr. Bosu's questions was to expose the breach of the terms of the licence on the part of the Maruti Limited and therefore, of its Managing Director, Sanjay Gandhi. Mrs. Indira Gandhi had a direct interest in preventing this exposure. In fact on the 27th February, 1974 on the floor of the Lok Sabha she stated as follows:—

“There is no corruption in Maruti. Since the Hon’ble Member has raised it, I can say that every question that has been asked has been replied to; nothing wrong has been done; no special favour should be, or has been, given because it is concerned with the Prime Minister’s son.

What I was saying is that we are just as anxious as everybody else to remove corruption. I do not want to go into the details. I have earlier spoke about the stage by stage actions we have taken. I have said it in public meetings and I have discussed it with leaders. But today there seems to be a very selective type of campaign or accusation. Corruption will not go in this way. If the real intention is to remove corruption, then it must be an honest way of dealing with it at every level.”

She had interposed her personality and staked her word to give a clean chit to her son’s venture and to provide a smoke screen for his unlawful adventure. Under her orders her Private Secretary Dhawan, the second respondent directly attempted to prevent P. S. Bhatnagar from collecting information and to make him stop further efforts in that direction. In pursuance of the same object and to further the purposes of the first respondent, Dhawan also made similar attempts in respect of Officer A. S. Rajan. He contacted him on the 15th April, 1975. It is at her instance that Dhawan passed on the four names to the CBI where Mr. D. Sen, the third respondent with neither character nor compassion to resist the unlawful instructions that he received, proceeded to institute proceedings against each of the said officers. The course of the proceedings unmistakably disclose that the proceedings were instituted without sufficient cause and were based on ‘pure’ fabrication of evidence. The dominant motive of the first respondent, Mrs. Indira Gandhi is no acting, was to create an atmosphere of terror; trying to probe Maruti is not safe business, was the notice she wanted to serve on all concerned. False police cases, the humiliation of searches, the harassment of the long investigations suspensions and transfers must be expected by those who try to indulge in this hazardous activity. The actions were intended

not merely to terrorise officers but other too including Members of Parliament. The sorry fate which overtook the four officers could well overtake any inconvenient Member of Parliament as well.

4. The charge against R. K. Dhawan, the second respondent, is that instigated by the first respondent and acting on her orders, he caused false proceedings to be instituted against all the four officers and tried directly to interfere with two of them and prevent them from doing their duties.

5. The charge against D. Sen the third respondent is that he misused his powers as the Head of the CBI and caused harassment and humiliation to the four officers when he must have known that the officers were totally innocent. He resorted to fabrication of evidence to provide an ostensible justification for his unlawful activity.

The Issue of Privilege :

The issue of privilege was raised in Lok Sabha by two Members, Shri Madhu Limaye and Shri Kanwar Lal Gupta. The speaker of the Lok Sabha was *prima facie* satisfied that a case of breach of privilege was disclosed and the matter has been referred to this committee. Both the members have appeared before us to assist us in our deliberations.

7. Notices were issued to the three respondents. The second and the third respondents have addressed communications to us as well as appeared before us. They have testified before us and have been questioned by Members of this Committee. In substance, the case of the second respondent is that Mrs. Gandhi had received some reports against the four officers from Members of Parliament and others and she desired him to pass on those names to the concerned officer for checking their antecedents. When she did this nobody was present. He passed on these names to D. Sen, the third respondent and told him that the Prime Minister had received complaints about these officers and she wanted their antecedents to be checked. This is all that he had been asked by the PM to do and this is all he has asked Shri Sen to do in turn. He acted in the discharge of his official duties. He took no follow up action after he passed on the names to the CBI. The second respondent claims that he did not know anything at all about the questions asked in Parliament or that all or any of these officers were collecting information about Maruti Limited for the purposes of any Parliamentary question being answered. The second respondent has denied that he contacted Bhatnagar or Rajan and prevented them from collecting information. The second respondent has raised questions of law as also some mixed questions of law and fact. Since similar questions have been raised by other respondents as well, I propose to deal with them together later in this Report.

8. The case of the third respondent is that Mr. Dhawan had gone to his office in the North Block on the 14th or 15th April, 1975 and conveyed the information that the Prime Minister had received complaints from Members of Parliament to the effect that these four officers were corrupt, had large assets and were favouring certain firms. From the facts that he had come personally to give this information and the complaint emanated from the Prime Minister herself, it was clear to him that the matter brooked no delay. He conveyed the information to Shri Rajpal, his subordinate, on the 15th April, 1975. According to him all the enquiries proceeded according to law and that though the charge of corruption was not established some minor penalties were recommended even by the Central Vigilance Commission.

9. The first respondent Mrs. Indira Gandhi, in response to the notice of January 7, 1978, addressed to us a letter dated January 21, 1978, she asked for six weeks time to prepare her reply. Her request was based on three reasons:

- (a) that the reply would involve complicated questions of law,
- (b) that facts will have to be ascertained with the assistance of a number of people of the relevant period and, that
- (c) her busy schedule which had been fixed for a long time could not be cancelled.

Time was extended in accordance with her request. By her letter of 1st March, 1978 Mrs. Gandhi sent what she calls her submissions. She had obtained the long adjournment for investigation of facts. Her submissions, however, contained only some legal contentions. The main contention was that the contempt was of the Fifth Lok Sabha and it could not be taken cognisance of by the New Lok Sabha which came into existence as a result of March 1977 elections. She further contended that the four officers concerned were not servants or agents of the Lok Sabha and interference with them could not constitute a contempt of the Lok Sabha.

By her letter of June 16, 1978, Mrs. Gandhi sent a further statement which she desired to be placed before us. This was in response to our communication of 9th May, 1978, intimating to Mrs. Gandhi that we wanted to hear her in person. By this statement she raised the following questions:

- (a) That the composition of the Privileges Committee majority of whose Members belong to Janata Party, has created a reasonable apprehension in her mind that the Committee is hostile to her and cannot, therefore, mete out justice to her.
- (b) That rule 222 of the Lok Sabha Rule supported her earlier contention that this Lok Sabha was not competent to take cognisance of a contempt committed during the tenure of the Fifth Lok Sabha.

- (c) That the matter of the Privilege motion was not a specific incident of recent occurrence within the meaning of Rule 224.
- (d) That Shri Madhu Limaye's question has already been answered on 12th March, 1975 and the officers could not be collecting information for the purpose of that question.
- (e) That the Shah Commission had gone wrong in having reached a finding that the officers concerned were collecting information.
- (f) That the proceedings of the Shah Commission and the evidence recorded by it and the conclusion arrived at by the Commission should not be relied upon by this Committee.
- (g) That Mrs. Gandhi was likely to be prosecuted in a criminal court on the same facts. She was, therefore, entitled to the protection of Article 20(3) of the Constitution of India.
- (h) That the Shah Commission has unjustifiably ordered her prosecution.

The last contention is totally irrelevant so far as we are concerned. We cannot be and will not be influenced by any finding of the Shah Commission.

By her communication of 5th July, 1978 she despatched a further statement to be placed before us. While generally denying the charge against her, she expanded her claim to the protection of Article 20(3).

We directed that Mrs. Gandhi should appear before us, despite these contentions which did not impress the Committee.

Mrs. Gandhi first appeared before us on 5th July, 1978. She was directed by the Chairman of this Committee either to take oath or to make an affirmation. She refused to do so. After some consideration the Committee permitted her to make her submissions on the points of law made by her, without taking an oath or making an affirmation. She only read out the statement sent by her earlier that day. She was informed that refusal to take oath or make an affirmation might well constitute a separate contempt of the House.

Mrs. Gandhi appeared again on 19th August, 1978. She was clearly informed that her contention based on Article 20(3) was not tenable. Nevertheless, the Committee had decided that she would be treated as if she was entitled to the protection of that Article. It was then explained to her that she would have to take oath or make an affirmation. Questions would be put to her by the Chairman or the Members. If any question had a tendency to incriminate her in any prosecution, pending or potential, she could decline

to answer that question. But questions which had no such tendency must be answered. In spite of this Mrs. Gandhi refused to take oath or make an affirmation.

I am clearly of the opinion that Mrs. Gandhi by this conduct has committed a separate contempt of this Committee as well as of the House as a whole.

10. The more important aspect of this matter, however, is that we have no explanation from Mrs. Gandhi herself about the evidence and circumstances which clearly implicate her. The evidence of the witnesses who have deposed against her is not contradicted by anything specific, coming from her mouth, either sworn or unsworn. We presume that Mrs. Gandhi has consulted her interests and embarked upon this course which to us is not only contumacious but would in normal circumstances, prejudice her defence.

Fortunately for Mrs. Gandhi some of our colleagues in this Committee have brought to our notice everything that could possibly be stated on her behalf and we are happy to record that Mrs. Gandhi has not suffered at all by her attitude of non-cooperation with this Committee. Everything that could be put to the witnesses to elicit matters favourable to her has also been very ably done by our colleagues. We have carefully listened to what has fallen from them during the course of our deliberations.

11. I must now hearken to the evidence. I must make it clear that though we are not bound by the Indian Evidence Act, nor are we a criminal court, we have decided to adopt the standard of proof applicable to criminal trials. We must insist upon proof beyond doubt and we are willing to accord the benefit of any reasonable doubt to the respondents.

12. The four officers, Krishnaswamy, Rajan, Cavale and Bhatnagar, have appeared before us. Each has described his role in connection with the collections of information which was necessary to answer Mr. Bosu's Question. Each has described the harassment that he went through and the total lack of justification for the proceeding instituted against him.

Bhatnagar has deposed about his suspension on the night of 15th April 1975 and Cavale about his transfer to Madras and his eventual resignation from office in June 1975.

There is no suggestion made by any one that these officers were corrupt or that there was any reasonable ground to suspect that they were corrupt, calling for the institution of proceedings in April 1975. Every person is presumed to be innocent. The presumption would equally apply to these officers. Each had an impeccably blameless confidential record. This strengthens the presumption of innocence. The evidence of the officers

shifts the burden on to the respondents to show that there was some reasonable ground for institution of these proceedings, or for the suspension and transfer. Not even a faint attempt has been made to discharge this burden. In the case of Rajan what was unearthed was a stale allegation of 1969, long dead and buried, wilfully and corruptly resurrected to meet the exigencies of the corrupt investigation started by Mr. Sen on instigation from Mr. Dhawan. I am satisfied that Dhawan, acting in the name of the Prime Minister Mrs. Gandhi, caused the proceedings to be instituted. It is impossible to believe that he passed on the four names to Mr. Sen only for checking up their antecedents. If this is what had happened, Mr. Sen would not have taken the steps which have been in fact taken against the four officers. There is no suggestion that Mr. Sen had any direct animus against these four officers, nor any independent motive for doing what he did. The inference is strongly supported by the evidence of Shri T. A. Pai which I must now proceed to discuss.

13. Shri Pai who was the Minister of Heavy Industries and Civil Supplies in Mrs. Gandhi's Government during the period in question, has testified before us on three different occasions the 23rd March 1978, the 29th March 1978 and 7th July 1978. Shri Pai has testified that the second respondent Mr. Dhawan contacted him some time in April 1975 on phone and complained that officials of Shri Pai's Ministry were harassing M/s. Batlibhoy & Company and that they insulted them in the presence of some European visitors. Shri Pai thereupon sent for the Manager of M/s. Batlibhoy. The latter denied any kind of harassment from the officers who had only sought information and that too at a time when no foreigner was present. Perhaps the next day thereafter, Shri Pai is not absolutely sure on this point, Mrs. Gandhi called him to her residence at No. 1, Safdarjung Road. She was upset and furious. To quote the words of Mr. Pai himself:—

"She accused my officers of being corrupt while they were talking of political corruption. She referred to the harassment to the Manager of M/s. Batlibhoy. She was very angry and she also told me that I had advised her against Shri Sanjay. I thought that it was not worthwhile replying to her as I felt she was unreasonably angry. She also called Shri Dhawan and told him to ask Shri Sen to start CBI enquiries against all these officers."

14. If we accept this evidence, some conclusions inevitably follow:—

A. That the story of Dhawan, the second respondent, that Mrs. Gandhi gave him four names to be passed on to CBI for checking up their antecedents is totally false. Mrs. Gandhi expressly directed Dhawan to ask Mr. Sen to conduct CBI enquiries against all these officers. It is impossible to believe that Mr. Sen could have done

anything not in conformity with Mrs. Gandhi's orders. Mr. Sen did not just check up antecedents by an informal enquiry, but he caused false cases to be instituted against all the four. Mr. Dhawan had started moving in the matter of interfering with the work of these officers before the 15th of April 1975. It cannot, therefore, be that he got the names for the first time on the 15th April from Mrs. Gandhi. On that day he was directed to cause CBI action to be taken against four of them. If the second respondent Mr. Dhawan had the temerity to ring up a Cabinet Minister, it is obvious that he could not have refrained from directly getting at the officers. Mr. Pai's evidence, therefore, renders the story of Rajan probably when he deposed before us that round about 15th April, 1975, someone rang him up from P.M.'s Secretariat, introduced himself as R. K. Dhawan, inquired of him whether he was collecting any information. But Mr. Rajan was not cowed down by what had happened. It is true that this evidence by itself does not establish, technically, that it was the second respondent Mr. Dhawan who talked to Rajan on telephone. Theoretically, it is possible that someone else posed as Mr. Dhawan and used his name. But this remote possibility must be totally disregarded on the facts of this case because we have positive evidence of Mr. Pai that Dhawan had tried to get at him as well. Mr. Pai's evidence, if believed, for the same reasons makes the evidence of Bhatnagar acceptable and removes the theoretical lacuna which would otherwise have troubled us. Mr. Bhatnagar also deposed to a telephone call from R. K. Dhawan on the 15th April, 1975, and that Dhawan enquired from him whether he was collecting any information in regard to supply of machine tools to M/s. Maruti Ltd. Mr. Bhatnagar has further deposed to a second call on the same day from Mr. Dhawan when the latter advised him not to collect this information and stop its collection.

B. A further consequence of our acceptance of the evidence of Mr. T. A. Pai's inevitably is, that the complicity of Mrs. Gandhi, the first respondent, in causing the institution of proceedings against the four officers is fully established. Significantly, during the interview with Mr. Pai, Mrs. Gandhi did not claim that any Members of Parliament or others had made complaints of corruption against these officers. Still more significantly, the only specific charge she made was that they had harassed the Manager of M/s. Batlibhoy and Co. This was a repetition of the charge which the second respondent Dhawan had made earlier during his telephonic conversation with Mr. Pai. Truth has a very

uncanny habit of leaking out and the reference to harassment to M/s. Batlibhoy gives us a clue to the tortuous working of the first respondent's mind. She did not wish to suggest that Maruti were being harassed. The next best thing for her was to invent the story of harassment of M/s. Batlibhoy. Obviously M/s. Batlibhoy had been contacted by these two officers only for the first time after the 9th of April, 1975. Three witnesses, Mr. J. S. Mathur, Liaison Officer, Mr. L. M. Adeshra, Resident Deputy General Manager, Mr. B. M. Lal, Deputy Manager, respectively, of M/s. Batlibhoy & Co., Ltd., have deposed before us. Their unchallenged testimony establishes that they had made supplied of imported machinery to Maruti Ltd. of the Order of about half a crore rupees; that enquiries were made from them by Bhatnagar and that in pursuance of Bhatnagar's request they compiled the necessary information, reduced it to the form of a letter, which was delivered in Bhatnagar's office sometimes in the afternoon of 15th April, 1975. The letter itself bears the same date.

15. The question therefore arises whether Shri T. A. Pai's evidence should be believed. I have no hesitation whatsoever in accepting his evidence as completely true and honest. It is significant that Shri Pai, unlike Mr. Chattopadhyaya, whose evidence I will discuss later, did not take any part in harassing the officers or otherwise complying with Mrs. Gandhi's unlawful instructions. The only blemish which generally can attach to Shri Pai is that when Mrs. Gandhi in her anger complained that his officers had been guilty of harassing the Manager of Batlibhoy he did not show adequate moral courage and protest to her that his enquiries revealed that the allegation was totally false. I can, however, understand and sympathise with Mr. Pai's position.

On the other hand, Mr. Pai showed a refreshing moral courage and resistance to Mrs. Gandhi's overbearing authority when he picked up the courage to write to her the letter of the 5th May, 1975. Mr. Pai has explained that he wrote this letter in hand and kept no copy at all. I have no difficulty in accepting this explanation which is both reasonable and otherwise in accordance with the Minister's unwillingness to create an impression upon the Prime Minister that he is manufacturing evidence against her. Fortunately, the fact that Mr. Pai wrote this letter cannot be denied. His letter is acknowledged by Mrs. Gandhi in her letter of 7th May, 1975 which she wrote to Mr. Pai in reply. Still more fortunately, he has been able to reconstruct from his memory the substantial contents of the letter which he wrote to her. His uncontroverted testimony is that in that letter he said, to quote his own words :—

"My officers were only doing their legitimate duty in collecting information about this question. Now they are being harassed and you told us that I should give them protection whenever they are harassed. Now I seek your intervention."

Mr. Pai's version of the contents of his letter is also conclusively corroborated by Mrs. Gandhi's own letter of May 7, 1975. The letter is reproduced here below :

**"PRIME MINISTER
INDIA**

TOP SECRET
New Delhi,
May 7, 1975

Dear Shri Pai,

I am amazed to read your letter of the 5th May and the aspersions cast against the CBI. Your presumption that the CBI searched the houses of some officers of your Ministry because of their enquiries in connection with answers to Parliament Question to which you have referred in your letter, is totally baseless. I have made enquiries and find that the CBI received information that some officers of your Ministry were in possession of a large number of shares and were living rather lavishly. According to the normal practice, the CBI made confidential certification and the information was found to have some basis. During the course of preliminary enquiries it also came to the notice of the CBI that some industrialists were regularly visiting your officers. The CBI registered a case and obtained the permission of the Court to search the houses on the basis of facts which had already come to the notice of CBI. I also understand that the Additional Secretary of your Ministry was informed about this.

As a result of the search, the CBI has found that the officers in question seem to be in possession of assets disproportionate to their known sources of income. I am enclosing a note received from the CBI, which explains the position in detail.

I agree with you that protection should be given to officers for honest decisions taken in good faith but this certainly does not mean that corrupt officials should take undue advantage of their position. I have made it clear more than once that in order to tone up the administration, we have to take stern action against corrupt officials. While investigations against corrupt officers are bound to take sometime, even at present there seems to be sufficient material to cast doubt on their integrity. Therefore, they do not seem entitled to any support.

Yours sincerely,
Sd/-
INDIRA GANDHI

Shri T. A. Pai,
Minister of Industry & Civil Supplies."

Mr. Pai's letter of the 5th May, 1975 was written after the two searches of 18th April, 1975 and 3rd May 1975 directed against Krishnaswamy and Rajan respectively. Both had complained to him about the harassment.

16. The first question which arises is, why did Mr. Pai write a letter to Mrs. Gandhi at all ? As a Minister, if he had come to know that CBI officers were unjustly harassing some of his officers, he could either contact the Home Ministry or the Head of the CBI himself. Surely, a Cabinet Minister could exercise that much of authority. The fact that he addressed a letter to Mrs. Gandhi shows that he knew that Mrs. Gandhi herself had initiated these prosecutions. This is the strongest possible corroboration of his story of what happened on the 15th April, 1975.

17. The second question which arises is, what do the contents of Mr. Pai's letter indicate? Mr. Pai directly attributed the harassment of these officers to their attempt to collect information for a Parliamentary Question. It was therefore well known by May 5, 1975 that the officers were being harassed for this reason. If Mr. Pai came to know about it, it is inconceivable that the Director of the CBI should not. I regret that Mr. Sen has lied to us that throughout the investigation, he did not come to know whether the four officers were involved in some common venture, or about the nature of that venture.

A second inference which arises from Mr. Pai's letter is that so far as he is concerned, he was convinced of the innocence of his officers and the injustice of the prosecutions which had been instituted at Mrs. Gandhi's direct instigation.

18. In the background of Mr. Pai's letter, we must now turn to the inferences which arise from Mrs. Gandhi's letter dated May 7, 1975, reproduced above. After the receipt of Mr. Pai's letter, Mrs. Gandhi can no longer claim that she did not know about the harassment of these officers, or the alleged cause of this harassment. Mr. Pai had pointedly drawn her attention to these facts. Mrs. Gandhi was quite conscious of her guilty part in the institution of these inquiries. She invented a lie which she incorporated in her reply. She pretended that the CBI had received information that Mr. Pai's officers were corrupt, that is, they are in possession of disproportionate assets and were living rather lavishly. She cleverly concealed the fact that she had herself initiated the proceedings. She approved of the continuance of the action against these officers, which is strong evidence of her having initiated the action.

19. I am bound to record that in refusing to extend any protection to these honest officers, the first respondent acted callously and shamelessly. It is difficult to imagine a case where the Prime Minister of a country descends to such a low form of abuse of Prime Ministerial authority.

Our attention has been drawn to some contradictions between the testimony of Mr. Pai and the testimony of Mr. Chattopadhyaya. It is rare to come across a case in which two witnesses speaking to the same incident after a lapse of two years must not fall in discrepancies and inaccuracies. If Mr. Pai and Mr. Chattopadhyaya have both involved Mrs. Gandhi falsely in the incidents of 15th April 1975, we must assume that they have conspired to do so. If they have so conspired to falsely implicate Mrs. Gandhi, I would expect complete conformity in their testimony. It is well known that there are contradictions of truth as well as contradictions of falsehood. I do not propose to cite judicial decisions on this point. It is a matter of common-sense. I am unable to discover the slightest reasons from the record why Mr. Pai and Mr. Chattopadhyaya should falsely implicate Mrs. Gandhi.

20. It has been pointed out to us that sometime in the year 1976, an income-tax raid was organised on the concern in which Mr. Pai's sister is interested. His sister's house was raided and he himself was subjected to a CBI enquiry. It is obvious that nothing was discovered either against Mr. Pai's sister or against Mr. Pai himself. Nobody can be heard to say : "I have highhandedly and maliciously harassed someone and precisely for that reason the victim of my harassment should not be believed." There is no such principle of law or common-sense. We are prepared to assume that for these reasons, we must very carefully scrutinise Mr. Pai's evidence and even insist upon some corroboration. We are satisfied that Mr. Pai's evidence, despite the suggested blemishes, is strongly corroborated by the contemporaneous documents, circumstantial evidence in the case and the oral evidence of other witnesses with which it is in perfect harmony. The consequence of this finding is that the case against all the three respondents is factually proved beyond doubt.

21. I have drawn no adverse inferences against Mrs. Gandhi from her unwarranted constitutional claim to silence, but is only fair to record that I cannot be persuaded to discard the evidence of Mr. Pai when the first respondent has had no courage either to tell us what the truth is or to contradict the testimony of Mr. Pai.

22. I find the suggestion that she had received complaints from MP's and others against the officers as totally unworthy of belief. Not a single MP or other respectable complainant was discovered during the CBI

investigations. None has been disclosed to us. Not a single written complaint or record of an oral complaint is forthcoming. If such complaints had been made they would have been fresh matters and Mr. Sen would not have been left to unearth dead matter of 1969 against Rajan. Bhatnagar was said to have harassed Batlibois on 15th and coerced them into parting with information. Apart from being false this could not have emanated from any Member of Parliament on the 15th April, 1975, itself. Cavale was supposed to have taken bribes from Batlibois'. This too is manifestly false. Conclusive evidence is furnished by her own letter of 7th May 1975 to Pai. She made no such claim then and I have no hesitation in holding that it is a pure connection to provide cover for her illegitimate course of action.

23. It is right at this stage to summarise the testimony of the second and third respondents. Dhawan was not prepared to deny that he passed on the four names to Mr. Sen in the latter's office, but mentioned that he did not know the official designation of the four officers and that he could recall only the names of two, that is, Mr. Bhatnagar and Mr. Krishnaswamy. Pressed to tell us what were the exact words used by Mrs. Gandhi, Dhawan replied : "She said that some M.P's had complained against these officers. This has got to be checked up. She mentioned the names of those officers." Dhawan categorically denied what was stated before us by Mr. Sen namely, that Dhawan told him to make enquiries into charges of corruption against those officers. He also denied that Mrs. Gandhi gave him instructions at the time when Mr. T.A. Pai, her industries Minister, was present at her residence. We put to Mr. Dhawan the testimony of Mr. T.A. Pai who testified that Mrs. Gandhi had called Dhawan in his presence and told him to ask Mr. Sen to start CBI enquiries against the officers. Dhawan denied this. He also denied that he had called Pai on the phone and complained that the latter's officers were harassing Batliboi and had insulted them in the presence of some European visitors. Mr. Dhawan told us that there was a complaint against Mr. Pai and those papers were referred by Dhawan to Mr. Sen. Mr. Pai had come to know about it. One day Mr. Pai called him up and invited him for breakfast. He went there one morning and was treated to a lavish breakfast. At this breakfast Mr. Pai brought up the subject of CBI inquiry and wanted Dhawan to tell him the identity of the complainant. This Dhawan refused to do. However, Mr. Pai mentioned that a firm in Bombay which had been raided by the Income-tax Department was one in which Mr. Pai had some shares. Someone appeared to have reported to the Prime Minister. Mr. Pai then said that Mr. S. R. Mehta was handling this matter and requested Dhawan to help him by putting in a word to Mr. Mehta. Dhawan adopted an unobliging pose and Mr. Pai left him with the impression that he was very unhappy with Dhawan. The breakfast incident, is of 1976. Mr. Pai has a version which is more probable. He has

honestly admitted some elements in Dhawan's version such as the breakfast and the raid on his sister's husband. Specifically examined by one of us Mr. Dhawan denied that he tried to keep in touch with various public questions and controversies in which the PM was involved in those days. He found it difficult to admit that he was an intelligent reader of newspapers. He did not hear of any controversies in connection with Maruti Ltd. and the PM's son Sanjay Gandhi. Though he was constrained to admit that he had heard about certain matters pertaining to Maruti, asked when he had heard about these matters and the nature of those matters, he gave an evasive but omnibus answer, "I cannot remember exactly". He denied any knowledge of a controversy about Maruti raging in and outside Parliament in February, March and April 1975. When his attention was drawn to a report in the Hindustan Times of 27th December, 1973, purporting to contain a statement by Mrs. Gandhi about Maruti, Mr. Dhawan insisted that he might have heard about certain matters connected with Maruti but he could not say whether they could be branded as controversies. When specifically asked, 'You are not willing to admit that there were allegations of corruption about Maruti, and on behalf of the Government and particularly of the Prime Minister, there were denials', he said that the subject of Maruti was not dealt with by him. Asked whether Mrs. Gandhi had denied existence of any corruption in Maruti, Dhawan said he was not present when the matter was denied. Mr. Dhawan conceded that whenever a Parliamentary Question was asked about Maruti, information had to be collected for the purpose of giving that answer. He admitted that there could not be a long gap of time between his receiving the names from Mrs. Gandhi and his communicating them to the CBI. He claimed that he was not afraid of the Prime Minister and that if he wanted any clarification on any topic he could respectfully seek it. When told whether he could make enquiries from the PM when he found that her instructions on any point were incomplete, he said that he would not ask. He maintained that on a number of occasions he did not understand the instructions and yet he made no enquiries or seek any clarification. When asked to explain this, he said he did not wish to appear unintelligent before her. To a pointed question 'Did this happen that on the day you got these four names that you did not find the instructions complete and yet, in order to look intelligent, you did not ask her?', he replied that he did not think it necessary at that time to ask for further details. Probed a little more, he changed his stand and stated that the instructions appeared to be a little bit vague. 'There was no question of my wanting to look intelligent, but I thought I would ask the Department concerned to find out.' He admitted that the information given to him was vague at least in two particulars, the initials of the persons concerned were not available and the Departments in which they were working were not disclosed to him. Why then did he not ask the PM for the details? Mr. Dhawan merely replied, 'I did not ask. I have no valid reason for

that'. He maintained that he did not know what information the PM had against these four officers. When asked whether it appeared to him somewhat unusual that the PM was not willing to convey to him any further information even when she wanted the antecedents of these officers to be checked, Mr. Dhawan replied that he thought that the Director of the CBI will find out and if he could not he would go to the PM. So far as he is concerned, the PM mentioned these in a casual manner and no importance attached to it. In support of his stand that he had passed on the bare names to the CBI, Dhawan had relied on a note in the CBI file reading as under :

"Immediately, before 3.00 p.m. today, we must find out the exact name of the officer, where he is working and what is his residential address....."

He tried to impress us that the note strongly suggested that the CBI did not know the official designation as well as the initials of the officers and that is why they had immediately to discover the facts. When it was pointed out to him that the note, on the contrary, suggested that the CBI knew everything except initials and the exact place where the officer was living and working, Dhawan countered that this is not how he understood the note according to his knowledge of English. Dhawan then told us that even though he passed on this bare information to Mr. Sen, the latter asked for no further details. He took the names easily and quickly. Asked to clarify what he meant by checking up of antecedents, Dhawan stated that the CBI was expected to find out what sort of reputation they have and report the matter to the PM. He claimed that only reputation was to be reported and nothing else. When reminded that reputation of officers can be discovered merely from confidential records or from their immediate superiors, Mr. Dhawan stated that the confidential records are written in December. The official might have changed thereafter. He conceded, however, that enquiries about the reputation could be directed either to the Minister or to the immediate boss. Mr. Dhawan was then asked : 'In this case please tell me instead of getting the confidential records or asking the officer under whom these officers were working, why did you go to the CBI'. He replied, 'I thought the best course will be to go to CBI'.

Some more questions and Mr. Dhawan's answers thereto may be reproduced :

"Q. Do you know that if an accused is charged with corruption and you want the charge of corruption to be investigated, it will have to be done by lodging the FIR ?

SHRI DHAWAN : If it is to be investigated, but here no investigation was called for.

Q. If you want it to be investigated, then it will be done.

SHRI DHAWAN : But no such occasion arose.

Q. You are familiar with the CBI procedure. Did you or do you not know that anybody who wants the charge of corruption to be investigated in respect of a public servant, he has to go to the police and make a report.

SHRI DHAWAN : My understanding is it is not a report of corruption. Shri Sen was asked to develop this information. It was not a complaint. Mr. Sen was asked to find out what sort of persons they are.

Q. Mr. Sen can develop information if some information is given and you did give some information to Shri Sen when he had to develop.

SHRI DHAWAN : I did give him some information and he had to develop. It was for him to check that up. I conveyed a message. I did not ask him to take any other action.

Q. You did not ask for any action. What information did you give?

SHRI DHAWAN : I conveyed that some Members of Parliament and others have complained to the Prime Minister.....

Q. You were clear that Prime Minister had told you that some Members of Parliament and others have complained to her.

SHRI DHAWAN : Yes.

Q. Did you ever ask what Members of Parliament or others?

SHRI DHAWAN : As a Private Secretary, I could not ask.

Q. Nor did you ask whether the information was oral or in writing, and whether the information was recent or distant?

SHRI DHAWAN : No Private Secretary could ask. I did not ask.

Q. Did you ask whether the information was about harassment or bribes?

SHRI DHAWAN : There was no such thing. So, there was no question of my asking.

Q. I am suggesting to you—it is fair to you and you know how at least my mind is working, that all this did not happen because the truth of the matter is that you just wanted to use the machinery of the CBI for the purpose of harassing these officers and preventing them from doing their duty.

SHRI DHAWAN : It is totally incorrect and I emphatically deny it."

Mr Dhawan admitted that any information that could be collected before the 16th April, 1975 could have been utilised for answering the Question on the 16th. He conceded that his own understanding of the Parliamentary Question was that it was a condition of the Maruti licence that they will use indigenous machinery only and that the information required whether any imported machinery was being used, whether directly imported or obtained through other importers. Mr. Dhawan admitted that he is a shareholder of the Maruti Ltd. though he holds only 10 shares worth Rs. 100. He was, however, one of the promoters of Maruti according to the Memorandum of Association. I regard the testimony of the second respondent unworthy of belief insofar as he asserts that Mrs. Gandhi only gave him the names of four officers for checking their antecedents, or when he asserts that he had not called up Mr. Pai and complained about the four officers, or when he does not admit that he asked Mr. D. Sen to investigate corruption against these officers. I only accept the broad fact which he himself admits that he conveyed the four names given him by the first respondent to the third respondent.

24. The third respondent's defence has already been summarised. While under examination Mr. Sen's attention was drawn to the extraordinary haste with which the proceedings against the officers were conducted between the 15th April, 1975 and the 18th April, 1975 when the searches of Rajan and Bhatnagar were conducted, and between the 15th April 1975 and 3rd May 1975 when the search of Krishnaswamy was conducted and 21st April 1975 and the 3rd May, 1975 when the house and office of Cavale were searched. His attention was also drawn to the leisurely manner in which the enquiries proceeded thereafter. No satisfactory explanation is forthcoming. The inference is manifest. The idea of these proceedings was not to check up antecedents and make a report to the Prime Minister but to terrorise officers and others by harassing them and humiliating them.

Mr. Sen was then asked about the purpose of a FIR. He did not have the honesty to admit that one of the purposes of the FIR is to fix the responsibility on the person who initiates the proceedings in the event of the proceedings turning out to be false and malicious. His record did not indicate that the proceedings were instituted either at the instance of Dhawan or Mrs. Gandhi or at the instance of Mr. Dhawan acting on behalf of Mrs. Gandhi. He admitted that one of the reasons why he acted with remarkable speed was that the PM wanted it. But when confronted with the possibility of the information given by the PM turning out to be maliciously false and responsibility having to be fixed on the PM, he preferred not to be 'dragged in this controversy'. Mr. Sen was then specifically asked : Has the record of the

investigation in this case been maintained in such manner that one can discover who gave the false information in the first instance? Mr. Sen gave an evasive answer: "The record is maintained as per our procedure." He conceded, however, that the record would not show this at all. Mr. Sen does not accept Dhawan's version that only four names were passed on to him for checking antecedents. He is quite positive that Dhawan told him that these four officers were corrupt, they were possessing disproportionate assets and they were favouring certain firms. Mr. Sen admitted that after these four names were given to him, he neither discovered nor tried to discover whether the four of them were engaged in some common activity or in some common adventure. It did not even occur to him that there was something common which had brought them in this common trouble. Mr. Sen, however, admitted that since then he has come to know that the four officers were engaged in collecting information required by Parliament. Confronted with a note which Mrs. Gandhi had sent as an annexure to her letter of 7th May 1975 to Mr. Pai, Mr. Sen prevaricated a lot but admitted that the document emanated from the CBI though he did not recall whether he had sent it. He was unable to explain how the note reached the PM. When asked whether throughout the investigation—whether during the preliminary enquiry or formal investigation—he tried to discover the identity of any Member of Parliament who had given information about these four officers, Mr. Sen stated that he had not. He conceded that there was nothing in his record to show that any Members of Parliament were responsible for giving this information. When asked why he never contacted any Member of Parliament to find out what he had to say, Mr. Sen only replied that generally it is not done. When asked whether it was possible that a Member of Parliament might have knowledge of some specific assets concealed by an officer somewhere and whether that knowledge would be useful for the purpose of investigation, Mr. Sen conceded that it would be useful but he did not do the obvious because "we never go beyond this." Mr. Sen was then asked "When did you for the first time learn that at least one of these officers was concerned with the enquiry from Batliboi Company?" He stated that he came to know this for the first time during the Shah Commission proceedings.

This answer, to say the least, is strange. The secret source report against Cavale recorded in the files on 22nd April 1975 states that he was collecting money from Batliboi and Company. Having told us that Dhawan had complained that these four officers were showing favours to some firms Mr. Sen was asked, 'why did you not take the elementary step of asking Mr. Dhawan to give the names of those firms?' Mr. Sen evaded the question and stated that the names of the firms were not given. When pressed whether he asked such an elementary question he stated that at this distance of time, he did not remember, though he conceded that his normal reaction as a reasonable

officer would be to ask the names. Mr. Sen was then asked the purpose or ordering the secret enquiry on the 15th April 1975. He stated that the enquiry was directed to ascertaining mainly the reputation of the officers and only incidentally whether there was any record of these officers having shown favours or if there was anything adverse which had come to the notice of the CBI in the past. He did not know whether he ordered the same enquiry on the morning or evening of the 15th April 1975, but the result of the secret enquiry was communicated to him on the 16th evening.

The two firms which Mr. Rajan is alleged to have favoured were found from the records of the Intelligence Unit, the so called secret enquiry consisting of only reading their own files. Mr. Sen admitted that no dossiers were kept for all important officers of the Central Government. The Intelligence Unit is a part of Mr. Sen's Department. The information adverse to Mr. Rajan was available for six years in that file. No action had ever been taken upon it and yet this dead information of 1969 was unearthed and was made the foundation of further proceedings against Mr. Rajan. This establishes the entire dishonesty of the CBI investigation and Mr. Sen's equally dishonest part in it. Mr. Sen maintained that 1969 was the year in which this information had come to the notice of the Department. He could not deny that the misconduct about which the information was given might be another five years earlier. The following question and answer make instructive reading.

Q. Did you enquire even in 1969 as to the year these favours were shown: some twenty or thirty years back? This you did not verify.

SHRI D. SEN : Because this matter was still in correspondence with the Department.

Mr. Sen conceded that this information was also totally without particulars of the favours alleged to have been shown by Mr. Rajan six years back. Asked about the correspondence which he had just mentioned he stated that the CBI wanted the Department to take action and the Department was asking for particulars. After long questioning Mr. Sen conceded that the CBI was not investigating this allegation.

Another question shows how a dead matter had been revived for the purpose of this dishonest proceeding.

Q. For six years your Department had made enquiry into the truth of this allegation?

A. None, Except a secret enquiry.

Q. What is the secret enquiry and what was the result?

A. I will not be able to say without the intelligence Units file.

Mr. Sen again after a long bit of questioning conceded that the allegations were not fit enough for investigation. A decision to that effect must have been taken before 1975. No further information had been gathered since then. Had he ever seen the correspondence which he was talking about? Mr. Sen admitted that he had not.

Mr. Sen's interrogation leaves no doubt in my mind that the proceedings instituted by him were totally without foundation. They were designed not to serve any public purpose. They were only designed to cater to Mrs. Gandhi's arbitrary and malicious whim and design. We reject his plea of ignorance of the part of the four officers having been engaged in collecting some information relating to a Parliamentary Question. This was obvious to the two Ministers and we cannot credit the CBI with Ostrich like ability to shut one's eyes in the face of glaring facts.

25. From the evidence of Mr. Pai which must be accepted I have drawn the conclusion that the respondents caused false CBI proceedings to be instituted against the four officers but it is fair to record that according to Mr. Pai, Mrs. Gandhi named two officers in his presence and not all the four. But Pai's evidence in the light of Mrs. Gandhi's instructions to Dhawan and proceedings against all four instituted that very day leave no doubt of Mrs. Gandhi's complicity in respect to all the four.

26. I now turn to Mr. D. P. Chattopadhyaya who, at the relevant time was the Minister in charge of the Commerce Ministry. He has deposed before us:

"One evening in April 1975. I was called by the then Prime Minister to her residence and I went there. It was a little after evening, it may be 7 O' clock, may be even a little after that. I found her in a very angry frame of mind and she told me in her rather unusual voice that there are very grave allegations against some of my officers. Whether she said some of my officers or one or two of my officers or officers of Mr. Pai's Ministry—I do not remember exactly. She was very emphatic on that point that there were grave allegations against some officers. So she went on for sometime. She was talking on her own. I asked her when she stopped talking or rather cooled down just one question—what is the allegation? She said that the allegation is that they are harassing, they are intimidating the people, they are unnecessarily causing delay and thereby they are bringing a bad name to the public sector organisations, instead of serving the people, they are harassing the people and you must do something about it, you must take

some disciplinary action. The only thing I asked her was "Are you really satisfied that these allegations are genuine?" She said: 'Yes' 'Very senior people and some MPs have brought these allegations to me.' I must say one thing to you at this point. I never saw her so angry and in such an upset state of mind and insisting that somebody should be suspended. I may say, neither before that nor after that. And at that point of time, I had no reason to believe that she did not apply her mind to the matter she was talking to me viz., misdemeanour, negligence of duty, causing harassment by my officers. So I found that it was almost futile to discuss the matter with her on that point because she made up her mind and she took the decision. I came back—to the best of my recollection—to office though late in the evening, and I sent a word to the concerned officers; I could not do anything myself. So, I sent a word to the Chairman of Projects & Equipment Corporation."

It is clear from the portion of Mr. Chattopadhyaya's deposition abstracted above, that Mrs Gandhi was complaining against more than one officer of the Commerce Ministry. Later on, Mr. Chattopadhyaya told us, to quote:

"Yes, she mentioned Bhatnagar's name and the names of others were not known to me."

Mr. Chattopadhyaya has not stated that Mrs. Gandhi mentioned the name of Cavale and yet on that very day Bhatnagar was suspended and Cavale was ordered to be transferred to Madras. I have already pointed out that Bhatnagar was Cavale's subordinate and both had something to do with the collection of information relating to the Parliamentary Question. I have no doubt, therefore, that one of two things happened : either Mrs. Gandhi mentioned Cavale's name and Mr. Chattopadhyaya's memory fails on this point or Mrs. Gandhi mentioned Bhatnagar specifically and others connected with the transaction generally and Cavale was discovered as another officer falling within the general orders given by Mrs. Gandhi. This inference must follow from the extraordinary course of events of the 15th April, 1975. After the stormy meeting with Mrs. Gandhi, Minister Chattopadhyaya completely lost his moral nerve, and in no time he converted himself into an ignoble instrument for the fulfilment of evil designs. A note signed by Mr. Chattopadhyaya that very day and which has been produced before us is highly significant. It reads :

"For some time I have been receiving persistent complaints about the behaviour of certain officials of the Projects and Equipment Corporation, a subsidiary of the STC, towards their business

clients and associates. A specific case was brought to my notice today where Shri P. S. Bhatnagar, Deputy Marketing Manager, PEC, kept the representatives of a firm waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained was unbecoming of a public servant. I would like the Chairman, PEC, to take suitable disciplinary action against the officer."

Mr. Chattopadhyaya has not attempted to support the contents of the opening part of this note. He does not claim to have received any complaints, persistent or otherwise, about the officials of the PEC in general or about Mr. Bhatnagar in particular. Obviously, he concocted this note to justify the execution of unlawful instructions which had been very forcefully conveyed to him earlier that day by Mrs. Gandhi. The second sentence in this note is the strongest circumstantial evidence that he had had some meeting with some body who had specifically complained about Mr. Bhatnagar and the complaint was connected with the obtaining of some information from some firm. It is easy to identify this firm as Batliboi and Co. and the information sought as the information relating to supply of imported machinery to Maruti Ltd. Who that somebody is, is equally easy to identify. Necessarily that somebody must be a person in a position to order about a Cabinet Minister. That can only be the Prime Minister and none else.

There is no doubt whatsoever that Mr. Chattopadhyaya is an accomplice and he has shown himself to be a person without any moral fibre. His evidence must, therefore, require the strongest possible corroboration. I am satisfied that almost conclusive corroboration is forthcoming from the contents of this note. Corroboration is also available from other events of that day, such as, Mrs. Gandhi's meeting with Mr. Pai and the name of Mr. Bhatnagar reaching the CBI through Dhawan that very day.

Mr. B. D. Kumar was, at the material time, the Chief Controller of Imports & Exports in the Ministry of Commerce and the part-time Chairman of the PEC Mr. N. K. Singh, the Special Assistant to the Commerce Minister Mr. Chattopadhyaya, saw him at about 4.00 p. m. on the 14th April, 1975 and reported to him that the Minister had received a complaints from Mrs. Gandhi about the misbehaviour of Bhatnagar with a representative of M/s Batliboi. The Minister had desired that the officers concerned should be transferred immediately. Mr. Kumar then contacted Mr. L. K. Dhawan, the Executive Director of PEC in his office who collected the relevant file from Mr. Bhatnagar. This happened when Bhatnagar had just received a letter dated the 15th April, 1975 from M/s. Batliboi

& Co. containing the detailed information of the supplies of imported machinery to Maruti Ltd. This letter had been personally brought to the office of Mr. Bhatnagar by Mr. Mathur and Mr. Adeshra. Mr. Bhatnagar had not even read this letter when Mr. L. K. Dhawan called for the file from him. Mr. Kumar compiled his statement for the use of the Shah Commission from memory while he was in Bangkok. He mentions the date of these transactions as the 14th April, 1975. That however is an honest mistake. The documentary evidence leaves no doubt that the date referred to is, in fact, the 15th April, 1975. Mr. Kumar returned that file which he had obtained from Mr. L. K. Dhawan to Mr. Singh. During his visit to the PEC he had discovered that Bhatnagar was trying to collect material for a reply to a Lok Sabha Question in response to a requisition received from the Department of Heavy Industry. Mr. Singh communicated to him that in view of Mrs. Gandhi's anger urgent action for transferring the officers concerned will have to be taken that very day.

Mr. Kumar then accompanied Mr. Singh to the office of Mr. Vinod Parekh, the then Chairman of STC, Mr. M. N. Misra, an Executive Director (Personnel) and Mr. Malhotra, Chief Engineer (Personnel) were also called at this meeting. A decision was taken that Bhatnagar be placed under suspension forthwith and Cavale be transferred out of Delhi.

It is obvious that all the officers who participated in this decision of the 15th April, 1975 were guilty of grave dereliction of duty though it must be conceded that their moral culpability is insignificant in comparison to that of the three respondents or even Mr. Chattopadhyaya himself. Incidentally Kumar also recorded a false note to justify the proposed action.

N. K. Singh also appeared before us and had deposed that Minister Chattopadhyaya had called him to his residence in the middle of April, 1975 and communicated to him the Prime Minister's anger against the officers of the PEC and that he in turn communicated the Minister's decision to Kumar, Parekh and others. To a specific question [what exactly was the fault of Mr. Bhatnagar to deserve such a treatment, Mr. Singh replied :

“ I have already stated that I did not discover any fault. His fault was told to me by the Minister and I had the very limited function of carrying out his order.”

Mr. Singh further told us :

“ It looked rather odd to me how in the case of a petty officer like Mr. Bhatnagar working in a far flung organisation, the highest authority in the Ministry could take it upon himself

to take such an action. The Minister told me that he wanted this to be done. I do not think he wanted to brook much discussion on this. So it was not for me to enter into any kind of argument with him."

Mr. Singh has told us that he went to the residence of the Minister. He learnt from the Minister's staff that the latter had just been to the Prime Minister. I do not wish to treat this as substantive evidence of Mr. Chat-topadhyaya's meeting with Mrs. Gandhi that day. After a few days Mr. Bhatnagar had called on him, spoken of the injustice done to him. Mr. Singh says that Mr. Bhatnagar broke down during this interview. I am not surprised.

Mr. Parekh, the Chairman of the STC in his testimony has spoken of the same unfortunate abdication of all moral responsibility by the officers who brought about the suspension of one officer and the transfer of the other. Mr. Parekh has tried to minimise his moral responsibility. Beyond record that I am not impressed, it is not necessary to probe this matter any further.

27. The sequel to the suspension order of the 15th April, 1975 may now be noticed. Some kind of departmental proceedings had got to be drawn up against Mr. Bhatnagar if his continued suspension had to be justified. A show-cause notice of the 29th April, 1975 was served upon Mr. Bhatnagar. The two annexures to this show-cause notice are hereunder reproduced :—

ANNEXURE I

STATEMENT OF ARTICLES OF 'CHARGE FRAMED AGAINST SHRI P. S. BHATNAGAR, DMM, PEC.

ARTICLE

Shri P. S. Bhatnagar, while functioning as Deputy Marketing Manager, in Projects and Equipment Corporation (a subsidiary of STC) committed gross misconduct and mis-behaviour inasmuch as he kept the representatives of the firm—Messrs. Batliboi and Company—waiting for an unduly long time on 15-4-1975 and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3 (iii) of the STC of India Limited Employees (Conduct) Rules, 1967.

ANNEXURE II

STATEMENT OF IMPUTATIONS IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SHRI P. S. BHATNAGAR, DMM, PEC.

For some time persistent complaints have been received about the mis-behaviour and misconduct of Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation (a subsidiary of STC) towards the business clients and associates. On 15-4-1975 he kept the representatives of the firm—Messrs. Batliboi and Company—waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3 (iii) of the STC of India Limited Employees (Conduct) Rules, 1967 and also constitute misconduct and mis-behaviour by him.

The charge made in Annexure I is ridiculously false. On the 15th April, 1975 all that happened was that two representatives of M/s. Batliboi and Co. called at Mr. Bhatnagar's office and delivered him a letter. The two gentlemen, Mr. Mathur and Mr. Adeshra have not and in fact could not allege that they were made to wait for unduly long time, much less that they were coerced into parting with some information on that day. The second Annexure is supposed to indicate the evidence in support of this charge. Except for a vague allegation of persistent complaints no evidence is disclosed, because none exists. The poor officer is not even told who made the complaints and who received them, nor, indeed, a word about the nature of the mis-behaviour or misconduct.

It has been suggested to us that we must totally discard the evidence of Mr. Chattopadhyaya because he claims to have met Mrs. Gandhi on the evening of the 15th April, 1975 when the evidence of other officers is that he had started moving in the matter of suspension round about 3.30 or 4.00 P. M. The suggestion is too absurd to be seriously countenanced. Mr. Chattopadhyaya was speaking from memory about a transaction which took place two years earlier. There is no contemporaneous record indicating the exact time at which he met Mrs. Gandhi. What fixes itself upon the memory of a witness is what is of importance to him. In Mr. Bhatnagar's life, his suspension was a matter of the gravest importance. Every detail about it would therefore imprint itself upon his memory. Mr. Bhatnagar has no difficulty in telling us even after two years that the file was taken away from him at about 4.00 P. M. and the suspension order was served on him by his colleagues at his residence late in the night at 10.30 P. M. From the point of view of Mr. Chattopadhyaya what is important is that the Prime Minister was angry and contrary to the bidding of his

conscience he proceeded to harass two of his own subordinates. The time of meeting Mrs. Gandhi is not a matter of slightest importance. I have no doubt on the evidence that the meeting between him and Mrs. Gandhi must have taken place before 3.00 P. M. on that day and Mr. Chattopadhyaya is making an honest mistake of memory when he deposes that it took place in the evening. Whatever might have the character which Mr. Chattopadhyaya discloses during the unfortunate happenings of April 1975, I am satisfied that he was honestly reconstructed from memory as much as he could and has truthfully deposed to the major incidents within his knowledge. If he was untruthful and wanted to exaggerate the case against Mrs. Gandhi he could have easily coordinated his evidence with that of the other officers and eliminated the criticism of conflict with their testimony : he could have put into the mouth of Mrs. Gandhi the name of Officer Cavale : he could have supported the story of Mrs. Gandhi's instructions to Mr. Dhawan and more than anything else he could have put into Mrs. Gandhi's mouth a story strongly suggestive of her evil motivation in this matter, that is, her desire to prevent information relating to the Maruti being collected by the officers. We see no infirmity in the evidence of Mr. Chattopadhyaya. It deserve to be believed on its own merit. Even so we have applied the rule of caution and insisted on strong corroboration. I should like to repeat that the corroboration available is of the strongest character. It may not be far wrong to say that it is almost of a conclusive character.

28. The evidence of Mr. Pai read along side the evidence of Mr. Chattopadhyaya, in my opinion, fully established that the first respondent Mrs. Gandhi caused to be instituted false and malicious CBI proceedings against the four officers, that she brought about the suspension of one and the transfer of another.

29. It has been strongly urged that there is no reliable evidence that Mrs. Gandhi passed on the four names to the CBI either directly or through Mr. Dhawan. This argument is not intelligible in the teeth of voluminous evidence already discussed more so when Mrs. Gandhi herself has not had the courage even to make a denial—sworn or unsworn. Acceptance of such a flimsy argument will be inconsistent with our duty honestly to appreciate the evidence before us. It is significant that the first respondent Mrs. Gandhi in a long letter of November 27, 1977, which she sent to the Shah Commission stated as follows :—

“The cases of four officers referred to in the communication under reference are based on half truths, and hearsay. I may say that corruption in some areas of Governmental functioning, especially involving commercial dealing with the public, has always been

a matter of serious concern. As Prime Minister I received many complaints in writing or orally alleging corrupt practices on the part of various officers of the government. These I used to forward to the concerned authorities or departments and occasionally to my staff for appropriate action. It was, however, wholly incorrect on the part of Mr. T. A. Pai to have stated before the Commission that I had any talk with him in the presence of Mr. Dhawan.

"I received complaints from some persons, including M.Ps. about those officers, amongst others. I told Mr. Dhawan to pass on the complaints to the authorities concerned in order to verify whether there was any truth in the allegations. There was nothing special or unique about this. When such complaints were repeated or conveyed verbally to me, I sometimes directed similar action through a member of my staff."

This paragraph is an express admission that the first respondent had referred to the CBI the cases of the four officers. The first respondent wrote this letter after she heard what Mr. Pai had told the Shah Commission. She did not deny that she had the interview with Mr. Pai of which the latter spoke both before the Shah Commission and before us. Her denial is only of one part of Mr. Pai's story, namely that Dhawan was also present during a part of this interview.

In view of this express admission, I am unable to invent a false defence on behalf of the first respondent.

The same letter of Mrs. Gandhi contains a striking corroboration of the testimony of Mr. Chattopadhyaya. She says :

"Mr. Chattopadhyaya seemed to have forgotten that I had also spoken to him on various occasions regarding complaints concerning officers other than those named in the Commission. However, I did not suggest any specific action against anybody."

We regard this paragraph as an express admission of the truth of Mr. Chattopadhyaya's testimony. It removes all trace of validity from every criticism that has been made of the testimony of these two witnesses. It is suggested that this letter has not been properly proved. I have no difficulty in dismissing the suggestion. We are not bound by any technical rules about proof of documents. We have obtained this letter officially from the Shah Commission. There is no suggestion that this letter is not sent by Mrs. Gandhi to the Shah Commission. We must resist justice being defeated by such piffling technicalities.

30. In arriving at the above conclusion, I have refrained from using the evidence of Dhawan, the second respondent and Mr. Sen, the third respondent for proof of any facts against the first respondent. In fact it is not necessary to do so. I, however, see no legal objection at all in using that evidence for the limited purpose of showing that it is Mrs. Gandhi who caused the proceedings to be instituted against the four officers.

In the first place, the second respondent's position *qua*, the first respondent makes the former's statements admissions of the letter within the meaning of Section 18 of the Indian Evidence Act. His acts and statements are also admissible on the principle of Section 10 of the Indian Evidence Act because I am satisfied that there is reasonable ground to believe that the three respondents had conspired together to commit the wrongs which are the subject-matter of the charges. If these statements can be admissible under the technical law of evidence, we see nothing which could prevent us from making any legitimate use of the said evidence.

If there is conflict between the testimony of Mr. Dhawan, the second respondent and that of Mr. Sen, the third respondent, we would prefer to accept the evidence of the latter. The former's story that he passed on the names of the four officers only for the purpose of checking antecedents is intrinsically improbable and contrary to the established course of business. It is directly in conflict with what happened at the CBI end. I have no reason to believe that what happened was a personal aberration of the third respondent. I am satisfied that he was also trying to please his masters and carrying out their wishes. All the evidence before us suggests that the conduit pipe between the first and the third respondent passed through the second respondent.

31. On a survey of the evidence, I hold the following facts proved beyond doubt :—

- (a) That each of the four officers had something to do with the collection of information in respect of a Parliamentary Question.
- (b) That the three respondents wanted to overawe them and warn others, whether officers, ministers or legislators, that Maruti was not to be probed at all.
- (c) That the four officers were subjected to harassment of CBI proceedings after the institution of which none of them took a single step for collecting any further information.
- (d) That the CBI proceedings were false and malicious. The suspension of Bhatnagar was equally malicious and unwarranted and so also the transfer orders of Cavale leading to his final resignation.

32. The question of law still remains, whether the three respondents are liable to be punished for breach of privilege or contempt of the Lok Sabha.

33. It has been suggested to us that before we can hold any of the respondents guilty of contempt, it must be established—

- (i) that the Parliamentary Question was one which could legitimately be asked and which the Minister was bound to answer;
- (ii) that the collection of information by the officers was absolutely necessary;
- (iii) that the information was ought to be collected from those who were bound to supply such information ;
- (iv) that the process of collection of evidence was actually stopped as a result of the action of the respondent; and
- (v) that as a result of the obstruction, Parliament was effectively prevented from getting the same information by other means.

There is no substance in this argument at all. In fact I have mentioned it only out of deference to some of our colleagues with whom it seems to find favour.

Citation of a passage from May's Parliamentary Practice is enough to repeat the whole of it. Says the author :—

“It would be vain to attempt an enumeration of every act which might be construed into a contempt, the power to punish for contempt being in its nature discretionary. Certain principles may, however, be collected from the Journals which will serve as general declarations of the law of Parliament. It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which as a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.”

In my opinion, the three respondents were guilty of acts which had the tendency directly as well as indirectly to obstruct and impede the Lok Sabha in the performance of its functions. The Question was admitted as a legitimate Question. It would be impertinent of us and more so of any of the respondents to suggest that the Question was so thoroughly irrelevant that it ought not to have been allowed and even though allowed, the Minister was under no obligation to answer it. In my opinion, if industrial licences are issued on certain conditions each of the Houses of Parliament is entitled

to know whether the conditions of those licences are being complied with or whether any loopholes exist which permit a substantial evasion of the intention and object of the conditions of the licences and of industrial policy in general. It is wholly irrelevant whether the information was or was not available with some Department of the Government. If, as a matter of fact, information was being collected for the use of Parliament, it is not for the contemnor to tell the Parliament what sources should or should not be tapped for securing that information. If the parties approached to supply information are under no obligation to supply it, it is for them raise such a contention. Refusal to supply information by persons who are under no obligation to supply it may conceivably not constitute contempt. That has nothing to do with the culpability of the respondents in preventing that information being obtained. We are not enquiring into a case of contempt against Maruti Ltd. or its Manager, Mr. Rege, though I regret to record that he was determined to be non-cooperative and even uncontested facts had to be extracted out of him with considerable difficulty and expenditure of time and energy. So far as M/s. Batliboi & Co. are concerned, they were always willing to cooperate and, in fact, on the 15th April, 1975 they voluntarily supplied the information asked for from them. If the contemnors attempt to prevent the tapping of one source of information, they cannot be heard to say that another source for obtaining the same information still exists and had not been destroyed by them.

I am satisfied that whatever happened on the 15th of April, 1975 to these officers happened to them because they had something to do with the collection of information and when the respondents started moving into the matter, the information was in the pipeline. It is wholly immaterial that Maruti yielded no information or this compelled the Ministry to prepare a draft reply on the 11th or 12th of April, 1975 itself, or that the Minister answered the Question on the 16th April, 1975 without waiting for the information which they had been looking for.

The answers given by Mr. Pai or the Minister of State, Mr. George, on the 16th April, 1975 to Mr. Bosu's Question No. 656 do not make any difference whatsoever to the issue of contempt committed by the respondents. Even the answers given on the 16th April, 1975 were evasive and improper. Mr. Pai in his evidence has spoken of a lacuna in the terms of the licence. He claims he could have answered the Parliamentary question without the information. This speaks for the ingenuity of Mr. Pai but provides no defence to the respondents. There is no doubt that if facts supplied by Batliboi on the 15th April, 1975 had been honestly put before Parliament, the Parliament might well have come to the conclusion that the terms of the industrial licence had been breached or in any event the facts disclosed a copious avenue for evasion

which needed to be blocked for the future. It is impossible to resist the conclusion that Parliament's capacity to deal with this problem was thereby impeded or impaired.

34. It is true that the four officers were not technically officers of the Lok Sabha. Interference with officers of the Lok Sabha is a distinct head or illustration of contempt of Parliament. It does not exhaust the whole field of contempt. On the other hand, the Council of Minister collectively and each individual Minister are responsible to the House of the People. All Officers employed in any Ministry assisting the Minister in discharging his duties to Parliament are, to that limited extent, officers of the Parliament for the purpose of the law of contempt. It is not necessary that they should be on the pay roll of Parliament.

35. Another contention raised by the respondents remains to be disposed of. It is said that the contempt in question was the contempt of the Fifth Lok Sabha. When that was dissolved, its consequences are absolute and irrevocable. Dissolution passes a sponge over the parliamentary slate. The Sixth Lok Sabha is a new Lok Sabha as Section 14 of the Representation of the Peoples Act, 1951 unmistakably points out. All business pending before the Fifth Lok Sabha or any of its committees must be deemed to have lapsed and no part of the record of the dissolved House can be carried over and transcribed into the records or registers of the new Houses. In short, the dissolution draws a final curtain upon the existing House.

I have reproduced the respondents' argument so as to bring out its maximum strength. Having carefully considered it I find it totally without substance. The parliamentary slate might well be wiped clean by the sponge of dissolution. But in the nature of things, nothing can be wiped off the slate which never existed on the slate. The contempt in question was never taken cognisance of by the Fifth Lok Sabha. Indeed, it was never aware that any contempt had been committed. The analogy of the slate and the sponge can, therefore, serve no useful purpose. It can only obfuscate thinking on this problem.

Historically, the basis of the law of contempt of Parliament lies in the judicial character of the House of Lords, of which the House of Commons was also an offshoot. If a High Court consists of two judges and a grave contempt is committed, no one has ever been heard to argue that if the two judges retire and two new judges have taken their place, the contempt ceases to be punishable. We do not believe that the new membership of the Lok Sabha arising on a new election change the identity of the Lok Sabha as the limb of Parliament or as a parliamentary institution. The word 'dissolution' in the life of a Parliament does not convey the same meaning as it does when applied to a joint stock company. In the latter case, the

legal personality of the company comes to an end. Not so when the word is transported to an entirely new setting. Article 79 of the Constitution which ordains that there shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People, provides for an unbroken continuity of both Houses in spite of the fact that one-third Members of the former retire every two years and all the Members of the latter retire every five years.

The consequence of accepting the argument of the respondents is manifestly disastrous to the dignity of Parliament and destructive of the very purpose for which the contempt jurisdiction was created. The contemnor after committing a grave contempt of Parliament has only to abscond for the remaining term of that Parliament to acquire immunity from punishment for all time. People could with impunity commit the gravest contempt of the Parliament during the last days of its tenure. There must be something wrong with the state of the law if it accepts with equanimity such puerile consequences. Fortunately, such is not the law. In my opinion the statement of law from May's Parliamentary Practice, 19th edition, at page 161, provides a conclusive answer :—

“It also appears that a contempt committed against one Parliament may be punished by another; and libels against former Parliaments have often been punished. In the debate on the privilege of Sir R. Howard in 1625 Mr. Selden said :

“It is clear that breach of privilege in one Parliament may be punished in another succeeding.” (*Per Parke, B., in Gossett V. Howard (1847), 10Q.B.451.*)

This passage informs us that as a matter of fact libels against former Parliaments have often been punished. This cannot be possible except on the footing that the proposition made by the respondents is totally untenable. Whether the instances which the learned author has in mind are old or new makes no difference whatsoever. A privilege once claimed and exercised on a number of occasions cannot stand abrogated merely because no occasion has arisen for its exercise in the recent past. The burden to establish that the privilege has vanished by disuse is on those who make such a claim. There is not a single instance where the House of Commons in England has in recent times refused to punish a contempt on the ground that a general election has intervened since then. The case of John Cordle decided by the House of Commons in July, 1977 is conclusion on this point. (The Table Vol. XLVI for 1978 Pages 28—31) We have doubt that¹ this was a privilege which the House of Commons enjoyed on the date on which

our Constitution came into force and therefore under the 105th article of our Constitution it is also a privilege of our Lok Sabha. The existence of this privilege and its actual exercise is supported by Tulmohan's case.

It has been suggested to us, however, that in Tulmohan's case the want of jurisdiction of the House was not asserted by anybody and therefore the case must not be treated as a precedent. I cannot accept this argument. When the House consciously exercised jurisdiction it is evidence that the House at least believed that it had the requisite jurisdiction.

Naturally, however, our attention has been drawn to Kaul's case. India's Ambassador to the United States, Mr. T. N. Kaul, in an interview telecast by the N.B.C., one of the national television networks of the USA, had told his American audience that during emergency political leaders in India had not been jailed but only detained in houses. Being a gross distortion of truth breach of privilege was alleged in the Lok Sabha against Mr. Kaul. The Speaker disallowed the question of privilege by the following ruling :—

"I have carefully considered the matter. In order to constitute a breach of privilege, the impugned statement should relate [to the proceedings of the House or to members in the discharge of their duties as members of Parliament. It may be seen that the impugned statement of Shri Kaul related to political leaders and not to members of Parliament as such, although members of Parliament are also political leaders. Secondly, Shri Kaul's remarks were made in July, 1975, when the Fifth Lok Sabha was in existence. The matter cannot be raised as a privilege issue in the Sixth Lok Sabha. In the circumstances, no question of privilege is involved in the matter."

It is obvious that having come to the conclusion that there could be no breach of privilege at all on the facts stated, the Speaker's second reason was wholly unnecessary. The proceedings of the House do not suggest that the issue of jurisdiction was raised in the manner in which it has been raised before us. What was sought to be argued in the House was that the matter was stale and not of any recent public importance. It is this argument which the learned Speaker seems to have accepted. The staleness was described by him by pointing out that the remarks were made in July 1975 when the Fifth Lok Sabha was in existence. If an important issue of jurisdiction was being decided, one would have expected a more detailed discussion. It could not be the intention of the Speaker to have laid down the law on an issue of such importance in a cryptic four-line ruling. Whether a particular privilege belongs to the Lok Sabha is a matter to be decided by

the House itself. It cannot be conclusively decided by a ruling of the Speaker. We are satisfied that the Speaker had no intention to rule on the jurisdiction of the Lok Sabha.

I am clearly of the opinion, notwithstanding a somewhat ambiguous opinion of the Attorney-General tendered to us that like the British House of Commons, the present Lok Sabha has perfect jurisdiction to punish the contempt committed in the life time of the Fifth Lok Sabha.

36. Mrs. Gandhi is first respondent refused to take oath or make affirmation even though directed. She refused to answer even non-incriminating questions. She has cast unwarranted aspersions on the integrity of the Committee. While I treat these with contempt the 1st respondent has gravely aggravated her crime.

Apart from fresh contumacy during our proceedings the original contempt is the grossest of its kind. The affront to the House is compounded by extreme callousness and malice against humble and honest officers who have suffered tremendous harassment and humiliation at her hands.

I would therefore recommend that the first respondent be committed for the duration of the session. Respondents 2 and 3 are guilty of the same contempt but in the nature of things their culpability is less. They held subordinate positions and the over-bearing orders of the Prime Minister constitute a substantial mitigating circumstance. Between the second and the third respondents, the latter deserves more serious punishment. He has misused his office and the machinery of the Department which he headed to the distress and injury of honest citizens. I recommend that the House apportion punishment accordingly.

Sd/-

RAM JETHMALANI

Dated 7th November, 1978

NOTE BY PROFESSOR P. G. MAVALANKAR

While agreeing with the presentation and findings contained in the main Report, I wish to add the following :

This Report is not a compilation of divergent positions taken but a reconciliation of different views expressed, bringing out the broad consensus. I do endorse it.

A Note need not necessarily be one of dissent. One could even point out, where a particular aspect needs a greater emphasis or why a specific matter requires some further looking into. Hence this Note.

The question before the Committee was undoubtedly very important, and in some ways it was a very delicate and a very difficult one. It has been unparalleled in the parliamentary history of India and the Commonwealth. The Committee accepted the challenge of dispassionately, objectively, impartially and judiciously going into this delicate question, the sole objective being the sincere and serious quest for arriving at the truth on the basis of undisputed facts and concrete, tangible evidence and all possible legitimate inference. The Committee have shown utmost respect and responsibility in arriving at its decision or conclusion.

The Committee was unfortunately handicapped inasmuch as the entire evidence which should and could have come before it from the concerned quarters was not forthcoming. Smt. Indira Gandhi's refusal to take oath or affirmation and tell the Committee her version of the subject was both unfortunate and objectionable. Her attitude and conduct did not show due respect to this Committee or to the Parliament even though she verbally and in writing purported to convey such a respect. Indeed, her not taking oath or affirmation is in itself a breach of privilege. Who stopped her, I wonder, from honestly and fully telling the Committee her side of the story ! She could narrate the truth as she knew or saw it, without in any way getting herself involved into one or more self-incriminatory questions. She, however, chose to deliberately keep silent. So, she appeared before the Committee only to disappear, without saying anything in substance.

In arriving at its findings, the Committee was in no way acting out of spite or softness or vindictiveness of any kind. Nor was the Committee a Court of Law or a body of prosecutors. It did not concern itself with any political or criminal aspects. Its only duty was to determine whether and to

what extent the privilege of Parliament was involved in this matter. And, in so doing, it has naturally not minced matters or words. It has acted and reported without fear or favour, and in the best interests and traditions of parliamentary democracy and political ethics.

Now, it appears that there was evasion in answering parliamentary questions. I wish this aspect had been brought out more clearly in the Report.

As regards punishment, the Committee may well have spelled out a few possible forms, without necessarily adhering to and recommending a particular form or a set of forms of punishment. Leaving this matter entirely to the "collective wisdom of the House" seems to me to avoid, if not dodge, a compulsive duty or an essential obligation cast on the Committee.

In terms of the moral and ethical implications of this whole case, and not just in terms of its parliamentary context only, the matter examined by the Committee was both grave and far-reaching. It leaves more than bad smell in one's breath !

This has been an unique exercise in ethical and parliamentary enquiry of an extraordinary nature—one without any precedent and without any parallel in the entire democratic world.

My only satisfaction is that the Committee all along deliberated and decided over the matter conscientiously, carefully and courageously. Anything less could hardly have been expected of the Committee.

Sd/-

Dated : 7th November, 1978.

**PURUSHOTTAM GANESH
MAVALANKAR**

**NOTE BY DR. V. A. SEYID MOHAMMED, SHRI B. SHANKARANAND
AND SHRI R. MOHANARANGAM**

Introduction

We have carefully gone through the Draft Report presented before the Committee and we are constrained to say that for the reasons hereinafter stated and discussed in detail, we cannot agree with the same. The Report is basically unacceptable for the following reasons and facts :—

- (a) The Report has reproduced the extracts of one-sided evidence of various witnesses and given certain findings without analysing or co-relating such evidence to the findings.
- (b) Some of the findings are based on hearsay. A lot of hearsay evidence has been accepted in the Report.
- (c) The Report has ignored totally a large volume of evidence which would have completely destroyed the findings.
- (d) There are a number of conjectures in the Report which have no foundation on evidence.
- (e) A number of serious points raised in the course of the deliberations of the Committee have not even been referred to in the Report. Consequently the Report has failed to meet those points and it has not succeeded in dispelling the doubts in the minds of those who raised those points.
- (f) Constitutional and other legal provisions have been wrongly conceived and applied in the Report.

There is a fundamental defect in the Report. The Lok Sabha adopted Shri Madhu Limaye's motion on 18th November, 1977 which has been referred to this Committee and which empowered the Committee to enquire into the matter. Shri Madhu Limaye accused Smt. Indira Gandhi only of directing "raids against Officers for collecting information for parliamentary question". In this motion there was no charge of obstructing the officers (See page 34 of the Report). The charge of obstructing the officers was in Shri Kanwar Lal Gupta's motion. But his motion was not adopted by the House and sent to the Privileges Committee. In spite of this, the Privileges Committee went into the question of not only "raids against officers, but also into the question of obstructing the officers", in the discharge of their

duties, namely gathering information to answer parliamentary question and the Report goes further and finds Smt. Gandhi and others guilty of the offence of obstructing officers. This is patently beyond the jurisdiction of the Committee and hence any finding on this issue has not any legal validity whatsoever.

Further Shri Madhu Limaye's question was answered on 12th March, 1975. The obstruction is said to have been caused during the period 10th April to 15th April and hence the obstruction if any could not have been caused to answering the question of Shri Limaye. Moreover it is not the case that these 4 officers were collecting information to answer his question. The evidence is that they were collecting information to answer the question of Shri Jyotirmoy Bosu on 16th April, 1975. Therefore even if obstruction or harassment is proved to have been caused it were in relation to Shri Bosu's question. This matter was not referred to the Committee. Hence on this ground also the Committee has no jurisdiction.

The proceedings of the contempt of Parliament are criminal in nature and hence the rules regarding the probative value of evidence and burden of proof should be applied substantially in the same way as in criminal cases. The guilt must be proved beyond a reasonable doubt and where there is any doubt, the benefit should be given to the accused. Even though the Evidence Act may not be strictly applied, the basic rules of evidence and the prohibition against giving findings based on hearsay evidence should be followed.

Further the credibility of the witnesses should be tested as in a criminal case and where from various fact on record, it appears to be not safe to rely on the evidence of any witnesses such evidence should not be accepted.

Incredible Story

(a) *Time Factor* : The Report on page 100 paragraph XV has brushed aside material discrepancies in time factor as immaterial. But the following will show that it is not a question of mere minor discrepancy and that the discrepancies are of such a nature that the entire story is rendered totally incredible.

Shri T. A. Pai has said in his evidence "Mrs. Indira Gandhi has just returned from the tour and there was a call from her. I left my lunch and rushed to her." He said that he has lunch between 1.00 P.M. and 2.00 P.M. He also said that he met her "between 1.00 and 2.00 P.M." It cannot be a slip of the tongue or lapse in memory because when a Member repeated the question sometime later, Shri Pai stated again that it was between 1.00 and 2.00 P.M. that he met Mrs. Gandhi on 15-4-1975. It is at this meeting Mrs. Gandhi is alleged to have complained against the officers

and asked Mr. Dhawan to raid their houses. Both Shri Pai and Shri Chattopadhyaya say in their evidence before the Committee that they were together there at her residence. Shri Chattopadhyaya has given evidence that this meeting was at "7.00 P.M." Shri Chattopadhyaya repeats this time of 7 O'clock which is corroborated by the evidence of his special Assistant Shri N. K. Singh.

Shri B. D. Kumar, Chairman of the P.E.C. in a statement submitted before this Committee has said that Shri N. K. Singh saw him at 4.00 P.M. in the afternoon. He further stated "afterwards after half an hour, Shri N. K. Singh saw me again". At another stage of his evidence Shri B. D. Kumar says that he had discussions with Shri N. K. Singh between 5.30 and 6.30 P.M. There is evidence which states that Shri N. K. Singh saw Shri B.D. Kumar after 7.00 P.M. This is clear from Shri Chattopadhyaya's evidence which states that he sent his Special Assistant to Shri B. D. Kumar late in the evening. Shri Chattopadhyaya has said that at 7.00 P.M., he was with Mr. Gandhi and it is after coming from her that he sent Shri N. K. Singh to meet Shri B. D. Kumar. Shri N. K. Singh has said that he left Shri Chattopadhyaya after 7.30 P.M.

The evidence given by the witnesses is that Batliboy & Co. people, namely Shri Mathur and Shri Adeshra went to meet Shri Bhatnagar at 3.30 P.M. on that day. This is very relevant because it is at this meeting that harassment of the Batliboy people is alleged to have taken place. The evidence is that on 15th of April, 1975 Shri Pai and Shri Chattopadhyaya met Mrs. Gandhi. the two Batliboy & Co. people met Shri Bhatnagar and the alleged harassment took place, Shri N. K. Singh met Shri B. D. Kumar after Shri Chattopadhyaya directed him to do so and the meeting of Shri N.K. Singh and Shri B.D. Kumar and other officers to decide the question of suspension of Shri Bhatnagar and Shri Cavale and others took place.

Going through the evidence above, it will be absolutely clear that it is not a mere discrepancy, but the deliberate concoction of the entire story that is revealed. Shri Pai had come to know according to his evidence, about the harassment of two Batliboy people even earlier than 1 O'clock. Because he says that he had heard the complaint, but he could not tell Mrs. Gandhi because she was out of Delhi. According to his evidence it is between 1.00 and 2.00 P.M. he met Mrs. Gandhi who complained about the harassment of the Batliboy people. But according to the evidence of other witnesses who have spoken on the incident, the alleged harassment took place between 3.30 P.M. and 4.00 P.M. According to Shri Pai's evidence, he came to know of the alleged harassment much earlier that it happened and Mrs. Gandhi complained to him about the harassment between 1.30 and 2 O'clock

much before the harassment actually took place between 3.30 and 4.00 P.M. This is an amazing phenomenon!

Another interesting thing is : Shri Chattopadhyaya's evidence is that Mrs. Gandhi complained about this harassment around 7 O'clock and thereafter he sent Shri N. K. Singh to Shri B. D. Kumar and other Officers directing to take action against the officers responsible for the harassment. But as stated above, the evidence is : Shri N. K. Singh states that he met Shri B. D. Kumar three times—once around 4 O'clock, another at half an hour later, and for the third time between 5.30 and 6.30 P.M. carrying Shri Chattopadhyaya's direction. So it will appear, if these people are to be believed the harassment was taking place around 4 O'clock. Shri N. K. Singh gets direction from Shri Chattopadhyaya around 7.30 P.M. to punish the officers who have caused harassment and he meets Shri B.D. Kumar with such directions three times from 4.00 P.M. onwards. The entire story is concocted and that is why this amazing and incredible picture is presented in the evidence.

(b) *Probative value of the evidence of witnesses* : In weighing the value of the evidence of any witness or his credibility the position of the witness in the society or public life or the fact that such a witness is a colleague of the members of the Committee or the fact that any one or more of the Committee members has got very good personal relationship with him are immaterial. His evidence has to be evaluated according to the usual tests applied in weighing the evidence of any other witness. The material contradiction in the statement, the prejudice of the witnesses against the accused, corroboration or contradiction of his evidence by the evidence of other witnesses are all matters to be taken into consideration. The question has necessarily to be asked whether it is safe to use the evidence of a particular witness in the matter of convicting or acquitting an accused. It is with the above salutary principles in mind that we have approached the entire evidence before us.

The evidence of Shri Pai and Shri Chattopadhyaya are very material in the matter of deciding the culpability or otherwise of Smt. Gandhi because it is with these two witnesses that Smt. Gandhi is alleged to have discussed about the 4 Officers and it is in their presence she is said to have given instructions for taking action against these Officers. There is no other evidence which would directly or indirectly connect Smt. Gandhi to the act of obstruction or harassment. In the previous pages it has been shown how the entire story of Smt. Gandhi giving direction to take action against the Officers is totally incredible. Even assuming that the story has some credibility one has to examine whether there is evidence to connect Smt. Gandhi to the act of obstruction or harassment. The case is that Smt. Gandhi told Shri Pai that these Officers are corrupt and such allegations have been made

against them by M.Ps. and therefore appropriate action should be taken against them. Shri Pai has attributed a specific utterance to Smt. Gandhi apart from her saying that these Officers are corrupt and C.B.I. enquiry should be started. He has stated that she asked Shri R. K. Dhawan *to see that their houses are raided*. But Shri Pai has not stuck to this piece of evidence throughout. In the evidence given by him before the Shah Commission, in his Examination in Chief, before the Privileges Committee and in his further examination he gave different versions. One would necessarily ask why these variations. If Smt. Gandhi has actually stated to Shri Dhawan that the houses of the Officers should be raided it is such an important matter in the matter of deciding the culpability of Smt. Gandhi that Shri Pai should have stuck to this version throughout his evidence. The very fact that he has not done so casts a doubt on the safety of relying on this evidence.

Further even regarding the incident there is one significant variation. At one place he has stated that Shri Dhawan was called into the room where he was sitting with Smt. Gandhi and told about these Officers directing him to initiate proceeding; through C.B.I. At another stage he states that Smt. Gandhi had talked with Shri Dhawan outside the room when Smt. Gandhi and Shri Pai were coming out of the room. At still another stage he has stated that after his talk with Smt. Gandhi he came out and it was at that time that Shri Dhawan was called in. If this version is correct possibly Shri Pai could not have heard what Smt. Gandhi told Shri Dhawan. The version being so contradictory it is not safe to rely on Shri Pai's memory and recollection of the way things happened or the words spoken by Smt. Gandhi.

There is another aspect of the matter, Shri Pai seems to be a little confused whether Smt. Gandhi told Shri Dhawan to get the proceedings started against these Officers by the C.B.I. or whether Shri De Sen's name was referred in this connection. Because at one place he says action should be taken against them through the C.B.I., at another place he says that Shri Sen be asked to raid their houses. Again it is unsafe to rely on his memory or recollection.

Shri Pai has produced a copy of a letter dated 5th May, 1975 written by Smt. Gandhi to him in reply to his letter. From Smt. Gandhi's reply it appears that Shri Pai has complained that actions were taken against the Officers because of the fact that they were collecting information regarding Maruti. It does not appear that Shri Pai in his letter has referred to his meeting with her on the 15th or to the directions she is said to have given to Shri Dhawan. This is evident from the reply Shri Pai gave in answer to a question, "As a matter of fact in my letter I had not referred to my discussion with her; I did not refer to the fact that she was angry. Unfortunately Shri Pai has not produced the copy of his letter of the 5th May

to Smt. Gandhi so we are left to conjecture. Throughout his evidence Shri Pai has maintained that Smt. Gandhi on no occasion told him that these Officers were collecting information or that she was annoyed by such collection.

Shri Pai has given evidence that his sister's house was raided and she was humiliated and this fact was brought to the notice of Smt. Gandhi. Shri Pai was naturally very much upset about it but nothing was done. It is also in evidence that there was a CBI, enquiry against himself on the basis of a complaint brought to Smt. Gandhi by some M.Ps. In this connection Smt. Sarojini Mahishi, M.P's name has been mentioned. Shri Pai has stated in his evidence on 29-3-1978 that he wanted "to fight it out with Smt. Gandhi". This shows his frame of mind and his approach to the entire matter. From the evidence stated above it is clear that Shri Pai had sufficient reason to be prejudiced against Smt. Gandhi. This being the position it will not be safe to rely on the evidence given by him.

Now we have to examine the evidence of Shri D. P. Chattopadhyaya. The evidence of Shri Chattopadhyaya shows that around 7 O'clock on the 15th of April he met Smt. Gandhi at her residence and she was in an agitated mood and she complained against Shri Bhatnagar one of the 4 Officers against whom actions were taken. Shri Chattopadhyaya wrote a note to Shri B. D. Kumar, Chairman, P.E.C. under whom Shri Bhatnagar was working. In that note he has stated as follows :—

"For sometime I have been receiving persistent complaints about the behaviour of certain Officers of P.E.C. a subsidiary of S.T.C." He has further stated "I would like the Chairman, P.E.C. to take suitable disciplinary action against the Officer." The Officer referred to is Shri Bhatnagar. One thing to be noted is that in his oral evidence, Shri D. P. Chattopadhyaya has stated that it is Smt. Gandhi who complained against Shri Bhatnagar and it is on that complaint that he took this action but the Note shows that he had been receiving *persistent complaints for sometime* against some of the Officers including Shri Bhatnagar and it is on that basis that he directed disciplinary action against Shri Bhatnagar. It is said that witnesses may tell lies but documents do not. It is therefore obvious that Shri Chattopadhyaya has taken action for reasons other than what he has stated in his oral evidence, namely the complaint by Smt. Gandhi.

Shri Cavale is another Officer who is alleged to have been obstructed in collecting information and harassed for it. According to the evidence of Shri Chattopadhyaya, Smt. Gandhi referred only the name of one Officer, namely Shri Bhatnagar of the Commerce Department. But it is found that action has been taken against Shri Cavale by ordering his transfer from Delhi to Madras. Shri Chattopadhyaya does not refer to the name of Shri Cavale. It is a mystery on whose direction and note and on whose order

such action was taken. Shri Parckh, Chairman of STC in his evidence has said that Shri N. K. Singh, Personal Assistant to Shri Chattopadhyaya and Shri B. D. Kumar were at a meeting with him and action was taken against Shri Bhatnagar as per the result of the decision of the meeting. Therefore it is clear that there is no evidence that action was taken against Shri Bhatnagar or Shri Cavale on the request or direction of Smt. Gandhi. There is no evidence showing that Smt. Gandhi even mentioned Shri Cavale's name to anybody let alone asking anybody to take action against Shri Cavale.

Motive

The Report on pages 120-121, paragraph 158 states, "The plant, machinery or equipment purchased by the Maruti Ltd. was by surreptitious method circumventing the stipulated conditions of the licence issued to the company specifically debarred from importing any plant, machinery or equipment from outside." "If this device of outwitting the liability was brought to the knowledge of the Lok Sabha the matter would have created a furor in the House against the Maruti Ltd. and for that matter it would have created a public embarrassment to the then Prime Minister, Smt. Indira Gandhi."

The Report on page 91, paragraph (xiv) has stated further :—

"The evidence before the Committee clearly reveals that the action against the concerned 4 Officers was taken and CBI investigations against them were initiated at the instance of Smt. Indira Gandhi, former Prime Minister because they contacted Messrs. Maruti Ltd. and Messrs. Botliboi and Co. to collect information about the imported machine tools installed in the factory of Maruti Ltd. which were prohibited under the licence granted to Maruti Ltd. by the Government."

This is the motive attributed to Smt. Gandhi to be angry against the Officers who were collecting information for the Minister's reply in the Lok Sabha.

This finding is not supported by evidence on record.

Shri Pai has stated : "But I do not know *what upset those people* because this question could have been answered by me without any problem." Shri Pai further stated, "*There was nothing in the question which can upset anybody. There was nothing to hide also from the House,*" and Shri Pai has repeatedly said this in his evidence. He has said, "Granting that he (Shri Sanjay) had imported some machines he could have claimed perfect legitimacy for doing this, saying that in the procedures that we had laid down, there are loopholes and anybody could have taken advantage of them."

This being the position, the very foundation of the finding of the Report quoted above is shattered and the reason for Smt. Gandhi's getting annoyed and angry thereby making her resort to obstructing the officers from collecting the information and harassing them for having collected such information ceases to exist.

From the evidence of Shri Pai it is clear that there was nothing in the question to make anybody upset. In fact the evidence on record will show that it is not the first time that questions have been asked in Lok Sabha and Rajya Sabha about Maruti. Records produced before the Committee show that between February 25 to 8th of June, 1975 in Lok Sabha 24 questions were asked on Maruti and in Rajya Sabha 3 questions were asked. Some of the questions were asked concerning allegations against Maruti in the matter of importing machinery and suggesting even a racket. Question No. 8 to be answered on 7-3-1975 put by Shri Jyotirmoy Bosu suggested that the residential premises of Shri Raunak Singh and Shri Kapil Mohan, Directors of Maruti were raided by the Income-tax authorities. There were other questions containing allegations of black money transactions and income-tax irregularities. For gathering information regarding these questions there does not seem to have agitation or anger on the part of Smt. Gandhi. Therefore it is extremely unlikely and improbable that for collecting information in this matter which is absolutely innocuous, as Shri Pai has himself stated it was a legitimate transaction and it contained nothing which has to be hidden from the Lok Sabha, Smt. Gandhi was so angry and upset to order harassment of the 4 Officers.

A further question has to be asked. In the collection of information for the questions in issue to be answered in Parliament, assuming for the time being that these 4 Officers were involved, there were other Officers and subordinate officials also who played much more important role. Comparing their role the role of these 4 Officers were extremely negligible. Shri Ghosh, a Joint Secretary who wrote a letter to Maruti and who was incharge of answering questions and who gave directions or requested the officials to collect the information has not been touched at all. It is he who wrote to Maruti Ltd. to supply the information. Shri C. B. Gupta, Under Secretary wrote to PEC. There were 2 other subordinate officials who acutally went to Maruti and demanded permission to examine the machinery and to take inventories in Maruti. They were not touched at all. Shri Rajan who is one of the 4 Officers has repeatedly stated that he had nothing to do with the collection of information and he had not collected any information. Yet the Report finds that alongwith other Officers he was also harassed for collecting information. Shri Bhatnagar or Shri Cavale has practically done nothing worthwhile in the form of collecting information. What Shri Bhatnagar did was to take a paper which was supplied by the Batliboi and Co. in the office at about 4 O'clock and to hand it to his superior officer. Similarly Shri Cavale had also played no worthwhile role in collecting information. Shri Krishnaswamy in spite of the direction of his superior officer to send telegrams to various companies to collect the information did not do so. The only thing he seems to have done is to contact Shri Rege at the Maruti factory but the actual request was not made by him but by Shri Ghosh, the Joint

Secretary, and on the spot inspection was requested by 2 other individuals as stated above. It is strange to note that neither of these officials who are alleged to have gone to Maruti for spot inspection and taking inventory is examined at all. What is said to have transpired at the Maruti factory is not spoken by any of these two officers who are said to have gone to Maruti. The evidence is that these two Officers who are alleged to have said to Shri Krishnaswamy and the evidence is Shri Krishnaswamy's version and what is supposed to have been told by them to him. This hear-say evidence is of the worst order.

The Report on page 91 paragraph (xiv) states : "Shri D. Sen was unable to recollect even a single instance apart from a very old instance of late Prime Minister Nehru's period where complaint of corruption etc. against officials emanated from Prime Minister as in the present case. [Shri R. K. Dhawan also could not give any such instance]." This finding in the Report is to suggest that under Smt. Indira Gandhi's direction CBI enquiries were started against these 4 officers and this was extra-ordinary and suspicious. In the first place the finding is not correct at all and is against the evidence on record. It has not taken into consideration the evidence of Shri Sen himself who said that in a number of cases Smt. Gandhi herself has directed such enquiries. He has further stated that during Shri Lal Bahadur Shastri's time as Prime Minister on his direction an enquiry against an Officer was initiated by the CBI. Such an instance is cited from Shri Nehru's time also. Further it is evident that on Smt. Indira Gandhi's request CBI enquiry was initiated against Shri Pai. It is therefore, obvious that the above finding in the Report has ignored entirely this volume of evidence.

Obstruction of collection of information

It has already been stated that these 4 Officers were really not collecting information and if at all they were doing so their role was practically negligible and the persons who were in fact responsible for the collection of information like the Joint Secretary, Shri Ghosh, the Under Secretary Shri Gupta and the other 3 officials who went to Maruti have been left out.

It has been the consistent stand of all the witnesses from the Minister Shri T.A. Pai downwards to the most subordinate official who has given evidence that there was no necessity for collecting the information, that the information was already in the files of the concerned department, that the government had no business to collect such information and that private parties like Maruti Ltd. were not bound to give the information.

Shri Pai has stated "So far as I am concerned whatever may be the relation with the Government and the particular company I can furnish the information. What an individual party does outside how can I be expected to furnish

the information, if the Hon'ble Member wants me to furnish the information." The Chairman of the Committee reminded Shri Pai in the following words :—

"You have categorically mentioned that there is no obligation or authority on the part of the Minister to get any kind of information from any private source." Shri Pai has stated, "Yes, we could have replied even without collecting the information." He has said in reply to a question "When did Shri Dhawan ring you up?" Shri Pai replied, "it must be 4 or 5 days earlier than the question was asked (*i.e.* the 16th). The Officers were ready with the answer much earlier". It may be recalled that the Maruti factory was visited by the 2 Officers on the 10th of April. Shri Pai says much earlier than the 10th the Officers were ready with the answer. Shri Pai has further stated that he had sufficient information to reply to all the supplementaries as well.

It may be noted that in a reply to the question Shri A. C. George, Minister of State for Industrial Development stated in the Lok Sabha, "The Government does not collect nor is an industrial unit required to furnish information with respect to machinery purchased locally." It is in evidence that Maruti Ltd. had installed certain machinery imported by the PEC and sold through some private agencies like Batliboi & Co. on stock and sale basis, making rupee payment. For such transactions Government's permission is not necessary. It is in this connection that Shri Krishnaswamy has stated "since they were a private party and the Government is not expected to keep this kind of information I submitted the draft accordingly. There is a Lok Sabha rule that in respect of private parties they are not expected to give detailed information." Rule 41 sub-rule 2 (xiv) of the Rules of Procedure of Lok Sabha says that the question asked in the Parliament "shall not raise matters under the control of bodies or persons not primarily responsible to the Government of India." Rule 41, 2(vii) states, "It shall not relate to a matter which is not primarily the concern of the Government of India."

Shri Sondhi referring to the reply given by Shri A. C. George which has been referred to above stated that the answer was justified in the given circumstances. It is also in evidence that on the 12th Shri Krishnaswamy was told that no further information is necessary. Shri Ghosh has stated "I went to the Minister's house and I was told by the Minister that no further information need be collected apart from what we have already collected for answering the question." When Shri Krishnaswamy contacted Shri Bhatnagar for information he told him "It is already there you check up and sit with the Finance Department and give the information." Shri Krishnaswamy stated "So we were able to answer this question with the information available from our records and knowledge we had in our possession." Shri Krishnaswamy said that sometime in February, 1975 that 2 Officers of the DGTB went to Maruti Factory and inspected the machinery and they have

submitted a report with full details as well as the price of the machinery. It may be noted that this was just about a month or two before the 2 Officers who were alleged to have been obstructed from collecting the information went to Maruti with the Joint Secretary, Shri Ghosh's letter. In spite of the fact that all the necessary information was already there on record as contained in the report of the two officers who inspected Maruti in February where was the necessity of sending two officials to Maruti with Shri Ghosh's letter for inspection and for taking inventory. A further query also arises whether the entire story of collection of information is itself not concocted? The notes prepared for replying the questions including the supplementaries have been placed on record. The notes were put up by the Under Secretary and approved by the Director, Shri Krishnaswamy, Shri Ghosh, Joint Secretary, Secretary Shri Sondhi and the Minister Shri Pai. Paragraph 6 of the note is quoted below:

"Information regarding machinery purchased by companies locally is required to be given either in respect of their value or the names of the agents from whom they were procured. No return of the DGTC prescribes such details to be given by the firm on their own volition. Such information is not normally required for any purpose of Government and is therefore not asked for. It would in fact be impossible to collect such information from hundreds of firms looked after by Government and as has been mentioned since such detailed list are not required they are not called for from the parties. In the case of Maruti as has been categorically stated no relaxation of the conditions of the licence in respect of import of machinery has either been asked for or been given. The question, therefore, of obtaining machines from any other source other than the local one did not arise and therefore, a categorical answer to unstarred question No. 2980 had been given. Since Maruti Limited had not been shown any concession in regard to import of machines, it was not considered necessary to ask them to furnish a list of machines and the need would have arisen only had there been any concession shown to Maruti Limited."

It is very significant that there is no mention by any of the officers who prepared or approved the notes about the incident at Maruti and that sufficient information could not be collected.

It is, therefore, clear that there was no necessity for collecting information. Information were already with them and from the records and other materials the Minister could have replied the question. The question was replied with the information available and reply given and it was justified and there was sufficient material to reply even the supplementaries. The Government was not bound to collect information from M/s. Maruti and M/s. Maruti have no obligation to give information. This being the position, assuming there was obstruction, one fails to understand how the Parliament was deprived

of getting the necessary information. In the contempt proceedings one is concerned only with the question whether the Parliament was prevented from getting information which it obviously was not.

Evidence about obstruction

There is not even a scrap of evidence or even a suggestion that Smt. Gandhi directly or indirectly did anything to obstruct the officers from collecting the information. There is the hearsay evidence of Shri Krishnaswamy that two officials went to M/s. Maruti and they were not allowed to go and inspect the factory. None of the two officials who went to M/s. Maruti has been examined. The Manager of Maruti told them that the Managing Director was not there and without his permission he cannot allow them to enter the premises or inspect the machinery. On the telephone Shri Rege told Shri Krishnaswamy that if he contacted him he will be able to give the information the next day, namely, Saturday. But in reply to a pointed question to Mr. Krishnaswamy he replies that on Saturday or thereafter, he did not contact Shri Rege. If Shri Krishnaswamy did not contact Shri Rege on Saturday and collect the information how can it be said that Shri Rege or anybody in M/s. Maruti Ltd. obstructed the Officers from the collection of information? Assuming that Shri Rege did obstruct, what is the evidence to show that Smt. Gandhi, Shri D. Sen, or Shri R. K. Dhawan had anything to do with Shri Rege's action. As has already been stated, M/s. Maruti was not obliged to give information. Even if Maruti Manager refused to give such information it will not amount to obstructing them from collecting the information.

It has to be examined whether these officials had any authority or power to go and demand inspection of Messrs. Maruti premises and machinery. Shri Krishnaswamy has stated that they had no such authority, but he tried to feebly rely on Section 19 of the Industrial Development Act. Section 19 says that anybody authorised by the Central Government can inspect the factory premises for carrying out the purposes of the Act. In the first place giving information to reply to a question in the Parliament is not one of the purposes of the Act. Secondly, there is no evidence that anybody was authorised by the Central Government to inspect even under this section. Thirdly, Industrial Disputes Act covers the industries notified under the Act. There is no evidence that M/s. Maruti Ltd. is one of the industries or types of industries notified under the Act. If in these circumstances, if anybody goes and demands the inspection of the private premises of the Maruti factory, even if they are obstructed, such obstruction cannot be considered as contempt of Parliament. Any private individual is entitled the privacy of his premises and will be justified to prevent unauthorised persons from inspecting his premises.

Shri Rajan has said that somebody telephoned to him and told him that the person who was speaking, was Shri R. K. Dhawan from the Prime Minister's residence and that Shri Rajan should not go on collecting the information. Shri Rajan has admitted that he did not know Shri Dhawan and except his above statement, there is no evidence that it was Shri Dhawan, who was actually speaking on the phone. Nobody can be found guilty of an offence on such evidence. There is no allegation or evidence that Shri D. Sen caused obstructions. He comes to the picture only from 15th onwards and he is accused of only harassment.

Harassment

To bring home the charge of harassment and the subsequent contempt of Parliament to the accused, it has to be proved that the officers concerned were harassed that they were harassed because they were collecting information to answer the parliamentary question and that the accused directly or indirectly caused harassment.

From the discussions in the proceedings pages, it is clear that the fact that they were collecting information itself has not been proved or is doubtful and that the information was not necessary to be collected to reply the parliamentary question. Even without that information from outside sources, the question could have been answered satisfactorily on the basis of records and other information already available with the concerned department. The question was satisfactorily and justifiably answered and that the Parliament was in no way prevented from getting the necessary information. The discussion further shows that the entire story of Smt. Gandhi calling Shri Pai and Shri Chattpadhyaya and her giving directions to Shri Dhawan to take action against concerned officers departmentally or through CBI is incredible. The logic of the entire Report seems to flow on the line that these 3 Officers were trying to collect information and certain actions were taken against them and therefore, it necessarily follows that such actions were taken because they were collecting information. The report has not sought, even assuming that the officers were collecting necessary information to establish a link between the collection of the information and the acts of harassment. As already showed no motive for Smt. Gandhi for harassing the Officers has been established. On the contrary, as already showed, there was no reason to put in Shri Pai's own words "for these people to get upset" let alone going to the extent of harassing these officers.

The Report has gone on the basis that since departmental action has been taken against two officers and there were CBI enquiries and follow up action against these officers it necessarily follows that they were harassed. The logic seems to be strange in another aspect also, namely that since ultimately

they were not found guilty, the actions taken was *mala fide*. But a very telling circumstance has been altogether ingored. It is proved from the records produced and the oral evidence given that the recommendation of the Vigilance Commission reveals an entirely different story. The CBI recommended that a minor punishment should be imposed on Shri Rajan. But the Vigilance Commission was "rather surprised that only minor penalty proceedings had been recommended against Shri Rajan". In the case of Shri Bhatnagar, the CBI recommended a major penalty. But the Vigilance Commission wanted only a minor penalty. In the case of Shri Krishnaswamy, the Commission exonerated him. In the case of Shri Cavale, by the time the investigation was completed he had already resigned and no further action was taken or recommended against him. It, therefore, follows that it is not as if there was no basis whatsoever for the action taken by the CBI against these officers. The complaint against each officer contained very serious allegations. Shri Chattpadhyaya himself has in his Note referred to above stated that *persistent complaints have been received for some time* against Shri Bhatnagar about misbehaviour and misconduct. Against Shri Rajan, the following information was given to the CBI, "Shri Rajan in DGTD is a corrupt officer and by his corrupt practices has attained assets disproportionate to his known source of income". Against Shri Cavale, accusation of assets beyond his known income and living beyond his means and the question of certain assets of movable and immovable properties disproportionate to his known source of income have been alleged. Against Shri Bhatnagar, also similar allegations were made. Against Shri Krishnaswamy ownership of a number of shares in as well as 18 to 20 companies, taking heavy insurance in his own name etc., were alleged. It is based on this information that the CBI proceeded with the verification and investigation. It is obvious if the CBI did not proceed further on receiving this information and kept quiet, the senior officers of the CBI and particularly Shri D. Sen, the Director of CBI could easily have been accused of failure in their duty. The searches and other proceedings taken were essential, logical and usual steps which are taken in similar situation. Further they had taken necessary warrants from the Court and it has not been alleged or proved that searches and other steps were conducted in a way which could be said to have gone beyond permissible limits. Under the circumstances the CBI could have even arrested them and put them under custody if the intention was to harass them. But they did not do so. This shows that there was no intention to harass.

It may be noted that the CBI has investigated every year about 1,500 cases against Government officials. Preliminary steps like searches and even arrests are made in many of these cases. It is also on evidence that vast majority of these cases do not ultimately end in any conviction of the concerned officers.

From the above, it follows that nothing extraordinary has been done or that the officers were subject to unnecessary harassment. In order to come to the conclusion that these officers were harassed because of the fact that they collected information, one has to resort to extraordinary logic, twist facts and evidence considerably indulge in imagination and conjectures without any basis on evidence whatsoever and forget all cannons of evidence.

Assuming that there was harassment it has to be proved that the 3 accused, namely, Smt. Gandhi, Shri D. Sen and Shri Dhawan had direct connection with the act of harassment. As far as Smt. Gandhi is concerned, regarding the version of Shri Pai and Shri Chattpadhyaya sufficient reasons have already been given why their version could not be accepted. Smt. Gandhi has mentioned the name of only two officers, namely, Shri Bhatnagar and Shri Krishnaswamy. She has not mentioned the other two names. Further leaving out Shri Pai's incredibls version that she asked Shri Dhawan to get their houses raided, the only evidence is that she told that complaints have been received against these officers and the allegations may be enquired into. This is quite in keeping with the practice of the Prime Ministers of this country who on complaints from MPs and other responsible people referred the matter for investigation. Such things have happended at the time of Pt. Nehru as well as Shri Lal Bahadur Shastri. No Prime Minister worth the name would keep quiet when responsible persons made complaints against the corruption of Government officials.

Regarding the involvement of Shri R. K. Dhawan, it is true that there is evidence that he gave the names of the officers to enquire into the allegations. But this bit of evidence is given by Shri D. Sen, who himself is an accused. It is a salutary principle of the law of evidence and fair trial that the evidence of an accused cannot be accepted and acted upon as against a co-accused, unless there is sufficient corroboration. In this case there is none, apart from this piece of evidence which is worthless. There is no other evidence which will conclusively prove that Shri Dhawan was responsible for the harassment. Nobody can be found guilty on the suspicion and conjectures.

Regarding Shri D. Sen, there is no evidence to prove that he knew that these officers were collecting information regarding M/s. Maruti Ltd. or that he has acted in any way which is derogatory of his duties and that he acted *ma la fide*. If at all anything can be said, it is only that he acted in the discharge of his duties. It may be that he acted very promptly but that is only expected of an officer who rightly or wrongly thinks that the complaints have been made through the then Prime Minister.

In view of the above convincing facts and circumstances, there is no other conclusion possible except that the 3 persons accused of harassment are not guilty of that offence.

Constitutional and legal propositions raised by Smt. Indira Gandhi

Whether a case of alleged breach of privilege against Parliament in one Lok Sabha can be raised in a subsequent Lok Sabha ?

Smt. Indira Gandhi in her written statement dated 1st March, 1978 has stated "contempt proceedings of breach of privilege of the House will not ensure beyond the life of the House". The Report has discussed this issue and has come to the conclusion "a breach of privilege against one Lok Sabha can be examined and punished after the dissolution by a succeeding Lok Sabha". We do not find it possible to agree with this conclusion. Dealing with this question it is stated in *May's "Parliamentary Practice"* 19th Edition Chap. XIV at page 259 "this period of course contains the interregnum between the dissolution of Parliament and meeting of successor House in which *there is no Parliament in existence*". Discussing various authorities on page 162 of "Practice and Procedure of Parliament" 1972 edition by Sakhdhar and Kaul it is stated as follows :—

"Dissolution as already stated marks the end of a House and is followed by the constitution of a new House. The consequence of dissolution are absolute and irrevocable." The Lok Sabha alone is subject to dissolution under the Constitution. *"Dissolution passes a sponge over the parliamentary slate. All business pending before it or any of its committee lapse on dissolution. No part of the record of the dissolved House can be carried over and transcribed into the records and register of the new House."* It is further stated, "In short the dissolution draws the final curtain on the existing House".

Markisinia in his book "The Theory and Practice of Dissolution of Parliament" 1972 edition at page 15 states "Premature interruption of life of Parliament has innumerable results which affects the assembly as a body as well individual members." Likewise its work is also ended by dissolution. The parliamentary consequence of dissolution is that the Parliament *legally ceases to exist* and cannot perform its legislative functions. ".....it is generally acknowledged however that the *main effect of dissolution is the termination of the life of Parliament*".

At page 628 of Basu's "Commentary on the Constitution of India" Vol. II, 5th Edition it is stated *"Dissolution puts an end to the very life of Parliament and calls for fresh elections. It follows the subsequent Parliament cannot take cognisance of breach of privilege which took place during the life of the previous Parliament nor can it revive proceedings of any contempt which may have started during the life of previous Parliament. While in the case of prorogation it is the same Parliament which reassembles after prorogation, in the case of dissolution it is a new Parliament altogether and it cannot take up on itself the business of punishing any contempt against previous Parliament"*.

Section 14 of the Representation of Peoples Act states "A General election shall be held for the purpose of constituting *a new House of the People* on the expiry of the duration of the existing House or on its due dissolution". It is to be noted that the Representation of People's Act is a legislation passed by the Parliament and it is obvious that the Parliament has deliberately used the expression 'New House' making it clear that the old House is no more in existence and the House which comes into existence after the dissolution and the fresh election is altogether a new 'House' in the legal sense.

Rule 222 of the Rules of Procedure and Conduct of Business of the Lok Sabha Chapter 20 deals exclusively with the privileges of the House states, "A Member may with the consent of the Speaker raise a question involving a breach of privilege either of Member of the House or of a Committee thereof". This Rule speaks about *the House*. The Rules of Procedure and Conduct of Business in the Lok Sabha are framed under Article 118 of the Constitution which states, "Each House of Parliament may make rules for regulating..... its procedures and conduct of its business".

Our Parliament is constituted of the Rajya Sabha and Lok Sabha. Rajya Sabha by the mechanism of biennial election is a continuous House (under Art. 83) whereas Lok Sabha has no such continuity. That House either by dissolution or by the expiration of its period comes to an end. By reason of the continuity of the Rajya Sabha it may be said that the Parliament legally maintains its continuity. Each of the House has as already shown above, difference in the matter of continuity. This being the position in India we have to primarily look to our constitutional law and structures and any precedents available from other countries should be read only subject to our constitutional structure and provisions.

The Report has relied on certain precedents of the House of Commons. These precedents are of the 16th and 17th centuries. The facts and circumstances of these cases are not available hence it is not possible to find out whether these cases have any parallel to our present case. Further such precedents from the distant past may not be relevant because it is an accepted principle in the legal field that by the fact of non-use for centuries a principle may become no more valid and operative. This doctrine is known as *desuetude*. What Article 105(3) of the Constitution states is that until by law Parliament defines the privileges of the House of Commons existing law at the commencement of the Constitution shall apply. It is not sufficient to show certain precedents of the House of Commons of the 16th or 17th century to establish the law of the parliamentary privileges in England at the commencement of our Constitution.

The above being the legal position we have to examine whether the Lok Sabha has established any particular position in this regard through its practice, precedents and conventions. The Report has relied on Tul Mohan Ram's case which the 5th Lok Sabha referred to the Committee of Privileges. This case was under the consideration of the Committee of Privileges of the 4th Lok Sabha. The Attorney General in his opinion submitted to this Privileges Committee, has refused to accept it as a precedent on the ground that the question whether a case pending before the Privileges Committee of the 4th Lok Sabha can be taken up by the Privileges Committee of the 5th Lok Sabha was not raised and there was no ruling by the Speaker, in Tul Mohan Ram's case. The Attorney General categorically stated, "*in absence of any ruling this cannot be regarded as a precedent*". It is strange that in spite of the Attorney General's unequivocal and definite opinion in this regard the Report thought it wise to treat it as a precedent.

The other case is that of Shri T. N. Kaul. It related to a statement made by Shri T. N. Kaul who was our Ambassador in the United States. The question whether a breach of privilege committed in relation to the previous Lok Sabha can be raised in the successor House was in issue in that case. Shri Sanjiva Reddy the then Speaker of the House gave the following ruling, "Shri Kaul's remarks were made in July 1975 when the 5th Lok Sabha was in existence. The matter cannot be raised as a privilege issue in the 6th Lok Sabha". No ruling can be clearer and more categorical than this and this is a clear precedent for the present Lok Sabha. It is unconvincing and amazing that the reasoning adopted in the Report to the effect that Shri T. N. Kaul's case has neutralised Tul Mohan Ram's case and in that neutralised state of affairs we have to follow the precedents of the House of Commons of U.K. The Report has further, by a strange logic come to the conclusion that the present case itself is a precedent establishing that a subsequent House can deal with the contempt committed in relation to the previous House. It has been stated in the Report that the Speaker's ruling on Shri Sathe's objection has established a precedent to that effect. But Shri Sathe's objection was raised under Rule 224 of the Rules of Procedure which states that the question shall be restricted to a *specific matter of recent occurrence* and the Speaker ruled that when a matter comes to light at a later stage the Parliament has a right to take it into consideration. Therefore it is clear the issue before the House was whether the matter was of recent occurrence under Rule 224 and not whether a contempt committed in relation to a previous House can be dealt with by a subsequent House. Yet the Report interpreted it to mean that the Speaker has ruled that a subsequent House can deal with a contempt relating to a previous Parliament. We are constrained to state that we find it difficult to stretch our imagination and logic to accept this reasoning.

Therefore it is our view that the successor House has no jurisdiction to deal with a privilege committed in relation to the previous House and consequently the entire proceedings of the Committee in the present case, the Report and its findings are invalid and honest in the eye of law.

Protection against self-incriminating

Article 20(3) of the Constitution

Smt. Gandhi in her written statement has raised an objection that she has the fundamental right under Art. 20(3) of the Constitution against compulsory testimony and against self-incrimination since she is an accused before the Committee. Her plea is that she cannot be compelled to take oath or to give evidence. Pleading the protection under Art. 20(3) she refused to take oath or to give evidence. The report at page 117 paragraph 150 contains its conclusion that she has no such protection and her refusal to take oath and to give evidence amounted to breach of privilege and contempt of the Committee.

Art. 20(3) of the Constitution reads as follows : "no person accused of any offence shall be compelled to be a witness against himself". Art. 367 of the Constitution says that General Clauses Act 1897 shall apply for the interpretation of the Constitution. Section 3(38) of the General Clauses Act states "an offence shall mean any act or omission made punishable by any law for the time being in force". The contempt of Parliament or breach of parliamentary privileges is an offence under Art. 105 of the Constitution. Smt. Gandhi is an accused before the Committee for the alleged violation of parliamentary privilege and committing contempt of Parliament under Art. 105 of the Constitution. Therefore it clearly follows that she is a person accused of an offence and she cannot be compelled to give evidence against herself.

We feel that the findings in the Reports are wrong for the following reasons :—

The doctrine against self incrimination has a long history. It arose from a feeling of revulsion against the methods adopted and the barbarous sentences imposed by the Court of Star Chamber in England. As a result of popular agitation the Court of Star Chamber was abolished and the principle that an accused should not be put on oath and that no evidence should be taken from him came in vogue. In the course of time this principle was extended as a privilege to witnesses against self-incrimination in giving oral testimony or in producing documents.

Shri S. M. Seervai has summarised in his authoritative book 'Constitutional Law of India' II Edition Vol. I at page 499 to 500 the history of the doctrine in India. "In India Section 3 of the Act 15 of 1852 recognised that the

accused in criminal proceedings shall not be a compellable witness for or against himself. In Sec. 204 and 203 of the Criminal Procedure Code 1861 it was provided that no oath was to be administered to the accused. Section 345 of the Act of 1872 also provided that no oath or affirmation was to be administered to the accused. These provisions were continued in the later codes of the Criminal Procedure. The Indian Law of self-incrimination continued to be the same as the English Common law as regards the accused". Again on page 517 after analysing the various Supreme Court and High Court decisions Shri Seervai states, "It will be seen that Sec. 342A completely protects an accused if he does not wish to give evidence because Section 342A proviso (b) prevents any adverse inference being drawn or any adverse comments being made against him, for not giving evidence. Section 342A enables an accused to give evidence if he desires to do so". At page 518 he states, "He has the privilege of remaining silent". It is confirmed under Sec. 342 Cr PC and even more completely by Art. 20(3).... It is submitted therefore that Art. 20(3) confers a privilege on an accused which he can waive by giving evidence.

The above provisions of law and the authorities on which Shri Seervai has relied to make his authoritative comments will clearly show that Smt. Gandhi is a person accused of an offence under Art. 20(3) and therefore she cannot be compelled either to take an oath or to give evidence against herself unless she voluntarily does so. In the light of the constitutional and legal position Smt. Gandhi was perfectly within her right to refuse to be sworn in or to give evidence and by exercising her constitutional and legal right she has not committed any contempt of the Committee or a breach of privilege.

We may also refer to one of the reasonings on which the above finding of the Report to the effect that she has committed a breach of privilege and contempt of the Committee. The Report relied on Rule 272 (1) of the Rules of Procedure and Conduct of Business in Lok Sabha which states, "A Committee may administer oath or affirmation to a witness examined before the Committee". Quoting this rule the Report has relied on it to find that the Committee has the power to administer oath or affirmation to a witness. In the first place this rule relates to a witness and not to an accused. Smt. Gandhi is an accused and her right under Art. 20(3) does not conflict with rule 272(1). If in the face of the clear and unambiguous right given to a person under Art. 20(3) which is a constitutional provision if Rule 272(1) purports to take away that right that rule shall be violative of the Constitution and therefore invalid.

Conclusion

Considering all the above aspects, both questions of law and facts we reiterate that the findings in the Report that Smt. Gandhi and the two others have committed breach of privilege of the Parliament is unsustainable in law

or on facts. Hence the recommendation contained in the last paragraph of the Report to the Parliament to award punishment according to the wisdom of the House is not justified. We, therefore, recommend that further proceedings against Smt. Gandhi, Shri D. Sen and Shri R. K. Dhawan in this matter may be dropped.

Sd/-

Dr. V. A. SEYID MUHAMMED

Sd/-

B. SHANKARANAND

Dated the 8th November 1978

Sd/-

R. MOHANARANGAM

NOTE BY SHRI NARENDRA P. NATHWANI

I agree with the finding of the Committee that a serious breach of privilege is committed and also generally with the arguments advanced by the Committee and Shri Ram Jethamalani in support of the same. I, however, wish to add, *inter-alia*, the following:

I. Power of Parliament to punish for contempt:

Such a power is regarded as indispensable to any responsible body, whether legislative or judicial for vindicating its authority and for due discharge of its functions. A contempt proceeding is generally of a summary nature and fair trial is to be given to the contemner. Rules 224 to 228 and other relevant general Rules of Parliamentary Committees of "Rules of Procedure & Conduct of Business in Lok Sabha" are intended to ensure such a summary and fair trial. Conventions and precedents of the Committee of Privilege also serve the same purpose.

II. Nature of information collected by the four officers and its relevancy:

From the Unstarred questions Nos. 4175 and 2980 and Starred Question No. 656 answered in Lok Sabha on 11th December, 1974, 12th March 1975 and 16th April 1975 respectively it is apparent that information was sought whether M/s Maruti Ltd. had imported and/or installed foreign machinery in breach of conditions of its industrial licence. In order to appreciate the importance of the matters, it is to be remembered that on August 10, 1970, the then Minister of Industrial Development announced in Lok Sabha government's policy regarding manufacture of cars both in public and private sectors. According to this policy:—

- (a) for public sector project for cars based on proven foreign design to be set with foreign collaboration the bulk of machine tools had to be procured within the country giving a further fillip to the indigenous machine tool industry, particularly the Hindustan Machine Tools Ltd, and an endeavour had to be made to the maximum extent possible to rely on local ancillary industries—thereby creating significant opportunities for employment for technical personnel.
- (b) for private sector the Government had received proposals from private parties some of whom had claimed that they were in a position to manufacture cars based on completely indigenous sources,

and with a view to encouraging the growth of indigenous talent and resources the Government decided to issue letters of intent to such of the private parties as were prepared to take up manufacture of cars based on completely indigenous designs and without requiring imports or allocation of foreign exchange.

It would be seen from this that a car manufacturing company in private sector was prohibited from importing and/or installing any foreign machine tools but had to use only indigenous machinery and raw materials.

In pursuance of this policy M/s Maruti Ltd. for and whose behalf of whom an application for industrial licence seems to have been made on 11th December, 1964 was issued a letter of indent on 30th September 1970, M/s. Maruti Ltd. was incorporated on 4th June, 1971 and an industrial licence issued to it on 25th July, 1974. The first condition of this licence was that no import of capital goods would be permitted. It was further provided no import even of components or raw materials would be allowed, though this condition seems to have been relaxed later.

In the context of Government policy for car manufacture in private sector it was, therefore, a necessarily implied condition of Maruti's industrial licence that all the machine tools for setting up its factory would be indigenous. To me, therefore, it seems futile to contend that there was a loophole in the industrial licence and M/s. Maruti Limited were free to buy locally with Indian currency foreign machinery from business associates of Projects Equipment Corporation who imported the same on stock and sale basis as latter's agents and that no breach of licence was thereby committed.

But even assuming that there was such a loophole the question still remains whether M/s Maruti Limited had not itself imported such machinery by using business associates of P.E.C. as its dummies. That such an information could have been then sought is not hypothetical is amply borne out by Shri Jyotirmoy Bosu putting supplement questions on April 16, 1975 regarding Maruti Ltd. having used such dealers as dummies. The Hon'ble Minister stated that he was unable to verify the same and give information.

Again even apart from compliance with the conditions of industrial licence, information about the nature and extent of foreign machine tools installed by Maruti Ltd. was material in the context of Government's policy of car manufacture in private sector. Even the alleged loophole, particularly if it had then come to be known that it had resulted in M/s. Maruti Ltd. installing in its foreign machinery worth about Rs. 48 lacs purchased from M/s. Batliboi & Co., would have created a furore in Parliament against the Government and Ex-Prime Minister whose son Shri Sanjay Gandhi controlled and was the Managing Director of M/s. Maruti Ltd.

Thus there was strong motive for full and accurate information regarding foreign machinery used in Maruti factory not being given in Lok Sabha. It seems to be the reason why vague answer came to be given in Lok Sabha to (U.S.) Question 980 on 12th March, 1975. But when this line of inquiry was persisted the motive seems to have become more strong.

It need hardly be added that though there was a spate of questions in Parliament in regard to affairs of Maruti, none except the above mentioned three questions related to the use of foreign machinery in Maruti factory.

Further the Minister is said to have finalised reply to the said question on 12th April, 1975, but even so it could not and did not render useless betting information from M/s. Batliboi & Co. or other business associates of PEC regarding foreign machinery sold by them to Maruti Limited as the question was to be answered on 16th April, 1975; and such further information would have been given by way of answering supplementaries or at any rate by correcting later the mistake or inaccuracy in reply under Direction 115 of "Directions by the Speaker". It is also worth noticing that there is evidence, *inter alia*, in the form of Shri T.A. Pai's letter dated 5th May, 1975, to Smt. Gandhi showing that the former considered such question. (For the contents of this letter, see Smt. Gandhi's letter of 7th May, 1975). By his said letter Shri T. A. Pai complained to her that houses of officers of his Ministry (S/ Shri Bhatnagar and Krishnaswamy) were searched because they were making enquiries in connection with answers to the said question. It is implicit in Shri Pai's above complaint made to her soon after the question was answered and long before the inquiry before Shah Commission could have even been dreamt that in collecting the information till 15th April, 1975 these officers were engaged in legitimate activity. It means that these officers were not till then informed not to collect such information and that the same was relevant for answering the said question.

Lastly, while on this point I would like to add that a party may give information to Government because of its statutory or contractual liability to do so. Even a party may be willing to give information voluntarily. To obstruct, harass or intimidate any person collecting information under any of the circumstances would amount to an interference with parliamentary work and it would not make it less so because there were other avenues open for getting such information.

III. Whether officers were obstructed, harassed and intimidated:

Bearing in mind the above circumstances, undue haste with which Shri D. Sen, the then Director, C.B.I. and his subordinates proceeded to take action against these officers and the ultimate result of proceedings taken against them, the charge against all the respondents is fully established. As regards Smt. Gandhi, besides the testimony of the two ex-Ministers, there is

her own statement made before Shah Commission on November 1977. In view of her own statement the alleged or so-called discrepancy in the evidence of the Ex-Ministers regarding the time when they had separately met her on 15th April, 1975, does not at all affect the weight to be attached to their evidence. By her said statement she expressly admitted that she had told Mr. Dhawan to Pass on the complaints against these officers to the authorities concerned.

Again by her above statement she has impliedly admitted having talked to S/Shri Pai and Chattopadhyaya about the alleged complaints against these four officers. It is also quite clear from other evidence that these meetings took place on 15th April, 1975.

It is also pertinent to note that no motive is attributed to Shri Chattopadhyaya for giving evidence against Smt. Gandhi or even to Shri Pai for his complaint in his letter dated 5th May, 1975 to Smt. Gandhi that the officers were harassed because they were making inquiries in connection with Parliamentary Question.

As regards Shri R.K. Dhawan he did not impress as a witness of truth. For instance, regarding the talk Smt. Gandhi had with him about these officers he deposed that the incident was a "Mamuli" (trivial) one and that he had forgotten everything about it till the matter came up before Shah Commission and told us that he did not at all remember the date, place etc. when it took place; still, even ignoring Smt. Gandhi's said statement before Shah Commission that she had told him to pass on the *complaints* against these officers, he persisted in telling the Committee that Smt. Gandhi gave information only and asked him only to get the antecedents of these officers verified. He also could not give any explanation as to how he came to remember only this part of the incident which he had considered [it as a "Mamuli" matter and forgotten about it till recently, and even now did not remember several important particulars of it.

As regards Shri Sen's evidence it is totally unworthy of reliance. For instance, apart from the undue haste with which he started proceedings against these officers on the meagre or even practically no evidence he went to the extent of saying that he did not come to know till the enquiry before Shah Commission that these officers were concerned in collecting evidence in connection with Parliamentary question relating to M/s. Maruti Ltd. Further if he was really interested in investigating the alleged complaints, he would have tried to ascertain the names of M.Ps and other persons who he was told by Shri Dhawan, had complained against these officers. He never tried to do so from her or Shri Dhawan, though he was admitted visiting often ex-Prime Minister's residence.

It is also pertinent to note that at least one other senior officer, namely Shri Mantosh Soadhi, then secretary, Ministry of Industry was also kept under surveillance. The whole attempt was to create an atmosphere of fright and even of terror so that no officer or even a minister would dare to collect information for answering any Parliamentary question regarding Maruti Ltd., which given in Parliament would harm the interests of Maruti Ltd.

IV. Position of Officers *qua* the functions of Lok Sabha:

It is the responsibility of a Minister as the head of the concerned Department to give full and accurate information to Lok Sabha with respect to question admitted by the Speaker. It is in evidence that according to the practice which obtains the question No. 656 which was admitted by the Speaker was *directly* sent by Lok Sabha Secretariat to the office of the concerned Ministry for submitting an answer to it. The concerned office had therefore, to collect information and prepare the draft answer and Note on Supplementaries for perusal and approval of the Minister. The officers so concerned and the two officers of P.E.C. (who were liable to render assistance in this work) could be said to be entrusted or connected as aides with the Parliament work. Entrustment and/or assistance may arise by or under an implied order/practice or course of dealing. Any obstruction, harassment or intimidation caused to these officers amounts to a contempt of Lok Sabha.

Sd/-
NARENDRA. P. NATHWANI

Dated : 8th November, 1978.

COMMITTEE'S NOTE

The Committee of Privileges, at their sitting held on the 28th October, 1978, had unanimously laid down the following guidelines for Members who wished to submit their Notes for being appended to the Report:—

- "(i) Notes should be as brief as possible and should not be in the nature of an alternate Report. They should be strictly relevant to the subject matter of the Report and no extraneous matter should be given therein;
- (ii) Only those parts of evidence and documents should be quoted in the Notes which are not already given in the Report and reference may be given in the Notes to those parts of documents and evidence which are already quoted in the Report ; and
- (iii) If any question put to witnesses and the answers given by them thereto are to be quoted in the Note, the name of the Member who put the question should not be given in the Note."

2. Dr. V. A. Seyid Muhammed, Shri B. Shankaranand and Shri R. Mohanarangam, in their Note have stated that "the Report is basically unacceptable for the following reasons and facts:—

- (a) The Report has reproduced the extracts of one-sided evidence of various witnesses and given certain findings without analysing or co-relating such evidence to the findings.
- (b) Some of the findings are based on hearsay. A lot of hearsay evidence has been accepted in the Report.
- (c) The Report has ignored totally a large volume of evidence which would have completely destroyed the findings.
- (d) There are a number of conjectures in the Report which have no foundation on evidence.
- (e) A number of serious points raised in the course of the deliberations of the Committee have not even been referred to in the Report. Consequently the Report has failed to meet those points and it has not succeeded in dispelling the doubts in the minds of those who raised those points.

(f) Constitutional and other legal provisions have been wrongly conceived and applied in the Report."

3. Dr. V. A. Seyid Muhammed, Shri B. Shankaranand and Shri R. Mohanarangam have also *inter alia* made the following remarks in their Note :—

"In order to come to the conclusion that these officers were harassed because of the fact that they collected information, one has to resort to extraordinary logic, twist facts and evidence considerably indulge in imagination and conjectures without any basis on evidence whatsoever and forget all canons of evidence."

4. The above comments against the Report of the Committee are neither valid nor fair. The entire evidence, both oral as well as documentary, was discussed and examined in detail by the Committee in the course of their deliberations lasting over fifty-two hours. The Members made an exhaustive analysis of the facts and evidence and arrived at a consensus in regard to the various aspects of the matter. The Report of the Committee is based on that broad consensus. The presentation of the facts and evidence in the Report is in accordance with the considered approach of the Committee and the facts and evidence accepted by them. The Committee have not based their findings on hearsay or conjectures. The circumstantial evidence has been admitted only after independent corroboration by the various witnesses. As regards Constitutional and legal aspects of the matter, the Committee not only obtained the written opinion of the Attorney-General of India but also discussed with him at length the various facets of Constitutional and legal issues involved and arrived at their conclusions after a thorough consideration.

November 19, 1978.

SAMAR GUHA
Chairman,
Committee of Privileges

MINUTES

I

First Sitting

New Delhi, Tuesday, the 29th November, 1977
 The Committee sat from 09.30 to 10.40 hours.

PRESENT

Shri Samar Guha—Chairman.

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Prof. P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Ravindra Verma
10. Shri Narsingh.

SECRETARIAT

Shri J. R. Kapur—Chief Legislative Committee Officer.

** ** ** **

3. The Committee then considered the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain Officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

The Committee decided to hear Sarvashri Madhu Limaye and Kanwar Lal Gupta, M.Ps., who had raised the above question of privilege in the House. The Committee accordingly directed that Sarvashri Madhu Limaye and Kanwar Lal Gupta might be requested to appear before the Committee on Friday, the 6th January, 1978 at 11.00 hours and also be requested to produce before the Committee relevant documents, including certified copies of the proceedings of the Shah Commission of Inquiry relating to this matter.

The Committee decided to meet on Friday, the 6th January, 1978, at 11.00 hours and again at 15.00 hours, to consider the matter further.

The Committee then adjourned.

**Para 2 relates to another case and has, accordingly, been omitted.

II

Second Sitting*New Delhi, Friday, the 6th January, 1978*

The Committee sat from 11.00 to 13.15 hours and again from 15.00 to 16.10 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Prof. P. G. Mavalankar
6. Shri R. Mohanarangam
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Ravindra Varma
12. Shri Narsingh.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

WITNESSES

1. Shri Kanwar Lal Gupta, M.P.
2. Shri Madhu Limaye, M.P.
2. The Committee took up consideration of the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.
3. Shri Kanwar Lal Gupta, M.P., was called in and examined by the Committee.

(Verbatim record of the evidence was kept.)

The witness then withdrew.

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9. The Committee then resumed consideration of the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

10. Shri Madhu Limaye, M.P., was called in and examined by the Committee.

(Verbatim record of the evidence was kept.)

The witness then withdrew.

11. The Committee decided that Shrimati Indira Gandhi, former Prime Minister, Shri D. Sen, former Director of Central Bureau of Investigation and Shri R. K. Dhawan, former Additional Private Secretary to the former Prime Minister, be asked to state, in the first instance, what they might have to say in the matter for consideration of the Committee by the 21st January, 1978.

12. The Committee then adjourned to meet again on Tuesday, the 24th January, 1978, at 15.00 hours to consider the matters pending before them.

**Paras 4 to 8 relate to other cases and have, accordingly, been omitted.

Third Sitting*New Delhi, Tuesday, the 24th January, 1978*

The Committee sat from 15.00 to 16.20 hours.

PRESENTShri Samar Guha—*Chairman.***MEMBERS**

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Prof. P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi
12. Shri Ravindra Varma.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer.*

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5. The Committee then took up consideration of the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

6. The Committee perused the letter dated the 21st January, 1978, received from Shrimati Indira Gandhi requesting for extension of time upto 7th March, 1978, for submitting her written statement to the Committee. The Committee decided to grant her extension of time upto the 1st March, 1978, for the purpose. The Committee directed that she might be informed that no further extension of time would be given to her for the purpose.

7. The Committee then perused the letter dated the 21st January, 1978, received from Shri R. K. Dhawan, requesting for extension of time by one week for submitting his written statement to the Committee. The Committee acceded to his request.

8. The Committee then perused the contents of the letter dated the 20th January, 1978, received from Shri D. Sen, former Director of C.B.I.

9. The Committee deliberated on the matter and decided to hear Sarvashri T. A. Pai and D. P. Chattopadhyaya, M.Ps., on the matter on the 10th February, 1978, at 11 A.M. and 3. P.M., respectively.

The Committee also decided to examine in person the following concerned four Officers together, who were alleged to have been obstructed and harassed in this case, on the 11th February, 1978 :—

- (1) Shri R. Krishnaswamy, Director, Department of Heavy Industry.
- (2) Shri A. S. Rajan, Development Officer, D.G.T.D.
- (3) Shri L. R. Cavale, Chief Marketing Manager, P.E.C.
- (4) Shri P. S. Bhatnagar, Deputy Admn. Manager, S.T.C.

10. The Committee then adjourned to meet again on the 10th and 11th February, 1978.

—**Paras 2—4 relate to another case and have, accordingly, been omitted.

IV

Fourth Sitting

New Delhi, Friday, the 10th February, 1978

The Committee sat from 15.00 to 16.40 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Prof. P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

WITNESS

Shri D. P. Chattopadhyaya, M.P.

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3. The Committee took up consideration of the question of privilege against Shrimati Indira Gandhi and others for alleged obstructions, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

4. The Chairman informed the Committee that Shri T. A. Pai, M.P., former Minister of Industry and Civil Supplies, who had been requested to appear before the Committee on the 10th February, 1978 at 11.00 hours, in a letter dated the 28th January, 1978 had requested that he might be given another date for appearing before the Committee as he was going abroad. The Committee acceded to the request of Shri T. A. Pai.

5. Shri D. P. Chattopadhyaya, M.P., former Minister of Commerce, was called in and examined on oath by the Committee.

(Verbatim record of the evidence was kept.)

The witness then withdrew.

6. The Committee then adjourned to meet again on the 11th February, 1978 at 11.00 hours.

*Para 2 relates to another case and has accordingly been omitted.

Fifth Sitting

New Delhi, Saturday, the 11th February, 1978

The Committee sat from 11.00 to 13.20 hours and again from 15.30 to 17.25 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Hitendra Desai
3. Shri Krishan Kant
4. Prof. P. G. Mavalankar
5. Dr. V. A. Seyid Muhammed
6. Shri Narendra P. Nathwani
7. Shri Meetha Lal Patel
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

WITNESSES

- (1) Shri R. Krishnaswamy, *Director, Department of Heavy Industry.*
- (2) Shri A. S. Rajan, *Development Officer, D.G.T.D.*

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3. The Committee took up consideration of the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

The Committee decided to examine the witnesses one by one separately instead of hearing them together as decided by the Committee at their sitting held on the 24th January, 1978.

4. Shri R. Krishnaswamy, Director, Department of Heavy Industry, was then called in and examined on oath by the Committee.

(Verbatim record of the evidence was kept.)

The witness then withdrew.

5. Shri A. S. Rajan, Development Officer, DGTD, was then called in and examined on oath by the Committee.

(Verbatim record of the evidence was kept.)

The witness then withdrew.

6. The Committee directed that those of the witnesses who had also appeared before the Shah Commission of Inquiry on this matter, might be asked to furnish to the Committee copies of the statements made by them before the Shah Commission of Industry.

7. The Committee decided to take oral evidence of Sarvashri L. R. Cavale, Chief Marketing Manager, P.E.C. and P. S. Bhatnagar, Deputy Admn. Manager, S.T.C., who were in attendance, at a subsequent sitting.

The Committee then adjourned.

**Para 2 relates to another case and has accordingly been omitted.

VI**Sixth Sitting**

New Delhi, Wednesday, the 22nd March, 1978

The Committee sat from 15.30 to 15.50 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Hitendra Desai
3. Shri Ram Jethmalani
4. Shri Krishan Kant
5. Shri P. G. Mavalankar
6. Dr. V. A. Seyid Muhammed
7. Shri Narsingh
8. Shri Narendra P. Nathwani
9. Shri B. Shankaranand.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

WITNESS

Shri T. A. Pai, M.P., (*former Minister of Industry and Civil Supplies*).

2. The Committee considered the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

The Committee postponed the hearing of evidence of Shri T. A. Pai, MP, to the 23rd March, 1978, at 14.30 hours.

3. The Committee directed that the concerned two officers, namely, Sarvashri L. R. Cavale, Chief Marketing Manager, PEC and P. S. Bhatnagar, Deputy Administration Manager, STC, who were to appear before the Committee for examination on the 23rd March, 1978, might be asked to appear before the Committee on the 29th March, 1978, at 15.00 hours.

4. The Committee also directed that Shri D. Sen, former Director of CBI, might be asked to appear before the Committee for examination on the 30th and 31st March, 1978, at 09.30 hours.

The Committee then adjourned.

VII**Seventh Sitting***New Delhi, Thursday, the 23rd March, 1978*

The Committee sat from 14.30 to 16.00 hours.

PRESENTShri Samar Guha—*Chairman.***MEMBERS**

2. Shri Hitendra Desai
3. Shri Krishan Kant
4. Shri P. G. Mavalankar
5. Dr. V. A. Seyid Muhammed
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer.***WITNESS**Shri T. A. Pai, M.P., (*former Minister of Industry and Civil Supplies*).

2. Shri T. A. Pai, MP, (former Minister of Industry and Civil Supplies), was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

The evidence of Shri T. A. Pai, MP, was not concluded.

The Committee asked Shri T. A. Pai, MP, to appear before the Committee again on the 29th March, 1978, at 15.00 hours for further examination.

(Verbatim record of the evidence was kept.)

The witness then withdrew.

3. The Committee then adjourned to meet again on the 29th March, 1978, at 15.00 hours.

VIII**Eighth Sitting***New Delhi, Wednesday, the 29th March, 1978*

The Committee sat from 15.00 to 17.50 hours.

PRESENTShri Samar Guha—*Chairman.***MEMBERS**

2. Shri Hitendra Desai
3. Shri P. G. Mavalankar
4. Shri Narsingh
5. Shri Narendra P. Nathwani
6. Shri B. Shankaranand
7. Shri Madhav Prasad Tripathi.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer.***WITNESS**Shri T. A. Pai, M.P., (*former Minister of Industry and Civil Supplies*).

2. Shri T. A. Pai, MP (former Minister of Industry and Civil Supplies) was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

(Verbatim record of the evidence was kept.)

The Committee then adjourned.

3. The Committee decided to take oral evidence of Sarvashri L. R. Cavale, Chief Marketing Manager, PEC, and P. S. Bhatnagar, Deputy Administration Manager, STC, who were in attendance, at their sitting to be held on the 30th March, 1978.

The Committee also decided that Shri D. Sen, former Director of CBI, might be asked to appear before the Committee for examination on the 31st March, 1978, at 09.30 hours and that he need not appear before the Committee on the 30th March, 1978 as earlier directed by the Committee.

The Committee then adjourned.

IX**Ninth Sitting***New Delhi, Thursday, the 30th March, 1978*

The Committee sat from 09.30 to 11.00 hours.

PRESENTShri Samar Guha—*Chairman***MEMBERS**

2. Shri Krishan Kant
3. Shri P. G. Mavalankar
4. Shri Narsingh
5. Shri Narendra P. Nathwani
6. Shri B. Shankaranand.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer.***WITNESS**Shri L. R. Cavale, *Chief Marketing Manager, PEC.*

2. Shri L. R. Cavale, Chief Marketing Manager, PEC, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

(Verbatim record of the evidence was kept.)

The witness then withdrew.

3. The Committee decided to take oral evidence of Shri P. S. Bhatnagar, Deputy Administration Manager, STC, who was in attendance, at their sitting to be held on the 31st March, 1978 at 09.30 hours.

The Committee also directed that Shri D. Sen, former Director of CBI might be asked to appear before the Committee for examination on the 4th April, 1978 instead of on the 31st March, 1978 as earlier directed by the Committee.

The Committee then adjourned.

X**Tenth Sitting***New Delhi, Friday, the 31st March, 1978*

The Committee sat from 09.30 to 11.00 hours.

PRESENTShri Samar Guha—*Chairman.***MEMBERS**

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Shri P. G. Mavalankar
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer.***WITNESS**Shri P. S. Bhatnagar, *Deputy Administration Manager, State Trading Corporation.*

2. Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

During the course of his evidence, Shri P. S. Bhatnagar produced the following documents :—

- (1) Order dated the 15th April, 1975, issued by Shri B. C. Malhotra, the then Chief Personnel Manager, State Trading Corporation, suspending Shri P. S. Bhatnagar for his misconduct;

- (2) Memorandum dated the 29th April, 1975, issued by Shri B. C. Malhotra, the then Chief Personnel Manager, State Trading Corporation, to Shri P. S. Bhatnagar serving a charge-sheet on him for misconduct and misbehaviour;
- (3) Handwritten manuscript copy of reply dated the 1st May, 1975, sent by Shri P. S. Bhatnagar in reply to the charge-sheet served on him.

3. The Committee directed that the abovementioned three original documents produced by Shri P. S. Bhatnagar might be retained and returned to him after getting photostat copies thereof made.

The Committee also directed Shri P. S. Bhatnagar to submit the following documents which might be returned to him after getting photostat copies thereof made :—

- (1) Order dated the 1st September, 1976 issued by Shri B. C. Malhotra, the then Chief Personnel Manager, State Trading Corporation, revoking the order of suspension served on Shri P. S. Bhatnagar earlier;
- (2) Memorandum dated the 3rd September, 1976, issued by the then Chief Vigilance Officer, State Trading Corporation, serving the second charge-sheet on Shri P. S. Bhatnagar;
- (3) Explanation dated the 8th September, 1976, submitted by Shri P. S. Bhatnagar in reply to the second charge-sheet served on him;
- (4) Order dated the 23rd September, 1976, issued by the then Chief Vigilance Officer, State Trading Corporation *censuring* Shri P. S. Bhatnagar in respect of the second charge-sheet dated the 3rd September, 1976, served on him;
- (5) Order dated the 3rd December, 1976, issued by Shri B. C. Malhotra, the then Group Executive (Personnel) State Trading Corporation administering a *warning* to Shri P. S. Bhatnagar in respect of the first charge-sheet dated the 29th April, 1976, served on him.

4. The Committee directed that copies of the documents submitted by Shri P. S. Bhatnagar mentioned in paragraphs 2 and 3 above might be circulated to the members of the Committee.

(Verbatim record of the evidence was kept.)

The witness then withdrew.

5. The Committee then deliberated on the matter and directed that the Department of Commerce, Ministry of Industry and the Ministry of Home Affairs might be asked to furnish the following records/documents respectively, within a week, for being circulated to the members of the Committee :

I. Ministry of Commerce

In respect of (1) Shri L. R. Cavale, Chief Marketing Manager, Projects and Equipment Corporation; and (2) Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation :—

Attested copies of the following records/documents :—

- (a) Complete official records regarding suspension/transfer/ CBI inquiries/Court cases against them from 1975 onwards.
- (b) Charge-sheets given to them and replies furnished by them to the charge-sheets and action taken thereon.
- (c) Their Confidential Reports during the period of their service.
- (d) CBI records relating to the investigation of cases against them, the findings thereof and the action taken in respect of each.
- (e) Business Associateship Agreements entered into by STC/ PEC with M/s. Batliboi and Company for the import of Machine Tools for the years 1972 to 1975.

Copies of the following documents :—

- (a) Conduct Rules governing the abovementioned Officers.
- (b) Red Book (Import Policy for the years 1973, 1974 and 1975).

II. Ministry of Industry

In respect (1) of Shri R. Krishnaswamy, Director, Department of Heavy Industry; and (2) Shri A. S. Rajan, Development Officer, DGTD :—

Attested copies of the following records/documents :—

- (a) Complete official records regarding suspension/transfer/CBI inquiries/Court cases against them from 1975 onwards.

- (b) Charge-sheets given to them and replies furnished by them to the charge-sheets and action taken thereon.
- (c) Their Confidential Reports during the period of their service.
- (d) CBI records relating to the investigation of cases against them, the findings thereof and the action taken in respect of each.

A copy of the following :

Conduct Rules governing the abovementioned two Officers.

III. Ministry of Home Affairs

Attested copies of the CBI records relating to investigation of cases, the findings of CBI and the action taken against the following Officers :—

- (a) Shri R. Krishnaswamy, Director, Department of Heavy Industry.
- (b) Shri A. S. Rajan, Development Officer, DGTD, Ministry of Industry.
- (c) Shri L. R. Cavale, Chief Marketing Manager, Projects and Equipment Corporation of India Ltd.
- (d) Shri P. S. Bhatnagar, Deputy Administration Manager, State Trading Corporation.

5. The Committee also authorised the Chairman to send for any other document he might consider necessary.

6. The Committee decided to hold their next sittings on the 4th, 5th and 6th April, 1978, at 15.00 hours. The Committee authorised the Chairman to decide the witnesses to be called for hearing by the Committee at their sittings to be held on the 4th, 5th and 6th April, 1978.

7. The Committee decided to postpone to a later date the oral evidence of Shri D. Sen, former Director of CBI, who had been asked earlier to appear before the Committee on the 4th April, 1978.

The Committee then adjourned.

XI**Eleventh Sitting****New Delhi, Tuesday, the 4th April, 1978****The Committee sat from 15.00 to 18.05 hours****PRESENT****Shri Samar Guha—Chairman****MEMBERS**

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Shri P. G. Mavalankar
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand.

SECRETARIAT**Shri J. R. Kapur—Chief Legislative Committee Officer.****WITNESSES**

- (1) Shri J. S. Mathur, *Liaison Officer, Batliboi and Co. Ltd., New Delhi.*
- (2) Shri L. M. Adeshra, *Resident Dy. General Manager, Batliboi and Co. Ltd., New Delhi*
- (3) Shri B. M. Lal, *Dy. General Manager, Batliboi and Co. Ltd., New Delhi*

2. Shri J. S. Mathur, Liaison Officer, Batliboi and Company Limited was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

(Verbatim record of evidence was kept).

The witness then withdrew.

3. Shri L. M. Adeshra, Resident Deputy General Manager, Batliboi and Company Limited was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept).

The witness then withdrew.

4. Shri B. M. Lal, Deputy General Manager, Batliboi and Company Limited was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept).

The witness then withdrew.

5. The Chairman then informed the Committee that Shri S. M. Ghosh (former Joint Secretary, Ministry of Industry, Government of India), at present Secretary, Energy and G.A.D. Industries, Mines and Power Department, Government of Gujarat, Gandhinagar, who was asked to appear before the Committee for examination on the 6th April, 1978, had in a telegram dated the 3rd April, 1978, regretted his inability to appear before the Committee on the 6th April, 1978, due to a number of meetings fixed in advance, and that he had requested for fixing 7th April, 1978, for his appearance before the Committee.

The Committee decided to postpone the evidence of Shri S. M. Ghosh and directed that he might be informed that the next date of his appearance before the Committee would be intimated later.

The Committee then adjourned.

XII**Twelfth Sitting***New Delhi, Wednesday, the 5th April, 1978***The Committee sat from 15.00 to 16.50 hours.****PRESENT****Shri Samar Guha—Chairman****MEMBERS**

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Shri Narendra P. Nathwani
8. Shri Meetha Lal Patel
9. Shri B. Shankaranand
10. Shri Madhav Prasad Tripathi.

SECRETARIAT**Shri J. R. Kapur—Chief Legislative Committee Officer.****Shri M. P. Gupta—Senior Legislative Committee Officer.****WITNESSES**

- (1) Shri B. C. Malhotra, *former Chief Personnel Manager, Projects & Equipment Corporation.*
- (2) Shri R. K. Tarneja, *Chief Personnel Manager, Projects and Equipment Corporation.*
- (3) Shri L. K. Dhawan, *Director, Projects & Equipment Corporation*

2. Shri B. C. Malhotra, former Chief Personnel Manager, Projects & Equipment Corporation, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

(Verbatim record of evidence was kept).*The witness then withdrew.*

3. Shri R. K. Tarneja, Chief Personnel Manager, Projects & Equipment Corporation, was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept).

The witness then withdrew.

4. Shri L. K. Dhawan, Director, Projects & Equipment Corporation, was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept).

The witness then withdrew.

The Committee then adjourned.

XIII**Thirteenth Sitting***New Delhi, Thursday, the 6th April, 1978*

The Committee sat from 15.00 to 17.45 hours.

PRESENT**Shri Samar Guha—Chairman****MEMBERS**

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Prof. P. G. Mavalankar
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi.

SECRETARIAT**Shri J. R. Kapur—Chief Legislative Committee Officer.****Shri M. P. Gupta—Senior Legislative Committee Officer.****WITNESS****Shri Vinod Parekh, former Chairman, State Trading Corporation.**

2. Shri Vinod Parekh, former Chairman of State Trading Corporation, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

(Verbatim record of evidence was kept).*The witness then withdrew.*

3. The Committee authorised the Chairman to fix the next dates of sittings of the Committee and also to decide the witnesses to be called before the Committee.

The Committee then adjourned.

XIV**Fourteenth Sitting***New Delhi, Tuesday, the 25th April, 1978*

The Committee sat from 15.00 to 17.10 hours.

PRESENTShri Samar Guha—*Chairman.***MEMBERS**

2. Shri O. V. Alagesan
3. Shri Ram Jethmalani
4. Shri Krishan Kant
5. Dr. V. A. Seyid Muhammed
6. Shri Narendra P. Nathwani
7. Shri B. Shankaranand.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer*Shri M. P. Gupta—*Senior Legislative Committee Officer.***WITNESSES**

(1) Shri M. N. Misra, *former Director, Personnel, Projects & Equipment Corporation*

(2) Shri S. S. Khosla, *former Assistant Development Officer, Directorate General of Technical Development.*

2. Shri M. N. Misra, former Director, Personnel, Projects & Equipment Corporation (presently, Group Executive, State Trading Corporation) was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

(Verbatim record of evidence was kept).

The witness then withdrew.

3. Shri S. S. Khosla, former Assistant Development Officer, Directorate General of Technical Development (presently, Development Officer, D.G.T.D.), was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept).

The witness then withdrew.

The Committee then adjourned.

XV**Fifteenth Sitting***New Delhi, Wednesday, the 26th April, 1978***The Committee sat from 09.30 to 10.35 hours.****PRESENT**Shri Samar Guha—*Chairman.***MEMBERS**

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Dr. V. A. Seyid Muhammed
6. Shri Narendra P. Nathwani
7. Shri B. Shankaranand.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer*Shri M. P. Gupta—*Senior Legislative Committee Officer.***WITNESS**Shri Mantosh Sondhi, *former Secretary, Ministry of Industry & Civil Supplies (Department of Heavy Industry).*

2. Shri Mantosh Sondhi, former Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry), (presently, Secretary, Ministry of Steel and Mines), was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

(Verbatim record of evidence was kept).*The witness then withdrew.*

3. The Committee then deliberated on the matter and directed that the Ministry of Industry (Department of Heavy Industry) might be asked to furnish by the 27th April, 1978, the original file relating to Starred Question No. 656 regarding purchase of machinery by M/s. Maruti Limited answered in Lok Sabha on the 16th April, 1975, including the notes and drafts put up by the various Officers regarding the aforesaid question and the notes put up for the use of the then Minister of Industry and Civil Supplies for answering the said question and the supplementary questions in Lok Sabha, for perusal by the Committee of Privileges.

The Committee then adjourned.

XVI**Sixteenth Sitting***New Delhi, Thursday, the 27th April, 1978*

The Committee sat from 09.30 to 10.30 hours.

PRESENTShri Samar Guha—*Chairman.***MEMBERS**

2. Shri Hitendra Desai
3. Shri Krishan Kant
4. Shri Narendra P. Nathwani
5. Shri B. Shankaranand.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer*Shri M. P. Gupta—*Senior Legislative Committee Officer.***WITNESS**Shri S. M. Rege, *former Secretary, M/s. Maruti Limited.*

2. Shri S. M. Rege, former Secretary, M/s. Maruti Limited, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

(Verbatim record of evidence was kept).*The witness then withdrew.**The Committee then adjourned.*

XVII**Seventeenth Sitting***New Delhi, Friday, the 28th April, 1978*

The Committee sat from 10.00 to 10.55 hours.

PRESENTShri Samar Guha—*Chairman***MEMBERS**

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Shri Narendra P. Nathwani.
6. Shri B. Shankaranand.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer.*Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee noted that Shri S. M. Ghosh, former Joint Secretary, Ministry of Industry (presently, Secretary, Energy and G.A.D. Industries, Mines and Power Department, Government of Gujarat, Gandhinagar) who was to appear before the Committee for oral examination at 10.00 hours on the 28th April, 1978, was not present as the IAC flight from Ahmedabad by which he was to come to Delhi was late by about two hours. The Committee, therefore, decided to postpone his examination to a future date.

3. The Committee then deliberated upon their future programme of work. The Committee noted that the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited was referred to the Committee by the House on the 18th November, 1977, with instructions to report within a period of six months. The Committee noted that they had yet to take the evidence of a number of witnesses including Shri D. Sen, Shri R. K. Dhawan and Shrimati Indira Gandhi. In addition, the Committee would require considerable time for deliberations on the matter and preparation and consideration of the draft Report.

The Committee, therefore, decided that a motion might be moved in the House before the end of the current Session of Lok Sabha seeking extension of time for presentation of their Report to the House on this matter. The Committee decided to leave it to the Chairman to decide about the period for which extension of time for presentation of their Report might be sought.

4. The Committee authorised the Chairman and, in his absence, Shri Hitendra Desai to move a motion in the House before the end of the current Session of Lok Sabha seeking extension of time for presentation of the Report of the Committee on this matter.

5. The Committee decided to hold their next sittings on the 14th, 15th, 16th, 19th, 20th, 21st, 22nd, 23rd and 24th June, 1978, for further evidence on this matter.

6. The Chairman then apprised the Committee that as desired by the Committee at their sitting held on the 26th April, 1978, the original file No. 10(57)/75-AEI(I) relating to Starred Question No. 656 regarding purchase of machinery by Messrs. Maruti Limited, answered in Lok Sabha on the 16th April, 1975, had been received from the Ministry of Industry and would be available for reference by the members at the sittings of the Committee.

The Committee then adjourned.

XVIII

Eighteenth Sitting

New Delhi, Wednesday, the 14th June, 1978

The Committee sat from 15.00 to 17.00 hours.

PRESENT

Shri Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Shri R. Mohanarangam
8. Dr. V. A. Seyid Muhammed
9. Shri Narsingh
10. Shri Narendra P. Nathwani
11. Shri Meetha Lal Patel
12. Shri B. Shankaranand.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESS

Shri N. K. Singh, *former Special Assistant to the then Minister of Commerce.*

2. Shri N. K. Singh, former Special Assistant to the then Minister of Commerce, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

(Verbatim record of evidence was kept).

The witness then withdrew.

3. The Chairman then informed the Committee that Shri B. D. Kumar, former Chairman, Projects and Equipment Corporation, who had been asked to appear before the Committee on Friday, the 16th June, 1978, at 15.00 hours, in his letter dated the 6th June, 1978, had stated that the Economic and Social Commission for Asia and the Pacific, Bangkok, with whom he was employed as a Consultant, had extended the period of his contract by one month and that, therefore, he might be given a fresh date around the middle of July 1978, for his evidence before the Committee of Privileges. The Committee decided that Shri B. D. Kumar might be asked to send immediately a full statement of facts known to him regarding action against Sarvashri L. R. Cavale and P. S. Bhatnagar of Projects and Equipment Corporation, for consideration of the Committee.

6. The Committee then adjourned to meet again on the 16th June, 1978, at 10.30 hours.

XIX**Nineteenth Sitting***New Delhi, Thursday, the 15th June, 1978*

The Committee sat from 10.30 to 12.10 hours and again from 15.00 to 16.30 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narsingh
9. Shri Narendra P. Nathwani
10. Shri B. Shankaranand.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESSES

- (1) Shri B. C. Malhotra, *former Chief Personnel Manager, State Trading Corporation of India.*
- (2) Shri R. Krishnaswamy, *Director, Department of Heavy Industry, Ministry of Industry.*
- (3) Shri Mantosh Sondhi, *former Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry).*

2. Shri B. C. Malhotra, former Chief Personnel Manager, State Trading Corporation of India, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

(Verbatim record of evidence was kept).

The witness then withdrew.

3. Shri R. Krishnaswamy, Director, Department of Heavy Industry, Ministry of Industry, was then called in and examined on oath by the Committee. His evidence was not concluded.

The Committee directed him to appear again before the Committee on the 16th June, 1978, at 15.00 hours for further evidence.

(Verbatim record of evidence was kept).

The witness then withdrew.

4. Shri Mantosh Sondhi, former Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry) was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept).

The witness then withdrew.

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6. The Committee then adjourned to meet again on the 16th June, 1978, at 15.00 hours.

**Para 5 relates to another case and has accordingly, been omitted.

XX

Twentieth Sitting

New Delhi, Friday, the 16th June, 1978

The Committee sat from 15.00 to 16.40 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Dr. V. A. Seyid Muhammed
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESSES

- (1) Shri S. M. Ghosh, *former Joint Secretary, Ministry of Industry.*
- (2) Shri R. Krishnaswamy, *Director, Department of Heavy Industry, Ministry of Industry.*

2. Shri S. M. Ghosh, former Joint Secretary, Ministry of Industry, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

(Verbatim record of evidence was kept).

The witness then withdrew.

3. Shri R. Krishnaswamy, Director, Department of Heavy Industry, Ministry of Industry, was then called in and examined on oath again by the Committee.

(Verbatim record of evidence was kept).

The witness then withdrew.

4. The Chairman then mentioned to the Committee that Shri Madhu Limaye, MP, while raising the question of privilege in Lok Sabha on the 16th November, 1977, against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited, had also alleged that his Unstarred Question No. 4175 answered in Lok Sabha on 11th December, 1974, had been admitted in a mutilated form "at the instance of the Prime Minister's Secretariat and that the Prime Minister's Secretariat was pressurising the Lok Sabha Secretariat in the matter of determining the admissibility of questions for discussion in the House. Shri Madhu Limaye had urged that this matter might also be examined by the Committee of Privileges and that Shri Bishan Tandon, the then Joint Secretary in the Prime Minister's Secretariat and the concerned Officers of the Lok Sabha Secretariat who might be responsible for mutilation of his question might be examined by the Committee of Privileges.

After detailed consideration of the matter, the Committee were, however, of the opinion that the principal question of privilege before the Committee was against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. The allegation made by Shri Madhu Limaye regarding mutilation of his question and alleged pressurising of Lok Sabha Secretariat by Prime Minister's Secretariat regarding admissibility of questions, was a separate matter.

The Committee decided to confine themselves to the examination of the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

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6. The Committee then adjourned to meet again on the 19th June, 1978, at 10.00 hours.

**Para 5 relates to another case and has, accordingly, been omitted.

XXI**Twenty-first sitting***New Delhi Monday, the 19th June, 1978*

The Committee sat from 10.00 to 13.05 hours and again from 15.15 to 17.30 hours.

PRESENT

Shri Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi
10. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESS

Shri D. Sen, *former Director of CBI.*

2. Shri D. Sen, former Director of CBI was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd. His evidence was not concluded.

(Verbatim record of evidence was kept)

The witness then withdrew.

3. The Chairman then apprised the Committee that Shrimati Indira Gandhi who had been asked to appear before the Committee on the 21st and 22nd June, 1978, had sent a letter dated the 16th June, 1978, which was received in the Lok Sabha Secretariat on Saturday, the 17th June, 1978, at 17.20 hours, enclosing a statement for being placed before the Committee and stating that in view of what she had said in her statement, she did not think it necessary for her to attend the proceedings of the Committee, "at any rate at this stage".

The Chairman also informed the Committee that another letter dated the 19th June, 1978, had been received from Shrimati Indira Gandhi in continuation of her letter of the 16th June, 1978, at 11.45 hours that day, stating that since she had not heard anything to the contrary, she presumed that she was not required to be present on the 21st and 22nd June, 1978. She had requested that, if it was otherwise, she might be informed accordingly.

The Committee, after considering both the above letters dated the 16th and 19th June, 1978, received from Shrimati Indira Gandhi, reiterated their earlier decision and directed that she be asked to appear before the Committee on the 21st and 22nd June, 1978, as asked earlier in the Lok Sabha Secretariat letter dated the 9th May, 1978.

4. Shri D. Sen, former Director of CBI was then called in again and examined by the Committee on oath. His evidence was not concluded.

The Committee directed him to appear again before the Committee on the 20th June, 1978, at 10.00 hours for further evidence.

(Verbatim record of evidence was kept)

The witness then withdrew.

The Committee then adjourned.

XXII**Twenty-second sitting***New Delhi Tuesday, the 20th June, 1978*

The Committee sat from 10.00 to 13.00 hours and again from 15.00 to 18.05 hours.

PRESENT

Shri Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Shri P. G. Mavalankar
8. Shri R. Mohanarangam
9. Shri Narsingh
10. Shri Narendra P. Nathwani
11. Shri Meetha Lal Patel
12. Shri B. Shankaranand
13. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESSES

1. Shri D. Sen, *former Director of CBI.*
2. Shri R. K. Dhawan, *former Additional Private Secretary to the then Prime Minister.*
2. Shri D. Sen, former Director, CBI, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation,

harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

(Verbatim record of evidence was kept)

The witness then withdrew.

3. Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister was then called in and examined on oath by the Committee. His evidence was not concluded.

The Committee directed him to appear again before the Committee on the 21st June, 1978, at 10.00 hours for further evidence after the evidence of Shrimati Indira Gandhi.

(Verbatim record of evidence was kept)

The witness then withdrew.

The Committee then adjourned.

XXIII**Twenty-third sitting***New Delhi Wednesday, the 21st June, 1978*

The Committee sat from 10.00 to 12.40 hours.

PRESENT

Shri Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Shri P. G. Mavalankar
8. Shri R. Mohanarangam
9. Shri Narsingh
10. Shri Narendra P. Nathwani
11. Shri B. Shankaranand
12. Shri Madhav Prasad Tripathi
13. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESS

Shri R. K. Dhawan, *former Additional Private Secretary to the then Prime Minister.*

2. At the outset, the Chairman informed the Committee that Shrimati Indira Gandhi who had been asked to appear before the Committee at 10.00 hours on the 21st June, 1978, had sent a letter to him dated the 21st June, 1978, which he had received at 09.45 hours on that day, in which she had stated that she was not feeling too well that day and that she would be grateful if the proceedings were postponed for a few days.

The Committee decided that the Chairman might send her a letter asking her to appear before the Committee on the 22nd June, 1978, at 10.00 hours, provided her state of health permitted. The Committee also desired that Shrimati Indira Gandhi might be asked to send her confirmation immediately.

3. Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister, was then called in and examined on oath by the Committee. His evidence was not concluded and he was directed by the Committee to appear again before them on the 22nd June, 1978, at 10.00 hours for giving further evidence.

(Verbatim record of evidence was kept)

The witness then withdrew.

4. The Committee then adjourned to meet again at 10.00 hours on the 22nd June, 1978.

XXIV**Twenty-fourth sitting***New Delhi, Thursday, the 22nd June, 1978*

The Committee sat from 10.00 to 12.30 hours and again from 15.00 to 18.15 hours.

PRESENT

Shri Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Shri Narsingh
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi
12. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESS

Shri R. K. Dhawan, *former Additional Private Secretary to the then Prime Minister.*

2. At the outset, the Chairman informed the Committee that Shrimati Indira Gandhi who had been asked *vide* letter dated the 21st June, 1978, as decided by the Committee on the 21st June, 1978, to appear before the Committee on the 22nd June, 1978, at 10.00 hours, provided her state of health permitted, had sent to him a letter dated the 21st June, 1978, in which she had stated that as she was still indisposed, she might not be in a position to appear before the Committee on the 22nd June, 1978. She had also requested that the proceedings of the Committee might be adjourned for a few days.

3. The Committee then enquired whether Shrimati Indira Gandhi was in fact in attendance. The Committee, after verification by the Secretariat, was informed at 10.25 hours that she was not present.

4. The Committee decided that Shrimati Indira Gandhi might be asked to appear before the Committee for giving evidence in the matter on Wednesday, the 5th July, 1978, at 15.00 hours and on Thursday, the 6th July, 1978, as well, if required. The Committee also decided that she might be informed that no further postponement of her evidence before the Committee in the matter would be given.

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6. Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister, was then called in and examined on oath by the Committee in regard to the question of privilege against Shrimati Indira Gandhi and others. His evidence was not concluded, and he was directed by the Committee to appear again before the Committee for further evidence on a day to be intimated to him in due course.

(Verbatim record of evidence was kept)

The witness then withdrew.

7. The Committee decided to cancel their sittings scheduled to be held on the 23rd and 24th June, 1978.

The Committee also decided to hold their next sittings on the 5th, 6th, 7th, 8th, 10th 11th, 12th and 13th July, 1978, to consider the matter further.

The Committee then adjourned.

**Para 5 relates to another case and has, accordingly, been omitted.

XXV**Twenty-fifth sitting***New Delhi, Wednesday, the 5th July, 1978*

The Committee sat from 15.00 to 18.00 hours.

PRESENT**Shri Samar Guha—Chairman****MEMBERS**

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Shri P. G. Mavalankar
8. Shri R. Mohanarangam
9. Dr. V. A. Scyid Muhammed
10. Shri Narsingh
11. Shri Narendra P. Nathwani
12. Shri Meetha Lal Patel
13. Shri B. Shankaranand
14. Shri Madhav Prasad Tripathi
15. Shri Ravindra Varma

SECRETARIAT**Shri I. Pershad—Chief Legislative Committee Officer****Shri M. P. Gupta—Senior Legislative Committee Officer.****WITNESS****Shrimati Indira Gandhi, former Prime Minister of India.**

2. At the outset, the Chairman informed the Committee that he had received a letter forwarding therewith a statement dated the 5th July, 1978, from Shrimati Indira Gandhi at 12.34 hours on that day and that copies of her letter along with the statement had been circulated to the members of the Committee at the sitting. The statement dated the 5th July, 1978, received from Shrimati Indira Gandhi was then read out to the Committee.

3. The Committee deliberated on the points raised by Shrimati Indira Gandhi in her aforesaid statement.

4. Shrimati Indira Gandhi was then called in and asked by the Chairman to take oath/affirmation. Shrimati Indira Gandhi, however, stated that if she took the oath/affirmation, she would be subject to cross-examination by the members of the Committee.

Shrimati Indira Gandhi was thereupon asked to withdraw to enable the Committee to deliberate on the matter.

5. After some discussion, the Committee decided that she might be heard without taking oath/affirmation on the legal point as to why she was not obliged to take oath/affirmation before making any submissions to the Committee on the question of privilege against her.

6. Shrimati Indira Gandhi was then called in again and asked to make her submissions on the above legal point. She was, however, informed that if she desired to make any other submissions on the merits of the case, she could do so only after she had taken oath/affirmation.

Shrimati Indira Gandhi thereupon read out the statement sent by her earlier that day. She was asked by the Chairman whether she had any other points to make in addition to her statement. Shrimati Indira Gandhi stated that she had nothing further to add to her statement. The Chairman then informed Shrimati Indira Gandhi that if the Committee after considering the points raised by her decided that she was required to take oath/affirmation, according to well-settled Parliamentary practice, conventions and precedents, her refusal to take oath/affirmation when asked to do so by the Committee would involve a breach of privilege and contempt of the House.

(Verbatim record of evidence was kept)

The witness then withdrew.

7. The Committee then decided that Shrimati Indira Gandhi might be asked to appear again before the Committee on the 6th July, 1978, at 15.00 hours.

8. The Committee then further deliberated on the points raised by Shrimati Indira Gandhi in her statement. The deliberations were not concluded.

9. The Committee also decided that Shri R. K. Dhawan, former Additional Private Secretary to the then Prime Minister, who had been asked earlier to appear before the Committee at 10.00 hours on the 6th July, 1978, might also be asked to appear before the Committee at 15.00 hours instead of 10.00 hours on that day.

10. The Committee then adjourned to meet again at 11.00 hours on the 6th July, 1978.

XXVI

Twenty-sixth sitting

New Delhi, Thursday, the 6th July, 1978

The Committee sat from 11.00 to 13.40 hours and again from 15.30 to 17.15 hours.

PRESENT

Shri Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Shri P. G. Mavalankar
8. Shri R. Mohanarangam
9. Dr. V. A. Seyid Muhammed
10. Shri Narendra P. Nathwani
11. Shri Meetha Lal Patel
12. Shri B. Shankaranand
13. Shri Madhav Prasad Tripathi
14. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*.

2. The Committee resumed their deliberations on the legal points raised by Shrimati Indira Gandhi in her statement dated the 5th July, 1978.

The deliberations of the Committee were not concluded. The Committee, therefore, decided that Shrimati Indira Gandhi and Shri R. K. Dhawan, who had been asked to appear before the Committee at 15.00 hours on the 6th July, 1978, might be informed that they need not appear before the Committee on that day.

3. The Committee decided to seek the legal opinion of the Attorney General of India on the legal points raised by Shrimati Indira Gandhi and also to hear him at a subsequent sitting.

4. The Committee then adjourned to meet again on the 7th July, 1978, at 10.00 hours.

XXVII**Twenty-seventh sitting***New Delhi, Friday, the 7th July, 1978*

The Committee sat from 10.00 to 13.00 hours and again from 15.00 to 17.20 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi
12. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESSES

- (1) Shri T. A. Pai, M.P. *former Minister of Industry and Civil Supplies.*
- (2) Shri B. D. Kumar, *former Chairman of Projects and Equipment Corporation.*
2. Shri T. A. Pai, M.P., former Minister of Industry and Civil Supplies, was called in and examined on oath by the Committee in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstructions, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.

(Verbatim record of evidence was kept)

The witness then withdrew.

3. Shri B. D. Kumar, former Chairman, Projects and Equipment Corporation, was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept)

The witness then withdrew.

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5. The Committee then considered and approved the following legal points for reference to the Attorney-General of India for his opinion, as decided by the Committee on the 6th July, 1978 :—

- (1) Whether, in view of the provisions of Article 20(3) of the Constitution, Shrimati Indira Gandhi has a right not to take the oath for giving evidence before the Committee of Privileges in this case ?
- (2) Whether she has a right to refuse to give evidence before the Committee of Privileges in this case even without taking oath ?
- (3) Whether she can be examined by the Committee of Privileges with or without oath in this case with an option to her not to answer particular questions which may be self-incriminatory ?

The Committee, however, authorised the Chairman to consult Dr. Seyid Muhammed and Shri Ram Jethmalani, members of the Committee, who were not present at that time, with a view to finalise the above points to be referred to the Attorney-General.

6. The Committee authorised the Chairman to fix the date of the next sitting of the Committee to hear the Attorney-General on the matter.

7. The Committee decided that the sittings of the Committee scheduled to be held on the 8th, 10th, 11th, 12th and 13th July, 1978, might be cancelled.

The Committee then adjourned.

**Para 4 relates to another case and has accordingly been omitted.

XXVII**Twenty-eighth sitting***New Delhi, Friday, the 21st July, 1978*

The Committee sat from 15.00 to 15.25 hours.

PRESENTShri Samar Guha—*Chairman***MEMBERS**

2. Shri Hitendra Desai
3. Shri Krishan Kant
4. Shri P. G. Mavalankar
5. Dr. V. A. Seyid Muhammed
6. Shri Ravindra Varma

SECRETARIATShri I. Pershad—*Chief Legislative Committee Officer*Shri M. P. Gupta—*Senior Legislative Committee Officer*

2. The Committee considered the question whether in view of the FIR lodged against Shrimati Indira Gandhi and others for criminal offences under various sections of the Indian Penal Code, the issue of double jeopardy could arise and whether the provision contained in Article 20(2) of the Constitution would be attracted if the Committee of Privileges continued their proceedings in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

3. The Committee decided to refer the following points to the Attorney-General of India for his opinion :—

- (i) Whether in view of the FIR lodged against Shrimati Indira Gandhi and others for criminal offences under various Sections of IPC, proceedings for taking action for committing an alleged breach of privilege and contempt of the House can be continued against them by the Committee of Privileges keeping in view the provision contained in Article 20(2) of the Constitution ; and
- (ii) Whether the question of double jeopardy will arise if the Committee of Privileges take further proceedings in the matter.

4. The Chairman then informed the Committee that he had received a letter dated the 19th July, 1978, from Shri B. Shankaranand, M.P., a member of the Committee, informing him that he had been admitted to a hospital in Bombay and was to be operated upon on the 22nd July, 1978 and that the meeting of the Committee of Privileges might be fixed after the 15th August, 1978 to enable him to participate in the meeting. The Committee, however, decided that it was not possible to defer the proceedings of the Committee till that date.

5. The Committee then adjourned to meet again on the 29th July, 1978, to hear the Attorney-General of India on the points referred to him by the Committee.

XXIX**Twenty-ninth sitting***New Delhi, Saturday, the 29th July, 1978*

The Committee sat from 11.00 to 13.45 hours.

PRESENTShri Samar Guha—*Chairman***MEMBERS**

2. Shri Hitendra Desai
3. Shri Ram Jethmalani
4. Shri Krishan Kant
5. Shri P. G. Mavalankar
6. Dr. V. A. Seyid Muhammed
7. Shri Narendra P. Nathwani
8. Shri Ravindra Varma

Shri S. V. Gupte—*Attorney-General of India***SECRETARIAT**Shri I. Pershad—*Chief Legislative Committee Officer*Shri M. P. Gupta—*Senior Legislative Committee Officer*

2. The Committee considered the written opinion given by the Attorney-General of India on the legal points referred to him earlier as decided by the Committee, arising out of the evidence of Shrimati Indira Gandhi before the Committee.

3. The Committee then discussed at length with the Attorney-General of India certain legal points raised by Shrimati Indira Gandhi in her evidence before the Committee.

4. The Committee then decided to refer the following points also to the Attorney-General of India for his opinion :—

- (i) Whether a breach of privilege alleged to have been committed against an earlier Lok Sabha can be examined and punished after its dissolution by the new Lok Sabha ?
- (ii) Whether officers of the Ministry of Industry and Commerce who were allegedly obstructed or harassed for collecting information to prepare a reply to a question to be answered in Lok Sabha could be deemed to be officers or servants of the House or employed by the House or entrusted with the execution of orders of the House or could be deemed to be in the service of the House ?

5. The Committee also decided that Shrimati Indira Gandhi and Shri R. K. Dhawan be asked to appear again before the Committee for giving further evidence, on the 19th and 20th August, 1978, at 10.30 hours.

The Committee then adjourned.

XXX**Thirtieth sitting***New Delhi, Saturday, the 19th August, 1978*

The Committee sat from 10.30 to 13.30 hours.

PRESENTProfessor Samar Guha—*Chairman***MEMBERS**

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Professor P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed.
8. Shri Narendra P. Nathwani
9. Shri Ravindra Varma

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer*Shri I. Pershad—*Chief Legislative Committee Officer*Shri M. P. Gupta—*Senior Legislative Committee Officer***WITNESSES**

- (1) Shrimati Indira Gandhi, *former Prime Minister of India.*
- (2) Shri R. K. Dhawan, *former Additional Private Secretary to the then Prime Minister*
2. At the outset, the Chairman informed the Committee that late on the previous evening, he had received a letter* dated the 16th August, 1978 addressed to him by Shri B. Shankaranand, M.P., a member of the Committee, from Bombay, which was forwarded to him by PS to the Leader of the Opposition and which read *inter alia* as follows :—

“I have just now received information that the Privileges Committee stands posted to some near date. I was surprised to receive the information for the reason that so far I have received no notice about any such meeting.

*The letter was circulated to the members of the Committee of Privileges on the 18th August, 1978.

As I had informed you in my letter from Bombay, I had to undergo a major operation in Bombay hospital recently. From the hospital I had written to you conveying my address in Bombay so that intimation, if any, could be sent to me at that address. Notice of any meeting of the Committee, if scheduled, should have been sent to me at the above address. I am yet to receive any such notice. Any meeting so held will be irregular, illegal and unauthorised, as it is without intimation to me and particularly so as I am the only member representing my Party on the Committee.

After my recent operation I am now convalescing. I am not sure whether the doctors will permit me to take to active work connected with the Privileges Committee. I am, however, keen that the interest and the views I represent do not go by default. If I receive any intimation of any meeting in advance, I can arrange, after due consultation with my doctors, either to attend the meeting or in the alternative to approach the Speaker to ensure the representation of my Party in the Committee in my place. Sufficient notice is, however, necessary for that purpose.

May I request you to kindly inform me whether any meeting of the Committee, as reported, has been scheduled to be held. If any meeting stands so scheduled, I should insist and request, which I do by this letter, that the meeting be postponed to a later date leaving me sufficient time to be able to attend the meeting, after the medical advice, or, alternatively to make other arrangements after approaching the Honourable Speaker."

3. The Chairman informed the Committee of the factual position on the points raised by Shri B. Shankaranand, M.P., in his aforesaid letter and stated *inter alia* that in his earlier letter dated the 19th July, 1978, which was considered by the Committee at their sitting held on the 21st July, 1978, Shri B. Shankaranand had only requested that the sitting of the Committee might be fixed after the 15th August, 1978. He had not requested that the notice and other papers of the Committee might be sent to him at the hospital address in Bombay where he was to undergo a major operation. He had not also given any instructions to the Lok Sabha Secretariat that his Parliamentary papers might be sent there. According to the practice followed during sessions of Lok Sabha, the notice and papers relating to the Committee were duly delivered at his New Delhi address in the absence of any instructions to the contrary from him and signatures obtained in receipt thereof.

4. The Committee, after considering all aspects of the matter and the points raised by Shri B. Shankaranand in his aforesaid letter, decided to continue their proceedings.

5. Shrimati Indira Gandhi was then called in and informed by the Chairman *inter alia* as follows :—

“As already intimated to you, your statements dated 1st March, 16th June and 5th July, 1978, have been considered by the Committee. The Committee have the power to administer the oath or affirmation to you under Rule 272 of the Rules of Procedure of Lok Sabha. The only option available to you is to either take oath or make an affirmation. Refusal to take oath or make an affirmation when asked by the Committee to do so, would amount to a breach of privilege and contempt of the House, about which you must be aware as well.

Should you feel that the answer to any particular question that may be asked by the Committee is likely to incriminate you in any prosecution, you may point it out and the Chairman/Committee will consider your plea and decide it on merits.

The question of double jeopardy does not arise in this case at all, as you have neither been prosecuted nor punished so far at a formal trial by a court of competent jurisdiction or a judicial tribunal for the same offence.

Now, Madam, please take the oath or make an affirmation, as you like.”

6. Shrimati Indira Gandhi, however, stated that she was not “legally bound to take the oath or to answer any interrogatories.” She then read out a written statement dated the 19th August, 1978, in support of her contention, stating *inter alia* that “a formal First Information Report has been registered by the Delhi Special Police Establishment and investigation has already been ordered against me I am, therefore, now a formal accused on the same charges on which I have been summoned to appear before the Lok Sabha Privileges Committee my answers are bound to be also ‘self incriminating’ whether examined on oath or not”.

7. Shrimati Indira Gandhi was thereafter asked to withdraw to enable the Committee to deliberate on the matter.

8. After a thorough discussion, the Committee felt that the contentions of Shrimati Indira Gandhi were not tenable and the Committee decided to proceed further with her examination.

9. Shrimati Indira Gandhi was then called again and the Chairman informed her as follows :—

“Mrs. Gandhi, we have taken into consideration all the points that you have raised in your submission before this Committee. But the Committee are of the opinion that your arguments do not conform to the views of the Committee. I want to again draw your attention to the fact that by not taking oath or affirmation you will be subjecting yourself to a breach of privilege or contempt of the Committee and of the House thereafter if the Committee so decides and recommends it or the House so decides. However, to give you all opportunity in fairness to our intention to deal with your case, the Committee desires to apprise you of the main pieces of evidence that had been produced before this Committee. On oath or affirmation, if you like you can make a statement thereon after hearing these pieces of evidence that have been produced before this Committee.”

10. Shrimati Indira Gandhi, however, stated : “I have already stated my case . . . It is my inalienable right not to say anything against myself”.

11. The Chairman, thereupon, asked Shrimati Indira Gandhi again to take oath or make an affirmation.

12. Shrimati Indira Gandhi replied : “I have given my submission and reasons as to why I cannot submit myself to taking an oath or affirmation, or answer any interrogatories . . . I cannot assist the Committee”.

13. The Chairman, thereupon, told her that she could be apprised of the main pieces of evidence and that if she wanted to make a statement thereon, she could do so.

Shrimati Indira Gandhi replied : “If I make a statement. If I answer interrogatories. it comes to the same thing”.

(Verbatim record of evidence was kept)

The witness then withdrew.

14. Shri R. K. Dhawan was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept)

The witness then withdrew.

15. The Committee decided that the sitting of the Committee scheduled to be held on Sunday, the 20th August, 1978, be cancelled.

16. The Committee also decided that the next sitting of the Committee be held on Thursday, the 24th August, 1978.

The Committee then adjourned.

XXXI**Thirty-first sitting***New Delhi, Thursday, the 24th August, 1978*

The Committee sat from 16.00 to 16.30 hours.

PRESENTProfessor Samar Guha—*Chairman.***MEMBERS**

2. Shri Hitendra Desai
3. Shri Ram Jethmalani
4. Shri Krishan Kant
5. Professor P. G. Mavalankar
6. Shri R. Mohanarangam
7. Dr. V. A. Seyid Muhammed
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer.*Shri I. Pershad—*Chief Legislative Committee Officer.*Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee considered the programme for further consideration of the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.
3. The Committee authorised the Chairman to fix the programme of sittings of the Committee and matters connected therewith.

The Committee then adjourned.

XXXII**Thirty-second sitting**

New Delhi, Tuesday, the 19th September, 1978

The Committee sat from 10.30 to 11.20 hours and again from 15.00 to 16.45 hours.

PRESENT

Professor Samar Guha—*Chairman.*

MEMBERS

2. Shri O. V. Alagesan.
3. Shri Hitendra Desai.
4. Shri Ram Jethmalani.
5. Shri Krishan Kant.
6. Professor P. G. Mavalankar.
7. Dr. V. A. Seyid Muhammed.
8. Shri Narsingh.
9. Shri Narendra P. Nathwani.
10. Shri Meetha Lal Patel.
11. Shri B. Shankaranand.
12. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee deliberated on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.
3. The Committee then adjourned to meet again on Wednesday, the 20th September, 1978, at 09.00 hours for further deliberations in the matter.

XXXIII**Thirty-third sitting***New Delhi, Wednesday, the 20th September, 1978*

The Committee sat from 09.00 to 13.15 hours and again from 16.15 to 17.30 hours.

PRESENT

Professor Samar Guha—*Chairman.*

MEMBERS

2. Shri Hitendra Desai.
3. Shri Ram Jethmalani.
4. Shri Krishan Kant.
5. Professor P. G. Mavalankar.
6. Dr. V. A. Seyid Muhammed.
7. Shri Narsingh.
8. Shri Narendra P. Nathwani.
9. Shri Meetha Lal Patel.
10. Shri B. Shankaranand.
11. Shri Madhav Prasad Tripathi.
12. Shri Ravindra Varma.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

3. The Committee then adjourned to meet again on Thursday, the 21st September, 1978, at 09.30 hours, for further deliberations on the matter.

XXXIV**Thirty-fourth sitting***New Delhi, Thursday, the 21st September, 1978*

The Committee sat from 09.30 to 13.00 hours and again from 14.45 to 18.10 hours.

PRESENT

Professor Samar Guha—*Chairman.*

MEMBERS

2. Shri O. V. Alagesan.
3. Shri Hitendra Desai.
4. Shri Krishan Kant.
5. Professor P. G. Mavalankar.
6. Dr. V. A. Seyid Muhammed.
7. Shri Narsingh.
8. Shri Narendra P. Nathwani.
9. Shri B. Shankaranand.
10. Shri Madhav Prasad Tripathi.
11. Shri Ravindra Varma.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

3. The Committee then adjourned to meet again on Friday, the 22nd September, 1978, at 09.30 hours, for further deliberations on the matter.

XXXV**Thirty-fifth sitting***New Delhi, Friday, the 22nd September, 1978*

The Committee sat from 09.30 to 13.30 hours and again from 15.00 to 18.30 hours.

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri O. V. Alagesan.
3. Shri Hitendra Desai.
4. Shri Ram Jethmalani.
5. Shri Krishan Kant.
6. Professor P. G. Mavalankar.
7. Dr. V. A. Seyid Muhammed.
8. Shri Narsingh.
9. Shri Narendra P. Nathwani.
10. Shri Meetha Lal Patel.
11. Shri B. Shankaranand.
12. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer*

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

2. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

3. The Committee then adjourned to meet again on Saturday, the 23rd September, 1978, at 09.30 hours, for further deliberations on the matter.

XXXVI**Thirty-sixth sitting***New Delhi, Saturday, the 23rd September, 1978*

The Committee sat from 09.30 to 13.05 hours and again from 15.00 to 18.45 hours.

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed.
3. Shri O. V. Alagesan.
4. Shri Ram Jethmalani.
5. Shri Krishan Kant.
6. Professor P. G. Mavalankar.
7. Dr. V. A. Seyid Muhammed.
8. Shri Narendra P. Nathwani.
9. Shri Meetha Lal Patel.
10. Shri B. Shankaranand.
11. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.
3. The Committee then adjourned to meet again on Sunday, the 24th September, 1978, at 09.30 hours, for further deliberations on the matter.

XXXVII**Thirty-seventh sitting***New Delhi, Sunday, the 24th September, 1978*

The Committee sat from 09.30 to 13.00 hours and again from 15.00 to 18.10 hours.

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri O. V. Alagesan.
3. Shri Ram Jethmalani.
4. Shri Krishan Kant.
5. Professor P. G. Mavalankar.
6. Dr. V. A. Seyid Muhammed.
7. Shri B. Shankaranand.
8. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

3. The Committee then adjourned to meet again on Monday, the 25th September, 1978, at 10.00 hours, for further deliberations on the matter.

XXXVIII**Thirty-eighth sitting***New Delhi, Monday, the 25th September, 1978*

The Committee sat from 10.00 to 12.00 hours.

PRESENTProfessor Samar Guha—*Chairman***MEMBERS**

2. Shri Hitendra Desai.
3. Shri Ram Jethmalani.
4. Shri Krishan Kant.
5. Dr. V. A. Seyid Muhammed.
6. Shri B. Shankaranand.
7. Shri Madhav Prasad Tripathi.
8. Shri Ravindra Varma.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer*Shri I. Pershad—*Chief Legislative Committee Officer*Shri M. P. Gupta—*Senior Legislative Committee Officer*

2. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

3. The Committee decided to hold their next sittings on the 29th and 30th September and 3rd October, 1978, for further deliberations on the matter.

The Committee then adjourned.

XXXIX**Thirty-ninth sitting***New Delhi, Friday, the 29th September, 1978*

The Committee sat from 14.30 to 16.00 hours.

PRESENTShri Narsingh—*In the Chair***MEMBERS**

2. Shri O. V. Alagesan.
3. Shri Krishan Kant.
4. Professor P. G. Mavalankar.
5. Shri Meetha Lal Patel.
6. Shri B. Shankaranand.
7. Shri Madhav Prasad Tripathi.

SECRETARIATShri J. R. Kapur—*Chief Legislative Committee Officer*Shri I. Pershad—*Chief Legislative Committee Officer*Shri M. P. Gupta—*Senior Legislative Committee Officer*

2. At the out-set, the Committee were apprised of the telephonic intimation received from the Chairman of the Committee (Professor Samar Guha) that due to floods in Calcutta, he would not be able to reach New Delhi for the sitting of the Committee on the 29th September, 1978.

The Committee, in the absence of the Chairman, chose Shri Narsingh to take the Chair.

3. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

4. The Committee then adjourned to meet again on the 30th September 1978, at 10.30 hours for further deliberations on the matter.

XL**Fortieth sitting**

New Delhi, Saturday, the 30th September, 1978

The Committee sat from 10.30 to 11.15 hours and again from 15.00 to 16.00 hours.

PRESENT

Shri O. V. Alagesan—*In the Chair*

MEMBERS

2. Shri R. Mohanarangam.
3. Dr. V. A. Seyid Muhammed.
4. Shri Meetha Lal Patel.
5. Shri B. Shankaranand.
6. Shri Madhav Prasad Tripathi.
7. Shri Ravindra Varma.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer*

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

2. The Committee, in the absence of the Chairman, chose Shri O. V. Alagesan to take the Chair.

3. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

4. The Committee then adjourned to meet again on the 3rd October, 1978, at 10.00 hours for further deliberations on the matter.

XLI

Forty-first sitting

New Delhi, Tuesday, the 3rd October, 1978

The Committee sat from 10.00 to 13.15 hours and again from 15.30 to 17.15 hours.

PRESENT

Professor Samar Guha—*Chairman.*

MEMBERS

2. Shri Ram Jethmalani
3. Shri Krishan Kant
4. Dr. V. A. Seyid Muhammed
5. Shri Narsingh
6. Shri Meetha Lal Patel
7. Shri B. Shankaranand
8. Shri Madhav Prasad Tripathi
9. Shri Ravindra Varma.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

2. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.
3. The Committee then adjourned to meet again on the 12th October, 1978, for further deliberations on the matter.

XLII**Forty-Second Sitting***New Delhi, Thursday, the 12th October, 1978*

The Committee sat from 11.00 to 13.10 hours and again from 15.00 to 17.45 hours

PRESENT

Professor Samar Guha—*Chairman.*

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Professor P. G. Mavalankar
5. Shri R. Mohanarangam
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri Meetha Lal Patel
9. Shri B. Shankaranand
10. Shri Madhav Prasad Tripathi
11. Shri Ravindra Varma.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee deliberated further on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

3. The Committee decided to hold their next sittings on the 26th, 27th and 28th October, 1978, to consider their draft Report on the matter.

The Committee then adjourned.

XLIII

Forty-third sitting

New Delhi, Thursday, the 26th October, 1978

The Committee sat from 11.00 to 13.05 hours and again from 15.30 to 17.00 hours.

PRESENT

Professor Samar Guha—Chairman.

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant.
7. Professor P. G. Mavalankar
8. Shri R. Mohanarangam
9. Dr. V. A. Seyid Muhammed
10. Shri Narsingh
11. Shri Narendra P. Nathwani
12. Shri Meetha Lal Patel
13. Shri B. Shankaranand
14. Shri Madhav Prasad Tripathi
15. Shri Ravindra Varma.

SECRETARIAT

Shri I. Pershad — *Chief Legislative Committee Officer.*

Shri M. P. Gupta — *Senior Legislative Committee Officer.*

2. The Committee considered their draft Third Report on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in Lok Sabha on Maruti Ltd.

The consideration of the draft Report was not concluded.

3. The Committee then adjourned to meet again on Friday, the 27th October, 1978, at 11.00 hours for further consideration of the draft Report.

XLIV

Forty-fourth sitting

New Delhi, Friday, the 27th October, 1978.

The Committee sat from 11.00 to 13.15 hours and again from 15.30 to 17.45 hours.

PRESENT

Professor Samar Guha—Chairman

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Professor P. G. Mavalankar
8. Shri R. Mohanarangam
9. Dr. V. A. Sayid Muhammed
10. Shri Narsingh
11. Shri Narendra P. Nathwani
12. Shri Meetha Lal Patel
13. Shri B. Shankaranand
14. Shri Madhav Prasad Tripathi
15. Shri Ravindra Varma.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

2. The Committee took up further consideration of their draft Third Report on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in Lok Sabha on Maruti Ltd.

3. The Committee adopted the draft Report with the following modifications :—

(i) Paragraph 7—

Add the following sub-paragraph :—

“At their sixth sitting held on the 22nd March, 1978, the Committee decided to postpone the evidence of Shri T. A. Pai, MP, to 23rd March, 1978 and that of Sarvashri L. R. Cavale, P. S. Bhatnagar and D. Sen to subsequent dates.”

(ii) Above paragraph 34—

for the heading

“II. Facts of the case”.

substitute :—

“II. Motion of Privilege : Reference by the House to the Committee of Privileges.”

(iii) Above paragraph 112—

for the heading

“E. CONSTITUTIONAL AND LEGAL POINTS RAISED BY SHRIMATI INDIRA GANDHI”,

substitute :—

“E. OBJECTIONS RAISED BY SHRIMATI INDIRA GANDHI ON CERTAIN CONSTITUTIONAL AND LEGAL ASPECTS”.

(iv) for the existing paragraph 141,

substitute the following paragraph :—

“141. The Committee are of the view that Parliament has an inherent right to seek information from the Government on matters of general public interest through questions and other methods provided for in the Rules of Procedure of the House. Although, technically it is the responsibility of a Minister to furnish information to the House, the Minister himself does not and cannot collect the information, for this purpose, there is an in-built machinery in the Government and officials collect information on behalf of a Minister for furnishing the same to Parliament. He must, in the nature of things, act through Departmental subordinates. Any obstruction or harassment to such officials, either to deter them from doing their duty or to impair the will or efficiency of others in similar situations, would impede and stifle the functioning of Parliament. Such officials should, therefore, be deemed to be in the service of the House and entrusted with the execution of the orders or the performance of the functions of the House, and any obstruction or harassment caused to them while doing their legitimate duties in collecting such information asked for by Parliament can be treated as a contempt of the House. It is contempt because in the words of *May*, these are ways “which directly or

indirectly obstruct or impede Parliament in the performance of its functions". It is not necessary that the said officers should technically be employees or officers of Parliament in the narrow sense. In a broad sense, all persons who serve or advance the purposes and functions of Parliament are deemed to be its officers for the limited purpose of the law of contempt."

(v) for the existing paragraphs 143 and 144,

substitute the following paragraphs :—

"143. At no time before in any country of the world, where Parliamentary democracy prevails, has a Committee of Privileges had to deal with such an unusual and extraordinary matter as happens to be the case with the present Committee. Never before a Leader of the House having enjoyed the office of the Prime Minister of a country for 11 years has been charged with causing obstruction, intimidation and harassment of Government Officials who are assisting in the performance of the functions of the Parliament. Such conduct is bound to effect adversely the functioning of a Parliamentary democracy.

Parliament, as a democratic system of governance, is the supreme manifestation of the sovereign will of the people. If its functioning is allowed to be stifled or subjected to administrative interference, the very foundation of Parliamentary democracy is likely to be undermined or shaken. When such attempts pass off unpunished and unchecked, elements of authoritarianism are bound to creep into a democratic system, gradually eroding the essential foundation of democracy. In such an eventuality, a system of Parliamentary democracy would undoubtedly suffer erosion of faith of the people.

The present case has several unusual and unique features. The Committee have, therefore, proceeded with extreme caution and analysed every issue involved with particular care and objectivity.

The magnitude of the task with which the Committee were faced can be understood by the fact that the Committee held 45 sittings covering about 141 hours to examine the matter in depth and arrived at their correct conclusions. The Committee had to examine a large number of witnesses and in case of some of them more than once.

144. The Committee provided several opportunities to Shrimati Indira Gandhi, Shri R. K. Dhawan and Shri D. Sen against whom the case of breach of privilege and contempt of the House has been instituted, to have their full say and explain their position in regard to the allegations made against them.

The Committee recorded a mass of evidence in the process and called for many records and documents from the Government and the witnesses as well who gave evidence before the Committee. In order to give a fair chance to the accused persons, the Committee gave them all possible opportunities whenever they sought for and granted their requests for extension of time to submit their written explanations and also for postponement of their personal appearance before the Committee if a particular date did not suit them, even though the Committee had to seek extension of time twice from the House and the Speaker for presentation of the Report of the Committee to the House. Keeping in view the necessity for utmost objectivity and thoroughness, the Committee set for long hours, both-during sessions and when the House was not in session, sometimes continuously for more than a week at a stretch. The members availed themselves of as many as about 52 hours in making their analysis of the issues of facts and law involved in the matter."

(vi) for the existing paragraph 147,
substitute the following paragraph :—

"147. The Committee gave several opportunities to Shrimati Indira Gandhi to appear before the Committee and state the true facts of the case and have her say before the Committee to explain the position in regard to allegations made against her. She in fact appeared before the Committee twice and submitted four written statements. In these statements, she raised only objections on certain constitutional and legal aspects without giving her version of the facts about the case. While appearing before the Committee, she declined to take oath or make affirmation on both the occasions and instead preferred to read out her written statements, submitted before the Committee.

The Committee, in addition to obtaining the written opinion of the Attorney-General of India, had a full discussion with him on the objections raised by Shrimati Indira Gandhi on certain constitutional and legal aspects and other matters

relating thereto. When Shrimati Indira Gandhi appeared before the Committee on the second occasion, the Committee assured her that she would not be compelled to answer any self-incriminatory questions. Nevertheless, she stuck to her position and declined to state her version of the events and facts before the Committee or answer any questions by the Committee regarding the allegations against her. Further, she was given an opportunity to explain the facts and circumstances found against her in the evidence before the Committee even without taking oath/affirmation. However, she declined to avail of this opportunity as well. This attitude on her part has deprived the Committee of her version of the facts regarding the allegations against her.

(vii) paragraph 149 —

for "divergently"

substitute "frankly and without any inhibition".

(viii) paragraph 150 —

for "interrogatories"

substitute "questions".

(ix) Sub-para 2 of paragraph 154 —

for "This information was received by"

substitute "This information was given to Shri B. D. Kumar who passed it on to".

(x) paragraph 158 —

(a) sub-para 1 —

for "owned"

substitute "controlled and managed".

(b) *for the existing sub-para 2,*

substitute the following :—

"The transaction of purchasing the imported plant, machinery or equipment by the Maruti Limited was a surreptitious method of circumventing the stipulated condition of the licence issued to the Company which specifically debarred it from importing any plant, machinery or equipment from outside. If this device of outwitting the law, taking advantage of the lacuna found in it, or that of any local importer having been used as a dummy by M/s. Maruti Ltd., was found and brought to the knowledge of Lok Sabha, the matter would have, quite likely created a furare in the House against the

Maruti Limited and for that matter it would have caused as well embarrassment for the then Prime Minister, Shrimati Indira Gandhi and lowered her prestige in the public eye."

(c) Sub-para 5 —

for "owned"

substitute "controlled and managed".

(xi) Paragraph 161 —

for "for the breach of privilege"

substitute "for the serious breach of privilege".

(xii) *for the existing paragraph 162 —*

substitute the following paragraph :—

"162. In view of the unprecedented nature of the case and the importance of the issues involved in maintaining the authority, dignity and sovereignty of Lok Sabha and upholding the principles underlying the system of Parliamentary democracy the Committee consider it desirable to leave it to the collective wisdom of the House to award such punishment as it may deem fit, to Shrimati Indira Gandhi, Shri R. K. Dhawan and Shri D. Sen, for the serious breach of privilege and contempt of the House committed by them."

4. The Committee also noted the communication dated the 23rd October, 1978, received from the Overseas Clerk of the House of Commons, U.K., regarding the recent case of Mr. John Cordle, who was found guilty by the House of Commons of a contempt committed by him during a previous Parliament. In that case, the Select Committee on Conduct of Members, reporting on the 13th July, 1977, found that he had been guilty of a contempt in taking part in a debate in 1964 without declaring an interest. The House of Commons unanimously agreed with this finding on the 26th July, 1977. No punishment was inflicted, since the Member had resigned his seat after the publication of the Report.

The Committee decided that a reference to the above case be suitably included* in the relevant paragraph of the Report of the Committee.

5. The Committee also decided that relevant portions of the proceedings of the sittings of the Committee held on the 5th July and 19th August, 1978, when Shrimati Indira Gandhi appeared before the Committee to give evidence, be suitably included** in the Report of the Committee.

*See paragraph 132.

**See paragraph 115 and 123.

6. During the consideration of draft Report, Shri B. Shankaranand, a Member of the Committee, invited the attention of the Committee to a Press Statement issued by Shri Ram Jethmalani, another Member of the Committee, published in the *Indian Express* dated the 27th October, 1978 at page 5, under the caption "Jethmalani's appeal to lawyers". Shri B. Shankaranand alleged that Shri Ram Jethmalani in his aforesaid Press Statement had expressed bias against Shrimati Indira Gandhi and that, therefore, the proceedings before the Committee had become vitiated. He urged that further consideration of the draft Report should be stopped by the Committee. The Committee, however, decided that, as Shri Ram Jethmalani had not preferred to the proceedings of the Committee in his Press Statement, further consideration of the draft Report need not be stopped.

7. The Committee authorised the Chairman to finalise the Report of the Committee after incorporating therein the modifications made by the Committee and such other changes of a consequential, verbal and drafting nature as he might consider necessary.

8. Dr. V. A. Seyid Muhammed and Sarvashri Hitendra Desai and B. Shankarananad, did not, however, agree with the findings and recommendations contained in the Report of the Committee.

9. The Committee then adjourned to meet again on the 28th October, 1978, at 11.00 hours, to consider certain points of procedure and related matters regarding their Third Report.

New Delhi, Saturday, the 28th October, 1978.

The Committee sat from 11.00 to 13.20 hours.

PRESENT

Professor Samar Guha—Chairman.

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Krishan Kant
5. Professor P. G. Mavalankar
6. Dr. V. A. Seyid Mohammed
7. Shri Narsingh
8. Shri Meetha Lal Patel
9. Shri B. Shankaranand
10. Shri Madhav Prasad Tripathi
11. Shri Ravindra Varma.

SECRETARIAT

Shri M. P. Gupta — *Senior Legislative Committee Officer.*

2. The Committee considered certain points of procedure and related matters regarding their Third Report adopted by the Committee on the 27th October, 1978, on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in Lok Sabha on Maruti Ltd.

3. The Committee decided that those members who wished to submit Notes for being appended to the Third Report of the Committee, containing their views on the matter, either against or in favour of the findings and recommendations contained in the Report, might send their Notes by the 8th November, 1978.

4. The Committee unanimously laid down the following guidelines for members who wished to submit their Notes for being appended to the Report :—

(i) Notes should be as brief as possible and should not be in the nature of an alternate Report. They should be strictly relevant to the subject matter of the Report and no extraneous matter should be given therein;

- (ii) Only those parts of evidence and documents should be quoted in the Notes which are not already given in the Report and reference may be given in the Notes to those parts of documents and evidence which are already quoted in the Report;
- (iii) If any questions put to witnesses and the answers given by them thereto are to be quoted in the Note, the name of the member who put the question should not be given in the Note.

5. The Committee authorised the Chairman and, in his absence, Shri O. V. Alagesan, M.P., to present the Report to the House on a convenient date in the first week of the next session of Lok Sabha.

6. The Committee decided to hold their next sitting on Wednesday, the 8th November, 1978, at 11.00 hours, to consider other matters pending before the Committee.

The Committee then adjourned.

Forty-sixth sitting

New Delhi, Wednesday, the 8th November, 1978

The Committee sat from 11.00 to 12.30 hours.

PRESENT

Professor Samar Guha—Chairman.

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri Ram Jethmalani
4. Shri Krishan Kant
5. Professor P. G. Mavalankar
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri Meetha Lal Patel
9. Shri B. Shankaranand
10. Shri Madhav Prasad Tripathi
11. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—Chief Legislative Committee Officer.

Shri M. P. Gupta—Senior Legislative Committee Officer.

2. At the outset, the Chairman mentioned that the Committee at their sitting held on the 28th October, 1978, had adopted certain guidelines for preparation of Notes by Members to be appended to the Third Report of the Committee on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in Lok Sabha on Maruti Ltd.

The Chairman desired to know the views of the Committee as to what should be done in certain Notes by Members are not in conformity with the guidelines adopted by the Committee on the matter.

The Committee were of the view that in such a case, the Chairman might take up the matter with the Members concerned.

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6. The Committee authorised the Chairman to fix the next date of the sitting of the Committee.

The Committee then adjourned.

**Paras 3 to 5 relate to other cases and have, accordingly, been omitted.

XLVII

Forty-seventh sitting

New Delhi, Sunday, the 19th November, 1978

The Committee sat from 11.00 to 13.00 hours.

PRESENT

Professor Samar Guha—Chairman.

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Professor P. G. Mavalankar
7. Shri R. Mohanarangam
8. Shri Narsingh
9. Shri Narendra P. Nathwani
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi
12. Shri Ravindra Varma.

SECRETARIAT

Shri I. Pershad—Chief Legislative Committee Officer.

Shri M. P. Gupta—Senior Legislative Committee Officer.

2. The Committee considered the Notes submitted by the following members for being appended to the Third Report of the Committee on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in the Fifth Lok Sabha on Maruti Ltd.

Shri Hitendra Desai
 Shri Ram Jethmalani
 Prof. P. G. Mavalankar
 Dr. V. A. Seyid Muhammed
 Shri B. Shankaranand
 Shri R. Mohanarangam and
 Shri Narendra P. Nathwani.

3. The Committee decided that a Note*, as approved by the Committee, on certain comments made by Dr. V. A. Seyid Muhammed, Shri B. Shankaranand and Shri R. Mohanarangam in their note, be appended to the Third Report of the Committee alongwith the Notes submitted by the Members.

Sarvashri Hitendra Desai and B. Shankaranand however, expressed their disagreement with the Committee's Note.

4. Prof. P. G. Mavalankar agreed to the deletion of the words "if not dodge," from the following sentence of his Note :—

"Leaving this matter entirely to the 'collective wisdom of the House' seems me to avoid, if not dodge, a compulsive duty or an essential obligation cast on the Committee."

The Committee then adjourned.

*See Pages 194 (A) & (B).

APPENDICES

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APPENDIX I
(See para 5 of the Report)

12, Willingdon Crescent,
NEW DELHI-110011.
January 21, 1978.

To

Shri J. R. Kapur,
Chief Legislative Committee Officer
Lok Sabha Secretariat,
Parliament House,
New Delhi.

Dear Sir,

I am in receipt of your letter dated 7-1-1978 concerning certain allegations in respect of my conduct during the last Lok Sabha (5th Lok Sabha) with a view to consider whether any Breach of privilege of the House is involved.

May I request the Hon'ble Committee to grant me six weeks' time to prepare my reply which may involve complicated questions of law. Facts have to be ascertained and this will need the assistance of a number of people of the relevant period. Besides, my tour schedule for the next few weeks had been arranged quite sometime ago and it is difficult to cancel it.

This is to request that the time for filing the reply may be extended till the 7th March 1978.

Yours faithfully,
Sd/-
INDIRA GANDHI

APPENDIX II
(See para 5 of the Report)

Shri J. R. Kapur,
Chief Legislative Committee Officer,
Lok Sabha Secretariat,
New Delhi.

SUBJECT:—Question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officers who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

Sir,

I have received your letter No. 18/3/CI/77 dated 7th January, 1977 regarding the above mentioned subject. I am sorry I have not been able to prepare my reply as I had been very busy in connection with proceedings of the Hon'ble Shah Commission before which my continuous Presence was required through Summons. I, therefore, pray that the Hon'ble Committee may kindly grant me *one week's time* to file my reply.

Thanking you,

Yours faithfully,
Sd/-
R. K. DHAWAN
28, Atul Grove Road,
New Delhi.

January 21, 1978.

APPENDIX III
(See para 5 of the Report)

URGENT

From

Shri D. Sen,
A-1/152, Safdarjung Enclave,
New Delhi.

To

Shri J. R. Kapur,
Chief Legislative Committee Officer.

Sir,

Kindly refer to your most immediate letter No. 18/3CI//77 dated 7th January, 1978 on the subject of the question of privilege against Smt. Indira Gandhi and others. I have been asked to say what I can about this matter and as I feel that all the points relating to this matter, as far as I am concerned, have already been submitted by me in writing to the Shah Commission, who are also seized of this very matter, I am enclosing herewith a copy of my statement to the Shah Commission for the consideration of the Hon'ble Committee. The first two paragraphs of this statement only refer to matters concerning the proceedings before the Shah Commission and so these may not be relevant for the Hon'ble Committee.

In the end, I may also be permitted to add that lot of evidence has been recorded concerning this matter by the Shah Commission and so it would be desirable *both to save me from double jeopardy and for a proper consideration of this matter* if the Hon'ble Committee, which being a Committee of the Parliament is Supreme, could withdraw this matter from the Commission and get from them all the evidence recorded in this matter concerning these four officers. I might also most respectfully submit that as stated by me in para 39 of the enclosed statement I was at no time aware that these four officers were collecting any information regarding Maruti affairs in order to prepare a reply for a Parliament question. In view of this fact, I humbly submit that there was never any intention at all on my part to exercise any power or authority in order to deter them from doing their duty in connection with collection of material for answering the Parliament question or to victimise them for having done such duty.

Thanking you,

Yours faithfully,

Sd/-

D. SEN

Dated : 20-1-1978.

Enclosure: Statement of the facts of the case.

PS : If any further clarification is needed after going through the enclosed statement, I shall only be too happy to give it personally.

Sd/-

D. SEN

20-1-78

ENCLOSURE TO APPENDIX III

Statement of the case relating to alleged misuse of power and institution of false cases against four senior officials by the C.B.I. at the instance of Smt. Indira Gandhi, the then Prime Minister

1. Much of the suspicion and the misunderstanding could have been clarified if I were able to bring home certain procedures which have obtained in the C.B.I. for long. I have already covered most of the procedural points in my statement before the Commission but for the purposes of this statement it is necessary to mention some of the most important points relating to procedure. These are given in Annexure. I must, however, hasten to add that the procedure only supplements and does not supplant legal provisions which have to be adhered to.

2. Receipt of complaint against 4 officials :

When I gave my statement before the Commission, it was mostly on the basis of what I could recollect after such a long time and some sketchy notes, which I could make personally during too short time at my disposal, from the concerned files of which the number was quite large. Even now I have not been able to make copies of all the relevant notings and these could not be supplied by the Commission due to the lack of staff. But as I have taken more notes than before it would be possible to give dates etc. more accurately than when I deposed first.

3. Information about each of these 4 officers was given to me personally by Shri R.K. Dhawan (as I have stated before the Commission, I had discussed this matter with Shri B.N. Tandon, the then Joint Secretary in Prime Minister's Secretariat and he had said that papers or information coming from Sh. Dhawan should be treated as coming from this Secretariat as Shri Dhawan also belonged to this Secretariat) who came to my office in North Block personally for this purpose on the 14th or 15th April, 1975. The information against each officer except Shri Cavale was conveyed to Shri Rajpal on 15-4-75 and he was asked to verify the information against each

of these officers and submit a report *within 5 days*. The information against each of the 4 officers given to me by Shri Dhawan was that *the Prime Minister had received complaints from M.Ps. to the effect that these 4 officers (Names and designations of all the officers were given by Shri Dhawan except as far as I can recollect now the exact designation of Shri Cavale in the S.T.C. was not given and I ascertained it myself) were corrupt, had large assets and were favouring certain firms.* From the fact that he had come personally to give this information and that the complaints had been passed on to me by the Prime Minister made it quite clear that the matter could brook no delay.

4. The case of each officer would now be discussed separately.

5. **Shri A.S. Rajan :**

Shri Rajpal started confidential enquiries on 16-4-75 through his S.P. and other officers, On 16th as far as I can recollect now after having seen the relevant file, I asked Shri Rajpal if verification had started and he replied that he had already collected some information and the reputation of this officer for integrity was bad. He was then asked to send the information collected till then to me.

6. The special unit file was received sometime on the evening of 16-4-75 and the notings of the S.P. and D.D. (*Intelligence*) showed that (i) *Shri Rajan had a bad reputation for integrity, (ii) he had shown favours to M/s. R.K. Machine tools in recommending grant of licence for automobile parts and for recommending import of some raw material to M/s. Daulat Ram.*

7. It may be noted here that under Section 3 and under Section 5 of the D.S.P.E. Act, every officer of the C.B.I. of and above the rank of S.I. has the powers and obligations of an officer-in-charge of police station. The function of the Intelligence Unit, the officers of which do not exercise any police powers, cases with collection of intelligence and the decision about the registration of a case has to be taken by the Director or the Joint Director (in cases in which Intelligence Unit notes are forwarded by D.D. Intelligence) in accordance with legal provisions.

8. The information given by the Intelligence Unit (Para 6 above) on 16-4-75 itself lent information to the allegations received against this officer by the Prime Minister and also disclosed specific instances of undue favours to two firms. Immediate action, therefore, had to be taken as required under Section 157 Cr.P.C. of which the relevant portion is quoted below :—

“Section 157(1): If, from information received or otherwise, an officer-in-charge of a police station has reason to suspect the commission of an offence which he has empowered under Section 156 to investigate, he shall forthwith send a report of the same to a magistrate

empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed to the spot, to investigate the facts and circumstances of the cases and, if necessary to make measures for the discovery and arrest of the offender".

9. From the above quotation, it will be clear that (i) a case has to be registered and investigation has to start immediately when there is even reasonable suspicion that a cognizable offence has been committed and even at this stage the suspected offender can even be arrested.

10. Here I will request the Commission to appreciate that the information conveyed on 16-4-76 itself by the Intelligence Unit required registration of a case in accordance with provisions of 157 Cr.P.C. under Prevention of Corruption Act against Shri Rajan. In fact, if I had delayed registration of the case, it might have been dereliction of duty on my part and I could have been blamed for it. In fact, even on the basis of the information conveyed by the Prime Minister through Shri R.K. Dhawan, a case could have been registered immediately because *complaint of possession of large assets by this officer had been made* by M.P.s. The real purpose for giving it for verification to the Intelligence Unit was to find out the reputation of this officer and specific information about favours to firms if any. The Intelligence Unit not only found, even on the 16th, that he had a bad reputation but also two specific cases of showing undue favours to two firms.

11. From some enquiry made from me by somebody it also appeared to me that there might have been some leakage when the Intelligence Unit verified the residential address etc. of this officer etc. and so, to prevent him from concealing any of his assets D.I.G. Delhi with whom the matter was discussed was asked to register the case and to have a search of the residence of this officer conducted soon after the registration because as noted by the D.I.G. Delhi on page 2/C of Delhi Branch file, "the accused might have got some inkling about the impending C.B.I. probe against him."

12. Under Section 165, Cr. P.C., the search could have been conducted by the Investigating Officer himself as only through this means his assets could be uncovered without undue delay but still to enable an independent judicial authority also to apply its mind a request for a search warrant, in accordance with our usual practice, was made to the magistrate concerned and search was conducted only on the basis of the search warrant issued by him.

13. Ultimately, after completion of investigation the Joint Director, (the file did not come to me at this stage as the J.D. was competent to pass final orders) ordered that minor penalty proceedings in respect of (i) favours shown to M/s. R.K. Machine Tools. (ii) recommending import of the raw material to a firm (iii) contravention of Govt. conduct Rules should be recommended. The C.V.C. not only agreed with the recommendations on 21-8-76 but also remarked (38/C Part III of the Head office file of this case) that "the Commission is rather surprised that only minor penalty proceedings have been recommended against Shri Rajan. Probably they (C.B.I.) have not been able to gather adequate evidence to prove the active collusion of Shri Rajan. In these circumstances, Commission can only agree to institution of minor penalty proceedings."

Shri P. S. Bhatnagar :

14. The confidential enquiry against Shri Bhatnagar was also ordered on 15-4-75 and as in response to an enquiry about action taken in this regard, I was told, as far as I can recollect, on 16-4-75 itself that this officer's reputation was bad, the D.I.G. was requested to send the information which had been collected by his Unit. This officer's file also reached me on the evening of 16-4-75 and according to the note of Shri Vijaiyan, S.P., the reputation of this officer for integrity was not good, he was "working as agent of his Chief Marketing Manager, Shri Cavale, in dealing with parties coming into contact with P.E.C. with ulterior motives, he has been placed under suspension under S.T.C. Rules for misconduct and that he was figuring in the case of Shri R.S. Bansal, Accountant who was arrested in Bombay in RC. 44/74 when he was found with release orders at Bombay." Shri Rajpal in his note agreed that this officer did not enjoy good reputation, endorsed the other allegations, and referred to his suspension by S.T.C.

15. For the same reasons as the case of Rajan and, on account of the provisions of the Cr. P.C. quoted above, it was necessary to register a regular case for investigation against Shri Bhatnagar also and, accordingly, registration of a regular case in C.I.A.-II was ordered.

16. After completion of investigation, Shri Chaudhuri recommended in respect of 3 allegations (para 66 Part-I H.O. file) RDA for major penalty and I agreed with him. The C.V.C. on 17-6-76 advised minor penalty proceedings in respect of 2 of these allegations. We accepted the advice of the C.V.C.

Shri R. Krishnaswamy :

17. Information about him was passed on also on 15-4-75 to Shri Rajpal and confidential enquiries started on 16-4-75.

In his case it was reported that his reputation was good but that he was holding a large number of shares in various companies though a major portion was gifted to him by his father (para 41 of SU file).

18. As his reputation was said to be good registration of *neither a P.E. nor a R.C. was ordered against him*, when D.D. Intelligence put up the file on 19-4-75. When the file was put up by the Jt. Director on 27-4-75 there was information to the effect that he was holding a large number of shares in various companies even though a major portion of shares were gifted to him by his father. Because of this an enquiry into his share-holdings, specially to ascertain the shares purchased by him with his own money appeared necessary and as this enquiry could possibly be made from Income Tax Department etc. registration of a P.E., after discussion with the Jt. Director, was ordered on 27-4-75 and a P.E. was registered on that date in CIA-II. Special Unit also continued collecting further information about him and on 1-5-75 Shri Chaudhuri, Jt. Director, noted (para 70/n of S.U. file) that "the I.T. Return file of the officer has been collected. From this it is seen that his father gifted shares in 1972. He was, however, having the shares of Chemical Fibres, Poysha Industrial Co. Ltd., Indian Explosives from earlier years." As this clarified that he had acquired shares even before 1972 from his own money, when he was a comparatively junior officer it became necessary to investigate his assets and so, after discussion with the Jt. Director, Shri Chaudhuri, it was ordered that the "S.P. (para 71/n of Intelligence Unit file) may send his recommendation for conversion of his P.E. into RC through his D.I.G. After conversion is done, search is to be conducted immediately and a report submitted for information." Also, as noted by Shri Chaudhuri, "every care was to be taken, as explained during the discussion, that least annoyance and inconvenience was caused during the search." On the basis of the report of the S.P. of the D.I.G. the Jt. Director concerned permitted conversion of P.E. into R.C.

19. The action taken in this case was again in accordance with the provisions of the Cr.P.C. quoted above.

20. After completion of investigation (paras 14-177/n of Head Office file) while the investigating officer recommended prosecution on the charge of disproportionate assets, the D.I.G. disagreed with this recommendation but agreed that regular departmental action should be recommended for showing favours to M/s. Amco Transformers. He also recommended action considered suitable by the Department for (i) obtaining discount of Rs. 125 from Phillips India on the purchase of a Stereo system and (ii) for contravention of Conduct Rules for obtaining loans exceeding Rs. 1000 from Indian Bank.

21. The Additional Director agreed with the recommendation of the D.I.G. except that he felt that no report for suitable action need be sent in regard to loans. I agreed with the Additional Director.

22. C.V.C. ultimately advised no action on 28-10-76 and when it was put up before me, I agreed that we may accept C.V.C.'s advice.

23. From his house search some whisky bottles and some accounts relating to purchases from Singapore through Shri Krishnaswamy's sister-in-law were recovered and these indicated violations of Excise Act and F.E.R. Act respectively. Though we could have registered cases under Excise and FER Acts and investigated them ourselves, we decided to report the recovery of whisky bottles to the local police and the suspected F.E.R. violations to the Directorate of Enforcement for necessary action.

24. Shri Cavale:

In regard to Shri Cavale, according to notes recorded by S.P. Intelligence Unit and Shri Rajpal D.D., after secret enquiries, revealed that (para 4 of Intelligence Unit file) (i) Shri Cavale was a corrupt officer, (ii) he was living beyond his means, (iii) he had taken a bribe from M/s. Batliboi & Co. for showing favours to them.... for getting an import licence and its misutilization and (iv) he had purchased a flat in Bombay with his ill-gotten money. His reputation for integrity was bad and he was seen visiting hotels and restaurants (paras 16—19 of Intelligence Unit file).

25. Shri Cavale (para 20) owned T.V., stereo Record Player, Air Conditioner, Air Room Cooler and an imported car, besides other household goods and although he had not shown any flat in his property return, according to a source of Inspector Mukherjee, he had admitted that he owned a flat in Bombay.

26. Later some information was also received from Bombay to the effect that he had sold a FIAT car to Shri Tarachand of M/s Empire Dying, Bombay and the price of sale shown *i.e.* Rs. 12,000 was rather on the low side.

27. On 24-7-75 Shri Chaudhuri discussed the information available with me and I thought that an R.C. could not be registered straightaway but a P.E. could be registered. Also when more information became available within 4-5 days then the P.E. could be converted into R.C. Accordingly, a P.E. was registered in Delhi Branch on 28-4-75.

28. After collection of some more information and consideration of watch reports which showed that (i) he was living in a high style and (ii) had perhaps concealed purchase of a flat in Bombay, Shri Vijayan, S.P. (para 56 of the Intelligence Unit file) recommended a search of the house of Shri Cavale. On the same day, Shri Chaudhuri, agreeing with Shri Vijayan, recommended that the P.E. should be converted into R.C. This was approved by me and, as the Jt. Director, Shri Chaudhuri, noted, "the S.P. may

send his recommendation through D.I.G. to Jt. Director (G) for conversion of this P.E. into R.C., as the case is against a G.O. Class I. Jt. Director(G) may please approve the conversion and then searches may be conducted after obtaining search warrants. Jt. Director(G) may pass on the file to D.C.B.I. for his approval of conversion, if necessary." Shri Chaudhuri marked this note to J.D.(G), Shri M. Gopalan, for necessary action.

29. It may be noted that in this case although Shri Cavale was found to have acquired assets worth Rs. 1.60 lakhs during 10 years, it was thought that a good case for disproportionate assets could not be made out. It may also be added that another J.D. Shri Laxminarayanan, had noted on 4-6-75, (H.O. file part IV, pg. 1) that "if you want to get any information it has to be by immediate search.... as otherwise evidence is likely to be lost."

30. Certain contravention of Departmental Rules were found during investigation but no action was suggested as Shri Cavale had resigned in the meantime.

Conclusion

31. In conclusion it may be desirable to discuss the justification of action taken under the heads (i) registration, (ii) searches, (iii) investigation.

(1) Registration:

32. As has been stated before, cases of corruption in which Prime Minister himself or herself desires quick investigation are rare and therefore utmost speed in the finalisation of these cases is necessary. It follows from this that preliminary confidential verification, if any, should be limited to the point at which there is a reasonable suspicion of commission of a cognizable offence (here an offence under the Prevention of Corruption Act). As the information given by M.Ps. to the Prime Minister was to the effect that all these officers were in possession of large assets, disproportionate their known sources of income, and as this is a specific offence under the Prevention of Corruption Act, a case could have been registered against each of these four officers as soon as this information was received but just by way of caution, I asked D.D. Intelligence to make a confidential check mainly with a view to ensure that a case was not registered against an officer if his reputation was good. In case of all officers except Krishnaswamy it was reported that their reputation for integrity was bad and some specific instances of showing favours to firms and living in a high style, considering their status etc., was also reported. I would, therefore, respectfully submit that I could have been held guilty of dereliction of duty if cases were not registered against these three officers as soon as this information became available, as it was mandatory under Section 157 Cr. P.C.

33. In case of Krishnaswamy a case was not registered till it became clear from the Intelligence Unit file that he had acquired shares of a number of companies with his own money before some shares had been gifted to him by his father. This again was in compliance with the provisions of Cr. P.C.

34. I might add that such speed in registration of cases i.e. registering a regular case as soon as such action seems necessary under Section 157 of Cr.P.C. is usual when the information comes from the Prime Minister. To give instance of a very similar case, when Pandit Nehru received information from M.Ps. (in this case also the information was from M.Ps.) to the effect that there was corruption in purchases in Border Road Organisation at Tejpur, I was asked to fly to Tejpur and complete enquiries and have action initiated within 7 days even though it took 3 days by air from Delhi to Tejpur and back.

35. A team of officers had gone with me and within a few days we collected some information about corruption in purchases and 4 cases were registered. These are known as "Tuskar" cases.

36. While the decision for registration of cases was taken by me in accordance with the legal provisions quoted above, I might note incidentally, that in 2 cases in which Shri Chaudhuri was consulted he did not oppose the registration and seemed to agree with me and therefore his statement to the effect that he was acting entirely as directed by me is not correct. After all he was an officer of the rank of Inspector-General of Police and officers of this rank can and have always given to me independent and sound advice.

Searches:

37. As in all the cases the main allegations related to disproportionate assets, searches had to be conducted to uncover all the assets before information about enquiries leaked out. In this case the note of D.I.G. Delhi in case of Rajan and legal provisions regarding searches quoted above may be referred to. It might however be emphasized again that search warrants were obtained after putting up the information available against each officer before the competent magistrate.

38. Certain special features which will show beyond doubt that no harassment was caused to these officers are noted below:—

(i) Although a case could have been registered immediately on receipt of information from the Prime Minister as mentioned before, a confidential verification in regard to reputation the other allegation was made and cases were registered at the stage at which it should have been done.

(ii) Searches were necessary before any leakage to uncover all the assets and even though the C.B.I. Investigating officer himself could have conducted the searches under Section 165 of the Cr.P.C., search warrants were obtained to enable the independent judicial authority also to apply its mind.

(iii) Even at the stage of searches or soon after registration the officers could have been arrested in accordance with the provisions of Section 157 Cr.P.C. The fact that this was not done should prove beyond doubt that there was no intention to harass these officers by any vindictive action.

(iv) In the Krishnaswamy's case the Investigating Officer had recommended prosecution and if I had any intention to harass Krishnaswamy I could have accepted this recommendation but, as mentioned before, I accepted the most lenient recommendation made by the Additional Director.

(v) The most important test in regard to point of harassment is investigation. The fact that no effort was made to paid evidence should also prove beyond doubt that there was no intention at all to harass these officers. In fact, in each case the recommendation of that senior officer, who recommended the most lenient action, was accepted.

39. In the end it may also be noted that nobody brought to my notice and I had no idea at all that these officers had anything to do with Maruti affairs. If it had come to my notice I would have, as stated already, gone to the then Prime Minister and requested her that C.B.I. should not be involved in these cases even though we would have had to abide by her final orders.

ANNEXURE

(See para 1 of the enclosure to Appendix III)

1. In the MHA Resolution of April 1, 1963, under which C.B.I. was established, collection of intelligence about corruption, which includes confidential verification of information, was noted as one of the functions of the C.B.I. in addition to investigation and prosecution etc. Also, the Intelligence Unit at Delhi (also known as special Unit or S.U.) only collects intelligence or makes confidential enquiries and does not perform any functions under the D.S.P.E. Act (which gives police powers to S.P.E. Division of the C.B.I.), namely investigation and prosecution.

2. The head of the Intelligence Unit is an officer of the rank of D.I.G. who, because he does not perform any police function, is designated as

Deputy Director, while officers who perform police functions carry police designations also *e.g.*, Director, C.B.I. is designated as Director, C.B.I. and I.G., S.P.E. and Jt. Directors who are of full I.G.'s rank as Jt. Director and Special I.G.

3. Under the Deputy Director, Intelligence are two officers of the rank of S.P., a number of Deputy S.Ps., a number of Inspectors and S.Is. and Head constables etc. who mainly constitute watch teams, which function under the control of the Inspector or Deputy S.P. who collects intelligence or verifies information confidentially in regard to an officer. Watching is only one of the way of collecting intelligence.

4. When some information had to be verified quickly then instead of wasting time in recording a note and then sending it to D.D. (Int.) it was given orally to the D.D. (Int.) who always reduced this information to writing and then proceeded to verify it. Also in urgent cases information against one officer was given to one team of Intelligence Unit for verification.

5. When it appeared that the allegations only amounted to departmental misconduct or some more useful information could be collected from Government departments only, a P.E. was registered but when the allegations related to cognizable offences requiring investigation under the Cr.P.C., a R.C. was always registered.

APPENDIX IV
(See paras 21 and 113 of the Report)

12, Willington Crescent,
NEW DELHI.
June 16, 1978.

Shri I. Pershad,
Chief Legislative Committee Officer,
Parliament House,
New Delhi.

SUBJECT :—*Question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.*

Sir,

Reference your letter No. 18/3/CI/77 dated the 14th of June on the above mentioned subject. In this connection, I wish to make the enclosed statement which may be placed before the Hon'ble Committee.

In view of what I have said, in my statement, I do not think it necessary for me to attend the proceedings, at any rate at this stage.

Yours faithfully,

Sd/- INDIRA GANDHI.

Enclosure to Appendix IV
Before the Privilege Committee Lok Sabha

Sir,

I have received a letter dated the 9th May, 1978 from Shri J. R. Kapur, Chief Legislative Committee Officer, in response to my earlier communication of March 1, informing me that you have decided to hear me in person on the question of privilege.

I am entitled to the constitutional guarantee enshrined in Article 21 of the Constitution which provides that no person shall be deprived of his personal liberty except in accordance with the procedure established by law. In referring to an earlier decision in Sharma's case, the Supreme Court held in its opinion upon reference by the President under Article 143 of the Constitution. "We do not think it would be right to read the majority decision at laying down the general proposition that when there is a conflict between the provisions of the latter part of Article 194(3) in the present case the corresponding article is 105(3) and any of the fundamental rights guaranteed by Part III, the latter must always yield to the former. The majority decision, therefore, must be taken to have settled that Article 19(1) would not apply and Article 21 would."

In Maneka Gandhi's case, the Supreme Court has further held that the procedure under Article 21 of the Constitution must be fair, just and reasonable and that one of the requirements of such procedure is that the Tribunal must be impartial. Reasonable suspicion of bias on the part of the Tribunal, particularly when the proceedings are criminal in nature, will make such Tribunal as 'improperly constituted'. In Parathasarthy's case decided in 1973, the Supreme Court observed, "The court will not inquire whether he (the inquiring officer) was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision. We should not, however, be understood to deny that the court might with greater propensity apply the "reasonable suspicion" test in criminal or in proceedings analogous to criminal proceedings."

I have great respect and high regard for members of this Hon'ble Committee. But the hostility of the Janata Party towards me personally has become almost its *raison d'etre*. Its proclaimed design to harass me, to denigrate me, to send me to prison on some ground or the other has become a part of its national policy and its principal preoccupation. This Hon'ble Committee consists mainly of members who owe allegiance to the Janata Party and I have reasonable apprehension of the influence of the Janata Party's openly declared antagonism towards me on those members.

Subject to this and without prejudice I wish to place the following submissions on record :—

In my earlier submission I had stated that the matter concerned the 5th Lok Sabha which stood dissolved and that breach of privilege of the House did not enure beyond the life of the House. I had also referred to a decision in the case of Shri T. N. Kaul in this connection. The letter of Mr. Kapur does not contain any expression of opinion by this Hon'ble Committee on my aforesaid submission. I am fortified in this regard by the provisions of

Rule 222 of the Lok Sabha Rules under which the motions in the present case had been admitted. That Rule lays down as follows :—

Rule 222 Question of Privilege—“A member may, with the consent of the Speaker, raise question involving a breach of privilege either of a member or of the House or a Committee thereof.”

A bare perusal of the rule shows that the question of privilege can be raised only by that person who is “a member” and not a former member. It is therefore necessarily implied that the expression “the House” in this rule does not include a dissolved House. It means the House of which the person raising the question is a member and whose privilege is involved. The use of the prefix ‘the’ to the word ‘House’ is also significant. It excludes the idea of any House. Otherwise, the Rule would have used the prefix ‘a’, as it has done while mentioning ‘member’ or ‘committee’.

The expression ‘the House’ also occurs in other rules as well and in all these rules, as the context shows, it means the existing House. It cannot therefore be given a different meaning in Rule 222 so as to include the previous House.

The observation made by May in his ‘Parliamentary Practice’ that “contempt committee against one Parliament may be punished by another”, to which reference was made by Shri Madhu Limaye during the debate, is not applicable to the Lok Sabha where the question of privilege has been codified in a specific rule. Even May has qualified his observation with an expression of doubt and has chosen to confine it to cases of libel against Parliament. Where, however, the allegation of breach of privilege is based on the alleged obstruction of a person allegedly engaged in collecting information for reply to a parliamentary question, the matter would involve so many disputed questions of fact, that by its very nature the only House competent to consider it would be the House whose functioning is alleged to have been obstructed. A libellous statement will stand on a different footing. It may bring the institution of Parliament as a whole into disrepute. The wrong thus committed would be a continuing wrong and may enure for action by a succeeding Parliament. The observation of May has to be confined in any circumstance to cases of libel. I reproduce below the exact words used by May :

“It also *appears* that a contempt committed against one Parliament may be punished by another : and libels against former Parliament have often been punished.”

If Rule 222 includes the power of the House to punish for contempt of the previous House, then it will necessarily follow that it is the duty of the House to uphold the majesty and dignity of the previous House. Take

for instance the case of Shri J. C. Shah, proceedings before whom have been made the basis of present motions of breach of privilege. By insisting to hold an inquiry into the declaration of emergency which was ratified by Parliament and by holding it as an excess, he has, I respectfully submit, indirectly stigmatized the previous House by impliedly representing it as unworthy of its constitutional responsibilities and as devoid of independence. Once the declaration of Emergency was ratified, it became an act of Parliament and no authority is competent to sit in judgement over the wisdom of Parliament. Such an action would necessarily lower the dignity and the authority of Parliament. The terms of his reference did not authorise him to inquire into this question.

In the written statement submitted by me to Shri Shah, I had stated. "No authority in this country, not excluding any commission under the Commissions of Inquiry Act, can sit in judgement over such an Act of Parliament. For any political decision, the Government under our constitution is answerable only to Parliament. If this Hon'ble Commission arrogates to itself and power to determine that the declaration of Emergency was an excess, this Hon'ble Commission will not only be stultifying the constitutional scheme, but also establishing a precedent which will make serious inroad into Parliamentary supremacy with disastrous consequences to Parliamentary freedom."

Shri J. C. Shah disregarded my statement and in the process I believe brought the dignity, the independence, the very functioning of the previous Lok Sabha into odium and ridicule and lowered its authority or at any rate his proceedings had the tendency to produce this result. But can it be said that the proceedings of Shri J. C. Shah in this regard constitute breach of privilege actionable by the present House.

For another reason also the consideration of the question is excluded. Rule 224 provides as follows :—

"The right to raise a question of privilege shall be governed by the following conditions, namely :

.....

".....the question shall be restricted to a specific matter of recent occurrence."

The matter under consideration is not of 'recent occurrence'. It is alleged to have taken place in April, 1975. Nor can it be said that it came to light only in the course of the proceedings before Shri J. C. Shah, as was suggested during the debate in the House. The allegation of the breach of privilege is based on the alleged 'obstruction' of the officers concerned who have been described by Shri Kanwar Lal Gupta as 'the agents of the Minister' in the

collection of information for reply to a Parliamentary question. If this is true, Mr. Pai as the principal and the officers as his agents were aware of the alleged 'obstruction' in April, 1975. They ought to have raised the question of privilege at that time before the House of which they have been described to be the officers. It was that Lok Sabha which was the appropriate authority to determine whether they were its officers or not, whether they were collecting any information on its behalf and whether or not, I had obstructed them in the discharge of their function. The present House, I respectfully submit, is not the appropriate body, to determine these questions and at such a belated stage.

In view of all this, I respectfully submit, this Hon'ble Committee is not competent to consider the question of privilege in the present case and at any rate I am not liable to make any submission on merits until my preliminary objections are considered and decided. Without prejudice, however, I shall like to make the following additional submissions :—

I. Shri Madhu Limaye has stated in his notice of October 10, 1977, "Now it is clear that when the officers of the Industry Ministry were trying to collect information for the purposes of preparing an answer to my question, the then Prime Minister ordered the searches of the officer houses"

Shri Madhu Limaye's question had been set down for reply on March 12, 1975 and the reply was given then. According to the report of Shah Commission, the earliest alleged step taken by some of these officers towards collection of information was on April 9, 1975. It is therefore factually incorrect that their houses had been raided because they had been collecting information in connection with Shri Madhu Limaye's question. Even Mr. Shah's report does not support Shri Madhu Limaye's contention. As Shri Madhu Limaye's notice was founded on the proceedings before the Shah Commission, no further inquiry is called for.

II. Shri Kanwar Lal Gupta has relied upon the proceedings before Mr. J. C. Shah in which a case was sought to be built up by Shri T. A. Pai and the officers concerned that their houses were raided at my instance because they were collecting information in connection with a question asked by Shri Jyotirmoy Bosu and listed for reply on April 16, 1975. Mr. Shah had no hesitation in accepting this story. In the course of his proceedings he emphasized time and again that this was a fact finding Commission and that he was only concerned with the determination of true facts. It is, however, beyond comprehension how his report has not adverted to the following facts before recording adverse findings against me :—

(a) The reply to the question had been approved on April 14, 1975, before any action was taken.

(b) The reply, as given by Shri T. A. Pai, was as follows :—

“Government does not collect nor is any industrial unit required to furnish detailed information with regard to machines purchased locally. Government has, as such, no information.”

(c) Shri T. A. Pai is stated to have admitted in the Hon’ble Commission that I never asked him to answer any Parliamentary question in any particular manner.

These facts, taken together, are sufficient to end any further inquiry into Shri Gupta’s notice as well. None of these officers was an officer of the House, or employed by it or entrusted by it with the execution of any of its orders. Shri Kanwar Lal Gupta’s notice is based on the premises that the officers were agents of the Minister. At least one such officer, Shri Rajan, has even admitted that he was not collecting any information at all. The report of Mr. Shah is nothing but assumptive in this regard. The present proceedings, founded as they are on the evidence before Shri Shah, are therefore liable to be terminated.

III. The proceedings of Shah Commission and any statements made by any person before it cannot be transplanted and used against me in the proceedings before this Hon’ble Committee. This Hon’ble Committee has to hold an independent inquiry, record evidence by itself after affording to me the right of cross examination of each witness and full defence, and form its own conclusions on the basis of such evidence. The proceedings of the Commission or the findings recorded by it are wholly irrelevant in the present proceedings. Even otherwise they are hearsay. Nor has the Commission been appointed in pursuance of any resolution passed by the House. Besides, the proceedings of Shri Shah in this matter were wholly without jurisdiction. In this regard, I can do no better than quote the ruling of the Hon’ble speaker in rejecting the objection of Shri Vasant Sathe against the institution of parallel proceedings :—

“As far as the Shah Commission aspect is concerned, there also I have gone through the entire matter. I have gone through the terms of reference of the Shah Commission. They are confined to Emergency excesses and matters connected with them. This event has taken place much earlier than the declaration of the Emergency.”

Moreover, I had no opportunity to defend myself before the Shah Commission. I was not legally bound to submit to his jurisdiction. In the criminal trial pending in the court of Shri P. K. Jain upon the complaint filed by Shri J. C. Shah for not making the statement before him, it is part of

my defence that I was not liable to do so because he had been conducting the proceedings with bias and preconceived notions and in a manner which was wholly illegal. Mr. Shah had expressed himself against my policies and my approach to national problems as the former Prime Minister. My defence in this regard is subjudice in the court of Shri P. K. Jain. Shri Shah has recorded in his report. "She pressurized Shri Sen to take proceedings for raiding their house and for filing complaints against them."

I quote below the relevant extract from the statement of Mr. Sen :—

"Sir, yes, this was given but I think there is some misunderstanding on this point, because I was not asked to start any investigation".

"I think we make a report only when report is called for. In this case, we were only asked to develop this information."

As a judicial authority, he could not record this finding unless he had at first considered the evidence of Shri Sen and rejected it after recording reasons. He instead ignored his statement altogether. Nor did he care to discuss the evidence of Shri Dhawan.

All that the report says, "It was also noticed that Shri Sen had no valid explanation for his not recording in writing the exact information that he had received from Shri R. K. Dhawan at the instance of Shrimati Gandhi. Repeated questions put by the Commission to Shri D. Sen on this point failed to evoke any useful reply." Of course Shri Shah put repeated questions to Shri Sen but in a different context. Shri Sen also gave repeated answers to the effect that I had neither asked nor was any in manner concerned with the actions taken against the officers. Why those answers of Shri Sen were not found 'useful' by Shri Shah and why Shri Shah chose to ignore them in his report, is not understandable.

Even if their statements were ignored, there was nothing on the record of the Commission which could even remotely sustain his finding that I had 'pressurized' a reluctant Mr. Sen. It is interesting to find in his report that Shri Shah did not notice the contradiction in his approach when he observed, while recommending measures to improve the functioning of the CBI. "In the present case there was nothing against any of the four officers except the vague complaints, if any, allegedly made by the M.Ps. and conveyed to the Director, C.B.I. by Shri Dhawan at the instance of the Prime Minister."

I hope therefore that this Hon'ble Committee will not be influenced by the findings of the Shah Commission.

IV. The proceedings before this Hon'ble Committee are criminal in nature and I am an accused. I am liable to be punished with imprisonment. The Government is also threatening to prosecute me in this matter on the

basis of the findings of Shah Commission. I cannot, therefore, be compelled to be a witness against myself or give evidence before this Hon'ble Committee in view of the provisions of Article 20 of the Constitution. However, I do submit that the allegations against me are utterly untrue.

V. As I have earlier stated, the Hon'ble Speaker admitted the motions after ruling that Shri J. C. Shah had no jurisdiction to investigate the matter in question under the terms of reference. In spite of this ruling, he not only persisted in the inquiry, but ordered my prosecution for not making a statement in this among other matters. By ignoring the ruling of the Hon'ble Speaker, by holding parallel proceedings and by ordering my prosecution for not making the statement before him. Shri J. C. Shah has caused an affront to the dignity of the House and placed obstruction in the present proceedings ordered by the House. I cannot be placed in double jeopardy. If the proceedings pending in the court of Shri P. K. Jain are allowed to stand, the present proceedings cannot continue as they are based on the specific ruling of the Hon'ble Speaker that Shri J. C. Shah had no jurisdiction to hold an inquiry in this matter. His order directing my prosecution and his complaint make no distinction between this matter and the other matters in which he held the inquiry. Therefore the complaint, as a whole, is vitiated.

New Delhi,

Dated : 16th June, 1978.

Sd/-

INDIRA GANDHI

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APPENDIX V

(See para 21 of the Report)

12, Willingdon Crescent,
New Delhi.
June 19, 1978.

Shri I. Pershad,
Chief Legislative Committee Officer,
Parliament House,
New Delhi.

SUBJECT :—*Question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to certain question in Lok Sabha on Maruti Limited.*

Sir,

I am writing in continuation of my letter of the 16th June, 1978. Your letter of the 9th May, 1978, informed me of the decision of the Committee to give me an opportunity of being heard in person. As I have stated in my earlier letter, in view of my written statement, I do not think it necessary for me to attend the proceedings at any rate at this stage.

Since I have not heard from you or the Committee to the contrary, I presume that I am not required to be present on 21st and 22nd of June. Otherwise please inform me accordingly.

Yours faithfully,
Sd/-
INDIRA GANDHI

APPENDIX VI
(See para 23 of the Report)

12, Willingdon Crescent,
New Delhi.
21st June, 1978

The Chairman,
Privileges Committee,
Lok Sabha,
Parliament House,
New Delhi.

SUBJECT :—*Question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.*

Sir,

Reference your letter dated 19th June on the above mentioned subject, I was planning to appear before the Privileges Committee as desired but unfortunately I am not feeling too well today. I shall be grateful if the proceedings are postponed for a few days.

Yours, faithfully,
Sd/-
INDIRA GANDHI

APPENDIX VII

(See para 24 of the Report)

12, Willingdon Crescent,
NEW DELHI.
21st June, 1978.

The Chairman,
Privileges Committee,
Lok Sabha,
Parliament House,
NEW DELHI.

SUBJECT :—*Question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.*

Sir,

Kindly refer to your letter No. 18/3/CI/77, dated 21st June, 1978, permitting me to appear before the Hon'ble Committee tomorrow.

As I am still indisposed I may not be in a position to appear before the Hon'ble Committee tomorrow. As already requested, the proceedings may be adjourned for a few days.

Yours faithfully,
Sd/-
INDIRA GANDHI

APPENDIX VIII
(See paras 25 and 115 of the Report)

12, Willingdon Crescent,
NEW DELHI.
July 5, 1978.

Shri I. Pershad,
Chief Legislative Committee Officer,
Parliament House,
NEW DELHI.

SUBJECT :—*Question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.*

Sir,

I am appearing before the Hon'ble Committee today. However, I should like to make the enclosed statement which may kindly be placed before the Hon'ble Committee in advance.

Yours faithfully,
Sd/-
INDIRA GANDHI

Enclosure to Appendix VIII

Before the Privileges Committee, Lok Sabha

Sir,

On June 16, 1978 I submitted a statement to this Hon'ble Committee containing various objections to the proceedings and hoped that it would not be necessary for me to appear in person. However, I received a communication on behalf of this Hon'ble Committee asking me to appear before it. This communication gives no clue as to whether my objections have been considered. I have already emphasised that the allegations against me of obstruction, intimidation, harassment and institution of false cases against certain officials are baseless.

While reiterating all that I have said in my earlier statement, I should like to add a few words. I respectfully submit that I cannot be compelled to depose before this Hon'ble Committee in these proceedings. I am accused of breach of privilege. Breach of privilege is an offence. According to May, "When any of the rights or immunities, both of the members individually and of the Assembly in its collective capacity which are known by the general name of privileges, are disregarded or attacked by any individual or authority, the offence is called a breach of privilege and is punishable under the law of Parliament." (Underlining is mine). Under article 20(3) of the Constitution, "no person accused of an offence shall be compelled to be a witness against himself." (Underlining is mine). The expression "offence" in that article does not mean merely an offence under the Indian Penal Code. According to our Supreme Court, it has the same meaning as defined in the General Clauses Act which states that "offence shall mean any act or omission made punishable under any law for the time-being in force". And it is by virtue of Article 105(3) of the Constitution that breach of privilege is punishable by the Lok Sabha. Nor does Article 20(3) confine this fundamental right to proceedings before courts of law. In a recent judgement the US Supreme Court has observed that this constitutional privilege to silence can be claimed in any proceeding, "be it criminal, investigatory, or adjudicatory."

Our Supreme Court also has expressed the following view :

"We do not know that it would be right to read the majority decision as laying down the general proposition that when there is a conflict between the provisions of the latter part of Article 194(3) [in the present case the corresponding Article is 105(3)] and any of the fundamental rights guaranteed by part III, the latter must always yield to the former. The majority decision, therefore, must be taken to have settled that Article 19(1) would not apply and Article 21 would."

Elaborating this view, a Full Bench of the Madras High Court held that Article 21 which overrides Article 194(3) of the Constitution must be construed in the context of Article 20 as well.

In the many years of my parliamentary career I have had and shall always have the highest respect and regard for the prestige, the dignity, the independence of the House and its committees. I would not have chosen to exercise this fundamental right, and would have gladly deposed before this Hon'ble Committee, had it not been for the fact that, going by the statements made by different spokesmen of the Government prosecution against me on the same grounds seems to be imminent. When I am facing the prospect of imminent prosecution I cannot be compelled to disclose my defence in advance. No accused has ever been called upon to do so. If I depose before this Committee my defence in the imminent criminal cases is bound

to be prejudiced and indeed preempted. Worst of all, any adverse finding against me by this Committee will hang as a compulsive pall over any criminal court.

Fairplay is a fundamental principle of natural justice recognised by our Supreme Court. In fact, the right enshrined in article 20(3) of the Constitution is available to me in these proceedings in view of the imminence of my prosecution on the same allegations.

While admitting this motion, the Hon'ble Speaker dealing with the objection raised on the floor of the House, had ruled as follows :—

“As far as the Shah Commission aspect is concerned, there also I have gone through the entire matter. I have gone through the terms of reference of the Shah Commission. They are confined to Emergency excesses and matters connected with them. This event has taken place much earlier than the declaration of Emergency. Therefore I thought it was not necessary to go by that consideration.”

It is clear from the above that the motion was admitted on the ground that there would be no parallel proceedings. Shri J. C. Shah, however, did hold the inquiry into these same allegations. In these circumstances, I respectfully submit that the very basis on which these motions of privilege were admitted no longer exists and the matter may therefore be closed.

New Delhi;
Dated, 5th July 1978

Sd/-
INDIRA GANDHI

APPENDIX IX

(See Para 28 of the report)

DELHI SPECIAL POLICE ESTABLISHMENT

SIU (SIB), New Delhi Branch

FIRST INFORMATION REPORT

(Recorded U/s 154 Cr. P.C.)

Crime No. : RC. 1/78-SIU(SIB. I) Date & Time of Report : 10-7-78 at
10.40 A.M.

Place of occurrence with State: New Delhi (Union Territory)

Date and time of occurrence: 1975—1977

Name of complainant or informant with address : Shri T. N. Mishra, Supdt. of Police CBI
SPE S.I.U. (S.I.B.I.), New Delhi.

Offence: U/s 120B IPC r/w Sections 167, 182, 186,
189, 211 and 448/109 I.P.C. and
Substantive offences U/s 167, 182,
186, 189, 211, 448 IPC and 109 IPC.

Name and address of the accused: (1) Smt. Indira Gandhi, former Prime Minister of India.
(2) Shri R. K. Dhawan, former Addl. P.S. to the Prime Minister of India.
(3) Shri D. Sen, former Director, Central Bureau of Investigation, New Delhi.
(4) Shri A. B. Chaudhari, former Joint Director, CBI, New Delhi and others.

Action taken: Regular case registered.

Investigating Officer: Shri M. L. Sachdeva, Dy. S.P. C.B.I. S.I.U.
(SIB. I), New Delhi.

INFORMATION

The Government of India in the Ministry of Home Affairs in exercise of their powers under section 3 of the Commission of Inquiries Act, 1952, appointed a Commission of Inquiry consisting of Shri J. C. Shah, Retired Chief Justice of the Supreme Court of India as its Chairman by their Notification No. S.O. 374 (E) dated 28th May, 1977.

The terms of reference of the Commission, apart from others, also included:—

- (a) To inquire into the facts and circumstances relating to specific instances of:—
 - (1) Subversion of lawful processes and well-established conventions, administrative procedures and practices, abuse of authority, misuse of powers, excesses and/or malpractices committed during the period when the proclamation of Emergency made on 25th June, 1975 under Article 352 of the Constitution was in force or in days immediately preceding the said proclamation.
 - (2) Misuse of powers of arrests or issue detention orders where such arrests or orders are alleged to have been made on considerations not germane to the purposes of the relevant acts during the aforesaid period.

2. The Commission was requested to submit interim reports to the Central Government on the conclusion of enquiries into any particular allegation or series of allegations.

The Commission has submitted two interim reports dated 11th March, 1978 and 26th April, 1978 to the Government of India, who, after having accepted the above reports, have forwarded the same to the Central Bureau of Investigation for initiating legal action where offences appear to be made out.

The perusal of the Interim Reports reveals that a question asked by Shri Jyotirmoy Bosu in the Parliament seeking to elicit information from the Government concerning import of machinery by Maruti Private Limited, was listed for reply on April, 16, 1975. Four officers of the Ministries, Shri Krishnaswamy, Deputy Secretary, Heavy Industries; Shri A. S. Rajan, Development Officer, D.G.T.D.; and Shri L. R. Cavale, Chief Marketing Manager, P.E.C.; and Shri P. S. Bhatnagar, Deputy Marketing Manager, P.E.C.; were collecting such relevant information as would enable the Minister concerned to reply to the question.

In the process of gathering information, Shri Krishnaswamy asked Shri Khosla, an Officer of D.G.T.D. to contact the Manager of Maruti Private Limited and obtain certain information, Shri Khosla accompanied by Shri Bharij visited the factory of Maruti Limited on April 10, 1975, but no information was supplied to them by the Management of Maruti Limited.

Sometime between April 9 and 14, 1975, Shri A. S. Rajan and Shri P. S. Bhatnagar contacted M/s. Batliboi and Company on telephone to elicit certain information in relation to the question, which was to be answered in the Parliament. On April 14, 1975, Shri R. K. Dhawan, Additional Private Secretary to the Prime Minister, contacted Shri T. A. Pai, Minister for Heavy Industries on telephone and complained against the conduct of the officers of his Ministry, who were collecting information from M/s. Batliboi and Company. On April 15, 1975 Shri R. K. Dhawan spoke to Shri A. S. Rajan and Shri P. S. Bhatnagar on telephone and directed Shri P. S. Bhatnagar to desist from collecting information relating to the import of machinery by Maruti Limited. It is further stated in the report that Shri Cavale had also received a phone Call from Shri N. K. Singh, Special Assistant to the Commerce Minister wanting to know what transpired in the office regarding the Parliament Question on Maruti.

Shri T. A. Pai was personally called by the Prime Minister to meet her at her residence. Shri Pai met the Prime Minister either on April 14 or 15, 1975. Shri Pai found Smt. Gandhi "completely upset and furious". She told Shri Pai that the Management of M/s. Batliboi and Company was being harassed by the officers of his Ministry. In the presence of Shri Pai, Smt. Gandhi called Shri Dhawan and directed him to contact Shri D. Sen, Director, CBI and ask him to start inquiries into the conduct of these officers and raid their houses. She also asked Shri Dhawan to send for Shri D. Sen.

Smt. Gandhi also called Prof. D. P. Chattopadhyaya, the then Minister of Commerce, at her residence on April 15, 1975 and directed that immediate inquiry should be started against Shri Bhatnagar because he had caused harassment to certain parties. Shri Chattpadhyaya prepared a note on April 15, 1975, extract from which is reproduced below:

"A specific case was brought to my notice today where Shri P.S. Bhatnagar, Deputy Marketing Manager, P.E.C., kept the representatives of a firm waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained, was unbecoming of a public servant. I would like the Chairman, P.E.C. to take disciplinary action against the officer."

Prof. Chattpadhyaya also discussed the matter with the P.E.C. Officers and informed them of what he had learnt from the Prime Minister and ordered that disciplinary proceedings should be commenced against Shri Bhatnagar.

Pursuant to the order made by Prof. Chattpadhyaya, Shri Bhatnagar was ordered to be suspended and intimation of the order was given to him sometime at about 10 p.m. that night i.e. April 15, 1975.

Shri T. A. Pai had satisfied himself from his officers as also from the Manager of M/s. Batliboi Limited that there was no substance in the allegations made against his officers to the effect that they were responsible for harassment to M/s. Batliboi and Company.

The orders of Smt. Gandhi were, however, communicated by Shri Dhawan to Shri Sen, Director of CBI. Shri Sen called the Deputy Director, Intelligence Cell, Shri Rajpal on the evening of April 15, 1975, and asked him to verify the information against Shri Krishnaswamy, Shri Rajan and Shri Bhatnagar. Shri Rajpal was informed by Shri Sen that all these officers were corrupt and had assets disproportionate to their known sources of income. Shri Sen directed Shri Rajpal to collect information against them immediately and to furnish a report within five days. On April 16, 1975, Shri Rajpal directed his subordinate officers to collect the requisite information and also to mount surveillance against these three officers.

Before any verification could be made, Shri Sen directed Shri Rajpal on April 16, 1975 to send to him whatever information was available against these officers. The relevant files, were, accordingly submitted by Shri Rajpal to Shri Sen. Shri Rajpal, however, did not recommend any action against these officers, since the verification had just started. Shri Sen, however, ordered the registration of regular cases against Shri Bhatnagar and Shri Rajan. On April 17, 1975 cases were formally registered against Shri Bhatnagar and Shri Rajan under the Prevention of Corruption Act for being in possession of assets disproportionate to their known means. On April 18, 1975, their residential premises were searched by the CBI officers.

The S.T.C. authorities, who had control over Shri Bhatnagar and Shri L. R. Cavale were also galvanised into action in pursuance of the note sent by Shri D. P. Chattopadhyaya. Shri Bhatnagar was served with the suspension order at his residence on the night of April 15, 1975. Shri Cavale was transferred to Madras from Delhi. This order was initially dated April 16, 1975. Then this order was withdrawn and a fresh order dated April 15, 1975, with identical contents was again served upon Shri Cavale to make it appear that there was no delay in the execution of the orders. Shri Cavale did not accept the transfer meekly and protested against the order of the Chairman, S.T.C.

Shri P. J. Fernandes, Director-General, Bureau of Public Enterprises, took up the matter relating to the transfer of Shri Cavale with the Chairman of S.T.C. Shri P. J. Fernandes was informed by the Chairman that he was helpless and that he was acting under superior instructions. Shri Cavale, then personally met the Chairman, who also advised him that in order to avoid further "complications and possible harassment", he should accept the order of transfer and proceed to Madras. Shri Cavale was unwilling to

accept the advice. The CBI started verification on him on April 21, 1975 and he was placed under surveillance. The inquiry against Shri Cavale did not reveal any incriminating material against him justifying registration of a case against him. But on April 27, 1975, Shri Sen ordered registration of a preliminary inquiry. Shri Sen also ordered that copies of the report of the preliminary inquiry should not be sent to the usual recipients. The Intelligence Cell was also asked to collect further information so that the preliminary enquiry could be converted into a regular case. The Intelligence Cell was, however, unable to collect any reliable material on which a complaint could be registered against Shri Cavale.

It is stated that Shri K. Vijayan, S.P. was pressurised by Shri A. B. Chaudhary, the then Joint Director, C.B.I. to write a note suggesting that the house of Shri Cavale should be searched. Accordingly, Shri Vijayan recorded a note, and on the basis of his note the house of Shri Cavale was searched on May 3, 1975 and a regular case was registered against Shri Cavale for investigation under the Prevention of Corruption Act.

The harassment of Shri Cavale did not, however, stop at that stage. He was asked by the Chairman of the S.T.C. to resign from his office. Shri Cavale was informed that if he continued to remain in the office, he may get involved in more trouble and harassment may increase. Accordingly, Shri Cavale submitted his resignation, which was promptly accepted.

On the April 27, 1975, Shri Sen desired that a preliminary inquiry should be registered against Shri Krishnaswamy. This was in spite of the fact that Shri Rajpal had pointed out to Shri D. Sen repeatedly that Shri Krishnaswamy had a good reputation, his standard of living was moderate and that he came from a well-off family. Here also it was directed that the registration report should not be sent to the usual addresses, ostensibly, to maintain secrecy. On April 27, 1975 the Joint Director, Shri Chaudhary, indicated that after more information was available, the preliminary inquiry should be converted into a regular case. The case, was accordingly, registered on May, 2, 1975, and the house of Shri Krishnaswamy was searched on May 3, 1975. Shri Krishnaswamy, who belonged to the Railway Service and was on deputation with the Ministry of Industries, proceeded on August 18, 1975 on four months' leave, in view of his continued harassment. This leave was extended on half-pay. In February 1976 Shri Krishnaswamy was reverted to his parent cadre in the Railways. Even thereafter the CBI apparently tried several methods to scrutinise all the files, which Shri Krishnaswamy had dealt with in the performance of his duties in the Industries Ministry. Nothing incriminating was found against him. A case under the Excise Act was instituted by the Delhi Police at the instance of the CBI for alleged possession of liquor beyond the permissible limit discovered during

the search of the residence of Shri Krishnaswamy. The trial court did not find Shri Krishnaswamy guilty of any violation and acquitted him on March 4, 1977.

Wife of Shri Krishnaswamy was also harassed on certain allegations of being involved in some Foreign Exchange transactions. Even the bank locker of the father of Shri Krishnaswamy, a former officer of the Government of India in the Indian Audit and Accounts Service, was searched at Madras.

In the proceedings taken against all the four officers pursuant to which cases were started by the CBI ultimately the proceedings under the Prevention of Corruption Act relating to the allegation of possessing assets disproportionate to the known sources of income were abandoned in all the cases.

That Smt. Gandhi was responsible for institution of criminal proceedings against the four officers concerned, having their houses searched and subjecting them to humiliation; merely because they were responsible for collecting information in the discharge of their duties, which would have been prejudicial to the interests of the Maruti Limited, a concern in which Shri Sanjay Gandhi, her son, was vitally interested.

The above facts disclose the commission of offences u/s 120 B IPC r/w Sections 167, 182, 186, 189, 211 and 448/109 IPC and substantive offences under section 167, 182, 186, 189, 211, 448 IPC and 109 IPC against Smt. Indira Gandhi S/Shri R. K. Dhawan, D. Sen, A. B. Chaudhary and others. A regular case is, therefore, registered and its investigation entrusted to Shri M. L. Sachdeva, Dy. S.P., S.I.U. (S.I.B.I.), SPE, New Delhi.

Sd/-

T. N. MISHRA
Superintendent of Police
CBI : SIU (SIB. I) SPE : New Delhi
10th July, 1978.

No. 6/3/1/78-SIU (SIB. I)

Dated the 10th July, 1978.

Copies to :

1. The Dy. Inspr. General of Police, SIU, S.P.E., New Delhi.
2. Chief Metropolitan Magistrate, Delhi.
3. The Additional Secretary (V), Department of Personnel and A.R., Ministry of Home Affairs, New Delhi.

4. The Director, Central Vigilance Commission, New Delhi.
5. Shri J. C. Pandey, Joint Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
6. The Investigating Officer.
7. Office copy.

Sd/-

T. N. MISHRA

Superintendent of Police

CBI : SIU (SIB. I) SPE : New Delhi

10th July, 1978.

Attested.

Sd/-

19-7-1978

T. O. KHAKHA

Section Officer, Ministry of Home Affairs.

APPENDIX X

(See para 29 and 117 of the Report)

*OPINION OF ATTORNEY-GENERAL OF INDIA

Re. *Question of privilege against Shrimati Indira Gandhi and others.*

OPINION

The Committee has asked me to give my opinion generally and specifically on three questions which are set out below :

- (1) Whether, in view of the provisions of Article 20(3) of the Constitution, Shrimati Indira Gandhi has a right not to take the oath for giving evidence before the Committee of Privileges in this case ?
- (2) Whether she has a right to refuse to give evidence before the Committee of Privileges in this case even without taking oath ?
- (3) Whether she can be examined by the Committee of Privileges with or without oath in this case with an option to her not to answer particular questions which may be self-incriminatory ?

2. In order to answer these questions one must determine whether Article 20 is available in proceedings before the Lok Sabha or its Privileges Committee. Article 20 with the marginal note reads as under :

“Protection in 20. (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the *same offence* more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.”

3. The Supreme Court has held that the proceedings must be in the nature of a criminal proceedings before a Court or a Judicial Tribunal. In *Maqbool*

*See also Appendix XXII for Attorney-General's Opinion dt. 8-8-1978.

Hussain v. State of Bombay (AIR 1953 S.C. 325 : 1953 SCR 730, 738) the Court observes :

“The words ‘before a court of law or judicial tribunal’ are not to be found in article 20(2). But if regard be had to the whole background indicated above it is clear that in order that the protection of article 20(2) be invoked by a citizen there must have been a prosecution and punishment in respect of the same offence before a court of law or a tribunal, required by law to decide the matters in controversy judicially on evidence on oath which it must be authorised by law to administer and not before a tribunal which entertains a departmental or an administrative enquiry even though set up by a statute but not required to proceed on legal evidence given on oath.”

In *S. A. Venkataraman v. Union of India & Anr.* (1954 SCR 1150 at p. 1156) the Court held that even where an authority is invested with some of the powers of the Court and the inquiry has to be made on legal evidence adduced under sanction of oath and tested by cross-examination, it did not follow that the provisions of the Act before the Court could be said to amount to a “prosecution” and “punishment” within the meaning of Article 20(2). At page 1159 the Court said “It may be pointed out that the words ‘prosecution’ and ‘punishment’ have no fixed connotation and they are susceptible of both a wider and a narrower meaning ; but in article 20(2) both these words have been used with reference to an ‘offence’ and the word ‘offence’ has to be taken in the sense in which it is used in the General Clauses Act.... It follows that the prosecution must be in reference to the law which creates the offence and the punishment must also be in accordance with what that law prescribes”. See also *M.P. Sharma & Ors. v. Satish Chandra & Ors.* (1954 SCR 1077 at 1088) and *Thomas Dana v. State of Punjab* (AIR 1959 S.C. 375).

4. The Supreme Court has held, except in Nandini Satpathy’s case, that it applies only to a Court or a Judicial Tribunal. In the U.S.A. the Fifth Amendment, in terms, refers only to “a criminal case” in the context of such protection but it has been extended to even civil cases. In any case, in view of the decisions of the Supreme Court the principle must apply to every proceeding of a criminal nature. The U.S. Supreme Court has, in fact, dealt in the marginally noted case with the question of protection in respect of proceedings of a Congressional Committee. The decisions of the Supreme Court deal with sub-articles (1) and (2) of Article 20 ; they all speak of proceedings in a Court or a Judicial Tribunal. Since sub-article (3) says that no person accused of any offence shall be compelled to be a witness against himself, the same result should follow because of the use of words “person accused of any offence shall be compelled” and the words “a witness against himself”. The correctness or otherwise of the decision in Nandini Satpathy’s case insofar as it applies the rule not merely to a pre-trial stage

but to proceedings before an authority which cannot and does not administer oath or deal with the matter judicially is not of any consequence here for the simple reason that the Supreme Court only held that the protection is available at an earlier stage without advertising to the earlier decisions of the Supreme Court about "oath" and "legal evidence".

Emspak v. U.S. (1955) 349 U.S. 190

5. Article 20 would apply to the Lok Sabha or the Privileges Committee, if it has the power and jurisdiction to prosecute and punish a person, say for a breach of privilege. That it has the power and jurisdiction to do so is not disputed. It is not necessary to canvass here the question whether the person should be formally charged or not; no formal charge appears to be necessary.

See the Opinion of the Supreme Court in President's Ref. No. 1 of 1964.

6. The Lok Sabha or the Privileges Committee is not a Court, either in the ordinary sense or in the sense the House of Lords is but it has judicial functions as part of its powers and privileges recognised by Article 105. This appears to be true of the House of Commons in England as well.

7. It would be difficult to escape the conclusion that the Lok Sabha exercising jurisdiction to prosecute and punish a person for the breach of privilege is a Tribunal by virtue of Article 195(3). The existence of the power and Jurisdiction of the Lok Sabha and its Committees to prosecute and punish is not disputed. If Parliament is entitled to frame rules of procedure and conduct of its business and the rules make an act or omission, which constitutes a breach of privilege, punishable, then Article 20 is attracted.

See also May's Parliamentary Practice.

8. Section 3(38) of the General Clauses Act has to be read into the definition of "offence" in Article 20.

9. The opinion of the Supreme Court in President's Reference No. 1 of 1964 holds (Mr. Justice Sarkar dissenting) that the privileges and immunities would be subject to fundamental rights. In my opinion, the exercise of such privileges must be also subject to the provisions of Article 20 provided the Privileges Committee is a Judicial Tribunal.

10. Sub-article (3) does not give blanket protection to a person accused of an offence nor do the decisions of the Supreme Court speak of any absolute right or protection. Sub-article (3) does not lay down that a person accused of an offence shall not be a competent witness or shall not be compelled to give testimony but speaks of not being *compelled* to be a witness against himself. In any event, the Court has spelt out that a person accused of an

offence cannot refuse to answer questions other than those which are incriminatory in the way explained by the Court. There is no protection against every question nor is there any protection or immunity granted by Article 20 to a person accused of an offence to refuse to appear or answer questions. The protection is limited to any *witness* being *compelled* to answer questions which have a tendency to incriminate that person in present or in future. Whether failure to attend and/or to refuse to answer questions (which have no tendency to incriminate or establish a link in the chain) may itself amount to an offence is a question which I am not called upon to consider. The question would have to be answered if and when it arises by reference to the relevant provisions of the Indian Penal Code or by reference to the Rules of the Lok Sabha or the Privileges as may be appropriate.

11. Answers to the three questions may now be given as under:

Question (1) —Whether, in view of the provisions of Article 20(3) of the Constitution, Shrimati Indira Gandhi has a right not to take the oath for giving evidence before the Committee of Privileges in this case?

Article 20(3) does not deal with the question whether a person has a right not to take the oath. It must be answered by the requirements of the Rules of the Lok Sabha and the Privileges Committee. While the decisions of the Supreme Court speak of a Court or Judicial Tribunal authorised to take legal evidence or oath, the last one in Nandini Satpathy's case did not deal with this aspect of the matter but it held that an accused person cannot be compelled to answer incriminating questions at a pre-trial stage where no question of administering an oath could conceivably arise.

Question (2) —Whether she has a right to refuse to give evidence before the Committee of Privileges in this case even without taking oath?

The answer must depend on the Rules of the Lok Sabha and the Privileges Committee and their legal effectiveness. Rules are made presumably under Article 118 read with Article 105 and are thus in accordance with law; if an oath is required by a rule, then, there is no question of any person having any right or option in the matter.

Question (3) —Whether she can be examined by the Committee of Privileges with or without oath in this case with an option to her not to answer particular questions which may be self-incriminatory?

If the rule requiring oath is mandatory, then it is clear that she can have no right to refuse to take oath but she would certainly have the right (unless she waives the privilege) under Article 20(3) not to answer any question which is self-incriminatory. Actually, the rule only enables the Committee to administer oath; whether it be administered or not is left to the discretion of the Committee.

12. Judging by the letter requesting me to give an opinion and by the verbatim record of the proceedings of the Committee of Privileges held on 6th and 7th July, 1978, I am assuming that the Committee does not desire any opinion on the question raised by the accused, namely whether a breach of privilege committed in an earlier Lok Sabha could be pursued after its dissolution by the new Parliament.

Sd/-
S. V. GUPTE
23-7-78
Attorney General of India

Re. Question of privilege against Shrimati Indira Gandhi and others.

OPINION

The Committee has now desired that I should give my opinion on the following questions:

- (1) Whether in view of the FIR lodged against Shrimati Indira Gandhi and others for criminal offences under various Sections of the Indian Penal Code, proceedings for taking action for committing an alleged breach of privilege and contempt of the House can be continued against them by the Committee of Privileges keeping in view the provision contained in Article 20(2) of the Constitution; and
- (2) Whether the questions of double jeopardy will arise if the Committee of Privileges take further proceedings in the matter.

2. I will take up the second question first. The relevant Article is Article 20(2). It reads "No person shall be prosecuted and punished for the same offence more than once". The ratio of the Supreme Court decisions on sub-article (2) may be stated. The constitutional right guaranteed by Article 20(2) against double jeopardy can be invoked where there has been a prosecution and punishment in respect of the *same offence* earlier before a Court of Law or a Tribunal required by law to decide the matters in controversy judicially on evidence on oath which it must be authorised by law to administer in accordance with the procedure prescribed by law which creates the

offence. It is the character of the forum before which proceedings are initiated or conducted that is material. Secondly, if this condition is satisfied in the case of both proceedings, they should have been for the same offence. It is only when a person is prosecuted and *already* punished for an offence by a competent Court or a Judicial Tribunal that the person cannot be prosecuted or punished for the same offence by another competent Court or Judicial Tribunal. In other words, it is only where a person has been both prosecuted and punished at a formal trial by a Court of competent jurisdiction or a Judicial Tribunal that the constitutional guarantee or protection is given by Article 20(2) against double conviction and the question can arise at all. In the previous proceedings before a Court of law or a Judicial Tribunal, the person invoking the guarantee must have been prosecuted and punished and the offence which is the subject-matter of the second proceedings should be the same as that in the earlier proceedings for which he was prosecuted and punished. The second proceedings must likewise be the proceedings where such person is for the second times ought to be prosecuted and punished for the same offence. It would make no difference if the proceedings are not before the same Court or a Judicial Tribunal. "Prosecution" in the context means an initiation or starting of proceedings of a criminal nature before a Court of law or a Judicial Tribunal in accordance with the procedure prescribed by the Statute or law which creates the offence and regulates the punishment.

See decisions of the Supreme Court mentioned in paragraph 3 of my Opinion on the other questions and also in *Raja Narayanlal Banshilal v. M.P. Mistry*, AIR 1961 SC P. 29.

3. I have already indicated that Article 20 applies to the Privileges Committee and the Privileges Committee is a Judicial Tribunal. A breach of privilege or contempt is a proceeding of a criminal nature so that the condition as to the forum and the nature of proceedings can be said to be fulfilled. If and when the Privileges Committee holds the person concerned guilty, it is clear that the person was prosecuted and punished in terms of Article 20(2). Likewise, the proceedings before the Privileges Committee would be of the character required. Proceedings before an ordinary Court or the offences described in the First Information Report are likewise criminal proceedings and before a Court of competent jurisdiction. If the Privileges Committee should punish first, the question would be whether Article 20(2) could be invoked by the accused and *vice versa*. The ordinary Court and the Privileges Committee are both competent to prosecute and punish the accused. The requirements of Article 20(2) would be met after one of them has prosecuted and punished the accused in respect of an offence and the offence on the second occasion is the same as in the first.

4. The question then is, could it be said that the offences with which the accused are charged before the Court and the Privileges Committee are the same? If the offences are not the same (and distinct) Article 20(2) would not come into play notwithstanding that the facts which constitute two offences are the same.

5. In my opinion, offences under Sections 167, 182, 186, 189 and 211 and 448 are distinct from the offences pending consideration before the Privileges Committee. Before the Committee the charge is of a breach of privilege or contempt by reason of one of the accused before the Privileges Committee directing raids against the officers collecting information required for Parliamentary questions and by one of the accused conducting these raids on the basis of fabricated charges. It is alleged that the officers of the Ministry of Industry, who were collecting information for the purpose of preparing an answer to a question, were intimidated and harassed in the discharge of their duties towards the Lok Sabha and that such acts constitute obstruction of the Lok Sabha in the performance of its functions and/or obstruction of a member or officer of such House in the discharge of his duties. None of the sections of the Indian Penal Code mentioned in the First Information Report have anything in common with the charge before the Lok Sabha or the Privileges Committee. The only section which calls for a special reference is Section 186 of the Indian Penal Code which makes punishable any person who voluntarily obstructs any public servant in the discharge of his public functions. Even if the offence of obstruction before the Privileges Committee arises out of the same facts or some of the same facts, it cannot be said that the offence is the same as the one in Section 186 of the Indian Penal Code.

6. I will now turn to the first question. So far as I can see, the filing of the First Information Report against the accused cannot preclude the Committee from continuing the proceedings; there is no such bar under Article 20(2) or under any general law. Even Article 20(2) applies only where the persons accused before the Committee have *already* been punished by another Court or Judicial Tribunal and even then the other Court or Judicial Tribunal would have jurisdiction to determine whether the earlier prosecution and punishment was in respect of the same offence. The Committee has jurisdiction to continue the proceedings and punish, but whether it should do so or not, lest prosecution and punishment by it should make possible the plea of protection by the accused before the Court trying the offences under the Indian Penal Code, is not a question of law, I must refrain from dealing with it.

Sd/-
 S. V. GUPTE
 23-7-1978
 Attorney General of India

APPENDIX XI

(See para 30 of the Report)

B. SHANKARANAND, B.A. (Hon.) LL.B.
Member of Parliament
(Lok Sabha)

Club Road, Belgaum
(Karnataka) Ph: 21575
12, Dr. Bishamber Das Marg
New Delhi-110001.
Camp : Bombay
August 16, 1978.

My dear Shri Samar Guha,

I have just now received information that the Privileges Committee stands posted to some near date. I was surprised to receive the information for the reason that so far I have received no notice about any such meeting.

As I had informed you in my letter from Bombay, I had to undergo a major operation in a Bombay hospital recently. From the hospital I had written to you conveying my address in Bombay so that intimation, if any, could be sent to me at that address. Notice of any meeting of the Committee, if scheduled, should have been sent to me at the above address. I am yet to receive any such notice. Any meeting so held will be irregular, illegal and unauthorised, as it is without intimation to me and particularly so as I am the only member representing my Party on the Committee. I hope the information about the meeting is baseless. However, by way of abundant caution I am to request you that the meeting of the Committee, if posted as reported, should be postponed to another date with due intimation to all members including myself.

I am likely to return to Delhi within a few days as I feel that the sea-beach climate in Bombay does not suit me. It will be sufficient, therefore, that the notice of the next meeting of the Committee be left with my Delhi address.

After my recent operation I am now convalescing. I am not sure whether the doctors will permit me to take to active work connected with the Privileges Committee. I am, however, keen that the interest and the views I represent do not go by default. If I receive any intimation of any meeting in advance, I can arrange, after due consultation with my doctors, either to

attend the meeting or in the alternative to approach the Speaker to ensure the representation of my Party in the Committee in my place. Sufficient notice is, however, necessary for that purpose.

May I request you to kindly inform me whether any meeting of the Committee, as reported, has been scheduled to be held. If any meeting stands so scheduled, I should insist and request, which I do by this letter, that the meeting be postponed to a later date leaving me sufficient time to be able to attend the meeting, after the medical advice, or, alternatively to make other arrangements after approaching the Honourable Speaker.

With best wishes,

Yours sincerely,
Sd/-
B. SHANKARANAND

Shri Samar Guha,
Chairman, Privileges Committee,
Lok Sabha, NEW DELHI.

APPENDIX XII
(See para 30 of the Report)

12, Willingdon Crescent,
NEW DELHI
August 19, 1978.

The Chairman,
Committee of Privileges,
Lok Sabha,
Parliament House,
NEW DELHI.

SUBJECT :—*Question of privilege against Smt. Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited.*

Dear Sir,

I am in receipt of your letter No. 18/3/CI/77, dated the 31st July, 1978 whereby I am called to appear before the Committee of Privileges of Lok Sabha on 19th and 20th August, 1978.

I submit that when I appeared before this Committee I was apprehending that a prosecution on the same grounds was impending. My apprehension has now come true, as a formal First Information Report has been registered by the Delhi Special Police Establishment and investigation has already been ordered against me in respect of offences under section 167, 182, 186, 189, 211 and 448/109 I.P.C. I am enclosing herewith a copy of the First Information Report.

I am, therefore, now a formal accused on the same charges on which I have been summoned to appear before the Lok Sabha Privileges Committee in connection with the proceedings initiated against me for the alleged breach of privilege.

I am thus put in an unenviable position of being called upon to give evidence in the proceedings for the alleged breach of privilege before the Privileges Committee and simultaneously parallel proceedings are continuing against me with the same offences. My appearance before the Committee of

Privileges and Submission to interrogation in respect of the offences for which I have been formally charged in the aforesaid First Information Report and before the Committee of Privileges will be violative of my fundamental rights, guaranteed under Article 20(2) and (3) of the Constitution. I submit I cannot be subjected to prosecution and punishment for the same offences in two parallel proceedings and subjected to double jeopardy. Further, to answer questions which by their very nature would be incriminating, my answers are bound to be also 'self incriminating' whether examined on oath or not, In this question I may quote the following observations of Prof. Glanville Williams from his well known book—'Proof of Guilt'. :

"The strong insistence, after the abolition of Star Chamber, that the administration of oath to a defendant was contrary to the Law of God and the law of nature, was a race memory from those evil days". He further writes, "this rule may be called the accused's right not to be questioned. In America, it is termed the right against self-incrimination. The latter expression is more apt as the name for another rule, the privilege of any witness to refuse to answer incriminating questions; this is different from the rule under consideration which while applied to persons accused of crime, prevent the question from being asked. The person charged with the crime is not merely at liberty not to answer a question incriminating himself, he is freed from the embarrassment of being asked the question. The privilege against self incrimination as applied to witnesses generally must be expressly claimed by the witness, when the question is put to him in the witness box; whereas the accused's freedom from being questioned prevents the prosecution from asking much less compelling him, to enter the witness box and from addressing questions to him in the dock".

In India the position is not different.

The Oaths Act of 1873 provided that an oath shall be made by the following persons; namely witnesses that is to say all "persons who may lawfully be examined or given or be required to give evidence by or before any court or person having by law or consent of parties authority to examine such persons or to receive evidence."

It was further provided as follows :

"Nothing in this section shall render it lawful to administer in a criminal procedure the oath or affirmation to the accused persons who is examined as a witness for the defence...."

In the criminal procedure Code, 1898, it was specifically provided in section 342 that no oath could be administered to an accused and he could not be punished for refusing to answer any question.

The Oaths Act, 1873, has been replaced by the Oaths Act of 1969. The Code of Criminal Procedure, of 1898, has been replaced by the Code of Criminal Procedure of 1973. The new Acts recognise the same privilege for the accused.

Act 20(3) of our Constitution also guarantees the same rights for an accused. In M.P. Sharma's case, reported in AIR 1954 S.C. Page 300, the Supreme Court held as follows :—

- (a) After the abolition of Star Chamber, the firm principle was established that the accused should not be put on oath.
- (b) This Principle became part of the common law in England.
- (c) "Thus so far as the Indian law is concerned it may be taken that protection against self-incrimination is more or less the same as in the English Common Law."

As already stated, rule 272 of the Lok Sabha Rules speaks of the right of the Committee to administer an Oath to a witness. The distinction between a witness and an accused is too well established to warrant repetition, and makes it clear that such an oath cannot be given to an accused.

It was also laid down by the Supreme Court in the case of State of Bombay v/s Kathikalu—A 1961 S.C. 1808 at 1815 as follows :—

"The giving of personal testimony depends upon his volition. He cannot make any kind of statement or may refuse to make any statement."

(a) Nandini Satpathy's case was concerned only with the mandatory powers of an Investigating Officer to question any person under Section 161 C.P.C. and had nothing to do with the rights of an accused in a trial, or before the Privileges Committee not to be a witness against himself, that is, he has the right not to be interrogated in the trial before the Privileges Committee.

(b) I reiterate all my previous objections and especially underline the position that the present Lok Sabha has no power to hold an enquiry into an alleged breach of Privilege *vis-a-vis* the former Parliament.

(c) Under our Constitution, the privileges of a House are the same as existing in the House of Commons, where it is well established that no House can create a new privilege for itself. By adjudicating on a matter which

substantially arose in a previous Lok Sabha of which I also had the honour to be represented as a Member, and which is now sub-judice before a Criminal Court will tantamount to the creation of a new privilege on two counts.

While I have the highest respect for the Lok Sabha and the Committee of Privileges, I submit that I cannot conscientiously allow myself to be deprived of my valuable rights guaranteed under Article 20(2) and (3) of the Constitution and it is not possible to waive these valuable rights of mine by taking the oath and to answer interrogatories concerning two parallel parliamentary proceedings and prosecutions against me substantially on the same charges.

I would, therefore, humbly submit that I should be excused for my inability to take the oath and answer interrogatories on the aforesaid charges before the Privileges Committee of Lok Sabha as is required of me by your notice dated 31st July, 1978.

I am, therefore, submitting this written statement and would humbly request the Committee of Privileges of Lok Sabha to drop the above proceedings and report accordingly to Lok Sabha.

Yours faithfully,
Sd/-
INDIRA GANDHI

APPENDIX XIII

(See para 34 of the Report)

MEMBER OF PARLIAMENT
(LOK SABHA)

15AB, Pandara Road,
NEW DELHI
10th October, 1977.

The Speaker,
Lok Sabha.

SUBJECT :—*Notice under Rules 222-24 against Mrs Indira Gandhi.*

I am enclosing herewith a clipping of the proceedings of the Shah Commission. This report appeared on 30th September, 1977.

The Maruti question referred to before the Shah Commission was *my question*. I faced a number of difficulties in getting it admitted. Finally it was put down for answer in a terribly mutilated form in the winter session of 1974. When I protested, it was again put down for answer in the budget session of 1975. But the answer was evasive.

The fact is that the Secretariat of the then P.M. was responsible for the non-admission and mutilation of my question. It was the then P.M.'s Secretariat which was responsible for the evasive reply of the Industry Minister.

Now it is clear that when the Officers of the Industry Ministry were trying to collect information for the purposes of preparing an answer to my question the then Prime Minister ordered the searches of the Officer houses. She had fabricated charges prepared against them. In view of the revelations made before the Shah Commission *it is absolutely clear that the P.M. not only interfered with the work of Parliament, she intimidated and harassed the officers for doing their duty towards the Lok Sabha.* This is gross contempt of Parliament and must be punished as a breach of privilege of the House.

My charge of contempt of the House is against the following persons :—

- (1) Mrs. Indira Gandhi, who directed raids against the Officers for collecting information for parliamentary questions.
- (2) Mr. Sen, the then Director of the CBI who conducted these raids on the basis of fabricated charges.

If necessary, Mr. Bishan Tandon, then Joint Secretary in the PM's Secretariat and Mr. Shakdher, then Secretary-General of the Lok Sabha, may also be asked to testify. If found involved, they should also be hauled up.

Anyway this is a very serious crime which Mrs. Gandhi has committed against the rights, privileges and dignity of the House and its members.

I shall be grateful if you will allow me to raise this question in the House on the first day of the next Session after question hour.

Yours sincerely,

Sd/-

MADHU LIMAYE

Enclosure to Appendix XIII
THE TIMES OF INDIA
 Dt. 30-9-1977

**STEP AGAINST MARUTI PROBE OFFICIALS VINDICTIVE: PAI
 BY A STAFF REPORTER**

NEW DELHI, September 29.

The former Minister for Industry, Mr. T. A. Pai, told the Shah Commission today that it was at the instance of a 'furious' Mrs. Indira Gandhi that the Central Bureau of Investigation had started proceedings against four officials inquiring into the affairs of Maruti Ltd.

Mr. Pai said he had protested strongly to the former Prime Minister against the action being taken against the four officials but she was "unreasonable".

The four officials were Mr. P. Krishnaswamy, Deputy Secretary in the Ministry of Heavy Industry, Mr. A. S. Rajan, Development Officer, DGTD, Mr. L. R. Cavale, Chief Marketing Manager, PEC (a subsidiary of STC) and Mr. P. S. Bhatnagar, Deputy Marketing Manager, PEC. They were collecting information for a Parliament question on Maruti.

He said it was a case of "vindictiveness" and the CBI was carrying it to the "other extreme". There was an effort to "blackmail and demoralise people."

His Ministry was under "seige" even before the emergency.

Recalling the events which preceded the emergency but spilled over into it, Mr. Pai said he was called by Mrs. Gandhi in April 1975. She was "angry" about certain remarks made by some Officials during a private conversation on political corruption. She said these officials had no right to talk about political corruption when they themselves were corrupt.

She summoned her Private Secretary, Mr. R. K. Dhawan, and asked him to order Mr. D. Sen, Director of CBI, to register cases against the concerned officials.

He said there was a talk about the Secretary, Mr. Montosh Sondhi, also being under watch for a comment made at a private party. He had thought these charges were "ridiculous", but Mrs. Gandhi was unbending.

Mr. Pai said the officers were only doing their legitimate duty as he had asked them to collect all the facts. He had even written to Mrs. Gandhi about the harassment caused to his officers and the letter was now with the commission. He said that what Mrs. Gandhi had said was not "relevant".

Mr. D. P. Chattopadhyaya, former Commerce Minister, who was next to be examined, recalled having been summoned by Mrs. Gandhi to her residence on the evening of April 15, 1975. She had demanded the immediate suspension and an inquiry against Mr. P. S. Bhatnagar for causing harassment to "certain parties". He said it was difficult to recollect, but the harassment had caused inconvenience to the parties.

Mr. Chattopadhyaya said he was convinced about the "seriousness" of the matter as the then Prime Minister had personally told him about it as she must have applied her mind to it.

Replying to a question by Mr. Justice J. C. Shah, he said that when the Prime Minister of a country said anything, "it had weightage and significance".

He said he had discussed the issue with the then Chairman of the PEC and the STC but could not state precisely what sort of harassment had been caused by the offending official. He, however, recalled one of the Chairman saying that the official had been discourteous.

Mr. Chattopadhyaya was given time by Mr. Justice Shah to refresh his memory by consulting the relevant files. He said that he had initiated disciplinary action against Mr. Bhatnagar and had heard of the CBI inquiry only later. His mind, he said, was influenced by what the then prime Minister had said but the decision was his.

Replying to another question by Mr. Justice Shah whether he had any conversation with Mrs. Gandhi over the involvement of innocent persons, the former Commerce Minister replied that he had reviewed the cases of 20 persons retired prematurely during the emergency and thanks to his efforts, 10 of them had got back their jobs.

Mr. Krishnaswamy, one of the victims, denied that he had caused harassment to any party. He had not visited the Maruti premises nor had he held discussions with any members of the affected party. He had started the

inquiry and knowing that it was a sensitive matter, he had kept his Joint Secretary informed. He had written to the DGTD to collect the information and also to the PEC to let him have any information with them.

His residence and office were raided by the CBI on May 5, 1975. Though the raid took place at 7-30 a.m., the Additional Secretary was informed about it only at 8-15 a.m. He was continually harassed and was asked to proceed on leave on August 8. He took four months' leave and was advised to extend it on half pay.

The CBI registered a case under the Excise Act against him but he was vindicated by a court. His 70-year old father had been harassed and false allegation of foreign exchange violations had been made against his wife. He had kept the Minister informed of all these developments.

Mr. Krishnaswamy said he could not understand the CBI's vindictive attitude, particularly in the excise case. He was reverted to his parent department, railways, in February 1976.

Mr. Cavale said he was on casual leave on April 15, 1975 when he received a telephone call from Mr. N. K. Singh, former Special Secretary to the Commerce Minister, regarding the Maruti enquiry. He told Mr. Singh that Mr. Bhatnagar was collecting the information on his instructions. When he went to the office the next day, he was served with a transfer order to Madras. The order had been issued under instructions of the Chairman, Mr. Vinod Parikh. The order was dated April 16 but was withdrawn and reissued under the April 15 dateline. He had protested to Mr. Parikhs about the transfer order but was advised to accept it to avoid further complications.

JOB REFUSED

He had gone on long leave and his premises were searched on May 3, He had sought the intervention of senior Ministry Officials but resigned after Mr. Parikh had advised him to "seek his fortunes elsewhere as he was a highly qualified person". He resigned on June 15 and ever since he had been unemployed. He had secured a job as marketing manager of a private company but it was refused to him as he was a "Sanjay victim". His wife had lost her job in an advertising firm after the CBI had made some inquiries. His life insurance, which had lapsed, was not renewed by the LIC following a call from the CBI.

Mr. Cavale said he had made an effort to come back to the PEC but the Chairman had informed him that it was not possible at this stage as his "case was *sub judice* with the Shah Commission being seized with it". This prompted Mr. Shah to remark "This is not a court of law".

He felt that the whole situation had been "misunderstood" and had his advice about the purchase of machinery by Maruti been followed, no one would have been in trouble. The machinery, which could not be imported by Maruti under licence, was available with the PEC and its agents.

Mr. Bhatnagar deposed that he had been under suspension for the last 16 months for "no fault of mine". He denied having been discourteous to anyone. He said Mr. Dhawan had telephoned him to stop collecting material on Maruti.

Mr. Rajan who was not present, had his statement read out. He had met Mr. Sanjay Gandhi to inquire about the cases registered by the CBI. Mr. Gandhi had inquired in Hindi as to why he was collecting information about Maruti.

Mr. P. M. Lal, Deputy General Manager of Batliboi, through whose good offices, Mr. Rajan met Mr. Sanjay Gandhi, said in his statement that Mr. Gandhi had told Mr. Rajan that he had no knowledge of the cases and would look into the matter.

Mr. K. Vijayan, SP, CBI, said he had been ordered by the then Deputy Director (Intelligence Unit), Mr. Y. Rajpal, to conduct an inquiry against the officials within five days. He said he was surprised at the registration of cases against Mr. Rajan and Mr. Bhatnagar as the CBI investigating team had not recommended such a step.

He alleged that the Joint Director (Intelligence Unit), Mr. A. Choudhry, had intimidated him to write a note suggesting search of the premises of Mr. Civale. A regular case was registered on the basis of this note. Mr. Choudhry had asked him to send the note directly to him and not route it through the Deputy Director as was the usual practice.

ADVERSE REMAKRS

Mr. Krishnaswamy deposed that as a result of his remarks Mr. Choudhry had given him an adverse report in his ACR. He prayed to the Commission to have them expunged.

Mr. Y. Rajpal, present DIG (Range), Delhi, said he was called by the Director of CBI on April 15 and asked to initiate an inquiry against Mr. Krishnaswamy who was said to be "corrupt". The same evening he was asked to collect information about Mr. Rajan and Mr. Bhatnagar. The following day he had made a note of the Director's instructions.

He felt the registration of a case against Mr. Rajan and Mr. Bhatnagar was "unusual". He had pointed out that the officers, on the basis of information gathered till then, did not possess assets disproportionate to their known sources of income.

Mr. Rajpal said that even before the inquiry could be completed, the files were asked for by the Director. He came to know later that registration of cases was done under "political pressure" and that Maruti could be behind them.

Mr. Chaudhry denied the allegation of coercion made by his subordinate, Mr. Vijayan. He claimed that he had only mechanically carried out the Director's orders. On April 20 he was called by Mr. Sen to his room and told to order registration of a preliminary inquiry against the officials.

Mr. Sen who was being examined when the court rose for the day, said that Mr. Dhawan had approached him in his office in the second week of April and complained about the four officials. Mr. Dhawan had alleged that the officials were corrupt and had shown favours to some firms. The information, Mr. Dhawan said, had been passed on to him by some MPs.

Mr. Sen said he had acted on this information. He had not cross-checked it. He had not made an official note about it but had passed it on orally to Mr. Rajpal to initiate an inquiry. He said he did not think it necessary to collect further information before proceeding with the inquiry as even during Mr. Shastri's tenure as Home Minister, secret information of this nature formed the basis of inquiry.

He said that the STC and the DGTD, with which two of the concerned officials were connected, did not enjoy a good reputation. The integrity of the STC was so bad that a vigilance officer deputed to that organisation from the CBI quit in disgust.

Mr. Sen, who described himself as one of the founders of the CBI (he was associated with it for 19 years), said there were safeguards to ensure proper inquiries. The CBI processed 1,200 cases against Government servants every year of which 800 were registered on the basis of material collected by the staff. He said cases which had caught the public imagination or came for investigation from the Home Ministry or the Prime Minister's Secretariat received top priority.

His examination will continue tomorrow when the Commission reassembles at 9.30 A.M.

APPENDIX XIV

(See para 35 of the Report)

NEW DELHI
October 18, 1977.

To

The Speaker,
Lok Sabha.

SUBJECT:—*Notice of question of privilege under Rule 222.*

Sir,

I give notice of my intention to raise a question of breach of privilege against the following persons for obstructing, harassing and instituting false cases against four Officers of the Ministry of Heavy Industry, Directorate General of Technical Development and Projects and Equipment Corporation who were collecting information on behalf of the Minister on import of machinery by Maruti Private Limited in order to prepare a reply for a question tabled during the Fifth Lok Sabha :

(i) Shrimati Indira Gandhi,
Former Prime Minister of India.

(ii) Shri R. K. Dhawan,
Additional Private Secretary to the former Prime Minister.

(iii) Shri D. Sen, the then Director of CBI.

2. This has been substantiated by the statement of Shri T. A. Pai, the then Minister of Heavy Industry on whose behalf the concerned Officials were collecting information for answering questions in Parliament and of the other concerned officers.

3. The following reports of the proceedings of the Shah Commission held on the 29th and 30th September, 1977, and reported in the newspapers of the 30th September and 1st October, 1977, respectively, clearly establish the facts of the case and the breach of privilege involved therein :

I. Report as published in the *Hindustan Times* dated the 30th September, 1977.

"FALSE CASES AGAINST AIDES PROBING MARUTI
Hindustan Times Correspondent

NEW DELHI. September 29—The story of how false criminal cases were instituted against four senior Officials by the CBI at the instance of former Prime Minister, Mrs. Indira Gandhi, was disclosed in graphic detail before the Shah Commission today.

The four officers, it was stated, were collecting information on the alleged import of machinery by Maruti Private Ltd. in normal discharge of their duty, in order to prepare a reply for a question tabled in Parliament on the subject.

Former Heavy Industry Minister T. A. Pai deposed that Mrs. Indira Gandhi was 'upset and furious' over the action of the officials who, he thought, were doing their legitimate duty in collecting material in response to a Parliament question. In Mr. Pai's presence, Mrs. Gandhi had called her Additional Private Secretary, Mr. R. K. Dhawan and told him to ask the CBI Director to start inquiries against the officials and raid their houses.

According to him, the action against the officials was 'vindictive', and he had done his best to protect them to the extent he could. Mr. Pai alleged that it looked that his Ministry was under a siege for some time. What was being done to the officials was an effort to blackmail and demoralise everybody to prevent them from carrying on their normal functions.

The four officials involved are Mr. R. Krishnaswamy, then Deputy Secretary in the Ministry of Heavy industry, Mr. A. S. Rajan, Development Officer, DGTD, Mr. L. R. Cavale, Chief Marketing Manager, PEC and Mr. P. S. Bhatnagar, Deputy Marketing Manager, PEC.

Former Commerce Minister D. P. Chattopadhyaya said he had been called by the former Prime Minister and told that there were allegations against the officials and, particularly Mr. Bhatnagar, who had caused harassment to certain parties. He was 'influenced' by what she had said. He had acted without applying his mind thinking that the Prime Minister had satisfied herself about the seriousness of the complaints. One of the allegations was that the concerned official had caused 'unnecessary inconvenience to certain business companies.

Asked by Mr. Justice Shah what were the circumstances which made him order the inquiries against the officials 'except that the Prime Minister was angry', Mr. Chattopadhyaya said he had no opportunity to satisfy himself on what the officials had done to merit a CBI probe. When the Prime Minister of the country had said something, it had its own 'weight and significance'.

In his inconclusive testimony, Mr. D. Sen, former CBI Director, said he had ordered the investigations on the basis of the information provided by Mr. R. K. Dhawan, the additional Private Secretary to the then Prime Minister, who had stated that Mrs. Gandhi had received the complaints from some MPs and others.

All the officials against whom cases were filed in courts were, however, acquitted.

Samachar adds :

Mr. Pai said he was summoned by Mrs. Gandhi in April 1975, when he said she was 'angry' about certain remarks alleged to have been made by some officials during private conversations.

"I knew why she (Mrs. Gandhi) was angry because the previous day Mr. R. K. Dhawan (Additional Private Secretary to the then Prime Minister) had told me about it. She said my officers were talking of political corruption when they themselves were corrupt. Before I could say anything in reply to her, she called Mr. Dhawan and ordered that their houses should be raided," Mr. Pai submitted.

He said, he had heard that even Mr. Mantosh Sondhi, one of his senior officials, was also under surveillance by the CBI because of some comment he is reported to have made at a private party.

"On the face of it, I felt the charges (against these officers) were ridiculous and that there were other reasons. Officers were doing their legitimate duty and I had asked them to collect as much information (about Maruti) as possible, because I wanted to go by facts, I think they were perfectly right in doing their legitimate duty. I even wrote to her (Mrs. Gandhi) that my Officers were being harassed," Mr. Pai added.

Mr. Chattopadhyaya, who was the next person to be examined by Mr. Justice Shah, said that Mrs. Gandhi called him on April 15, 1975, in connection with some 'important matter'.

He said it was clear to him that someone had complained to her about Mr. P. S. Bhatnagar, Deputy Marketing Manager of Projects and Equipment Corporation. According to Mrs. Gandhi the complaint was serious and Mr. Bhatnagar should be suspended immediately to facilitate a proper inquiry against him.

The allegation against Mr. Bhatnagar was that he had caused harassment to certain parties.

'Because she personally told me about somebody for the first time, I was convinced about the seriousness of the allegation'.

Mr. Justice Shah : Suppose the complaint had been made to you, what would you have done?

Mr. Chattopadhyaya : I could not think that the Prime Minister would not have applied her mind completely on this matter.

Mr. Justice Shah : Did the so-called harassment to a private party merit either a termination of employment or a CBI inquiry against an Officer?

Mr. Chattopadhyaya : It was not harassment. I had asked for suitable disciplinary action against the concerned Officer. I did not have the time to ascertain what action had been taken.

To another pointed question, Mr. Chattopadhyaya said he did not call for any explanation from the Officer concerned, because when the Prime Minister says something it has 'due weightage and significance. I was certainly influenced by what the Prime Minister had said, but the decision was mine.'

* * * * *

Mr. Krishnaswamy said he discussed the matter with the Joint Secretary and the two decided to send a team of technical officers to the Maruti plant. The two Officers, who visited Maruti, were denied any information. The answer to the Parliamentary question was prepared without any information from Maruti Ltd.

He said he had simultaneously contacted officials in PEC and DGTD with the hope of getting the required information.

To a question by the Commission, he said he did not visit the Maruti premises at any time.

Mr. Cavle said following his attempt to get information about Maruti he was served with a transfer order to Madras. He met the STC Chairman and protested, but to no avail.

* * * * *

Mr. Rajan stated that the police raid at his house not only lowered his prestige in the eyes of his colleagues, friends and relatives, but put a seal 'on my future prospects as well. I was completely shaken up and demoralised. This had a terrific impact on the members of my family, particularly my wife, who was taken ill seriously as a result of this'.

He stated he was advised by his well-wishers that since the whole episode had happened *vis-a-vis* the Maruti affair, it would be appropriate if he could put the matter in the proper perspective to the Managing Director of Maruti Ltd.

He stated he met Mr. Sanjay Gandhi through Mr. B. N. Lal of Batliboi after three months or so after the raid at his house to explain the position. "After listening to me and Mr. Lal, who also spoke on my behalf, Mr. Gandhi merely stated in Hindi that 'why I was collecting the information about Maruti'. He did not say anything else. In spite of this visit, no relief was given to me and I had to undergo untold miseries and hardships for over two-and-a-half years".

Mr. Vijayan, former Superintendent of Police, CBI, said he was asked to investigate against the four officials and give his report within five days.

'In spite of our best efforts, no material could be found to justify a case against any of the Officers'.

Mr. Vijayan said he was called by Mr. A. B. Chaudhury, Joint Director, CBI, who asked him to suggest the arrest of the Officers in his notings. 'I put up stiff resistance'. He alleged that Mr. Chaudhury intimidated and threatened him with dire consequences.

Mr. Vijayan said he was ultimately forced to give the report suggesting arrest of the concerned Officers.

* * * * *

Mr. Chaudhury said he acted on the orders of the Director of CBI, Mr. D. Sen, and no written orders were given to him.

Q : You only mechanically carried out the orders of Mr. Sen?

A : Yes.

* * * * *

Mr. Sen submitted that Mr. R. K. Dhawan had visited him in his office and had complained to him that the four concerned Officials were 'corrupt'. Mr. Dhawan had told him that this was on the basis of complaints made by some members of Parliament. He took note of the complaints, since they emanated from the Prime Minister's Secretariat."

II. Report as published in the *Hindustan Times* dated the 1st October, 1977:

"CBI FRAMED FOUR AT DHAWAN'S BIDDING

Hindustan Times Correspondent

NEW DELHI, Sept. 30—The former Director of the Central Bureau of Investigation, Mr. Devendra Sen, today contended before the Shah Commission that had he known that the four officers against whom the CBI had instituted cases had anything at all to do with Maruti, then 'I would have pleaded with the then Prime Minister to the best of my limitations that the CBI should not be involved in these cases'.

Mr. Sen, who was closely questioned by Justice J. C. Shah, constituting the one-man Commission inquiring into the emergency excesses, all through the two hour morning session today said : 'I did not know at all that they had anything to do with Maruti'.

The Commission was questioning him in connection with the CBI cases against four Officers belonging to the Heavy Industry Ministry, the Projects and Equipment Corporation (a subsidiary of the STC) and the Director-General of Technical Development who were collecting, for purposes of replying to a question in parliament, information on the alleged import of machinery by the Maruti Private Ltd.

The four concerned Officers are Mr. R. Krishnaswamy, then Deputy Secretary in the Ministry of Heavy Industry, Mr. A. S. Rajan, Development Officer, in the DGTD, Mr. L. R. Cavale, Chief Marketing Manager of PEC and Mr. P. S. Bhatnagar, Deputy Marketing Manager, PEC.

Mr. Sen at one stage said the then Heavy Industry Minister, Mr. T. A. Pai, had not also told him anything about the Officers collecting information regarding the dealings of Maruti, and that if either the Minister or the Officers concerned had told him so, he would have tried his best to stop the inquiries. At this Justice Shah asked: 'You mean if Mr. Pai had come to you instead of going to the then Prime Minister, you would have seen that these cases were not proceeded with'.

Mr. Sen said that if the Prime Minister had insisted that they should go ahead with the inquiries he would have done as ordered.

The Commission asked Mr. Sen whether it was usual for him to receive information from Mr. R. K. Dhawan, Private Secretary to the former Prime Minister. The former CBI Chief replied that he had received small notes and even some instructions over the telephone on several occasions prior to this case in which he was informed that they should inquire into the allegations of corruption against those four officers.

Mr. Dhawan had told him that he had received complaints to this effect from 'some MPs,' 'We have instituted inquiries on lesser information', he added.

He had discussed the point of receiving instructions from Mr. Dhawan with Mr. Bishen Tandon, then Joint Secretary in the Prime Minister's Secretariat, from whom he got his instructions earlier. He had been told by Mr. Tandon that it was 'all right' to treat information given by Mr. Dhawan as that emanating from the Prime Minister herself.

Mr. Sen explained that the CBI came under the Prime Minister's Secretariat's Department of Personnel and therefore they had to take orders from there.

* * * * *

Mr. Sen said that 'greatest misfortune' was that if he had known that these Officers were being victimised and connected with Maruti in any way, 'I would have pleaded to the best of my ability and tried to keep CBI away from it (inquiry)'.

* * * * *

Mr. Sen said when a complaint came from the Prime Minister's Secretariat or the Home Ministry, action had to be taken even if the person involved was highly connected. "We do not want the allegation to be levelled against us that we did not take steps that we should have taken."

4. The following passages from the *May's Parliamentary Practice* and *Kaul and Shakdher* clearly show that the actions complained of constitute a clear breach of privilege and contempt of the House :

I. *May's Parliamentary Practice*

"It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such Houses in the discharge of his duty or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence."

— (Page 136)

"It is a contempt to obstruct officers of either House or other persons employed by, or entrusted with the execution of the orders of either House, while in the execution of their duty."

— (Page 154)

II. *Kaul and Shakdher*

“Contempt of the House may be defined generally as ‘any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or *officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results....even though there is no precedent of the offence*’. Hence, if any act, though not tending directly to obstruct or impede the House in the performance of its functions, has a tendency to produce this result indirectly by bringing the House into odium, contempt or ridicule or by lowering its authority, it constitutes a contempt.”

— (Page 219)

“.... It is a contempt of the House to obstruct any Officer of the House or any other person employed by the House, or entrusted with the execution of the orders of the House, while in the execution of his duty.”

— (Page 249)

5. The Officers were collecting the information required for answering question on “Maruti” in the Parliament. They were the agents of the Minister who was supposed to answer the question on the basis of the information to be collected by those Officers. The CBI raided their houses, harassed them and tortured them. The only fault of theirs was that they were collecting information for the House at the instance of the Minister. I have gone through the *May's Parliamentary Practice* and *Kaul-Shakdher* book but there is no parallel to this case because nowhere in any democratic country of the world, the leader of the House had never misused his or her Office to obstruct the functioning of the House of which he or she was the leader. In this case, Mrs. Gandhi, with the active connivance of the CBI Chief and Mr. Dhawan hatched this conspiracy and ruined the careers of these Officers and stopped their source of livelihood and thus threw them and their family members on the street just because she wanted to hide the misdeeds and corruption of Sanjay Gandhi and the misuse of Government machinery by her from the House.

6. I request that I may kindly be permitted to raise this matter in the House on the first day of the next Session of Lok Sabha *i.e.*, the 14th November 1977, and also to move that the matter be referred to Committee of Privileges.

Yours faithfully,
Sd/-
KANWAR LAL GUPT

APPENDIX XV
(See para 54 of the Report)

BATLIBOI & COMPANY PRIVATE LIMITED
Registered Office : Forbes Street, Fort, Bombay-1
142, Golf Links
NEW DELHI-110003.

Dated, April 15, 1975.
GL/LSN/PEC/1

The Projects & Equipment Corporation of India Ltd.
Chandralok Building,
Janpath,
New Delhi.

Kind attention : *Mr. P. S. Bhatnagar*

Dear Sir,

**SUB:—*Machines imported against stock and sale licence
and supplied to Messrs. Maruti Ltd.***

This has reference to your personal discussions with our Mr. J. S. Mathur. As desired, please find enclosed list of machines supplied to Messrs. Maruti Ltd.

The prices mentioned are approximate.

Thanking you, we remain.

Yours faithfully,
BATLIBOI & COMPANY PRIVATE LIMITED

Sd/- Illegible.
LIAISON OFFICER

Encl. : As above.

Copy to : Mr. S. M. Yusuf, Product Manager (Machine Tools Gr. I)
Head Office.

Copy to : Parliament Street Office.

Certified to be true copy.

Sd/- Illegible.

Resident Deputy General Manager,
BATLIBOI & COMPANY PRIVATE LIMITED
Dated 30th August, 1977.

LIST OF MACHINES

Machine	Model	Quantity	Approximate f.o.r. value
Die Sinking Machines	FR-100B	1 No.	Rs. 6,50,000
Vertical Spindle Surface Grinding Machine	KPV-700/3000	1 No.	Rs. 3,43,000
Centreless Grinding Machine	BB-10	3 Nos.	Rs. 6,00,000
Centre line Grinders	PHS-25	5 Nos.	Rs. 18,00,000
Die Casting Machine	CLOO-400	1 No.	Rs. 5,85,000
Die Casting Machine	CLOO-630	1 No.	Rs. 6,40,000
Gear Shaping Machine	ORC-50	1 No.	Rs. 1,22,500

Certified to be true copy.

Sd- Illegible.

Resident Deputy General Manager,
BATLIBOI & COMPANY PRIVATE LIMITED
Dated 30th August, 1977.

APPENDIX XVI
(See para 68 of the Report)

TOP SECRET

PRIME MINISTER
INDIA

(SEAL)

New Delhi, May 7, 1975.

Dear Shri Pai,

I am amazed to read your letter of the 5th May and the aspersions cast against the CBI. Your presumption that the CBI searched the houses of some officers of your Ministry because of their enquiries in connection with answers to Parliament Question to which you have referred in your letter, is totally baseless. I have made enquiries and find that the CBI received information that some officers of your Ministry were in possession of a large number of shares and were living rather lavishly. According to the normal practice, the CBI made confidential verification and the information was found to have some basis. During the course of preliminary enquiries, it also came to the notice of the CBI that some industrialists were regularly visiting your officers. The CBI registered a case and obtained the permission of the Court to search the houses on the basis of facts which had already come to the notice of CBI. I also understand that the Additional Secretary of your Ministry was informed about this.

As a result of the search, the CBI has found that the officers in question seem to be in possession of assets disproportionate to their known sources of income. I am enclosing a note received from the CBI, which explains the position in detail.

I agree with you that protection should be given to officers for honest decisions taken in good faith but this certainly does not mean that corrupt officials should take undue advantage of their position. I have made it clear more than once that in order to tone up the administration, we have to take stern action against corrupt officials. While investigations against these officers are bound to take some time, even at present there seems to be sufficient material to cast doubt on their integrity. Therefore, they do not seem entitled to any support.

Yours sincerely,
Sd/-
INDIRA GANDHI

Shri T.A. Pai,
Minister of Industry & Civil Supplies,
New Delhi.

Enclosure to Appendix XVI

(1) *Shri R. Krishnaswamy* :—Information was received about Shri Krishnaswamy sometimes back that he was in possession of large number of shares and was living rather lavishly. As after a confidential verification this information was found to have some basis in truth a case against him was registered by the CBI. Also as immediate search appeared necessary, his house was searched after obtaining a search warrant and informing the Addl. Secretary, Ministry of Heavy Industry.

As a result of his house search it has been found that he is in possession of shares and other assets, etc. worth about Rs. 1,50,000. According to Shri Krishnaswamy shares worth about Rs. 25,000 were given to him by his father. Even if they are left out of consideration his present assets would amount to about Rs. 80,000. Included in these assets is a cash deposit of Rs. 20,000— in State Bank of India. Shri Krishnaswamy could not give the source of this cash deposit and so it seems rather suspicious.

Also, from some bills etc. found in his house it appears that Shri Krishnaswamy has a fairly high standard of living. Therefore, for an officer of his status (he has put in only about 17 years of service and till recently was only a Dy. Secretary and his gross salary was only about Rs. 1600 per month) and his style of living, which would not leave much room for savings, his assets seem to be on the high side.

Several bills and cash-memos were also recovered from which it appears that he is paying about Rs. 260 per month on account of school fees of his daughter and son and he is a member of the expensive Gymkhana Club and his style of living is rather high for an officer of his status. He must also be spending considerable money on his drinks because 6 sealed bottles of imported scotch whisky/brandy and 2 half bottles of imported whisky were found in his house. His keeping of so many bottles without any permit is an offence under the Punjab Excise Act applicable in Delhi. This matter is, therefore, being reported to the Delhi Police for necessary action.

**NOTE ON R. C. 19/75-DELHI AGAINST SHRI A. S. RAJAN,
DEVELOPMENT OFFICER (TOOLS) D.G.T.D.**

Registration of case

On receipt of information to the effect that Shri A.S. Rajan, Development Officer (Tools, D.G.T.D. had shown undue favours to M/s. R. K. Machine Tools, Ludhiana and M/s. Daulat Ram Industrial Corporation Pvt. Ltd., Ludhiana and was in possession of assets disproportionate to his known sources of income, a case (RC. 19/75) was registered on April 17, 1975 after a confidential verification showed that the information had some basis in truth.

Search Warrant

2. Since it was felt that if immediate search was not conducted valuable evidence necessary to substantiate the allegation may be lost, a search warrant was obtained from the court of Addl. Chief Metropolitan Magistrate, New Delhi on April 18, 1975.

Search of the residence of the accused

3. After informing a senior officer of the Ministry the search of the residential premises of the accused Shri A. S. Rajan at 21/91, Lodhi Road, New Delhi was conducted on April 18, 1975 in the presence of two independent witnesses.

4. The house search of the accused and the scrutiny of the documents seized during search, made so far, has revealed that Shri A. S. Rajan owns the following immovable assets :—

(i) A house in Maharaja Nagar, Trumawalli, Tamil Nadu constructed on a plot 524 sq. yds. in 1971. Shri Rajan has declared Rs. 40,600 as the cost of construction of this house.

(ii) A plot measuring 522 sq. yds. for Rs. 13,121 at Anna Nagar, Madras purchased in 1973.

(iii) Agricultural land measuring 0.51 acres at Kunna Kudi, Tamil Nadu purchased for Rs. 4000 in the name of his wife in 1970.

(iv) Agricultural land measuring 0.39 acres at Kunna Kudi, Tamil Nadu purchased for Rs. 3500 in the name of his wife in 1969.

5. The house search also revealed that the accused Shri A. S. Rajan is in possession of costly movable assets in the form of a fiat car 1969 model, a T.V. set purchased on 29-1-75 for Rs. 3,085 and Allwyn Refrigerator purchase in 1966 for Rs. 1387. The accused Shri A. S. Rajan is insured for Rs. 10,000 and his wife Smt. Lakshmi Rajan is insured for Rs. 5000. The search also revealed purchase of two EDRS for Rs. 5000—and Rs. 2250 in the names of the daughter and wife of the accused respectively. A receipt dt. July 17, 1968 indicates a deposit of Rs. 9000 in cash with M/s. Sundaram Finance Ltd., Madras in the name of his wife, Mrs. Lakshmi Rajan.

6. Shri Rajan is also maintaining accounts with a number of banks but details relating to these accounts have yet to be collected.

Conclusion

7. From the facts mentioned above it will be seen that excluding the bank accounts about which an enquiry has still to be made, Shri Rajan has acquired assets worth Rs. 80 to 90 thousands during the last 6 or 7 years which does seem to be on the high side considering the net pay that he would have drawn during this period. The investigation is in progress.

APPENDIX XVII

(See para 80 of the Report)

STC

BY HAND

THE STATE TRADING CORPORATION OF INDIA LTD.
CHANDRALOK 36 JANPATH NEW DELHI-110001

STC/6(74)/57-Estt.

15th April, 1975.

ORDER

With immediate effect, P.S. Bhatnagar presently Deputy Marketing Manager Grade II in P.E.C. is hereby suspended under Part-IV, Para 8 of the State Trading Corporation of India Limited Employees (Classification, Control & Appeal) Rules 1967 for his misconduct under Para 3 (iii) of State Trading Corporation of India Limited Employees (Conduct) Rules 1967 read in conjunction with Para 20 of the S.T.C.'s Service Regulations.

This issues under instructions of the appointing authority.

Sd/-

B.C. MALHOTRA
Chief Personnel Manager

Shri P.S. Bhatnagar
11/67A New Double Storey,
Lajpat Nagar IV, New Delhi.

APPENDIX XVIII
(See para 80 of the Report)

CONFIDENTIAL

**THE STATE TRADING CORPORATION OF INDIA LIMITED :
NEW DELHI (PERSONNEL DIVISION)**

No. STC/A-6(74)-Estt.

Dated : 29th April, 1975

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri P.S. Bhatnagar, under Rule 12 of the STC of India Ltd., Employees' (Classification, Control and Appeal) Rules, 1967. The substance of the imputations of misconduct and misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure I). A statement of the imputations of misconduct & misbehaviour in support of article of charge is enclosed (Annexure II).

2. Shri P.S. Bhatnagar is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.
4. Shri P.S. Bhatnagar is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails to refuse to comply with the provisions of Rule 12 of the STC of India Ltd. Employees' (C & A) Rules 1967 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him *ex parte*.
5. Attention of Shri P.S. Bhatnagar is invited to rule 20 of the STC of India Ltd. Employees (Conduct) Rules, 1967, under which no employee shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Corporation. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri P.S. Bhatnagar is aware of such a

representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the STC of India Ltd. Employees (Conduct) Rules-1967.

6. The receipt of the Memorandum should be acknowledged.
7. This issues with the approval of Disciplinary Authority.

Sd/-

B.C. MALHOTRA
Chief Personnel Manager

TO :

Shri P.S. BHATNAGAR,

Dy. Marketing Manager,
PEC. 11/67A, New Double Storey,
Lajpat Nagar-IV, New Delhi.

Enclosures to Appendix XVIII

ANNEXURE I

**STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST
SHRI P.S. BHATNAGAR, DMM, PEC.**

ARTICLE :

Shri P.S. Bhatnagar, while functioning as Deputy Marketing Manager, in Projects and Equipment Corporation (a Subsidiary of STC) committed gross misconduct and misbehaviour inasmuch as he kept the representatives of the firm—Messrs Batliboi and Company—waiting for an unduly long time on 15-4-1975 and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Limited Employees (Conduct) Rules, 1967.

ANNEXURE II

**STATEMENT OF IMPUTATIONS IN SUPPORT OF ARTICLES
OF CHARGE FRAMED AGAINST SHRI P.S. BHATNAGAR
DMM, PEC.**

For some time persistent complaints have been received about the misbehaviour and misconduct of Shri P.S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation (a Subsidiary of STC) towards the business clients and associates. On 15-4-1975 he kept the representatives of the firm—Messrs. Batliboi and Company—waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Limited Employees (Conduct) Rules, 1967 and also constitutes misconduct and misbehaviour on his part.

APPENDIX XIX

(See para 80 of the Report)

THE STATE TRADING CORPORATION OF INDIA LIMITED : NEW DELHI

(PERSONNEL DIVISION)

No. STC/6(74)/57-Estt.

September 1, 1976.

ORDER

WHEREAS an order placing Shri P.S. Bhatnagar presently Deputy Marketing Manager Grade-II in P.E.C. under suspension was made on 15-4-1975.

Now, the competent disciplinary authority in exercise of the powers conferred by clause (c) of sub-rule (v) of rule 8 of the S.T.C. of India Ltd. (Classification, Control and Appeal) Rules, 1967 has revoked the said order of suspension with immediate effect. The entire period of his suspension shall be treated as on duty and he would be entitled to full pay and allowances for that period.

Sd/-
B.C. MALHOTRA
Chief Personnel Manager

To

1. Shri P.S. Bhatnagar,
11/67A, New Double Storey,
Lajpat Nagar IV,
New Delhi.
2. Director (P.E.C.)
3. D.F.M. (A & E) PEC
4. Personnel Manager
5. Personal file.
6. Vigilance Division
7. Office Order Book.

APPENDIX XX

(See para 80 of the Report)

THE STATE TRADING CORPORATION OF INDIA LIMITED : NEW DELHI (PERSONNEL DIVISION)

No. STC/A-6(74)/Estt.

December 3, 1976.

WHEREAS Shri P.S. Bhatnagar, DMM, PEC, was served charge-sheet
Memo of even number dated the 29th April, 1976 containing the following
charges:

“Shri P.S. Bhatnagar, while functioning as Deputy Marketing Manager,
in Projects and Equipment Corporation (a Subsidiary of STC)
committed gross misconduct and mis-behaviour inasmuch as
he kept the representatives of the firm—Messrs Batliboi & Com-
pany—waiting for an unduly long time on 15-4-1975 and coerced
them to part with certain information. The manner in which the
information was sought to be obtained by him was unbecoming of
an employee of the Corporation as per Rule 3(iii) of the STC of
India Limited Employees (Conduct) Rules, 1967.”

AND WHEREAS the undersigned, after due consideration of his re-
presentation dated the 1st May, 1975 and all the relevant facts of the case,
is of the opinion that his behaviour with the business associate concerned
was lacking in some respects inasmuch as he sought to extract some informa-
tion from the said representative in an unbecoming manner.

However, taking a lenient view, Shri Bhatnagar is hereby warned for his
behaviour and is advised to show due courtesy to the business associates of
the Corporation. Any recurrence of such incident will make him liable to
strict disciplinary action.

Sd/-
B.C. MALHOTRA
Group Executive (Personnel)

Shri P.S. Bhatnagar,
DMM, PEC.

APPENDIX XXI

(See para 112 of the Report)

12, Willingdon Crescent,
New Delhi.
1st March, 1978.

Dear Shri Kapur,

With reference to your letter No. 18/3/CI/77 of January 7, 1978, I enclose my submission to be placed before the Hon'ble Committee of Privileges. Kindly acknowledge its receipt.

Yours faithfully,
Sd/-
INDIRA GANDHI

Enclosure to Appendix XXI Before the Privileges Committee Lok Sabha

Sir,

I have the honour to submit that the matter under consideration concerns the 5th Lok Sabha which is dissolved. I am advised that all contempt proceedings or breach of privilege of the House do not enure beyond the life of the House. It was so decided in the case of Shri T.N. Kaul.

2. Without going into the merits, the correctness or otherwise of the allegations I submit that while answering the said question or subsequently no allegations were made before the 5th Lok Sabha, that any obstruction had been offered by anybody in the collecting of information for the House. From the papers sent to me with the notice it appears that the persons alleged to be collecting the information claimed to be employee of a department of Government. In the deposition they do not appear to have claimed to be servants or agents of the House.

The impugned material therefore does not constitute a *prima facie* basis for the charge.

3. In order to attract the disciplinary jurisdiction of this Hon'ble House. the conscious disobedience or obstruction must be to a servant or agent of the House acting in course of duty of the House.

The culpability may be tested thus : suppose the concerned Officers will willingly did not carry out the orders given to them by the department. To whom would they be answerable? Obviously to their superior Officers and not to the House.

As is the rule, Penal provisions must be strictly construed.

I have in my own way tried to restore the sovereignty of the House and have tried to uphold the dignity of this House.

I have the highest respect for this House which I had the privilege to serve as a member for years until March last year. There was no intention to show any disrespect to this House.

The proceedings may therefore be dropped.

Yours faithfully,
Sd/-
INDIRA GANDHI

APPENDIX XXII

(See para 118 and 119 of the Report)

Re. *Question of privilege against Shrimati Indira Gandhi and others.*

*OPINION

First Question

The first question raised is whether the present Lok Sabha or the Privileges Committee has jurisdiction to go into a matter of alleged breach of privilege committed during the lifetime of an earlier Lok Sabha. In my opinion, the new Parliament would have no jurisdiction unless such jurisdiction or power itself may be claimed under Article 105 as a power enjoyed by the House of Commons at the date of the commencement of the Constitution.

2. Article 79 of the Constitution provides that there shall be a Parliament consisting of the President and two Houses to be known respectively as the Council of States (Rajya Sabha), and the House of the People (Lok Sabha) which would suggest that Parliament once constituted continues in existence. Article 83(1), however, shows that while the Council of States cannot be dissolved, the House of the people will stand dissolved on the expiry of its term or even earlier. This rather shows that it does not continue between the date of the dissolution and the summoning of the House after elections. The President himself may go out of office on termination of his tenure during the life of a Parliament. The only continuing constituent is the Rajya Sabha. In the absence of both the others, Rajya Sabha may not be able to function, but the question is whether the "entity" called the Lok Sabha itself exists and is only "peopled" afresh or at least the next Parliament is, as it were, a successor of the Lok Sabha that was dissolved. It is significant that a distinction is made between the Lok Sabha and the Rajya Sabha. None of the Committees of a previous Lok Sabha can even function after the dissolution of the Lok Sabha and Bills pending lapse on dissolution; nor could any officer of the Lok Sabha like the Speaker continue in office after dissolution and it is for that reason that a special provision is made in the proviso to Article 94 of the Constitution for the Speaker to continue in office until the first meeting of the new Lok Sabha. In this connection, see *May's Parliamentary Practice*, p. 232. In England what the proviso to Article 94

*See Appendix X for Attorney General's Opinion, dt. 23-7-1978.

of the Constitution does is achieved by means of the House of Commons (Speaker) Act, 1832, section 4, and the House of Commons Offices Act, 1846, section 5 (see Halsbury's Statutes, 2nd Ed., pp. 507, 513), both of which speak of "a new Parliament". In this context, see Kaul and Shakdher's Practice and Procedure of Parliament, 1972, pp. 162-164, and Markesinis on "The Theory and Practice of Dissolution of Parliament", 1972, pp. 15-18. No decision has come under my notice which would throw any light on the subject except that May's Parliamentary Practice, Chapter VII, refers to a Parliament convened after elections as "a new Parliament". The statement in Basu's Commentary, Vol. II, p. 628, does not cite any authority for the proposition made there that "Parliament cannot take cognizance of a breach of privilege which took place during the life of the previous Parliament". In *M.S.M. Sharma v/s. Srikrishna Sinah*, AIR 1960 SC 1186, the Supreme Court has at p. 1191, paragraph 12, observed that it was not necessary in that case to pronounce upon the question whether dissolution of the House necessarily had the effect of completely wiping out "contempt".

3. This, however, does not conclude the matter for it may well be that such power or privilege in favour of a new Parliament to punish for a breach of privilege committed during the life of an earlier one was enjoyed by the House of Commons and did not lapse before the date of commencement of our Constitution. On a perusal of the Digest of Precedents I find that none of them, except Tulmohan's case and Kaul's case, really helps to answer the question. Tulmohan's case only helps to show that (1) on account of the dissolution of the earlier Lok Sabha, a new Committee was appointed to go into the question of privilege, and (2) the Lok Sabha did *in fact* go into the question of a breach of privilege committed during the lifetime of the earlier Lok Sabha. It does not appear that any objection was raised on the ground that the new Lok Sabha could not go into the matter of a breach of privilege committed during the lifetime of the earlier Lok Sabha. It seems to have been *assumed* that the next Lok Sabha could go into it. In the absence of any ruling this cannot be regarded as a precedent; it is only a precedent in the sense that the later Lok Sabha did go into a breach of privilege committed during the life of the earlier Lok Sabha. In Kaul's case there is a clear ruling by the Speaker against such a power.

4. At page 161 of May's Parliamentary Practice it is stated:

"It also appears that a contempt committed against one Parliamentary may be punished by another; and libels against former Parliaments have often been punished. In the debate on the privilege of Sir R. Howard in 1625 Mr. Selden said: 'It is clear that breach of privilege in one Parliament may be punished in another succeeding'."

The use of the word "appears" in the first sentence shows that the statement is a cautious one and is made on the basis of an authority which is not available to me; the last sentence is, however, categorical. But the question then is whether such power subsisted at the date of commencement of the Constitution. The precedents themselves go back some centuries, but it is significant that even in the Nineteenth Edition of May's Parliamentary Practice the statement that such a power of privilege exists is mentioned with no comment that such power or privilege has fallen into desuetude or lapsed. This is understandable because such occasions do not arise often and in view of May's statement it may be assumed *that such a power exists. I should add that if it is challenged that such a privilege exists at all, the Supreme Court would have jurisdiction to consider the question.* See the Supreme Court's Opinion on President's Reference No. 1 of 1964.

Second Question

5. The second question on which my opinion is sought is whether the persons who were collecting information and who were harassed or impeded or obstructed could be regarded as officers and servants of the Lok Sabha. It was really the responsibility of the Minister concerned to collect the required information so that he could answer the question put in the Lok Sabha. I do not see how any agency employed by the Minister or public servants or persons entrusted with the work could be regarded as servants or officers of the Lok Sabha. In May at page 136 it is stated:

"It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence."

This statement falls into three parts—(1) any act or omission which obstructs or impedes either House of Parliament in the performance of its functions; or (2) any act or omission which obstructs or impedes any member or officer of such House in the discharge of his duty; or (3) any act or omission which has a tendency, directly or indirectly, to produce such result. At page 154, May states:

"It is a contempt to obstruct officers of either House or other persons employed by, or entrusted with the execution of the orders of, either House, while in the execution of their duty."

In my opinion, the persons who suffered harassment were neither officers and servants of the House nor were they employed by, or entrusted with the execution of the orders of, either House. There were no orders given by the

Lok Sabha; it was the Minister who had asked for material and no execution of any order of either House was involved.

It seems to me that while persons whom the concerned Minister asked to collect information cannot be regarded as officers or servants of the House, the question would remain whether the acts or omissions, namely, the orders made by certain persons to carry out raids or arrests, obstructed or impeded the Lok Sabha in the performance of its functions.

Other Questions

INTERPRETATION OF RULE 272

6. Some questions were asked at the meeting on 29th July, 1978 concerning the interpretation of Rule 272. I, therefore, turn to this question.

7. The rules preceding and following Rule 272, *i.e.*, wherever the rule is required to be mandatory, the word "shall" has been used. In Rule 272 the word "may" has been deliberately used and cannot be replaced by the word "shall" for the following reasons:

- (1) No choice between an oath and solemn affirmation can ever be given to any judicial body because the choice is always of the witness whether he wishes to go on oath or prefers to make a solemn affirmation and *not* the judicial body.
- (2) The word "may" is used to give discretion to the Committees of the Lok Sabha whether or not to put any witness on oath (or its substitute, namely, solemn affirmation) at all. See in this connection *May*, p. 690, where, among other things, it is stated that witnesses are *generally* sworn not before all Committees but upon inquiries of a special character. It is there stated: "It is not usual, however, for Select Committees to examine witnesses upon oath, *except upon inquiries of a judicial or other special character.*" (emphasis added by me). This is done in the case of inquiries of judicial or other special character in order to enable the Committee to inflict punishment for perjury, false evidence, prevarication or other misconduct of a witness as a contempt. Refusing to answer questions or refusal to be sworn is itself a breach of privilege or contempt in England (See *May*, p. 137). It is, therefore, desirable to put a witness on oath, or if the witness so prefers it, on solemn affirmation.
- (3) According to ordinary law a judicial body or tribunal has no power to administer oath (or solemn affirmation) unless power is expressly conferred which was done in India by the Indian Oaths Act, 1873 and later by the Indian Oaths Act, 1969, neither of which would,

it seems to me, apply to the Lok Sabha or Privileges Committee. But we are not concerned with ordinary law but with *lex parliamenti*. It was for this reason that Rule 272 appears to have been made. In any case, Rule 272 was made *presumably* because the power of Parliament in England and of the Lok Sabha under Article 105 would not include the power to administer oath (or its substitute) for those who framed the rules may be expected to have taken into consideration the fact that in England two [Acts *enabled* witnesses to be put on oath or solemn affirmation ; they are Parliamentary Witnesses Act, 1858 and Parliamentary Witnesses Oaths Act, 1871. I have no access to Parliamentary debates in England and the objects of the Bills which later became Acts in England to find out as to why these Acts were passed. I am assuming that either doubts must have been felt or it was taken for granted that there was no power to administer oath to witnesses in any case before the House of Commons. Extracts of these two Acts are annexed. (See *May*, pp. 690 and 987).

8. In the result, I take the view that it is open to the Committee to put a witness on oath or solemn affirmation (as the case may be, according to the choice of the witness). The Committee of Privileges normally administers oath or solemn affirmation, as the case may be, so that it can punish the witness for perjury or refusal to go on oath (or solemn affirmation) or for giving false evidence.

ARTICLE 136

9. I will now turn to the questions which were put to me in the course of the proceedings of 29th July, 1978. One of the Hon'ble Members expressed apprehension that if Article 20(3) was applied on the footing that the Committee exercises judicial functions, the Committee would be even a "legal tribunal" for the purpose of Article 136. [In my opinion, there is no room for such an apprehension because the words "legal tribunal" in Article 136 have to be interpreted in the context of the other Articles and the heading of the Chapter in which Article 136 occurs, namely "The Union Judiciary". Only those "Courts" and "legal tribunals" fall within Article 136 as would be subject to the jurisdiction of the Supreme Court. What is more, if the powers and privileges of the two Houses are protected by Article 105, it is inconceivable that the Supreme Court would be given power over Parliament exercising its powers and privileges under Article 105. In this connection, a reference may be made to Basu's commentary on the Constitution of India, 5th Edition, Vol. 3, pp. 162, 163, where decisions are cited to explain what is meant by a "court" or a "tribunal". At page 163 it is stated that the word "tribunal" in Article 136 is to be determined with reference to the word "Court" and the word "tribunal" as used in Article 136 does not mean the

same thing as a "Court" but includes within its ambit all adjudicating bodies, *provided they are constituted by the State*, and are invested with judicial (as distinguished from purely administrative or executive) functions. All that the Supreme Court has so far held is that the question whether the power and privileges of Parliament existed *at the date* of the commencement of the Constitution is a matter which is justiciable in Court; but the decision of the Supreme Court in President's reference No. 1 of 1964 shows that the rest of the privileges and powers are not matters in which the Courts can interfere. See in this connection *May*, 19th Ed., Chapter XI, "Jurisdiction of Courts of Law in matters of Privilege", which deals generally with jurisdiction of Courts of Law in England in matters of privilege, and particularly pages 186 to 190 and pages 192 to 193. Whatever may be the position on the question whether powers and privileges are part of the ordinary law or are an exclusive law (*lex parliamenti*), it is clear that the Lok Sabha is not subject to the jurisdiction of the Supreme Court inasmuch as the Lok Sabha is not a "Court" nor a "tribunal" *constituted by the State*.

10. Lastly, the Hon'ble Chairman asked me what would happen if a person refused just to answer questions. It is stated in *May*, p. 137, that refusing to answer questions or refusal to be sworn is itself a breach of privilege or contempt. A witness would have to answer questions except those which are covered by Article 20(3) (*See May*, p. 692).

11. Answers to Questions (1), (2) and (3) given in my Opinion of 21st July, 1978 can now be given in the light of what I have said earlier in paragraphs 7 and 8. If the Committee *decides* to administer oath, which is a matter of its discretion, the accused has no option in the matter. Refusal to be sworn is itself a breach of privilege. So is refusing to answer questions except to the extent an accused is protected by Article 20(3).

Sd/-
S. V. GUPTE
Attorney-General of India

New Delhi;

Dated : 8th August, 1978.

Enclosure 1 to Appendix XXII

The Parliamentary Witnesses Act, 1858 was passed to enable the Committees of both Houses of Parliament to administer Oaths to Witnesses in certain cases.

Section 1 was repealed by the Parliamentary Witnesses Oaths Act, 1871, s. 2.

Section 2 of the Parliamentary Witnesses Act, 1858 reads as:—

“Any Committee of the House of Lords may administer an oath to the witnesses examined before such Committee.”

Section 3 was repealed by the Perjury Act, 1911, s. 17.

Enclosure 2 to Appendix XXII

The Parliamentary Witnesses Oaths Act, 1871 was passed to enable the House of Commons and any Committee thereof to administer Oaths to witnesses.

Section 1 reads:—

“The House of Commons may administer an oath to the witnesses examined at the bar of the said House.

Any Committee of the House of Commons may administer an oath to the witnesses examined before such Committee.”

Section 2 (Repealed by Statute Law Review Act, 1883)

Section 3 reads:—

“Nothing in this Act contained shall be held to confer any additional or further power or privilege on the Commons House of Parliament with reference to impeachment or other criminal jurisdiction or otherwise howsoever than is herein expressly enacted.”

Section 4 reads:—

“This Act may be cited as “The Parliamentary Witnesses Oaths Act, 1871.”

APPENDIX XXIII
(*See para 131 of the Report*)

SUMMARY

On the 4th January, 1640, a Member of the House of Commons complained that the Archdeacon of Bath (Mr. William Piers), had spoken certain very malcious and wicked words against the last Parliament.

2. Tobias Coleman, to whom the words were spoken testified the complaint to the House and also cited two witnesses, Gerrad Dickins, and Geo. Cary, servant of Mr. Coleman. Thereupon, the House summoned the said Dickins and Cary to appear as witnesses on the 5th morning*.

3. The House then ordered:—

- (i) "That William Piers, Archdeacon of Bath, be forthwith sent for as a delinquent, by the Serjeant-at-Arms attending on this House, to answer the said complaint and information against him."
- (ii) "That Mr. Hollys shall presently go up to the Lords, with a message, to acquaint their Lordships, that there was an information here, of a very foul nature, against Mr. William Piers, Archdeacon of Bath, and son to the Bishop of Bath and Welles; and to desire, that he may be forthcoming, to answer the said Information."

The House sent the message to the Lords as the matter of respect to the privilege of the Lords because Mr. Piers was not only a son, but of the family, of the said Bishop of Bath and Walles.

[CJ (1640-42)63.]

*Further proceedings are not traceable in the Journal.

APPENDIX XXIV

(See para 131 of the Report)

SUMMARY

On the 7th February, 1701, Sir Rowland Gwyn, a Member, reported the following recommendations of the Committee of Privileges and Elections concerning the election for the Borough of Maidstone, in the county of Kent:

- (i) "That it is the opinion of this Committee, that Thomas Blisse Esquire is duly elected a Burgess to serve in this present Parliament for the Borough of Maidstone."
- (ii) "That it is the opinion of this Committee, that Thomas Colepeper Esquire have been guilty of corrupt, scandalous, and indirect Practices, in endeavouring to procure himself to be elected a Burgess to serve in this present Parliament for the Borough of Maidstone."

2. The Report of the Committee also referred to a printed libel contained in a letter* entitled 'A letter to the Freeholders and Freemen of England', alleged to have been written by Mr. Colepeper.

3. The House agreed with the first recommendation of the Committee. An amendment was proposed to the second recommendation that after the word 'Esquire' the following words might be added:—

"who was one of the Instruments in promoting and presenting the scandalous, insolent, and seditious Petition, commonly called the Kentish Petition, to the last House of Commons."

The House agreed to the second recommendation as amended.

4. The House further resolved:—

- (i) "That the aspersing the last House of Commons, or any Member thereof, with receiving French Money, or being in the Interest of France, was a scandalous, villainous, and groundless Reflection, tending to Sedition, and to create a misunderstanding between the King and his People."

*Text of the letter is not available in the Journal.

- (ii) That Thomas Colepeper Esquire is guilty of promoting the said scandalous, villainous and groundless Reflection upon the said House of Commons.
- (iii) "That the said Thomas Colepeper Esquire be, for his said Offence, committed to his Majesty's Gaol of Newgate; And that Mr. Speaker to issue his Warrants accordingly."
- (iv) "That his Majesty's Attorney General do prosecute the said Thomas Colepeper Esquire for the said Crimes."

(C. J. (1699—1702)732, 733, 734, 735)