

[Translation]

MR. SPEAKER: When the item will come up for discussion we will see.

[English]

You are jumping before that.

SHRI DINESH GOSWAMI: How can I prepare? (Interruptions) My simple submission to you is please listen to us on the point that we want to raise on what constitutes the complete report.

MR. SPEAKER: Now sit down. Take your seat. Hon. Members, on 28th March, 1989, Prof. Madhu Dandavate...

SHRI S. JAIPAL REDDY (Mahbubnagar): Before giving the ruling, please listen to us (Interruptions)

MR. SPEAKER: Sit down. Why are you jumping to conclusions? I am telling something. You listen to me first. You are unnecessarily jumping to conclusions. If I have to give a ruling, I will give it. I have to give a ruling.

SHRI S. JAIPAL REDDY: You can give a ruling. But, we would like to be heard before you give your ruling. We are not against any ruling. This is a vital matter. In this, Members must be heard. We will not agree to any ruling, if it is delivered.....(Interruptions)

SHRI SHANTARAM NAIK: This is contempt of the House.

[Translation]

MR. SPEAKER: Shantaram ji, if you keep quiet, I shall be able to deal with it.

(Interruptions)

[English]

MR. SPEAKER: It is my job. I will handle

MR. SPEAKER: Mr. Kurien, you will be very helpful if you keep silent. I can handle Shri Jaipal Reddy because I am under the Rules and he will be out of the Rules. He will be contravening the contravening the Rules but I will not because I am bound by the Rules, and this is what I am going to do. I am not giving a ruling at the moment.

SHRI S. JAIPAL REDDY: Why don't you listen to me.

MR. SPEAKER: I do not know if there is any provision as such that I have to listen to you. Nothing like that. I can give my ruling as I like. That is my part I have to play. Why should you worry about that? But you are bound to take my ruling as final because you cannot question it. That is the final thing as far as the rules are concerned.

(Interruptions)

12.22 hrs.

[English]

MOTION RE: QUESTION OF PRIVILEGE

MR. SPEAKER: Hon. Members, on 28th March, 1989 Prof. Madhu Dandavate and Shri Thampan Thomas gave notices of question of privilege against Shri Buta Singh, Minister of Home Affairs, for allegedly misleading the House by concealing two volumes of the Report of Justice Thakkar Commission of Inquiry on the assassination of the late Prime Minister, Smt. Indira Gandhi while laying it on the Table of the House on 27th March, 1989. Next day, Shri C. Madhav Reddy also gave a notice of question of privilege on the same subject. I had reserved all these notices for my consideration.

I give my consent under Rule 222 to Prof. Madhu Dandavate to raise the question of privilege for consideration of the House.

PROF. MADHU DANDAVATE (Rajapur) With your permission, I would raise the question of privilege for which I have given notice under Rule 223 and you have given me consent under Rule 222. According to the Commission of Inquiry Act, 1952 as amended in 1986.

SHRI G. M. BANATWALLA (Ponnani): I am on a point of order. You had said that you will take the advice of the Attorney General and all that.

MR SPEAKER: It is still there. I has not vanished into thin air. If you want to listen about that, I can also inform you:

Hon. Members will kindly recall that on the 28th March, 1989, several Members had raised the question whether Government had laid the complete report of the Thakkar Commission on the Table of the House or had withheld some portions thereof. As there was pandemonium in the House, I had to adjourn the sitting of the House at 1230 PM immediately thereafter, I called a meeting of the Leaders of Party/ Groups in my Chamber. The Minister for Home Affairs and the Minister for Parliamentary Affairs were also present. As there was difference of opinion on what constituted the complete report of the Commission, it was decided to seek the advice of the Attorney-General in the matter before giving my final ruling. Accordingly, a communication was sent the next day to the Attorney-General.

I wish to inform the House that I have since received the opinion of the Attorney-General. I am studying it in all its aspects and hope to be able to give my ruling this evening.

(Interruptions)

SHRI SOMNATH CHATTERJEE (Bolpur) : I am on a point of order. Irrespective of the opinion of the Attorney-General, this matter of privilege is to be considered. *(Interruptions)*

MR. SPEAKER : Yes, Prof. Dandavate

to speak.

(Interruptions)

SHRI SAIFUDDIN CHOWDHARY (Katwa): Sir, I have given notice under Rule 184. *(Interruptions)*

MR. SPEAKER: Not allowed. These are two separate things. Nothing doing. I have allowed only Prof. Dandavate to speak.

*(Interruptions)**

SHRI DINESH GOSWAMI (Guwahati) Sir, my only request is that we may be allowed to make our submissions before you give your ruling so that we can give our own views. This is a vital matter. This is always done *(Interruptions)*

MR. SPEAKER: Prof. Dandavate, Please continue.

PROF. MADHU DANDAVATE: Mr. Speaker, Sir, on 27th March, 1989, S. Buta Singh laid on the Table of the House i) the Thakkar Commission's interim report on assassination of Smt. Indira Gandhi ii) the final report of the Commission iii) the memorandum of action taken on the report and iv) the statement explaining why simultaneous Hindi and English versions of the report could not be published. Sir, on scrutinising the two volumes of the report presented in the House on 27th March, 89, I find the following reference on Page 7 para 1.8.3 of the interim report and I quote:

" The Commission's report is in four volumes. Volume-I comprises five chapters as mentioned above. Volumes-II and III contain the papers pertaining to Show Cause Notices issued to individuals, their responses and the proceedings of the Commission in relation thereto. Each volume comprises nearly 2000 pages. Volume-IV contains interrogatories issued to various persons individually and their respective responses, as also inquiries by way of references made from a number of

individuals and their responses. All the volumes carry their own index. Papers pertaining to matters covered by the two terms of reference which are not dealt with in this report will be include in a separate volume along with the report on the remaining matters."

MR. SPEAKER: Prof. Dandavate : Just ask for the leave of the House .

PROF. MADHU DANDAVATE: Sir, I seek the leave of the House to move the motion... I said that earlier also.

MR. SPEAKER: I hope there is no objection. There is no objection. You please go ahead.

PROF. MADHU DANDAVATE: Sir, it is thus clear that the Thakkar Commission submitted to the Government four volumes of the report whereas all those volumes have not been placed before the House by the Hon. Home Minister. The Union Minister has thus concealed some volumes from the Parliament and thereby misled the House. This amounts to showing disregard for the House and therefore a breach of privilege of Lok Sabha. In addition, I would like to refer to the amended Commissions of Inquiry Act, 1952, after it was amended in 1986 to which we had opposed at the introduction stage and at the consideration stage (*Interruptions*)

MR. SPEAKER: Please, order in the House, Let met listen to Prof. Dandavate.

(*Interruptions*)

PROF. MADHU DANDAVATE: Sir, there is a mention that additional sub-section (5) to Sub- Section (3) of the Commissions of Inquiry Act was added as an amendment to make a provision that if the Government feels that in the interest of the security, in the interest of friendly relations with the neighbours and in the public interest those should be withheld from the Parliament, a notification is to be issued. That notification had come for approval before

this House. When that is done, they can withhold those reports from the Parliament. This was the provision. But Sir, below Sub-section 5, that is, Section 3, there is an explanatory note. There can be a difference of opinion on that. I still hold and this is my opinion. In sub-section 5, it is stated; for the purpose of this Section, Commission's Report includes, Interim Report and all proceeding—'all' is not my word, that is included in the explanation.

Your contention seems to be that that explanation is applicable to Sub-section 5, Section and not to Sub-section 54, Section 3 under which the Reports are to be placed. It is a very strange interpretation. Number of jurists have come forward with that explanation and they have held today that that explanation is also applicable to Section 5. I will give a simple analogy. After all, a report is a report whether you refer to a report in an earlier Section or a different Section. For instance, if a fruit Mango is to be defined, whether it is kept in a refrigerator or whether it is thrown out, in both the cases, Mango continues to be a Mango. And therefore, whether you lay a report on the Table of the House or whether you withhold from the House, in either case... (*Interruptions*)

SHRI SHANTARAM NAIK (Panaji): Law and mathematics are different... (*Interruptions*)

PROF. MADHU DANDAVATE: Reflex action you can implement.

MR. SPEAKER: Professor Sahib, You can only say that if it is thrown out. It becomes rotten and if it is kept in the refrigerator, it is fresh.

PROF. MADHU DANDAVATE: Reflex action is defined as an action taken by an individual without applying the mind. Very often, he interferes as a reflexaction. That does not matter. This might be my interpretation. I do not insist that you should accept it. But tried to put in it an simple form.

MR. SPEAKER: Is that your point.

PROF. MADHU DANDAVATE: That is my point. I cannot express your point. I can express my point. When I am there, I will explain my point. Now I am explaining this point. Therefore, it is very clear that as far as the Report is concerned, every part of the entire law Report has to be a Report, that means, Interim Report plus all the proceedings. And that being my contention, naturally, I am disturbed that when the Commission itself, really speaking, do not take it as an affront, why do you need an opinion of the Attorney General at all? Because I think, the person who writes the Report, the author of the Report is the best authority to tell the House, what is a Report. Now the Commission, he says, has formulated a Report. They say, in Interim Report, page 7, 1.83 that these are the Reports. We must accept what the authors have said. Therefore, if the authors of the Report have themselves defined the Report in a particular manner, I would earnestly request you rather than referring it to the Attorney General or any other jurist or even to Madhu Dandavate, better refer it to the authors of the Report. And they themselves say that these are the Reports. We expect that what the authors of the Report, that is, the Commission has said, those Reports must come before the House. And unless they come before the House, it will be difficult for us to understand the mind of the Commission to arrive at a conclusion regarding the recommendations of the Commission. We must know what is the *modus operandi* that the framers of the Report have formed and therefore, all these aspects of the Report are very necessary. Therefore, while just putting this Privilege Motion before the House. I will earnestly appeal to you, to your conscience as well as conviction, both are important, because whatever ruling you give, that will set the precedent for all times to come. Not that they will always observe it because any one time you have given the ruling in this House, you have proceeded from 1952 to 1989. They have said that as far as possible, when the house is meeting, there should be no important policy decisions taken earlier, especially in financial matters. But they go on taking the decisions, they go on issuing the ordi-

nances. And, therefore, I am not sure that even after you give the ruling, whether that will be meticulously followed. But at least, for all speakers, to come—not that I want you to go- but whoever be the Speakers, who will occupy that Chair will say that Dr. Balam Jakhar had set this wonderful precedent and we must follow that. So all the future Speakers will be looking to your precedent just as you are also looking to the precedents set up by Shri Mavalankar and Dr. Dhillon. Therefore, I earnestly request you to accept this Privilege Motion. If you are not able to make up your mind on the spot, I would like you to refer the matter to the Privileges Committee. In your own way you can do it. In a cool and calculated manner let them arrive at a decision because in times to come whatever ruling is given that will set the precedent. Thank you. *(Interruptions)*

SHRI SAIFUDDIN CHOWDHARY (Katwa): Before going into the Privilege issue, about the full report what is your opinion? There are volumes and there are parts. There is Part 1-A of the main body of the report. *(Interruptions)*

SHRI SOMNATH CHATTERJEE: I am on a point of order, Sir. You have been kind enough to reserve your ruling on the very identical questions. Even just now you said that you are yet to give your ruling; you have received the opinion of the Attorney General. The matter on which the Speaker has been kind enough to reserve his ruling and reiterated that yes, ruling will be given, I would like to know whether the same matter can be referred to the Privileges Committee, pending the ruling to be given by you. Then there will be two forms for this. Your authority even the Privileges Committee cannot take away. Privileges Committee cannot sit over you and cannot anticipate your ruling.

PROF. MADHU DANDAVATE: I agree with him, Sir, Give me precedence over the Attorney General.

SHRI SOMNATH CHATTERJEE: Privileges Committee cannot sit over and decide what your ruling will be. There may be a

conflict in this. Privileges Committee may come to a decision and your ruling may be different. Therefore, here the Chair...

MR. SPEAKER: The limited point to be considered under Prof. Dandavate's motion on privilege is whether.....

SHRI SOMNATH CHATTERJEE: This is a point you kindly decide. How can your ruling be....

MR. SPEAKER: Whether the Home Minister has deliberately misled the House or not. That is the question.

(Interruptions)

MR. SPEAKER, This is what we have come to discuss now. You want a discussion and we are having it.

SHRI SOMNATH CHATTERJEE: Kindly give your ruling on my point of order.
(Interruptions)

MR. SPEAKER: I cannot disrupt this discussion for these points. This is no point of order.

(Interruptions)

SHRI INDRAJIT GUPTA: (Basirhat): There is a point of order because you have not only reserved your ruling, you have said categorically a few minutes ago that you are going to give your ruling this evening. You said, I am going to give my ruling this evening. How can that be preceded by a motion referring the very same matter to the Privileges Committee?

MR. SPEAKER: This is something separate from that.

(Interruptions)

SHRI SOMNATH CHATTERJEE: After you give your ruling, can the Privileges Committee sit over it? Even the Privileges Committee cannot sit over your ruling...
(Interruptions)

MR. SPEAKER: Let us discuss it.

SHRI SOMNATH CHATTERJEE: This is a very serious matter.

MR. SPEAKER: Over ruled.

SHRI BASUDEB ACHARIA: I am on a point of order Sir.

MR. SPEAKER: What is your point of order now?

SHRI BASUDEB ACHARIA: The privilege issue of Prof. Madhu Dandavate on the definition of the report that the report constitutes four volumes...

MR. SPEAKER: I have already heard that.,

SHRI BASUDEB ACHARIA: Justice Thakkar has stated in the report itself. Your ruling also will be on the same subject that what is the report. Because you have said that you have received the opinion of the Attorney General and you repeatedly said when you met the Opposition leaders that you are not a lawyer and you want....

MR. SPEAKER: There is no question. Mr. Jaipal Reddy was rather helpful to me...

(Interruptions)

MR. SPEAKER: Please listen to me now. Mr. Jaipal Reddy was enthusiastic that he should be heard.

(Interruptions)

MR. SPEAKER: Now please carry on.

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): Sir, I have a very very brief point of order. My point of order arises under Rule 222 under which you were pleased to give permission to the mover of the Resolution, Shri Madhu Dandavate. With the pleasure of the House one step further has been taken. He has completed his speech. It is the property of the House

[S. Buta Singh]

now. (*Interruptions*) My contention is that since you have given a chance for him to say that I have really committed a breach of privilege, then I should be given a chance because the House is now seized of the matter. he has said his part of the story. I have to give my explanation... (*Interruptions*) It might also be of some assistance to you.

SHRI DINESH GOSWAMI: Sir, I rise on a pint of order. There are two questions involved. First, whether the Minister has submitted the entire report or not. Second, whether the Minister has misled the House by not submitting the entire report. If this privilege motion is confined only to the second part whether he has misled the House or not then this is perfectly valid and in order. But so far as the first question is concerned whether it is the entire report or not, then we cannot discuss because your ruling is pending. Unless your ruling comes...

MR. SPEAKER: Let us see if he has misled or not. Your point of order is over-ruled.

(*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY; How can we discuss in the absence of your ruling?

SHRI INDRAJIT GUPTA: Please clarify whether your ruling when it comes can be subordinated to a future anticipated decision of the Privileges Committee on the same question?

MR. SPEAKER: Your is as hypothetical a question as mine.

SHRI INDRAJIT GUPTA: If the privilege motion s accepted by the House then it means that the Privileges Committee will be seized of this matter.

MR. SPEAKER: Let us see.

SHRI INDRAJIT GUPTA: Then will it have precedence over your ruling or your ruling will have precedence? How can we have both?

MR. SPEAKER: You are presuming things. Now let me hear the other side.

(*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY : Sir, raise on a point of order.

MR. SPEAKER: What is your point of order?

SHRI SAIFUDDIN CHOWDHARY : If the Motion of Privilege is accepted, then it implies that this House is accepting that the full report has not been given.

MR.SPEAKER: Your point of order is over-ruled.

SHRI SAIFUDDIN CHOWDHARY : How can there be discussion if the whole report has not been given to us?

MR. SPEAKER: Your point of order is over-ruled.

(*Interruptions*)

SHRI V. KISHORE CHANDRA S. DEO: Now the House is seized of the same matter . You are yet to give your ruling on the matter. Suppose you give the ruling that...

MR. SPEAKER: There is no question of supposition.

SHRI V. KISHORE CHANDRA S DEO: Does it mean you will withhold your ruling?(*Interruptions*)

[*Translation*]

SHRI PIYUS TIRAKY: Mr'. Speaker, Sir, what I mean to say that the Hindi version

of the portion on which you gave your ruling has not yet been provided to us. Unless Hindi version is provided to us, several hon. Members may not be able to offer their views on it properly. How can you give your ruling before that? What has been promised is that...

[English]

MR. SPEAKER: I had given exemption to that.

[Translation]

S. BUTA SINGH : Permission for this has since been received.

[English]

SHRI ARIF MOHAMMAD KHAN: Sir, my point is that discussion on this report is on the agenda. Now the question of privilege should get precedence.

MR. SPEAKER : No question.

SHRI ARIF MOHAMMAD KHAN: My point is that we cannot discuss unless we have all the documents and the full report is made available to us. (Interruptions)

PROF. SAIFUDDIN SOZ; Sir, I suggest a *via media*.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): No *via media*.

Sir, under Rule 225, it is given that 'The Speaker, if he gives consent under Rule 222 and holds that the matter proposed to be discussed is in order, shall call the member concerned, who shall rise in his place and, while asking for leave to raise the question of privilege, make a short statement relevant thereto.' I wonder where hon. Members were when Mr. Madhu Dandavate was given the permission and after you held that the

discussion is in order, he was asked to make a statement. He made a statement which in effect puts the Government in the position of an accused, of not coming clean before the House and misleading the House. We are entitled to give an answer. So, after making the statement charging the Government with breach of privilege, charging the Home Minister with breach of privilege, it is surprising to that other hon. Member should intervene at that stage and say that the accusation will stand but the House will not hear an answer. We are entitled to give an answer... (Interruptions) ... They are about to participate in the discussion and Members are entitled to speak on this and eventually the House will decide according to the rules. What is the charge against the Home Minister and what is the charge against the Government which the Home Minister represented on that day, when he laid the Interim Report and the Final Report on the Table of the House? The charge, as I have understood Prof. Dandavate's letter and which he was please to read out, is that we have an obligation to place the full Report on the Table of the House under Section 3, sub-section 4 and that obligation has not been discharged. Secondly, he says, I believe he has to say, that we failed to place this Report not inadvertently but deliberately because the privilege will arise only if we have misled the House, if we have made a false statement, if we have made a statement deliberately in order to mislead the House, not to place the truth before the House. Therefore, there is no way we can split this question in the manner which hon. Member, Mr. Dinesh Goswami, would like us to split and we have to deal with both aspects of the question. Sir, I do not think that Prof. Madhu Dandavate was right in referring to sub-section 5 and of section 4 because, I believe, that is already governed by the ruling of the Chair. On the day when this question was raised, I think, it was the very day or the day after, we can look into the proceedings. Hon. Members relied upon sub-section 5 and an explanation to sub-section 5. I may say with great respect that you pointed out quite correctly that the Reports are laid on the Table of the House under sub-section 4 of Section 3 and sub-

[Sh. P. Chidambaram]

section 5 is not attracted. Let us briefly look into the history of these Sections. When this Act was made in 1952, there was no sub-section 4 at all. There was no obligation to lay the report on the Table of the House. This was the position until 1971. In 1971, a Select Committee of the House which went into the matter recommended an amendment to the Act, and I had occasion to refer to this when the Amending Act of 1986 was moved. You can kindly look into those proceedings. The only reason given by the Committee was that a lot of money was spent on these Commissions of Inquiry and therefore, because a lot of money has been spent, it is only proper that these reports are laid on the Table of the House. Look at the language of the sub-section. The language of sub-section 4 is 'to place the Report, if any, on the Table of the House'. Prof. Madhu Dandavate does not quite appreciate the words 'if any'. You could have a commission which goes into a matter, collects a lot of material, hears a lot of testimony, takes in a lot of documents and yet for some reason does not make a report. There is no obligation under sub-section 4 to place a non-existent report. A report is something which follows material; a report is something which follows documents, testimonies and exhibits. The exhibits and the material and the documents do not constitute a report because the commission, for ought we know, may say that it has this material but will not make a report... (*Interruptions*)... You don't have to congratulate me. Therefore, in 1971, the obligation was made that if there is a report, government shall place it on the Table of the House. There is a vast distinction between exhibits, documents, material, testimony, deposition and the report and I shall demonstrate it with reference to precedents.

Then, sub-section 5 came. I do not wish to dwell on sub-section 5; sub-section 5 was introduced in 1986 and the context is very clear, the language is very clear. The language says, you can withhold it under sub-section 5, and for the purpose of this sub-section, report means interim report and

proceedings... (*Interruptions*). Report includes proceedings for the purpose of this section. What the Parliament has passed is for the purpose of sub-section 5; it is not for the purpose of sub-section 4. Vigilant Members, if they felt, that it should apply to sub-section 4, should have moved their amendment in relation to sub-section 4. That is the law of the land today and you have ruled, Sir, a few days ago that the explanation applies only to sub-section 5; it does not apply to sub-section 4. I do not think that argument of Prof. Dandavate would, therefore, stand.

What did the Commission say and what are the precedents? Let me first go to the precedents. Let the House know what the precedents are. This Commission dealt with the assassination of Shrimati Indira Gandhi. Let us look at some Commissions which dealt with the deaths of eminent persons. We had the Mathew Commission of Enquiry to report into the incident of explosions which took place on 2nd January, 1975 at Samastipur. The Commission was appointed on 10th February, 1975; it submitted its report on 9th May, 1977 and the report was laid on the Table of the House on 14th November, 1977. I have with me what was laid on the Table of the House. What was laid on the Table of the House were instructions on security arrangements and other matters, findings of the Commission relating to the incident, general matters relating to democracy etc., recommendations of the Commissions and annexures 1 to 4, which are similar to certain appendices included by Justice Thakkar and I will come to that. Annexures 1 to 4 is a list of affidavits filed, list of witnesses, list of documents and list of parties who were represented. These are four lists. The deposition is not a part of this report, the documents are not a part of the report, the actual exhibits are not a part of the report, and it was nobody's case that it was not a complete report; it is not sufficient to file a list, you must also file the deposition, it is not sufficient to file only a list of exhibits, you must also file the exhibits, it is not sufficient to give a list of the people who were represented, you must also file and place on the Table of the House what they said.

Now, how many witnesses were examined? Let us look at Appendix 1..... (*Interruptions*). A number of witnesses were examined... (*Interruptions*)

MR. SPEAKER: Why can't you behave properly?

SHRI P. CHIDAMBARAM: Unfortunately, they do not wish to research the facts for themselves, or listen to facts.

Let us look at the number of witnesses. The Commission examined 43 witnesses. Annexure 2 is a mere list of 43 witnesses; it does not contain the deposition of 43 witnesses; the deposition of 43 witnesses would run into hundreds of pages. That was never laid on the Table of the House. Similarly, the exhibits filed were not laid.

I have with me a complete list of the Commissions of Enquiry. I would not take more of your time; I would merely give a gist of what each Commission did which has relevance to the Commission which we have before us. Justice G D Khosla Commission of Enquiry regarding disappearance of Netaji Subhash Chander Bose. Appointed on 11.7.1970; it submitted its report on 30.6.1974 and it was laid on the Table of the House on 3.9.1974. This contains examination of certain hypothesis and the findings, appendices 1 to 4, which are lists of witnesses, list of counsels, list of books referred to.

Then, the Kapoor Commission of Enquiry to enquire into the conspiracy to murder Mahatma Gandhi. The report was submitted in October, 1979. I do not have the exact date on which it was laid on the Table of the House, but it was laid shortly thereafter. What did it contain? Part 1, in three volumes; part 2 in three volumes contained conclusion and findings of the Commission.

There are appendices which are: one list of witnesses and one extract of the proceedings of the Rajya Sabha dated 24.11.64. Justice Chandrachud Commis-

sion on the death of Shri Deen Dayal Upadhyaya submitted its report on October 17. The Report contained inquiry into the case and the conclusions of the Commission. Annexure 1 to 5 are list of affidavits, list of witnesses, list of documents, not the depositions, not the documents themselves.

Let us look at what happened during the period 1977-79. Justice Jagamohan Reddy Commission of Inquiry into the Nagarwalla case, the reports were laid on three dates; 30.11.77, 23.3.78 and 23.6.78. What does it contain? It contains examination of the case and conclusions of the Commission. It has 9 appendices. Appendices 1 to 6 are six selected documents including the statutory notification constituting the Commission and an order passed by Session's Judge, Delhi, which are included as appendices by the Commission itself. Appendices 7 and 8 are list of persons who gave evidence and list of documents exhibited. Appendix 9 is the Commission's Daily Diary. The depositions were not laid and the exhibits were not laid.

In the case of Justice Shah Commission of Inquiry, three reports were laid in May 78 and on 31.8.78. In these reports the Commission's reasons, conclusions, arguments and findings are there. Three appendices relating to list of persons to whom notices were issued, list of persons against whom complaints were filed and list of witnesses were there. Sir, I could go on and on.

The point is that what is laid on the Table of the House is only the Report and the Report is the reasons, arguments, findings, conclusions and recommendations. If the Commission so desires and adds one or two documents or one or two lists as appendices to that Report that also is a part of the volume. We don't break-up the volume; we lay the whole thing on the Table of the House. Never, Sir, to the best of my knowledge in none of these cases—deposition copies, exhibits, and documents have been laid before the House. This is the practice of the House. These are the facts and if these facts are inconvenient to Hon. Members opposite then I cannot help.

[Sh. P. Chidambaram]

Now, we come to what the Commission has said. Sir, Prof. Dandavate has relief upon paragraph 1.8.3 of the Interim Report. I will read para 1.8.3 but you will also permit me to read in the Interim Report page 339. Page 339 of the Interim Report says:

"For the present the Commission can do no more than highlight these features and conclude the Report on a sad note with the observation that what was evitable has become inevitable."

So, the Commission says that it has concluded the Report on a sad note.

Now, what does it say in para 1.8.3.

PROF. MADHU DANDAVATE: Conclude the Interim Report.

SHRI P. CHIDAMBARAM: I will come to the Final Report. At page 7 in para 1.8.3 the Commission says:

"The Commission's Report is in four volumes. Volume I comprises 5 Chapters, as mentioned above. (These five chapters are here) Volumes II and III contain the papers pertaining to show cause notices issued to individuals, their responses and the proceedings of the Commission in relation thereto."

Now, what is a show cause notice and response. If a witness comes into the box, if you examine him in chief and if he is cross-examined his entire deposition is available to the Commission. Instead of putting him in the box, if interrogatories or notices are issued to witness or to a person and he is asked to give his response in writing, it is no different — in nature it is no different — from what he would have deposed if he would have appeared before the Commission. (Interruptions)

There are affidavits. Sir, Prof. Dandavate nods in approval. His friends don't

look at him. They shake their heads in disapproval. First of all, let them make up their minds.

Interrogatories are issued.

13.00 hrs.

An interrogatory is well known in the Civil Procedure Code. An interrogatory is no different from a question put in the box. It is exactly the same. I serve an interrogatory upon a witness and he gives his response. He does it in writing. He can file an affidavit and he can answer an interrogatory. Everybody knows that interrogatories and show cause notices are no different in terms of eliciting views, eliciting information from a person, you can do it in writing and he gives an answer.

Each volume comprises 2000 pages. Volume IV contains interrogatories issued to various persons individually and their respective responses and also inquiries by way of references made to a number of individuals and their responses. Volume II, Volume III and Volume IV contain nothing more than show cause notices, interrogatories and responses to questions specifically put to the individuals.

SHRI SATYAGOPAL MISRA (Tamluk): That was part of the report.

SHRI BASUDEB ACHARIA (Bankura): The question is whether they are part of the report or not. (Interruptions)

MR. SPEAKER: Why do you shout like that?

(Interruptions)

SHRI P. CHIDAMBARAM: I am absolutely sure that Shri Acharia did not go upto page 339. (Interruptions)

First listen to my arguments before you pronounce yours.

Then we have the final report.

SHRI H.A. DORA (Srikakulam): Can you equate interrogatories with depositions?

SHRI P. CHIDAMBARAM: Interrogatories and answers are no different from depositions. I stand by my words. There is no difference. It is a written question for which there is a written answer. You cannot deny the fact.

SHRI H.A. DORA: Persons who depose would be under an oath.

SHRI P. CHIDAMBARAM: If the Commission so desired, it could have called him under Section 8B.

PROF. MADHU DANDAVATE: In the Bofors Report, the questions put to Win Chadha and his responses were reproduced.

SHRI P. CHIDAMBARAM: That was not under the Commission of Inquiries Act.

PROF. MADHU DANDAVATE: It does not matter. It is an example to be followed.

SHRI P. CHIDAMBARAM: I am giving you an example under the Commission of Inquires Act, Professor.

In the Final Report in page 147 after setting out recommendations 3.1 to 3.5, the Commission over its signature states, "This concludes the Report." It is similar to the language used in page 339 of the Interim Report which says, "This concludes the Report." What does it say in 1.61. to 1.6.5? Professor, let us read it together. 1.6.1 says, "The present report which is the final report is in two parts, Part I and Part I (A)....."

SHRI SAIFUDDIN CHOWDHARY (Katwa): Where is Part I (a)?

SHRI P. CHIDAMBARAM: Please listen to me first. In the Interim Report, the word used is 'volume'. In this report, he has used the word 'part'.

SHRI SAIFUDDIN CHOWDHARY: Volume and part are two different things.....(Interruptions)

MR. SPEAKER: You will have your say later. I will give you time to speak.

SHRI SAIFUDDIN CHOWDHARY: No Sir, We do not agree.....

(Interruptions)*

MR. SPEAKER: Not allowed please.

(Interruptions)*

MR. SPEAKER: Mr. Saifuddin, if you have any sense of honour, please sit down. I will allow you. I will give you time to speak.

SHRI SAIFUDDIN CHOWDHARY: Very good Sir. You are a great patriotic person.

SHRI P. CHIDAMBARAM: I assure Saifuddin Chowdharyji that we will not interrupt him whereas he has the habit of interrupting us.

Sir, para 1.0.1 says, "The present report which is the final report is in two parts, Part I and Part I (A). Here let me make a comment with great respect to the learned judge. In the Interim Report, he says that the report is in four volumes. Here he says that the report is in two parts. The judge himself in using different words at different places. part I has five chapters which deal with subjects detailed below. All the five chapters are there in this volume. At the end of Chapter V, are placed appendices A to E which the Commission feels are important enough to be included in the body of Part I itself. This is Commission's prerogative. Like other Commissions which have picked up one or two documents and have included it in the body of the report, this Commission has a prerogative to pick out any four or five of the documents and include them in the body of the report. All that has been placed on the Table of the House, because it is an appen-

[Sh. P. Chidambaram]

dix to the report. Part I (A) is a compilation of the material and not the report. Let me repeat that Part I (A) is a compilation of the material other than the appendices referred to in para 1.6.2, i.e. the five appendices which have already been included in the volumes pertaining to the Interim Report... the next words are crucial.- on which the Commission has drawn for the purpose of final report.

SHRI INDRAJIT GUPTA: Why should that be hidden?

SHRI P. CHIDAMBARAM: That we will come to. Whether it should be laid is the question. We are now dealing with Section 3 (4), Indrajit Guptaji. We are now dealing with law. What are the obligations? You are charging us with breach of privilege. Here is a compilation of material based on which the Commission has drawn for the purposes of the final Report. So, nothing can be clearer. Here is material. The material has been given to the Commission. It consists of documents, letters, interrogatories, show cause notices, responses...

SHRI SAIFUDDIN CHOWDHARY: What notice?

SHRI P. CHIDAMBARAM: Saifuddinji, you should wait. I cannot speak in Bengali what can I do? It is material. I am telling you what the material is. The Commission says that the material is show cause notices, responses....

SHRI SAIFUDDIN CHOWDHAY: On what?

SHRI P. CHIDAMBARAM: I cannot speak in Bengali Saifuddinji. This is the only language I know.

SHRI SAIFUDDIN CHOWDHARY: Material on what?
[Translations]

MR. SPEAKER: Why are you inter-

rupting? When your turn comes, you can explain.

MR. SAIFUDDIN CHOWDHARY: He does not read.

MR. SPEAKER: You may tell him (*Interruptions*)

SHRI P. CHIDAMBARAM: What is included in the volumes which the Commission itself says are "show cause notices- replies thereto, interrogatories- responses thereto, inquiries made, references made to various people and their replies thereto." This constitutes the material. On the basis of that material, the Commission has drawn upon the material for the purposes of the final Report. It is obvious therefore that the material and Report are two different things. The material is one thing and the Report is drawn based upon the material. It is like water in a well which is drawn in a bucket. There is water in a well. What you draw is water in a bucket. Here is the material placed before this Commission in respect of so many matters, so many documents, so many depositions, so many exhibits and I draw upon it to draw my own conclusions and that is the Report. The language is very clear. (*Interruptions*)

Let me continue, Sir. Volumes two and three referred to are sub-divided into four volumes. Volume two and three were sub-divided into four volumes for purposes of being properly bounds.

Para 1.6.5 is very important. The records—kindly see—referred to in Paras 1.6.4 and 1.6.3 will be given to the Secretary to the Government of India, Ministry of Home Affairs by the Secretary of the Commission, shortly. Now, why should we miss the significance of these Paragraphs? He himself categorises all that is referred to in Para 1.6.3, which is Para 1 (A) and 1.6.4, which are Volumes II, III, IV as records. These records will be given at a future date by the Secretary to the Commission to the Secretary in the Home Ministry. So, what are the facts? The facts are on 19.11.85, the

Commission submitted its Interim Report to the Home Minister. On the 27th of February, 1986, the Commission submitted the final Report to the Home Minister. These are the two volumes. The dates are here. The signature of the Commission is here. These two volumes were placed on the Table of the House. Twenty two days later, the Secretary of the Commission collected all the other materials, bound them in 10 or 12 volumes and sent them with a forwarding letter to the Home Ministry saying that "the Commission has already submitted its Report, I am forwarding the records of the Commission" which is no different from the several trunk loads of records submitted by the Shah Commission to the Home Ministry. Those trunk loads of records were never placed before the House. Deposition of 272 witnesses before the Jagan Mohan Reddy Commission were never laid on the Table of the House.

Sir, I am only reminded of a popular story in the Bar. "In a Jury trial, if the facts are on your side, bang the Jury, If the law is on your side, bang the Judge. If neither the facts nor the law is on your side, bang the Table." Here the precedents are in favour of us. The law is in our favour. Here is the Opposition which bangs the Table and says "Lay it on the Table of the House." We have laid everything that we are required under the law on the Table of the House and this constitutes the whole Report and this is whole of the Report.

MR. SPEAKER: Shri Madhav Reddi.

(Interruptions)

SHRI DINESH GOSWAMI: Rose

MR. SPEAKER: Goswamiji, let Madhavji speak first.

(Interruptions)

[*Translation*]

MR. SPEAKER: We should have lunch first.

[*English*]

Let us adjourn for lunch till 2-10 P.M.

PROF. MADHU DANAVATE: One minute Sir, to get the record straight,.....

[*Translation*]

MR. SPEAKER: You can say it later on.

13.11 hrs.

The Lok Sabha adjourned for Lunch till ten minutes past Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at fourteen minutes past Fourteen of the Clock.

[MR. SPEAKER *in the Chair*]

[*English*]

MOTION RE: QUESTION OF PRIVILEGE- *Contd.*

SHRI G. M. BANATWALLA (Ponnani): Sir, before the Lunch Hour, I had given you a notice, under notice of a motion that we are discussing this question of breach of privilege and further discussions be adjourned till after we get your ruling on the question whether what constitutes the Commission's Report...(*Interruptions*)

MR. SPEAKER: No, it is out of order now.

(Interruptions)

SHRI G.M. BANATWALLA: Without that a meaningful discussion is not possible.....(*Interruptions*) I request you to allow me to move my motion.....(*Interruptions*)

MR. SPEAKER: Disallowed.

(Interruptions)

SHRI G. M. BANATWALLA: How Sir?
.....(Interruptions)

MR. SPEAKER: The discussion is already going on. The privilege motion gets the highest priority. I have given it. And it is going on and is not to be interrupted.

SHRI C. MADHAV REDDI (Adilabad): You were kind enough to give a ruling that the motion before the House i.e. the privilege motion has nothing to do with the wider question as to what constitutes the full report of the Thakkar Commission. When an objection was raised by certain members, you were very kind enough to observe that you are considering this issue and you are taking up only the question whether there was any misleading of the House by the hon. Home Minister. As a matter of fact, that is the limited question with which we are concerned.

MR. SPEAKER: You are speaking on what?

SHRI C. MADHAV REDDI: On my motion. I gave my motion next day, not on that day when other Members gave their motions but next day when hon. Buta Singhji said something which really constituted the breach of privilege. In that respect, my motion is rather different from the other motion. The hon. Minister has said on the 28th of March in this House and also outside the House while giving a statement to the press that the Government thinks that this is the final report. Even so i.e. even if the opposition feels that it is not the final report, certain portions are there which are to be discussed later and they cannot be disclosed because of the public interest. They cannot be disclosed because cases are being launched and this information is likely to prejudice those cases. That is the stand he has taken. He has not said that the whole report has been placed on the Table of the House. By saying this, he has also said that if the entire report is placed on the Table of the House, it is likely to prejudice the cases which are likely to be launched by the Government. This actually constituted the deliberate misleading of the House because earlier he has

said on 17th March and also the Prime Minister has said and again on 27th March itself the hon. Home Minister has said that SIT has completed the task entrusted to it. There is no impediment in releasing the interim as well as the final report. At that time when this statement was being given, there was no question of any further prosecutions and there was no need for the Government at that time to withhold any information. But as a matter of fact, the very next day, he has said that the Government is withholding certain information because it is likely to prejudice the cases. This really constitutes the breach of privilege and it is deliberate. I deliberately confine myself only to this particular aspect. I will not go into the question of actually what constitutes a full report. This is a matter which is already engaging your attention. And this is a matter which you said, you are going to give a ruling after taking the opinion of the Attorney-General. We are at a loss because we do not have the opinion of the Attorney-General with us. We do not know anything about that. It is only fair, if you are going to discuss this wider question whether it constitutes the full report or not, that this opinion of the attorney-General be circulated to all the hon. Members so that there should be a discussion on it. But unfortunately, this particular discussion on a limited question is being twisted to include everything which is rather outside the purview of this motion. I feel that this motion should be limited only to the extent of finding out whether there was any deliberate misleading of the House by the Home Minister or not and I feel that there is a deliberate misleading of the House because on the 28th March he has made a statement which shows that he is withholding that information only because that is likely to prejudice the cases.

SHRI DINESH GOSWAMI: (Guwahati): Mr. Speaker, Sir, Mr. Chidambaram concluded his speech with a joke but I thought he would have some originality in it because if he would have gone through the records, he would have found that the very same joke I narrated to the House about two months back. There are two points involved. This

debate has far-reaching consequences, both from the legal point of view and from the point of view of Parliamentary precedents. Now, this privilege Motion has two points. One is whether Mr. Buta Singh has misled the House and the second is whether Mr. Buta Singh is misleading the House. If Mr. Chidambaram's contention would have been that there was no willful misleading of the House, then obviously this is a point on which one can really pass one's judgement on this House. But Mr. Chidambaram has taken up the position that there is no question of misleading the House because the entire Report has been tabled in this House. Now, the very question whether what has been tabled on the House is an entire Report or not, is a subject matter of your decision, on which the House is now awaiting a ruling and, in fact, you have asked for the opinion of Attorney General. Therefore, how do you expect the House to give a judgement or a decision on that point on which we are awaiting your own ruling? If Mr. Chidambaram's argument is accepted that the entire Report is presented, the obviously that will be dependent on your ruling and that is why probably Mr. Banatwalla moved that motion that this should be postponed. But even then I will submit that the entire Report has not been placed, contrary to the assertion of Mr. Chidambaram. Mr. Chidambaram says that the precedents are that except for the Report, other annexures and documents are not placed. He referred to the Shah Commission's Report and the Jagan Mohan Reddy Report, and wanted to cite it as a precedent. May I point it out to him that the question of precedent arises when an issue is raised. When an issue is raised, when a point is disputed, when a decision is given on that point, then one can say that there is a precedent. As regards Jagan Mohan Reddy Report, there was no issue raised, nor was an issue raised in this House. But I can cite a precedent. In the Centre-State Relationship Report of the Sarkaria Commission, all the memoranda given by different parties, including a memorandum given by my own party, have found place in volume II which has been circulated to all Members of Parliament. Therefore, if precedents are to be

cited, Shah Commissions Report is not to be cited, as it was a Commission under the Commissions of Inquiry Act. Under the Commissions of Inquiry Act... (Interruptions). Kindly permit me to have my say.

MR. SPEAKER: It is all right. Let him have his say and you can have your say.

SHRI DINESH GOSWAMI: Therefore, what Mr. Chidambaram has contended is not correct. Mr. Chidambaram is also not correct when he says that the proviso in the Commissions of Inquiry Act applies only to sub-section (5) of section 4, and not to sub-section (4). Mr. Chidambaram wants to point out that the provision of subsection (4) shall not apply if the appropriate Government is satisfied that in the interest of the sovereignty and integrity of the country, the security of the State, friendly relationship with a foreign country, and so on and so forth, the Report—or any part thereof—of a Commission of Inquiry made by the Commission under sub-section (4), and issues a notification to that effect in the Official Gazette.....Mr. Chidambaram realise on this explanation that for the purposes of sub-section (5), report includes an interim report and all proceedings of a Commission. Mr. Dandavate's contention was that the Report includes all proceedings of a Commission. Mr. Chidambaram has sought to rebut it by reading the explanation that it includes for the purpose of sub-section (5) therefore, it does not include for the purpose of sub-section (4). But may I point out that you cannot read independently sub-section (4) diverging it from sub-section (5) because sub-section (5) and sub-section (4) must be read together. Now I will submit what is sub-section (4). Sub-section (4) says.... (Interruptions)

SHRI SHANTARAM NAIK: He is referring to the mathematics of the law.

SHRI DINESH GOSWAMI: Unfortunately, Mr. Shantaram Naik is the last authority on law, nor is he an authority on mathematics. The difficulty is that one who

[Sh. Dinesh Goswami]

does not know mathematics or law, wants to teach us about both.....(Interruptions).

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): It is the privilege of the lawyer to put the head and tail together.

SHRI DINESH GOSWAMI: Yes.

MR. SPEAKER: But the final judgement lies with the justice.

SHRI DINESH GOSWAMI: Sir, please listen to it. I will like to have a reply from Mr. Chidambaram on this. It is the case of Mr Chidambaram that. The report does not include the proceedings. Am I correct.

SHRI P. CHIDAMBARAM: Under Sub-Section (4)

SHRIDINESH GOSWAMI : Under Sub-Section-4, "the appropriate Government has caused to be laid before the House of the People as the case may be..." If Sub-Section 4 does not include a Commission, then under Sub-Section-5, if you are not going to place the proceedings, why protection is required under Sub-Section-5? If under Sub-Section-4 the report is to be placed, the proceedings are not to be placed, then no protection is necessary because you are not required to place them before this House. The protection becomes necessary if you are required to place these proceedings. Now, Sub-Section 4 says, according to Mr. Chidambaram, that the proceedings is not to be placed, the Government may very well come and say " I am not called upon under Sub-Section 4 to lay the proceedings; I can't place it" . According to Sub-Section 5 of the Report, the proceedings are also inclusive of the Report. Therefore, I submit that Mr. Chidambaram's contention that Sub-Section 5 and Sub-Section 4 are completely not supported because in that case the explanation becomes redundant and meaningless. If I am not to place the proceedings, no protection on account of security or friendly relationship is necessary because the law has

not enjoined upon them to support the report. But what is more important is that Mr. Chidambaram has tried to make out a case that the report has been presented and my submission will be, it is not. Justice Thakkar has himself said in the interim Report that this is consisting of 4 volumes and there is a separate volume. It comes to 10,000 pages plus 65 pages which have been cited. Now, I will start referring to Interim Report page 7. The commission's Report is in 4 volumes. The Commission says that my report is in 4 volumes and the Home Minister has no authority or jurisdiction to decide whether the Commission's statement, that is in 4 volumes, is correct or not, but more important, Mr. Speaker, is the final report and I begin from page 4—Scheme of the Final Report.

1.6.1 The present report which is the final report is in two parts. The present report which the Commission says... Mr. Speaker, Sir, if you have got the copy of the report, please take it. This is extremely important. Please see page 4 of the final report at page 1 6.1. "The present report which is the final report is in two parts." Therefore, the present report, the Commission says, is the final report. Mr. Chidambaram or Mr. Buta Singh is not entitled to say that this is not the final report. It is in two parts—Part-I and Part 1 (a) Part-I has five Chapters. The Sub-Sections are detailed below.

Chapter-I deals with the introductory matters. Please look at the Chapter-I of the Volume. You have got it in your hands. It deals with the Introductory matters. Chapter-II deals with the events leading to the assassination of the Prime Minister. Please look at the Chapter-2 of the Volume. That is in your hand and you will find that this deals with the events leading to the assassination. Chapter-III deals with the question as to the records of involvement if any of persons other than those who are standing trial. Chapter-IV deals with the dimension as regards to involvement, if any, of any foreign agency in the assassination. Chapter-V deals with the collusions formed by the Commission. It is dealt in 1.6.2. At the end of

the Chapter-V, are placed Appendices A to E which the Commission feels are important enough to be included in the body of Part-I itself. Part I (A) is a compilation of the materials other than the Appendices referred to above in Para 1.6.2... on which the Commission has drawn for the purpose of the final report.

Now, where is this Part-I (A)? Please refer to page 138 of this Volume, para 1.1.3. "Involvement of foreign agency to create a situation of instability". It is a matter which cannot be brushed aside by this Parliament lightly merely because the Executive so chose to decide. It says:

"Whether any foreign agency has helped those who were engaged in destabilising India from within is not a matter covered by the Terms of Reference. A great deal of material has been gathered by the Investigation agency of which tends to show that a foreign agency has in fact played such a role *inter alia* by inspiring, encouraging, assisting and training the terrorists, and a full and detailed report carefully and assiduously prepared by the said agency is included in Part I-A. On the basis of the said report, the Commission is of the opinion that a foreign agency had indeed played such a role."

Where is that report, Mr. Chidambaram? What is that foreign agency? (*Interruptions*)

MR. SPEAKER: What has happened to you?

(*Interruptions*)

SHRI DINESH GOSWAMI: I have carefully gone through every page to find out where is the foreign agency which has been named have because it is not the concern of Mr. Chidambaram and Mr. Buta Singh alone about the foreign involvement in this country. The assassination of the Prime Minister is not the monopoly of the Ruling Party. (*Interruptions*)

I am connecting it myself. (*Interruptions*)

MR. SPEAKER; I Think it is a slip of tongue.

(*Interruptions*)

SHRI P. CHIDAMBARAM: Don't be carried away by your own words.

SHRI DINESH GOSWAMI: It is slip of tongue.

MR. SPEAKER: I think nothing happened, it is only a slip of tongue.

(*Interruptions*)

SHRI P. CHIDAMBARAM: He is so fond of the sound of his voice. He does not know what he has said.

SHRI DINESH GOSWAMI: Sir, this is a slip of tongue. I said (*Interruptions*)

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI P. SHIV SHANKER): Is he saying that it is a slip of tongue?

SHRI DINESH GOSWAMI: It is a slip of tongue (*Interruptions*)

MR. SPEAKER: Why are you making a mountain out of a mole hill ? It is a slip of tongue. That is all. A man can have slip of tongue. This is a slip of tongue, he does not mean that.

(*Interruptions*)

SHRI DINESH GOSWAMI: Sir, what I wanted to say is, it is a slip of tongue. After all, the report on the assassination of the Prime Minister—I have omitted the word 'report'—and the facts leading to it cannot be a monopoly of the Ruling Party. The country is entitled to know. And, Mr. Speaker, when the report has said that there is a very important part—Part I-A—which deals with the assassi-

[Sh. Dinesh Goswami]

nation of the Prime Minister, which says that a foreign agency was involved, the Government may take up the position as I can see that we are not going to disclose it on grounds of security, that is a separate position. Then you come into the picture as to whether it should be disclosed. The Government may take up that position. They may take resource to 55 A saying that : this is a matter which we are not going to disclose" But the Government cannot take up the position saying that we are not going to place Part I-A and the House will be kept in darkness"

AN HON. MEMBER: This is a not a part of the report according to them.

SHRI DINESH GOSWAMI: According to them, it is not a part of the report. According to me, a plain reading of the document show that it is a part of the report and he has not right to keep it.

Mr. Speaker, apart from the technicality, I conclude by saying that his question involves a very fundamental question of the Executives' accountability to Legislature. If I am asked to make my submissions on a report, I would say that the report is a conclusion or a finding of fact. How I can I make my submissions on facts without going through the evidence? Can any person make a judgement without going through the evidence on record? Mr. Thakkar has come to certain conclusion—conclusions which have not been acceptable to the Government because the subsequent Committee of the SIT has rejected those conclusions. How can I accept or reject it without going through these records? And therefore, the fundamental question is the Executive's accountability to the Parliament and I feel that the Parliament has the right to get all the documents so that we may arrive at a just a proper conclusion on the Thakkar Commission's Report. If that is denied, that will be denial of the right of Parliament and without those documents, an effective, fruitful and useful discussion on the report of the

Thakkar Commission is an impossibility. Therefore, I submit that the Government should be called upon at least to present before the House part 1-A of the report.

MR. SPEAKER: Prof. Kurien.

(Interruptions)

MR. SPEAKER : I will take care of everybody one by one. They should be brief.

PROF. P.J. KURIEN (Idukki) Mr. friends, Mr. Dinesh Goswami was again bringing in Technicalities and trying to hide himself in those technicalities, ignoring the real facts before the House. I am not a legal luminary or an advocate. But he made me read final report, page 163 where it is explained what is part 1-A, Mr. Goswami says that part 1-A is part of the report. But here it is said: " Part 1-A is the compilation of the material". it is specifically said that part 1-A is material. Not much legal knowledge is required to distinguish between material and report.

PROF. MADHU DANDAVATE: Can there be report without material?

PROF. P.J. KURIEN: Please listen. Material is used to arrive at the report. There is a clear distinction between material and the report. So, it is for any advocate to explain whether there is any difference between the material and the report. It is clearly stated in the report that part 1-A comprises material, and it is not a part of the report.

Sir, opposition is playing a political game. That is what I want to tell you.

SHRI INDRAJIT GUPTA: What games?

PROF. P.J. KURIEN: The game that you are playing ...*(Interruptions)*

MR. SPEAKER: You address me.

(Interruptions)

MR. SPEAKER: I do not know why you are talking. Let him talk.

PROF. MADHU DANDAVATE: Materialist interpretation.

PROF. P.J. KURIEN: This morning, hon. Mr. Chidambaram quoted a number of examples and precedents wherein all the cases, the reports submitted in this House, presented on the Table of the House did never include the proceedings. It was only the final report. The Shah Commission report, which they were very much fond of, even in that report, no evidence, no material, no exhibits, no documents were placed on the Table of the House. It is only the finding. I am not again an advocate...*(Interruptions)*

Sarkaria Commission is not under the Commission of Inquiries Act.

SHRI S. JAIPAL REDDY: It is. He does not know either law or facts.

MR. SPEAKER: Mr. Kurien, you address me.

PROF. P.J. KURIEN: Sir, Sarkaria Commission itself has said what forms part of the report and that has been placed. In this case also, what has been stated as Appendices—part of the report—have been placed.

There are two questions. One is whether the whole report is placed. That is for the hon. Speaker to give the ruling and we wait for it. Second is whether the Home Minister has willfully or deliberately misled the House. That is the question to be decided. Why has this question of privilege come now? All this is part of the Opposition's attempts to malign the Government. For the last two years, the Opposition was always trying to get something to malign the Government. They resort to one issue, then another issue and when they find that nothing is coming out from those issues, they are trying to bring a new issue. I have only one question to ask: The Thakkar Commission report was submitted years before. Why is it

that you waited till now for asking for the report to be placed on the Table of the House? Why is it that interested parties did not leak it till now? The reason is very clear. *(Interruptions)* We know who are the Opposition leaders who were going to Mr. Dhawan to get him to their side. They wanted to make use of him and to bring him to their side *(Interruptions)* We know how many of you were going to bring him to your fold. When you found that you could not get hold of him, and you could not succeed in your effort now you have come out as if you are the champions of the law and you are great admirers of Shrimati Indira Gandhi. *(Interruptions)* Let me ask, what was your attitude towards the assassinations of Shrimati Indira Gandhi. When the murderers of Shrimati Indira Gandhi were to be executed, the Opposition leaders made much noise. Many of them are shedding tears for those who killed Shrimati Indira Gandhi. You have forgotten that. *(Interruptions)*

PROF. P.J. KURIEN: You should know that Janata Dal leaders were welcomed by Gen. Zia of Pakistan. They went to Pakistan and they promised Gen. Zia. All these three years, they were on the side of assassination of Shrimati Indira Gandhi and now they have come out, shedding crocodile tears. That is my complaint. This sort of thing, why they are doing it now, because they want to take political advantage of it. They want to take political advantage of anything that is happening in this country and irrespective of the fact, whether it is harmful to the interests of the country or otherwise. This is the game the Opposition is playing.

Now, the Opposition is asking that all dispositions, and all evidence, before the Commission should be placed on the Table of the House. Some of your leaders went to appeal to the Home Minister and even went to the extent of issuing statement to save the killers of Shrimati Indira Gandhi and now, you are shedding crocodile tears. Shri Dinesh Goswami also said so, and it was clear from his statement. He said that assassination is not the property of Congress.

MR. SPEAKER: Professor, why are you dragging him unnecessarily?

SHRI DINESH GOSWAMI: Let me make it clear to Prof. Kurien that I corrected. It (*Interruptions*)

MR. SPEAKER: That has been settled. I am satisfied.

PROF. P.J.KURIEN: With apology I correct myself because I forgot that he corrected it. (*Interruptions*) The statement of the Opposition leaders was not only to favour those who assassinated Shrimati Indira Gandhi, but also they are supporting the extremists who were trying to dis member the country.

(*Interruptions*)*

MR. SPEAKER: No reference.

Sir, I have to ask only one question. Supposing all materials are exhibits, details of witnesses and evidences are placed on the Table of the House, what will happen to any future Commission? Will anybody come forward to depose before a Commission? If the details of the witnesses and the evidences given before a Commission are placed on the Table of the House and published, what will happen? I have to say that a Commission under this law on will become meaningless. Therefore, it has a wider dimension also, in addition to the question of privilege, placing those evidences on the Table of the House is detrimental to the interest of the nation. These Opposition people, for getting political advantage, are not bothered as whether placing the materials before the House is detrimental to the interest of the nation or not. Therefore, I submit that there is no deliberate or wilful attempt on the part of the Home Minister to hide anything from this House. But, instead, what he has done is out of his best conviction and in the best interest of the nation.

With these words, I request this House to reject the privilege motion moved against the hon. Home Minister.

SHRI SOMNATH CHATTERJEE: (Bolpur) : Mr. Speaker, Sir, you will appreciate that this is a matter of very great importance because it has arisen for that first time directly. In future, it will also govern the future Commissions. (*Interruptions*)

I request the hon. Member to be serious for sometime and try to understand. I know he can understand if he wants to. There are two question—either it is a question of fact or it is a question of law. The hon. Minister Shri Chidambaram tried to project that on the interpretation of the Act and its relevant Section, it is a question of law as to what the report means. Therefore, the Act itself lays down the ambit of a report and and proceedings, etc. can never become part of the report. Secondly, he goes to the report and says that from the report itself it appears that the other materials cannot form part of the report. Sir, we shall immediately come to the question of law. First, I wish to deal with the other questions. What is the question of fact? It will be decided on what the author of the report has said because by mere argument one cannot change the fact.

Sir, I draw your attention to Page 7 and start with the interim report. Kindly remember that Justice Thakkar never said that the interim report should not be published or ought not to be published. He made it very very clear while submitting the final report that his request for non-publication of the report is only restricted to the final report. It says: and I quote:

“The Commission, after due deliberation, has formed the opinion that while there is no objection to the interim report being made public, larger public interest demands that the present report may not be made public.”

It is about the final report. He has no objection—according to him—to the publication of the interim report. What is the interim report? We have all read Page 7 of the report. Here, the author says that the report includes Volume-I, Volumes II and III which contain papers pertaining to Show Cause Notices

issued to individuals, their responses and the proceedings of the Commission in relation thereto. Each volume comprises nearly 2000 pages. Mr. Chidambaram only referred to interrogatories and cross-examination. If it is a question of examination or evidence, it need not be disclosed, even if interrogatories are equated with the evidence. There is no such law. The Chairman of the Commission stated that Volume-IV contains interrogatories issued to various persons individually and their respective responses, as also inquiries by way of references made from a number of individuals and their responses. All the volumes carry their own index. The next sentence is very very important: "papers pertaining to the matters covered by the two terms of reference which are not dealt with in this Report will be included in the separate volume along with the Report of the remaining matters." Kindly see, "along with the Report of the remaining matters." It will be in separate volume. All papers relating to that which could not be included will be available as part of the Report, will be included. He says: "this is the Report." Mr. Chidambaram says: "Volume II deals with this questionnaire, their responses. It can never be a part of the Report." And the author says, "it is a part of the Report." This is an amazing attitude on the part of the Government. He says: "my Report is in two volumes, three volumes or four volumes." He says: "it is not in four volumes." How does he say unless he changes the sentence—"Commission's Report in four volumes." Unless it is mutilated, all the arguments made on the fact of the matter cannot arise, cannot survive.

So far as Final Report is concerned, it is made absolutely clear. Page 138 has been read: "apart from, very great importance of the matter, it deals with foreign agencies, their functions and activities." It is specifically said that Part I(A) of the Report does not contain evidence. Part I(A) does not contain interrogatories. It contains questions and answers. Even on the analogy of Mr. Chidambaram. Kindly see, 1.6 which is very very important, "The present Report, which

is a Final Report is in two parts, Part I and Part I(A). (*Interruptions*)

Let us go one by one. What is there to ignore? The present Report says, "Words have to be given a meaning. They are simple words. And the intention of the author can be found out from what he has used. Very simple rule of construction. Mr. Chidambaram will explain to Shri Buta Singh. (*Interruptions*) Because you always say that you do not know law. Therefore, learn from two legal luminaries on your side. The present Report which is a Final Report is in two parts. Point 1.6.3 in Part A is a compilation of material.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Material!

PROF. MADHU DANDAVATE (Rajapur): There can be Report without material? How can a Report be without material? (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, this "Ha, Ha" is very significant. This is for the first time we have come to know that material is irrelevant. How can material be irrelevant?

SHRI P. CHIDAMBARAM: No body says "irrelevant."

SHRI SOMNATH CHATTERJEE: Because the material is used and they say "ha, ha", therefore, it has to be ignored. Part I(A) is a compilation of the material which the Commission has drawn for the purpose of Final Report Part I(A) carries its own index.

I now come to the legal aspect. Whatever they say, they have got the unfortunate temporary benefit of number. You can go on saying things like Alice in Wonderland. They want words to mean what they want them to mean. That does not mean that words will have different meaning because Mr. Chidambaram wants a different meaning to be given to the simple words. This matter is not

[Sh. Somnath Chatterjee]

res integra. There have been several questions. Inquiry Report has no legal meaning. As such, it is not defined in the General Clauses Act. But let us go to some provisions, some areas where the question what is a Report has been considered. And the Supreme Court has considered what is meant by an Inquiry Report. Because when there are proceedings against employees, Government servants, they have to be given Inquiry Report so that they can give their answers in meeting the departmental proceedings to the charge-sheet against them. The Supreme Court has held more than once that if an Inquiry Report is given, the officers of Inquiry must be given along with it the evidence recorded and the material.

14.55 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

SHRI P. CHIDAMBARAM: They are different things. They said, along with it.

SHRI SOMNATH CHATTERJEE: Why are they not having patience? I know they are very upset.

The inquiry report along with the evidence constitute the material on which the Government has to act.

AN HON. MEMBER: But that is not the part of the report.

SHRI SOMNATH CHATTERJEE: This is in Goel's case—1964 Supreme Court. It has been followed in 1982 in Mohammad Sharief case. The Supreme Court has expressly followed it. Why? Because nobody can understand the report unless supporting evidence and records are given to a person so that he can assess whether the conclusions arrived at have been correctly arrived at or not. Therefore it is meaningless to say the report will not include, can never include the evidence and the material on the basis of which the report is given.

There is the highest authority in this country. The Supreme Court decision that the inquiry report must necessarily include the evidence and the material is because supply of the inquiry report must necessarily mean that you have to supply the evidence and the material on the basis of which the findings have been arrived at. Now they want a different connotation.

A reference is made to two things that there has been no precedent in the matter. Mr. Dinesh Goswami rightly pointed out about this. The Minister does not say, cannot point out, that on any of the occasions when these reports have been filed had there been a demand for filing or submitting or laying on the table of the Houses all the materials, records, evidence, etc. You know the point very well. A decision can be a precedent to the extent what it decides. It is very obvious. To give a decision there must be an issue; there must be rival contentions and on that a considered opinion is given which can be treated as a precedent. On none of these occasions any such question was raised; there was no rival contentions; no decision was given by the House or the Speaker. Therefore, what is good of referring to earlier commissions when that question has never been raised?

The other point is his interpretation of Section 3, sub-section 5. Mr. Goswami has indicated that sub-section 4 was inserted in 1971 where the word used was 'report, if any'. Mr. Chidambaram played on the words 'if any' as if it has any special magic. If there is no report, there cannot be any submission of a report. But it made it mandatory in 1971 to submit the report before the House within six months of its submission. Nowhere it said that report includes proceedings or report includes this or that or does not include this or that. It merely said, report.

Now sub-section 5 which was inserted and which is the great contribution of the great democrats here sitting opposite us namely that the provisions of sub-section 4 shall not apply if the Government thinks it is not expedient to submit the report and any

part thereof. The operative provisions is, the provision of sub-section 4 shall not apply. What is sub-section 4? The report shall be filed. Therefore, if the Government considers it inexpedient then sub-section 4 will not be attracted and there will be no obligation on the part of the Government to submit the report. If the report has nothing to do with either the interim report or the proceedings of the commission, then what is the great concern of the Parliament or the draftsmen or the law makers to provide a specific explanation viz., for the purpose of sub-section 5 report includes an interim report and all proceedings in the commission. Therefore, it was understood that but for this explanation, a report must necessarily include proceedings of a commission. That is why an express provision was made in the explanation to sub-section 5. Because otherwise provisions of sub-section (4) shall not apply and this would have been sufficient to exclude not only the report but everything connected with the report including proceedings of the Commission. This is not a mere *ex abundant cautela* because the opening words of sub-section (5) are very clear. Therefore, I am respectfully submitting that what has been said on the basis of the Section is not a clear direct interpretation. The Prime Minister of this country made a commitment on the Floor of the House that the full report will be disclosed. Why? Because it is no longer necessary to suppress it. When the Home Minister came here he gave a lecture on the Opposition's role and conduct but he said 'I am submitting the report.' At no point of time this Government ever indicated that any portion of the report or what they call proceedings or what are chapters 2 & 3 Part I interim which the Commission itself says can be disclosed were being suppressed. Nothing was said.

15.00 hrs.

Now are we discussing only whether the interim report or final report constitutes the report or there has been a deliberate attempt on the part of Shri Buta Singh. Of course he had been asked to read out what

had been given to him prepared. (*Interruptions*)

Sir, the question is: Are we also discussing here—it has not been made clear—that the only question is the deliberateness on the part of the Home Minister in not tabling it or what has been tabled is the complete report? Here the question becomes very important because the hon. Speaker has reserved the ruling. The ruling is expressly on the question whether the report what has been submitted is a complete report or not. He has taken this matter very seriously. He has thought it fit to refer it to the Attorney General and he has made it more than once clear, namely, that what has been referred to is the question whether the report which has been submitted is a complete report or not. How can we anticipate here? I submit this House ought not discuss and cannot discuss a matter which is now pending determination by the hon. Speaker and he has assured even this morning that he will give his ruling on that. Can we discuss a matter which is now in the contemplation of the hon. Speaker? He has yet to give his ruling. So far as deliberateness is concerned Mr. Chidambaram has not said a word about it. His only explanation is: "It is the complete report. I say it is the complete report. Whatever Commission has said does not matter. I say it is the complete report, I have submitted the report and, therefore, there is no question of misleading the House."

Sir, I submit this is an attitude which is not the correct attitude. We ought not to deal with the matter which is before the Speaker and in any event there is a deliberateness writ large on the face of the Government, namely, knowing everything they have kept back only for the purpose of misleading the House and keeping the people of this country ignorant and un-informed about the real state of affairs.

SHRI INDRAJIT GUPTA (Basirhat):
Sir, I do not wish to repeat the arguments which have already been advocated by my colleagues on this side. Mr. Chidambaram to whom I listened very carefully this morning

[Sh. Indrajit Gupta]

relied mainly on what he cited as precedents. He referred, in particular, to some earlier Reports on Commissions of Inquiry connected with the death of certain eminent people. He laboured very hard to say that in none of those cases where the Reports were laid, they meant to include what is referred to as the proceedings. On the basis of those alleged precedents, he has defended the action of the Government in the present case. I am only pointing out what has already been pointed out here but I wish to emphasise that in the present case with which we are dealing, the trouble is that the Commission itself has stated in black and white, and in a simple language as to what it considers its Report to be. There is no scope for interpretation. On Page 4 of the Final Report which has been referred to already, the Commission itself says in 1.6.1 under the sub-heading 'Scheme of the final report', the opening sentence of which is 'The present report which is the final report'. I am not dealing with the Interim Report because he has said that there is no objection to making the Interim Report public though it has not been made public, in fact, by this time. But here it says, 'The present report which is the final report is in two parts'. The Report is in two parts, namely, Part I and Part I-A. What could be clearer than this? Then he has described in detail that Part I consists of five chapters, the synopsis of what is contained in those chapters, then the appendices which he has also considered important enough to be included in the body of Part I itself and then Part I-A. He does not say that Part I-A is something which is separate from the Report. Earlier he has said that the present Report consists of two parts. It is in two parts', namely, Part-I and Part I-A. Part I-A is a compilation of the material (other than the appendices referred to above in para 1.6.2. and that which has already been included in the volumes pertaining to the Interim Report) on which the Commission has drawn for the purposes of the final report. So, in the view of Justice Thakkar, rightly or wrongly, you can contest Mr. Thakkar's view if you can but as far as he is

concerned, that is, the Commission itself is concerned, he has made it amply clear that in his view the Report consists of Part I and Part I-A. Therefore, I do not think that any precedent which was quoted earlier by Mr. Chidambaram is applicable in the present case. Even what any earlier Commission may have said or may not have said, I do not know and I can't speak off-hand like that because I have not consulted those reports but those cannot be precedents in a case where the Commission categorically says that the Report consists of these two parts. I submit that Part I and Part I-A are now sought to be artificially separated from each other. They are parts of the same Report and the Government has no right whatsoever to withhold Part I-A which has not been laid, unless for some other very good reasons. But that is not the case made out by the Government. Mr. Thakkar, at page 147, says that it is recommended that this Report may not be public for reasons specified in Para 1.9.

SHRI SOMNATH CHATTERJEE: That is only the Final Report.

SHRI INDRAJIT GUPTA: That is, the Final Report. As far as the Interim Report goes, there is no question about it. At Page 7, Para 1.9, there is a paragraph dealing with why he considers that the present report should not be made public in the larger interest of the public. He has given three reasons, that is, his reasoning. He has given three grounds as to why, in his opinion, this should not be made public. Now, the Government should explain. Are they resting on these grounds? They have not stated anything. They have said, what they have given is the whole report, there is nothing else to lay on the Table of the House. I do not want to read the whole thing, to save time. The first ground that he has given is that the probe made by the investigating agency in future may be hampered or prejudiced by publicity being given to this report. The Prime Minister on the 17th of last month has already stated that he has found out that the investigation is complete; it is over; it has been completed and therefore, this business of publication

prejudging that enquiry or investigation no longer is relevant. Therefore, he has said that they will lay the whole report on the Table of the House.

The second ground J given by Mr. Thakkar is that such publicity is likely to cause embarrassment or prejudice to the suspect. Well, we know who the suspect is according to this Commission's report. The needle of suspicion has been pointed at a particular individual. There is no question of causing embarrassment or prejudice to him, because he has already been reinstated, brought back and put in a very key position. This is another thing to which we will come later on, the details of it, and we will like to have an explanation from the Government.

Thirdly, the ground given by the Commission is that the material gathered and incorporated in the report touches on a number of sensitive matters which it may not be in the public interest to publicise at least for the present. If he is referring to any classified material or any material which directly affects the security arrangements of this country, or any material which may have a harmful effect on our relations with some foreign country, you must say so, if there is anything of such type. That is the matter in which the opposition has at least to be taken into confidence. Are we less patriotic than you that we want such matters to be publicised which may affect the intelligence operations or security operations of this country? We would not want it to be publicised or anything which may harm our relations with a neighbouring country. But is it your ground? Your ground is different. Your ground is that there is no such report.

Prof. Madhu Dandavate's motion which charges the Government with misleading the House is precisely for this reason. They have not taken recourse to any of these grounds, which Mr. Justice Thakkar in his own wisdom has laid down. They have simply said, what they have laid is the report. There is nothing more to lay. But Mr. Justice Thakkar does not say so. He made it clear that part I and part I A together constitute the

report, but in his opinion, for the time being, this should not be made public because of these three grounds. This is not the same thing at all.

I want to say one thing. Government is definitely misleading not only the House, it is misleading the entire country. This is an emotional matter. They should please realise that this is not like any other matter to which he referred, with all due respect to people who lost their lives earlier. This is an emotional matter for crores of people in this country. A Prime Minister was assassinated. This is the only instance of its kind in our country's history since independence and the people of this country have a right to know what are the circumstances which are connected with this assassination. This is not just a trifling matter, a technical matter which you can get round by saying that this is a part of the report, that is not a part of the report.

I am glad that although it is not due to anybody's credit except some pressmen, who have got hold of the report from some source and started publishing it, whatever it is, after so many years—four and a half years have passed, at least some little bit of information is being made available to the country about the circumstances in which Shrimati Indira Gandhi was killed. Otherwise, we would know nothing. If it is left to the Government, if it is left to the ruling party, we will continue to be kept totally in the dark. Now, by suppressing a part of the Report, you want to continue that kind of misbehaviour, I should say. This is a very serious matter and I want to say that the question of whether this is the whole report or not the whole report is a substantive question and a legal question. It is not a procedural question. It is not a question governed by the Rules of Procedure of this House, to decide whether it is a full report or not.

The Hon. Speaker has decided that he is going to give a ruling on this question. Of course, he has every right to consult the Attorney General and I think the House also has every right to ask that the Attorney

[Sjh. Inderjit Gupta]

General should share his advice with the House by appearing in the House. There is no harm if the Speaker consults him in his chamber. He has a right to do it. But this House has also a right to request or demand that the Attorney General should be produced in the House. Let him share his advice in the whole House because this is not a matter governed by the Rules of Procedure of the House. It is a substantive question. So, he has to be invited here. I don't think anybody will object to his being invited here. There are precedents for that also, as is well known. It is not the first time that the Attorney General is appearing before this House. Very eminent persons have appeared in the House including Mr. Setalvad. Ultimately the House will have to decide. It is not a question which can be interpreted in terms of any rules of procedure. It is a substantive question. Therefore, we will hear everybody. Members are expressing their views; Members on that side will express their views and the Attorney General may be invited also to come here and share his views with us. Then let the House decide.

But before we come to that stage, I would request the Government to consider, this as a political issue. I am giving them very friendly advice, or trying to give them some friendly advice. You know that you have not been able to stand firm on one position as far as this matter goes. It is a fact, whether you like it or not. You were taking very categorical and very stubborn stand, if I may say so, in this House saying that under no circumstances will this report be laid on the Table.

PROF. MADHU DANDAVATE: Like the Defamation Bill.

SHRI INDRAJIT GUPTA: But you know what happened after that.

There is public outside; there are people outside. They are not impervious to the circumstances surrounding a Prime Minister's brutal murder. They would like to know about it. Have they no right to know

because of technicality which you have invented here? Therefore, please treat it as a political issue. If you give an impression to the country that in a matter even concerning a Prime Minister's assassination you want to hold something back; you don't want to reveal the whole thing and you want to hide something, then you can judge for yourself whether it is going to be good for you or not. We don't think it will be good for you. For that we are not going to shed tears. If you are determined to commit political suicide, well it is not my headache; it is your headache. I am giving you a friendly advice here. Some of my friends may not like it. They may say, why do you bother to give advice?

SHRI SAIFUDDIN CHOWDHARY (Katwa): They won't take your advice, that is the problem.

SHRI INDRAJIT GUPTA: So, I would say, let us not push the whole thing right up to the stage of Attorney General giving his advice and then Speaker having to decide whether he can actually give a ruling on a matter which is not a procedural matter. He can give rulings on matters contained in the little Rules Book which we are always shown, that is, the Rules of Procedure. Of course, he is the custodian of the Rules; he has to give a ruling but this matter falls outside its purview. It is not governed by the Rules of Procedure. So, what are we going to do? Ultimately, of course, the House has to decide after hearing everybody whom they want to hear, including the Attorney General. Of course, if the House decides to rely simply on the majority which is here, well, they are free to do so. But I would conclude by saying that it would perhaps be a wiser course not only for the ruling party but for the Parliament as an institution to show to the country that on a vital matter like this, which has exercised the mind of crores of people in this country, there is nothing that we want to hide or to conceal in any way. Therefore, everything should be revealed and put on the Table of the House. If there is something which cannot be put for some other specific reason really affecting the security or the public interest, well, please

say so. There are many ways by which that matter could be resolved. I need not suggest it just now: It was done earlier also. If there are certain passages or pages which will really do harm to the country, well, take us into confidence. We are not the people who will obstinately say, "No, all those things should be revealed." But do not take this stand and say that there is nothing to show, there is no further report and this is the entire report. Nobody believes it in the country. We do not believe it. The public does not believe it. This will only give ground for more suspicion and rumor-mongering which is not going to do anybody any good. Part I and Part I(a), according to Mr. Justice Thakkar, constitute the Report. We have been given Part I. We do not know where Part I(a) is. This kind of hide and seek on the matter should be stopped now. Otherwise, this will bring disrepute not only to you but to the whole Parliament which is the sovereign institution in this country. People will say, "What kind of an Opposition are you? You cannot even get the report on the assassination of Shrimati Indira Gandhi to be laid on the Table of the House!" This is a matter of disrepute for the whole Parliament itself.

SHRI SAIFUDDIN CHOWDHARY: Part I(a) is with the CIA.

SHRI INDRAJIT GUPTA: Well, wherever it is. That is all I have to say.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI P. SHIV SHANKER): Before I go to the question of facts and the law both of which have been dealt with by some of my friends, I would just like to make one statement which has perhaps been very rightly expatiated by the speaker who spoke just before me. But law apart, I would like to make the position absolutely clear. I would like to state that the Government is not at all taking shelter under law in this case. Well, we do rely on law. There are clear circumstances which enable the Government to take the stand not to bring certain documents to the notice of the nation. May be, the material is in the shape of evidence or in the shape of interrogato-

ries, etc. It has been felt that it is in the public interest that it should not be made public.

Mr. Indrajit Gupta has started by saying that the issue is political. Who is making the issue political? With all my respect to the honourable friends on the other side, I say that it is because of them that the issue is being made political and it is sought to be taken advantage of by them. It was explained to them in the Chamber of the Speaker that those documents would prejudice the trial in the case of conspiracy. I was told that this was explained to them.

SHRI INDRAJIT GUPTA: Whole of Part I-A?

SHRI P. SHIV SHANKER: A large number of those documents are such which are not in public interest. This was explained by the Home Minister in the Chamber of the Speaker.

PROF. MADHU DANDAVATE: When I raised this issue, I brought it to the notice of the Speaker that it was told that there were certain sensitive issues and in certain cases prosecution might be in difficulty. On my query he said, "This is the only issue that I am going to refer, that is whether the report is complete or not."

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): Just a moment. Now that this has been raised, let me also assist my colleague Shri Shiv Shankarji. This does not take away the fact that I didn't place before the Speaker in your presence.

PROF. MADHU DANDAVATE: I said it and I admit it. But Speaker considered it afterwards.

S. BUTA SINGH: Shri Indrajit Gupta saying that the Government has never come out with this thing is not correct. The second thing is....

SHRI SAIFUDDIN CHOWDHARY: Why not in the House? (*Interruptions*)

SHRI INDRAJIT GUPTA: Just a minute, Buta Singhji. On that day in the House—when some papers have commented—why I was trying to help you because you were not saying anything.

S. BUTA SINGH: Exactly:

SHRI INDRAJIT GUPTA: But when I stated that day in the House, then you again denied it.

S. BUTA SINGH: After you stated it, I again said it.

SHRI INDRAJIT GUPTA: No. You said that this is Indrajit Gupta's own version. This is not the correct thing. It is on record. You can see it.

SHRI BASUDEB ACHARIA: You never said that inside the House.

S. BUTA SINGH: Now that you have offered yourself for the advice, please be on correct lines.

Now, Sir, how could I bind the Speaker to accept my interpretations? The Speaker said: "All right, I have heard this but I am going to decide only on the limited issue." How could I bind the Speaker? Therefore, what we had offered to the Speaker is on record. This is what I want to say. (*Interruptions*)

SHRI BASUDEB ACHARIA: Did you ever say this inside the House?

S. BUTA SINGH: Subsequently, Yes.

SHRI DINESH GOSWAMI: You never said that.

PROF. MADHU DANDAVATE: The Prime Minister has said that there is nothing prejudice to the prosecution.

SHRI P. SHIV SHANKER: Sir, I started by saying that it is not merely on the question of law that we are trying to stand in this case,

but there is a dimension to it. That dimension I tried to explain. Would they be satisfied by merely looking at it—I am just saying apart from the fact that whether I am committing myself to show you those documents or not—or would they be satisfied if merely the summons that were issued to parties which had not been placed on the Table of the House? Would they be satisfied by that? They are irrelevant documents. Mere summons and other things are irrelevant documents. In fact, these volumes contain different documents, as my colleague Mr. Chidambaram was saying this morning. They contain evidences. They contain certain exhibits. They contain show cause notices. They also contain interrogatories.

SHRI INDRAJIT GUPTA: And replies.

SHRI P. SHIV SHANKER: And replies. I agree with you. Therefore, the Government had to take a decision. The Government had to take a decision whether it is in the public interest to dispose these documents, apart from the fact that whether legally what could be done or what could not be done is a different issue altogether.

Therefore, the submission that I would like to make is that—I am told and perhaps my friend the Home Minister could explain this—the case as regards the conspiracy as a right could be filed. That could be field. And the Supreme Court time and again has taken the view that the evidences that are recorded by the Commission have to be necessarily kept secret. I will cite some decisions, if necessary, for that purpose. Because, otherwise, those who give evidences before the Commission, if that secrecy is not maintained, they would never come forward for giving the evidences. This is mere inquisitorial and it is not accusatorial inquiry that goes on in the matters of this nature. Therefore, Sir, we are conscious and I would like to say that there is nothing that is sought to be kept secret which should be in the interests of the nation. It would do a great harm, if these documents are exposed at this stage because the entire trial in the conspiracy case is likely to be affected.

SHRI SOMNATH CHATTERJEE: Why Interim Report and the Final Report were suppressed? Whose interest was that?

SHRI P. SHIV SHANKER: I will come to that. Mr. Chatterjee, you have raised this issue and I assure you that I will answer that also.

SHRI V. KISHORE CHANDRA S. DEO: Why did they take five years to find out that those were the conspiracies?

SHRI P. SHIV SHANKER: Well, that is the matter for the Investigating Agencies to say if the Investigating Agencies have taken time, we cannot help it. (*Interruptions*) And my friend is aware that the conspiracy in the case of Mr. Olaf Palme has not so far been resolved.

SHRI S. JAIPAL REDDY: In Mr. Olaf Palme's case the killers have not been identified. But in this case the killers have been identified.

SHRI P. SHIV SHANKER: I was talking of the conspiracy part; I say not merely the killers, the conspiracy. More important is the conspiracy. In Mountbatten's case also.....

PROF. MADHU DANDAVATE: And one of the killers has been killed also.

MR. CHAIRMAN: Let him complete his speech.

SHRI P. SHIV SHANKER: Now, therefore, the submission that I have to make is that the Government, apart from the legal aspect of it, would like to withhold this portion purely in the interest of public, so that it should not affect the trial in the conspiracy case.

Now, the aspect we are on, is a very short point at this stage. The short point is, whether the Home Minister has committed a breach of privilege by not placing all the documents or all the volumes on the Table of the House. The very fact that a debate is going on not only in this House but in the

nation, as to what can be the report, whether the report consists all the evidences and the other documents, apart from the main report which has been made available by the Commission itself—my submission is—when there is such a debate going on and it is not actually clear as to what exactly is the report, how can it be said that the Home Minister has willfully misled the House? The very fact that we are debating here shows that, you differ on what the report is, we differ on what the report is, and some of you say something else; in fact, my friend Mr. Goswami has gone to the extent of saying that the conclusions and finding is the report. That is what he has said and then he went further to say that the documents, etc., based thereon are a part of the report, "part" which they have to see for the purpose of making the debate more useful.

Now, therefore, when there is so much debate on the issue as to what exactly is the report, how could it be said that the Home Minister who is taking a particular view, has willfully misled the House so that a breach of privilege can be taken up against him? I am not able to understand it.

SHRI V. KISHORE CHANDRA S. DEO: Inadvertently he misled the House.

SHRI P. CHIDAMBARAM: That is not privilege then.

SHRI P. SHIV SHANKER: If it is inadvertently, then it is not a breach of privilege. Therefore, the matter ends. Therefore, the matter should end there. (*Interruptions*)

SHRI S. JAIPAL REDDY: He has misled the House. I hope, he will do something. (*Interruptions*)

SHRI DINESH GOSWAMI: We are prepared to drop...(*Interruptions*)

SHRI V. KISHORE CHANDRA S. DEO: Mr. Dandavate does not need any help. (*Interruptions*)

S. BUTA SINGH: Jaipalji, that is your privilege to mislead the House.

SHRI P. SHIV SHANKER: Having said this,...

SHRI DINESH GOSWAMI: We are prepared to drop the proceedings on that ground that Mr. Buta Singh.....

SHRI P. SHIV SHANKER: Now, I am going to put forward my case.

SHRI DINESH GOSWAMI: I will move an amendment that we drop the proceedings on the ground that the Home Minister inadvertently misled the House.

SHRI P. SHIV SHANKER: Then, why did you raise this issue at all? Why was this raised this morning?

SHRI DINESH GOSWAMI: At that time your explanation was not there. (*Interruptions*)

SHRI P. SHIV SHANKER: I am sure that Mr. Goswami raised it.

SHRI DINESH GOSWAMI: I did not raise it.

SHRI P. SHIV SHANKER: Mr. Dandavate was aware of all these things.

SHRI DINESH GOSWAMI: Mr. Shiv Shanker, Mr. Dandavate will explain as to what he has said. But what I am saying is that we are prepared to accept the ground given by you and drop the proceedings.

SHRI P. SHIV SHANKER: What a poor surrender he is making! You cannot get any compliments for this. (*Interruptions*)

PROF. MADHU DANDAVATE: It is like transferring Rs. 2300 crores from Public Oil Fund. It was done probably inadvertently.

SHRI P. SHIV SHANKER: I want to correct one misunderstanding: When Prof. Kurien was trying to make certain submis-

sions, some of our hon. friends objected to his statement. The fact of the matter is, that some of my friends seem to be labouring under a very wrong impression. The Sarkaria Commission was never constituted under the Commission of Inquiry Act. The report was never placed on the Table of the House. It was only circulated for the benefit of the Members. (*Interruptions*)

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): What Mr. Dinesh Goswami has said is wrong...(*Interruptions*)

SHRI P. SHIV SHANKER: I am sorry. I just wanted to say because when he said this, very vehemently it was sought to be condemned, I thought that I should make the position absolutely clear...(*Interruptions*). Then Sir, my friends have gone on the interpretation based on what has been said in the report itself. They asked, where is Part IA report? But the question is, what is Part IA? If you would like to interpret Justice Thakkar...(*Interruptions*) I will come to the legal aspect slightly later. Apart from the law, itself, if you would like to interpret Justice Thakkar himself, you cannot do justice by reading a sentence here or there. You have to read the whole thing and then come to the conclusion what exactly is he meaning by the expression 'report'...(*Interruptions*)

SHRI. S. JAIPAL REDDY (Mahbubnagar): Read with you lens... (*Interruptions*)

SHRI P. SHIV SHANKER: I will just read it and make my submission... (*Interruptions*) One of my friends has read Page 7 of the first volume—1.8.3. I am just referring to it. I would like you to read the whole thing and then see what it contains in the various volumes and on that basis determine which is the report and which is not the report. Or should all the volumes compendiously be called as the report? I am not at the moment on the question of law. I quote 1.8.3:

"The Commission's report is in four volumes. Volume I comprises five chapters as mentioned above. Volumes II and III contain the papers..."

He is specifically saying that they contain the papers.

"Volumes II and III contain the papers pertaining to Show Cause Notices issued to individuals, their references and the proceedings of the Commission in relation thereto. Each volume comprises nearly 2000 pages. Volumes IV contains interrogatories issued to various persons individually and their respective responses, as also inquiries by way of references made from a number of individuals and their responses. All the volumes carry their own index."

Again he says:

"Papers pertaining to matters covered by the two Terms of Reference which are not dealt with in this report will be included in a separate Volume along with the report on the remaining matters."

Will you kindly see the last sentence on which my friend himself has said?

"Papers pertaining to matters covered by the two Terms of Reference which are not dealt with in this report will be included in a separate Volume along with the report on the remaining matters."

Papers will be included in a separate Volume. (*Interruptions*)

SHRI BASUDEB ACHARIA (Bankura): Included along with. (*Interruptions*)

SHRI P. SHIV SHANKER: Am I misleading the House?...(*Interruptions*) It brings us to the same thing.....(*Interruptions*) Very good, for your kind benefit I repeat. Papers will be included in a separate volume along

with the report. Therefore, there is a report...(*Interruptions*) By repeating untruth you are not making out a case of truth. I am myself saying it. Therefore, you must have the patience to listen to what I am saying. I am saying that the papers will be included in a Volume along with the report. There is a report which is separate. There are papers...(*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY (Katwa): No, along with. (*Interruptions*)

SHRI P. SHIV SHANKER: What do you mean by "along with?"...(*Interruptions*) Mr. Chowdhary, supposing somebody says that you have gone along with you wife, what would you mean? (*Interruptions*) Is she a part of you? Do not try to unnecessarily read the things...(*Interruptions*) I will read further.

SHRIS. JAIPAL REDDY: I am referring to page 4 of the final report...(*Interruption*)

SHRI P. SHIV SHANKER: Let me go to page 4 of the final report of the volume because he is keen on it. My friends are stressing on paragraph 1.6.1 I want that they should read paragraphs 1.6.1, 1.6.3 and 1.6.5 and then come to the conclusion. Do not try to separate one from the other...(*Interruptions*) Paragraph 1.6.1 has been read more than once. I will again read it. "The present report which is the final report is in two parts—Part I and Part I-A. Part I has five chapters which deals with subjects..." I am not reading all that. Then paragraph 1.6.3 says: "Part I-A is a compilation of the material."

SHRI BASUDEB ACHARIA: Part IA you read in relation to 1.6.1.

SHRI P. SHIV SHANKER: Having read 1.6.1 I am reading 1.6.3.

SHRI SAIFUDDIN CHOWDHARY: May I intervene here? You are saying that part IA is a compilation of the material. I am saying that it has a photograph showing some foreign agent firing. Why could that not be given to us? This is part of the report.

SHRI P. SHIV SHANKER: Is there a photograph? Are you sure that?

SHRI SAIFUDDIN CHOWDHARY: Yes, anything part of the report we have to study.

PROF. MADHU DANDAVATE: He is provoked because you referred to his wife. *(Interruptions)*

SHRI P. SHIV SHANKER: So he is referring to the photograph of possibly his and his wife; I am not sure about it.

I am saying that paragraph 1.6.3 says: Part I-A is a compilation of the material." Then, of course, I will not go into what has been put in the brackets "...compilation of the material on which the Commission has drawn for the purposes of the final report..". Therefore, it is something different from the report. *(Interruptions)* I will further read. "Part I-A carries its own index." Everything I will read; do not bother.

SHRI S. JAIPAL REDDY: You please read paragraph 1.6.3 "pertaining to the interim report".

SHRI P. SHIV SHANKER: I have read the whole thing. I will again read. I say that the bracketed portion which is unnecessary, I have taken off.

SHRI DINESH GOSWAMI: The bracketed portion says that these are the documents which the Commission has already included in the volumes pertaining to the interim report and the other documents the Commission is including in the final report. That is the intention of paragraph 1.6.3.

SHRI P. SHIV SHANKER: Other documents are included in the final Report, he does not say that. He says: Part I-A is a compilation of the material which the Commission has drawn for the purposes of final Report."

SHRI DINESH GOSWAMI: Please read the bracket also.

SHRI P. SHIV SHANKER : Bracket is something different. Bracket is something which is connected with the Interim Report...*(Interruptions)*

SHRI S. JAIPAL REDDY: ' Mr. Chairman, we seek an intervention because he is deliberately indulging in misleading the House...*(Interruptions)*

SHRI P. SHIV SHANKER: The point is that you are determined not to be convinced. Do you think I will be able to convince you?

SHRI S. JAIPAL REDDY: No.

SHRI P. SHIV SHANKER: Therefore, you must allow me to speak. You yourself say 'no', therefore, better you allow me to speak.

Then, Sir, let us read 1.6.5. It says: "Records—the word 'record' may be noted—referred to in para 1.6.4 and 1.6.3..." Paragraph 1.6.3 is the one that I just now read, that is, part I-A, compilation of the material, etc, etc...*(Interruptions)*. If you think you will score a debate over me by merely interrupting, that is a different thing, but you must allow me to say what I would like to say. I am saying that the Judge himself is saying that these are the records. And when he is saying 'records', he is referring to paragraph 1.6.3 also, that is, Part I-A. Part I-A, which he says he has drawn for the purposes of material on the basis of which he has prepared the final Report he calls it a 'record'. He says: "Records referred to in paragraph 1.6.4 and 1.6.3 will be given to the Secretary to the Government of India, Ministry of Home Affairs, by the Secretary to the Commission shortly." That means what? I ask this question. We have been saying time and again that the Interim Report was submitted on the 19th November, 1985 and the final Report was submitted to the Government on 27.2.1986. The very fact that the Commission is saying that these documents will be separately submitted by the Secretary at a later stage to the Ministry of Home Affairs, means that it is not a part of the Report. They are separate...*(Interruptions)*

You will have your say. You can totally demolish my argument, I have no objection, but you allow me to say. Now, the submission that I have been trying to make is that these documents have been made available separately by a letter from the Secretary much later, not on 19th November 1985 or on 27.2. 1986, when the Report was submitted...(*Interruptions*)

SHRI DINESH GOSWAMI : Will you refer to last paragraph on page 138 of the final Report?

PROF. N.G. RANGA (Guntur): They are not intended to be a part of the Report on which the Government has to take action.

SHRI P. SHIV SHANKER: It is a compilation. I shall read out the last paragraph. It says: "A full and detailed report carefully and assiduously prepared by the said agencies is included in Part I-A." It is a compilation...(*interruptions*). Will you be fair in interrupting me? If you do not want me to speak, I will sit down. I have no objection...(*interruptions*)

MR. CHAIRMAN: Let him complete his argument.

SHRI P. SHIV SHANKER: If you would like to stop me from speaking, I am prepared to yield. I have to put my case and you have been putting your case. (*Interruptions*)

PROF. MADHU DANDAVATE: He has the right to complete his misinterpretation.

MR. CHAIRMAN: No, no. he has his own argument.

SHRI SOMNATH CHATTERJEE: Kindly look at page 138 of the Report.

SHRI P. SHIV SHANKER: It has been read, it has been quoted. Sir, I would like to make a submission. My friend, Mr. Somnath Chatterjee, I must say, has tried unduly to be ingenious where there was no necessity. He is aware of it as a lawyer. But what the Supreme Court decided was that if in a

disciplinary case where the Inquiry report is submitted, along with the Inquiry report, you should also make available to the person against whom you would like to take the disciplinary proceedings not only the documents but the evidence, etc. which has been recorded during the course of the Inquiry so as to enable him to make a proper representation. Now, Sir, that is far from saying. The Supreme Court says "Inquiry Report along with.." because it is a question where the person is affected. They were concerned with the procedure that was being followed under Article 311 of the Constitution. (*Interruptions*)

MR. CHAIRMAN: Why do you interrupt him?

SHRI P. SHIV SHANKER: Why should you be angry with me? I am not angry with you. I am not even pretending to be angry. He is unnecessarily angry. (*Interruptions*) Now, I would not like to go into the legislative history, etc. My friend, Mr. Chidambaram, has already said about it. I would like to concentrate on two aspects. So far as the Act and the rules are concerned, I would like to read rule 7 of the Commission of Inquiry Act. These are the rules which were framed in 1972. Rule 7 says "retention of records". it says:

"The report of a Commission and the papers relating to its Secretariat, its establishment matters and all other matters handled by are in the Commission including the evidence tendered before the Commission shall be preserved in tact by the Commission and shall be remitted with the report of the Commission".

Therefore, a distinction is sought to be made by the rule between a report and the evidence and other papers.

SHRI SOMNATH CHATTERJEE: They have no separate existence unless the evidence comes along with it. The report is meaningless in the judgement if the facts are not disclosed.

SHRI P. SHIV SHANKER: I am aware that my friend is habituated to argue in favour of those who pay him whether it is good or bad, that is different. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: There the employees are involved for whom I am appearing without any fees and they have been dismissed by them.

SHRI P. SHIV SHANKER: I would not like to comment on this.

SHRI SOMNATH CHATTERJEE: Sir, the employees of Bengal Potteries like the employees of Mohini Mills and Stationers office have been dismissed.

SHRI P. SHIV SHANKER: I would not like to comment on your clients, Mr. Chatterjee, for whom you appear. I am not saying anything about that.

SHRI SOMNATH CHATTERJEE: Not against the workers.

SHRI P. SHIV SHANKER: No, no. I am not saying that. But if you want I will say, I can specifically give the cases also. I would not like to go into it. We will settle those scores outside, not here. This is not the place where we should settle the scores. (*Interruptions*)

Sir, the point that I am trying to make is that Rule 7 is very categorical. Rule 7 makes a clear distinction between the report and the other records including the evidence. That is all I wanted to submit. Now I will go to Section 3, subsection (4) first.

SHRI SOMNATH CHATTERJEE: What are the replies to the questionnaire?

SHRI P. SHIV SHANKER: Regarding Sub-section (4) of Section 3, my friend Mr. Chidambaram has brought to the notice of the House the expression "if any" and tried to make out a case that it is possible in a given case that report need not be produced. Then the documents need not be placed on the Table of the House. I will go a little farther. I will submit that what he treats is that "the

appropriate government shall cause to be laid before the House of the People or as the case may be the Legislative Assembly of the State, the report, if any, of the Commission on the inquiry made by the Commission under sub-section...together with a memorandum of the action taken thereof." I would like to stress these words "together with the memorandum of action taken thereof." Now, the submission is that when you file a report, on the report as to what has been recommended, what has not been recommended, whether you accept or you don't accept, a memorandum of action taken report has to be filed. The memorandum of action taken report is not filed on the evidence, not on the show cause notices issued, not on the interrogatories that are issued by the Commission. The submission that I am making is that the memorandum of action is confined only to the report.

15.57 hrs.

[MR. SPEAKER *in the Chair*]

SHRI SOMNATH CHATTERJEE: To the recommendation part. That is a part of the report.

SHRI P. SHIV SHANKER: It does not say that. It says 'report'. Excuse me for saying this. It says 'report' and 'the memorandum of the action taken thereon', that is, the report. At no point of time it is possible. It is not possible by any stretch of imagination or interpretation for you to think of a memorandum of action taken report on the evidence that has been recorded or the documents that have been received or the interrogatories that have been issued, nothing of that type. Therefore, the submission that I am making is that they cannot form part of the report. They are two distinct things. The language itself is clear.

SHRI SOMNATH CHATTERJEE: The memorandum of action taken is given on every page of this report.

SHRI P. SHIV SHANKER: The language itself is clear.

PROF. MADHU DANDAVATE: I think you come to the explanation to sub-section (5).

SHRI P. SHIV SHANKER: I will come to that immediately after this. My friend said that the interim report has been filed in November 1985 and there was no observation from the Commission that this should not be laid on the Table of this House. You look up this one. Does it include the evidence recorded? Does it include the show cause notices that have been issued? (*Interruptions*). The other one, and the other documents are with reference to the two issues. This is the report with reference to the three issues. Does it include the evidence? Does it include the interrogatories? What is it that it includes? This is a report simpliciter. Therefore, this argument which you are development goes against you. (*Interruptions*). Actually, so far as this document is concerned, 1911, there is no volume II or any other volume so far as this is concerned and supposing if he were to file it within six months, he would have only filed this. There is nothing connected with this which could have been filed on that day.

Now, I will come to the point that has been raised by Prof. Dandavate more than once: What do you say about sub-section (5) and the explanation?

16.00 hrs.

Sir, I was not present. I understand that the ruling has already been given by the Chair, with reference thereto. I would like to make the submission that the Explanation is only confined to sub-section (5). It does not apply to sub-section (4) at all.

PROF. MADHU DANDAVATE: Can the report be in different thing under sub-section (4) and sub-section (5)?

SHRI P. SHIV SHANKER: I have not said that. By virtue of explanation, the Expla-

nation itself is restricting it to (5).

PROF. MADHU DANDAVATE: (5) is related to (4).

SHRI P. SHIV SHANKER: The point is, the Explanation has nothing to do with (4). If the Explanation has nothing to do with (4) and the Explanation is only to be connected with (5), as the Explanation itself says, then the two are different. Sub-sections (4) and (5) are wholly different. Otherwise, why should it say (5)?

PROF. MADHU DANDAVATE: For the simple reasons, (5) and (4) are inter-related, that if there is nothing to be laid on the Table of the House, what is to be laid?

SHRI P. SHIV SHANKER: For the purposes of sub-section (5), report includes interim report and/or proceedings of the Commission. It is only with reference to (5). This amendment has been brought in the year 1986. Sub-section (4) came some time in 1971. Sub-section (5) came in 1986. All right, we repeal, for argument sake, sub-section (5) by amendment. What happens? Does sub-section (4) go away with that? No. Sub-section (4) remains. Therefore, your argument goes. Therefore, sub-section (4) and (5) occupy a different field. Having regard to the Explanation that has been put, it is confined only to sub-section (5). The point is very simple. If we repeal this by amendment, sub-section (4) remains. How would you put the definition? What happened before 1986? Let us consider it.

PROF. MADHU DANDAVATE: In the absence of sub-section (5), it is left to the common sense to interpret sub-section (4).

SHRI P. SHIV SHANKER: Before 1986 and after 1971, sub-section (4) occupied the field and (4) had its own distinct connotation.

SHRI, SOMNATH CHATTERJEE: Show-cause notices are not the answer. It is only the proceedings for the Commission.

SHRIP. SHIV SHANKER: Then, I bring to the notice of the House one of the judgments of the Supreme court—very short passage—which had gone into the matter.

PROF. MADHU DANDAVATE: Is it Krishna Iyer's? Because we will require dictionary.

SHRI P. SHIV SHANKER: Justice Krishna Iyer pleads the cause of your own these days. May I just bring to the notice of the House, the judgement of the Supreme Court in S.P. Gupta Versus the Union of India, i.e. famous judges case? I will read only one passage. This is 1982 SC Report, Page 365. The judge was speaking for six judges, Justice Bhagwati. I am reading at page 595. This was the question with reference to both the aspects, article 74 (2) and article 356. But I would just like that the observations may be noted.

"The court would be barred from inquiring into the grounds which might weigh with the Council of Ministers in advising the President to issue a proclamation under article 356, because the ground would form part of the advice tendered by the Council of Ministers."

Here, the question was whether you would go into the ground, the word "advice" under article 74(2) read with article 356—whether advice part-asks within itself "ground" or it is separate?

Then they say that:

"The material on which the reasoning of the Council of Ministers is based and their advice is given, cannot be said to form part of advice."

That is, material on which the advice is formed, is a totally separate thing.

"But the material on which the reasoning of the Council of Ministers is based and their advice is given, cannot be

said to form part of the advice. The point we are making may be illustrated by taking the analogy of a judgment given by the court of law. The judgment would undoubtedly be based on the evidence laid before the court."

I would repeat:

"The judgment would undoubtedly be based on the evidence laid before the court. And it would refer to such evidence and discuss it but..."

SHRI S. JAIPAL REDDY: This is not judgment. It is a recommendation. It is a finding. (*Interruptions*)

SHRI P. SHIV SHANKER: I am citing it by way of analogy. I will read again

"The Judgement would undoubtedly be based on the evidence laid before the court and it would refer to such evidence and discuss it but, on that account, can it be said that the evidence forms part of the judgment?"

That is the question they themselves posed. Can it be said that it forms part of the judgement? (*Interruptions*)

MR. SPEAKER: Is this Commission quasi judicial?

SHRI P. SHIV SHANKER: It has nothing to do. I will read again. (*Interruptions*)

MR. SPEAKER : It is all right. Keep silent. Keep your counsel to yourselves.

SHRI P. SHIV SHANKER: It has its own procedure to follow. Evidence Act does not apply to it. Your evidence also does not apply to it. Therefore, it is inquisitorial. It is not accessorial. It does not accuse any one. It inquires into it. It is a fact finding Body. That is the scope which the Supreme Court has set. (*Interruptions*)

SHRI P. SHIV SHANKER: I am sure I will be allowed to read this.

(Interruptions)

MR. SPEAKER: You please carry on.

(Interruptions)

[Translation]

MR. SPEAKER: When you do not know anything, you should keep quiet. Please resume your seat.

[English]

SHRI P. SHIV SHANKER: The Supreme Court says:

"It would refer to such evidence and discuss it but on that account can it be said that the evidence forms part of the judgment? The judgment would consist only of the decision and the reasons in support of it and evidence on which the reasoning and the decision are based, would not be part of the judgment. Similarly, the material on which the advice tendered by the Council of Ministers is based cannot be said to be part of the advice and the correspondence exchanged between the Law Minister, the Chief Justice of Delhi and the Chief Justice of India which constituted the material forming the basis of the decision of the Central Government must accordingly be held to be outside the exclusionary rule."

SHRI V. KISHORE CHANDRA S. DEO: It is not a judgment. (Interruptions)

PROF. MADHU DANDAVATE. Your earlier analogy of advice by the Council of Ministers as a precedent, is an incorrect analogy, because they arise altogether out of a different constitutional provision. I think you are stretching the analogy too far. (Interruptions)

SHRI P. SHIV SHANKER: I am stretching my argument in conformity with law and with judgment of the Supreme Court. My

submission is that the material, on the basis of which the Judge has prepared the Report, the reasoning etc. etc., and the final conclusions—these are two different things. In order to demonstrate this, I have relied on what is the advice...

SHRI SOMNATH CHATTERJEE (Bolgur): If you could yield for a second, I will seek a clarification. May I know that if the Commission only sends recommendations to the Government, will that be treated as sufficient for the purpose of treating the report? If the recommendations are only sent without any material, any reasoning, without any finding, is it sufficient? Necessarily, materials are to be there.

SHRI P. SHIV SHANKER: It is possible, as Section (3), Sub-Section (4) says, in a given case the Commission may not prepare a report.

SHRI SAIFUDDIN CHOWDHARY (Katwa): That is another thing. (Interruptions)

SHRI P. SHIV SHANKER: I am led to believe that this is no answer and therefore you would like to interrupt. You please digest what I am saying and give me the answer.....(Interruptions) Under Section (3), Sub-Section (4) it is possible in a given case that the Commission may not prepare a report.

SHRI INDRAJIT GUPTA (Basirhat): The Judgement of a Court has some sanctity about it. What is the sanctity of a report which is over-turned by the Special Investigation Team of the Police?

SHRI P. SHIV SHANKER: Would you like to into the question? The Report is for the satisfaction of the Government. In fact, you will be pleased to see that right up to 1971, there was no obligation to place it on the Table of the House even. It is only for the satisfaction of the Government.

SHRI SOMNATH CHATTERJEE: Now you please answer my question.

SHRI P. SHIV SHANKER: I was trying to answer. The submission that I was making was that under Section (3), Sub-Section (4) it is not obligatory on the part of the Commission to prepare a report. It is possible that the Commission might say: "This is my recommendation. I would not like to give any reasons." It is just possible.

SHRI SOMNATH CHATTERJEE: Will that be submitted before the House?

SHRI P. SHIV SHANKER: About the recommendation, yes.

SHRI SOMNATH CHATTERJEE: Why?

SHRI P. SHIV SHANKER: It is on the Action Taken report. The recommendation will be placed on the Table of the House. How do you read it? We differ basically on the interpretation part. I am sure that your conscience is pricking for what you are arguing. But I still sympathise with you. What can be done? (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, a distinguished lawyer is arguing like this. He has been made to say so by S. Buta Singh. (*Interruptions*)

SHRI P. SHIV SHANKER: After having said, I would like to invite your kind attention to what has happened in Kehar Singh's case itself. Two aspects were called for. This is the Supreme Court's observation contained in AIR 1988 p. 1903. The Supreme Court has said...

PROF. MADHU DANDAVATE (Rajapur): If you don't find, please ask S. Buta Singh.

SHRI P. SHIV SHANKER: The submission is there. On behalf of Kehar Singh, evidence that was recorded before the Commission was also called for, equally the report—both the things were called for. I would like to bring to your notice of the Commission's observations on both the aspects. I would not like to go into the details.

But I will read certain portions from that. I quote:

"It is, therefore, clear that without going into the wider questions, even a plain reading of Section (6), as discussed above, will prohibit the use of the previous statements at the trial either for the purpose of cross-examination to contradict the witness or to impeach his credit. The only permissible use has been provided under Section (6) which has been discussed earlier and therefore the Courts below were right in not granting relief to the accused. The report of the Commission was also prayed for although learned Counsel could not clearly suggest as to what use the report of the Thakkar Commission could be to the accused in his defence."

This is what they say as to what report is. The report is a recommendation of the Commission for the consideration of the Government.

So, the Supreme Court itself is saying as to what the Report is. The Report is the recommendation...(*Interruptions*)

MR. SPEAKER: Why are interrupting all the time?

SHRI P. SHIV SHANKER: The Report is the recommendation of the Commission for consideration of the Government. It is the opinion of the Commission based on the statements of witnesses and other material. It has no evidentiary value in the trial of the criminal case. The Courts below were justified in saying it. Therefore, this portion which says that the Report is a recommendation of the Commission for consideration of the Government, is the opinion of the Commission based on the statements of witnesses and other materials. That is the point. Therefore, they are two different things. Someone has said that it has no evidential value. I thought I should just bring this also to the notice of the Government. (*Interruptions*)

SHRI S. JAIPAL REDDY (Mahbubnagar): Mr. Shiv Shanker has been quoting many things against himself.

SHRI P. SHIV SHANKER: I pity your ignorance in understanding. What else can I say? (*Interruptions*)

MR. SPEAKER: I am only acting on his advice.

SHRI S. JAIPAL REDDY: On whose advice, Sir?

MR. SPEAKER: Mr. Jaipal Reddy's advice. (*Interruptions*)

SHRI P. SHIV SHANKER: Therefore, the submission that I would like to make is no the basis of what the Report itself says, on the basis of the law itself that is, the Commission of Inquiry Act and the rules and what the Supreme Court says. In my view, there is a clear distinction in the Report and the material based on which the Report is prepared. The material cannot be treated as a part of the Report. They are two distinct entities. There may be reasoning based on the material. As I said, the very fact that this debate is so intensely going on, there is no willful action on the part of the Home Minister mislead. As one of my friends said, it could be inadvertent. If it could be inadvertent, then there is no breach of privilege. My submission is that the notice of breach of privilege has got to be rejected.

SHRI S. JAIPAL REDDY (Mahbubnagar): Mr. Speaker, Sir, on this issue, the Government has been staging one astounding somersault. The Government's stand has, in fact, turned a full circle. It was the original stand of the Government that disclosure of any part of the Report would prejudice the interest of the Government. But within 48 hours, the Prime Minister stated in this House—when the opposition Members were conveniently absent for him in the House—that disclosure of the Report would no longer prejudice the investigation. Mr. Buta Singh repeated the same position on 27th. Now Mr. Buta Singh goes back to

the position he took on 15th and says that disclosure of the remaining documents would prejudice the investigation.

SHRI SOMNATH CHATTERJEE (Bolpur): Now he has been asked to say that.

SHRI S. JAIPAL REDDY: What does one make of the Government which changes its mind, if it has one and which changes its stand so frequently, so frivolously within such a narrow space of time?

Coming to the Privilege Motion, I must put the record of time straight. The Privilege Motion was tabled by Professor Dandavateji and others before you reserved the ruling on the substantive issue. If you had thought that it was a case to be taken up under Rule 225 it would have been better if the Chair had considered it at that time. The Chair for reasons best known to it, and which are certainly beyond the ken of my comprehension, chose to admit the Privilege Notice today after the ruling on the same substantive motion had been reserved, after the Chair declared that the opinion of the Attorney General and others was being sought on the issue.

[*Translation*]

MR. SPEAKER: You yourself asked me to do so.

[*English*]

I am acting according to your advice and still I am to be blamed!

SHRI S. JAIPAL REDDY: Sir, still I would say that it is better late than never. When the Speaker admits the notice and grants leave to the notice under Rule 225, it means that the Speaker has found a prima facie case.

[*Translation*]

MR. SPEAKER: Prof. Saheb did not say. He was sleeping at that time.

[English]

SHRI S. JAIPAL REDDY: I would like to know whether the facts as perceived by the Speaker can be changed by the law of Mr. Shiv Shanker or Mr. Chidambaram or the brute majority of the ruling party. Here it is a question of juxtaposing facts against numbers and against law. This is in my view a totally erroneous approach.

Mr. Chidambaram has cited many precedents. But can he cite one precedent where the Commission conducted the proceedings in utter secrecy in camera? The proceedings of the Shah Commissions were conducted out in the open, publicly.

PROF. MADHU DANDAVATE: So public that the concerned people were laid on the table of the judge!

SHRI S. JAIPAL REDDY: But the proceedings of the Thakkar Commission were conducted in secrecy. Therefore the precedents are not attracted. The proceedings of all the commissions to which reference has been made, I may submit once again, were conducted openly. Therefore the importance of disclosure of the proceedings of this 'in camera' Commission cannot be over estimated or exaggerated.

As the Minister Mr. Shiv Shanker rightly pointed out, any Commission can only give findings which have a recommendatory value and which do not have a mandatory value. In that case if those recommendations are to be judged by this House, it is important that the House must be in possession of the material on the basis of which those recommendations were formulated or arrived at.

In the instant case, my heart goes out in sympathy to Mr. R.K. Dhawan. The poor man has received such damning indictment in such ringing language. But the explanation he offered has been withheld from us. The indictment has been made public; but the explanation he may have submitted in

his own defence has been withheld from us. Is that fair?

Apart from Mr. R.K. Dhawan, 20 officials were indicted. Unless we know the replies they gave to the questionnaire sent to them, we will never be able to understand or assess or gauge the value of the findings of the report.

We are facing a very piquant situation. Mr. Dhawan was severely indicted and now he has not only been re-instated but rewarded with promotion. Justice Thakkar who had indicted Mr. Dhawan has also been rewarded. Now what are we to make of a Government which would like to run with Dhawan and hunt with Thakkar!

Now, Sir, a word about the special investigation team. It is this team which assisted our distinguished Justice Thakkar to come to this conclusion. How could the same team now come to a totally different finding? Then we would like to know the circumstances and the facts because of which SIT arrived at a totally different conclusion now. What prevents them from placing the report of SIT on the Table of the House?

Sir, if the disclosure of indictment of Shri R.K. Dhawan is not against public interest, then how can the exoneration of a person now considered innocent be against public interest? We all know that Mr. Beant Singh and Mr. Satwant Singh were the killers. We do not know who were the darkly conspirators or shadowy figures behind these two killers. The fact that these two people tried to kill her is not in dispute. The point I am trying to make is that Mr. Beant Singh and Mr. Satwant Singh emptied their magazines completely. And yet they were eliminated. I would like to know the circumstances under which they were eliminated. I would like to know the purpose for which they were eliminated. I would like to know why Thakkar Commission did not go into this aspect. I would like to know whether the documents held back from us can throw light on this aspect, why these star witnesses were allowed to be eliminated—one was killed on

the spot and the other was hanged.

MR. SPEAKER: Please concentrate on the issue before the House.

SHRI S. JAIPAL REDDY: Sir, coming to the report Mr. Shiv Shanker refused to refer to one sentence not because he did not know but because he understood too much. I am drawing your attention to page 4 of the final report. Mr. Chidambaram, of course, can be depended upon for putting completely perverse interpretation on what I am going to read. I am reading from page 4 of the final report. "Part 1 (A) is the compilation of the material other than the appendices referred to above in para 162 that which has already been included in the volumes pertaining to the interim report." It is not Mr. Saifuddin Chowdhary along with his wife but it is pertaining to Mr. Saifuddin Chowdhary himself. I am trying to benefit by romantic analogy which Shri P. Shiv Shanker tried to draw upon.

AN HON. MEMBER: Complete the sentence.

SHRI S. JAIPAL REDDY:on which the Commission has drawn for the purposes of the the Final Report.....(Interruptions).....Naturally.....(Interruptions).....Sir, I do not want you to make any grimaces. Already I am demoralised and I will be further demoralised.

MR. SPEAKER: No, I said that I have heard.....

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI H.K.L. BHAGAT): You say that you are already demoralised. You are not demoralised. Don't feel demoralised. I am prepared to stand by you but don't feel demoralised.

MR. SPEAKER: You have found an ally. Try to complete your speech now.

SHRI S. JAIPAL REDDY: My point is

that Shri Shiv Shanker and his friend have tried to do contradictory things. Firstly, he and Mr. Chidambaram have tried to indulge in legalistic, semantic quibblings to withhold the Report and secondly the substantive issue they say is that the disclosure of the remaining Report will prejudice the interest of future prosecution. They are contradicting themselves. Therefore, I want the whole Report to be made public. Otherwise, they would be guilty of deliberate attempt misleading the House. This Report has raised so many questions. The mist of mystery surrounding the murder of Mrs. Gandhi has thickened by the partial release of the Report.

SHRI ARIF MOHAMMAD KHAN (Bahraich): Sir, I must say that I was very much impressed by the performance of Mr. Chidambaram in the morning and I am glad that the Government has finally realised the importance of the issue and the mess in which it has landed by the inept handling of the issue from the very beginning. And today it has fielded two of its very distinguished lawyers to defend the indefensible. Mr. Chidambaram's brilliant articulation reminds me of a famous saying that 'Eloquence flourished most in Rome when its public affairs were in worst conditions'. I feel that it would be wise to remember that our national bird is peacock and not ostrich; hiding and taking shelter.....

MR. SPEAKER: Eloquence saved Rome after the assassination of Caesar and Antony saved by eloquence.

SHRI ARIF MOHAMMAD KHAN: Very well Sir. It may be. But the credit goes to Prof. Madhu Dandavate and that applies to Prof. Madhu Dandavate.

PROF. MADHU DANDAVATE: He was obviously referring to me.

SHRI ARIF MOHAMMAD KHAN: My point was by taking shelter behind the technicalities of law, it is not going to help the situation; it is not going to change the law; it is not going to change the fact; it is not going

[Sh. Arif Mohammad Khan]

to help him to relieve the Government from its obligation to make the Report public and let the Parliament know what Justice Thakkar observed, what conclusions he has reached and what material he has depended upon. I am not going in length because already so many speakers have made this point and I am not going to make any reference to the missing volumes. But may I ask a pointed question? There are two volumes laid on the Table of the House, namely, the Interim Report and the Final Report. Again I may say that I will not emphasise on the missing volumes. I am merely referring to the two volumes which have been laid on the Table of the House. My question is whether these two volumes have been presented in their original form as they were presented by Justice Thakkar to the Government or not. I am referring to the two volumes which were laid on the Table of the House.

If these two volumes were not tampered with, surely these two volumes would have contained the statements which were made by these officials who have been indicted by the Commission. I fail to understand one thing. I can understand if Government takes a stand that all interrogatories, all show cause notices which have been issued to various persons come under the category or class of material and other evidence and it is not necessary for the Government to lay these documents on the Table of the House. But how can I understand if Government tries to be selective. Interrogatories issued to a particular individual are part of the report, and interrogatories issued to other officials, other persons who have been indicated are not part of the report. Replies given by a particular individual figure in the report, replies given by other officials who have been indicted are not part of the report. After all, there is to be a class of documents. Even if we accept the arguments of the Government, then at least all those documents which fall in that category, which come in that class, either they must be part of the documents, which have been laid on the table of the House, or if they are not to be laid on the

table of the House, then it should cover the interrogatories and replies which have been issued or which have been given to all those to whom these show cause notices have been issued.

I am also not going into all the contradictory statements made by various Ministers, where they contradict each other. I would not go into the reported interview of Ministers of this Government; a Minister has said in his interview and which has not appeared in one magazine, but in two magazines, where he has accused another Minister.....

(Interruptions)

MR. SPEAKER: Please be relevant.

SHRI ARIF MOHAMMAD KHAN: This is important, Sir.....*(Interruptions)* I do not become responsible for the acts of commission and omissions of others. What does he want to day and prove? I was a Minister, where is the doubt about it...*(Interruptions)*.

Sir, I do not know what kind of concept this Government is trying to introduce in our polity, in our jurisprudence. The constitutional democracy that we are, we have several instances in the past, where the conclusions of a police official, howsoever senior or holding a bigger position he may be, his conclusions have been negated by a judge. But for the first time, we are faced with a situation, where the conclusions of a judge are being sought to be negated with the help of a report which they say has been given by some police officials. Who are these police officials? Those, who were supposed to assist the Thakkar Commission, on the basis of whose assistance, the Thakkar Commission came to those conclusions. Thakkar Commission has mentioned about further investigation. Why is further investigation needed? It is because to get evidence so that prosecution cases may be launched. Further investigation does not mean re-examination of the whole thing or investigation team negating all that the Commission has said in its report.

On the very first day, the hon. Deputy-speaker had read out some decision which was taken in your Chamber. Shri Indrajit Gupta made this point. Shri Buta Singh had refrained from commenting on that, but I am glad that today he has commented upon it and Shri Shiv Shanker has gone into it in detail about the disclosure of information affecting or prejudicing the starting of new cases regarding wider conspiracy.

Sir, through you, I would like to tell the Government that if they have any such case, they will definitely find people sitting on this side sympathetic. If conspirators are to be nabbed and for that purpose some information is to be withheld, then they would not find any opposition from our side. But, Sir, the basic question is that if they want to withhold some information, then they need the authority of law. Mere opinion of the Home Minister or for that matter of any other Minister cannot make them withhold the information. Under the law, they are under obligation to lay on the Table of the House the complete information which is made available by the Commission to the Government. Sir, that is the reason why the other day I made this point and sought for a clarification from the Hon. Home Minister as to whether they are going back to the Parliament to bring another resolution so as to derive authority from the Parliament to withhold those documents whose disclosure they consider will prejudicially affect the launching of a new case.

The last point, with which I will conclude my submission, is about the friendly relations with foreign countries. Sir, I fail to understand that when the Commission has found some conclusive evidence and has come to certain conclusions about some foreigner or foreign agency being involved in the conspiracy to assassinate Mrs. Gandhi, the then Prime Minister, then what kind of friendly relations they want to pursue with such agencies or such countries who can go to the extent of being a party to a conspiracy to eliminate our Prime Minister. Sir, there are so many instances where in the foreign countries even if a threat has been given to a private citizen of another country, they

have broken the diplomatic relations but here is a case where our Prime Minister has been assassinated still we are talking of the friendly relations and under the cover of that argument we want to withhold the information.

Sir, in the handling of this issue the Government has demonstrated the dangerous blend of incompetence, ignorance and plain desire to shield and cover the conspirators.

With these words I support the Privilege Motion.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI H.K.L. BHAGAT): Mr. Speaker, Sir, when you had given permission to Prof. Madhu Dandavate to state a case of privilege, I thought, he should have thanked you and similarly other Members on the opposite side who have spoken should have thanked you. But they felt shy in thanking you. Of course, Prof. Dandavate stated the case as best as he could but still there was some element of shyness and some hesitation. The ground was taken that since the Hon. Speaker is going to give his ruling on matters connected with that, therefore, there was some hesitation. I fail to understand why there was such a hesitation. You are yet to give your ruling and you are giving opportunity to the people to state their points of views on the question of privilege. In spite of that there was this shyness and hesitation among the Members.

16.44 hrs.

[SHRI SOMNATH RATH *in the Chair*]

I still have regard and affected for Shri Arif Mohammad Khan. I don't want to puncture the already punctured line of argument as it needs no puncturing. I would just like to refer to the point when he said that Mr. Chidambaram and Mr. Shiv Shanker have tried to rely on the technicality and thereby he has virtually conceded that on technical-

[Sh. H.K.L. Bhagat]

ity we have a good case. I think Mr. Chidambaram put the case exceedingly well.

In fact, there is no answer from the other side to what Mr. Chidambaram stated.

PROF. MADHU DANDAVATE: Like the Defamation Bill?

SHRI H.K.L. BHAGAT: I have not heard Shri Shiv Shanker and others. Anyway, I assure that I would not depend on more technicalities. I know what some of you are doing. Here I am not lumping all of you together. Nor am I trying to divide you. I am sure, even if I try to divide you, you will not be divided even if you are already divided. Some of you people on those benches have a certain consistent way of thinking. But there are people who have been doing things mostly in the fashion of 'running with the hare and hunting with the hound'.

Here, the question is of privilege. Has Mr. Buta Singh misled the House or not? If so why? Or, who has misled the House and who is misleading the House and why? These are the questions to be thought of. Just now Shri Arif Mohammad Khan took objection to Shri Shiv Shanker's argument that the case would be prejudiced. Is he challenging the principle the disclosure of documents can never prejudice a case? Well, it is an accepted thing that when documents of a case are disclosed, the case is likely to be prejudiced. I thought he knew a bit of law. Even statements recorded under Section 161 do not become statements unless they go to the court. Even a FIR is not a substantive document. When the Home Minister says that they are going to file a case of conspiracy on this issue, is it for you to say 'no'? How can you insist that you must get everything under all circumstances and it cannot prejudice the case? It is really a funny thing. Mr. Arif Mohammad Khan said yet another funny thing. I really take pity on him. He is full of enthusiasm and he is very active. He was almost 'super' intelligent. But now he has become 'super-super' intelligent by crossing

over to that side. I am really surprised when he says such things. He cannot make even a small distinction. I am sorry, I cannot advise him. I am senior to him, older in age, but I cannot advise him. But there is a limit to pettiness. I am using the word deliberately and do not mind it. He said, "we have seen judges sitting in judgment on cases filed by the police. But we have not seen police officers sitting on the judgements of the judges". In the present case, is it a judgment delivered by Justice Thakkar? Is he sitting as a trial judge? Is he sitting as a judge in appeal? Or is he sitting as a judge in revision? No. He is sitting as a Commission. All commissions come to certain opinions and observations. Here, the Commission has certain suspicions. In every case, whatever be the finding of the judge, it is finally investigated by the police. The power to register a case and to take action is with the police, as per the laws passed by this Parliament under the Criminal Procedure Code. This power lies only with the police. Even this Parliament has no power to pass a resolution to the effect that such and such a case should be registered. Parliament can change the law, it can change the Criminal Procedure Code. But as long as the Criminal Procedure Code stands, it is the police who have to investigate. What is wrong with this procedure? What happened in this particular case? In this case, the judge has certain suspicions and the Commission has asked the police to investigate. They have made some investigative exercise and come to the conclusion that the suspicions are mere suspicions and there is no evidence and therefore so and so is not involved. What is wrong in it? It is a very natural course of events. Everywhere this is the course followed by various commissions. This is the most ordinary thing. I do not believe that Arif does not know it. Look at him, he is smiling! I know my dear friend that you know. (*Interruptions*)

SHRI H.K.L. BHAGAT: I also know what exercise you are doing. Mr. Buta Singh is not guilty of misleading. You are doing it. Some of you in the Opposition are doing the exercise of misleading.

SHRI ARIF MOHAMMAD KHAN: Are you rejecting the recommendations of the Thakkar Commission?

SHRI H.K.L. BHAGAT: I am only telling you that Mr. Buta Singh is not guilty of misleading the House. If you really have a conscience, once for a change, keep your hand on your heart and ask yourself as to why you are doing this exercise. It was one of the worst exercises made by some Opposition people to mislead the nation or was an attempt made to mislead the nation. I cannot give you my dear friends any words of wisdom, because you will never accept any words of wisdom from me...

SHRI ARIF MOHAMMAD KHAN: Now, we are ready to give you an understanding. (*Interruptions*)

SHRI H.K.L. BHAGAT: You are become bereft of telling wisdom. My own feeling is that you have become bereft of any realism. You are trying to I am talking as a political man—make the assassination of Mrs. Gandhi and the Thakkar Commission Report, a political issue with electoral motives. (*Interruptions*)

If the bonafides of the Opposition regarding Mrs. Gandhi are made known to the entire country, that will not take you up in the political set up.

SHRI ARIF MOHAMMAD KHAN: You don't like anybody taking a leaf from your book.

SHRI H.K.L. BHAGAT: The Opposition is trying to make this issue as an electoral issue. You think that you will gain politically out of it but I am sure that this issue will wipe you out from the political field. I can assure you that.

Secondly, I am very glad to see that a lot of concern has been expressed by the Opposition regarding Mrs. Gandhi's assassination. I am not lumping all together. There are some people who have been consistent right from the beginning. But what I am

saying is this. Where is the credibility of a number of them who are sitting here? A number of them who are sitting here on the other side of the House have expelled the elected former Prime Minister from this House. Do you think that people will see that you are shedding genuine tears for assassination of Mrs. Gandhi? No. Your credibility is totally suspect. Who prosecuted Mrs. Gandhi? Who opposed the Operation Black Thunder? One of the important leaders of the National Front—a Chief Minister—spoke against the Operation Blue Thunder.

I just want to have an answer for this question. I can name them. I do not want to name them, now. If you compel me, I will name them. (*Interruptions*)

All lot of funny things are being said here. You cannot run away from the truth or the hard reality. I want to know from the people who are running with the hare and hunting with the hound—who are these people who have encouraged these terrorists. Who are the people who have said one thing at one time and another thing at another time? Who are these people who have been hobnobbing with these people after Mrs. Gandhi's assassination? (*Interruptions*)

SHRI BHADRESWAR TANTI: What is going on?

SHRI H.K.L. BHAGAT: Truth is always bitter to swallow. I know it. Somebody has mentioned about the involvement of foreign power. Shri Arif knows it. He deliberately used the word "the judge has come to the conclusions." The judge himself says that there are certain suspicions or there are very strong suspicions in mind. Further, he says that I cannot use the word 'definitely.' You want that the material on which the basis were made regarding suspicion should be brought out so that the suspicion is discussed. Don't you think that these things will harm the country? He himself said it. I was very happy to say here this thing. Shri Jaipal Reddy talked about Shri R.K. Dhawan. It appeared in the Magazine. I have no per-

[Sh. H.K.L. Bhagat]

sonal knowledge about this thing that during the Janata period, attempts were made to win over Mr. Dhawan. Now also attempts were being made to win over Mr. Dhawan. An interview had appeared in the Press or for that matter in a Magazine. Nobody has contradicted it. None of you. I want to know from you, for whom do you stand? You stand yourself. You think that this is a weapon to beat the Congress and beat the ruling party. You are mistaken. You are living in a fool's paradise. Mr. Arif. And if you want to fool yourself who will help you? You think that the nation is waiting.....(Interruptions)

SHRI ARIF MOHAMMAD KHAN: I concede that you are in majority. (Interruptions)

SHRI H.K.L. BHAGAT: Yes; I am saying with clear majority. You may not accept my majority. You may not accept it. The elections are bound to take place six or eight months from now, as scheduled, as the Prime Minister has said. Then you will know the majority, you will know the reality also. My dear friend, if you think that this is going to harm us why are you worried? Why are you worried? If it is going to destroy our credibility what is your worry? You want to destroy our stability. You know, and I tell you, I am also a ground man, you are also a groundman. (Interruptions) After the elections this Prime Minister will be here with a very big majority and if, with this kind of performance you go before the people,.....

SHRI ARIF MOHAMMAD KHAN: Bhagatji, I am thinking about you. You may not be here. (Interruptions)

SHRI H.K.L. BHAGAT: If you have courage come and fight against me. I am talking of the elections. You or any of your leaders, any one of you, if you have the courage, come and fight. (Interruptions)

SHRI ARIF MOHAMMAD KHAN: There are other conspiracies. (Interruptions) I know, you will come back. I am talking of

other conspiracies, you do not know.

SHRI H.K.L. BHAGAT: With an overwhelming majority all the Congress people will come back in Parliament with Shri Rajiv Gandhi as the Prime Minister. I know, you are worried. I know, you are a worried people. I know that fact of my people who left the Congress and who will meet the same fate. What I say is, S. Buta Singh is not going to....(Interruptions)

AN. HON. MEMBER: do not get upset. (Interruptions)

SHRI H. K.L. BHAGAT: Mr. Jaipal Reddy, I paid some compliments to you just now. Sit down I can pay them now. Well, you are always a forceful presenter and the worse the case, the more forceful you are. You are a forceful presenter of a bad case. And you know that you had no case today. S. Buta Singh has not misled the House by any account, any manner or means. It is the Opposition which is trying to indulge in one of the worst exercises in misleading the nation, and they will fail. They are bound to fail. Thank you very much. (Interruptions)

SHRI S. JAIPAL REDDY: Let us go to the people on this issue.

PROF. MADHU DANDAVATE: Sir, have you changed the agenda for the day? On what subject was he speaking?

MR. CHAIRMAN: Shri Saifuddin Chowdhary.

SHRI SAIFUDDIN CHOWDHARY (Katwa): Mr. Chairman, now there is no denying of the fact that certain materials are withheld from this House, from Parliament. Which are these materials? According to us, certain portions of the report are withheld. How do we conclude this? We conclude this on the basis of what the author of the report has said. It is he, who has said that, "My report is in so many parts. The final report is in two parts, I and 1-A." Now, certain things were are not finding. Certain things are not given to us. Now, it is not that we have any

law which defines the meaning of a report. As per the author of the Thakkar Commission report, Mr. Thakkar's Report means, in many volumes, the recommendations, the introductions, the reasons, what has been given to us as claimed by the Government, while there are certain other things, exhibits, minutes, proceedings and summons. Mr. Justice Thakkar considers them also as a part of the report he gives them that definition.

Now, it is on this basis that we are demanding submission of the full report. If Justice Thakkar would say, "My report means only recommendations" then we would demand submission of exhibits, proceedings and minutes. We do not have to make this demand separately because Mr. Thakkar himself says, "All these are part of the report."

Now what shall I do in the situation? In the situation we can only agree for the Government to withhold certain portions, if they come and say that certain documents are classified documents, certain documents are not to be disclosed in the interest of further prosecution. This government had never stated that. Even on the very first day, when Mr. Indrajit Gupta made this argument during the debate on this issue, they did not take advantage of that. Sir, now one thing has become suspect. I believe Mr. Justice Thakkar himself anticipated that this confusion would take place. He understood that this Government would not submit the full report in the House and they would try to suppress certain things. That is why, he made it explicitly clear, what is meant by "report". He did not forget to include everything, including exhibits, minutes, proceedings, recommendations, summons and all other things. Now Mr. Chidambaram has said that certain volumes contain the material. Well, that is true. That is what we are demanding. Now in the Final Report, you will see Part I and Part I-A. In Part I-A, a reference to which was made at Page 138, he says that investigating agency had carefully and assiduously gathered material which leads to show that there is a definite hand of

foreign agency to create instability in this country. And on the basis of this report, Justice Thakkar says that they had a hand in creating instability in the country. Reading of this part of the report in Page 138 immediately instructs you to read Part I-A of the report. In a very broad manner, in a very explanatory manner, Justice Thakkar has not given it here, but he has given an indication for everybody to read Part I-A of the report. It may be very voluminous. That is why, he has not put here, but it is part and parcel of the report. On any ground, by any law, the Government cannot say that recommendation is report. Is there any law Mr. Home Minister, which lays down the meaning of 'report', which says that the definition of report is only recommendation? No. Totally it depends upon the author of the report. If the author says that minutes and proceedings are to be part of the report, then that is the part of the report.

If you think that certain things are to be withheld, you have to place the reasons before the House. Now leave aside the question of law. There is a moral question. There is a political question. There is a question concerning the unity and integrity of the country. On the very first day, I referred to this question of suppression of Part IA. Why should it be suppressed? For years we are saying that foreign hand is playing havoc in the country. Now they have a definite matter regarding involvement of the foreign agency creating instability in the country in the particular act of assassination. Thakkar Commission says, "we were not given enough material in this report that foreign hand was there in the particular act of assassination." But Mr. Justice Thakkar says, we do not rule out involvement of foreign hand in this particular act of assassination".

In view of what is given at Page 138 of the Final Report, is it not the duty of a patriotic Government to expose the foreign agency, which trend to create instability in our country? Whose interests will it serve?; whom are they going to shield?; whom are they going to hide?—I do not know. Except traitors nobody would hide this report from

[Sh. Saifuddin Chowdhary]

the public. You should also try to understand what kind of suspicion is going on in the minds of the people. Mr. Chidambaram has said that the other volumes of the report, as said by Mr. Thakkar, are nothing but exhibits, minutes, proceedings. If they are that, they why do you not place them on the Table? Do you fear that if you place them on the Table, the Table will break down? What are you hiding? If in normal course, the whole material of 8000 pages is kept in the library, I tell you nobody will go to read that material. But the way they are trying to suppress it, the suspicion is growing. In the Thakkar Commission's report, reference is to the needle of suspicion. Now the way they are behaving, the needle of suspicion will turn to fear of suspicion. This they must understand. If they have any concern for the unity and integrity of the country and of their own, they must place on the Table of the House volume I-A of the report, which is a part of the report. It may be anything. It may be material, it may be in connection with paper cuttings, it may be photographs, anything it may be, this a part of the report and you have to place it on the Table. You have no right to suppress it from the public and from this House.

With these words, I thank you very much for giving me the time.

17.06 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

SHRI V. KISHORE CHANDRA S. DEO (Parvathipuram): We are discussing today what the report means or consists of. You may recall that on the 17th when the Prime Minister came before this House, he categorically stated that since all investigations were over and since the placing of the Report will not affect any further prosecution or investigative process, the Government had then decided to place the entire reports before this House. It was only on the 27th that the said report was placed on the Table. Until then, I am sure you will agree with me,

we were all expecting that the report in all its totality would be placed on the Table of this august House. It is only after the report was placed and after we went through all the volumes that we discovered that the report was, in fact, placed selectively and partially on the Table of the House.

I would like first to draw a distinction between a report and a judgment because hon. Ministers, Shri Shiv Shanker and Shri Chidambaram, have taken umbrage under legal pleas and have also taken recourse to certain judgments and observations made by the Supreme Court vis-a-vis this case. This is a fact finding commission which gave a report and is thus qualitatively different from the judgement delivered by any court of law. This report can be intelligible, can make sense only if it is read along with all the evidence, annexures and papers pertaining to it. This is not an ordinary report. You will appreciate that this is very volatile, very sensitive and a very explosive issue which concerns assassination of Mrs. Gandhi, who also happened to be the Prime Minister of this country. Now, Mr. Bhagat, when he spoke, charged the opposition of not having agreed with Mrs. Gandhi on certain policy matters. Yes, politically we may not have agreed with Mrs. Gandhi but that does not mean that we have also conspired to protect the conspirators who assassinated her. What does he want? This concerns the Prime Minister of this country. This concerns the Prime Ministers, of all the Ministers sitting over there, who may be over here at a particular moment of time. Therefore, it is unfortunate that Shri Bhagat had to speak in this tone. It only showed his desperation. Further he said that report of the investigating agency was prepared and submitted by a judge who was selected by none other than this Government. Opposition did not appoint Justice Thakkar. It is they who chose to appoint Justice Thakkar. It is they who chose to keep this document secretly. Why? Because it was supposed to be a very sensitive document. If it would have been published, it should have threatened the security of the country and so on and so forth. But nevertheless, ultimately both the Reports did come on

the Table of the House, at least these two volumes, and I do not know which page of these volumes affects the security of the country or anything else.

The most unfortunate part is that this Report is today supposed to have been upstaged or negated by a Special Investigating Team or a committee, whatever it is. It is not only this one particular individual, there are several others who have been mentioned, who have been interrogated in this Report that we have before us. Why is it that this Special Investigating Team exonerated only this one particular individual? What about the rest? These are questions which will have to be answered. In the Interim Report, you have the names of twenty-one officers. Now, what is the evidence they gave? In many of his conclusions, Justice Thakkar says that there has been a gross dereliction of duty on their part. This goes on page after page in this Interim Report. don't we have the right to know, does not this Parliament have the right to know, is not the country entitled to know why these officers were not proceeded against? On the contrary, we understand that some of them have been given promotions. One of the them who has been very severely indicted, has been made a member of the Public Service Commission in a State. Some of them have been made IGS? some of them have been made Additional Secretaries. And yet there are some who are still lying in the house. Why? Are we not entitled to know? Is this House not entitled to know? Actually, this Commissions of Inquiry Act is an Act which is the creation of this House. After getting the permission of this House or after a Resolution is passed in this House, a Commission of Inquiry can be constituted. Ultimately you had to get the permission of this House to withhold this Report from going public and ultimately, even before this House could know what was happening, this Report connectionly found its way to the Press. How did such a high security document, such a sensitive document go to the Press? The Government owes an answer to us on this. Certainly this is not a Report which we think deserves the kind of confidentiality that the

Government claimed at one time and they kept it also in that manner. But there may be other classified documents which may leak similarly. How safe is the country in the hands of a government which cannot hold confidential documents which they consider so secret and so sensitive and which even affect the security of the country?

There are several other questions which remain unanswered. This Commission was supposed to go into a larger conspiracy, if any. You are well aware, Sir, that out of the two assassins, one assassin was killed by yet another assassin. Common-sense would say, any logic would say at the very first instance that this was done to tarry evidence. You may recall what happened to Lee Oswald who assassinated the then President of USA, Mr. John Kennedy. So, why is this that this person has not been interrogated or cross examined or even asked to make a statement? How did Justice Thakkar think he would get at the larger conspiracy without even taking a statement from the assassin who assassinated the assassin of Mrs. Gandhi? These are questions which are hunting common man's mind, which are lurking today as dark shadows which have been cast around this Report that has been placed before us. What is so confidential about these 7,000 pages that have been withheld from us? Are all the 7,300 pages so sensitive so as to cause as threat to our national security? Therefore, to understand this Report, to know the basis on which Justice Thakkar arrived at these conclusions, it is imperative that we have these other parts, including evidences, records, everything that goes along with it, especially because one person who has been indicted so severely has been exonerated.

We should also know why he has been exonerated, the basis on which they exonerated him. Before that we should know the basis on which Justice Thakkar indicted him because if they said he has cleared him, then it could also be possible that Justice Thakkar at somebody's instance concocted or fabricated this case. And if he did that against him the he could have done it in many others

[Sh. Saifuddin Chowdhary]

also. Are we not entitled to know this? Sir, in the final report at page 138, he has clearly mentioned and I quote:

"that a full and detailed report carefully and assiduously prepared by the said agency is included in Part-I A

It is clearly said that "full and detailed report" and this is presumably Part-I of the final report. Now, what has happened to Part-I-A? Part-I-A contains what? It contains a great deal of material. Here I would like to stress that obviously you cannot have a report without any material. You cannot have that report. There has to be a material and without that material the report makes no sense. This is very vital part of the report because it deals with the involvement of the foreign agency. I would agree with my colleague, Shri Arif Mohammad Khan, who rightly said that if a foreign country could involve itself with the assassination of the late Prime Minister, then with what face we claim friendly relationship with that country? Why should we try to protect that country or its agency? May I know it the hon. Home Minister? These are very disturbing questions. Well, Shri H.K.L. Bhagat, hon. Minister for Parliamentary Affairs and certain other Members have said that they are trying to get political advantage. Let me tell you: who got the political advantage of Shrimati Indira Gandhi's assassination. Will they deny the fact that they came over here on the sympathy of Shrimati Gandhi's assassination? That is how you get elected. That is how you got the votes from barlot papers which flew out from the barrel of an Assassin's gun. Don't forget that? The mystery that shrouds the assassination of Shrimati Gandhi can also throw them out of power, not us. It is in their interest that they should reveal all the documents, relevant papers and tell the nation that today they are not trying to protect the conspirators of Shrimati Gandhi assassination. The case that Shri Shiv Shanker was trying to make out was that Shri Buta Singh, the hon. Home Minister, deliber-

ately and willfully did not mislead the House but may be inadvertently he did it. He is not as innocent as that. If he did it inadvertently, obviously he did not read the report and if he did not read the report does it befit him to hold this charge? Nobody today has taken the responsibility for the leakage of the report. Prof. Kurian said: why did you take it up after 4 1/2 years? Because you got it leaked after 4 1/2 years. Sir, you will agree with me that none of us from the Opposition has any access to the Home Minister. (*Interruptions*)

SHRI SHRIPATI MISHRA (Mathlishahr): Some of you have got access. (*Interruptions*)

SHRI V. KISHORE CHANDRA S. DEO : If we have access, you come over here and we will not only place all the 7300 pages on the Table of the House but even 17000 pages if they are there. Therefore sir, he has willfully and deliberately misled the House and I charge him of gross dereliction of his duty and contempt of Parliament and therefore I commend that Prof. Madhu Dandavate's motion be adopted.

SHRI BHADRESWAR TANTI (Kaliabor): Thank you very much, Sir. Sir, the people of this country have lost the precious life of the late Prime Minister, Shrimati Indira Gandhi, not at the hands of some unknown criminals, but at the hands of the security personnel. It was a very sad moment not for the people of the country alone, but for the entire globe. The people of the country are very much concerned and that is why this matter was required to be inquired into by a sitting Judge of the Supreme Court, Mr. Thakkar. Why was this Commission set up? To find out the fact as to who committed the crime. Now, the report was submitted and by Notification the Government withheld the Report from the Parliament. This very part of the document, the report, was not placed before the Supreme Court, nor was it placed before this august House, this Parliament, but it has gone to the press. The Government is the custodian of the document. How could this document go to the press? Who has leaked it? It is not the Opposition which

has leaked this information to the press as it is in the custody of the Government. The government being the custodian of the document has leaked it. And that is why we demanded from our side that the full report of the Thakkar Commission should be placed before the House including all documents. Ultimately Rajiv Gandhi declared in this House that he would place the report on the 27th March. The interpretation here is that the other pages are not a part of the document. Since you have withdrawn the Notification you are duty bound to place the entire report in this House. And we have our right, the people of the country have a right to go through the document. You have no right to withhold it. That is why we demanded that it should be planned before the House. Now it is your duty to place it. There is a proverb that Caesar's wife is always above suspicion. You act like a Caesar's wife. You be clean and place before this House the report of the Commission. Everybody has come to know what is in the report, and you have withheld 7,300 pages. Only you have placed before the House some portions of the report, that is, the document, and the most important part of the document you have withheld. Do you have any right to do so since the Notification has been withdrawn? Since you have declared in this House that you would place the entire report, you are duty bound to place the report for the consideration by this House. You cannot withhold it.

Sir, the Government is not concerned with the anguish and anxiety of the people of the country. They are concerned with themselves.

AN HON. MEMBER: Make your point.

SHRI BHADRESWAR TANTI: That is the point. You don't go through the papers. Every day some incident takes place. Yesterday six girls were raped in the brick-kiln in Bihar. How can the Government protect the innocent Harijan girls, those who are working in the brick-kiln? You see in the paper, every day it is coming in the media. Some gruesome murder has taken place here in Delhi itself, in the vicinity of the city. And if

you want to be clean, how can you be clean? How can you protect the lives of the poor men while you could not protect the life of a Prime Minister? We are very much concerned about the Prime Minister. You are adding fuel to the fire. Who are inciting the Bodo people? It is you and not we people. You are masterminding the Bodo problems.

I support the motion moved by Prof. Madhu Dandavate and demand that the Government must place all the documents and findings on the Table of the House. They cannot withhold those things. The report means all documents including Annexures, cross-examination evidence and whatever is mentioned in the Thakkar Commission report.

I support the Privilege Motion. (*Interruptions*)

SHRI G.M. BANATWALLA (Ponnani): Mr. Deputy-speaker, Sir, the present discussion would have been much facilitated and would have been more meaningful had the House been given the benefit of Speaker's ruling as to what constitute the entire "report". Unfortunately, we do not have the benefit of the knowledge of the ruling. The question as to what constitutes the entire report is inextricably linked with the question of breach of privilege that has been raised against the hon. Home Minister, Shri Buta Singh.

Sir, unless we decide as to what constitutes an entire report, it will be difficult to say whether a breach of privilege has been committed or not. If the opinion is that the entire report has already been placed on the Table of the House, then the question of breach of privilege does not arise. The question of breach of privilege would arise only when this part is cleared as to whether the entire report has or has not been placed on the Table of the House.

What is an entire report? There could be different views on it. The Government may have one view as to what constitutes an entire report. Similarly, the Thakkar

[Sh. G.M. Banatwalla]

Commission may have its own view as regards its own report as to what constitutes its report. This House may have its own view as to what really constitutes the report. Then, there may be legal view with respect to the Commission of Inquiry Act as to what constitutes the entire report.

Now, what we are concerned with here is, the perception of the House as to what is an entire report and whether that entire report has been placed before the House. On this particular question, the perception of the House as to what constitutes the entire report, that question is yet to be determined by the hon. Speaker. I may, therefore, proceed on the assumption that what constitutes an entire report has not been placed on the Table of the House. Supposing we take this assumption that the entire report has come before the House, then the question of breach of privilege does not arise. Therefore, suppose the entire report has not been laid on the Table of the House, then we may proceed on that assumption as to whether there is any breach of privilege on the part of the hon. Home Minister or not.

Supposing the entire report has been presented then the question as regards the breach of privilege will depend on whether the failure to present the entire report is due to a deliberate attempt to mislead the House. The mere fact that the entire report has not been presented to the House does not constitute a breach of privilege. As I said, there may be different perceptions as to what constitutes the entire report. Therefore, in addition to the fact that the entire report has not come before the House, we have also to be convinced that, one the failure to present the report has been a deliberate failure and two, a deliberate failure to mislead the House. That is the crux of the question. The crux of the question is, whether there has been a deliberate attempt to lead this House into believing that what has been laid on the Table of the House is the entire report and that there are no other parts thereon, and that there are no further documents.

But, the hon. Home Minister rose in the House. He placed some documents on the Table which he thinks are the entire report. Even a cursory reading of that particular document itself shows, that there are further documents in addition to what has been placed on the Table. Therefore, how can we blame the hon. Home Minister for having deliberately mislead the House? He placed a document on the Table without erasing those portions of the documents which say that there are further documents. At least, he has not misled the House. The House, from that document placed on the Table, knows that there are further documents. Where is the question of misleading of the House!? I cannot understand the hon. Home Minister Shri Buta Singh got up—this question as to whether entire report is not placed is a different question—and he placed a report on the Table of the House. That report itself shows that there are further documents. He has not expunged those parts of the report. By reading the report, given to us by Shri Buta Singh, we know that there are further documents. We are not misled. Where is, therefore, the question of misleading of the House? The question of breach of privilege, therefore, does not arise at all!

The question is whether the entire report is there or not is a separate question. We shall go into it at the appropriate time. But, there has been no misleading, no deliberate attempt to mislead the House, because the report presented by the hon. Home Minister itself shows that there are certain other parts which the House has taken note of.

Therefore, we are having a very interesting debate. As the debate proceeded, we are having a very interesting and curious situation. The question of breach of privilege is merely whipping a deal house. There is no misleading at all. We are having a very interesting debate. As the debate proceeded, some hon. Members of the House got up even to say that we want to drop the charges.

Another hon. Member blunted out saying that the misleading was an inadvertent

misleading which means that there is no breach of privilege!

I do not understand that the question has only been raised, as a matter of fact, as a constitutional device, parliamentary device, to press the Government to bring the entire report before the House. That is, I believe, the only purpose that it must serve. Here on this particular question, I must make a very fervent appeal to the Government.

It is no use now holding back documents which are already appearing in instalments before the public.

I hope the hon. Member Prof. Dandavate will withdraw his question of breach of privilege. If he does not withdraw, I am sure, the House will throw it out because it does not have any basis whatsoever. But, in addition to that, I was making a fervent appeal, to the Government. It is no use trying to hold back the documents which have already been appearing before the public in instalments. It would be a better and wiser course that apart from the question, whether it is an entire report or not, the Government may *suo motu* come forward and place each and every bit of paper concerned on the Table of this House. I would request that thing. It is better for the nation to march forward under the sunshine of certainty rather than move under the dark clouds of suspicion. That would be a better course to adopt. The only argument that is coming forward is that certain prosecution cases in the larger interest of conspiracy will get prejudiced. I would ask, with all respect, as to what is the use of such prosecutions of larger conspiracy, which do not stand the light of the day, which would fall down if all facts are made known. It is better that even the accused persons have all the facts with themselves. It would be totally wrong to hold back certain information and get some people accused and then say that justice has been done. That is an assinine method within our legal system that we have. The Government may better make all the facts clear. Then only justice will be done. While opposing the motion of breach of privilege I firmly hope

that Prof. Dandavate will withdraw his motion. At the same time, I appeal to the Government now that enough is enough and come out with all the papers, lay them on the Table of the House rather than let this nation go under suspicions and suspicions. That would no be a healthy political atmosphere for the progress of the nation.

[Translation]

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): Mr. Deputy Speaker, Sir, today, there have been discussions in this august House on the motion of privilege moved by Prof. Dandavate. the hon. Members of Opposition made their all out efforts to prove that I have committed the contempt of this House. Although, Mr. Banatwala who has spoken in the last, tried in this own way to prove it that neither deliberately nor in a general way, I have committed the concept of this House. But on the contrary, I have only done my duty and have had my full regards and reverence for this House as the Supreme Institution of democracy. Therefore, first of all, I refute this charge levelled against me by Prof. Dandavate that I have committed the contempt of this House.

Now, the point is that the facts on the basis of which Prof. Dandavate has levelled charges against me has got two main aspects of which one concerns the law and legal procedure and the other one is related to politics. As regards, the second aspect of it, it has been stated in very clear words, by Mr. Indirajit that it is not the question of law or the legal procedure but this is only a political issue. On this, I agree with him. Had it not been a political issue, the Opposition would not have used this august House since last seven days continuously to indulge in a propaganda against Government and to level all sort of charges against them. Just now, it has been stated here by Mr. Arif Mohd. Khan that the report has been changed, it has been suppressed and misplaced by the Government and many other such things have been said here. He has also expressed his gratitude to a particular newspaper, with the view that had it not

[S. Buta Singh]

appeared in the newspaper, the report would never have been made public.

SHRI INDRAJIT GUPTA (Basirhat): It is correct.

S. BUTA SINGH: But I will prove that it is wrong.

SHRI S. JAIPAL REDDY (Mahbubnagar): You are to speak on by on those lines.

S. BUTA SINGH: I am going to prove.... (Interruptions)

Sir, whereas the newspaper which is being referred to here, had published it on the 14th March, 1989 but if the memory of our hon. Members of Opposition is not short, this report was in fact leaked immediately after 7 days of its submission to the Government and the same was reproduced in "India Today" in their issue dated 31st March, 1986. In support of my above contention, I am going to produce a letter to prove. That it was the same report. The man who had passed on this document to Arun Shourie has not shown any special favours to him as that very man had already obliged someone else or for that matter, Shri Shekhar Gupta of "India Today" which had published it not only in one instalment but in two, the first of which was published in the 31st March, 1986 issue of "India Today" and the second one in the 31st July, 1986 issue by the same scooper, Shri Shekhar Gupta. So this is not such a big scoop or surprise-catch of the century for which our opposition members and their supports should boast of. This is not so that they have won a big victory over the Government by publishing this report in the newspaper. Now, the question arises as to how the whole report was leaked immediately after its submission.

SHRI INDRAJIT GUPTA: This is a matter to be investigated by the Government.

S. BUTA SINGH: I am telling you.

SHRI C. MADHAV REDDI: How was it leaked?

S. 'BUTA SINGH: You just listen to me.....(Interruptions).....I regret it. I have a high regard for some journalists, particularly for Shri Arun Shourie, who have earned fame all over the country. He might be thinking that he had come across a very precious catch but before it could be made available to them, the report was first leaked to Shri Shekhar Gupta when it was first passed on to Shekhar Gupta in whose custody this report was...?..(Interruptions)...You, please listen to me. It was said that the report was kept in the vaults of the North Block. I am not so well versed in the language as you are accustomed to. The other day, on my using a word of English, Mr. Arun Shourie passed a joke on me. Then I could clarify him that I had taken that word from somebody else. In fact I learn English words from somebody else as it is not my mother-tongue. It is the professional journalists whose language of expression is English. English is not my language. In fact, I learn English by going through the newspapers and listening to your speeches. I am not the product of a public school nor I was born with a silver spoon in my mouth. I had my schooling in a village school. So whatever English I could learn, I learnt it from others including Mr. Arun Shourie who has contributed in increasing my vocabulary of English. But the fact to be reckoned is that where was the report at that timeThis was not kept in North Block. I can prove this that the report was in the personal custody of the then Internal Security Minister....(Interruptions) I am not talking about the leakage of today.

[English]

SHRI S. JAIPAL REDDY: Why didn't you take action at that time?

(Interruptions)

SHRI V. KISHORE CHANDRA S. DEO: Why didn't you prosecute him?

If you have the guts, then prosecute him.

[*Translation*]

S. BUTA SINGH: Please listen to me Mr. Kishore Babu. (*Interruptions*)

[*English*]

SHRI S. JAIPAL REDDY: If it is your contention that he leaked it then itself as Minister what were you doing at that time? Were you sleeping or snoring?

(*Interruptions*)

SHRI V. KISHORE CHANDRA S. DEO: If the Prime Minister gave it to the then Minister of Internal Security, then full responsibility should be borne by the Prime Minister.

[*Translation*]

S. BUTA SINGH: Please sit down Mr. Kishore. If you do not understand anything then it is not my fault. Even today I find you in his company and if you do not understand this, there is no fault of mine.

AN HON. MEMBER: The Government should prosecute them.

S. BUTA SINGH: Sir, whatever I have stated, is only facts.

SHRI INDRAJIT GUPTA: When Mr. Thakkar had completed his report, he would have got the copies of that report prepared in his office. Now I want to know as to whether any enquiry was made by Government in regard to the following such as to whom the first copy of that report was sent by him and the names of persons to whom these copies of report were sent.

S. BUTA SINGH: Today I would say only this much that I am placing before you only the facts related to the matter... (*Interruptions*). These are the facts. The documents connected with this...

[*English*]

SHRI S. JAIPAL REDDY: Sir, he cannot selectively disclose the facts like this.

S. BUTA SINGH: They have been selectively beating us and now they are not prepared to face the facts.... (*Interruptions*) I will come to it, don't worry.

[*Translation*]

You will have to keep patience if you want to listen to me. I will get you fully convinced.

SHRI INDRAJIT GUPTA: Okay. You continue as you wish.

S. BUTA SINGH: I am talking about the leakage of report on that point of time. In fact it was leaked secretly. It is a very ordinary thing which has no meaning as the entire report has already been published in the paper... (*Interruptions*)....

SHRI BASUDEB ACHARIA (Bankura): From where and how did they get this report?

S. BUTA SINGH: Now as regards...

SHRI S. JAIPAL REDDY: I am on a point of order.

MR. DEPUTY SPEAKER: What is your point of order? Under what rule?

PROF. MADHU DANDAVATE: Under Rule 376.

SHRI S. JAIPAL REDDY: It was known through discussion in the House that even the Cabinet Committee on Political Affairs was not shown the report. How is it that Mr. Buta Singh says now that a Minister of State was shown the report. (*Interruptions*)

MR. DEPUTY SPEAKER: There is no point of order in this.

SHRI S. JAIPAL REDDY: Who is guilty then? Why did he show it to Mr. Arun Nehru who was only a Minister of State? *(Interruptions)*

MR. DEPUTY SPEAKER: I cannot allow. Please take your seat. *(Interruptions)*....The Minister is on his legs, nothing else will go on record. I am not allowing anyone except the Minister to speak. Please take your seat.

*(Interruptions)**

MR. DEPUTY SPEAKER: You listen to the Minister first. Afterwards you say, whatever you want to say.

(Interruptions)

MR. DEPUTY SPEAKER: No, I am not allowing anyone. Please listen to the Minister. When he is not yielding, I cannot allow anyone to speak.

(Interruptions)

MR. DEPUTY SPEAKER: Mr. Saifuddin Chowdhary, please sit down. Nothing will go on record. You can ask after words. I will allow you.

*(Interruptions)**

S. BUTA SINGH: Mr. Deputy Speaker, Sir, Shri Indrajit Gupta was absolutely right when he said that it was a political question and not a legal one. *(Interruptions)*.. You have taken six hours and I will conclude it in just six minutes....*(Interruptions)*..

Shri Indrajit Gupta has rightly said that it was a political question. Among the hon. Members who are saying this, there are several such hon. Members sitting here who won the elections held in the year 1980 by holding the banner of Shrimati Indira Gandhi, *(Interruptions)*...now they are recalling her not by her name but as "the then Prime Minister" or her murder is being referred to by them as "the murder of the then

Prime Minister". Her name does not come at their lips now. *(Interruptions)*....they now feeling shy in uttering her name at their lips as they are in the company of persons...*(Interruptions)*...who have delivered such speeches*(Interruptions)*... these are in print, you can see and read it...*(Interruptions)*....Today, they are feeling shy in bringing her name at their lips, they fear that they even by mistake, might call her as their leader. That is why they are referring her as "the then Prime Minister."

She was the kind of Prime Minister who sacrificed her life for the sake of unity and integrity of the country. In order to secure secularism in the country, she did not hesitate in running the greatest risk. She had unflinching faith in the people of the country. She was the greatest leader of the country who followed the ideals of Mahatma Gandhi and Pandit Jawaharlal Nehru by her deeds and action. Today, efforts are being made and articles of some renowned journalists have already appeared in the newspapers and if I mention their names, they may again raise objection. They have also written as stated by Shri Indrajit Gupta, the member of opposition are making their all out efforts as to how the Hon. Prime Minister could be alienated from his party men and his followers and the members of his family and from Shrimati Indira Gandhi.

SHRI INDRAJIT GUPTA: Why are you dragging my name? You cannot do this...**...in the guise of my name.

[English]

MR. DEPUTY SPEAKER: This word will not go on record.

[Translation]

S. BUTA SINGH: I did not say that you have stated that. I have not mentioned your name. I merely submitted that you told it to be a political issue. It is true that efforts are being made. They have adopted this political gimmick.

*Not recorded.

**Expunged as ordered by the Chair.

[English]

I am sorry you have taken it so strongly. I am sorry you have not followed me. I have not named you.

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS (PROF K.K. TEWARI): We respect Mr. Indrajit Gupta for his seniority but it does not behove him to use such a word against the Home Minister. He should withdraw that word.

[Translation]

S. BUTA SINGH: I have not mentioned your name. You are losing temper without any rhyme or reason. You should withdraw this word. (*Interruptions*) Alright, I do not accept this word, so it goes back to you.

Mr. Deputy Speaker, Sir, as I stated that some renowned journalists have analysed that matter. I specifically mentioned your name in that context because you said that.

[English]

It is a political game, a political issue. Then you said that.

[Translation]

SHRI INDRAJIT GUPTA: If at all it is a game, you are also involved in this game. But as a matter of fact, I have not uttered the word game.

[English]

S. BUTA SINGH: I am replying to that I am not quoting you for that.

S. BUTA SINGH: I am replying to that. I am not quoting you for that.

[Translation]

How a drama was made in this House with regard to murder of Smt. Indira Gandhi, you might be recalling that the first day a lot of

things were said in my praise, so much so that it is I who can or could saved third report from destoration as a Minister of Home Affairs. (*Interruptions*) I was being praised for that. When the report was made public, these very persons are now calling bad name for me and accusing me as the most Incompetent. Home Minister (*Interruptions*) If took just a few minutes in charging their tone because they could not succeed in achieving their political ends. (*Interruptions*)

Sir, it is a political issue. We are aware of the factions and elements who are raising this issue for political gains. In order to achieve political gains agitations have been started and processions are being taken out all over the country. Efforts are being made to exploit the situation. Those who have no political philosophy or any programme, indulge in such gimmicks or raise such slogans to mislead the people. (*Interruptions*)

But our countrymen know it very well that the Congress Party with the blessings of Shrimati Indira Gandhi has accomplished the commendable work of resorting communal harmony took the nation ahead and accorded highest priority to restore law and order in the country. Achievements in the national and international affairs of the government under the leadership of Shri Rajiv Gandhi have been unprecedented, be it the meeting the challenge of drought or any other problem.

AN HON. MEMBER: You should speak on privileges. (*Interruptions*)

S. BUTA SINGH: First of all I am to reply to your points, I will come on privileges later on.

Sir, my first question is why did the members of opposition not make any hue and cry when the report was first published in 1986 (*Interruptions*)

Should I suppose that the persons who are now making hue and cry were in our party that time and now they have joined hands with the opposition? Should I attribute this factor this to this hue and cry?

[English]

PROF. MADHU DANDAVATE: At that time I opposed it right from the beginning till the consideration stage.

[Translation]

S. BUTA SINGH: It is totally wrong, when it was leaked....(Interruptions) I will make my submission in Hindi only, no matter you understand it or not. Why the matter was not raised when it was fist leaked out. (Interruptions)

AN. HON. MEMBER: We did not get the opportunity. (Interruptions)

S. BUTA SINGH: Rather these beautiful faces at that time were this side, the well-known personalities used to sit on the treasury benches.

SHRI ARIF MOHAMMAD KHAN: Perhaps you are referring to 'the big boss'

S. BUTA SINGH: Yes, I am referring to 'the big boss'.

SHRI ARIF MOHAMMAD KHAN: To whom you always used to be at he beck and call.

18.00 hrs.

S. BUTA SINGH: You are also perfect in that art. I get him expelled unceremoniously. But the person who used to be underling is still enjoying the same status. (Interruptions) I am sure this uproar will meet the same fate as their other uproars made during the period of last two years, it will lose its intensity as soon as the people come to know the actual facts. I am sure that our countrymen are well aware of the facts about the murder of Shrimati Indira Gandhi. They will give a befitting reply to them at the appropriate moment, then it will create a difficult situation for them. But that is not my subject to deal with today. Now I come to breach of privileges. I would like to conclude just with a very small word. (Interruptions)

The report which I presented on 27th March in the House is a final one in the House. I still adhere to my words. There is no report other than that. They have quoted the rulings of the Supreme Court.

18.02 hrs.

[MR. SPEAKER in the Chair]

My colleague Shri Chidambaram has nicely put the matter before you by referring to all the commissions which have been constituted till today. You are very well aware of the fact that marriage is solemnised only with the consent of groom and bridegroom. Let us see what recommendations have been made by Shri Thakkar. I would not read out the pages of the report because all the Members have gone through them. I read out the letter to Shri Dandavate.

Shri Thakkar, in his letter dated 21st March, after presenting the report to the Ministry of Home-Affairs, wrote to us that he had presented the final report on 27th February and now forwarding the documents made available to him. The first report was submitted on 19th November and the second report was submitted on 27th February 1986. This letter was written to the Home Secretary by the Commission. He has written in it:-

[English]

This is a letter written to the then Home Secretary by the Secretary of the Commission.

"The hon. Commission has already submitted its Interim Report and Final Report personally to the hon. Minister for Home Affairs on 19.11.1985 and 27.2.1986 respectively.

2. As directed by the hon. Chairman, I now submit the secret records relating to the Reports. They are in 12 volumes as described below:

4 volumes - II-A to II-D

4 volumes - III-A to III-D

2 volumes - IV - Sections 1 and 2

The above ten volumes pertain to the Interim Report presented on 19.11.1985.

3. I also submit two volumes, Part I-A (Section 1) and Part 1-A (Section 2). These volumes relate to the Final Report presented on 27.2.1986." (*Interruptions*)

SHRI S. JAIPAL REDDY: Now, the cat is out of the bag. (*Interruptions*)

S. BUTA SINGH: Sir, this is the letter; I am concluding....

(*Interruptions*)

[*Translation*]

MR. SPEAKER: Why don't you listen? Please sit down.

[*English*]

S. BUTA SINGH: Sir, this is the letter from Justice Thakkar in which he has said that "I now submit the records of the details which are given below". These are the records of the Commission submitted to the Home Secretary after 22 days. Therefore, Sir, the Report as submitted to the Hon. Home Minister on the 27th of February is complete and final. There is nothing more to it. I have not done anything by which it can be constructed that I have committed a breach of privilege of this House. Therefore, I refute all the innuendos and all the charges that have been levelled against me.

SHRI S. JAIPAL REDDY: Sir, I am on a point of order.

MR. SPEAKER: What is your point of order?

SHRI S. JAIPAL REDDY: Sir, he has quoted from the letter of the Commission. Therefore, that letter must be placed on the Table of the House.

[*Translation*]

MR. SPEAKER: It has already been formed part of the record.

[*English*]

SHRI S. JAIPAL REDDY: He has not quoted the entire portion of it. Let him place the entire letter on the Table of the House.

MR. SPEAKER: That will be coming.

S. BUTA SINGH: Now, Sir, in the end I would like to submit most respectfully and humbly to this august House that I have been in this House for the last 25 years. I have been trying to discharge my duties to this House with the utmost sincerity and it is too much on the part of Prof. Dandavate to say that I have deliberately misled this House. Far from truth, I repudiate all the charges made by the Opposition, including Prof. Dandavate, and I request that this House may throw these charges out that are levelled against me.

MR. SPEAKER: Prof. Madhu Dandavate has given a notice of privilege against S. Buta Singh, the Home Minister. He may move the same if he so desires.

PROF. MADHU DANDAVATE: Sir, before I move it for the adoption of the House, in the light of various observations that have been made in the House, I would like to say a few things in a few minutes.

MR. SPEAKER: Can you do it now? I don't think you can do it now. You only have to move the Motion.

PROF. MADHU DANDAVATE: Yes Sir, I am allowed. (*Interruptions*)

PROF. MADHU DANDAVATE: I will put the Motion and I will say a few words. When I move a motion, I am allowed to make a few observations.

MR. SPEAKER: No. Sir.

[*Translation*]

(*Interruptions*)

MR. SPEAKER: Why do you make a noise?

[*English*]

PROF. MADHU DANDAVATE: When a motion is moved, I am allowed to make a few observations in the light of the observations made. I was allowed to make a few observations earlier when I moved the Motion. (*Interruptions*)

Tell me which is the Rule which prevents me from this.

(*Interruptions*)

Sir, it is my right.

MR. SPEAKER: No, Sir.

PROF. MADHU DANDAVATE: Sir, either you allow me to make a few observation now or after I technically move the Motion.

MR. SPEAKER: I have allowed you to move the Motion and also your comments thereon.

(*Interruptions*)

MR. SPEAKER: I am guided by the Rules.

PROF. MADHU DANDAVATE: I will quote the Rule. (*Interruptions*)

First, I have to raise the question of privilege, then I have to move the Motion. Now I am at a stage of moving the Motion. I will take only a few minutes.

MR. SPEAKER: No, Sir.

PROF. MADHU DANDAVATE: Under which Rule are you prohibiting me? (*Interruptions*)

Last time, when the Motion against Shri Arun Shourie came, they were trying to shout me out but you allowed me to make a few observations and you told me that anyone who moves the Motion is allowed to make a few observations. I would not take much of the time.

MR. SPEAKER: Rule 226 says:

"If leave under Rule 225 is granted, the House may consider the question and come to a decision or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member."

PROF. MADHU DANDAVATE: Show me the Rule.

MR. SPEAKER: I have done.

PROF. MADHU DANDAVATE: I have read it umpteen times

MR. SPEAKER: I am reading it for the last 9 years.

PROF. MADHU DANDAVATE: I am also reading it for the last 16 years.

MR. SPEAKER: Might be more than that, I admit, Sir. But I thought that was my sole occupation but you have also been doing the same thing.

PROF. MADHU DANDAVATE: I am thankful you for allowing me to make a few observations.

MR. SPEAKER: No Sir. You have to put the motion.

PROF. MADHU DANDAVATE: But in your absence so many arguments have been made. I will take only three minutes Sir.

MR. SPEAKER: No please.

PROF. MADHU DANDAVATE: All right Sir, I have to accept because you are in the Chair.

MR. SPEAKER: Thank you very much.

AN. HON. MEMBER: He is not a special member.

PROF. MADHU DANDAVATE: No. I am not a special member, I thought you would give me some advantage to the weaker sections. We are a minority in this House.

MR. SPEAKER: Please move your motion.

PROF. MADHU DANDAVATE: While moving the motion, I just want to make a request and seek a clarification. This is without prejudice to the ruling which you have to give on the substantive motion after your consulting the Attorney General. I am making this clear now.

SHRI H.K.L. BHAGAT: There is no rule whereby he can make further observations. All the rules are on his fingertips and he could have quoted the rule very easily if there were any rule. (*Interruptions*)

MR. SPEAKER: I have allowed you Professor.

PROF. MADHU DANDAVATE: I beg to move:

"That this House is of the opinion that the Home Minister Shri Buta Singh has committed a breach of privilege of the House in deliberately misleading the House in deliberately misleading the House by not laying on the Table of the House the complete Report of the Thakkar Commission regarding the assassination of Shrimati Indira Gandhi."

MR. SPEAKER: The question is:

"That this House is of the opinion that the Home Minister Shri Buta Singh has committed a breach of privilege of the House in deliberately misleading the House by not laying on the Table of the House the complete Report of the Thakkar Commission regarding the assassination of Shrimati Indira Gandhi."

The motion was negatived

PROF. MADHU DANDAVATE: When is your ruling coming?

MR. SPEAKER: I am doing my best. I am on the job. I have got the ruling just now.

SHRI S. JAIPAL REDDY: We want to hear the Attorney General. We came to know that the Government had consulted him even before you did.

MR. SPEAKER: Mr. Jaipal, please listen to me. If you want to call the attorney General, it has to be through a motion of this House. If you like, you can do it. There is no problem.

SHRI SAIFUDDIN CHOWDHARY: We want to ask the Attorney General certain questions.

MR. SPEAKER: You have to pass a motion to call him. There are four ways to call the Attorney General. One is a motion has to be passed by the House. Secondly, he can be called by the Government and asked to explain anything.

SHRI S. JAIPAL REDDY: But the Government consulted him before you consulted him.

MR. SPEAKER: Well there is no bar. He is available to the government. He is available to me because he is the only person whom I can ask for any legal advice.

SHRI S. JAIPAL REDDY: But I am saying that the government has consulted him before you could do so.

MR. SPEAKER: I am not barring it. Nor am I saying that it cannot be done.

SHRI S. JAIPAL REDDY: But that prompted your move to...*(Interruptions)*

MR. SPEAKER: Please sit down. I will give my ruling.

18.14 hrs.

RULING BY SPEAKER RE. THAKKAR

Commission Report

[English]

MR. SPEAKER: Hon'ble Members may kindly recall that on the 28th March, 1989, several Members had raised the question whether Government had laid the complete report of the Thakkar Commission on the Table of the House or had withheld some portions thereof. As there was difference of opinion on what constituted the complete report of the Commission, it was decided to seek the advice of the Attorney-General.

I have since received the opinion of the Attorney-General. I have considered the matter in all its aspects including the opinion of the Attorney-General. I have also heard the views of hon. members as suggested by Shri Jaipal Reddy because I am very much...

Shri S. Jaipal Reddy (Mahbubnagar): Influenced Sir?

Mr. Speaker: No question of influence! It is because I was so much taken in by what he said. I am very thankful to him. Mr. Reddy you helped me in clearing my mind. Otherwise I would not have been able to do certain things.

I have also heard the views of hon. members on this aspect of the matter during the discussion on the Privilege Notice today

and am grateful for their lucid and learned expositions.

The Commission seems to have used the words, 'Report', 'Volumes', 'Parts', 'materials' and 'Records' rather loosely. while in para 1.6.1. the Commission speaks of the final report being in two part—Part I and Part IA—in para 1.6.3 Part IA is stated to contain 'material' on which 'report' is based. Again, in para 1.6.5, Part IA is said to be part of 'records' which were not formally submitted to Government with the report but which were to be given to the Secretary of the Ministry by the Secretary of the Commission later. What has not been laid on the Table of the House are these 'records'—sometimes referred to as "volumes" or "part" of the Report—sent by the Secretary to the Commission, to the Secretary, Ministry of Home, subsequent to the submission of the report.

I am of the view that they having laid the Interim and Final Reports of the Thakkar Commission as submitted by the Commission on 19 November, 1985 and 27 February, 1986 alongwith a statement of action taken thereon on the Table of the House on 27 March, 1989, in terms of sub-section (4) of Section (3) of the Commission of Inquiry Act, 1952, Government have fulfilled the statutory requirement. I rule that the complete Report of the Thakkar Commission, including the Interim and Final Reports as submitted to Government, has been laid on the Table.

(Interruptions)

MR. SPEAKER: The House now stands adjourned to meet again on 4th April, 1989 at 11.00 A.M.

18.17 hrs

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, April 4, 1989/ Chaitra 14, 1911 (Saka)