

[Sh R Prabhu]

(Inquiry) Act and Section 6 of that Act says

'Consideration of report and procedure for presentation of Address for removal of a judge'

Now kindly take page 10 Sir I am not questioning your ruling I am just pointing it out to you

MR SPEAKER I allowed you and I respect the manner in which you are presenting the case

SHRI R PRABHU Kindly turn to page 10 sub—section (2) These words are very important It says

The motion referred to in sub—section (1) of Section 3 shall together with the report of the Committee be taken up for consideration by the Houses of Parliament in which it is pending "

This is the first time that this motion is coming to this House So it has to comply with section 3 of the Judges (Injury) /act So one hundred Members of Parliament of this House will have to serve this motion Otherwise it is not valid it is Infructuous

MR SPEAKER I have given my ruling already As this notice was given to the hon former Speaker it was referred to the Committee the Committee has gone into it, the Committee has given the report and the report is here Now we are allowing this motion to be moved in the House because until it is moved in the House, it is not before the House To give the notice to the Speaker more than one hundred Members are required To bring it here I do not find anything of that kind is required

Now Shri Somnath Chatterjee will move his Motion

14.38 hrs.

MOTION FOR PRESENTING AN ADDRESS TO THE PRESIDENT UNDER CLAUSE (4) OF ARTICLE 124 OF THE CONSTITUTION FOR REMOVAL FROM OFFICE OF JUSTICE V RAMASWAMI OF THE SUPREME COURT OF INDIA FOR HIS ACTS OF MISBEHAVIOR

AND

MOTION FOR CONSIDERING THE REPORT OF THE INQUIRY COMMITTEE TO INVESTIGATE INTO THE GROUNDS ON WHICH REMOVAL OF SHRI V RAMASWAMI JUDGE SUPREME COURT OF INDIA WAS PRAYED FOR

SHRI SOMANATH CHATTERJEE (Bolpur) Mr Speaker Sir with deep anguish in response to the call of duty to the nation I rise to move the following —

"This House resolves that an address be presented to the President for the removal from office of Justice V Ramaswami of the Supreme Court of India for his following acts of misbehavior —

- (1) That during his tenure as Chief Justice, Punjab and Haryana between November 1987 and October 1989, Justice V Ramaswami personally got purchased carpets and furniture for his residence and for the High Court costing about Rs 50 lakhs from public funds from hand-picked dealers at highly inflated prices This was done without inviting public tenders and by privately obtaining a few quotations, most of which were forged or bogus
- (2) That he also got payments made to hand—picked dealers for furniture and carpets ostensibly purchased for his residence which were never delivered

- (3) That he misappropriated some of the furniture, carpets and other items purchased from Court funds for his official residence costing more than Rs. 1,50,000 and did not account for the same at all.
- (4) That he replaced several items of furniture, carpets and suitcases etc. of a value of more than Rs. 30,000 which had been purchased by him for his official residence from public funds, by old and inferior quality items, with the object of deriving undue benefit for himself.
- (5) That he purchased from public funds more than Rs. 13 lakhs worth of furniture and other associated items for his official residence at Chandigarh even though he was entitled to furniture worth Rs. 38,500/— only. That in the process, he vilfully evaded several rules, and sanctioned money for such purchases by splitting up bills.
- (6) That he got purchased 25 silver maces for the High Court at a cost of Rs. 3,60,000 from a firm at his home town in Madras et highly inflated prices without inviting competitive quotations. This was done even after the other judges of the High Court had opposed the purchase of these maces on the ground that they were wholly unnecessary and appeared to be a relic of the colonial past.
- (7) That he misused public funds to the extent of Rs. 9.10 lakhs by making the court pay for non—official calls made on his residential telephones at Chandigarh during his 221/2 months in office as Chief Justice of Punjab and Haryana High Court.
- (8) That he abused his authority as Chief

Justice to make the Punjab and Haryana High Court pay Rs. 76. 150 for even his residential telephones at Madras.

- (9) That he misused his staff cars provided to him by taking them from Chandigarh to hill stations for vacations and to Madras for his son's wedding and spent more than Rs. one lake of public money for paying for the petrol of these staff cars. He even got himself paid for false petrol bills and other false bills relating to car rapairs, etc.
- (10) That he sanctioned as official the pleasure trips or the trips made for his own personal work by his subordinate staff to places like Madras, Mussourie, Manali, etc., even though there was no official work to be done in those places.
- (11) That he gave four unjustified promotions each within eighteen months to several members of the subordinate staff of the High Court whom he misused for aiding an abetting his above acts done for his personal gain".

Now the next motion. Sir I beg to move:

"That this House do consider the report of the Inquiry Committee in regard to investigation and proof of the misbehavior alleged against Shri V. Ramaswami, Judge, Supreme Court of India, which was laid on the Table of the House on 17 December, 1992.

Mr. Speaker, Sir, I am quite aware of the solemnity of the occasion and, at the outset, I wish to make it categorically clear that this is not a motion against the judiciary as a whole but against one judge who has been found to have indulged in conduct which is nothings but misbehaviour within the meaning of the Constituting of India and which makes him unseultartble to continue to occupy the exalted office of a judge and fro that matter, a judge of the Supreme Court of India which is our apex court.

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Very rightly in our Constitution, Judiciary occupies a very important position and it will be a very sad day if people loses faith in the Judiciary due to the acts or conduct of any individual member or some members of the Judiciary. We hold the Judiciary in high esteem not only because it is one of the most important organs of our State and it dispenses justice to the people but because judges are assumed to be men of honesty and integrity and they discharge their duties and functions with a sense of fairness and independence without fear favour.

A Judge remains a judge twenty-four hours a day and every minute of his tenure. He is not a judge only when he sits in court. He has to set standards of highest forms of morality and rectitude of honesty and integrity in all his action and and behaviour. Any criticism on the part of a judge, whether in court or outside, will not only reflect on him with the court but at the Judiciary as a whole and the Judiciary itself will be denigrated by the conduct of one or two of its members.

We are participating today in this Process not with any senses of elation or frivolity not with any sense of retribution or vindictiveness. There is no precedence in our country but our Constitution makers have consciously provided for a method of removal of a judge of a High court or Supreme Court, although, at the same time our Constitution itself provide for the security of the tenure of a judge of the superior courts which is essential for judicial independence.

Sir, provisions have not only been made but for that matter most stringent provisions have been made for the removal of a judge from the office and only in the case of proved misbehaviour of any incumbent.

I take it that such strict provisions have been and in our Constitution for the sake of maintaining the purity and independence our judicial system as a whole.

Therefore, what we are seized today in this House is not something unconstitutional or improper but what the Constitution permits in a given case because of the circumstances that may be prevailing or the events that may have happened.

As I said, a motion like this to remove a judge and for that matter the decision to remove a judge cannot be taken frivolously and without strictest scrutiny and our Constitution and our law have provided for the enquiry and investigation with all opportunities to be given and heard by the concerned judge in the matter.

I wish to place before the hon. House what are the safeguards which are provided so that there may not be any feeling that there is a vendetta or vindictiveness against any particular member of the judiciary. The safeguards are:

Firstly, at least 100 members of Parliament must sign a motion for removal of each House, and not both together;

Secondly, the hon. Speaker will apply his mind before admitting the motion;

Thirdly, investigation will be held by a high level Judges' Committee set up under the Juddles Inquiry Act which is a law made by this Parliament and the concerned judge will have full opportunity of defence or for making his case before the committee;

Fourthly, if the Committee does not find the judge guilty, the matter ends there with no scope of any parliamentary review or judicial review. However, if the committee finds the judge guilty of onerous more charges, then only the matter will come before parliament;

Fifthly, even parliament cannot decide the matter by a simple majority. A special majority, namely two-thirds, has been provided. The hon. Supreme Court has clearly indicated that the judge concerned will have an opportunity to make his defence before Parliament as well and

that is why you have permitted the learned counsel for the judge to be present here and make his submissions at the appropriate time.

Another very important safeguard which has been provided by reason of judicial decision is that even after his removal by the President, after the decision is taken by the House, in Sarojini Ramaswami's case, the hon. still opportunity to seek redress from the Supreme Court by way of judicial review.

Thus, Sir, there cannot be any genuine or benefited apprehensions in the mind of the judge that justice has not been or will not be done and in this context it is expected that the judge should have fully cooperated in the matter of ascertaining the truth and not take shelter of more technicality and, Sir, as what has happened in this case, abuse as well.

I believe every one will agree that it is expected and it is the duty of all persons occupying positions in public life which will include the members of the judiciary to conduct himself or herself in a manner which will not only give rise to no possibility even of making any complaint or comment about his or her behavior and one would expect that if any charges or allegations are made against a person occupying a high position, it would be in the fitness of things if such authority would itself invite an inquiry and investigation into the allegations and charges so that his reiteration is not affected and maintained.

Sir, the hon. Supreme Court in *Krishallabha Sahab* observed:

"It cannot be stated sufficiently strongly that the public life of persons in authority must never admit of such charges being framed against them. If they can be made, then an inquiry whether to establish them or to clear the name of the person charged is called for."

Sir, so far as the present case is concerned,

the hon. Members may recall that some time in the beginning of 1987 some reports came out in the national newspapers about the huge expenditure said to have been incurred by Justice Ramaswami, who was then the Chief Justice of the High Court of Punjab and Haryana. I request the hon. Member to keep in mind that these reports are based on objections made by the Auditor concerned, who had audited the Accounts; this was not something which fell from the sky. The Audit objections were taken with regard to the expenditure that had been incurred and on the basis of that report, it came out and Sir, it is not that a Member of Parliament or a member of the press who had tried to make some inquiry or investigation himself or had gone out of his way to find fault with the conduct of a Judge; it was the result of an audit which was made under a statutory obligation, under the Constitutional provision and on the basis of an Audit that was done lawfully, certain things came out on which adverse remarks were made and that came to the notice of the press and the press highlighted it. That gave publicity to it. And, Sir, it naturally created some consternation in the sense that after all, by that time Justice Ramaswami had come to the Supreme Court of India, which is our apex court.

Sir, as there was no response to these charges or to the reports that were coming out, we know that the leading members of the Supreme Court bar, the then Attorney General of India, Mr. Sorabjee, the then President of the Supreme Court Bar Association, Dr. Chitale the names I have mentioned, about whose integrity and whose adherence to the rule of law, the prestige of the Supreme Court nobody can raise any doubt, they had taken up the matter with the honourable Chief Justice of India. This was, Sir, in April-May 1990, and the then honorable Chief Justice, the late lamented Justice Sabyasachi Mukherjee, made an announcement in the Supreme Court openly that he had advised Justice Ramaswami to desist from discharging judicial functions so long as the investigations continued and until his name was cleared on this aspect, and Justice Ramaswami applied for six

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weeks' leave with effect from 20th July 1990. Sir, this investigation was not by the through administrative inquiry or Audit inquiry was to be made. But, Sir, as no action was taken for months together, it was only on the 27th February 1991, nearly one year later, that 108 Members of Parliament submitted a notice of motion as contemplated by Article 124 (4) of the Constitution, which contained a list of 11 charges which I have read out today as part of the motion. This was not done in a hurry. Reports had been circulated, the Judge of the Supreme Court had been asked by the Chief Justice not to discharge judicial functions. He had gone on leave, but this matter remained outstanding, nobody was coming to a decision, nobody was giving his verdict on it, the Judge had not responded to it and in such a situation I feel, Sir, with all humility that Members of Parliament had a duty to discharge and 108 Members, of Parliament did submit a motion as late as on 27th of February 1991, nearly one year afterwards. If I may say so, at that time, there was hardly any politics in it, because a judge is not supposed to be a man belonging to any political party. It is not that we knew of any political party to which he belonged. Being a signatory to this Motion, I can say, without any fear of contradiction because my conscience is clear am sure the conscience of all the signatories of the Motion is clear. We did not only to ascertain whether there was an such thing as has been alleged and if so, let it be found out by the manner as prescribed as indicated in the Judge Enquiry Act. If he is found to be guilty, the consequences will follow. Then again, Parliament, will have its opportunity to give its verdict. Therefore, Sir, some whisper there and there, some loaded comments here and there are being made something politics was behind it and probably somebody was singled out for being proceeded against. We know that all the judges of the Supreme court except probably one or two or three, have been appointed by the Congress Party. Have we expressed our lack of faith in the judges because they have been appointed but the Congress Party? (*Interrupt-*

tions) I stand corrected. They were appointed during their regime. It is the Congress Party Government. Therefore, that was not the object,

The questions, was it to the credit of the Supreme Court of India and to the Indian judiciary as a whole that serious charges were being based on audit reports which have raised very serious doubts and discomfort in the minds of - if I may say so Eight thinking member of the society. As their representatives, we felt, we had a duty to perform. That is we have submitted that Motion which was annexed with copies of several documents including the advice of the Committee of Supreme Court judges because the hon. Supreme Court Chief Justice appointed a committee of three learned judges to go into the questioned to advise. probably to make recommendations as to what should be done. Justice B.C. Ray, Justice Shetty and Justice Venkatachaliah, the present learned Chief Justice were the members of this committee. There are also the reports of the committee of district judges, Vigilance commission of Punjab and Haryana in regard to alleged purchase and removal of furniture and misuse of motorcars and also audit observations of the Accountant General and some other supporting documents. Therefore, there were some documentary, preliminary records, evidence because I was not sitting on judgment when I signed it. I was inviting a decision by the appropriate authority according to the law.

On the 12th of March, 1991, the then hon. Speaker admitted the notice of motion and constituted a committee under section (2) of the Judges Enquiry Act and as well all know, the committee has to be composed of three eminent judges one judge of the supreme Court of India, one Chief Justice of a premier High Court and one jurist. Justice Sawant, a sitting Judge of the Supreme court was made the Chairman. Chief Justice Desai of the Bombay High Court was made a member and the third member was Justice Chinnappa Ready a retired judge of the Supreme Court in the category of jurist. The committee of three judges even then could not

function immediately because the President's assent to the functioning of the sitting judges in the Committee was not forthcoming. And then, Sir, an organisations called Sub-committee on Judicial Accountability filed a Writ Petition before the Supreme Court of India

15.00 hrs

and Supreme Court of India held specifically that the motion did not lapse on the dissolution of the Ninth Lok Sabha. It was held sepcifically that the notice of motion was alive and could be taken up there.

The Committee has been properly constituted by the then. Hon. Speaker, and there was no illegality in it. That decision was made in the case of 1991 Supreme Court. Then, after that, Rashtrapati's consent to the functioning of Justice Sawant and Justice Desai came and then only the Committee could start functioning. Even that has taken quite some time. The very fact the notice of motion was filed in 1991 February and today we are in 1993 towards the end of May shows that more than two years have elapsed. I shall place the facts before you way this time has elapsed.

In October, 1991 was the Supreme Court decision in that matter. Then the communication came and they started functioning.

I hope that one would obviously admit that this is a very important Committee with members belonging to the highest judiciary in this country. The Supreme Court had said that there was no blemish and there was nothing wrong in the composition itself. But what one would have expected? When the Supreme Court said that the motion subsisted and did not lapse, the Committee was duly constituted. What one would have expected at that time? Once this sort of cobwebs are cleared, if they were genuine cobwebset all, but when they were cleared, what one would expect? The learned Judge, to clear his reqotation, would fully cooperate e with this committee. No reasons has been given they

these three eminent Judges of this country should be against Justice Ramswamy.

It is very very unfortunate that Justice Ramaswamy, instated of cooperating with this Committee - one would invite and say please come and see. let me go there, I will prove to you that I had not done anything wrong - instead of doing that, he said "Justice Sawant is my junior in the Supreme Court. Therefore, I do not accept it." Justiced. Desai has got some furnishing made in his house at Bombay and, therefore, he is not competent. We are proud that Supreme court has Judges like Justice Chinnappa Ready. But he is no a jurist because he has not many publications to his credit. But I think some of his judgments are much more important and much more lasting than any book that might have been published. As a humble lawyer, I can say that I am proud that our country has produced judges like justice Chinnappa Ready. He is no longer a sitting Judge. Therefore, I do not ger any benefit.

These were the allegations made against the Judges. There is no cooperation. All sorts of technical objections were being raised. Gove me this and that, he said although the Committee said that every minute will be sent to you. If I have to do that, I should humbly reserve my right to do it in the last.

Letters after letters were sent. Different lawyers were writing to him. One hon. Member, of Parliament was writing to him. When he was told if you do not appear, you can send lawyers, he said @ I would like to send lawyers.". Yes, lawyers can come. The Committee allowed the lawyers to come. He said "No, no. I would not accept your jurisdiction. Therefore, I would not put questions. They will suggest questions for others to be put "They have suggested questions to be put. There was no defence given on merit. Even then, I am sure you taken the triuble in spite of the multifious pressures on your time because of your multifarious other functions.

I do not expect the hon. Prime Minister to go through it. He can go through at least the

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relevant portions to find out how there has been a systematic attempt to frustrate the functioning, at least delay the functioning of this Committee

One after another point the was taken into account and ultimately an hon Member of the Bar, on behalf of the learned Judge went even to the Supreme Court Challenging it and filed a Writ Petition saying that all these sorts of illegalities were being committed by this Committee. Ultimately, the Supreme court rejected that Writ Petition saying he had no locus stand in the matter. But the item was elapsing, long time was going on elapsing. Then the Committee started its work. Elaborate reasons have been given what procedure has been followed, what is the position in law, how fairly they have tried to deal with it.

Sir as you know, the Judges Equity Act requires that the specific charges will have to be framed by this Committee. Although the notice of the Motion indicated 11 charges some may not be very specific, some may be a little discursive yet the Committee, after going through all the papers, documents that were available, produced, called for, invited, they framed specific charges. I believe they framed 14 charges. They have framed 14 charges. I can say with condition and with all sincerity that they have tried to do their best. What we have got here is the report. At least one would expect some approach from the Judge occupying such an eminent position. They have tried to do their best. They have given full reasons, full opportunity - not only full opportunity but full reasons.

One fact very clearly appears from their finding. Where they have found even a slightest doubt there may be a slightest doubt that the Judge may not have something to do with it - they have exonerated him. About one charge, he said that it has not been proved, about charge number six, said it has not been proved, charge number 10 not proved, charge number 12 partly proved and then charge number 5 not proved. This has

been mentioned. Although they have framed the charges, after fully going into the matter, going through the vidence getting the records, they have decided. The point is the charges were framed before the oral evidence or documentary evidence and all, in full, was appended. After hearing the entire evidence, this Committee has come to a finding that on certain charges, on 10 charges, he is guilty. The charges have been proved. With regard to the other charges, they have not been proved. Can this report be ignored just because the Judge concerned does not like the persons who have given this report? Will it depend on subjective determination? If it was a Supreme Court Judgement could anybody have said that he is not accepting this Judgement. He is not bound by the Judgement or even for the High Court subject to the Supreme Court's determination? Just because there is an opportunity that the matter would come before the Parliament. Therefore he is making all sorts of comments on this. With great sorrow I shall say that from the language that this Judge has used about this Committee about the Judges about the Speaker about the Supreme Court, about the MPs, it seems that apart from himself nobody is good, he is the only angel prevailing. I am very sorry to say that I will beseech you Sir and then the hon Members to give me a little time so that I can indicate how he has misused the position. Instanced of defending himself on metros, he thought that character assassination would be his defence. One of them is his colleague on the Bench.

One of them is a sitting Chief Justices of one of the premier High courts of this country. Mr Speaker, Sir, I cannot help commenting on this behavior which Justice Ramaswami took before this Committee trying to frustrate the functioning of the Committee during the discharge only displays his fear that if the facts were disclosed and found out it will go against him. Those try to hide facts who have some facts to hide. Otherwise, if any disclosure does not go against me I will not prevent a disclosure does not go against me I will not prevent a disclosure. All the time, an attempt has been made that

nothing should come out, nothing should come up after the writ petition of the hon. Member of Parliament failed, then the Committee proceeded without any cooperation from the judge concerned. And when the report had become ready, it was going to become ready, then another writ petition was filed before the Supreme Court by Mrs Sarojini Ramaswami, wife of the concerned judge saying, "give me a copy of the report before the report is submitted to Parliament." He says, "it is a stage where I want to take up the point that the report is not valid." Before parliament comes to see it, before it is published, she wanted a copy, his wife filed a writ petition on which the full hearing has been given by the five-judge bench of the Supreme Court. The Supreme Court has come to a finding that no report is to be given at this stage as per page 421.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): The Supreme Court has said later on he will be having an opportunity. You also mention that

SHRI SOMNATH CHATTERJEE: I am glad and naturally we have a very alert law Minister. I am thankful to him. It has been held, I have a copy of the judgement with me, that at that stage Justice Ramaswami was not entitled to a copy for the simple reasons that he would have a full opportunity to defend himself. A copy would be given when the Parliament takes up the matter. Even thereafter, as I said earlier, there is a scope for judicial review even after his removal. So, we humble ordinary mortals will not be there. They will be exalted judges of the Supreme Court, his own peers, they will be deciding that. Therefore, if he has any grievance that the House may not act properly, there is the Supreme Court of India. Of course, he does not believe in that, if the judgement goes against him. That is the difficulty with this judge. Therefore, what we find is that there was a conscious attempt to delay the disposal of the matter.

I want to only read a few lines of the reply

given by Justice Ramaswami to show his attitude towards everybody else in the world apart from himself. On page 1, he says very categorically trying to humour the Parliament and the hon. Speaker, "I had no confidence in them" that is the Committee. "I have confidence in you," that is, Mr. Speaker, Sir, the hon. Members of the Lok Sabha. "He addressed to us saying that he has faith in us including those 108 members or those who have come back.

SHRI RAM NAIK (Bombay North): There are 115 Members. Everybody is saying 108.

SHRI SOMNATH CHATTERJEE: How many are back now out of them? He has a faith in me. I am a signatory. I have come. Rightly or wrongly, I am back. And he has expressed his confidence in me and Members like us who have come back from the Ninth Lok Sabha.

Therefore he has grievance against us. But, he had no confidence in the Committee of these three judges. Then, he says, "All the allegations in the Notice of Motion are false." That is the next thing. He says very categorically that, "we know today that these allegations were false." According to him he was condemned unheard. The Committee decides to proceed in the matter and gives him full opportunity but he says he was condemned unheard.

Now Sir, the real thing came out. He said that, "Why did I not object earlier? It is because I followed that principle meticulously in the hope that the public calumny culminating in a Motion before this hon. House would die its natural death." At page three of reply, there is a very significant sentence. It says that "I had implicit faith that upon the constitution of the Tenth Lok Sabha, the hon. Members of this house would look into this matter and after due application of mind would ensure that the good name of the judiciary is not damaged."

Sir, his expectation was belief. Tenth Lok Sabha was to his liking. It is still continuing its pursuit. He said that this was the reasons why the

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hed kept quiet. Depending on his forecast of the election result, he kept quiet accordingly. If the election result goes differently, not according to his liking, he takes up another attitude.

Again, Sir, at page 4, he said I find that he has a pathological opposition to this Committee and I quote,

No justice from the Committee. The Committee was doing injustice to the judiciary.

What he further says at page 4 is very interesting and I quote

"The Committee was not only doing injustice to him but to the institutions of the judiciary as well. Such allegations were flaunted, were publicised, become the subject matter or speeches and diatribes became the basis of submissions in courts the result was that I could not defend myself. I did not have a forum to go to. Some who tried to defend me were told that they were defending a corrupt judge because the High-Powered Committee could not frame such charges had not there been an element of truth in them. The stand of the hon. Members of this House was vindictive because the charges were framed in accord with false allegations made.

This Committee of Judges framed these charges on the basis of these false allegations and thereby we were vindictive vindicated. Just now, he expressed his confidence in his opening remarks and then he says that we had a diabolic credential, motives.

Then, what is the fate of the Supreme Court in his hands? Please see page 6 and I quote

"That the latest pronouncement of the

Supreme Court in the case of Sargini Ramaswami as Union of India and others has granted me the right to move the Supreme Court. In the event, this Motion is carried resulting in my removal from office. I think such a bleat and a negative remedy apart from being misconceived is inappropriate and inadequate. This is my personal opinion."

He says that the Five Member Constitution Bench's decision is inappropriate, inadequate and misconceived. Anything he does not like, he uses choicest words. Then Sir, what is the fate of the former Speaker?

Now his path is restored. I am trying to find out the relevant quotation therein he says that the Speaker without application of mind had decided etc.

In Page 21 he says

'Having said this I would like to touch upon an issue which is slightly more sensitive and which relative to the delicate task the hon. Speaker of this House must perform."

Unsolicited advice!

"when dealing with a motion of this nature. It is my belief that when a motion is placed before the hon. Speaker it must be treated naturally with the utmost solemnity since it has emanated from hon. Members of this House, but the hon. Speaker treating such a motion without the solemnity that it deserves must also, consistent with the high constitutional office that a judge holds, ensure that before the motion is admitted, a preliminary enquiry of an informal nature which is not inconsistent with the provisions of the Act of 1968, is conducted for the hon. Speaker to be *prima facie* satisfied in respect of the veracity of the allegations. This will in future ensure that no motion is admitted without there being a strong *prima facie* case. The hon. Speaker in doing so has the freedom to consult legal experts of his choice and also informally seek a response from the judge concerned. This will ensure that only such part

the allegation are investigated for which there is a *prima facie* evidence "

He wants elaborate investigation, enquiry at every stage, although the law says that it not the function of the Speaker. He has to only look into a *prima facie* case

This advice has been given to the Speaker. When obviously he has not agreed to it, kindly see that language he uses

"I have dealt with in Page 22 in Vol. II with the procedural aspect of this case, including the manner and method in which the Committee conducted the proceedings which reduced it to a farce "

It is a very strong word to be used by a sitting judge against his brother judges, members of the judiciary. He is very expressive in his language, I find. In Page 10 what a compliment he has paid to his brother judges. He says

"In report that has been submitted acute ness when presenting figures in a balance sheet fudged them to reflect a certain point of view. Some such exercise has been done by the Members of the Committee "

I leave it to the hon. Members to react

Kindly see Page 12. He says

"Am I to believe that if the Government installs air conditioners at the residence of the Chief Justice that is in accord with the requirements of the office of the Chief Justice but if these are installed from out of other funds of the High Court it would not be in accord with such requirements? If that is that law, then I say that the law is an ass "

Mr. Prime Minister, you can have any number of things in your house through the CPWD. But nothing can be decided on your own! This is not a slip of the pen. At Page 12 bottom he says

"I am then told that I purchased mattresses, lines, dressage tables and if value of these things are added up, it would cross the prescribed limit of Rs. 38,500. On facts I have already demonstrated that this finding is erroneous. Assuming it to be correct, am I to accept that the Chief Justice should not have purchased table line, mattresses? If that is the law, I again say that the law is an ass "

He says what sort of law is this? What sort of rule is this? The Chief Justice cannot purchase linen, mattresses, tables. If the Chief Justice cannot purchase, who else can? If there is any law, then such a law must be an ass. This is the way he has dealt with this matter. At least he has not shown respect to the Parliament. In the reply he has used such expressions as funding of accounts, false allegations, an ass.

Sir, one would have expected that once a report comes from a Committee like the one which was there in this case, one with all humanity accepts that report. Sir, any responsible person acting bonafide would accept that report because of its composition and also because of the painstaking, elaborate manner in which the Committee has discharged its functions and given its report. But they have received only the fulminations and nothing else.

So far as the charges are concerned, I do not wish to go elaborately into them, but certainly I would receive my right. I have made it very clear that our judiciary is not under a cloud that a person occupying the highest position in our judiciary system is not treated in the matter as we are seeing in the Supreme Court because the Members of the Bar do not go before him.

Sir, he has himself said one sentence which is very important, in his reply. It is in page 1 of his reply: "The judiciary is going through very difficult times. He has given the reasons as to why it is so. I quote

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"A lot of soul-searching is necessary. The confidence of the public in the institution has admitted over the years. The Judiciary, and here I must be candid before the hon Members of this House has not acquitted itself very honourably, and I, being a part of this institution, must partake and share of the blame. With the general malaise of falling standards, the judiciary has not remained untouched. The legal fraternity has not also lived upto our expectations."

I should have thought vice versa. Sir, I am reading from a sitting Judge's comment

"With the falling judicial standards, the societal, institutional, individual and political pressures burden and to some extent jeopardises the independent functioning of Courts"

This is his observation. He is an interested party, but, may I quote, with all humility an observation of former Chief Justice Shri Sabyasachi Mukherjee at page 1 of the Committee's report? I quote and I believe that it should be read and re-read,

"The Supreme Court must uphold the rule of law. It is therefore necessary that those who uphold the rule of law must live by law and Judges must therefore be obliged to live according to law. The law, procedure and the norms applicable in its case on him that the expenses incurred by the Courts for the Judges must be according to rules. The Judges either of the Supreme Court or the High Court and the Chief Justice are subjects to the rule of law like any other citizen of this country and must abide by the norms and regulations prescribed in as much as these and to the extent are applicable to them. I always thought this was clear and need no reiteration. We must therefore, ensure that there is no conduct of the Judges which affects the faith of the people that Judges do not live according to law."

"Judges cannot afford to be involved in disputes which have to determine the question whether the Judges while functioning as Judges or Chief Justice have attempted to subvert the law either designedly or in utter negligence or recklessness."

There is another passage if I may quote from the Report of the Committee of Three Judges which the learned Chief

Justice had composed. It is on page 3

"While it is true that the Chief Justice of a High Court is not expected professionally to account for the items of furniture furnishings, etc., provided at his residence, it would perhaps in a matter of such magnitude, be too ethical to say that the incumbent in the office can be wholly unconcerned with the happenings. Proprietaries of conduct in daily life may not approve of such a technical stand. While the situation may not involve any moral turpitude, it is and altogether different thing to say that the Judge is entitled to ignore and be incentive to the loss occasioned."

Then, on page 4 of the report of this Committee of Three Judges it is said,

"The standards of ethical and intellectual rectitude expected of Judges are directly proportional to the exalted Constitutional protection that they deserve to enjoy. The country is entitled to be most exacting in its prescription and expectation of the standards of rectitude in judicial conduct. What might be pardonable in an ordinary citizen or officer, might in the case of Judges look indeed unpardonable. His morals are not the standards of the market place but is the Punctilio of a higher code."

I think, it is so well put. I can hardly add anything usefully to this.

MR CHATTERJEE, will you yield for a moment (Interruptions)

What happened when Mr Justice Sabyasachi Mukherjee died unattended in a London hospital and could get no treatment because of the rules? Have you any answer to that? (*Interruptions*)

SHRI HARI KISHORE SINGH (Sheohar) Mr Law Minister you must understand, Let the Prime Minister explain the whole thing (*Interruptions*)

SHRI SOMNATH CHATTERJEE That will be a great tragedy that had befouled the country. Therefore, I am sure the Law Minister, who is so concerned about the health of the Judges as well, should see that proper rules are framed for their treatment.

SHRI INDRAJIT GUPTA (Midanpore) What had happened to the inquiry into that?

SHRI H R BHARDWAJ Nothing happened.

SHRI INDRAJIT GUPTA Why? (*Interruptions*)

SHRI H R BHARDWAJ, Nothing heard after that.

SHRI INDRAJIT GUPTA Nothing heard after that.

SHRI INDRAJIT GUPTA Who stopped? (*Interruptions*)

SHRI SOMNATH CHATTERJEE Sir, in his reply at page 14, Justice Ram swami had said

forced logic led the Members of the Committee hold that which they had predetermined to do '.

That means that they did not have an option and they were determined to do it. There is another significant sentence. With

your kind permission, I wish to read the last two sentences on page 14, Vol III (parts I to III),

"The force of of circumstances and the belief that they could not be subjected to the discipline of a higher judicial forum led the Members of the Committee to believe that if they found against me, the findings would be untouched, since the Hon ble Members of this House will neither have the time nor the patience to meticulously analyse the materials against me

See what reflection is made on the Members of parliament. He says that the Committee did not really apply its mind and came to all sorts of findings because they knew who will bother amongst the Members of Parliament who will have the time and inclination to meticulously analyse the materials against me. Therefore, Members of Parliament can be easily misled. And they will accept without question the report of the Committee. Therefore the Committee may do what it likes. That is precisely according to the Judge. This Committee of Judges has given an irresponsible finding because all of us here are dumb spectators, mute spectators we do not apply our mind.

We have no mind of our own we have no understanding of our own, we do not bother to read papers and we do not try to discharge our functions with any sense of responsibility and therefore, we will be taken for a ride by the Committee and that is why, the Committee chose to give any sort of report that they liked to. Sir, I resent these insinuations and innuendoes made against the Members of Parliament. And I believe that it was not worthy of a judge of the Supreme Court to make such observations about the Members of Parliament.

In one of his main points he says that the Chief Justice of a High Court is entitled to furniture, etc upto a limit of Rs 38, 500/- He should not have more than that. What is the response of the Judge? He says, "No, no, it does not relate to purchase. The rule only says that it

[Sh Somanath Chatterjee]

should not be used. There is no prescription of any law inhibiting the Chief Justice to purchase it relates only to their use. You can purchase without using. That restriction is only for use. You can go on purchasing. Therefore there is no bar in law from purchasing. This looks like that logic in *Alice in the Wonderland* I am reading from page 15.

The rule does not relate to the purchase of items but relates to their use. The Committee says that the purchases made by me beyond the limit of Rs 38,500/ are an infraction of the rule. I say, Sir, that the purchases are not controlled by the rule.

This is his observation. This is not may saying. I am only quoting. There is another observation.

There is no prescription by any law inhibiting the Chief Justice to purchase furniture and furnishings. The rule relates only to their use.

If this is the law, the Prime Minister may kindly apply his mind and come to a decision. Today if this Motion falls through, then every Chief Justice can go on purchasing. They may go to Cottage Industries Emporium or I don't know where!

Sir, I do not wish to take the item eighth House. I cannot act the way the Judge has done. He feels that the hon. Members, my hon. colleagues have not read anything and that they will not be able to understand even if they have read. I only say that these matters are there for anyone to read. The full report has been given, the reasons have been given. The documents have been mentioned. Entries have been given. Figures have been given. In the absence of any evidence of deliberate mala fide attitude, there is no question of their report being biased and erroneous.

see another example. Two cars had gone from Chandigarh to Madras. Somebody takes them and comes back by air! These things or there! I do not know that so much public money is available to the Judiciary and to the Chief Justices!

Then there is the question of purchase of maces. 25 maces were purchased. The report has been given. The reasons have been given. These purchases were found to be not proper.

Then Sir, take the learned Judge's observation that the Judiciary is going through a difficult time. If that is so, I believe the Parliament has role to play in this regard. When these observations come from the highest judiciary of this country, and when one of the judges of the Apex court of this country says that we are going through difficult times and that there is societal pressure, cultural pressure, political pressure, and so and so forth on the judiciary, a lot of soul searching is necessary. He has mentioned all these things. The confidence of the people has diminished. He says

with the fall in judicial standards, social institutional, individual and political pressures, burden, burden, and to some extent jeopardise the independent functioning of courts.

If this is his experience of the Courts, the sooner he dissociates himself from the Court, the better it is for the country.

Sir, with a very heavy heart, as I said in the beginning, with deep anguish, I have moved this motion. We sincerely feel that after the findings that have been given by very eminent judges, eminent Members of the Committee, there is only one response to that which is possible. Judiciary will remain polluted and denigrated if Justice Ramaswami still continues to occupy his seat on the Bench. Today if he has to say that he has been found guilty by his peers, he has been given a opportunity! Because of the geographical areas from which he comes or because of

police today if he has exonerated then I can one shodder to thing of the future of the judiciary in this country. This will give the worst possible message. When the judge himself says that there are too many pressures on the judges then he must have felt that pressures. And he says that because of the pressure the standard has fallen he says that because of the pressures the depended of the judiciary is no longer the same as before. It has also been compromised. What is to be done in these circumstances?

I submit with all sincerity at my command with all humility that the trial is also of the Parliament today. What are the standards that we shall apply? Shall we ignore the report of a Committee of eminent people just because we do not like their names or like their facades? Shall we do that because the person charged against do not like them for reasons which nobody can accept? I will be probably taxing too much the patience of hon. Members. I could have shown you how he behaved, he did not even answer on the nearest of the purchase and I feel bold to say that. Therefore to the fellow Members here I appeal do not treat it on any said as a political issue or as an issue of a particular individual person. It is the question of judiciary of this country. It is a question whether we want a pure judiciary, we want a judiciary which will be independent and we want a judiciary in which people have faith and we want that nobody occupying such a high position will be subjected to any pressure or any inducement or any laxity of exacting standards which are required. As the Supreme Court judges have said what would have been maybe excusable in the case of an ordinary individual is not excusable when it is done by a person of that eminence, by a person occupying such an ambient position.

Therefore Sir this is a clear case where the requirement of Article 124(4) of the Constitution of India is fulfilled. It is case of proved misbehaviour. And the Supreme Court has said once the affirmative misbehavior. And the Supreme Court has said once the affirmative virtue is given by the House to the misbehavior which

has been found by the Committee of judges it will provide approved misbehaviour. I submit that it is the clearest case of misbehaviour of a nature which is unpardonable. Therefore I appeal to all the Members here please eschew politics, eschew chauvinism, eschew parochial considerations and please do not bring to your consideration who appointed whom or during which period he was appointed because it does not matter. Once he is appointed he becomes a Judge of India. He becomes as much of my judge as he becomes nobody also a judge. If I feel that I shall have to go to a person who is capable of indulging in such activities of which he has been found to be guilty but because of the game of mummies in the Lok Sabha and Rajya Sabha if he gets Scot free I think it will be a very very sad day for this country.

Therefore Sir with all humility I request the hon. Members to see that this Motion is carried. Already more than three years have elapsed since the disclosure was made. First disclosure was in April May 1990. A Committee was formed in 1991. Today were in 1993. Three years have elapsed. He has been sitting on the Bench although he has been forced to take leave because even the Members of the Bar don't appear before him always. If that situation should not be allowed to continue the Supreme Court should not be allowed to function under a stigma, under a cloud, under some doubt and so on.

I appeal Sir that would be a very sad day of India. On of the bastions of our democracy will be the Supreme Court and judiciary. Please don't tinker with that. Please do not allow it to be polluted. Enough, enough. Let him go. I still appeal to him let him resign. We shall all appreciate his gracious gesture.

✓ MR SPEAKER Motions moved

- (1) This House resolves that an address be presented to the President for the removal from office of Justice V. Ramaswami of the Supreme Court of India for his following acts of misbehaviour

- (1) That during his tenures as Chief Justice Punjab and Haryana between November 1987 and October 1989 Justice V Ramaswami personally got purchased carpets and purchased carpets and furniture for this residence and for the High Cut costing about Rs 50 lakhs from public funds from hand-picked dealers at highly inflated prices. This was done without inviting public tenders and by privately obtaining a few quotations most of which were forged or bogus.
- (2) That he also got payments made to hand-picked dealers for furniture and carpets ostensibly purchased for his residence which were never delivered.
- (3) That he misappropriated some of the furniture carpets and other items purchased from Court funds for his official residence costing more than Rs 1,50,000 and did not account for the same at all.
- (4) That he replaced several items of furniture carpets and suitcases etc of a value of more than Rs 30,000 which had been purchased by him for his official residence from public funds by old and inferior quality items with the object of deriving undue benefit for himself.
- (5) That he purchased from public funds more than Rs 13 lakhs worth of furniture and other associated items for his official residence at Chandigarh even though he was entitled to furniture worth Rs 38,500/- only. That is the poaches he wilfully evaded several rules and sanctioned money for such purchases by splitting up bills.
- (6) That he got purchased 25 silver maces for the High Court at a cost of Rs 3
- 60,000/- from a firm at his home town in Madras at highly inflated prices without inviting competitive quotations. This was done even after the other judges of the High Court had opposed the purchase of these maces on the ground that they were wholly necessary and appeared to be a relic of the colonial past.
- (7) That he misused public funds to the extent of Rs 9.10 lakhs by making the court pay for non-official calls made on his residential telephones at Chandigarh during his 22 1/2 months in office as Chief Justice of Punjab and Haryana High Court.
- (8) That he abused his authority as Chief Justice to make the Punjab and Haryana High Court pay Rs 76,150 for even his residential telephone at Madras.
- (9) That he misused his staff cars provided to him by taking them from Chandigarh to hill stations for vacations and to Madras for his son's wedding and spent more than Rs One lakh of public money for paying for the petrol of these staff cars. He even got himself paid for false petrol bills and other false bills relating to car repairs etc.
- (10) That he sanctioned as official the pleasure trips or the trips made for his own personal work by his subordinate staff to places like Madras, Mussourie, Manali etc even though there was no official work to be done in those places.
- (11) That he gave four unjustified promotions each within 18 months to several members of the subordinate staff of the High Court whom he misused for aiding and abetting his above acts done for his personal gain.

- (11) "This House do consider the Report of the Inquiry Committee in regard to investigation and proof of the misbehaviour alleged against Shri V Ramaswami, Judge, Supreme Court of India, which was laid on the Ranbale of the House on 17 December, 1992 "

Shri Kapil Sibal, The Lawyer for the Judge may please make a submissions on behalf of the Judge

SHRI KAPIL SIBAL Mr Speaker, Sir let me at the outset, on behalf of hon Mr Justice V Ramaswami, myself and my colleagues convey my deep appreciation for affording us the opportunity for being before you and address you on the various complex issues that arise for your consideration. This is in consonance with the heights traditions of Parliamentary democracy I was indeed deeply gratified at the manner in which my brother at the bar indicted to you that his is not a partisan issue. We are sitting here as Members of a Judicial Tribunal and we are today going to assess whether Justice Ramaswami and I make it clear whether Justice Ramaswami is a corrupt Judge or not. If he is, it is your Constitutional obligation to vote for the Motion, if he is not, it is your Constitutional obligation to defeat him. I will not, in the cases of this Address make any mention of any sitting Judge of the Judiciary and I will not wash dirty linen in public.

I will confine myself to the findings of the Committee and I will demonstrate to you Sir, point-by-point, fact-by-fact, how wrong they are. Sir you might remember, my learned friend said that 108 Members of the 9th Lok Sabha signed a notice of Motion. I trust and I believe that they signed it with a solemn belief that the judge *prima facie* committed a wrong and if he did, he must be investigated and indeed he was. I will read the Notice of Motion, Sir, to you and indicate to you how unfortunate these allegations are especially, in the light of the facts found against him even by the Committee. I invite the attention of hon Members of this House to Volume I of what has been distributed to you. "This was done without inviting public tenders and by privately

obtaining a few quotations, most of which were forged or bogus "

That is neither a charge nor is it proved. If further reads as follows

"(2) That he also got payments made to hand-picked dealers for furniture and carpets ostensibly purchased for his residence which were never delivered "

There is no charge nor is it proved even today. No that there are on these points. I want to point out two facts to your Lordship. These allegations talk of hand-picked dealers. Why does it talk of hand-picked dealers? I think the hon Members of this House must be informed of this.

During the tenure of Chief Justice Ramaswami, as Chief Justice of the Punjab and Haryana Court, while his residence was being renovated two dealers were supplying furniture and furnishings to him. I name them M/s Krishna Carpet and M/s Slawan Furniture. When the allegations were made, it was assumed that these two dealers are hand-picked by Justice V Ramaswami and that no other dealers, not tender was invited, no other dealers are granted any order. Justice V Ramaswami when charge was framed, wrote on January 21 to hon Members of the Committee and said - I will come to it later but I will tell you the substance of what he said - please find out that since the inception of the High Court whether any other dealers had supplied furniture to the High Court - any other dealer.

Now the fact is that the documents have proved and there is statement of the High Court that since the inception of the High Court nobody has ever supplied furniture and furnishings to the High Court - no other dealer and I have shown the documents.

If you look at the quotation of the High Court in 1984 - M/s Slawan Furniture - if you look at the quotation given by these dealers in 1986 - M/s Krishna Carpet and even today the High Court continues to buy furniture and furnishings only.

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from those dealers. Now I ask myself this question. When this charge was framed against Justice V Ramaswami and for the last three years, we have been talking about it, did my Member of the Committee or did the hon. Members who moved the Motion find out from themselves whether there was any element of truth in this? Because the High Court has always bought furniture from these two dealers. When does Justice Ramaswami alleviate to the Chief Justice of Punjab and Haryana High court? On November 12, 1987. And when was he alleviated to the Supreme court? October 6, 1989. He knew nobody in Punjab. He was picked from Madras, he had never been to Punjab before. What would he know about the dealers in Chandigarh? He had no associations in Punjab and Haryana. He went to go there. He took the bold step of going there when Punjab was a disturbed area and discharged his functions honorably. Throughout his tenure nobody made any allegation.

I will tell you the reasons, why the allegations were made. I will come to that later but the point I am making is, how could 108 Members of Parliament make an allegation of this nature, without ascertaining for themselves the quantum involved; Rs. 50 lakhs, had picked dealers, inflated prices, no quotations; Facts which I will demonstrate have been proved to be wrong. I come to point 3.

"That he misappropriated some of the furniture.."

No proof till date that a single item of furniture was over taken by the Chief Justice Ramaswami. But that was a charge.

"That he misappropriated some of the furniture, carpets and other items from Court funds for his official residence.."

Sir, I will give you the reasons for this charge.

I am sure the hon. Members of this House have been circulated this little map. It represents the residence of the Chief Justice and it is ground floor plan of his house. I am trying to explain to you the reasons for the allegation 'that he misappropriated some of the furniture, carpets and other items purchased'

If you notice from this floor plan the blue line is a large curved room, which we may refer to as a Drawing and Dining Room. There is no well in between, it is a large room.

As you know when a carpet manufacturer manufactures carpets, he does it only in a square formation. Nobody manufactures it in a circular formation. When the orders were placed for this area with Krishna Carpets, what was ultimately installed was less because when you manufacture a carpet in a square shape and you try to install it in circular shape, you have to cut-off the sides.

What is installed is less than what is ordered for. And the argument is Justice Ramaswami misappropriated and substituted items of carpet. We were making allegations against a Chief Justice. My learned friend is right. These were hon. Members of the House. Therefore, I am sure these allegations were made and I assume that with some element of circumspection. What do we find? That this is one of the charges which is not proved.

Now come to point 4.

"That he replaced several items of furniture, carpets and suitcases etc. of a value of more than Rs. 30, 000 which had been purchased by him for this official residence from public funds, by old and inferior quality items, with the object of deriving undue benefit for himself.."

-Not proved. Even on the findings of the Committee. I beseech the Members of this House.. I say, if there is any mala turpitude involved in the findings of the Committee, please

remove him.

16.00hrs.

No judge, who has a stigma attached to his character, no judge who has vacillated the law no judge who has committed a criminal misdemeanor deserves to be a members of the judiciary. But if he has not, then please, undo the harm that you have done to this Judge.

My learned friend rightly said, just a little while ago, that you have other time and the inclination of going into the details of this matter and I will, therefore, request you to please bear with me. because I will take you through the details.

My learned friend says that I have not replied on merits. I will show you, line after line, fact after fact, instance after instance, when everything on merits has been stated. This only shows that my learned friend probably did not have time to read it, Point N. (5). "that he purchased from public funds more than Rs. 13 lakhs worth of furniture and other associated items for this official residence at Chandigarh even though he was entitled to furniture worth Rs. 38, 5000/- only. That in the process, he willfully evaded several rules, and sanctioned money for such purchases by splitting up bills."

This charge stands partly proved and I will tell you how. The finding of the Committee today, is that as we look at his residence, he has purchased items of furniture to the extent of Rs. 6 lakh, not Rs. 13 lakh. that is the charge. I am not telling you now what the proof is. Rs. 6 lakhs is the figure. The limit was Rs. 38, 500/- He purchased items with Rs. 6 lakhs. This is misbehaviour.

I will first say because I want to satisfy the conscience of the Members of this House - I am not going into technicalities and my learned friend may rest as murder that I will not make a single technical arguments. Unless I can evoke from you and form your hearts empathy for the

Judge who has been treated wrongly, I cannot succeed before you.

I will go into the facts. so, please remember that this is not the proof against the Judge. The limit was Rs. 38, 500 and what was found was Rs. 6 lakhs, I will tell you later how it is wrong and how even this conclusion is incorrect. I will come to that later. First I want to go through these allegations.

Point No. (6)

"That he got purchased 25 silver maces for the High Court at a cost of Rs. 3, 60, 000/- from a firm at his home town in Madras all the highly inflated prices without inviting competitive quotations."

I will pause here. The allegation is, firstly that he bought them from his home town in Madras; secondly that these maces were purchased at highly inflated prices that mesa he made some money out of it - and thirdly that this was done without inviting come operative quotations, thereby implying that he benefited materially.

Now, what is the fact? The fact is that there is only one company in India, called 'P. R. and Sons' which is located in Madras which manufactures maces. There is no other company in India. This is the finding of the Committee. I am not saying anything out of my own mind. This is the finding of the Committee.

Silver maces, when you go to a court, if you go to the Presidency Court either at Madras or Cloutta or Bombay, the learned Judge came from a Presidency Court from Madras it is found that when a Judge walks there is a person walking behind him holding a silver mace. What does this symbolise? The dignity of the office, nothing more than that. The Judge was not buying for his personal benefit, he was not taking the silver out of them and selling it. He bought them in consonance with traditions in which he had been bred. There is nothing wrong in with

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that.

The point I am making is P R and Sons is the only company. The maces for Lahore High Court are supplied by this particular company.

Sir, the Committee went into the matter and found no inflated prices, found no other dealers. So what did the Committee do? Prices found no other dealer. So what did the Committee do? The Committee still held him guilty. Why? It says "you should have bought wooden maces." This is a serious matter. Now kindly see the mind of the Committee. I am not going to make any allegation against anybody. That is not the purpose of this exercise. But I have to go into facts. Three Committee finds "Why did you not buy wooden maces? Why did you not buy silver plated maces and why silver maces?" I asked Justice Ramaswami that question. He said "We bought silver plated maces from Madras. But unfortunately we have to send them back every four months for plating. I could not have done that from Punjab and Haryana. So I opted for the silver maces." That was his sense of judgment, no corrupt noted behind it.

I am told in this august body I have the highest esteem for it and especially for learned friend "why would he have done any of these things? He was the Chief Justice. He should live like an ordinary mortal." Of course, he is an ordinary mortal. The Chief Justices of all over the High Courts have bought silver maces. Nothing wrong with that. Punjab itself had six silver maces and every judge used them when they were bought.

Now let us come to the next charge. Charge (7) says that he misused public funds to the extent of Rs. 9-10 lakhs by making the court pay this is important for non-official calls charge not provided, made on his residential telephones at Chandigarh during his 22 1/2 months in office as Chief Justice of Punjab and Haryana High Court. This charge has not been proved. But the

allegation was made. Why? Allegation was made because 108 Members of Parliament thought "Well, we look into this, it does not matter who makes the allegation." Can a member of the judiciary be treated like this? I join my learned friend in the request that we must uphold the traditions of this great institution and not make wild allegations against Judges.

Charge (8) says that he abused his authority as Chief Justice to make the Punjab and Haryana High Court pay Rs. 76,150 for even his residential telephones at Madras. Sir, I want to give you a background on this. I will respect it a little later. There are documents and records. But I will mention it orally first. Every IAS officer transferred from out of the State to a disturbed area which was Punjab is entitled to a residential telephone facility from the place from which he comes, not only he is entitled to telephone facility but also even the residence. So if a man comes from Assam, as he comes to Punjab, as Mr. K. P. S. Gill has done, he was entitled to his residence in Assam as well as the telephone facility there. As I told you, the judge came to Punjab and Haryana High Court in November 1987. The audit for the year was conducted and ended in August 1988. And in that audit, nobody took any objection. This, the Audit Department never took any objection on the telephone expenses of Justice Ramaswami from Madras. So when nobody took the objection, he continued to take those expenses for the following year by which time many other things had happened and ultimately an audit objection was taken and ultimately he has given Rs. 76,000. He has paid this amount, subject of course to his right. But the Committee holds "No, this is misbehaviour because he paid late. This is misbehaviour under the Constitution." This is the triviality with which you deal with the judge of the superior judiciary. Now, Sir, let me tell you another thing. The personae, Chief Justice of the Jammu and Kashmir High Court has a residence in Chandigarh and he enjoys the telephone facility there. There is no audit objection against him, as there should not be. But why against Justice Ramaswami? Now, it is not as if justice

Ramaswami ran away with Rs 76 000/- 'No' He wrote to the Government saying that there is a circular which applies to transferred offices and if that circular applies to transferred IAS offices why should it not apply to the Chief Justice of the Punjab and Haryana High Court Nothing wrong with that and the matter till date is not finalised But the Committee says that this is misbehaviour I do not want to go into the motives because I am not occurred with it I wil go into facts

Now I come to point number 9 That he misused this staff cars provided to him by proved taking them from Chandigarh to hill stations for vacations not proved - an spent more than Rs one lakhs of public money for paying for the petrol of these staff cars for his own car not proved The Committee says you too two cars One you were entitled to take the other you could not have taken He has paid for it He has paid all the bill for it But he Committee says you paid late This is misappropriation This is misdemeanour This is misbehaviour I can say that a Lower Division Clerk is treated better than a superior judge of the court

Now I come to point number 10 That he sanctioned as official the pleasure trips made for his own personal work by his subordinate staff to places like Madras Mussoune Manali etc Mussoune and Manali not proved Madras prov ed for the purposes of leaving the car Now what he did? He took the car Now he could not have sent the car along with the driver because of he had sent it with the driver and the driver has pushed off some where he would have been responsible for it So what did he do He sent a responsible officer along with the driver and he told him you go with the car the day you land there you come back So the officer went He day he landed that very evening he came back He did not stay there even for two hours and the Committee said No the officers should not have gone He want for his personal work The man never said back and that is the finding

Now I come to point number 11 and that is the conclusion That he gave four unjustified

promotions each within 18 months to several members of he subordinate staff of the High Court whom he missed for adding and abetting his above acts done for his personal gain Not proved Promotions were found justified

Now Sir kindly look at Section 3 of the Judges I equity Act I am giving you just a background so that you have a feel of the man so that the three years of prujece medhow I am tempting got try and defective from your mind if your tell a lie and that is what trebles did and if your keeo on doing it become the truth as is evident Hindustan Times three days ago said Rs 50 lakhs Kindly look at Section 3 of the If Your Honor has page 7 of volume - I I may read I am giving these expaknt in for the first item that a hide cannot go to the press is not our Constitutional Scheme A hedgesm if an allegation is made cannot sit up cotct a newspapers man and start taking to him because then there wil never be an end This institution will them finish And what did the judge do? He followed the path of silence which was the only Consttional path and he is sepaking today through me I wish and I hope and I party that the members of the Press who have been carying on a compaing of calumny against the man remis and do something about it after what I have revealed today

Now Sir sanction 3 years

If notice is given of a molten for presenting an address to the President prying for the removal of a Judge singed in the case of he Lok Sabha by not lees than 100 Members and in the case of the Council of Ministers by not less than 50 Members then the Speaker or as the cases may be the chanman may after consulting such persons if any as he thinks fit and after considering such materials if any as may be available to him either admit the motion or refuse to admit the same

This is very important This means the goon Speaker must apply his mind to the fact because he has the right either to admit it or to reject it How does he do that? He must consoled

{Sh Kapil Sibal}

somebody He must consult a legal luminary He must speak and informal response of a judge And that is what the Judge said in his reapply so that this motion does not get admitted by the court so that the good name of the judiciary is not tarnished for nothing That is the exercise that the Speaker has to make I am stating this as a matter of law with the greatest respect I mean no disrespect to anybody I am stating it as a matter is that no such exercise was conducted with the documents that are in our possession The result was these allegations were demand to be admitted which I have already read to you which were substantially false So the point that the Judge makes is that look when you are admitting a motion the Speaker per force must apply his mind to the facts and he must gather the facts from somewhere either from the Judge or from somewhere else and after applying his mind and giving some kind of an informal opportunity to the Judge if he finds *prima facie* that there is material against him he must admit the motion Now there could not have been any material against him on the unaware that I have already given to you on the notice of motion because of he asked the Judge Look where did you got these maces from? People say that these are highly inflated prices You could have invited tenders then he would have said that there is only one company which manufactures maces Then this charge would never have been framed Therefore not moaning any disrespect to anybody the judge says that the hon Speaker ought to have applied his mind And what did the hon Speaker do? That is a matter of law We are not on any mala fide of anybody The hon Speaker verified the names and found the motion in order That is all The result was the injustice to the Judge He has been crying hearse for three years that somebody please make amend somebody please do something to my good name and nobody listens to him Everybody says the Committee has found so there must be an element of truth in it and why should we go into neither thing The Judge therefore requested the parliament and he has

requested this House to please take time It does not mean that you are not going to apply your mind That was not the spirit in which that was within my learned friends of course one of the most permanent lawyers in the country and he has the felicity of language the persuasive quality to be able to you know what I mean Now the fact is that nobody applied his mind to this notice of motion And I will read there admission of the notice of the motion to you It starts on page 53 of volume I kindly he a loom at it is the order of the hon Speaker of Ninth Lok Sabha dated 12th March 1991 admitting the notice of motion and foreign and Inquiry Committee It repeats the allegations already made which I have already read to your so I will not read it to you again And then at page 32 it says

Having found the motion in order I have admitted the same

What was in order Sir? I remember the newspaper reports the members went into the well of the House on that day incidentally I do not know the judge from adam The first time I met him was in the Supreme Court when this case was frosted on him I do not him at all since he never came to Chandigarh or this side of the country and I never went to Madras by that time I never met him

Now the fact is having found the motion in order I have admitted the same means what? It only means that there was no preliminary enquiry or investigation conducted which ought to be done Why? Because you are admitting a motion which has such give consequences on the further of the Judiciary in this country because you immediately toll the public at large Here is a man who *prima facie* has committed this criminal misdemeanour Can you do that without applying your mind? And if you have done it should you not make amend? Should you not stand up and say I have committed a mistake? Judges do that everybody They say My previous Judgement was an error Therefore I review it I had not noticed this I should have done this I have not done it I am sorry Now

that we know the faces, let us drop this Let us blur hit dark spot on the name of the judiciary and nd our country of this tremendous databale that has taken place for nothing What is this debate for the judge who has spent Rs 6 lakhs instard of Rs 38 5000 which have not been proved as facts? He has not taken anything from anywhere You go to his house He lives much simpler than any of us (Interruptions)

Now let us say that All right, the motion stands admitted" My leaned fried says and rightly Look, if the motion stands admitted you must prove an offence I agree I am going to prove it

Once the motion stood admitted then what is the procedure that is to be followed? Let us try and understand that in law What is the Speaker to do? Let us look at it

Section 3 on page 8 of the same volume provides an answer On page 8 section 3 sub—section 2 states the following

If the motion referred to in sub—section 1 is admitted

And now we know how it was admitted I continue to quote

The Speaker or as the case may be the Chairman shall keep the motion pending and —

Now the next word is important I quote

And constitute as soon as may be for the purpose of making an investigation into the grounds on which the removal of the judge is prayed for a Committee consisting of three Members of whom

I will not go into that because you know who they are The word is constitute this committee? How does the Speaker do it? I am making an argument of law not on facts I assume that he takes the House into confidence And he said

these

"Loom, here are serious charges, I have gone through the exercise under Sub—section (1) of Section (3) "

I find there is a *prima facie* case against the Judge Now let us all get together the leaders of vanous political parties of this House and then constitute a Committee 'No, this was not done A telephone call to the Judge saying, 'I want to appoint that is admitted Sir That is not the way to appoint a Committee What confidence will it give to the Judge who is being proceeded against? And why should the House not be taken into confidence? What is so surreptitious about this? It is some matter which affects the dignity of the House it is a matter which ultimately affects the dignity of Parliament Anyway let us now assume that exercise was also done the House was not consulted the Speaker did it on his own I am told Sir when I regard the rules relating to the procedure of Parliament—and I have had occasion to go through them on several occasions—that whenever a Committee is constituted some consultation takes place Other wise it is not done unless all the Members leaders of the parties go to the Speaker and say we give you the authority to appoint whosoever you like Anyway Sir let us go beyond that stage that the Committee stands appointed and the Committee is to investigate into the matter How Sir a very important question arises How does that Committee go about that charge? Here comes Article 124 (5) of the Constitution which says and I will read and this is also in Vol I page 2

Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehavior or incapacity of a Judge

It is very important Sir What has Parliament to do? It may by law regulate the procedure for the presentation of an address Presentation of an address Sir relates to the procedure that will follow In the event you vote for the motion

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and holds the Judge guilty and the matter goes to the Rajya Sabha. So, the law must (i) deal with that procedure of presentation of an address and (ii) it does with what? With 'investigation and proof of misbehavior' No such law was framed and such a law is that Judges Inquiry Act, 1968. The fact is that the article under the Constitution says, 'Parliament may frame it, such a law, you may not, if you have framed it, you may scrap it. And even if the law is there, you may have another Committee because you are supreme, you are too generous you are all powerful, you represent the will of the nation, the conscience of the nation you will do what ultimately you think should be done in the face of facts notwithstanding a Committee, and I am going to appeal to you Sir when I finished with this. You please form a Committee of the House, you please examine this with a meticulous (Interruptions) That of course is a later issue. But anyway, Sir, this law was formulated, and under this law the Committee was constituted. How, Sir, this Committee started proceedings if I am not wrong, on 14th of January 1992. It issued some charges against the Judge.

Now, Sir, without wasting any more time of this House, I will straightway go to the charge framed by the Committee, and I will tell you what the finding is, and I will tell you the evidence on it.

Now, Sir, I may preface that by saying what you as a judicial tribunal you think as members of the House, must look at the findings of the Committee and for that, I want the indulgence of the House to allow me to read certain sections of a judgment of the Supreme Court rendered in the case of Sarojini Ramaswami, and it is reported in 1992, Volume IV of "Supreme Court Cases", page 506.

With your indulgence, I wish to read straightway page 548

"These express provisions in the law en-

acted under article 124 (4) leave no doubt that a full consideration on merits including correctness of the findings of "guilty" made by the Inquiry Committee on the basis of materials placed before the parliamentary part of process of removal of the Judge. Notwithstanding the findings of "guilty" made by the Inquiry Committee in its report Parliament may on a full consideration of the matter on the materials before it, choose not to adopt the motion for removal of the judge which would terminate the process of removal."

You are not bound by any finding of any Committee that is the law. We must respect whatever the Committee has held. We must give greatest respect. Why? It is because it comes from an authority conferred by a statute. It consists of high functionaries. We will not say. Please discard the findings of the Committee. No. Give them weight but you are not bound by them.

I read to you at page 557 para 62 what is the nature of the finding.

"In this context it would be relevant to recall the scheme indicated earlier. The determination by the Committee that the Judge is "not guilty" of misbehavior is alone final as it terminates the proceedings. However, in that there is no scope for judicial review of the findings "not guilty" made by the Committee as already indicated."

This aspect negates the character of tribunal for this reason alone. In the other reason—that is the situation which applies to us—when the Committee's determination is that the Judge is "guilty" of misbehavior, that finding is inchoate—it is not complete which may or may not be acted upon by the Parliament."

You need not act upon it. Thus the finding of the "guilty" made by the Committee is in the

nature of recommendation of Parliament, to commerce its process and by itself is not self-effectuating. It is the findings recorded by the Committee where it finds the judge guilty of any misbehavior being subject to acceptance by Parliament is not final and is therefore, not conclusive. It is your findings which will be conclusive. It is the will of the House given effect to by a vote in this House which will be conclusive. You do not have to give reasons for it. But it is your will which must prevail not the will of the three members of the Committee who may have one wrong or who may be right also.

What is important here is, you will ask me why was this Petition filed in the Supreme Court. The reason was simple. Before the Committee report is placed in Parliament is placed before you, the process is outside Parliament as the Supreme Court has held. So, it is amenable to the jurisdiction of the Court. Once the Committee report is placed on the Table of the House, the parliamentary process starts. Now when the parliamentary process starts, both cannot indict that process. The Judge cannot go to the Court on that. But before it starts, the Judge can go to the Court. So, the Judge said, "want to save Parliament this agony. Please give me the report. I will challenge it in a court of law." If the report has been challenged in a court of law and the judgment has been given against him, he would have been bound by it. So, he was not shying away, he was not running away, he was not delaying. He never got a stay order from any court. He never went to the court personally. When the Committee's proceedings were going on, he never asked for stay. My learned friend said, "He delayed it. No. He wanted the report of the Committee so that you could be saved this agony."

He would have been bound by the judgment of the Supreme court. But the Supreme Court said "No. We would not give you that report. Because the report is ready, you go to Parliament." Then the Judge said "If I go to Parliament, the Committee's finding is in Parliament and the Parliament votes on it and supposing

Parliament votes in favour of the report, what happens to me?" The Court said "You will be heard." That is how I am here before you. I am here before you to be heard and that is all that I want from you. I want to be heard. This Judge has not been heard for three years.

The Press wrote whatever it wanted against the Judge.

This then is the task that is before you. In other words, the Committee's findings or recommendation are inchoate. It is incomplete. It is tentative. You must go into the matter. Now let us go into the matter.

Charge 1 Volume 2 Part 2

I must admit it is very difficult here because in a court of law we get some respite when others ask questions.

MR SPEAKER: Do not invite them here!

SHRI KAPIL SIBAL: But I am afraid I have no respite here. I must go on.

MR SPEAKER: Well, I can understand that!

SHRI KAPIL SIBAL: Let us read the charge if you will permit me. This is at page 1 Volume 2 Part 2. I will read it slowly. It is after 135 pages because this volume itself is divided into several parts. Part 2 p. 1 after 132 pages.

"It is alleged that in willful abuse of your powers and authority as Chief Justice of the High Court of Punjab and Haryana, you Justice B. Ramaswami, yourself unauthorisedly

important

"got purchased farm excess of and wholly disproportionate to the requirements of the official residence and the office wing thereof and beyond the limits prescribed by the

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relevant rules for the residential portion of the official residence the items of furniture furnishings and other articles, set out in Annexure A annexed here to The value of the furniture the furnishing and the articles so unauthorisedly purchased exceeded Rs 13 lakhs

That was you remember Charge 5 of the allegation Rs 13 lakhs This now has proved Rs 6 lakhs

These purchases were in addition to furniture furnishings and articles which were already available at the official residence These purchases were unauthorisedly made from out of the contingent grant at the disposal of the High court In most of the cases the sanctions issued indicated that the purchases were made for the office use in the High Court whereas articles were got purchased by you and delivered to and used at your official residence The modus operandi of the purchases was in cases where quotations were obtained

Now this is important This is very serious because if the Judge is guilty of this he must go

The modus operandi of the purchases was in cases where quotation were obtained to get quotations from three dealers in furniture carpets on the same day and to purchase the said item from the favoured dealers the same favoured dealers in furniture carpets from amongst them Some of the quotations were bogus "

If quotations are bogus, he must go If he has bought from favoured dealers and made money out of it he must go

Now let us first understand what the chart is I will request the Members of this House to remember four dates which are very important date number one November 12 1987 Justice

V> Ramaswami becomes the Chief Justice of Punjab and Haryana High Court, two, October 6, 1989—he is elevated as a judge of the supreme Court, three, March 1989—the date in-between, a new wing which is called the office wing in the residential portion of his premises is constructed^d So, between March 1989 and October 1989, when he gets elevated to the Supreme Court, he has the use of that office wing I may straightway tell you that in summer vacations, he used to go to Madras For two months, he used to go there Then in October he is elevated to the Supreme Court So he hardly used that new office wing for three—four months Is it all right Sir? That is the third date And the fourth date is 17th February 1990 He was elevated to the Supreme Court as a Judge on October 6 1989 But on 17th February 1990 while he was here, he was asked to handover charge So he went to Chandigarh and handed over charge on February 17 1990 These are the four dates which I would like you to remember in the context of this charge because this is the most substantive charge against the Judge

Now kindly come back to the chart the plan that I have handed over When Justice Ramaswami was going to furnish his accommodation in the new office, he set up a Committee He did not do it himself He was not going there to buy things He set up a committee consisting of the Registrar of the High Court, the Chief Architect of Chandigarh Administration—who is not his personal prisons and the Chief Engineer So a Committee of three was set up to find out the requirements of the official residence It is at the instance of this Committee that the purchases were made and not by Justice Ramaswami

What happened? If you look at the red portion of this plan, a new wing was constructed, That is very important This was constructed, therefore in March 1989 He was elevated in October 1989 So, before March 1989, the red portion was not there The red portion has what? It has a Conference Hall which you have noted That Conference Hall has got about 28 chairs

There were 28 Judges of Punjab and Haryana High Court then. If the Judges wanted to have a Conference, they had to come to this Hall. Then, on the left side there is the office, that is the office of the judge. Then, there is a PA's room which is next to it and then a toilet. When this new office wing was not there, what did he do? He was entertaining—for his official purposes—persons and holding meetings of Judges and for other official purposes the drawing and dining room were used which is the blue portion. This is one large hall in the semi-circular shape. There were four air-conditioners already installed there when Chief Justice Ramaswami came to Chandigarh. So, what does the Committee say? That is very important because it has established a charge worth Rs. six lakhs against the Judge. The Committee said, "In March 1989, you got new office wing. So, the office room and the dining room which was originally the office is used as your residence. All the valuable items in that area are for your personal use. Therefore, you have misappropriated it. It is beyond Rs. 38,500/— limit. If I may say it again, this drawing room and the dining room will always be used for official purposes because the new wing was not constructed, namely, from November 1987 to March 1989. There were carpets fixed there, there were curtains there, there were sofas there, and all kinds of furniture was there."

Now the expense of that could not be debited to his personal account because it is not his residence, it is for official use. So the Committee says, "maybe before March 1989 it may be for official use. But after March 1989 this is a residential one." So several lakhs of this Rs. 6 lakhs are comprised of it. Are we to deal with our judges in this fashion, Sir? I appeal to your conscience, is this how we are going to arraign at a judge of a superior court? What did the judge do? I will tell you. He wrote a letter in January and told the Committee, "I make a request to you, I beseech you to get the facts and figures from various chief justices of all the High Courts in India in respect of the value of furnishings provided for them all over India. And if I have exceeded the norm, please ask me." The Com-

mittee said, "no, no we are not interested in that. We want you here. You first come here then we will deal with you. So the judge said "why should I trust the Parliament. I have confidence in you." He was right. And the first letter he wrote in that regard—charges were framed on the 14th January—was on 17th January. I will read that letter to you because it explains why he did not appear. Kindly look at page 45 volume-III. My learned friend will give it to me. I will read from page 45, in the meantime. He asked the following questions to the Committee on January 24. On January 14, charges were framed. He said

Please indicate the applicable rules under which the Chief Justice of High Courts including the Chief Justice of Punjab and Haryana High Court was entitled to purchase items of furniture and furnishing for use in the residential and official portions of residence of the hon. Chief Justice. If there are any rules in that regard and if it is a specific rule which relates to a ceiling on such fund

(2) Have the committee compared the entitlement of Chief Justices of various High Courts in respect of the maximum allowable expenditure in regard to purchase of items of furniture and furnishing in respect of each High Court

(3) On a cooperative assessment had it been found *prima facie* whether the expenditure allegedly incurred in this regard by me was in excess of and disproportionate to the requirements of official residence and office wing of the official residence occupied by me as the Chief Justice of the Punjab and Haryana High Court

(4) Did the Committee apply its mind to the requirement of the Chief Justice and what data was collected by it to ascertain this requirement? Non. No data was ever collected by the Committee with respect to any other Chief Justice of the High Court

(5) In collecting the above data if it was done, was the statement of witness recorded or enquires made in respect of requirements of

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similarly placed Chief Justices of various High Courts in India? Was the Judge doing anything wrong?

Was the judge being tricky or was the judge trying to stall the enquiry? The Judge was saying

Please get the data and give it to me so that I can respond to you. The committee does not reply to that letter. It says, "you appear before us and then taken whatever objections you want to take. We do not want to go into this

Ultimately he did not, because the committee has not compared any comparative data. It has no comparative data. I give you small example. There is nothing in it. I have no quarrel with him. But the Chief Justice Ramaswami had four air-conditioners in this blue portion—drawing and dining rooms—here he had officers visiting and judges visiting him and the Committee says these four air-conditioners are worth Rs. 1.22 lakh which is far in excess of Rs. 38,500. So, it is misbehaving.

I do not know, what are we coming to? This is the solemnity of the occasion that we are talking about. Are we solemnly trying to damn a judge on this? And the judge says in his reply on merit—this is all on merit which has been replied by the judge—that "Look as far as I remember when I came to this High Court, these four air-conditioners are already installed (in this area—four in upstairs and four here were installed). But the Committee says "No, you cannot use them""

Sir, it is in this context that I am beseeching you to consider the material.

MR SPEAKER I will look into the records and what cannot go on record, will not go on record.

SHRI KAPIL SIBAL I am sorry Sir

MR SPEAKER Let us not make any reference to the judge as such in any other High Court.

SHRI KAPIL SIBAL I do not mean that it is only for the purpose.

MR SPEAKER It is O.K.

SHRI KAPIL SIBAL This is not the intention. Thank you.

The reason why we have had to say this¹²⁴ because the value of these air-conditioners is taken to be Rs. 1.22 lakh which is therefore part of that Rs. 6 lakh that I was talking about which has been found against the judge.

I will tell you an extremely shocking thing which is part of the record.

In 1992 when the enquiry was proceeding against the judge there was another Chief Justice in Punjab and Haryana High Court then—I will not name anybody—but that Chief Justice was using the same accommodation, the same air-conditioners and he has said that even after the construction of the new wing, this blue portion is still the official wing of the building and that has been accepted. So, what is good for a subsequent Chief Justice is not good for justice Ramaswami. And I will read out the document now to you. I am not talking in the air. Please see page 6 in volume four.

MR SPEAKER You are referring to what?

SHRI KAPIL SIBAL This is the original document. I quote.

"Reference query by CPO. This is important. What is the order?"

Hon. Chief Justice is only using two rooms as official residence. So, in this entire great

big building, the Chief Justice in 1992 was using only two rooms and that is on the first floor. The rest was all official. But not for Justice Ramaswami. And this is after he was elevated to the Supreme Court and when the charges were pending."

And this is the original document. Now the fact is Sir, that we must have the highest standard in the judiciary itself. The Judiciary must evolve its standards. But that must be within the internal framework of the judiciary itself, just as you have yourself imposed restrictions, so must the judiciary. They have to get together, they have to think this out, they have to decide what are the requirements and they should have norms. We have, till date, not established any norms and we are damning a judge before the establishment of those norms. I could have understood if there was a rule, if there was a norm already established.

Sir, Let us now bifurcate the charge 1 which I have already read.

This charge, according to me, can be bifurcated into seven separate points. Point one is, the Committee says that his furniture and furnishings were wholly disproportionate to the requirements and far beyond the limits prescribed. That is charge one. In thousands of pages of evidence there is one sentence by one witness with respect to the alleged disproportionate requirement. One sentence from one witness; from nobody else. Every official of the High Court was examined; not a single official said anything against justice Ramaswami. There is one sentence and that is what PW 5 in the enquiry said and I will read it from page 121 of volume III. The original statement was made by one PW 5 Mr. Batra. Mr. Batra's statement was that there was a disproportion to the requirements beyond the prescribed limits. Mr. Batra is from the Accountant General's office. Then the Accountant General himself was examined and Mr. Batra's statement was placed before the Accountant General. This is what the Accountant General had to say:

"My attention is drawn to the deposition of Shri Batra before the Committee which in question and answer form is as follows :

Question : On what basis have you stated that the carpets and sofasets were disproportionate to the accommodation and covered area of the residence?

Answer: The inventory supplied to me of the items at the residence of the Chief Justice indicated that some carpets were lying rolled at the said residence. It was also mentioned that some sofa—sets were lying at places such as doors opposite to toilets and bathrooms where sofas are not required to be put".

The reason is in the dates that I gave you. Justice Ramaswami was elevated on 6th October to the Supreme Court. On 17th February 1990 he handed over charge. Four months elapsed in between. The residence was not under his custody. So some items of furniture must have been moved of, here to there. Some carpets were rolled some sofa—sets were found in front of the toilets and because of the position of those sofas, on 17th February the witness said this was disproportionate; how can there be a sofa set in front of a toilet. This is true; there cannot be. But then the whole place was not in use. It was lying vacant for four months. Somebody may have just set the furniture aside. Many people have houses at hill stations; they have to houses. So when they go out for a few months to one house, at the other house the furniture is all eschewed. They put in order later. But the fact that it is eschewed does not mean that it is disproportionate to the requirement. See what the Accountant General says on this. He says:

"Question : Do you agree that the carpets and sofa—sets were disproportionate as stated by Shri Batra?

Answer: The methodology adopted by my junior officer Shri Batra is defective. Con-

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sequently an objective conclusion cannot be drawn and if drawn is subject to revision by a competent higher authority "

There is no other evidence in these three thousand pages which says that the furniture and furnishings were disproportionate to the requirement. This is the only sentence. You see what the Accountant General himself says. That takes care of Disproportionate requirements far beyond the limits prescribed.

In this context I would like to read to you the statement of a judge made in Volume III at pages 15, 16 and 17.

17 00 hrs

This is the statement to this hon. House. I am reading from page 16 of Volume 3.

One other aspect needs the attention of this honorable House in respect of the issue of excessive purchases of items of furniture and furnishings and the placement of these items in various parts of the building where I was residing. Sir, when the issue of the construction of a new office wing came up for consideration, I constituted a committee comprising of a Chief Engineer, Chief Architect (both of Chandigarh Administration), the Registrar of the High Court and myself. The Chief Engineer and Chief Architect, after holding consultations with the Registrar, planned in details the requirements of the new office wing in respect of the size of rooms as well as the nature and the design of the furniture and furnishings required therein. I left it to the said experts to do the planning and design.

Naturally, the Chief Justice do not have enough time to do all this.

Their advice was accepted. Besides, it is no part of the functions of the Chief Justice

to keep a tract of the location of the items of furniture and the use to which they are put.

I have got evidence on record here to show that some items of so far which were bought for the Chief Justice's house were found in fact in other judge's house. Is he to keep tract of those items? and if he does not, is it misbehavior under Article 124(4) of the Constitution? The then Registrar of the High Court and now a sitting judge of that Court said, "This was entirely in proportion, it was not disproportion."

I will read the statement at page 171, volume 3. On top of the page, the statement of the Registrar of the High Court was:

I am aware that there was a high-powered committee consisting of Chief Engineer and Chief Architect of the Union Territory for the purpose of deciding the nature and extent of the furniture to be placed in the newly constructed office wing.

He further went to state, "Having regard to the office accommodation which I have seen, supply of nine sofa sets is justified."

The Registrar of the High Court says that it is justified. But you say, "No. This is all disproportion because the carpets are rolled up. How does the Chief Justice know whether the carpets are rolled up or not?"

I will give you a very interesting thing, a very interesting aspect of the matter which will bring some hilarity to the solemn occasion. Four pedestal fans were found in the toilet, and the committee says, "This is for residential use because toilet is part of the residence. Now, what could the Chief Justice do with four pedestal fans in the toilet? I fail to understand."

So I beg of you not to proceed further with this. All that is happening here is denigrating the institution. Please do not proceed with this. I beg of you. Let there be no voting. I am going to

besiege you Sir Let there be no voting on this People have taken postures Either way it will harm the institution If the votes succeed it will harm if the votes fail even then it will harm Let there be a quietus to this affair I appeal to your conscience Let us not do this

The whole world is watching us I have collected for you and I will place it at the end I have collected for you all the impeachments that have taken place any where in the world I want to state it straightway—the impeachments that have taken place in the world There is not a single instance of any Judge ever being impeached on such charges I have collected the charges I have given you the findings and I will invite your attention that not a single impeachment on such grounds — disproportionate Please lay down the standards for the Judiciary if that is what you want to do and judge the judiciary on those standards But please do not start judging the judiciary on evidence of this sort

The other thing that is stated is that there is a rule The rule says Rs 38 500 Let us first understand as a matter of law what is this rule that we are talking about Now the Ministers Residence Rule of 1962 apply to Chief Justices of the various High Courts as well as the judges The Ministers Residence Rules say the following—page 117 vol III

Rent—free furnishing to the limit of Rs 38 500 for the residential portion of the residence no limit for the official portion of the residence

You must therefore find out what is the residential portion and what is the official portion The Committee says We cannot find that out It is very difficult

But be that as it may what do the rules relating to rent—free furnishing mean? It means if you have furniture in your house in the residential parts of the building which is more than Rs 38 500 it would not be free you will have

to pay for it That is all that it means

Let us say a Member of Parliament is found that he has Rs 50 000 worth Now there is no misdemeanour here — the difference between 38 500 and 50 000 He will have to pay rent for it That is all that will happen and the rule prescribes it Now I will read the rules—page 117 volume III

2(b) Scale free furnishing The value of furnishings including electrical appliances provided free of rent in an official residence allotted under section 22 of the Act shall not exceed in the case of an official residence allotted to the Chief Justice of a High Court other than the Delhi High Court and the Punjab and Haryana High Court Rs 5 000 more than the scale provided to a Cabinet Minister of the State Government in which the principal seat of the High Court is situated

Now (b) Sir

The Chief Justice of the Delhi High Court of Punjab and Haryana Court on the same scales as provided for the Union Cabinet Ministers which is Rs 38 500

The rules further say It is rent—free That is all that it says You would not be charged rent for Rs 38 500 So what does the Judge say? The Judge says assuming now you find—which the Government has not found till date—that there is some excess please charge me rent for it I will pay rent Sir But do not impeach me This is not a ground on which you should impeach me

Now where is the limit — as my learned friend pointed out—of purchase? My learned friend made fun of it and said look the judge is saying no limit for purchase

He is right The rule prescribes his rent—free accommodation to a limit If you pass that limit you pay rent It does not mean that any Judge should flagrantly in willful disregard

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dishonestly with a corrupt motive do all this. But that is not found against this Judge.

Now, what are the rules — Ministers' residence Rules — which apply to him:

"The value of furniture and electrical appliances provided free of rent in a residence allotted under section (iv) shall not exceed in the case of a residence allotted to a Minister other than a Deputy Minister: Rs. 38,500.

That is the limit applied to the Chief Justice.

Then, there is explanation:

"The value of furniture and electrical appliances supplied for use in the portion of the residence set apart for office purposes shall not be taken into account for the purposes of the limits specified in sub—rule 2."

So, for the official part of the building, there is no limit. The Judge says that prior to March 1989, the drawing room, the dining room and the whole area was all official. Then, how can you apply that limit to him? That is all that the Judge says.

In 1992, the subsequent Chief Justice said that he only used two rooms for official residence, which are upstairs and not on the ground floor. In 1992, for a subsequent Chief Justice, there is no limit. Now, that is the interpretation of the rule I come to Explanation 2.

What is the consequence of an infraction of the rule is given in the rule itself. The consequence is not impeachment. The consequence is that for every article of furniture or electrical appliance provided in such a residence in excess of the limit specified in Sub—Rule (1), the Minister shall be liable to pay rent at the same

rates as are applicable to government servants together with departmental charges. So, the infraction of the rule Gives the consequence in the rule itself. If there is an audit objection against the judge, what you could have done against the Judge is this. You could have said that there is an excess of this amount. Your limit was Rs. 38,500/-. You have spent two lakhs or three lakhs or four lakhs. So, pay rent.

Many a time — and I have personal experience in this — in foreign missions, items of furniture are ordered. And they are ordered first and the sanction is sought later because it takes a long time for Governmental machinery to move. Sometimes, the audit says, "How did you purchase this? This is all wrong." That does not mean that the officer is dismissed from service. All that happens is that there is an audit objection and he pays. That is not misconduct under Service Law. But why should it be misbehavior when it comes to a Judge? Where is the rule which says that he cannot purchase beyond Rs. 38,500/—.

That takes care of the first element of the seven points that I am raising, relating to the first charge.

Now comes element 2, regarding violations of financial discipline. Here, what is the financial discipline? The judge says that it was his official residence and that whatever items like sofa set, etc. are found there, they are part of the official residence. So, he says, "Please do not apply the limit of Rs. 38,500/—.. If you want to charge me anything, you charge." He is not taking them away to his home. He has not personally purchased those items. It was done under the instructions of a committee which was set up. So, what is the violation of financial discipline. The Judges' Committee says, "A Judge of the Court is not expected to purchase items like this because there are certain standards, which according to the Committee, disentitle him to do so." If those standards, which the Committee prescribes by themselves are violated, then the Judge has committed

financial in discipline !.

In any case, financial in discipline is not corruption. I said in my initial statement that if he is a corrupt judge, he has no business to be there. There is no finding of moral turpitude against this judge. The three judges of the Supreme Court went into this matter and said categorically :

"Whilst we suggest that this aspect may not involve any moral turpitude embarrassing Justice Ramaswami to function as a Judge, we leave it to the Chief Justice of India to consider whether, after all, any voluntary reimbursement of the loss might not accord with the highest standards of judicial rectitude."

The three Judges of Supreme Court went into it and they did not find any moral turpitude. They said, "Look, you pay for it in the event it is found. "Till date, no demand has been made from the Judge. Even when I am standing here today Sir, till date, there is no demand against the Judge saying, "Look, this is the infraction. Pay the money."

It could not be for the simple reason that nobody could distinguish what is the residential portion and what is the office portion because office portion is free but the residence portion is limited. They are having a tough task and so they want you to decide. What the Audit should be doing, Sir, you are asked to do an Impeachment proceeding. At page 120, the Committee itself says: "You do not know what is the residence portion and what is the office portion." I will quote the Inquiry Committee Report Volume 3 Page 120:

"Before the construction of the extension wing, the Chief Justice was using a part of the residential portion as Office but it does not appear clear from the evidence as to which rooms were precisely used for office purposes."

The Committee itself cannot find it then why

should the Committee hold against it.

Now, Sir, having taken care of the financial list indiscipline let us go to the next thing. The Committee says that the limit of Rs. 38,500 was knowingly and willfully ignored because the purchases by the Chief Justice were sixteen times more than the limit prescribed. If you multiply Rs. 38,500 with 16 you come to Rs. 6 lakhs. So, instead of saying Rs 6 lakhs it says sixteen times. That is the forensic ability. It did not say Rs. 50 lakhs, as was the allegation in Charge 1; it did not say Rs. 13 lakhs, as was the allegation in Charge 5 but the Committee talks about Rs. 6 lakhs. I will tell you a very interesting story about one particular charge. You will find it amusing.

There was a charge against this Judge that he has taken away the carpets. Sir, look at the charge; the carpets of various sizes 2/4, 6/8 and 9/12 have been done away with by him. The original allegation was that four carpets have been substituted by him. The present value of seven missing sofa—sets which are said to be substituted is Rs. 1,79,381. The charge was that he has taken away on March 29, 1990 these 7 sofa—sets. Then on the same day there is an Audit Memo in the office of the Accountant General which says that the sofa—sets worth Rs. 1,47,271 have been found missing. On September 17, 1990 they found none was missing, but they still made a charge against the Judge. Kindly imagine, Sir, they themselves found nothing was missing but still they made a charge against the Judge. And, in each charge the size of carpets and sofas was different. An FIR is filed for the missing things and the details in the FIR are different from the details given in the Charge. What are we coming to? How are we treating our Judges? May be because somebody likes to damn the good reputation of a man, he must submit to you. I will read the last sentence of the speech of the Judge where he says to you: "Please remove me. "I will read the last paragraph of his statement to you, that is Volume 3, page 122.

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"The great the responsibility foisted on a person the higher is the burden required for its discharge. Men of power exercise the maximum restraint not as a matter of choice but as a matter of discipline. It is only such conduct that ensures the dignity of the Office and its respect in the eyes of the nation. What you will perform today is not a legislative function. you are invested with the judicial power of the State to decide my fate today. This is not a vote on a Bill. You are not to decide the direction the country must take by adopting a particular legislative enactment. You are to decide the fate of member of the judiciary whose removal will have vast impact on the fortunes of the institution. You have not personally investigated into this matter which you as Members of this Honorable House do when moving a Bill. You have not had the advantage of a report of Committee of the House, which you sometimes constitute, to look into complex matters and inform you of its repercussions. You are looking at evidence adverted to by an outside agency of which you had no control. You have never had the occasion to apply your mind to the facts. You sit in judgment over my conduct. You have the strength, the power and indeed, if I am quilty, the responsibility to remove me. I believe that you will do justice. Only then will Truth triumph."

Inspire of what I have told you, Sir, on merits, it has been said the Judge has not given any reply on merits., Volume—III of this compilation is only on merits charge—by charge. What is this Rs. 6 lakh that has been talked about against the Judge? He give it in a statement. Now, Sir, it is very interesting. You kindly look at the statement. Let us now take Rs. 6 lakh as the figure. He explains it in his reply as well as in Volume—III. You see the later part. He has proceeded in a different way. He has taken the charge of Rs. 13 lakh. He says, of the charges of Rs. 13 lakh; Rs. 4, 14, 106 is in respect of item

for which there are no records, no vouchers, no purchase notes and no bills that have been produced before the Committee. So, without the vouchers, without the purchase notes, without the bills, the Committee finds that this Rs. 4 lakh is attributed to him. The Judge says: 'Please show me where is that voucher.' He says, take away from Rs. 13 lakh; Rs. 4, 14, 106.

Now, you see page 8 of Volume III. It is a part of his reply on merits. He is not shying away anything. He is replying it in black and white. This is how you come to this conclusion. He says: "Having stated the above and after excluding from the total sum of Rs. 13,41,554.40, the sum of Rs. 4,23,506.00, the balance figure comes to Rs. 9,18,038.40. Now, Sir, of this amount let us exclude the amount admittedly spent on purchase of items used for the new office wing. The two major items in this context are sofa—sets, the carpets. the value of nine sofa—sets purchased for the new office wing is Rs. 2,93,466.00 and the value of carpets and foam comes to Rs. 1,61,913.00 The total of these two items is Rs. 4,55,379.00." Even according to the Committee, it is admitted.

"After including certain minor items like side tables and writing tables this figure may be rounded to Rs. 5 lakh. In other words, Sir, of Rs. 13 lakh, item of the value of Rs. 4 lakh goes. Because, there are no vouchers, and another Rs. 5 lakh goes because, these are all official expenditure. It is part of the new Wing. So, we are left with Rs. 4 lakh. Now, how does he account for the expenditure of Rs. 4 lakh? My learned friend says that he has not replied on merits. What is then this Rs. 4 lakh? He says, of this Rs. 4 lakh; Rs. 1,22,000 is the value of the seven air conditioners which to the best of his recollection were already installed at the time he occupied the residence.

So, of these seven air—conditioners, three were installed in the visitors' room before the construction of the new office wing. It is relevant to note here that I took over as Chief Justice of Punjab and Haryana High Court — it is an

interesting reading here — on November 12, 1987 and was elevated to the Supreme Court on October 6, 1989.

(Shri Nitish Kumar in the Chair)

The new office wing was fully constructed and occupied in the end of March 1989. Therefore, I had used the new office from April 1989 to October 6, 1989. After excluding the summer vacation from June 2 to July 1989 and the period for which I was not in Chandigarh, I, before My elevation, used the new office wing for approximately four months. The charge is that you are doing wasteful expenditure as if he was doing all this for himself. The man did not even use it for four months. He was elevated to the Supreme Court. What was he doing for personal gain? Apart from the three air-conditioners installed in the visitors' room, before the construction of the new office wing, four other air-conditioners were installed one in each room on the first floor of the building. This is very important.

Reference to item 68 of list two suggests that eight air-conditioners were provided at my residence between April 1, 1989 and October 6, 1989. This is very important. So, he says, your own document says — and he has given the number — that these air-conditioners were provided to me between April 1989 and October 1989, not before March, 1989. He was Chief Justice from November 1987 to October 1989. So between November 1987 and March 1989, no air-conditioners were provided, but they were provided between April 1989 and October 1989.

Now, he says, for two months, I am away in September, weather starts getting cooler. So, I would unauthorisedly with the dishonest motive, purchase air-conditioners in 1987, installed them in 1989 and for the money that I am away to Madras why would I do that?

Now you therefore, must exclude from Rs 4 lakh the figure that I gave you, Rs. 1.22 lakh of the air-conditioners; then you will come to the

figure of Rs 2.87 lakh. Now, the judge must explain about this figure of Rs 2.87 lakh. Let us come to that. He says, of Rs 2.77 lakh a sum of Rs 1.52 lakh is attributable to carpets which were laid in the visitors' room, Secretary's room and one office room on the first floor of the building. Admittedly, the new office wing was not constructed till March 1989. Was I, upon its construction, required to dismantle carpets and not put them to further use? As you are aware, wall-to-wall carpets are always fixed to the floor with the binding agents. It is not understood how with the construction of the new wing carpets of the value of Rs 1.52 lakh are said to be used for residential purposes. Any reasonable person would exclude it from the sum of Rs 2.78 lakh. The figure then left is Rs 1.26 lakh. So, we come down to the figure of Rs 1.26 lakh.

Now, He says, of Rs 1.26 lakh, Rs 96,000 is the value of the loose carpets found in the residence. Now these rolled up carpets were found in the residence. No witness has ever said why he had used them, no witness has ever said why he had bought them, because they were found on 17th February, 1990 — I know why they were found there. It is clear because they were found there, the Committee said, the fact that they were found there, you must have used them. So if you exclude from Rs 1.26 lakh the figure of Rs 96,000, what figure do you come to? It is less than Rs 38,500.

That is why the judge said, this Committee's proceedings are a farce, rightly said. What are you trying to do? Indict a man. For what? Not to uphold the highest standard of the judiciary. I can say that.

This is one, we have explained. But he has explained it in other way. He said, you take any permutations, combinations the figure will come to less than Rs 38,500. Now I give another permutation, that is in the form of a charge. Sir which you will find at page 140 of Volume III.

That is why when my learned friend says the Judge should resign. The Judge says why

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should I resign? I would rather go down in history, if I have done something wrong. If I am a corrupt Judge, I would rather go down in the history as a corrupt Judge, but if I resign the whole world will say the man was corrupt, that is why he resigned."

I read the charge at page 140.

"It may be seen from the above discussion that Rs. 6 lakhs worth of furniture and furnishings alleged to have been purchased for the residence, the following items have not been proved to have been purchased during Justice Ramaswami's period or not proved to have been purchased for residential portion:

Item 1 :

Seven air-conditioners mentioned in para 126 and 127 of the report—no purchase notes, no bill, no receipt; when purchased—not known. Reply at page 32—33."

My learned friend says, "I have not found the reply on merit."

"Value Rs. 1,22,000.

Item 2:

Two carpets, wall to wall laid in the office."

Now, could this Judge have gone to the public and gone to the press and said this is my explanation? He could not have. Who would have listened to him? Only you would listen to him because you know that there is a delicate balance to be maintained between this real institution and the judiciary and you will not shake that balance. I am convinced of it, you will never shake it because you will shake the foundations of the parliamentary democracy.

Mainly because the press says he is cor-

rupt, that he is corrupt and maybe because the press represent it *ad nauseam* he is corrupt, that he is corrupt.

SHRI RAM KAPSE (Thane) : Unnecessarily the press is being... (Interruptions)

SHRI KAPIL SIBAL : I am speaking on behalf of the Judge, otherwise I could have said a lot about the press. I will not because I restrain myself because I am representing a constitutional functionary. I know how the press said it also.

Now Item 2:

"Carpet, wall to wall laid in the office portion of the residence. Some of the purchased notes specifically say so. S.S. Dogra, Court Officer Witness No. 43 says so. Bahri, Witness No. 45, the then Registrar, now a Judge does not say any related to residential portion."

No witness says it is for residence. No desire of the Chief Justice mentioned, yet the Committee says it is for his residence; value Rs. 1,52,000.

"Item 3 :

Three sofa—sets in visitors room were old."

That were there in H. N. Seth's period. If some previous Justice has bought sofa—sets and they are there, how can the value of that be counted towards Rs. 38,500; yet it is counted—Rs. 62,970. So you exclude that.

Then loose carpets purchased for the High Court. No witness says of residence, no witness has said that it was purchased for residence. Only found at the time of taking delivery, i.e. 17.2.1990, the fourth date I mentioned to you. Only found at the time of taking delivery, rolled, tied and kept at the residence. No witness says for residence; value Rs. 96,300.

Item 5: pedestal fans; those were found in the toilets; value Rs. 4,500. Old linen; I must tell you one interesting thing, Sir.

All the relatives of the Judge live abroad. He has one hundred acres of land, of coconut plantation. He is a rich man. He would not pilfer the linen of the High Court.

Now, let me tell the facts about his linen. In any High Court there is an administration like you have yours. That administration is dealt with by what is called the Court Officers' Section. The Court Officers' Section is in charge of the administration. He knows, because there are several judges, there are several judges of High Court. somebody needs towels, somebody needs something else. There are people who come from outside into Chandigarh, some judges who are from Delhi or from other High Courts come to stay overnight at Chandigarh. Somebody has to provide them linen.

17.36 hrs.

(MR. SPEAKER *in the Chair*)

Suppose a Judge of the Supreme Court comes, he wants to stay there. What does the Chief Justice do? He provides them linen. If that is kept in the residential portion of the premises, it does not mean that it is for residential use. That does not mean that you now allocate that linen to his personal account and say that he has exceeded the limit of Rs. 38,500:

Now, most of the linen, the Judge says at page 44 or 141, most of them were left by Mr. Justice H. N. Seth, the previous Chief Justice.

"No purchase note, no bills, no evidence when it is purchased".

Then the seventh item: Three old Godrej almira's.

"No purchase note, no bills... Rs. 9,600."

Then, a dressing table. Let us see to what level the Committee went! Dressing Tables! Towels! What is this? Is the Judge corrupt because he has in his possession some towels? He did not run away with the towels!

Now, about dressing table: "Purchase note not produced." Purchase note may show that it was within limits, of Rs. 15,092/—.

Cotton: The Judge says that the conclusion is wrong and the assumptions are all wrong and he also says why. The old one might have been replaced, also at the residential portion, Rs. 19,000. Then he says,

"No evidence relating to the following." The whole figure comes to Rs. 1,988/-.

This is very very interesting. He was elevated to the Supreme Court as a Judge of the Supreme Court on October 6, 1989. In September 1989, just ten days prior to his elevation, the Chief Justice of India and some brother Judges had to visit Chandigarh, the dining table that was there in the house was very old and there was one broken leg of that dining table. The Chief Justice thought that it was not fair that the Chief Justice of India was coming and he should have dinner at a dining table with one broken leg. So, he placed an order for a dining table which cost Rs. 45,000; it was not for his personal use. This was ordered in September 1989 and he was elevated to the Supreme Court on October 6, 1989 within ten days and the Committee says that Rs. 45,000 was spent for his personal use! Therefore, he is now debited Rs. 45,000.

Then come, some study table and study chairs which cost Rs. 11,000 and the total of all these items that I have read out comes to Rs. 5,70,496; the Committee finds it is Rs. 6 lakhs. The difference is Rs. 40,000/—.. So, it is less than Rs. 38,500.

Either way, by any permutation, or any combination, it is less. In fact on facts it is less than Rs. 38,500/—.

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My learned friend made a very interesting point. He said that there were audit reports and an independent audit was conducted. Why should an independent audit be against the Judge? Now Sir, the judge—this is important from the general standpoint because you will then realise and appreciate what was going on in the court—gets elevated to the Supreme Court on 6th October 1989. On October 24, 1989, after he was elevated within about eighteen days, the then Chief Justice of the Court ordered an audit himself, no outside audit. He ordered an internal audit. On 10th November 1989—kindly see the speed at which this department works and the Audit Reports Department in the Accountant General's branch take months (-) within a few days they published the first audit report. The High Court itself leaked it to the press. On 6th December 1989, another note was prepared against the judge. On 12th December 1989, a note was prepared on the missing furniture by the same internal audit—not by the Accountant General's Office. These were all done by one man, Mr. M. D. Sharma, PW (2) who was given promotion after the impeachment proceeding was started and who was censured by the Justice Ramaswami. This one man in a course of one month produced five reports which were leaked to the press. And the whole High Court was audited within that one month. This is the independent audit that my learned friend is talking about. If the conscience of the Members of this house convinces them that this kind of a thing can go on against a judge and these kind of audit reports can be relied upon, I can say to you that no judge in this country will be safe. Do not depose the judiciary to these attacks. My learned friend started by saying that it is not a case relating to the judiciary but it is a case relating to one member of the judiciary and he ended by saying that he, the Justice Ramaswami, most reprehensible part of the judiciary. He cannot have it both ways. We are proud of our judiciary. We are proud of our judges and we must be consistent with the sense of pride that

we had and do not allow ourselves to make such allegations. That is an element of restraint, which is required if the delicate balance between the Parliament and the judiciary is to be maintained.

You do this to a judge today and throw him out. Every other judge who is rendering judicial pronouncement would be subject to these kind of threats and then what happens to their judgement. If they know that such motion can succeed and requires

How can my learned friend explain the allegation of Rs. 50 lakhs? How can my learned friend explain the allegation of those silver maces, saying that they were purchased at inflated prices? **

So this is the manner in which those independent reports were prepared. (Interruptions)

SHRI RAM NAIK (Bombay North): Sir, I am on a point of order. Is it not an allegation? He said that

Is it not an allegation against the Members? (Interruptions)

SHRI RAM KAPSE (Thane): He has said that there is a threat, not a vocal threat but a threat. He has used that word. That should be expunged. (Interruptions)

SHRI CHANDRA SJEKHAR (Ballia): Mr. Speaker, Sir, the honorable learned Attorney has every right to say whatever he wants to say in defence of his judge. But he has not got the liberty to make accusations against the Members of Parliament.

He cannot say that getting the signatures of 108 MPs is not a small affair. If on any issue 108 MPs sign, that is a serious matter which concerns the nation. Anybody cannot take the signatures of 108 Members of the Lok Sabha. I

do not say what will be the opinion of the House afterwards. Charges of corruption does not mean that if a judge is impeached on that basis, that will have an adverse effect on the judiciary, that they will not be able to take independent judgments because the parliamentarians will force them to such an action. These sorts of remarks are totally uncalled for. We have got every respect for the liberty which he did enjoying in this House. But, he should not make frivolous statements in this House.

** Expunged as ordered by the Chair.

SHRI BUTA SINGH (Jalore) : Sir, to an extent, I agree with the hon. Member, Shri Chandra Shekharji that the lawyer should not attribute motives to the hon. Members. But, based on facts and law, the position that he explained about the alleged Rs. 50 lakhs must go into the heart of the hon. Members who could not go into the charges which were presented to them at the time of signatures. (Interruptions)

SHRI KAPIL SIBAL : I want to make a statement. I apologise. It was not meant in that spirit at all. I am really very sorry. When I conveyed this sentiment, it was not men to denigrate any Member of the House and if I have by mistake done that, I apologise. That was not the intention. (Interruptions)

MR. SPEAKER : Please proceed.

SHRI KAPIL SIBAL : The third aspect that the Committee finds is that certain financial rules have been violated. Why does the Committee finds that? This is another very important aspect of the matter. The Committee says that when purchases were effected, he should not have invited quotation. If he had not invited quotation, M. D. Sharma, the star witness says that, in fact, he had been telling the High Court to invite quotation. But the Committee holds, because he did not invite quotation, this was a violation of the financial rules. I just want to point out one fact to the hon. Member of this House and I will straightway turn to page 157 of Volume III.

After justice, Ramaswami was elevated to the Supreme Court, M. D. Sharma was a member of a Purchase Committee for the Purchase of a PBX system which ran into Rs. 7 lakhs, 25 Kelvinator Refrigerators and Godrej almirahas has were purchased. This is what he has said, and he has asked a question as to whether any quotations were invited. This is after justice Ramaswami comes to the Supreme Court. The answer is: I cannot say whether there have been any occasions when the High Court invited tenders for purchases. So, if the High Court has never done it and that is the established practice, then if justice Ramaswami has done it, how could it be misbehavior. I cannot say whether there will be any occasion where the High Court invited tenders for purchases. I am aware that recently — this is after justice Ramaswami ' impeachment motion was moved — PBX system has been installed in the High Court at the cost of about Rs. 7 lakhs. I do not know whether any tenders were invited for the said installation.

I do not know whether tenders were invited for the purchase of twenty — five Kelvinator refrigerators. After the departure of Justice Ramaswami, I was a member of the purchase Committee for a few months during the tenure of Justice Gupta. The purchase Committee, for which I was a member, did not invite any tender. The said Purchase Committee also did not issue advertisement inviting quotations. So, if the Purchase Committee did not issue advertisements and if no tender was ever invited, if this has happened since the establishment of the High Court and the High Court has never invited tenders, then why is it that for Justice Ramaswami this becomes misbehavior and a violation of Financial Rules? This is hard evidence, Sir. "I can go on record that never have tenders been ever invited by the High Court establishment since its inception and the practice continues even today.

Then, Mr. M. D. Sharma, the star witness further says. When it was put to him that the limit is Rs. 38,000, he says that all Judges have exceeded purchase limits. I shall read that

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sentence from Volume—III, page 136. I quote the statement of the witness:

"There was already a report of the Accountant General's Office in 1988 in respect of the excess purchase of petrol, furniture and also in respect of excess telephone bill for the other Judges of the High Court."

You single out Justice V. Ramaswami and impeach him. So, this is the atmosphere in which all these charges were framed against him and all after he was elevated to the Supreme Court.

Having said that, I go back to page 136:

"There is no report in respect of TA/DA or LTC, excess claim by the other Judges. I do not know whether the recoveries have been made in respect of excesses from the other Judges. The Accountant General had already made an audit upto August, 1988 in respect of telephone charges at Madras maces or petrol charges and excess furniture. So far as I know, there was no objection taken by the Accountant General's office in respect of any of those items".

The Auditor himself never objected but the Internal Audit objected, the staff of the High Court objected. And they objected after he was elevated to Supreme Court.

So, I have now covered disproportionate requirement far beyond the limits prescribed violation of financial discipline and limit of Rs. 38,500. These three items I have covered. There are seven items in charge (1).

Item (4) is personal advantage and benefit to the Chief for his use without having to pay for it. What is the personal advantage, Sir?

Item No. (5) is charge of favourable dealers. I would like you to look at only one chart in

this volume which Your Honour will find at page 158. This chart relates to all purchases made prior to the appointment of Justice Ramaswami as Chief Justice of Punjab and Haryana High Court. Kindly note who are the persons who supplied the furnishings:

Justice H. N Seth, Chief Justice, on 8.12.1986, prior to Justice Ramaswami becoming Chief Justice, purchased four bed sheets, six door mats and one double bed cover, and quotations were obtained from Krishna Carpet. Furnishings were purchased from Krishna Carpet and remarks on quotation are 'undated'.

On 13.12.1986 six foam pillows were purchased from Krishna Carpets. On 15.12.1986 one table mat was purchased from Krishna Carpets. On 2.2.1987 one double bed cover was purchased from Krishna Carpets. On 10.2.1987 two different bed covers were purchased from Krishna Carpets.

Then about Justice C. S. Tiwana:

On 5.11.1992 — prior to Justice Ramaswami—one carpet was purchased from Krishna Carpets.

So, for these judges these are not favoured dealers. For an outsider he becomes a favoured dealer?

Please come further.

For Justice K. S. Bhalla on 12.2.1987 one wall—to—wall carpet was purchased from Krishna Carpets. For Justice J.M.T and on one garden umbrella was purchased from Krishna Carpets. For Justice K. S Bhalla curtain clothes were purchased from Krishna Carpets. for Justice H.M.Seth, on 7.9.1986, one double bed and side tables were purchased from Salwan Furniture.

Those are the two favoured dealers, which I told you about.

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Five coir mattresses were purchased from Salwan Furniture. One dressing table was from Salwan Furniture. For Justice K.S. Bhalla, on 16.2.1987, prior to Justice Ramaswami, Modi floor carpets were from Krishna Carpets. For Justice D. V. Sehgal 25 metros of curtain cloth was from Krishna Carpets. For Justice D.V. Shell again, on 23.11.1985, curtains are from Krishna Carpets. For Justice Pritpal Singh one garden umbrella was from Krishna Carpets.

The fact is that the High Court has never purchased the items from any other dealer except Krishna Carpets and Salwan Furniture.

And then the finding is these were his favoured dealers. Nobody said that the prices were excess. That is not even the finding of the Committee — only that they were his favoured dealers.

That is the fourth element in that charge.

The fifth is: No genuine quotation without ascertaining that the price paid was fair or reasonable.

The reason why there were no genuine quotations is because the Committee finds that these quotations were undated.

Pleased come back to the same charge that I regard on page 158 of Volume 3.

Most of the quotations here are all undated. See the first one of 1988 which is undated. The quotations for the purchase notes of 13.12.1986, 15.12.1986, 2.2.1987, 10.2.1987 and 5.11.1982 were undated.

There were undated quotations prior to Justice Ramaswami going there. So if Justice Ramaswami went there and the Quotations continued to be undated, for him it is misbehaviour, although these were received by the officials. He never went and got the quotations.

Justice Ramaswami did not go to the market and say: Give a quotation which is undated. It is all done by the Registry of the Court.

The Chief Justice cannot function unless he relies on his staff. (*Interruptions*)

So, kindly look at this. All were prior to his taking office as Chief Justice of the Court. All quotations are undated. Even afterwards the quotations are undated. But, for him it is misbehaviour.

I have got original documents themselves to show as to how the quotations were undated.

You kindly look at volume 4 which has been filed before you and at page 112.

If you look at it, you will see the serial number, the name of the dealer etc. The names are handloom Emporium, Cottage Emporium and Krishna Carpets. Just look at Krishna Carpets. The value is Rs. 585..

It is the purchase note. I hope your honour have it.

MR. SPEAKER: Yes, I have it.

SHRI KAPIL SIBAL: The item no. 3 is for Rs. 585. That is the purchase note. And in the bottom you will find the date of sanction as 27.1.1984 which was much before Chief Justice Ramaswami came to the High Court as Chief Justice. It was much before that. You see the quotation on next page, that is on page 113, regarding Krishna Carpets.

See the amount of Rs 585 there, Sir, and on the top there is no date. Is it right, Sir?

Now, Just come to the next page. You see the sum of Rs. 590 over there. That relates to item 1 — Handloom Emporium: Rs. 590 at page 112, again undated. This whole volume is full of undated quotations when Chief justice Ramaswami had not gone to Chandigarh. That

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was the prestige of that Department because nobody really bothered about the date. Nobody, there—fore, bothered about the date. a clerk goes to the market, he got a quotation, he does not get the date put on it. How is the Chief Justice responsible? And if this has been happening prior to his going there as Chief Justice, then why should he be impeached? And this whole book is a compilation of undated quotations. Now, the Committee has never looked at any of these. Justice Ramaswami wrote to the Committee saying, 'Look at the practice of the High Court prior to my going there, look at the practice after my going there. If something had been done by me not in accordance with the practice, please ask me for an explanation. But you do not want to carry out that inquiry, you do not want to collect the papers, you do not want to collect data. Then why should I come to you? I would rather come here. At least you hear me, Sir. So, that takes care of undated quotations. Then the conclusion of the Committee is, Sir—and that is the last item. The Committee says on Charge I:

"Because you have indulged in disproportionate expenditure, because you have violated financial discipline, because you have exceeded the limit of Rs. 38,500/- by sixteen times, because you have derived personal advantage, because you dealt with favored dealer, because you did not get genuine quotations, you have brought dishonour and disrepute to the judiciary."

The conclusion cannot be right if the facts are not relevant. And that is why I said, the Judge has explained on facts, not that the Judge has not replied on facts.

This is Charge I. This is the major charge of Rs. Six lakhs that I had explained to you. Now, let us go to Charge II. Sir, I would like to read quite one very important passage. (*Interruptions*)

SHRI A. CHARLES (Trivandrum): Sir, I want to have a clarification on a matter of proce-

dure. Sir, I make a small observation with great anguish, in all seriousness. We are now laying down a Court. Even in respect of the Chief Justice of India, there has not been a single instance where a Judgment has been delivered on the spot immediately after hearing the arguments. Sir, here the procedure started at 2. 15. It is now Six O' Clock. I have been listening with rept attention the arguments of hon. Shri Somanath Chatterjee and now the Defense Counsel. I am afraid I cannot exercise my judicial function as Member of Parliament unless I am given the full text of the speech of Mr. Somanath Chatterjee and the Defence Counsel.

Quite unfortunately, four volumes of the Report were given to me only two days back.

MR. SPEAKER: I will correct you on that. Fifteen days back they were made available.

SHRI A CHARLES: Excuse me, Sir. I want the full text of the speech. (*Interruptions*). Let me be heard. I want the full text of the speeches of honorable Somanath Chatterjee and the Defence Counsel and I may be given time to make a judicious decision. So, as a matter of procedure I request that even if the time of this sitting is extended, voting on this motion may not take place today. This is a very serious matter. I am raising this with all seriousness. (*Interruptions*).

SHRI MRUTYUNJAYA NAYAK (Phulbari): It is such an important Motion that it will set a new precedent. The Members should be allowed to participate and express their views whether to support or oppose this Motion.

SHRI E. AHAMED (Manjeri): The facts are now brought just now. After having heard all these things, the House may decide to have either discussion among ourselves or to take a decision on this matter on some other day.

DR. DEBI PROSAD PAL (Calcutta North West): It is a matter of great Constitutional importance. I would request you to allow me to

make my submissions after the speech and the submissions of Shri Kapil Sibal are over. At least, I should be given an opportunity to express as also other members who want to express.

I request the Speaker to give us some time and the voting may not take place today.

[Translation]

SHRI RAM PUJAN PATEL: Mr. Speaker, Sir, the learned counsel has expressed his views at length in the House. He is repeating the same thing. He must be brief as the time of the House is precious. Repetition does not serve any purpose. Many hon. member are eager to put forth their views. Sir, kindly give a ruling as to which points are to be mentioned and which not. He is speaking just to pass time. It is not justified to comment on the hon. Members. I request you to give a direction in this regard. (Interruptions)

MR. SPEAKER: Please sit down. (Interruptions)

MR. SPEAKER: Proceedings of the house is going no smoothly. And I would like to thank all of you for the same. All that has been stated in the House till now, as per the records, is permissible under rules. I do not see any wrong in all this. If you see any wrong, then it is a different matter. Thirdly, we have decided that the issue should be pondered over and debated upon with all seriousness in the House. The hon. Members may put forth their views by making speech in the House. Repeating anything does not serve any purpose. If any hon. Member insists on speaking, then we can only try to persuade him. Opportunity cannot be denied to any hon. Member. For the first time conduct of a Judge is being debated upon in the House. I am not in favour of the hon. Members repeating same points and on the other hand all those wishing to make new points should be allowed to speak. The house must look into the views of both the sides.

[English]

Leave it to me, I will conduct it.

SHRI A.C.CHARLES; I did not get the clarification's, whether the voting is today or not.

MR. SPEAKER: I am not going to give clarification's to you. You please sit down now.

I can realise, Mr. Kapil Sibal, you must be feeling fatigue.

SHRI KAPIL SIBAL: On charge No. 1, I am now concluding.

On charge one I am now concluding only with reference to a statement in a case *Dove Y Vs. John Cory* (1901 AC 477) which is quoted at p. 150 of Vol.3 where Earl of Halsbury Lord Chancellor in the said case said the following which is relevant for our purpose. I quote:-

"The business of life could not go on if people could not trust those who are put into a position of trust for the express purpose of attending to details of management."

The business of life cannot of on otherwise. If a Chief Justice wanted to do something, he ultimately has to trust somebody. He has to rely on his officers. Otherwise, the business of management cannot go on. This happens in all walks of life. That is what the Chief Justice did. There is a machinery for it. He relies on that machinery and that machinery was in place for many many years and it would continue to function in the manner in which it was functioning in the past and it continues to function even today in the same manner. As he came from outside, he had no personal knowledge of that. He had to rely on what already existed and he allowed whatever was existing to go on. That is all that happened. Anyway, with that, I conclude charge one.

Now let us come to charge two Vol.2.

In fact, I also personally think that there are

[Sh. Kapil Sibal]

about 14 charges. I have finished only charge one.

MR SPEAKER: Well, how much time do you need, Mr. Sibal?

SHRI KAPIL SIBAL: It will take a lot of time. I do not think I may be able to finish today.

SHRI LALK ADVANI (Gandhi Nagar): Mr. Speaker, Sir, we have had a series of meetings trying to come to a consensus in respect of the procedure the House should adopt while dealing with this kind of motion because we never had the experience even before with the motion of this kind. Business Advisory Committee also was consulted by you. Representatives of various parties also had a series of discussions with you when it was indicated that the Judge would be represented by his counsel. I had pointed out that the counsels are used to a certain sort of discussion and debate which is all right in a court of law where proceedings go on for days together. But it may not be appropriate for Parliament where even the most momentous decisions are taken after discussion of four hours in which 15 or 20 members participate. It was taken into account. We came to the conclusion that we should confine the whole discussion to a prescribed period. We decided on the spot that we shall dispose of the motion on the 10th itself and to come to a conclusion finally. I would like to point out that the Judges Inquiry Act imposes a restraint on us. When a point of order was raised in the morning about those 108 Members or 155 members not being Members of this House, I said there is no restraint on that. But there is a restraint which is provided in Section 6 which says in Volume 1 that

'If the motion is adopted by each House of Parliament in accordance with the provisions of Clause 4 of Article 124 or the case may be in accordance with that Clause read with Article 218 of the Constitution,

then the misbehavior or incapacity etc. shall be presented in the prescribed manner to the President by each House of Parliament in the same Session in which the motion has been adopted."

So this is the constraint and the other House also has to consider the same motion. Before the House adjourns, if this House fails to adopt or if the other House fails to adopt the motion in the same Session, then the motion comes to an end. Therefore, it is that though every member in the House would like to express an opinion on this very important matter, yet we agreed to the proposal in which we all were a party. I do not want to mention who was keen about it. But we all were a party. But it is only the mover of the motion who moves it. The Counsel for the Judge makes his submission and the mover replies. We put the matter to the vote finally. We left it to you that if any unforeseen incident arises you will deal with it as the case arises. (Interruptions)

My submission is that in this case the Business Advisory Committee has set apart today for consideration of the motion and for its disposal. (Interruptions)

MR SPEAKER: Please do it in a proper manner. It is not good.

SHRI LALK ADVANI: I have not yielded. You have also pointed out that you had an occasion to discuss with the Counsel. He had said that he would not take more than three hours—maybe anywhere between two and three hours. On that basis, the whole schedule was drawn up. This was an important consideration.

But, at the same time, I would plead with you that keeping in view this requirement of the Act, keeping in view the decisions taken by the Business Advisory Committee, the discussions you have held with various parties, we should try to see that the matter is disposed of

in a proper manner. Of course, whatever is necessary to meet the requirement of justice is always in your hands. (*Interruptions*)

[*Translation*]

SHRIBUTASINGH (Jalore) Mr Speaker, sir, the leader of the opposition has raised a very important issue which, in all probability, must have been discussed with you. However, the House right now is not functioning in the normal fashion but it is functioning as a court. It an impression is created outside that the parliament hushed up the whole matter or framed up anything, it will be quite wrong. (*Interruptions*)

Therefore, justice should not only be done but it should appear to be done. This is a golden principle. Mr Speaker, Sir, if the arguments of the Judge's Counsel are cut short because of the rural and time constraint, then people all over the world will comment that justice has certainly been done but it does not appear to be done because the House is right now functioning as a court. Therefore, I am also in favour that the arguments and the counter arguments being advanced by the Counsel and by Shri Somnath Chatterjee should be under the charges leveled and the decision of the Inquiry Committee. I have also some facts with me. I had got a chance to look into the functioning of the judge as Home Minister when he was the Chief Justice of Punjab. I have some information available with me which will be definitely of use. (*Interruptions*) It is also a fact that Chief Justice Ramaswami (*Interruptions*) I would like to submit only this much that we must be given ample opportunity. Even if the House has to sit throughout the night, we should discuss this case thoroughly. Is the house not punishing Justice Ramaswami because he introduced reservation for the first time in the Punjab and Haryana High Court? He started hearing cases under Terrorists Act as a Judge whereas no other judge was ready to hear such such cases.

(*Interruptions*)

I do not want to dwell on these things right now. I would like to submit that the House must allot enough time so that the House can function as a proper court to hear all the facts before taking decision.

[*English*]

SHRI K P UNNIKRISHNAN (Badagara) Sir, While normally our procedures are regulated according to the Rules of Procedure and Directions of the Speaker, unfortunately there is a serious lacunae in our rules itself. While it provides for various other types of business, it does not provide for regulating a motion of this kind which is very important constitutional responsibility assigned to both House of Parliament. While I have great respect for the hon. Leader of the Opposition, I beg to differ from him. Well, it is true that various motions including financial business like the Defense Budget is disposed of in four to five hours or six hours of thousands of crores of rupees but here we are sitting up a precedent, through this motion, which is a first of its kind where we are actually groping in the dark. We have no precedent of this kind. We have absolutely no precedent to go by, nor any rules to go by. Therefore, it is very important that we should not in a bit of absent-mindedness stumble into something. Nobody should, our posterity should not blame us for that. Therefore, it is very important that there should be a discussion. Whatever may have happened, I have great respect for the members of the Business Advisory Committee. But they cannot take away rights of the Members of this House functioning as Members. No Business Advisory Committee, I humbly submit, can take away rights of its members. We have great respect and confidence in our leaders as far as those who hold the offices are concerned. You may see that hon. Counsel has been giving his point of view of his client or his judge to whom he represents for the last two hours. It is possible that he may have more points to cover. But it is impossible, humanly impossible to remember all that he has said or the various points that have been raised. Therefore, if we have to consider

[Sh. K.P. Unnikrishnan]

this properly, I would beg of you to make his submission available in written form and circulate it to the members and then we can consider it and take a decision on this.

SHRI LAL K. ADVANI : I do not dispute anything that Shri Unnikrishnan has said or that has been said from the others side. But in the course of the discussion, that possibility came up repeatedly that after all it is a very important motion and every member may have certain views about it. How do we deal with it? It is in that context, that even ultimately we came to the conclusion the procedure that you laid down at the outset, we gave you the authority to deal with the situation as they arise. All that I want to say at the moment, is that the constraint is not merely the Judges Inquiry Act, but even in the Constitution itself, under Article 124(4) which governs the removal of a judge, it says that it must be presented to the President in the same session for such removal on the ground of proved misbehavior or incapacity. (*Interruptions*)

MR. SPEAKER : You hear him. He is making a submission.

(*Interruptions*)

SHRI LAL K. ADVANI: Taking into account that particular constraint, taking into account the discussions we have held till now, I would request you to deal with the situation at the earliest.

[*Translation*]

SHRI HARI KISHORS SINGH: Mr. Speaker, Sir, I am on a point of order. Debate on such a serious issue should be held but you have to decide how the debate is to be regulated. I do not want to submit anything in this regard.

Mr. Speaker, sir, my point of order is that can a former Home Minister use the information he was having when he was Home Minister

because he was saying about it just now? I want to urge upon the leader of the House through you to say some thing in this regard.

[*English*]

MR. SPEAKER : What is your point of order?

[*Translation*]

SHRI HARI KISHORE SINGH: The former Home Minister has said that in the capacity of Home Minister he had access to some information about Judges and some proofs too especially regarding the judges of Punjab and Haryana High Court and that he was prepared to give that information to the House. (*Interruptions*)

MR. SPEAKER : Do you want a ruling in this regard?

SHRI HARI KISHORE SINGH: I seek your ruling in this regard but before that the leader of the House must say something in this regard (*Interruptions*)

[*English*]

SHRI CHIRANJI LAL SHARMA (karnal): Mr. Speaker, Sir, I am on a point of order. (*Interruptions*) We too have a right to speak (*Interruptions*)

[*Translation*]

MR. SPEAKER : Please sit down. First of all I would like to dwell on the point of order raised by Shri Hari Kishore Singh. A decision will be taken only after Shri Buta Singh is allowed to speak and completes his speech. If he comes out with some thing new, he won't be disallowed and all that not to be allowed to be raised will not definitely be allowed. (*Interruptions*)

SHRI RAJNATH SONKAR SHASTRI (Saidpur): Shri Buta Singh made a very serious point. (*Interruptions*)

[English]

MR. SPEAKER: I have given my ruling.
(Interruptions)

[Translation]

MR. SPEAKER: When I am speaking you must sit down. You must have heard earlier that I give my ruling only after an issue is raised in the House. If you have seriously heard my views, then all your questions are automatically replied to. I am grateful to the hon. members of both the sides and their leaders for fully agreeing with me and nobody has said that there is any need to argue on this point. If something is to be brought to the notice, then that is not to be disallowed. He has simply stated that during the current session itself the matter must be put up to the President. And all that needs to be done in this regard must be done. All that is appropriate must be done. Afterwards there won't be need to raise issues. (Interruptions)

[English]

SHRI CHIRANJI LAL SHARMA: Mr. Speaker, Sir, the hon. Leader of the Opposition.... (Interruptions). I am on my legs, why are you interrupting? (Interruptions)

MR. SPEAKER: Shri smooth Chatterjee:

SHRI SOMNATH CHATTERJEE: Sir, I am sorry to interrupt. (Interruptions)

SHRI CHIRANJI LAL SHARMA: Mr. Speaker, Sir, I am on a point of order.

MR. SPEAKER: I should hear his point of order first. Which rule under the Constitution has been violated, which convention has been violated? You have to tell me that first.

SHRI CHIRANJI LAL SHARMA: I can have my submission like all others have it

MR. SPEAKER: You can have your sub-

mission but you cannot have a point of order without telling me under what rule.

SHRI CHIRANJI LAL SHARMA: The hon. Leader of the opposition, Shri L.K. Advani, had raised a point.

MR. SPEAKER: What is that point?

SHRI CHIRANJI LAL SHARMA: This is a case of historic importance, first of its kind in the history of our nation since independent India. And as was put by the learned counsel appearing for Justice Ramaswami, there has been no case of impeachment all over the world or may be. But the question is that Justice Ramaswami is in the dark.

MR. SPEAKER: Is it necessary for you to say all these things even after hearing what I have said. Have you heard what I did say?

SHRI CHIRANJI LAL SHARMA: Let me make by submission. Justice Ramaswami is being represented by a counsel. The counsel has put the case in his own manner and he has substantiated his arguments by quoting the evidence, by referring to the evidence that has been made available to all the Members of the House in the form of a booklet.

Now, sir, the hon. Leader of the Opposition says that there should be an restraint of time. We are all sitting.....

MR. SPEAKER: In my opinion, the hon. Leader of the Opposition has said nothing which is not acceptable. He has said that if time has to be given, time should be given. But at the same time it should be remembered that this address has to be presented in this session and I do not find anything wrong in this. Please sit down.

SHRI MRUTYUNJAYA NAYAK: Unless the motion is carried, how can his point be valid?

SHRI SOMNATH CHATTERJEE: Shri Buta Singh has rightly said that we are now sitting as judges. When we behave as judges.....

SHRI BUTA SINGH Yes as a jury I have a right to put questions even to you

SHRI SOMNATH CHATTERJEE Very well, from judge he has become a jury on his self admission. Shall he be allowed to give his own personal views? Personal facts? This is the point. Can he give evidence on his own as to what he came to know as the then Home Minister? (Interruptions) We thought that the matter would be decided on merits not on party lines. It seems that in the presence of the Leader of the House and Prime Minister it is being decided on the Party lines.

MR SPEAKER Please avoid that

SHRI SOMNATH CHATTERJEE If not so we can continue. Otherwise let us finish this

[Translation]

SHRI CHANDRA SHEKHAR (Ballia) I would not have intervened in the matter had Shri Buta Singh not raised a serious point. He has submitted that as the Home Minister he had access to some information which if divulged will definitely have a bearing on the decision. Firstly he as the former Home Minister should have supplied all the information to the Committee. If that was not done and if he is prepared to divulge it today in the capacity of the former Home Minister then he must obtain prior permission from the hon. Prime Minister. Because if former Prime Minister and former Home Ministers start divulging information then it will be difficult to run the affairs of the country and the House. If we are submitting anything in the House seriously then norms should not be violated. I think if the hon. prime Minister agrees then we can take decision after listening to the former Home Minister.

I also agree with the Leader of the Opposition that all the hon. members from both the sides including Shri Unnikrishnan wishing to speak must be allotted enough time to speak. Leader of the Opposition is in agreement with the views

of the Business Advisory Committee and instead of making speeches we must be guided by it. The hon. Members must be allowed to put forth their viewpoints and after that we must try to kindle a new light in the country.

MR SPEAKER Firstly I will decide who is to be allowed to speak in the House. Secondly if any hon. Member feels urgency to speak then will be definitely allowed. The House must be attentively heard my views in this regard. It is correct that during the current session itself this case is to be put to the president and before that the other House has also to discuss the matter. Maintaining a balance I will try what should be done. I hope the House will continue to cooperate with me.

THE MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT) AND THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS

[English]

SHRI RANGARAJAN KUMARA MANGALAM I am sure all of us have said that full opportunity must be given to the Counsel representing the hon. Judge. But at the same time the leader of the Opposition with due respects to him I may submit as referred to both the Judges Inquiry Act and the Constitution and said that there is a restraint that we have to adopt the motion in this session.

If I may submit the emphasis both in the Judges (Inquiry) Act as well as in the Constitution is on the adoption of the motion being in the same Session in both the Houses and it being presented to the President during the same Session. But it is not on consideration. We are not limiting ourselves. At the moment we are in the process of considering the motion and it is only when we adopt the motion does this constraint come on ourselves. And this I want to make clear, more as a legal

position. (Interruptions)

MR. SPEAKER: Well, there can be differences of opinion on interpretation of the provisions of the Constitution and the law. It is not necessary for us to enter into that kind of argument here, on the floor of the House, without carefully applying our mind to each and every word, comma and full stop; and I am not giving my opinion on that point. I am just leaving it aside. But the fact is that when we fixed the date as 10th May for the consideration of this, we did have this in mind that the Address has to be presented in the same Session. That is why, we thought, if it is discussed here for one day or two days, the other House will be able to discuss it for one day or two days; and there will be time for presentation also. That is what, we have decided and that is why, 10th May has been very carefully chosen for this purpose. At the same time, each and every member in the House realises that it is for the first time that we are discussing a matter of this kind; and nobody should be shut out, if he has something to give to us which can enlighten us on this point. Then, we would not like it to be shut out. Here, please do not get exact words from me, then, next moment you may tell me that you had said this thing, why not you do that. You give me some discretion and leeway, allow me; and we will do that.

Mr. Sibal, now I would like to know how much time you would need. I would not like to curtail your submission also. But at the same time, I would like to bring to your notice that I had an occasion of discussing with you and trying to find out as to how much time you may need. You had indicated some time. But, I do realise that if there are points and if you want to make your submission, some slight adjustment can certainly be done; but it should not go too off the mark.

SHRI KAPIL SIBAL: I appreciate that. If I may answer that....

MR. SPEAKER: Please, I would like to

know how much time you will need. I realise that the first charge was an very important charge and probably you needed that much time. I have read the other charges and I have gone through the evidence also. I do think that you may not need that much time.

AN HON. MEMBER: Let him not repeat the points.

MR. SPEAKER: He is not repeating.

SHRI KAPIL SIBAL: I wish only to state that I will take as little time as possible (Interruptions)

MR. SPEAKER: Mr. Sibal, you may give me some indication please

(Interruptions)

SHRI SOMNATH CHATTERJEE: Sir, let him have his time. We do not want to stop him. It is for him to decide, as to how brief he can be, not on our insistence, but on his own judgment. (Interruptions)

MR. SPEAKER: If you have cross-talks, my job becomes very difficult. Mr. Sibal, I would not like to curtail the time you need. But, at the same time, since there are some engagements—the Prime Minister is required to attend the dinner and there are so many other things—it would be necessary for us to decide. If the Tanzanian President is here, in honour of him, I think, something has to be done. So, please give some slight indication so that I can plan as to how I should go about.

(Interruptions)

SHRI KAPIL SIBAL: The maximum time that I will take is about three, three-and-a-half hours. (Interruptions)

MR. SPEAKER: I cannot shout.

(Interruptions)

MR SPEAKER: Mr Sibal you had told me that you may not need more time than three hours. Probably I will give you some time but not as much as you need. If you want to make your submissions on these points, probably you will need little more time. If the House agrees, we can continue with this tomorrow.

HON MEMBERS: Yes

(Interruptions)

[Translation]

SHRI ATAL BIHARI VAJPAYEE (Lucknow): Mr Speaker, Sir, I am not aware as to what procedure did the ruling party decide with the consent of the leaders of other parties. However, it appears at least to me that the proceedings of the House are not taking place accordingly, and I do not find any reason that our leader gave us incorrect information.

MR SPEAKER: your leader has furnished correct information to you, he conveyed nothing wrong.

SHRI ATAL BIHARI VAJPAYEE: I have not said that he has given me advice.

MR SPEAKER: I may tell you, You please sit down.

SHRI ATAL BIHARI VAJPAYEE: Mr Speaker, Sir, please let me conclude, don't interrupt me.

[English]

MR SPEAKER: Sorry

[Translation]

SHRI ATAL BIHARI VAJPAYEE: Mr speaker, Sir, some sort of consensus did take place, I also came to know that a time limit was fixed for the counsel likely to plead the case of the judge, and there can be no objection if he

wants to get this time limit increased. If they want to defeat the very purpose of the debate by prolonging it then the members of the Congress party may please make it clear as to what do they want? *(Interruptions)*

[English]

SHRI RANGARAJAN KUMARA-MANGALAM: He must withdraw his statement *(Interruptions)*. He must withdraw those words *(Interruptions)*.

SHRIMRUTYUNJAYANAYAK: His statement is motivated *(Interruptions)*.

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): Sir, it is an unfortunate remark which hon. Shri Vajpayee has made. No motives can be attributed to the hon. Counsel who is appearing here. No motives can be attributed to our party. We are all interested in a fair and proper hearing of this. Nobody is interested in anything else. Therefore, I strongly repudiate the remarks made by hon. Shri Vajpayee *(Interruptions)*. He must withdraw those remarks *(Interruptions)*.

[Translation]

SHRI ATAL BIHARI VAJPAYEE: I had put my question to you. There was some consensus. Is that consensus being honoured or not? *(Interruptions)*

SHRI RAM VILAS PASWAN (Rosera): You may please ask them what consensus did take place. *(Interruptions)*

MR. SPEAKER: I am on my legs, you please sit down.

(Interruptions)

SHRI GEORGE FERNANDES (Mazaffarpur): Mr. speaker, sir, I do not know what consensus took place, however I would like to raise a fundamental issue before you. Is

it not wrong the way in which the discussion is taking place here and the manner in which the members are saying that they would have to go through the entire proceedings and that they won't be able to remember every point. For that purpose some are taking notes, others are getting the proceedings taped while some are preparing film. After some time the matter will be reviewed and a decision taken. Mr. Speaker, Sir, we are not judges. We do not want to keep ourselves under this wrong impression. I am one of those who have made the allegations and if I am told that I am a judge, I won't be ready to be fool myself. We have made the allegation and we would like to have decision.

MR. SPEAKER : I would decide it just now.

SHRI GEORGE FERNANDES: The decision is necessary because the House is concerned only with the inquiry report given by those three persons who were appointed by the Speaker to investigate the matter. That report is fundamental and the rest is non fundamental. One of those persons who have given that report is a judge of the Supreme Court.....(Interruptions)..... I beg your pardon, if these people prevent me from speaking, then something unbecoming would happen in the House. All this cannot go on.....(Interruptions)

[English]

THE MINISTER OF STATE OF THE MINISTRY OF THE MINISTRY OF COAL (Shri Ajit Panja): Why are you shouting here? This is not your union room.

(Interruptions)

[Translation]

SHRI GEORGE FERNANDES: So much noise when I speak; Such attitude may lead to something unbecoming.....(Interruptions)

Mr. . Speaker, Sir, several points have

already been raised and several more points are yet to be raised about the judges of the supreme Court and the judiciary of the country because such things are normal in the course of a debate. I am talking about the report submitted by Inquiry Committee. One of the members who prepared the report is at present a judge in the Supreme Court-he is justice P.D.Sawant, the other person is the Chief justice of Bombay High court-Justice Gosain and the third person is a retired judge of High Court.....(Interruptions) Please listen to me, don't interrupt me.

MR. SPEAKER : I will listen to you and give you time when you rise to speak regularly.

SHRI GEORGE FERNANDES: I am not going to deliver a speech. I just want to tell as to what should be the procedure for which a decision was taken here. I will not speak more than that.

MR. SPEAKER : There is no need to deliver a long speech on it. I will give you time for your speech.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, we have a report here. We have received these documents 15 days ago and they have been prepared after conducting the inquiry as ordered by you. These documents were prepared under rules framed by the House, under Article 124(5) of the Constitution and under these rules an inquiry committee was set up. That inquiry is a sort of judicial inquiry. Now we have the report of that Inquiry Committee before us. We have to consider it, but if we start discussing it like a Court, then Mr. Speaker Sir, we will not be able to do justice to the agenda before the House. I have only this much to say.

SHRI EBRAHIM SULAIMAN SAIT (Ponnani): Mr. Speaker, Sir, I want to raise a basic issue. I do not speak often, but this is a historic occasion. We have an impeachment issue before us. If it is said that a particular committee was constituted and it had submitted its report, and we have to abide by its recom-

mendations then what is the need for this discussion. When a discussion has been held here, we will go through all its aspects and then vote, whether it is in favour or against. If one has to work according to the Committee's decision, there is no need for this discussion. I think when the discussion has already started, we should listen and consider all the points and then decide.

[English]

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI ARJUN SINGH): It has been said somewhere and rightly so that speech is silver, silence is gold. I do not know whether silence is an appropriate contribute in the present circumstances. I have read a very great Roaem thinker who said that the best contribute of absolute power is to restrain. Today this House is exercising a power which it does not do normally. A power is given to this sovereign parliament to decide on the guilt or innocence of a very high Constitutional dignitary of this country. Therefore, I would only plead with the hon. Members that this right to judge can only be exercised if we hear something. Secondly, the parliament cannot pass judgment without deliberations. If a Parliament passes judgment without deliberation, I think it will be negating the Constitutional authority vested in the Parliament in such a matter.

SHRI SYED SHAHABUDDIN (Kishanganj): Are we going to have a de-novo inquiry? (Interruptions)

[Translation]

MR. SPEAKER: I would like to say a few things on the issue raised here by Shri Vaipayee. For holding a debate on this issue, the Business Advisory Committee had suggested that the mover of the motion should speak first, then some other Members should express their views and then the Counsel of the judge should speak. The discussion should be held after that. But there was a point on which we had differences of

opinion, so we could not arrive at a conclusion on this. The second question was that a lot of legal interpretations and complications were involved in this case. So, it was suggested that one side should present the case in an appropriate way and then the other side should give the replies. The discussion can be held for 4 to 5 hours and then voting can be done on it. This suggesting was also good.

But afterwards a question came up that if so short time is allotted for discussion on such a big issue, it may give an impression that all the points were not covered and simultaneously it is also not good to present any Member from express in his views on such an important occasion which we are holding for the first time.

I had repeatedly said that I was agreed to your suggestions that such an issue should be presented neatly, the members should speak on legal points and charges and this issue should be discussed in such a way as all sections may express their views and I was also having the same opinion. But I was also saying that if some member in the House asks permission to speak, I will not be able to prevent him nor should I prevent him. Then I had suggested in the Committee that if you wanted that I should have the power to prevent any one from speaking, you please give me such powers. But it was said in the committee that the Speaker is already empowered. Then why I was trying to take such powers from them. Then I tried to take them into confidence and keeping in mind all these things, we are trying to proceed in this regard. It is not so that no one will be allowed to speak here. It is not so that Shri Pal or Shri Fernandes will not be allowed to speak. When Shri Fernandes rose to speak, I did not disallow him. I had called Shri Sibal also and he said that he would not take more than 2-3 hours. I had already a doubt in my mind that he might not be able to cover all the 18 charges within 2-3 hours and he would ask for more time. But as he said, I also allowed him. I can understand his problems. I am in favour of preventing him, but at the same time I want that the des not take long time. There should be a

balance from both the sides and this should also be kept in mind that this report has to go to the President during this session itself.

If necessary, this report will go to the other House also. We will take up this discussion while keeping all these things in mind. All of you may please understand its importance. We have to do a tight rope-walking, but it is necessary for everyone.

[English]

SHRI SOMNATH CHATTERJEE: Sir, I concede that in spite of the Report of the Enquiry Committee, Mr. Sibal is entitled to argue on behalf of this client that his client is not quietly because supreme court has said that there is still an opportunity to impress upon the House that the Report should not be accepted. I will concede that right. Sir, the only thing is that, we shall not restrain him. Let try to complete as soon as he can in the best of his judgment. My appeal to him is to make it an effective exercise. Let there not be closed mind. Therefore, let all the formalities be over. Let it be completed. If they have already decided that it should be on some particular basis or line, than why all these agonies for two days? If you have an open mind, discuss it. Let us have an opportunity. (*Interruptions*)

[Translation]

All right there is no need to shout speak slowly (*Interruptions*)

[English]

All right. I am comforted but this clear and vocal and vocal announcement that they have an open mind. But, let us have a useful discussion. (*Interruptions*) we can have a meaningful termination of this. Otherwise, it will be prolongation of the agony. (*Interruptions*)

SHRI BUTA SINGH (Jalore): Sir, just a small thing.

[Translation]

As Shri Somnath, Shri shukla all other Members have said that we would take a decision on this issue by rising above party lines and purely from the angle of parliamentary functioning and for that we would use the sovereignty of the Parliament. This is a right thing. But I remember a couplet of Dr. Iqbal on this occasion. He had said that we ask for more time so that the issue can be seen in its proper perspective,

I quote - -

"Jamhuriyat iktar we hukumat hai, Japan bandon ko gina jata hai, tola nahin jata."

It is a different thing if you want to allow only a member of Members; but if want to see the importance of the issue, you will have to give more time..... (*Interruptions*)

MR. SPEAKER: It is good that you have provided a little rest to the hon. Counsel, who was speaking on this issue. I have listened to everything you have said. We have also listened to the suggestions given by the Business Advisory Committee. We have taken the consent of the House also. How, you can leave this to the discretion of the Speaker. By using this power.. I will try to do it in a good manner. If you want you can leave it to the discretion of the Speaker, so that voting to reach a decision on this matter can be avoided... .. (*Interruptions*)

19.00 hrs

[English]

MR. SPEAKER: I would like to make it clear to the House that I am giving time to Mr. Kapil Sibal and he has conclude it today.

SHRI MANI SHANKAR AIYAR (Mayiladuturai): All the members who have given this Motion are not present now in the House. It is very important that they should listen to what Mr. Kapil Sibal says

MR. SPEAKER : Not necessarily. The submission is made in writing. Please sit down.

SHRI KAPIL SIBAL: I will straight way come to charge 2. Now the charge 2 will be found in Volume II on page 2. The charge 2 reads as follows:

"It is alleged that in 1989 you got purchased for Conference room and extended office 1637 sq. ft. of Modi Superior quality wall-to-wall carpet and form from a favoured and hand-picked dealer, M/s Krishna Carpet Co., Chandigarh without obtaining genuine quotations from any other dealer. The quotations allegedly obtained from M/s. Cottage Emporium and M/s handloom Emporium were false to your knowledge."

Now I want to save the time of the House and would not read this particular charge. I will just come to the final allegation on page 3. It reads as follows:

"All these things have happened at your instance or with your active connivance and under your instructions. You are thus alleged to be responsible for the fraudulent purchase of carpets and foam from a favoured dealer, by procuring false quotations, by splitting the bills to circumvent the rules, the purchase itself being at higher rates than market rates, and the quantity far in excess of requirements. Fraudulent purchase-not proved; false quotations-not provide. the Committee says that splitting of the bills was the practice in the Punjab and Haryana High Court.

So, itself says, there was no circumvention of rules. The purchase itself being at a higher rate than the market rate-not proved. The only part of the charge which stands proved is in respect of hand-picked dealers, genuine quotations, visited various should and splitting of bills.

Now, I have already dealt with hand-picked dealers and genuine quotations in charge 1. So, I need not repeat it here.

So I need not repeat it here. the same argument is placed here. so two of those objections are taken out. Now the third objection, viz. splitting of bills is held by the Committee in my favour so the only one left is I visited various shops.

I want to point out one fact that not a single witness in this entire evidence has said that I ever visited a shop. In fact they came and said -mind Sir, kindly remember one thing, in this committee my learned friend rightly said, 'I did not participate', so all the witnesses were the witnesses of the Committee and I produced no evidence because I never participated -- I never visited any shop and yet the finding is that I did visit shops. It is on the ground that there was a note prepared by the Registrar was called to the Witness Box he said, 'that never happened.'

Assuming that I did visit shops, what happened, what is the misbehavior about it. Even the Committee says that visiting a shop is not a misbehavior. But when the Committee collates visiting of a shop with hand-picked dealers, genuine quotations, then the Committee finds that this charge is proved. But this I have already addressed to you on the aspect of hand-picked dealers, genuine quotations. is out of the way, that takes care of the Charge 2 because most of the other charges are fall out of this basic charge, the one which I have already dealt with.

Kindly come to charge 3. My learned colleague says, that I should point out to this hon. House some of the statements which say I never visited shops. All the statements say so. I just give a couple of examples. Page 145 of Vol. III.

"The next witness examined on the aforesaid issue from the Court Officer Section was Shri Jagir Singh, Witness No.8. He, made the following statement:

I do not have personal knowledge whether the Chief Justice Shri Ramaswami and visited the shops for the purchases for the High Court. I do not know personally who went to purchase

the items or procured quotations for the said purchases."

Witnesses after witnesses say the something.

Shri P.D. Ram Pal, in this context says:

"I have no personal knowledge about contents of the note out up to me as they were initiated by the Court Officer Section. I signed them and marked them to the register."

"My attention is drawn to the contents of the note which states that the Chief Justice and the Registrar had visited various shops. I am not aware of the correctness of the said contents."

But anyway, it really does not matter whether he did or did not, even if the Committee's finding is taken to be correct.

At a page 144 the Committee says, there is nothing wrong for the Chief Justice to have visited the shops.

Now come to Charge 3 and your honour will find it again in Vol. II and this relates to carpet.

The first part of the Charge is that you were involved in the replacement of carpets - Charge not proved by the Committee. Then the Committee says that you purchased 13 carpets for the High Court but used them at the residence. That I have already explained to you, the basis of this is the rolled carpets found on the 17th of February 1990 in the High Court, after the Chief Justice was already alleviated to the Supreme Court.

Next false quotations - I have already explained about that. Nothing false found in any quotation. Only undated quotation which is a practice in that Court.

Splitting of bills — - already held in my favour. Those are the four elements of the Charge 3. That is all that I have to say on this.

Kindly just look at the Charge now. In that I have already explained to you. Kindly look at it, Vol. II, Part II, Page 3.

"It is alleged that on 15.3.1989 you got purchased in all 13 wollen carpets from Krishna Carpet Co. Out of the said 13 carpets, 5 carpets purchased under such and bill, dated 15.3.1989 and were of the following description:

2 ozrpets - - 4 'x6'; 1 carpet - - 3 'x6'; 2 carpets - - 3x5!

"However, out of these carpets, four carpets admeasuring 3 x 5 and two admeasuring 4x6, were ground to have been replaced by inferior quality carpets."

Not found. the Committee does not find this against the Judge.

"it is further alleged that all the 13 carpets were purchased for use in the High Court. However, all of them including four rolled carpets were found at your official evidence".

'(c) It is further alleged that false quotations, to your knowledge were called from the Cottage Emporium, Which had closed down earlier than the date of quotations".

It was found in favour of the Judge, not against him. No false quotations were found, and the Cottage Emporium had not closed down. That is the evidence in this regard.

"That it is further alleged that you got purchased the aforesaid, all the 13 woolen carpets on 15.3.89 by indulging in the device of splitting of the purchase of carpets into four vouchers."

The splitting aspect has already been decided in favour of the Judge.

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So, the finding of this Committee in this regard, in Volume II, page 96, is as under;

" Thus, as discussed in paragraph 134 above, this charge is proved only to the extent"

to what extent - - " of only 12 loos carpets which were falsely shown as having been purchased for use in the High Court were found in the residential portion on 17.2.90"

But, the judge was not there on 17-2-90; He was a Judge of the Supreme Court. he was elevated in October 1989. so, because 12 loose carpets were found in the residence on 17.2.1990 the charge is proved against the Judge; The rest of the charge, the Committee itself says, that it was not proved.

So, this is the manner in which the proceedings were being conducted and the findings being rendered against the Judge;

Now, kindly come to charge No. 4. I think, before I do that, let me just read the reply of the Judge in respect of Charge No. 3. which is at pages 167 to 168 of Volume II. I read the reply of the learned judge. He says at Page 167, volume III.

" In their conclusion relating to the allegations leveled in charge 3, the Inquiry Committee substantially found as under:

"The allegation that the quotations for dated 7.2.89 for purchase of carpets was bogus and the said firm has been closed down, earlier than that of the quotations was also not proved. The splitting of the bills for the purchase, for circumventing the rules was held to be not substantiated. The only allegation considered to have been proved in this charge is that although 12 carpets

were shown as having been purchased for the purpose of the High Court, they were found in the residential portion of the Chief Justice on 17.2.90. when the possession was handed over by Justice Ramaswami, these were meant for being used in the residence. The conclusion is on the face of it is, that it is wholly unsubstantiated.

Firsly, there was a total of four rooms, in the first floom of which one was used as office earlier and official residence as per the details mentioned, in reply to Charge 1. the evidence also shows that the Visitors' Room was also house in the office portion of the residence. Consequently, only two rooms comprised of the residential portion.

Paragraph 38 of this reply to the allegation by the Committee in paragraph 134 of the report in the Charge I answers this charge as well. It may also be mentioned that judge's residence is an extended office in law and as conceded by the Accountant General and Shri batra, if some articles of the High Court are found in the residence of the there is nothing wrong in it.

It is ovident that the investigation made by the Inquiry committee was cursory or extraneous so as to return a finding of guilt even though the findings are totally illogical. it is also necessary to observe that the Account General, Shri Raghur Singh who appeared as witness no. 21, in his statement made the following observation:

" If an item was purchased for the High Court and supplied for use in the office portion of the residence of the Chief Justice. It is in order. In view of the aforesaid statement, the mere location of loose carpets could not lead to any adverse inference. The learned judge says that the chief Justice is not expected to keep track of the movement of the articles of the High Court. No withers has spoken to the same as having been purchased

for the personal use of the Chief Justice."

Sir, the carpets are there. That takes care of Charge 3.

Now let us go to Charge 4, which is given in part II-Vol. II

Pages 3 and 4. Let me read the charge. it says:

"It is alleged that you got purchased between 2.2.89 and 6.2.89 - that is within four days - of several sofa sets, sofa chairs, center tables, corner tables from M/s Saiwan & Co., a favoured and hand-picked dealer-again the same thing- under five different vouchers for Rs. 59,000; Rs. 58,000; Rs. 58,000; and Rs. 58,000. For these purchases you visited many shops and selected the furniture from Saiwan & Co. without obtaining quotations from any desaler.- again no quotation-Advance payment was made for the said purchase under your sanction.

It is further alleged that you had got the purchases made of these items of furniture, which were disproportionate to the requirement of the new office wing of your official residence. Items mentioned in the list schedule to this charge were not used for the said new office wing of your official residence but were found else where."

I might mention to the hon. Members of this House that Justice Ramaswami was living alone in Chandigarh. All his children are settled abroad; except for one son, who is here and he lives in Madras. His wife, in the course of a year, for 8 or 9 months, was abroad. So, he was occupying this residence as a single persons. He did not need all these. If there was a dining table, it

cannot be said that it is attributed to his personal use. Every day he was entertaining high dignitaries-Governor, other judges of the High Court, officials who visited him, members of the administration. You might remember that there are two administrations, Punjab and Haryana. He has to deal with them. And for security reasons, it was thought that it would be better if he had an office in his house because he was dealing with a disturbed area rather than he rushed to the High Court every time he want to have a meeting. These are the exigencies of the situation. Therefore, do you expect that the judge would use four or six rooms for his personal benefit? He would hardly be in the house. Most of the day he will be walking in the High Court and in the evening if he came back with work, he will be working in one room. What was the basis of a charge that all these were done for this personal benefit and from hand-picked dealer? Now, in this context, I would like to mention to you the finding of the committee, which is very important. It is giving at page 76 of Volume II. It says:

"Thus in all 12 sofa sets were purchased. Three sofa sets were found in the drawing room ; five in the conference room and one in the office room of the Chief Justice. There have been accounted for elsewhere, outside the official residence of the Chief Justice."

What the Committee means is that the residence must be divided into official residential and these were found within the residence but outside the official residence, what the Committee considers to be the official residence. And therefore, they it has attributed these sofa sets to his personal use. The fact is that the sofa sets were found in the residence of the other judge.

I might just show you that statement. That is the fact that has come one record and that is the only extent to which the Charge has been proved that 3 sofa sets were found for your personal use and the value of those sofa sets has

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been included in the limit of Rs.38,000/-. Now in this context just read the reply of justice Ramaswami and that reply you will find from pages 168 to 171 of Volume III. This is what the learned judge says:

"On the issue of favored dealers a detailed reply has already been given in reply to Charge 1."

So, I will not repeat that. Then, the learned judge says:

"The only issue that remains and has been determined under charge four is that the purchases were excessive. Shri Mohan Dutt sharma in his statement as witness No. 2 before the Inquiry Committee submitted, "It is correct to say that there is no limit prescribed in the Rules for purchase of furniture and furnishings in the office portion of the official residence of any Judge including the Chief Justice."

This is the witness of the Committee is saying that there is no limit. This is not my evidence and yet the Committee finds otherwise

Question: On what basis have you stated that the carpets and sofasets were disproportionate to the accommodation and covered area at the residence?

Answer: The inventory supplied to me of the items at the residence of the Chief Justice indicated that some carpets were lying rolled up at the said residence. It was also mentioned that some sofa-sets were lying at places such as door opposite to toilets and bathrooms where sofas are not required to be."

This is the 17th February, 1990 situation when he was in Delhi.

"The Committee seems to have accepted the basis on which Assistance Audit Officer has indicated that the sofa-sets were excessive and disproportionate to the requirement of the office portion in the official residence. I would, however, be perturbed to mention that the basis for concluding that the Sofa-sets were excessive and disproportionate to the requirement of the office portion as indicated by Shri Des Raj, Batra was considered as preposterous by the Accountant General'

which evidence I have already seen. Now, I come to page 171:

"It is strange that the Committee which had no occasion to visit the office portion of the Chief Justice's official residence at Chandigarh should have expressed any opinion different from the opinion of the High powered Committee as well as the opinion expressed by Shri R.K.Nehru and Shri Baghuvir Singh in respect of the reasonableness of the purchase of sofasets in relation to the accommodation in the office of the Chief Justice's residence. It is also not expected of a Chief Justice to keep track of the movements of the furniture. If three sofasets, chairs purchased for the office portion in the residence were found elsewhere in the High Court, the Court Officer Section and the Registrar should have been asked about the same."

Why the Chief Justice? This is not the responsibility of the Chief Justice. Kindly look at page 131, volume III:

"It is suspicious and may be an attempt to make it appear that the Chief Justice desired the two sofasets to be purchased he visited the

shops and obtained quotations. In this connection the evidence of Bajwa the then court Officer may be referred to. He states with reference to this purchase note as follows:

"I know only one fact that our Register Shri Nehru and Mr. Anand wanted one sofa set in their offices at their residences. Then it was decided by by Shri Nehru that we will provide two new sofa sets to the Chief Justice and take the old ones from his residence for their purpose. This was discussed on the presence of Shri Mahajan and myself. Shri Nehru told both of us that he would discuss with the Chief Justice and then inform. Thereafter I received this note from Shri Mahajan which was marked to me by the Court Officer Shri S.S. Dogra and just submitted it to the Registrar. I do not know whether the Registrar had talked to the Chief Justice or not."

Now, was it a purchase for the Chief Justice or was it a purchase for them?

It was found at other places and yet the purchase is attributed to me. Kindly see the bottom of page 142. It is the statement of Shri Mewa Singh, who is the District Judge. What does he find on this item? He says:

"Annexure E contained in the list of articles supplied at the residence of Chief Justice Ramaswami where received from the house of other judges".

Now the furniture is bought for him; it is found in other judges' house and it is attributed to the chief Justice.

And that is the infraction of law.

That, Sir, is in relation to Charge 4.

Charge 5 is not proved. So I need not go into it.

Charge 6 is not proved. I need not go into it

Charge 7 is the charge which is partly proved.

The charge is in Volume-2; Part-2 and on page 5.

It relates to suit cases. the Chief justice of a high Court is concerned with suit cases!

Kindly have a look at charge 7 on page 5 of volume-2 It says:

"It is alleged that 18 attache cases, suit cases were purchased for you and supplied at your official residence during your tenure as Chief Justice of which six suit cases and one brief case were purchased around the time of your son's marriage; and (ii) six suit cases were purchased a few days before your appointment as Judge of the Supreme Court of India. Out of these eighteen attache/Suit cases, only thirteen in number were found at the residence when you handed over charge, and none of them appeared to be newly purchased. In other words, five suit-cases purchased during your tenure have been removed and the remaining were substituted by old suit cases and this was done at your instance and for your benefit".

Now the so-called substitution is not proved. The Committee itself says no evidence of substitution, no old suit cases for new suit cases. But the Committee finds that five suit cases, out of 18, were not found on 17.2.1990 at the time when he handed over charge. Therefore, they were missing and it must be attributed to him. No finding that I am have taken anything.

Now, is the Chief Justice of a High Court to look after and find out how many suit cases are to be where? He gets elevated to the Supreme Court. He comes to Delhi. He takes over the

charge He goes back on 17 2 1990 The Committee counts the suit cases there and says only 13 are found

How does he know what has happened to the others? You must understand what these suit cases are for. When a judge goes to Court he has to carry very important files, sometimes which are secret files, and especially the Chief Justice. So he takes them to the Court and he brings them back. Every evening he brings them back and then he works and next day he goes to court. He is not carrying his luggage anywhere in those suit cases. He was carrying the files. After he carries the Files, some suit cases might have been left in the High Court itself.

How does the judge know? The judge does not carry the suit cases with him. He does not go to the High Court carrying the suit cases. His staff must know where the suit cases is. And if it is not found there, it is not found there. If it is missing, it is missing, unless somebody says 'No, we carried a search of your premises and that suit case is here and you have misappropriated'. I can understand that kind of evidence. But that is not available.

What are we looking at here? When the staff says that we will count from the stores of the High Court and show you, that exercise is never done. They do not permit that exercise.

On page 175 of volume 3 you will see that a request was made. 'We will in fact go and try and see as to where those suit cases are'. That exercise is not promoted by the High Court. It is in para 100 on page 175 of volume 3.

Sir, kindly have a look. The last two lines of page 175, paragraph 100, Vol. III says

"One another fact also may be noticed. Shri S.K. Jain, former Registrar of the Punjab and Haryana High Court while holding the post of Registrar vide letter dated October 8, 1990 lodged a formal First Information Report with the

Inspector General of Police, Chandigarh. The same is on record of the Inquiry Proceedings as Ex-20. Paragraph 14 of the FIR states: "That 18 attach cases/suit cases were shown to have been purchased and provided at the residence of Hon'ble the Chief Justice and out of them 6 were purchased only 2 or 3 days before relinquishing charge by the Ex-Chief Justice Mr. V. Ramaswami, but only 13 old attach cases suit cases were found there and none of them was found so recently purchased. Thus, either 5 attach cases/suit cases have been embezzled, or payment has been made against bogus bills whereas the other 13 suit cases have been replaced by old ones."

All this is not proved.

It is further said

"On further perusal of the F I R at page 11 thereof it is alleged that the responsibility in respect of the allegations contained in the First Information Report were jointly of S/Shri Bajwa, S S Dogra, Raminder Khanna, B.N. Vohra and B S Bandair severally and collectively. The aforementioned officials/officers of the High Court contested the factual position contained in the First Information Report and therefore, made requests to the investigating officers of the Police Department as also to the Registrar of the Punjab and Haryana High Court to the effect that nothing whatsoever was missing and that everything was available in the stocks of the High Court. This request of the aforesaid accused in the First Information Report was declined. The inevitable conclusion is that the authorities were not willing to permit the accused to establish their innocence or in other words to establish that the stock alleged to be missing were in fact available in the premises of the High Court. In this respect, the statement of Shri S.S. Bajwa before the Inquiry Committee assumes relevance and is, therefore, extracted here under -

"missing and replaced items, did you make a request either to the High Court or to the Police Authorities that you wished to have the

stocks counted in order to show that nothing was missing? Ans The charge-sheet was given almost on the same day that the First Information was registered immediately I wrote a request later to the Registrar, High Court, in which I requested that I should be allowed physical verification of the items as all the items are very much available in the office of the High Court or in the residence of Hon'ble Chief Justice

This request was declined by the Chief Justice (witness produced copies of letter Both are taken on record and marked Ex 182 collectively”

So, there is a scientific refusal So, somebody from the Court wants to say 'they are there There is a refusal the Committee then finds five are missing and attributes this to Chief Justice Ramaswami

Basically since the time is short, I do not want to unduly prolong these proceedings I am just giving you the essence This is them the evidence on this particular charge, that is, Charge 7 In fact Sir, on this point I want to just tell you that the evidence shows that 13 Exhibits produced and 13 were found There were 13 Exhibits produced before the Committee and 13 were found and for the five new suit cases the sanction was granted by the succeeding Chief Justice That is the evidence on record and that paragraph 5 page 173 III says

Again another important factor is that none of these exhibits which relate to purchase of suitcases had ever come to the notice of Chief Justice himself The files stopped with the Registrar and there is no evidence to show that the files had ever come to the notice of the Chief Justice any amount was paid by the High Court and whether they were sent to the Chief Justice at all

It is because the entire power was still with the Registrar That, Sir, is Charge 7

Now I will come to change 8

Charge 8 is purchase of silver maces on which I have already made my commitment I will show you the finding at page 99-102 in Volume II I will straight away take to page 102, top of the page

We are of the view that the purchase of maces with full silver content at the rates in question was wholly novel irregular and wasteful expenditure, against the Financial Rules prescribing economy of expenditure by Heads of Departments Assuming that Justice Ramaswami was justified in going in for the purchase of the said maces in spite of the opposition from the other Judges, we are not satisfied that the expenditure on this scale was at all necessary and in conformity with the financial discipline As far as the splitting of the bills for the purchase of the maces is concerned we have already held that the splitting was done as a matter of practice and therefore no particular fault could be found with splitting of the bills for the purchase of maces

We however, find no substance in the allegation that the quotation was called for only from M/s P Orr & Sons from Madras It has come in evidence that there was no other firm either in Chandigarh or elsewhere which was manufacturing such maces ”

That is the finding of the Committee

There is also no evidence to show that the price charged by the said firm was excessive and was not justified by the silver contents of the maces”

In fact I am told, when the silver maces issue came the High Court committee got the contents of the silver maces examined as to whether the value of the silver in the silver maces fit in line with the value shown in the voucher Of Course, nothing was found against the Judge But this is the price was not exces-

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sive, having found that there was no favoured buyer here, having found that there was no other manufacture-misbehavior! The, all silver maces should be withdrawn from all courts from this country. The Bombay High Court discontinued silver maces. If the Calcutta High Court uses it, is it the misbehavior against all judges of the Calcutta High Court? Is it the greatest respect? That is no way of dealing with a Judge of the superior judiciary. This is charge No.8.

Charge No. 9. is the famous charge relating to telephone expenses at Madras, Rs. 76,000, on which I have already committed in the earlier parts of my address. What is found by the Committee against the Judge? Rs. 76,000 unauthorised reimbursement, you should not have reimbursed yourself to Rs. 76,000 because you were not entitled to telephone expenses at Madras. Everybody else in the administration is entitled to, you are not! August, 1988 Audit found, he was entitled to it. No objection was taken. No separation of private and official calls. In Madras, he used to say only for a couple of months during the summer vacation, then he used to come back. He was functioning of court is such that even during vacation, the registry continues to function. There are petitions filed, writ petitions filed, appeals filed. Vacation Judges function. Those matters have to be listed. How are those matters to be listed unless instructions come from the Chief Justice in Madras? So, the court offices have said in their evidence, "The Chief Justice used to talk to us every day from Madras to give us instructions as to what is to be done about the filing of cases and to which Bench are to go before or any other problem that may arise. The Chief Justice is not only concerned with the filing of cases. He is concerned with all kinds of administrative problems-district judges problem. transfer problems, somebody comes up with some problem. The entire subordinate judiciary is under his control. Because he is in Madras and using the telephone, he should have bifurcated his personal call from his official call and this is misbehavior! Now what is most

important is, he made his foreign calls from there also, that is calls abroad but he paid for that. Before any charge was leveled, he paid for that. So, there is no charge against him and he never got that part of it reimbursed. Then the Committee said "You got reimbursement of rental charges for the period in first half. Apart from the payment on the calls, you could not have reimbursed for the rentals".

If I am entitled to an extra telephone, I am entitled to the expenses in Madras, I am entitled to the rental as well. This is the proof of Rs. 76,000/- against the learned judge on telephone calls. The fact is I paid thereafter judge on telephone calls. The fact is I paid therefore. Even this, Supreme Court said that you should reimburse. I reimbursed. Now the Committee says that does not matter. You may have reimbursed but you took one year to reimburse. Therefore, there is a delay. Therefore, there is willful temporary use of funds. Therefore, you have misbehaved. Therefore, you must be impeached.

Now the fact is that my claim is still pending with the Government and the has been no decision till date by the authorities on it and I also entitled as much as an IAS Officer is and I am entitled even as a Judge to go to court and say that if you grant this entitlement to the IAS Officer and the Government does not grant it to me, I can get a court order But you cannot find me guilty of misbehaviour before all this happened. This is the procedure, with greatest respect, unknown to law. I have never heard of this in any jurisdiction in the world. This relates to telephone expenses.

Charge 10 not proved. That related to Rs. 9.10 lakhs on official telephone expenses. Not proved.

Charge No. 11 the staff car. That you took your staff car to Madras, two of them. One you are entitled to take, the other you could not and you took your Private/secretary. His expenses were debited as official expenses. That we do not accept, that these were private expenses. When

he was doing official work in Madras, they said, these are private expenses and, therefore, again there is misbehavior. In this context, read the reply of the Judge Vol. 3 p. 210. This is what the learned Judge says:-

"The expenditure incurred on car CHF 3 allotted to Chief Justice for petrol in excess of 150 liters per month was willful excess of public funds for private purposes and the subsequent reimbursement of the sum in respect of excess petrol does not negate the charge".

This is the finding of the Committee.

"The taking of the staff car CHF says Madras was unauthorised and against the High Court Staff Car Rules and the expenditure incurred for taking the car to Madras and back and for local use in Madras was willful misuse of public funds for private purpose since no payment at the prescribed rates was made when the expenditure was incurred and the subsequent reimbursement of Rs. 11,000/- for use of staff car does not negate the charge".

Money was paid back but the Committee says noting doing.

What is the reply of the Judge? He says:-

"Under the High Court Judges (Conditions of Service Act every Judge including a Chief Justice is entitled to the use of the chauffeur driven car 150 liters of petrol per month. The car bearing No. CGF 3 was the car allotted to the Chief Justice for his use. The Committee had not found that taking of this car to Madras for the personal use of the Chief Justice was in any way irregular or unauthorised".

I am may inform you that this entitlement is available to every Judge of the High Court. It is available to every Judge of the Supreme Court.

All that is required of the law is that if it is beyond 150 liters, the Judge must pay whether it is private or official.

"However, it finds that since the Chief Justice was entitled to only 150 liters of petrol per month free of cost, he is liable to pay for the petrol in excess of 150 liters per month on the expenses incurred by the High same was willful misuse of public funds for private purposes."

As has been found by the Committee itself the car was there in Madras for use of the Chief Justice from May 25, 1989 till it was brought back to Chandigarh on 5th of August, 1989 Normally for the Chief Justice, for that matter for every Judge of the High Court, the petrol expenditure is incurred by the High Court in the first instance. If on taking account the Chief Justice or the Judge is found to have used excess of petrol over 150 liters then the High Court sends a bill bad on receipt of such Bill the amount is paid. There was no occasion for the Chief Justice at any time before during his tenure as Chief Justice to exceed 150 liters of petrol because the residence is less than 1 k.m. away from the High Court..."

What he is trying to say is that the distance between the High Court and this residence in Chandigarh is less than one k.m. and so he never had any occasion to use 150 liters of petrol. He never used it.

"After the car came from Madras on 5th August neither the office nor the accounts section informed the Chief Justice that there was any excess use of petrol in respect of CHF-3. Also within about 7 weeks thereafter the Chief Justice was elevated to the Supreme Court on the 6th of October, 1989. Till then nobody informed the Chief Justice that there was any excess use of petrol in respect for CHF-3. There was an internal audit done in November and December 1989 after the Chief Justice had left Chandigarh on his elevation..."

If he comes to the Supreme Court, in the

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mean time there is no note saying that he has to pay then how is he supposed to know He is not to check the log book A Chief Justice of the High Court is to check the log book of his car to find out how many liters of petrol has been consumed so that he has to pay the money It is for the administration to put up the note to him If he does not pay then somebody can take an and if he does not pay it should be deducted from his salary But that never reached because the Chief Justice came to the Supreme Court There was no note to put to him to that effect What really happened was that after he came to the Supreme Court the internal audit through the High Court itself has started all this and started releasing things to the Press If there was anything said against Justice Ramaswami I think they would all be here now

There was also a thorough checking by the international audit of the use of the cars by the staff subsequent to the elevation of Chief Justice However the internal audit did not point out that any excess petrol was used for CHF-3 or that the Chief Justice was liable to pay any money in respect of the same There was a special audit done by the Accountant General's office in April 1990 The Audit Officer in his audit note No 32 dated 4 4 1990 did not specifically state that there was any excess use of petrol in respect of car CHF 3 over and above the limit of 150 liters

Even the audit raised no objection at that stage

There was a general statement that 'the use of staff cars at Madras and resultant payment to drivers Principal Secretary and Assistant Registrar lead to avoidable expenditure of Rs 55 574/- as detailed' In the details given thereafter it was stated under the heading "Petrol and repairs" Rs 26 587/- The staff cars referred to in this report were CHF-3 and

CHK 5959 In the details however it was not stated as to whether there was any excess consumption of petrol in respect of car CHF-3 or what was the amount payable in respect of the same It appears that this audit note was forwarded by the Accountant General to the High Court in turn forwarded the same through the Registrar of the Supreme Court requesting for the comments of Justice Ramaswami His remarks to the general note of the audit was forwarded to the High Court through the Registry of the Supreme Court which in turn was forwarded to the Accountant General The Accountant General for the first time in his letter

He is elevated in October 1989 For the first time on 6 9 1990 one year later a copy was forwarded

I quote

"That Accountant General for the first time in his letter to the Registrar of the Punjab & Haryana High Court dated 6 9 1990 copy of which was forwarded to Justice Ramaswami through the Registry of the Supreme Court stated that the consumption of petrol in respect of CHF-3 was within limit in June 1989 but for the rest of the period there was an excess use of petrol and such petrol expenditure over and above the permissible quota for CGF-3 was Rs 5121/- This was received by Justice Ramaswami sometime in second week of September 1990 and as found by the Committee on 21 9 1990 the said sum of Rs 5121/- was remitted

So, for the first time he received it in September 1990 and he remitted it in 21st September 1990 that month itself the amount being Rs 5121/-

Then my learned friend says that there is

no reply based on merits. The Judge has meticulously, has carefully taken pains to reply on merit.

"In the circumstances how the Committee could conclude that Justice Ramaswami has will fully and intentionally withheld the payment until the last stage.."

That was the Committee's findings.

As if he should have checked up the book; When the objection came to him in September, 1990, he paid in September 1990. The conclusion only reflects the eagerness with which the Committee wishes to condemn the Justice Ramaswami without reference to the correct factual position. That part of the charge is wholly unsustainable.

Now under the Staff Car Rules, a staff car may be used by the Chief Justice, judges and officers not below the rank of an Assistant Registrar for purposes of an official duty without payment of charges. In fact, any officer of the High Court also could be permitted to use the staff car even for certain private purposes with the sanction of the Chief Justice. Officer is also entitled to take car an use it for official purposes outside the headquarters with the permission of the Chief Justice. Officer is also entitled to take car and use it for official purposes outside the headquarters with the permission of the Chief Justice. The Chief Justice is entitled to use staff car for private purposes subject to payment of prescribed mileage charges. The Committee also noted this position under paragraph 201 of the report. However, the Committee came to the conclusion that car number CHK 5959 was not taken for official purposes but for his private use and more particularly for the marriage of his son. I want to point this out. The son was married 500 miles away. He was married in Coimbatore. We are talking of Madras. And the Committee never found that any car was taken to coimbatore. The finding is, it was never taken to Coimbatore. But the charge is, he took it for his son's marriage. I am only saying that this is the nature of the

charge. Of course, it can be disputed. The point I am making to you and appealing to your conscience is the manner in which you level charges against a judge of a superior judiciary. The point I am making, without verifying anything, without assessing the material, without collecting the material, without finding out whether there is any element of truth in it, without satisfying yourself *prima facie*, how do you level such a charge? How does the press print it? I hope, tomorrow the press gives a version of the Judge for the first time.

Justice Ramaswami says that the marriage of Justice Ramaswami's son was held at Coimbatore 500 kilometers away from Madras on 5th July, 1989. He goes to madras in May 1989 and the Marriage is in July 1989. How could he be taking the car for his son's marriage on the 25th May? Cars were taken to Madras on the 25th may and remind at Madras till it was brought back to Chandigarh.

Now about the Private Secretary. Private Secretary holds the position of the Assistant Registrar. When the Chief Justice goes, his entourage goes with him. His entourage is only an officer of the level of an Assistant Registrar. That is all happened. Therefore, if you want to have some standard, you must find out from those as to what is being done in other parts of the country in other High Courts. Once you have investigated it, you find out what the practice is, and then you find out what the practice is. then you apply your mind and say whether or not Justice Ramaswami has in fact, deviated from the practice. But you cannot conclude first, without making an inquiry and say that this is all misbehavior.

Justice Ramaswami and his Private Secretary went by train for the marriage at Coimbatore on 3.7.89 and returned by train on 5.7.89. There is an evidence in the discussion under charge 12. Merely because he was married, his son was married in Coimbatore on 5th July, no inference can be drawn that the cars were taken for the purpose of marriage.

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Now one witness says, it is correct, on point 213, that on 21.5.89, I and Shri Khanna had gone to Madras in Staff Car which we left there for the Justice Ramaswami who had to celebrate the marriage of his son. Too much cannot be read into the statement. What he referred to was, cars left Madras for use of Justice Ramaswami. Admittedly, cars were not taken to Coimbatore and no witness spoke contra. That, Sir, is the charge relating to the Private Secretary going to Madras.

Para 140 says, three reasons were given by the Committee for holding the car CHK 5959 was taken for his private use. Para 197 provides Exhibit 94 dated 10.5.1989 and a note dated 31.5.1989, exhibit 95 which are quoted there do not in any way say that car was taken for the use by the Private Secretary.

"But show that they were taken only for the use by Justice Ramaswami for the discharge of his official duties by private secretaries as P.S. to the Chief Justice. The P.S. accompanying the Chief Justice has also noted in the said noting. Anyway, it is the language used by the P.S. and no adverse inference can be drawn nor could be construed like a statute. It is in the evidence of the Driver of CHF-3 that Justice Ramaswami used to travel only in CHF-3 and the never travelled in CHK-5959 after CHF-3 had been allotted to him."

So, this really is the essence of the charge against the learned Judge in respect of charge 11.

Now, Sir, charge 12. Charge 12 is related is charge 11. Charge 11 relates to the cars, charge 12 relates to the two officers who went along. So, the same logic applies. And the Judge feels that yes, he is entitled to take an officer along with him. What is the wrong in it? He is the

Chief Justice of an High Court. Can he not take an officer along with him? And if you kindly see, there is an element of security involved of the cars as well. Kindly have a look at this charge. The charge is that two officers took the car to Madras and when they took the car to Madras, they flew back. At the time when the car was to be brought back, an officer flew there and brought back the car. So, the charge is, how did he do that, how did he send an officer? But, then, how would the car come back only with the driver? What, if there is an accident enroute? Who takes the responsibility? What, if the driver gets drunk and the car is smashed? Who gained by this? Justice Ramaswami did not gain by this, the man who flew did not gain because he did not stay in Madras even for a day. He went there and on that very day, he came back. So, what is the personal benefit that Justice Ramaswami got out of this? All right, you may say, "If I were in his position, I would not take that decision." Very well. And total expenditure involved here is Rs. 7,000. So, you may have done it another way, somebody else does it another way. Is that a misbehavior? It is a question of perception. There is no moral turpitude involved. And it is not that he took a stranger with him, or he took a friend with him. He took his P.S.

Charge 13 is not proved. And charge 14 is the final charge which is about the violation of Punjab Financial Rules. That is very important and there is a constitutional aspect of it that I would like to place before the hon. Speaker.

Now, Sir, the Committee finds that the Punjab Financial Rules apply to the expenditure incurred by the Chief Justice and, therefore, his expenditure was controlled by those rules. And the reason why the rules apply to the Chief Justice in respect of his expenditure is based on a letter of the Central Government which is appended at page 109 of Volume III. I would like you to kindly have a look at that letter.

"Subject is: Delegation of financial powers to the hon. Chief Justice of Punjab and Haryana High Court."

Now, Sir, this letter, as I said, is the only basis of the finding of the Committee that these rules apply, that is, the Punjab Financial Rules. The letter reads as follows:

"With reference to your letter number such and such, dated 25th October, 1967, on the subject mentioned above, I am to state that the President is pleased to delegate to the hon. Chief Justice of Punjab and Haryana High Court, the same financial powers as were delegated to him by the erstwhile Government of Punjab under the Punjab Financial Rules and Punjab Civil Service Rules, subject to the condition that:

20.00 hrs

- (i) wherever financial powers are subject to the restrictions given in the Punjab Financial Rules, the corresponding Central Government rules would apply; and
- (ii) The powers exercised are in accordance with the general or special orders and may be issued by the Government of India from time to time.

"It is not considered necessary at this stage to introduce changes in the Financial Powers of the Chief Justice on the basis of the Central Government rules"

I might pause here for a moment and explain that Chief Justice has two kinds of expenditure that he incurs. One expenditure relates to the High Court. The other part of the expenditure relates to the subordinate judiciary. There is a difference of principle in respect of these two kinds of expenditure. As far as the subordinate judiciary is concerned, the budget is allocated by the Punjab Government. It is not a part of the Consolidated Fund. When the budget is allocated by the Punjab Government, the Punjab

Financial Rules will apply to that part of the expenditure which relates to expenditure on the subordinate judiciary. But when you come to the expenditure incurred by the Chief Justice in respect of the High Court itself, that is not governed by the Punjab Financial Rules and indeed it cannot be; otherwise it would strike at the independence of the judiciary because the judiciary is entitled to financial independence as far as the superior judiciary is concerned. That is part of article 229 (3) of the Constitution. Not a line in this letter which I read out to you suggests that these Punjab Financial Rules apply to the expenditure incurred by the chief Justice in respect of the High Court.

The Chief Justice was of the firm belief that these rules do not apply. The Committee says the rules apply. Let us take it the Committee is right. But can't the Chief Justice have a different opinion? If he does, is it misbehavior? That is the point in issue.

What is more important is that subsequently, the subsequent Chief Justice has passed an order, after Justice Ramaswami came to the Supreme Court, that quay expenditure of the High Court, Punjab Financial Rules do not apply. So, if it is good for the subsequent Chief Justice, is it not good for the Chief Justice Ramaswami? I will straightaway take you to that order of the subsequent Chief Justice and that is dated march 12, 1992. That is a note at Page 114 of Vol. III. The original has also been filed, but let us read the printed copy. The original is also on record and it is part of Vol. IV. Kindly have a look at Page 114. This is the Office Note and a decision of the Chief Justice.

MR. SPEAKER: Somnathji, would you like to reply tomorrow?

SHRI SOMNATH CHATTERJEE: Yes, Sir.

MR. SPEAKER: So that you can be coherent and you would like to scan through the speech. So I think the voting will have to take

place tomorrow

SHRI BASUDEB ACHARIA (Bankura)
How long shall we have to sit now

MR SPEAKER Till Shri Sibal finishes

SHRI KAPIL SIBAL I am sorry if I am
prolonging

MR SPEAKER No You are doing your
duty, we appreciate it You may continue

SHRI KAPIL SIBAL I hope I am not repeat-
ing because my purpose is not to prolong these
proceedings at all As you might have noticed,
I am trying to hurry up

MR SPEAKER, If people have some for-
mal dinners and all those things, they have to go
If we are not voting today, then they might go for
formal dinners That is why I said that

SHRI KAPIL SIBAL I was referring your
honour to Vol III at Page 114 bottom, the note of
12 3 1992, much after Justice Ramaswami came
to the Supreme Court This is the view of the
Chief Justice subsequently

"According to Rule 2(b) of the High
Court Judges' Rule as amended from
time to time, an hon Judge is entitled
to furniture at his residence of Rs
22,500 and in case of hon Chief Jus-
tice it is Rs 38,500 "

This rule has been amended and
limit has been enhanced to Rs one
lakh for Chief Justice and in the case
of other Judges, it shall be Rs 70,000
As a result of the purchases made by
some of the Judges relating to the
furnishing items, the Audit Branch
has objected that the procedure laid
down under Rule 18 Appendix B of the
Punjab Financial Rules, Volume II
has not been followed "

So, the question arises that the procedure
under Rule 18 Appendix B of Punjab Financial
Rules has not been followed So, the issue was
do the rules apply or not It is the same as in our
case

"According to this Rule, at least quo-
tations have to be invited from six
firms These rules apparently relate to
the purchase of store items which are
required for various departments of
the Government "

The question of inviting quotations
was also raised

"It is stated that every Government
employee incurring or sanctioning
expenditure from the revenues of the
Government should be guided by the
high standard of financial propriety
Each Head of the Department is re-
sponsible for enforcing financial order
of strict economy at every step He is
responsible for the observance of all
financial rules and regulations both by
his own office and by subordinate
offices Every Government employee
is expected to exercise the same vigi-
lance in respect of the expenditure
incurred from public money as a per-
son of ordinary prudence would exer-
cise in all respects of the expenditure
of his own money As regards, the
various purchases which are made by
this court quotations invariably in-
vited as required under rules"

This is now the decision of the Chief
Justice which I am reading

"In this connection, it is stated that the
judges are constitutional functionar-
ies and are not Government employ-
ees The rules regulating conditions of
service of hon Judge are altogether
independent and different to those
applicable to the Government ser-

vants. The benefit of furnishing items is a facility extending to them under their own set of rules. It is, thus, to be taken that in case the rules are followed a right of an hon. Judge for effecting purchase would be taken away. The purchase is to be made according to the choice and necessity of the hon. Judge.

This is at a later point in time, Sir. The impeachment proceedings on this issue are going on against the Chief Justice Ramaswamy, but the subsequent Chief Justice says that these rules do not apply to us. But, for Chief Justice Ramaswamy, he has committed an infraction of the rules and therefore, he must be impeached. Now, what is the order?

"The purchase is to be made according to the choice and necessity of the hon. Judge. There is no bar in the High Court Judges and Conditions of Service Act as well as rules which prohibits an hon. Judge to make any purchase in deviation of the financial rules."

So, the Chief Justice is saying that you can deviate from the financial rules, because you are a high constitutional functionary. Why? it is because, according to the High court Judges Conditions of Service Act, we are constitutional functionaries. So, the Punjab Financial Rules would not apply to us.

"The expenditure involved is also not met out of the contingent grant which may involve the application for financial rules.

It is, thus, concluded that the objection raised by the Audit Branch is not maintainable so far the furnishing items are concerned as contemplated under rule 2(b) of the High Court Judges Rules.

This is dated 12.3.92, by Chief Justice B C Varma. The Committee does not investigate into this matter. Yet the Committee finds that, "No, since there is an infraction of the Punjab Rules, this is misbehavior and financial indiscipline. The Judge is not saying anything in his defence on the basis of some oral argument. These are all documents. This is not the Judge's *ipse dixit*."

Now, I assume the Chief Justice Varma's order of 12th March 1992 was not there, I go to that extent, the Chief Justice Ramaswamy, bonafide, genuinely though that the Punjab Financial Rules do not apply to him; that was the feeling of the registry throughout. Prior to Chief Justice Ramaswamy, this was the feeling of the registry. That has come on record. Now, you genuinely believe and the Committee comes to a different conclusion, the Committee is entitled to, but that does not make the action of Justice Ramaswamy, as a ground for impeachment.

The Committee may say, there is a genuine difference of opinion. I am referring you to page 110 - the statement of the Registrar made before the Committee in paragraph. This is the subsequent Registrar. Shri Surendra Swaroop, Registrar of the Punjab and Haryana High Court at Chandigarh made the following statement as witness No. 1 in the proceedings before the Inquiry Committee:

"I am unable to say whether paragraph 14.9 of the Punjab Budget manual applies to the High Court establishment or the CJ"

On page 11 at the bottom, there is Shri R L. Anand's statement, another Registrar of the Court. This was at the time of Justice Ramaswami.

"Question: Is it true to your knowledge that the Punjab Financial rules do not apply to the funds released for the High Court Registry and that they apply only to the funds released by the Punjab government concerning the Subordi-

[Sh Kapil Sibal]

nate Judiciary?

Answer I have no knowledge about this matter. However, the Chief Justice Ramaswami entertained the view that since the funds for the High Court Registry flowed from the Central Government via the Union Territory (Admn), the Punjab Financial Rules would not apply to the utilisation of such funds.

Now, this was the belief that he had. I have another doubt of Rs. 19 lakh that were given to him through the budget. Rs. 54 lakh were left behind which were expended pretty faster thereafter.

Now, I come to next page 112 - question to Shri Ravi Kumar Nehru, who is presently Judge

"Question I put it to you that the Punjab Financial Rules applied only to the funds which are placed at the disposal of the High Court by the Punjab and Haryana in respect of the subordinate courts and they do not govern the funds given by the Central Government for the purposes of the High Court.

Answer I am not sure.

So, some Registrars are sure that they do not apply. One is not sure. A subsequent Chief Justice says that they do not apply but the Committee says, no, they apply. And if he has not followed them, there is a ground for impeachment.

This is why the Judge said this was a force and right. This was the last finding, that is charge 14, against the learned Judge.

Now, I will close by reading article 229 of the Constitution. This is only a factual aspect. I have

"The administrative expenses of a High court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the court shall form part of that Fund."

The Punjab Financial Rules are not framed under article 229(3). They are framed by the Punjab Government. Consequently, the rules have no application. The reason is, if the State were to control the purses of the High Court, it would have an indirect impact on the independence of the judiciary because every time the judiciary has to go to the Government for getting clearance of expenditure on these matters and the Government keeps a close control over that, what would be the result? For every item of expenditure the Judge would have to reach to the Government. That would completely affect the balance. That is very sensitively brought out by the various provisions of the Constitution on financial independence of the High Court. The Members may have a different view. I am not saying 'no' to that. All I am saying is this cannot be a ground for impeachment. Supposing this matter were an issue and the matter went to the Supreme Court and ultimately Chief Justice Ramaswami were to succeed and the Supreme Court were to say that Punjab Financial Rules in another context will not be applied and in the meantime, the man is to be impeached, what justice would you be doing to him?

In an Inquiry Committee accepted by the High Court, it is found that these do not apply. Anyway, I do not want to carry the point further. These, therefore, in essence, are the material allegations against the Judge in respect of each of the charges. The reason why I went into the facts before I went into the law is that I cannot convince you and I cannot convince your conscience unless I convince you on the facts. If I

were to make a technical argument, you would say, "You are hiding behind technicalities, you are hiding behind the rules and you are hiding behind the law. Tell us facts." Now that I have established the facts Sir, I can with the greatest respect, say that even if the facts were to be proved, the way in which Justice Ramaswami has been dealt with in these proceedings is unheard of. In this context therefore, I straight-way take you to some of the legal issues that require consideration.

How long am I required to go on Sir?

MR. SPEAKER: I think you are at the fag end now!

SHRI KAPIL SIBAL: If I can get ten minutes tomorrow, that will be good.

MR. SPEAKER: No, no. You please conclude today.

(Interruptions)

SHRI KAPIL SIBAL: No problem. I was only seeking your indulgence. I am finishing.

Now Sir, let us look at the legal aspects of the problem. That relates to the issue of procedural irregularities in the conduct of these proceedings before the Committee. In this context, kindly notice one fact that once articles are framed against a learned judge and he has to appear before the Committee, then the proceedings are between the Judge and the Committee. This is very important. A Committee goes into facts, frames articles of charge, asks the accused, viz. the Judge to file his written statement, the evidence is to proceed. In this procedure, where do third parties come in? This is very important. My learned friend mentioned earlier during the day that the Sub-Committee on Judicial Accountability filed certain proceedings in the Supreme Court. That is a self-styled Sub-Committee of some prominent lawyers, say, a few of them. My learned friend said that the lawyers refused to appear before the Judge.

I can only give you the names of five lawyers who have refused to appear before the Judge.

SHRI SOMNATH CHATTERJEE: Please do not give evidence.

SHRI KAPIL SIBAL: No, no. Pardon my saying so. I am only saying that.....

SHRI SOMNATH CHATTERJEE: One should not give evidence from the Bar. That is the most reprehensible thing. Shall I give another set of names who did not appear? Is this the way to carry on here?

SHRI KAPIL SIBAL: Non-appearance of a lawyer is no charge. Yet my learned friend mentioned it. I am only saying that there are only five advocates in the Supreme Court who have refused to appear in the entire Supreme court.

SHRI JASWANT SINGH (Chittorgarh): I am on a point of order. The Learned Counsel for Justice Ramaswami is appearing to put across the point of view of the accused who has not appeared in person. He is not to rebut an intervention made by an hon. Member of the House. He has to make a submission. He is also not to give evidence. That is a different matter altogether. But, if we will permit the proceedings to descend to this level and the Learned Counsel is beginning to rebut an hon. Member of the House, I don't know if that would be the proper procedure to follow in this particular case.

Sir, this kind of intervention, that has just now taken place, in which the learned Counsel has indulged in exchanges with the hon. Member and if this is the manner in which we have to reduce this discussion, I do not know if that was the original intention of the entire arrangement that has been worked out.

SHRI SOMNATH CHATTERJEE: Shall I tell the House my experience of appearing before him? Do you want to know that, Sir? Why then he is mentioning all these things?

SHRI H.R. BHARDWAJ: May I submit one point, Sir? He is an eminent counsel and he may be knowing that as professionals the lawyers are called upon to perform very delicate duties. They are not speaking as the Members of Parliament. Having heard this whole discussion, I feel that you, Mr. Speaker, has a right to ask Shri Sibal to either expedite or to curtail his views. But, if you are going to put fetters on the submissions of the Counsel that will be very unfortunate for the Parliament. You should not put fetters. That is not good.

SHRI SOMNATH CHATTERJEE: I have myself said, let him take his own time. I only said he should not give evidence from the bar.

MR. SPEAKER: Let us take the legal points and factual points. Let us not make references to things which are not there. And, I do think that you have done well.

SHRI INDREAJIT GUPTA: Sir, are you allowing fresh evidence to be adduced? either by Shri Sibal or by Shri Buta Singh or by anybody else?

MR. SPEAKER: That is what I have ruled out.

SHRI INDRAJIT GUPTA: Fresh evidence should not be adduced now.

MR. SPEAKER: That is what I have done.

SHRI KAPIL SIBAL: So, the point that I was making was - going back to the legal issues, that this is a proceeding between a Judge and a Committee and the third party has no role to play. The sub-Committee on Judicial Accountability also intervened in this proceeding before this Committee. And they were allowed to participate by this Committee. How could this Committee allow a third party, who was accusing the judge outside the court, which has nothing to do with it, to participate in the proceeding? I hope I have made my point. A Committee set up by the Parliament under the Act which has to deal with

a Judge, what role does a lawyer, who appeared before the Sub-Committee outside in the Supreme court, have to play in this proceeding? The learned Judge wrote to the Committee saying, "Please do not allow the third party to intervene". The Committee said, "Nothing doing."

The result was these lawyers appearing before the Sub-Committee were in fact prosecuting the Judge. This is a very serious matter. These lawyers were instructing the Committee; they were leading the evidence against the Judge and they were the outsiders. I will demonstrate that with reference to documents. This is not my position. This is the admitted position. In this context kindly look at Volume 3, Page 48. The learned Judge says:

"The proceedings of the Committee stand vitiated on the following counts and should be declared null and void. There is evidence on record to show that the Counsel for the Sub-Committee on Judicial Accountability as well as its members had complete access to the records available with the Committee and that the Counsel for Sub-Committee on Judicial Accountability was consistently advising Counsel for the Committee, both prior to and during the course of proceeding the conclusions thereof. Instances in that regard are:

(b) On Sunday, February 9, 1992, the Counsel for Justice Ramaswami was not allowing inspection on the ground that it was a Sunday."

He was not allowed inspection of the record. This is on Sunday. However, on the day, that is on that very day, the Counsel for the Committee and Counsel for the Sub-Committee on Judicial Accountability was allowed access to the Witnesses; a day prior to the date of the commencement of the proceedings before the Committee. So, they deny us access to docu-

ments but they are granted access to Witnesses; not the Committee's Counsels but Sub-Committee's Counsels. This was put on record by the Judge; a written letter to the Committee. In reply to the said letter, it was stated on behalf of the Committee vide letter dated 11.2.92, that the Counsel for the sub-Committee had a meeting with the Counsel for the Committee and that the Counsel for the Committee who was going through the documents and interviewed witnesses on that date, that is Sunday, which was a known procedure, for which the learned Judge ought to be aware. So, the Committee admits that Counsel for Committee on Judicial Accountability had a meeting with the Counsel for the Committee. What role does that Counsel have to play in these proceedings?

SHRI GEORGE FERNANDES: Whose statement is this?

SHRI KAPIL SIBAL: This letter is on record.

SHRI GEORGE FERNANDES: Is this a statement on which some evidence had been there somewhere or is this a statement made by a person who is today facing impeachment? When did he first make? What is the date on which he made that statement?

MR. SPEAKER: It can be argued in reply.

SHRI SOMNATH CHATTERJEE: He made the canvass very wide.

MR. SPEAKER: You will have full time to argue.

SHRI KAPIL SIBAL: Sir, the point I am making is this. Let us forget about all the details. The fact is that this cannot be denied that third party's Counsel for the Sub-Committee were allowed to participate in those proceedings. My point in law is this. Under what law can third parties participate in those proceedings? I won't talk of any letters, those letters are on record. But I do not want to take the time of the House. Now,

let us look at the law and see whether the third parties are entitled to participate and which are those third parties? That is significant. The Counsel for the Sub-Committee had been dealing with the judge outside the court and he was allowed to participate. I show you straightway the Act. The document, incidentally, my learned friend was asking is this. A letter dated 10 February, 1992 was written to Shri S.C. Gupta, Secretary of the Committee, by Shri Ranjit Kumar, who is appearing before you today. This is on behalf of the judge. Since this document was asked for, I am just saying one thing. The reply to that is this. I am reading the reply dated 11 February.

"The Committee's Counsel has every right to interview the Witness, whom they are going to examine."

Under which procedure of law can any Committee interview witnesses before they are examined?

** How can you interview?

SHRI SOMNATH CHATTERJEE: What is going on?

SHRI KAPIL SIBAL: How can you interview before they are examined?

MR. SPEAKER: That is unparliamentary.

(Interruptions)

SHRI KAPIL SIBAL: As you are very well aware, in a prosecution, the witness comes on the date of the examination. It is another matter that the prosecutor meets him somewhere just before the trial. He is not supposed to. But in these circumstances, the Judge is being impeached, the Counsel for the Sub-Committee is allowed to interview and the Committee says: "The Committee's Counsel has every right to interview witnesses whom they are going to examine". For what? To tell them what to say?

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Therefore, Sir, you asked me, why did the judge not appear? This is why the judge did not appear. How could the judge appear? If he had appeared and the Report would have been against him, it would have been said, you appeared, you got an opportunity, now, the Report is against you, you cannot say anything now.

You had your say. That is why he did not appear. So, the first point therefore is no third party in this process, that has to be the law, and in this context, I may invite your attention to the Act itself - section 3 on page 8, Vol. I. It reads as follows:

"The Committee shall frame definite charges against the judge on the basis of which the investigation is proposed to be held."

So, the charge has to be by the Committee. It further reads as follows:

"Such charges together with a statement of the grounds on which each such charge is based shall be communicated to the judge and he shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified in this behalf by the Committee."

So, the proceedings are between the judge and the Committee, that is clear from the scheme of the Act. Then section 4 - Report of Committee. It reads as follows:

Subject to any rules that may be made in this behalf, the Committee shall have power to regulate its own procedure in making the investigation and shall give a reasonable opportunity to the judge of cross-examining witnesses, adducing evidence and of being heard in his defence.

That is all that the Act says. The Act does not allow a third party intervention especially a third party which is inimical to the judge. And the Committee knew because the lawyer was the same, the lawyer for the Committee on judicial accountability was the same as the lawyer who had appeared before the Committee, this high Powered Committee, and they were the ones who were, in fact, making statements at the Bar that we will have *dharma* outside the court if the judge does not resign. These were the lawyers who were allowed to intervene. I say, under what Act. The point ultimately is that you cannot even look at this report, forgetting the facts. This is not the manner in which a judge of the Supreme Court is to be treated, and this before the whole thing started before the evidence started and this was all being done.

Then in those circumstances, could you expect the judge to appear? It would have been suicidal. Everybody would have said he has already got a chance before the Committee. What avenue would he have had of justice? That is why he is here before you, that he knows, that is why he said, I did not have confidence in them. I have confidence in you.

MR SPEAKER That is not going on record.

* SHRI KAPIL SIBAL No, Sir, that is a Committee, this is not attributing any motive to anybody, this is the first irregularity.

Now, coming to the second one - examination of witnesses, as you know, the judge did not appear before the Committee. So, all the witnesses were the witnesses of the Committee, not witnesses of the judge. But the Committee was cross-examining its own witnesses. If they did not give the right answer, they were being cross-examined by the Committee. What procedure in law is that?

Page 52, Volume III. I have given a list of questions of cross-examination. Witness 13, witness 31, witness 32, 41, 42 and 4. So, the Committee was cross-examining its own wit-

nesses. What procedure in law is that? The three leading questions to the witnesses. As you know, in a court of law, what happens? Witnesses come and give evidence. The complainant does not put leading questions. Here the Committee is putting leading questions to its own witnesses - witness no. 12, witness no. 12 - it is on page 53 - I would not read it because I do not want to do that.

I am just going to make a point - witness no. 13, witness no. 16, witness no. 28 and witness no. 43. Have you ever heard of this? Under the Evidence Act, a witness can be confronted only by his own previous statement.

That is the only occasion when a witness can be confronted with a statement. If it is his own previous statement, he can be confronted with the statement. Supposing he is telling a lie today or he is telling the truth today, whichever the case may be and he had told a lie in the past, then the counsel can say look, on such day you made a statement, today you are making this statement, what do you have to say. Perfectly good procedure. But here what was happening? Statement made by other witnesses and some other witnesses were being confronted with them.

In other words, if PW 10 has made a statement in favour of Justice Ramaswami and PW 12 has made a statement against him then the statement of PW 10 was put to PW 12 and said what do you have to say. PW 12 would say that this is wrong. The Committee would say, PW 12 says that PW 10 is wrong, so we do not accept it. What is that procedure in law? Under which this can be done? That a witness' statement is put in front of another witness to test the veracity. You can only test the veracity of a witness under the Evidence Act by impeaching his integrity at cross examination or by confronting him by a previous statement. But you cannot test the integrity of a witness by putting the statement to a third witness. Examples — page 55, Witness 16, Witness 21, Witness 41, Witness 45, Witness 46, Witness 4.

I will give an example. I quote it.

“Next irregularity - non supply of documents to Justice Ramaswami.”

Just look at this. As I said, in the domestic inquiry of a Lower Division Clerk if this was done, it would be quashed in five minutes. I have given the details of documents, from page 59 to page 79, i.e. 20 pages of documents, that were never supplied to the Judge. When he asked for them, do you know what the Committee said. They are voluminous, that is too much. You come and inspect. What does the Committee want? The Judge should come to the Committee Room to inspect the documents.

The Judge said, “please photocopy them and give them to me.” The Committee said, “we cannot do that, they are too voluminous.” The Judge said, “all right, if they are too voluminous, I will have them photocopied under your supervision and pay for that.” They said, “We will not do it.” No question. Then the Judge said, “why?”. The Committee said, “the reason is, these documents belong to the original document file, if we have to photocopy them, we have to separate each page, and if we separate each page from the original file and photocopy it would amount to tampering of evidence. How can we tamper the evidence? So you will not get the documents.”

The result was, he never got the documents. I have listed in 20 pages, the documents that he did not get.

How was the Committee concerned with expenses? How was the Committee concerned with tampering of evidence? These documents were part of the Committee record. How could he prepare his defence if he did not have the documents? That is the next procedure of irregularity.

Then page 80 - other queries raised by the Judge and page 82. This is at the first instance. He raised many queries, I am just reading to you the relevant queries in the context of what I have

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already submitted before this august House
Page 82, query 15

In other words, if somebody else had
spent Rs 40 lakh, why should he be
impeached for Rs 6 lakh?

"The Committee investigates as to where from furniture and furnishings were purchased prior to my becoming the Chief Justice of Punjab & Haryana High Court and subsequent thereto, can the Committee inform me of the person who procured the alleged quotation. The Committee ascertained for itself as to the identity of the person who has stated that those quotations are bogus. Kindly forward the name and the statement, if any, of such person."

This letter, you might notice, was written on 21 January 1992. The charges are framed against the Judge on 14 January 1992. Within 8 days of the framing of charges, the learned Judge said, "please enquire as to what method of purchase of furniture and furnishings, prior to my becoming Chief Justice and afterwards and then please give me the details."

Now did he not therefore raise at the earliest this query?

And, what does the Committee do? it does not answer it. It says, "You appear before us first. Then we will deal with you."

Now see page 83. There is a letter of February 3, 1992. What does the Judge say? He says

"I would greatly appreciate if you could collect and collate expenditure incurred by every transferred Chief Justice in the High Courts of the Country since 1980 in respect of the following

- (a) Expenses in respect of the residential accommodation occupied by each of such Chief Justices "

- (b) Expenses incurred by such Chief Justices in respect of either the High Court building or the office portion, if any if it is a part of the residential premises
- (c) Expenditure incurred in respect of telephone calls made by any such Chief Justice from his residence or office,
- (d) Expenses incurred on account of use of official cars,
- (e) Expenditure incurred on furnishing etc. Does the Chief Justice ask for quotations in other High Courts? In those circumstances kindly supply the information on the mode of expenditure and its various sources
- (f) Is there a contingent fund in every High Court? If so could you please collect the data on the extent of expenditure drawn from the contingent fund on an yearly basis?
- (g) Is there any instance in any High Court wherein the Chief Justice or any Judge given a free telephone facility, is required to pay any amount, despite such facility on any ground?
- (h) In the purchase of furniture and furnishings have the Registrars of the various High Courts been changing the dealers or purchasing from the same dealers over a period of time?

These are the very questions ultimately that have come true now, namely, that he has demonstrated that from the beginning of the High Court the same dealer was supplying. But he was asking for this information. He was asking the Committee to collect this data. The Commit-

tee never supplied this data. Nor did the Committee over collect this data. And yet, it found him guilty!

I am sorry to say, that this is not how a Judge should be dealt with. Sir, these are the procedural matters.

Then, the other is at page 83, the last irregularity, which relates to production of evidence during the course of the proceedings and inadmissibility of the evidence. I have given some data with respect to that.

What has happened is, in this case during the course of the proceedings itself, documents have been produced.

There are two kinds of procedures known to law. The first is a criminal proceeding. In a criminal proceedings, what happens is, the prosecution investigates. The Police Officer of a Police Station investigates. He is the head of the Police Station. Somebody says that a murder has been committed. He investigates. After a thorough investigation is done, he files a final report under Section 173 of the Criminal Procedure Code.

When he files the final report, what happens? The investigation is complete. The final report is appended with the list of documents and the statement of witnesses that the prosecution is to rely upon for the purposes of convicting the man. This has to be conveyed in the first instance to the accused under the Criminal Procedure.

Now, this Committee says in its rules of procedure, that at any state of the proceedings, "We find that we need some document to be introduced, we will do it; and they did if I have given instances of it.

Then, when the Judge asks, "Please tell me which is the statement that is being relied upon against me and give me a copy of the statement", they say "Nothing doing. We have

given you all the documents". When asked, "Which part of the document do you rely upon for the purposes of proceeding against me?", they say, "We will not tell you. You come before us first."

That is the procedure under the Criminal Procedure Code. What is the procedure under the Civil Procedure Code?

Under the Civil Procedure Code, there is a plaint filed. There is a written statement. After the plaint and the written statement are filed, the plaintiff gives a list of documents that he wishes to rely upon.

Before the evidence starts—because there after the issues are struck—the defendant knows not only the plaintiff's case, but knows all the documents that are to be relied upon by the plaintiff. And if any document is to be introduced, special permission of a judge is to be taken on the ground as to why the plaintiff could not have introduced it earlier. Unless a specific order is passed to that effect, that additional evidence can never be introduced.

Sir, in this proceeding, what happened? Neither the procedure under the Code of Criminal Procedure nor the procedure under the Code of Civil Procedure was followed. This was sui generis Committee. This was a peculiar procedure. And the result is what we see.

Sir, I have one submission to make in law, which is very important because this has tremendous bearing on the legal aspect of the matter. Kindly see Article 124(5) of the Constitution. What does it say? It says:

"Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehavior or incapacity of a judge under Clause (4)."

In other words, Sir the law that is to be laid down by Parliament related to the presentation

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of an address and investigation and proof. Let us leave presentation of an address apart because that is something which has already been set out. What do you mean by "investigation" and "proof"? As I understand it, as an ordinary person, investigation is the stage prior to the complete collection of evidence. Any stage reached when the evidence is complete prior to that is investigation. Now, when you want to prove. (Interruptions)

SHRI GEORGE FERNANDES: Sir, I am on a point of order. Sir, the investigation is as per the Act, that was passed by this Parliament and the rules framed there under by Joint Committee of the two Houses. Therefore, now to question the very basis of this Act, the rules we framed, how the investigating team will function, how will it produce its report and submit its report, and/or, at the end of the day after five and a half hour's arguing, to make this point does not make any sense. Only the Indian Constitution has not been challenged in this House. (Interruptions)

MR SPEAKER: Shri Somnath Chatterjee will have a full right to reply.

SHRI GEORGE FERNANDES: Sir, I appreciate your patience. We have also displayed tremendous patience for reasons that I do not have to explain. Now, my point is that, are we going to hear how the rules that this House had framed, that the Joint Committee of the two Houses had framed? (Interruptions)

MR SPEAKER: Let me hear him and then I will give the ruling on that. I have not completed the hearing.

(Interruptions)

SHRI A. CHARLES: Sir, this is not correct. (Interruptions)

MR SPEAKER: Please for God's sake, do

not interfere now. Your intervention does not help me. Your intervention creates confusion.

SHRI KAPIL SIBAL: I am making purely a legal point. I am not challenging anything.

MR SPEAKER: Now, you are not challenging the rules made.

SHRI KAPIL SIBAL: No, Sir, how can I challenge the rules? I am only trying to state as to what the word "investigation" means. (Interruptions)

SHRI GEORGE FERNANDES: Sir, it is there. (Interruptions)

MR SPEAKER: He is giving the interpretation of the word 'investigation'. There are many interpretations—investigation by police, investigation by a Committee, investigation by JPC, investigation by others.

SHRI KAPIL SIBAL: Let me place the point a little different. The Committee framed its charges on January 14, 1992. All that happened after the framing of charges relate to the word "proof" under Article 124(5), mode of proof, of the Constitution. I hope I made myself clear.

MR SPEAKER: Where from are you referring to?

SHRI KAPIL SIBAL: I am referring to Article 124(5). It says

"Parliament may by law regulate the procedure for the investigation and proof of misbehavior."

There are two words—"investigations" and "proof". The point I am making is when the Committee frames the charges all that happens thereafter even in the area of proof because it has to prove the charges, the Committee has to prove the charges. The manner in which it will prove them, the manner in which the evidence will be placed, the manner in which the evidence

would be cross-examined, is all a matter of proof. But, how is the Committee to investigate is not set out in the Act. That is the point. Now that I have made the initial statement, the point is before the charges were framed by the Committee, the Committee has to conduct the preliminary investigation. But what the Committee did was, it took the allegation and framed the charges without investigating into the matter. I hope I have made myself clear. (Interruptions)

SHRI GEORGE FERNANDES : He should be asked to first give the rules. The rules are very clear on this.

SHRI KAPIL SIBAL : I will read the rule. Let us come to the Judges Inquiry Rule. (Interruptions)

SHRI H.R. BHARDWAJ : Why do you disturb him? Let him have his say.

SHRI GEORGE FERNANDES : I do not think that the Law Ministers should intervene. He can keep quiet. He should not interfere. (Interruptions)

SHRI H.R. BHARDWAJ : I am only saying allow him to finish. Your interpretation is not very healthy.

MR. SPEAKER : I think, we are coming to the tag end.

(Interruptions)

SHRI SOMNATH CHATTERJEE (Bolpur) : After solo rig!

MR. SPEAKER : I will give you seven hours and if you need more, I will give you. I am not going to cut short your argument.

(Interruptions)

SHRI KAPIL SIBAL : The point that I am making is and I will repeat it.

MR. SPEAKER : There are no rules for

investigation.

SHRI KAPIL SIBAL : Yes, there are no rules for investigation.

MR. SPEAKER : Mr. Chatterjee, please note it and may reply to it.

SHRI KAPIL SIBAL : There are no rules for investigation. So, the judge wrote to the Committee that before you frame the charges, Please have a preliminary investigation and in that context, he wrote those letters of January 21, February 2, January 22, get this data get this material. Once you have conducted that investigation and you got the data with you then if you feel that I have done something wrong, frame the charges. The Committee said, 'No' and straight away framed the charges. Then, the Judge said: 'why should I appear before this Committee.'

MR. SPEAKER : There is as cope for interpretation, and reply can be given.

SHRI KAPIL SIBAL : The Committee has framed the charges without conducting an investigation. This is the procedure unknown to law and contrary to statute because the statute only stipulates the mode of proof. It does not stipulate the mode of investigation.

SHRI GEORGE FERNANDES : I must defend the statute because the statute was passed by this House. The statute is very clear. (Interruptions) When the statute is being challenged, it is my duty to defend the statute. The statute is very clear. I will read only one sentence. (Interruptions)

MR. SPEAKER : I am allowing him.

(Interruptions)

SHRI GEORGE FERNANDES : The Section III of the Judges Inquiry Act, 1968 investigation into misbehaviour or incapacity of Judge by Committee, sub-section three says :

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"The Committee shall frame definite charges against the Judge on the basis of which the investigation is proposed to be held." (*Interruptions*)

SHRIMANISHANKARAIYAR: Why is he speaking now. (*Interruptions*)

SHRI GEORGE FERNANDES: "And on the basis of those documents, which were sent by this House, the Committee...." (*Interruptions*)

MR. SPEAKER: Very good. Please resume your seat.

We have the Constitution, we have rules, we have rules any yet the provisions in the Constitution, rules and laws are interpreted by the judges and that is why we have volumes of case law. I will allow full opportunity to Shri Chatterjee to rebut it. If he has that interpretation, let him put that interpretation.

SHRI SOMNATH CHATTERJEE: I have not obstructed him (*Interruptions*)

MR. SPEAKER: Please, this part of the law, according to him is interpreted in the manner in which he has presented to the House. Let him continue.

(*Interruptions*)

SHRI RAM KAPSE (Thane): Sir, there is another interpretation also.

MR. SPEAKER: You can give it. You do not have to rebut it now. Shri Kapil Sibal may continue.

SHRI KAPIL SIBAL: Of course, there are always two interpretations to anything. The only point that I have been saying to you in the course of this proceedings is that if somebody has interpreted it differently, please do not impeach him.

MR. SPEAKER: According to you there are rules for certain things but there are no rules for certain other things.

SHRI KAPIL SIBAL: Correct. There is no rule. I cannot enter into a debate with the hon. Members. I can only make a statement of fact.

MR. SPEAKER: That is right.

SHRI KAPIL SIBAL: But the fact is if you go into this Act and these rules, there is not a single provision which tells you the mode of investigation; gives you the mode of proof.

MR. SPEAKER: Right.

SHRI KAPIL SIBAL: Therefore, it is in that context that Justice Ramaswami has said: You please tell us how you are going to investigate; have a preliminary investigation and then certainly I will be more than happy to participate'. There are letters after letters going to 5-10-15 pages in which he clearly specified what his point of view is. The only answer is: 'You please appear before us; Submit to the jurisdiction and then we will deal with it'. This is all that has happened.

This takes care of the procedural aspect of the matter. I wanted to come to the procedural aspect after I came to the acts because if I had come to the procedural aspect first, I would have been told: 'You are hiding behind technicalities'. Therefore, I decided to deal with the acts first.

In the context of all this, should the nation go through the agony of having to make a choice? That is the issue that poses itself before the hon. Members of this House. My teamed friend rightly said that nobody of this House is vindictive against anybody. That is the only approach. All that I am trying to show you is that the judge has a case. And I say that the judge has a very strong case. You may agree; you may not agree. But this is not an issue on which leaders have to make a choice; the Members of this House have to make a choice. Let it rest. Please

let it rest. One way or the other, any vote, any direction will only have one fall-out and that is the adverse effect that it will have on the institution of the judiciary. Any vote, one way or the other, and we have seen the newspapers in the past will be attributive to a particular....

SHRI RAM KAPSE : Sir, there are two things. He is again and a-gain repeating the same proposition. (Interruptions) He is saying this way or that way the fall-out will be there. Another thing is he is mentioning about the newspapers. Repetition is not allowed in Parliament. Parliamentary rules provide that there should not be any repetition. (Interruptions)

SHRI KAPIL SIBAL : I am concluding. I am not going to take more than five minutes now.

MR. SPEAKER : Yes.

SHRI RAM KAPSE : The repetition and quoting newspapers... (Interruptions)

MR. SPEAKER : He is repeating to emphasise. He is at the far end. Shri sibal may continue.

SHRI RAM NAIK : He is repeating to say that he is concluding within five minutes and that is most welcome.

MR. SPEAKER : Good. Shri sibal may continue.

(Interruptions)

SHRI KAPIL SIBAL : All that I want to say is this House is full of statesmen. There are two former Prime Ministers who are part of this House.

21.00 hrs.

There are people whose wisdom is to be admired, and all that I can say is, given the facts and given the statement of the law, given the nature of the evidence, given the nature of the

charges, given the findings of the Committee, why should this House have to make a choice? And the reason why I am saying this is not because the Judge is guilty or innocent, it is not my concern at all, and I can say so with the utmost sincerity. I appeared today certainly for the Judge, but more for the institution. The Judge may be removed or may not be removed, is not my concern. I will certainly defend him. (Interruptions) I am concerned with the fall out of the vote. (Interruptions)

MR. SPEAKER : I think for you for me, the House should cooperate.

SHRI KAPIL SIBAL : Having said that, Sir, I want, and I would request the hon. Members of this House to look at page 24 of Vol. III where I have given a list of 33 cases of impeachment—actual list of 33 cases of impeachment with charges and findings, and you will find if you meticulously go through these, that in these 33 cases, only one Judge of the Supreme Court of the United States was ever proceeded against and the motion was defeated. In America, impeachment has never succeeded, never, never, never. In the High Court of Australia.... (interruptions)

SHRI SOBHANADREESWARA RAO VADDE (Vijayawada) : In America the President had to step down because of Watergate, but in India, is it the same trend? (Interruptions)

SHRI KAPIL SIBAL : Now, you will notice from this list, Sir,, that 90 per cent of the impeachment failed. In cases where impeachment succeeded, they related only to the judicial conduct of the Judge or misappropriation or criminal conviction, never on charges like this ; no impeachment ever moved on charges like this, of excessive expenditure contrary to financial rules; no impeachment has ever been moved, and I have given all the examples. I could have read the entire list to you, but since nobody... (Interruptions) I am sure the hon. Members of this House will go through that. And in the light of the fact that the three Judges

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Committee has said that there is no moral turpitude involved, I request the hon. Members of this House to re-think on this issue and not even vote on the motion; don't deal with it any more. It is not a motion that should be dealt with considering the facts that you have now before you.

That is all I wish to say. I want to express my deep appreciation at this great opportunity that you, Sir, have given me and the hon. Members of this House. It has, indeed, been a pleasure to be before you and if I have, in the course of my statement, said something that I should not have said, I beg of you to forgive me. Thank you very much.

MR. SPEAKER: Thank you.

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCES DEVELOPMENT (DEPARTMENT OF YOUTH AFFAIRS AND SPORTS) AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI MUKUL WASNIK): As the House has decided to continue the discussion and it was decided quite late in the evening, we have made some arrangements for food in the Central Hall for the hon. Members. Some food has been arranged. Exactly we could not arrange dinner because the time with us was very short. But we have made some arrangements. I request the hon. Members to join us at the Central Hall.

MR. SPEAKER: It depends on their preference whether to take here or at home.

SHRI SOMNATH CHARRERJEE: Mr. Sibal and his juniors should be invited.

SHRI MUKUL WASNIK: He and his assistances are definitely invited. The staff and officers are also invited.

SHRI LAL K. ADVANI: Mr. Speaker, Sir, we had issued whips to our Members to be present today. Perhaps all political parties recognising the importance of the occasion, asked all their Members to be present in the House. Now the discussion has spilled over tomorrow. Obviously we will have to issue fresh whips to them to be present tomorrow also. But it would be in the interest of the House and the Members if we are told approximately what time, the mover of the Motion would reply so that everything concludes before that.

MR. SPEAKER: I think, it would be immediately after the Lunch. It may be about 2.00 p.m. We will decide it. Approximately at 2.00 p.m. he is expected to do it. We will decide about it.

21.07 hrs.

*The Lok Sabha then adjourned till Eleven of
the Clock on Tuesday, May 11, 1993/
Vaisakha 21, 1915 (Saka).*