

MR. DEPUTY-SPEAKER: All right.

We go to the next item now.

12.36 hrs.

COMMISSIONS OF INQUIRY  
(AMENDMENT) BILL

[English]

THE MINISTER OF HOME AFFAIRS  
(SHRI MUFTI MOHAMMAD SAYEED): I  
beg to move:

"That the Bill further to amend the  
Commissions of Inquiry Act, 1952, be  
taken into consideration "

Under Sub-Section (1) of Section 3 of  
the Commissions of Inquiry Act, 1952, the  
Central Government or the State Govern-  
ment may appoint a Commission of Inquiry  
for the purpose of making an inquiry into any  
definite matter of public importance

Before the Commissions of Inquiry Act,  
1952 was amended in 1986, it was obliga-  
tory for the appropriate Government, under  
Sub-Section (4) of Section 3 of the Commis-  
sions of Inquiry Act, 1952, to lay the report of  
the Commission of inquiry appointed under  
Sub-Section (1) thereof before the House of  
the People or, as the case may be, the  
Legislative Assembly concerned, together  
with a memorandum of action taken thereon,  
within a period of six months of the submis-  
sion of the report. However, in 1986, it was  
considered by the previous Government that  
when Commissions of Inquiry are appointed  
to inquire into sensitive matters of public  
importance such as those having a bearing  
on defence, national security, personnel  
security of high dignitaries, friendly relations  
with foreign powers, etc., the inquiry reports  
may contain materials of a highly sensitive  
nature and, as such, it may not be in the  
public interest to lay such reports before the  
Lok Sabha or the Legislative Assembly of

the State. In order to cover situations like  
this, Section 3 of the Commissions of Inquiry  
Act, 1952 was amended by a Presidential  
Ordinance promulgated on 14.5.1986, in-  
serting Sub-Sections (5) and (6) in Section 3  
of the Act. The Ordinance was replaced by  
an Act of Parliament in August, 1986. This  
amendment provided that if the appropriate  
Government is satisfied that in the interests  
of the sovereignty and integrity of India, the  
security of the State, friendly relations with  
foreign States or in the public interest, it is not  
expedient to lay the report before the Lok  
Sabha or the Legislative Assembly of the  
State, the report of the Commission may not  
be so laid, provided a notification to that  
effect is issued within six months of the  
submission of the report and approval of the  
Lok Sabha or the Legislative Assembly of  
the State to the notification is obtained.

The present Government has reconsid-  
ered the matter, and is of the view that the  
people have a right to information.

A Commission of Inquiry is set up for the  
purpose of making an inquiry into any defi-  
nite matter of public importance. As such,  
the report submitted by such a Commission  
should not be withheld from the House of the  
People or the legislative Assembly under  
any circumstances and the public should  
have access to information which is of vital  
importance and interest to them. The Gov-  
ernment, therefore, considers that the  
amendments made in 1986 should be done  
away with.

The Bill seeks to achieve the above  
object.

I, therefore, commend the Bill for the  
consideration of this august House.

MR. DEPUTY-SPEAKER: Motion  
moved:

"That the Bill further to amend the  
Commissions of Enquiry Act, 1952, be  
taken into consideration."

SHRI P. CHIDAMBARAM (Sivaganga):  
Mr. Deputy Speaker, Sir, one has watched

with some amount of wonder and amazement at the record of this Government in the last 110 days or so. Their proudest achievement seems to be, what according to them is, undoing what the previous Government did. And since they have the vocal support of perhaps the last surviving communist party in the world, they are emboldened to go along this road of self delusion.

Sir, a few minutes ago this House heard the Minister of Parliamentary Affairs pleading with the Chair, for reasons which he is not able to disclose, why the 64th Constitutional (Amendment) Bill should be taken up only tomorrow. We came prepared to participate in that debate. We will reserve what we would—like to say for tomorrow. The 59th amendment, which they repealed with so much pomp and ceremony, is back partly as the 64th amendment.

Act 36 of 1986, amended the Commission of Inquiry Act and introduced sub-Section 4 and sub-Section 5. Today the home Minister claims that it is a proud achievement that they are bringing forward a Bill to repeal that amendment. This Government is concerned only with super structural changes, cosmetic changes which are born out of collective self delusion

Sir, if I remember right, Shri Mufti Mohd. Sayeed was a Member of the Government which introduced the Act 36 of 1986 and today Shri Sayeed stands up and says that we want to undo that Act. He is entitled to change his views.

AN. HON. MEMBER: He is wiser today.

SHRI P. CHIDAMBARAM: Yes, he is wiser today but what makes you so sure that he will not be wiser again tomorrow? What makes you so sure that he will not change his mind again? Now, I would ask, where were the authors of that Bill. The author of the Bill, the then Law Minister, Shri A.K. Sen, is on their side. The author of the notification, the then Minister of State for Internal Security is on their side. Now, let me say, I have said this

in this House on the last occasion also, the author of the notification, beyond whom the notification did not travel, by which the Thakkar Commission Report was withheld from this House, the then Minister of State for Internal Security, is on their side. The notification did not travel beyond him and I would like to the Home Minister to look into the files.

Therefore, Sir, it is all very well to stand up and say "in our wisdom we repeal all these things." We know the wisdom by which they sought to repeal the 59th Amendment and today the same wisdom permits them to bring the 64th amendment. I have no doubt in my mind that if Shri Sayeed remains Home Minister long enough, he will bring forward another Bill at some point of time by which he will say, "I want to withhold part of this Commission of Inquiry's Report".

Today there is a demand for inquiry into the incidents in Kashmir since the 20th January, 1990. Four independent persons went to Kashmir. The Committee on Initiative of Kashmir has given a scathing report. They have pointed out three dates which are the turning points in Kashmir. The first of that is the night of 19-20 January, 1990. A demand was voiced. Let not the Home Minister be complacent. Today, we marched to the President. A demand will come one day and you will have to concede that demand for an inquiry into all that happened in Kashmir since 19-20 January, 1990. When that Report comes, we will hold you to this Bill. We will ask you to place on the Table of the House, every single line of the Report. I am sure, you will come forward and say that part of this Report is too sensitive, please allow me to withhold it. I have no doubt that you will say that one day.

The Government of India, acting through the Delhi Administration—what kind liberties they have taken with this law—have just appointed a retired Justice Mr. Subramaniam Poti, as a single member Inquiry Commission, to inquire into certain incidents which took place as a consequence of the Delhi riots. This I believe is an off-shoot of Justice

[Sh. P. Chidambaram]

Ranganath Mishra's Commission of Inquiry. Justice Subramaniam Poti—I have great respect for his intellectual abilities, but surely he is not an independent Judge, he is not an independent person he was the candidate of the Left Democratic Front in Kerala—was defeated by a Congress (I) Member, Mr. Thomas. He was rejected by the people. He stood with the support of political parties—the CPI (M), CPI and your party—and today he has become an independent Member. You swear by the rule of law. You swear by the sanctity of the Commission of inquiry. You swear by the sanctity of the Report of Commission of Inquiry.

In Kerala, a major controversy has arisen on the appointment of three persons to man the Commission under the Public men Corruptions Inquiries Act. The Act requires consultation with the Leader of the Opposition. The Leader of the Opposition was not consulted and a major controversy has erupted in Kerala.

SHRI A. VIJAYARAGHAVAN (Palaghat): No, Sir. It is a clear distortion of facts.

SHRI P. CHIDAMBARAM: That is for the High Court to decide. Mercifully you cannot appoint...*(Interruptions)* There was no consultation. I am aware of the facts and I will repeat them. There was no consultation with the Leader of the Opposition and a major controversy has erupted in Kerala. Why did we bring this Bill? Why did we in the previous Government make this Amendment? We made this Amendment because, as I said, there is always or sometimes surely a conflict between disclosure and confidentiality. The question is on which side did the public interest lie? Does public interest lie in full disclosure or does public interest lie in maintaining confidentiality? In fact, when we moved this Bill, we said that this is an enabling power. It does not oblige the Government to withhold the Report nor does it oblige Parliament to sanction withholding of the Report. This is an enabling power. This

power is available if it becomes necessary to invoke this power in a highly sensitive situation like what is prevailing in Kashmir today, like what is prevailing in Punjab today, if it becomes necessary to hold an Inquiry, if it becomes necessary not to disclose the entirety of the Report. We think such an enabling power is a good and necessary power. Even then Government cannot act unilaterally or independently. The executive Government will have to come to Parliament and Parliament would have to sanction or approve the notification. If you do not wish to have this enabling power, that is your privilege. But this power which was added by sub-Section 4 and sub-Section 5, was a good power, a necessary power and an enabling power. It maintained the balance between confidentiality and disclosure.

Now, if the Government, in its wisdom—we have found in the last one hundred days that its wisdom is always a short-lived wisdom—today wants to deprive itself of this power, they are welcome to do so. But tomorrow, like the 64th Constitution Amendment Bill, if you come forward again on banded knees and say, 'We made a mistake in repealing the 59th Amendment; we want the 64th Amendment today', the whole world will laugh at you; the people of this country will laugh at you.

Look what has happened to your Wadhwa Commission report. You swear by full disclosure. I heard the Home Minister read in his speech, that they stood by freedom of information. The Wadhwa Commission report was not placed before Parliament, it was not publicly disclosed. The Advocate's on record, that they had to go before the Supreme Court.

SHRI MUFTI MOHAMMAD SAYEED : No.

SHRI P. CHIDAMBARAM: I am telling you the facts, Mr. Minister. Listen to me. They had to agitate. They went before the Supreme Court. Only on Monday, the matter was mentioned before the Court of the Chief Justice. The matter was listed before the

Chief justice's Court on Tuesday. On Tuesday, the Government reluctantly conceded, through the Attorney General, that within one month, that they shall place the report. It required the advocates to go before the Supreme Court and coerce the Government to publish this report. So, do not swear by your principle of freedom of information. There are times in the governance of a country when confidentiality is more important than disclosure. There are times when disclosure is more important than confidentiality. A balance has to be maintained. We believe, when the previous Government introduced the Act 1986 we did maintain the balance between confidentiality and disclosure. If the present Government wishes to deprive itself of this power, it is welcome to do so. But I have no doubt in my mind that these are cosmetic changes, intended to befool the people. These do not address themselves to the substantive and real issues of the country. The real issues of the country are not repealing the amendment to the Commission of Inquiry Act. The real issue of the country is not repealing the 59th Amendment. The real issues of the country are in Kashmir and Punjab. And this Government is today a bemused spectator of what is happening in Kashmir and Punjab.

Going by the principle, we oppose this Bill to amend the Commissions of Inquiry Act. We want to express our opposition and reservations; but if Government, in its wisdom, which I think is misguided, wishes to deprive itself of this power, it is welcome to do so. But let me once again point out that we have no faith in the Government's repeated utterances and swearings that they believe in full disclosure, they believe in the rule of law, they believe in taking people into confidence—because their actions, their conduct in the last 100 days, their actions and their conduct in Kerala, their actions and their conduct on the Wadhwa Commission report, their actions and their conduct in appointing Justice Subramaniam Poti, all of them are completely contrary to what Government is professing today.

With these words, I would say that these

are our views on this Bill; and it is for them to decide whether they wish to pursue this Bill or not.

SHRI SAMARENDRA KUNDU (Balasore): Mr. Deputy-Speaker, Sir, I was not elected during the last two Lok Sabha elections. Many things had happened, particularly in the last Lok Sabha. One of the things that happened, is the scuttling of the right of information of the elected Members of Parliament and of the Public. I cannot imagine that this can happen, in any circumstances, in any civilized democratic country.

Mr. Chidambaram was very eloquent. He first wanted to escape saying that this was done in Mr. A.K. Sen's days, and so on. But I know he cannot escape it. Finally he came around and supported the action of the then Rajiv Gandhi's Government... (*Interruptions*) I think he is very loyal to his leader, to his party. But I do not know why one should be very loyal to many ugly things that had happened during the last Government.

I can understand that you may not institute the inquiry commissions. Think about it; it is quite all right.

Once you plunge into it, once you have instituted an Inquiry Commission, I cannot conceive by any standard of prudence or anything that you may claim that you can shut out the findings from the Members of Parliament, the elected body or the Press or any other body once it submits its report. So, he has put out a theory, that is, need of confidentiality. It is a very well-known theory. Well, these are meant for argument in the High Court and the Supreme Court and not to be agitated in this forum. The Ministers, whenever they are elected as M.Ps pride themselves that they are elected democratically. But some of their acts make them terrible dictators. So, this sort of points made are argued in the court that the Government has certain powers to undo certain things which it wanted to do by way of appointing a Commission in the interest of the people for maintaining its sovereignty. I can understand a situation can arise when govern-

[Sh. Samarendra Kundu]

ment's acting functions that is certain documents, certain incidents, certain information, which are in the possession of the government, may cause embarrassment—if they are disclosed—may cause ill-feelings, may even threaten its security. For that Mr. P. Chidambaram will agree with me, there is a lot of protection; there is a lot of protection even in the Lok Sabha Rules, other rules, and in the Official Secret Act, which again we will try to amend. The laws and rules give the Government a lot of protection.

I do not want to go back to those terrible things—which we read in the Press—referred to in the Thakkar Commission on a very sensitive issue. We are all very sad about it. We are all very sad the way Shrimati Indira Gandhi was killed by her own security guard. But Shrimati Indira Gandhi, in her right, put us in the jail under MISA during the emergency for 18 months. Mr. P. Chidambaram was not there. Perhaps he was practising in the court. Perhaps he did not know the horrible days we passed during that time. Nobody thought that we would be able to cross the doors of the jail gate. But still then we had a lot of respect for Shrimati Indira Gandhi. I could not imagine for a while how the then Government and the Home Minister could not find or choose proper police personnel who could guard at least the life of the Prime Minister; and it is a shame that the Prime Minister was killed by her own security guard. This incident rocked the world. To find the truth and to arrive at the truth an Inquiry Commission was instituted. Everybody demanded it. I think the Oudest demand was from the Congress—I P. ty, that people should know who were behind it. There was a lot of suspicion about it at that time. It was talked about very loudly that India was going to be destabilised. I think the Home Minister remembers it. Then, fortunately or unfortunately, we were in the Opposition, and all of us were branded as enemies of the people, anti-nationals. Now, looking into the situation, the then Government, in their wisdom, appointed a Commission for their own bene-

fit. After the Commission submitted its report, Government did not lay it on the Table of the House; they first declined to lay the entire report on the Table of the House; then there was a walk-out. Finally, perhaps, they laid a portion of the report on the Table of the House.

13.00 hrs.

And then the most vital point is the observation made by the Thakkar Commission, that paragraph which I read last time here in the Lok Sabha regarding Mr. R.K. Dhawan that "the needle of suspicion" was on Mr. Dhawan. It is said eloquently in the report. Government wanted to suppress that. Now Mr. Dhawan is becoming a member of the Rajya Sabha. He is being brought to Rajya Sabha. Well, he will face the situation there and explain. My point is that when such great national interests are there what is to be done?

MR. DEPUTY-SPEAKER: I think we can allow Mr. Samarendra Kundu to continue for some more time and after his speech is over we can adjourn for lunch.

AN HON. MEMBER: We can continue after lunch.

MR. DEPUTY SPEAKER: How much time do you need?

SHRI SAMARENDRA KUNDU: Ten minutes.

MR. DEPUTY-SPEAKER: The House adjourned for lunch to meet again at 2 o'clock.

13.01 hrs.

*The Lok Sabha adjourned for Lunch till  
Fourteen of the Clock*

14.05 hrs.

*The Lok Sabha re-assembled after Lunch at five minutes past Fourteen of the Clock*

[DR. THAMBI DURAI *in the Chair*]

COMMISSIONS OF INQUIRY  
(AMENDMENT) BILL—*Contd.*

SHRI SAMARENDRA KUNDU: I was making the point that Government is well within its right to decide whether to appoint a commission or not. But once it appoints a commission, the report of that commission becomes public property. The argument which has been advanced is that in the national interest, in the interest of security of the State and our relations with the neighbours that the report was not made public because that would have put the Government and India into embarrassment. But this argument is absolutely wrong and fallacious, because having looked into all aspects, Government decided the course of action. When the report indicted directly or indirectly the Government, at that time, it developed cold feet. It is unfair; it is undemocratic and unjust. In a democratic and civilised country we have every right to know as to what happened to a certain incident on which a commission was appointed and the Government had spent so much money. The Government tried to suppress the Thakkar Commission Report from the gaze of the public. It did its best to do that. But there was so much demand from the public, press and the Members of Parliament in the opposition at that time that the Government half-heartedly had to lay a portion of the report on the Table. Mr. Chidambaram is not here. The former Speaker of the House, unfortunately, was involved in that controversy which was laid was a full report or not. If my memory serve me right, he also said that the annexures and other things were not part of the report and whatever had been laid was a complete report though part of the report was laid. I may tell the Members of the opposition here, those who have had a hand

in suppressing the report, particularly my dear friends in the opposition benches, that by entering into some sort of subterfuge methods, they have brought down the image of democracy whereas all of us should try to build up the image in the entire world particularly in the non-aligned countries. All the countries around us excepting one or two which is free and democratic, have dictatorships. So the world is looking at us. But what sort of messages are we giving to them? Therefore, the amendment which prohibits or gives authority to the Government not to make the report public or place it on the Table, is highly undemocratic and is unbecoming of any civilised Government.

I was saying about the Thakkar Commission's report. In that report, ...\*\*...was indicted. It says that...\*\*...seems to have played a role in facilitating the crime committed by Mr. Beant Singh and Mr. Satwant Singh. If this is the part of the report, then how can you say this? When the Congress-I people, others and the nation wanted that report to be made public, then how can you suppress it? But what that Government had done was a mala fide action. It was done only to protect...\*\*...and some of the henchmen of Mr. Rajiv Gandhi, former Prime Minister. Besides, I am told, in the Thakkar Commission's Report there is a reference to 'foreign hand'. It is not a question of Mrs. Indira Gandhi, it is the question of the Prime Minister of our country. It might happen to anybody. If there is a reference to a foreign hand, the House has a right to know what exactly it is. Why I am saying this is because the Congress (I) people are shouting from the top of the tree, from the top of the houses, saying that the Opposition is anti-national and the Opposition has a hand in it. I am told the Thakkar Commission has also said that there is a school in USA, called Camper School, which has been giving training to Indians who had an attempted hand in USA to murder Indian leaders, and there it is also said that this school trained the people suspected to have left a bomb in the Air India plane which crashed in the Atlantic Ocean in

\*\*Not recorded.

[Sh. Samarendra Kundu]

1985. These constitute a valuable information. Therefore, it is highly illogical, illegal and, if I may say so, undemocratic to say that this Commission's Report should not be laid on such and such frivolous grounds.

I do not know whether this matter was taken to the High Court and the Supreme Court. Here is the law which was there earlier which says: "The provisions of section 4 shall not apply if the appropriate government is satisfied that the interests of the sovereignty and integrity of India and the security of the State, friendliness with foreign States, or in public interest, it is not expedient to lay before the House of the People or, as the case may be, the Legislative Assembly of the State..." My point is that this law is also unconstitutional since it infringes the Fundamental Rights given in the Constitution. I do not know whether it was tried in the High Court and the Supreme Court. To me it appears to be a palpably unconstitutional piece of legislation, a piece of a black legislation. If it would have been taken to the High Court and the Supreme Court, perhaps the courts would have ruled that the Parliament could not arrogate itself such an authority via the then ruling party to curtail the rights and privileges given in the Fundamental Rights.

In the end, I must thank our Government that it has stood to its promise, it has stood to its moral posture. Some of the people have been taunting by pronouncing that it is an open Government. Yes, certainly it is an open Government. The openness is that everything that is done by the Ministers, by the people in power can be known through the Press or by holding meetings or by some other way and by that way only can we stop corruption, high-handedness and arbitrariness. Corruption, high-handedness and arbitrariness cut the foot of democracy and the democratic system in this country. Perhaps there was a different regime in which the hon. friends could not get a chance to

raise their voice, to stand erect to say: no, this is wrong, to defend the Constitution. But now there is completely a sea-change. Instead of taunting this side about openness, they must come out to openly support this Bill and to admit, I do not say guilt, the mistakes which they have done by supporting such a piece of black legislation. I was told that Mr. Chidambaram, when he was the Home Minister, had made a reference. I have a Press report here. Shri Kalpanath Rai, the then Energy Minister had said to the Press that Shri M.L. Fotedar had a hand with Shri Thakkar in making...report public and so also against Shri Alexander. Sir, it is nice to pass on the buck to others; it is nice to throw the ball in other's court. But the truth is also that at certain point of time, the system was so repressive at that time that Mr. Chidambaram should have admitted and should have asked also Mr. Fotedar and Mr. Alexander that they were also a party to this. The system at that time was so repressive that the inter-party freedom was not there, dissent was not given any value and therefore, some of the people were compelled to act against their will. In this connection, I just want to narrate a very small story. Way back here in this Lok Sabha, when an hon. Member was reading out a portion of the document, then somebody from the Treasury Benches—Congress Member—shouted "secret document, secret document". Then Pandit Nehru asked Shri Lal Bahadur Shastri who was sitting there "what is it?". Then a report was brought to him. Then, he asked Shri Lal Bahadur Shastri "Is it the copy of the report which was in the file? I think I saw it." Shri Lal Bahadur Shastri said "Yes, it was the same copy of the report." Then Shri Jawaharlal Nehru got up and said "I will place the report tomorrow on the Table of the House". Then, there were loud cheers. So, Sir, what I mean to say is that this was the norm, a democratic norm practised earlier. Now, the whole thing has been changed and this Government is trying to bring back all the democratic norms and strengthen it. I would like the hon. Members on the Opposite side, particularly, the Congress Members, to rise to the occa-

sion and support this Bill. Thank you.

[*Translation*]

SHRI GUMAN MAL LODHA: Honourable Chairman, Sir, while extending my full support to the Commission of Inquiry. (Amendment) Bill, I would like to tell the opposition that it is something ironical that this Bill seeks to repeal the sub-section 4 of the section 3 which makes it mandatory for the Government that it will lay the complete report of an Inquiry Commission on the Table of the House and later on place a report on the action taken by the Government on the report, before the Parliament. The aforesaid bill was passed in 1971 after thorough deliberations by a joint select committee of 1964 headed by Shri N.K.P. Salve, Mrs. Indira Gandhi herself, who was a member of Lok Sabha in those days, was a member of the committee. This committee had thirty other members who were eminent parliamentarians and many of who were honourable members of the Congress Party. The committee, after lot of deliberations decided that public should know the findings of an inquiry commission and the Government's action thereon. Therefore, they decided that the Government must place the reports of the Inquiry Commission before both Houses of Parliament. Hence, the bill was passed at the instance of Mrs. Gandhi herself in 1971. But it is rather unfortunate that after her death the inheritors of her legacy are trying to kill the very spirit of the report which maintained that Government must be supreme but the public must know every thing about the report of an Inquiry Commission and the subsequent action of the Government on it. Therefore, I would like to state that by making an amendment in the Inquiry Commission Act, despite the recommendations of the Joint Select Committee, they have killed Mrs. Gandhi once again and this time the spirit underlying the report was the casualty. For this, the future history of Indian Parliament and politics would never forgive them.

Sir, I would like to put a question as to

what for, after all an Inquiry Commission is instituted? In fact, it is only when there is a major incident such as firing, a dam burst, which might have taken a heavy toll of human lives, that the Government institutes an inquiry to investigate into the reasons of mishap. For this, the people raise their voice which echoes in Parliament and the legislative assemblies and it is only then that Government says that it would conduct an investigation into the matter and for that purpose appoints a judge of the Supreme Court or some High Court who is considered to be the most credible person in the country. The inquiry report submitted by him is laid on the table of the House. Now if that report is locked into a shelf and made confidential then this, I think, is the sheer murder of democracy, parliamentary tradition as well as the system and of all those principles due to which 'right to information' has become our fundamental right and which is the very base of the manifesto of Janata Dal, of Bhartiya Janata Party and many other parties. This is so because most often voice is raised by journalists and other people also that 'right to information' is our fundamental and basic right. I would like to tell you what the judges said in S.P. Gupta case and what was said in Nixon's case by the judges of a nation which is called an institution of liberty, who were appointed by Nixon himself. I thank the judiciary of that nation which said quite impartially when the issue of privilege and confidentiality was raised by Nixon and when he said that he would not forfeit the tape come what may. I would like to tell you about that very statement. In S.P. Gupta case, Supreme Court gave a historic verdict which I think was unfortunate because with that verdict the judiciary had curtailed its own powers. As far as the 'right of information' is concerned, I would like to quote page 242 of the verdict. Here one of our honourable member has stated that there is a distinction between disclosure and information. According to him, disclosure is one thing and information is an other and there is a minute or a technical distinction between the right to disclosure and the right to information and it has been sought to obliterate this distinction in the aforesaid report; but it stands exposed

[Sh. Guman Mal Lodha]

[Translation].

in the face of the following text of the judgement:—

[English]

I quote here from the Judgement in S.P. Gupta and other V. President of India and others (AIR 1982 Supreme Court, 149) as follows:—

"Lord Salmon too rejected the "candour theory" in Reg v. Lewes Justices; Ex part Secretary of State for Home Department. (1973 AC 388) (Supra) at p. 413 by referring to it as "the old fallacy" that "any official in the government service would be inhibited from writing frankly and possibly at all unless he could be sure that nothing which he wrote could ever be exposed to the light of day". The candour argument has also not prevailed with Judges and jurists in the United States and it is interesting to note what Raoul Berger while speaking about the immunity claimed by President Nixon against the demand for disclosure of the Watergate Tapes, says in his book "Executive Privilege". A Constitutional Myth" at page 264:"

"Candid interchange" is yet another pretext for doubtful secrecy. It will not explain Mr. Nixon's claim of blanket immunity for members of his White House staff on the basis of mere membership without more; it will not justify Kleindienst's assertion of immunity from congressional inquiry for two and one-half million federal employes. It is merely another testimonial to the greedy expansiveness of power, the costs of which patently outweigh its benefits. As the latest branch in a line of illegitimate succession, it illustrates the excess bred by the claim of executive privilege." at page 239.

While giving their verdict in S.P. Gupta's case, the learned judges candidly declared that the contents of the letters exchanged between the judge of the Delhi High Court and the Supreme Court regarding appointment, even if they are of top secret nature, will have to be made public in the interest of justice and fair play as it involves the right of the people to have information and justice on a matter of public importance.

Sir, I would also like to refer to article 19 of our constitution which specifically implies that no excuse of secrecy, privilege, immunity or non-disclosure can be applied to suppress the people's right to information on a matter of public importance.

Sir, I should like to remind you that during the tenure of Justice Chagla as the Chief Justice of Bombay High Court, an enquiry commission was set up to enquire into the case concerning Shri T.T. Krishnamachari and Mundhra, commonly known as Mundhra case. That was also an inquiry commission whose proceedings were conducted in open in Bombay. Tents were pitched in Bombay and people visited in thousands there to witness the proceedings of the commission. Shri T.T. Krishnamachari had to resign in the light of the findings of the commission and Mundhra was put behind the bars. Had the report of Thakkar Commission been made public earlier and presented to this House in the right earnest, those who are trying to go...\*...today would possibly have...\*...They would have been put behind bars in the jails of Delhi and would have been subjected to police interrogation for the cold blooded murder of Smt. Indira Gandhi. Justice Thakkar, a judge of the Supreme Court says that the needle of suspicion points towards...\*... and I am astonished to note that our erstwhile Prime Minister, the heir of late Smt. Indira Gandhi, is trying to push the needle of suspicion aside, and arranging a seat for the culprit in one of

the august s of Parliament instead of putting him behind the bars in Tihar Jail alongwith Charles Shobraj.

Sir, I would like to request that it is not only imperative but important also that the facts are brought to light in the interest of democracy and general public and constitutional propriety. Those who are trying to suppress the facts have done so time and again but I ask, why? Is it because the conspiracy was fabricated by..? Was Shri Rajiv Gandhi responsible and behind all that? The reasons shall be made public. Therefore, I would like to say that our friends in the opposition shall not get pained and feel hurt...*(Interruptions)*

[English]

MR. CHAIRMAN: I am requesting you to take your seat. Please take your seat.

[Translation]

SHRI DILEEP SINGH BHURIA (Jhabua): Mr. Chairman, Sir, I have a point of order. The hon. Member has mentioned the name of...\*... and as...\*...is not a member of this House, he should have given it in writing before levelling any charges against him. If the name of somebody who is not a member of this House is mentioned, then...*(Interruptions)*

SHRI KALKA DAS (Karol Bagh): Mr. Chairman, Sir, this is a fact rather than an allegation. If the facts aren't revealed alongwith the name concerned, the position of someone else may be compromised.

[English]

MR. CHAIRMAN: If at all there is any allegation, it will not go on record.

[Translation]

SHRIGUMAN MAL LODHA: Mr. Chair-

man, Sir, to point the needle of suspicion towards...\*...for the assassination of Smt. Indira Gandhi is not analogous to the discovery of Columbus. It is rather a universally acclaimed fact. Everybody knows that the report of Justice Thankkar has been laid on the Table of the House and many a times his name has been mentioned in the House. There is nothing to allege in it. I propound that I was expecting Shri Rajiv Gandhi and his colleagues to rise from petty party-politics and confess that they have committed a historical, a political and a constitutional blunder on this important issue, in the same manner, in which they conceded that they had abolished the right to life in Punjab after fighting for the 59th amendment bill and that was a mistake.

[English]

We committed rape on democracy. We committed murder of democracy. We committed murder on the freedom of expression and right to information, which is a fundamental right, according to the Supreme Court Judgement.

[Translation]

In the end, while supporting this bill, I request my able friends in the opposition to do the same because it is better late than never. Reiterating my request to them that they support the bill, I stop. Thank you.

[English]

SHRI A. CHARLES (Trivandrum): Justice Thakkar who inquired into the Fairfax issue found that the Prime Minister, Mr. V.P. Singh is guilty. What you have to answer about Mr. V.P. Singh's connection with Fairfax...*(Interruptions)*

MR. CHAIRMAN: Order please. I have not called you. I have called Prof. Soz.

PROF. SAIF UD DIN SOZ (Baramulla): Mr. Chairman, Sir, my intervention on this Commission of Inquiry (Amendment) Bill,

[Prof. Saif-ud-din Soz]

1989 is, I support this amendment. After all, it wants to annul the amendment that was effected in section 3 of the Act, in 1986. This amending Bill is welcome. It says, within six months of the submission of the report, it should be made available before the House and the House cannot be kept in ignorance of what the Commission of Inquiry has gone into. I welcome it.

At para 2 of the Statement of Objects and Reasons, it says:

"A Commission of Inquiry is always set up for the purpose of making an inquiry into any definite matter of public importance. As such, the report submitted by such a Commission should not be withheld from the House of the People, or the Legislative Assembly under any circumstances and the public should have access to information which is of vital importance and interest to them. It is felt that the amendments made in 1986 should be done away with."

It is all right and I support this amendment. But as far as the public interest is concerned, I raise a very important question before the House that the Government should come forward with an amendment that if a non-Governmental report, there should be a mechanism whereby the Government will take notice of that.

In the Zero Hour today, I was in agony when I reported to the House that there is a factual report on the situation that is obtaining in Kashmir. It is a Committee for Initiative on Kashmir. That Committee sent brave sons of India, Tapan Bose, Dinesh Mohan, Gautam Navlakh, Sumanta Banerjee. These four people went to Kashmir valley from 12th to 16th March. They were in Srinagar and other parts of the Valley. They were bold enough to go to Handwara and Kopwara to see all places in Anantnag and they pro-

duced a factual report. I am telling you honestly, I have gone through the report and I have found it is factually correct. The Home Minister who raised earlier on the Kashmir debate has no facts and figures. His Governor has not informed him on the deaths in Kashmir. His Governor has not informed him on the people who were wounded. This report says about all kinds of atrocities have that have been committed, molestation of women, arrests and the continued curfew and disinformation.

MR CHAIRMAN: Mr. Soz, are you discussing about the Commission of Inquiry (Amendment) Bill? You please speak on the amendment.

PROF. SAIF UD DIN SOZ: I want to say that this Government should take notice of the report. On Kashmir issue, I say, there should be a Commission of Inquiry to look into the situation in Kashmir, what is happening to the people at the hands of para military people, as to how many innocent people have been killed. From this report, I read only one para:

"Ironically, the Government's plan to suppress 'terrorism' is ending up in a situation where the hitherto non-committed masses are being pushed to a position where they feel that independence is the only way of escape by the assortment of secessionist militant groups—is the only way of escape from State repression. This feeling was eloquently summed up by a Kashmiri Government Officer. Till January 19 I was against the militants. Today I am for them."

MR. CHAIRMAN: It is not relevant. Don't bring in all these things.

PROF. SAIF UD DIN SOZ: I place this report on the Table\* of the House.

MR. CHAIRMAN: I do not allow.

\*As the Speaker did not subsequently accord the necessary permission, the Report was not treated as laid on the Table.

PROF. SAIF UD DIN SOZ: I demand a Commission of Inquiry by a Supreme Court Judge to enquire how innocent people have been killed in Kashmir, how they continue to impose curfew and how hospitals have no medicines.

SHRI G.M. BANATWALLA (Ponnani): I am on a point of order. The hon. Member has just now read out a paragraph which he says is from some report. We do not know anything about it. In that case, that report must be placed on the Table of the House. The hon. Member must take the responsibility. The report must be placed on the Table of the House so that we have access to that information and we can look into the matter. I demand that the report be placed on the Table of the House.

MR. CHAIRMAN. I do not allow.

SHRI G.M. BANATWALLA: I demand that the report be placed on the Table of the House. We demand your ruling on my point of order.

MR. CHAIRMAN: I am not allowing.

SHRI G.M. BANATWALLA: My point of order is that the report should be placed on the Table of the House.

MR. CHAIRMAN: It is not connected to this now. It is not relevant now.

SHRI G.M. BANATWALLA: I demand it to be placed on the Table of the House.

PROF. SAIF UD DIN SOZ: The Commission of Inquiry should look into the atrocities in Kashmir...*(Interruptions)*

MR. CHAIRMAN: Now we are discussing about Commissions of Inquiry (Amendment) Bill. That is the topic which we are discussing now. You are bringing some other new factors. You have to write to the Speaker to authenticate it. Let him write to you.

SHRI SAIF UD DIN SOZ: I have read out a paragraph. There was a demand that I

should place it on the Table of the House. I will place it on the Table of the House.

MR. CHAIRMAN: No. I cannot allow. We will look into it and we will see whether we will lay it or not. Subject to the examination of your report, it can be placed. Not now...*(Interruptions)*

SHRI INDRAJIT GUPTA (Midnapore): The report from which Prof. Saif Ud Din Soz has quoted is not an official report or Government report. It is a report by some private agency. According to the rules of the House, provided the Chair gives its permission, there is nothing which prevents Prof. Saif Ud Din Soz from authenticating that document and laying it on the Table of the House. He persistently refused. From the morning, I have been arguing with him. He persistently refused to read the relevant rules which govern this procedure and he goes on saying "I have read it and I will lay it on the Table of the House."

SHRI G.M. BANATWALLA: He has taken up the responsibility in this case. He has taken a decision on the floor of the House. When the Member takes up the responsibility and takes a decision on the floor of the House, he should place it on the Table of the House.

SHRI INDRAJIT GUPTA: Nobody objects to his laying it on the Table of the House under the proper rule. We would also be interested in seeing what is in that report. So, instead of going on shouting like this, it is better he follows the procedure and then sees to it that it can be laid on the Table with the permission of the Chair...*(Interruptions)*

MR. CHAIRMAN: Please listen to me. I want to read the rules.

*(Interruptions)*

PROF. P.J. KURIEN (Mavelikara): He has already placed it on the Table of the House. It has already been done.

**MR. CHAIRMAN:** Prof. Kurien, I read the rule. Direction 118(1) says:

"If a private member desires to lay a paper or document on the Table of the House, he shall supply a copy thereof to the Speaker in advance so as to enable him to decide whether permission should be given to lay the paper or document on the Table. If the Speaker permits the member to lay the paper or document on the Table, the member may at the appropriate time lay it on the Table."

Therefore, Prof. Soz, you give it in writing. Let him go through.

*(Interruptions)*

**PROF. SAIF UD DIN SOZ:** I have already quoted from it. I have authenticated it. It has been placed on the Table of the House. That is all...*(Interruptions)*

**MR. CHAIRMAN:** If it is permissible, we can do it but not now. It is subject to examination.

**SHRI G.M. BANATWALLA:** Mr. Chairman, Sir, you have to take note of our demand.

**MR. CHAIRMAN:** I have taken note of your demand. We will consider it. We will examine it.

**PROF. SAIF UD DIN SOZ:** I want a Commission of Inquiry to look into the atrocities that have been committed there.

**SHRI SUDARSAN RAYCHAUDHURI (Serampore):** Mr. Chairman, Sir, let me first congratulate the hon. Minister for introducing this Bill because only by the enactment of such Bills, democracy and freedom that were in chains during the last few years can be restored. What is the purpose of this Bill? In fact, it is not giving us any new right nor any privileges which were not there before. It reminds me of the year 1978 when the 44th Constitution (Amendment) Act was passed.

What was the purpose of that Act? The 42nd Constitution (Amendment) Act which was passed in the year 1976 took away some basic rights, some basic privileges from the Parliament, from the people. The 44th Constitution (Amendment) Act just gave those rights, those privileges to the Parliament and to the people. This particular Bill that we are discussing now is of that nature.

Sir, in the original Commissions of Inquiry Act, 1952 there was no such provision that the Government will have to submit the Report of the Inquiry Commissions set up before the Parliament or before the Legislative Assembly. Then, what was the purpose of setting up such Inquiry Commissions? After all, the Inquiry Commissions, Inquiry Committees are set up to have inquiry into some matter of great serious public importance. Steps are to be taken against the guilty persons. But who are the quality persons? That must be made known. Therefore Inquiry Commissions are set up. In the year 1971, a Bill came up before Parliament. It was the conscious attempt on the part of the then Government to make it obligatory for them to publish the Reports of the Inquiry Commissions before the House. That was the intention of the 1971 Bill. But in the 1986 Amendment, that obligation was removed. What was the reason? Mrs. Indira Gandhi was brutally assassinated. It was said that foreign hands were involved in her assassination. It was said that certain negligence was there on the part of the top officials who were in charge of security. Was it not a matter of great public importance to know the circumstances leading to the murder of Mrs. Indira Gandhi? Yes. And, therefore, the Takkar Commission was set up. But in 1986, we found that the then Government amended the Commissions of Inquiry Act, 1952 and it refused to publish the Report of the Takkar Commission before the House. It was not that the Government was reluctant to publish any report of any inquiry commission. It was not that. Shri Chidambaramji told that there was a delicate balance between the disclosure and confidentiality. But we found that the balance always tilted in favour of the ruling party. Whenever they thought that

some reports of some inquiry commissions, according to them, may go against the opposition, they will disclose the report and whenever they found that some reports of some commissions like this Thakkar Commission will be unpalatable to the ruling party, to the Government may be not to the entire Government but to some individuals, to some cabal belonging to the Government who are emotionally, politically close to the Government, they chose not to publish the report of the Commission. This was the fate of the balance. The head, the ruling party will win and the tail, the opposition will lose. Is the inquiry commission a play thing? Why do you set up inquiry commission if you do not want to publish its report? Better not to set up such commissions. Let us not hoodwink the people. The 1986 amendment went against a basic Fundamental Right of our land also. In Part III of our Constitution, as per Article 19(1), there is a Right called Freedom of Speech and Expression for the Indian citizens. I know that there are several grounds on which restrictions reasonable can be imposed on such Freedom of Speech and Expression. But what are the grounds? They are: Sovereignty and integrity of the nation; relations with friendly States and neighbourly States, public morality, decency. These grounds were there. But the ground of public interest is not there. In the 1986 amendment, they said that if the appropriate Government is satisfied that in the interest of the sovereignty and integrity of India etc., or in the public interest, it is not expedient to lay before the House of the People or to the Legislative Assembly a report or any part thereof, that will not be published. This public interest is undefinable. We have seen during the last forty years that so many anti-people enactments were passed. Emergencies were proclaimed on the ground, direct or indirect, of public interest. We have found that. So, the ruling party cannot be allowed to interpret public interest. For Chidambaramji, he told that, after all, there was a provision in the previous amendment that every notification shall be laid before the House of the People or the Legislative Assembly of the State who will decide whether the reports will be published or not. But the ruling party after all,

controls the majority members of any House and if the majority members behave like Masochist, thumping the table when the ruling party, the Government is taking away certain of their rights and privileges, what can be done. Democracy does not mean tyranny or ignorance or innocence of the majority. It cannot be meant like that. It cannot be explained like that. So, therefore, it was not an enabling act as Chidambaramji said. The Government was enabled to suppress the Takkar Commission's Report. The Thakkar Commission Report was placed in the safe custody of the North Block and the people did not know. Is it the public interest? No Sir. After all, people have the right to know things. Otherwise they cannot exercise the freedom of speech and expression. So, the absence of freedom of speech and expression and the absence of right to information is the same thing. The presence of freedom of speech and expression necessitates the presence of right to information.

Even during the British days, after the Jalianwalla Bagh incident, the Hunter Commission was set up. Its Report was published; there was a dissenting note attached. Shri Seetalvad had given a dissenting note. That dissenting note could not please the British rulers. It must have been embarrassing to them. But the British rulers did not suppress the report of the Hunter Commission.

But in our free India, our own Government refused to publish the report of the Thakkar Commission, or for that matter refused to publish the reports of any enquiry commission if such commission's reports went against them. This was the character of the Government. So it was very natural that the Government was alienated from the people; the Government was afraid of the truth.

Therefore I welcome this Bill once more. Maybe as Chidambaramji told, it is out of the short-lived wisdom of Muftiji. But I personally prefer the short-lived wisdom of Muftiji to the long-lived innocence or ignorance of Chidambaramji.

14.52 hrs.

[SHRI NIRMAL KANTI CHATTERJEE *in the Chair*]

PROF. K.V. THOMAS (Ernakulam): Sir, there is a very pertinent question today whether all the reports of the commissions of enquiry should be put before the Parliament or the Legislative Assembly and it should be made known to the public. I am telling that the enquiry reports should not be shelved. But there are certain enquiries which, if published, will create havoc in the country.

When I was a boy, there was a fire accident in the Sri Ayyappa temple at Shab- arimalai. The then Chief Minister of Travancore was Shri C. Keshavan. He was a very well known administrator. An enquiry was made. But Shri Keshavan said that the report of the enquiry will not be published, whatever may happen. And at the same time he said that if he publishes the enquiry report, its effect on the communal harmony in Kerala will be disturbed for ever. That was his attitude.

There are certain important cases where even if enquiry commissions are appointed and even if we are getting the reports, could these reports go to the public? This amendment has come at a time when the entire nation is shocked by the communal riots and disturbances that are taking place in different parts of the country. It is in this context that I request the Government to again look into this amendment. Sir, this Government says that it is an open Government and it is a value based Government. Is it so? What is the attitude of the Government towards many of the Commissions of Enquiry that had been ordered? Recently, you have appointed a Committee to look into the Delhi riots of 1984. Who is the Chairman of this Committee? I have got nothing against this person. He is the retired Chief Justice of the Kerala High Court. He was the LDF candidate pitted against me in the last Parliament election. But the people did not elect him. He is a man with political tact. But I am not questioning his integrity. A person with such political tact

is asked to be the Chairman of the Committee—a very important Committee. Here, Sir, the entire proceedings as well as the findings of the Committee will have at least a tinge of suspicion. What is the motive behind this? Is it an open Government?

Sir, in Kerala there is a 'Publicmen Anti-corruption Bill', which has been passed with the support of the ruling party and the opposition. That Bill enables the Government to set up a Commission. In that Commission, two members were retired judges. Moreover, in that Bill, it has been specifically stated that the Chief Minister, the Leader of the Opposition and the Chief Justice of the Kerala High Court should be consulted. But there was no consultation with the Opposition Leader. Then, what is meant by consultation? The two retired Judges are known to be aligned with the ruling political party. After their retirement, they have taken up this assignment, this particular job. If so, what the people will think of the verdicts given by them in the High Courts? There are two points in it. One is that they are getting an appointment by the Government, after their retirement and these persons are the Judges who have made some well-known judgements which had political impacts.

*(Interruptions)*

SHRI SOMNATH CHATTERJEE (Bolpur): We know of Judges who are active Congressmen. We do not just dispute their integrity. Just because of Shri Patti, you are making this allegation...*(Interruptions)*

SHRI P. CHIDAMBARAM: Give us one name...*(Interruptions)*

SHRI SOMNATH CHATTERJEE: I will give you names who have been active Congressmen; office-bearers of the Congress party, till the date of their appointment as Judges. He is taking a lot, without any idea...*(Interruptions)*

PROF. K.V. THOMAS: We have made mistakes, which have to be corrected. But, there is a pertinent question. What is the

attitude of the Government towards these enquiry commissions?

There is another example. Shri Venu Nair was another member, who was a Public Service Commission member. There is a clause which says that Public Service Commission members, after their retirement should not take up any Government job. Is this member not taking up Government job by accepting a post in the enquiry commission? What is the attitude of the Government, here? I would like to know that.

Another case is about the Kuldip Singh Commission on Hegde. The Commission had appointed its own Counsel Shri G. Ramanujam. The Home Ministry pressurised the Counsel to resign. When Kuldip Singh came to know of this, he sent a letter to the Home Ministry, making his strong protest. Is it an open Government? Is it a Government on value based politics? I would like to know from the hon. Minister as to what right he has got to pressurise the Counsel appointed by the Commission...*(Interruptions)* We have got apprehensions.

15.00 hrs.

We fear there is something behind it. That's why we are making our mind clear on this Bill. We are having apprehensions about the way in which this Government behaves. It has just completed hundred days. Within the shortest period, it has shown that it has no moral value.

Similarly, in the case of Thakkar Commission, what is the attitude of the Government? In the case of assassination of Indiraji, you take one attitude. But in the case of Fairfax, are you taking the same attitude?...*(Interruptions)* So, this is a Government which has got no values, which is not open.

There have been discussions on the Sarkaria Commission in this House. At that time, the present Finance Minister, Prof. Madhu Dandavate, put a pertinent question. He said, the post of Governor should not be

subjected to political gimmicks. He said when Governors are appointed or removed, the concerned State Governments should be consulted. Have you done it now? When you came to power in this House, you said that the Governors will remain in the States as long as the Central Government had faith in them. This is not an open Government. This Government has is not value-based. You say; this is a National Front Government. But the people outside this House say: you are no-friends Government and you are fighting among yourselves. You are enemies fighting among yourselves. If an amendment like this is passed, we are afraid about the direction it is going to take because this Government is without values...*(Interruptions)* We never expected this type of attitude from the CPM...*(Interruptions)*

SHRI SOMNATH CHATTERJEE: Why don't you speak about the Bill?...*(Interruptions)*

PROF. K.V. THOMAS: If you look at the amendment, we are not against it. But our apprehensions are about the direction in which the Government is moving. In this context, when there are communal disturbance in the country, can we reveal the reports about all such inquiries?...*(Interruptions)* That is the question. I leave it to the House for mature thinking. There have been disturbances in different parts of the country. Can we reveal the reports of inquiries made about all these communal riots? If these are revealed, there will be reactions in the country. This House should think again on this issue.

I think, the hon. Home Minister will take into consideration the views that I have expressed.

SHRI INDER JIT (Darjeeling): Mr. Chairman Sir, I have great pleasure in congratulating the Home Minister for bringing forward this Bill. In fact, if I may say so, this Bill has come not a day too soon. In my opinion, the amendment which was made in 1986 was a total fraud on the concept and philosophy behind the Commissions of In-

[Sh. Inderjit]

[Translation]

quiry Act. The entire concept was based on one simple fact. Times out of number, allegations were made on the floor of this House, allegations which were denounced often as character assassination. I also recall one question that arose at that time. How can we accept allegations which were not necessarily based on facts. The entire concept of the Commissions of Inquiry Act was to enable this House to get reliable facts and to judge and determine on the basis of those facts and not on the basis of bazaar gossip. Therefore, I do think that this is a very good Bill. I would like to compliment the Minister again for having brought forward this legislation.

At the same time, I would like to say that one of the greatest scandals of post-independence India was the fact that the Thakkar Commission's Report was suppressed. I call it a scandal because the report related to the assassination of the Prime Minister of this country. The whole purpose of the Commissions of Inquiry Act was to enable the country to know as to how the Prime Minister was assassinated, what were the forces behind it and who were the persons responsible for it. And yet, we faced an extraordinary situation which I can only call grossly scandalous. In that situation the country was denied information which it had every right to get. Therefore, I think, this is a very good Bill.

I would like to make one other point in the little time which you have kindly given me. A question was raised by the previous speaker regarding the Commissions of Inquiry Act on communal incidents. We all know that we have a free Press and we hope that we shall always continue to have a free Press. The Press brings out various reports about various communal incidents. Different conflicting reports appear. I think the country has a right to get authentic, reliable information to enable it to judge objectively.

*With these words, I support this legislation wholeheartedly.*

**SHRI RAM KRISHAN YADAV** (Azamgarh): Mr. Chairman, Sir, I rise to support the Commission of Inquiry (Amendment) Bill. Whenever a Commission of Inquiry is set up, it is asked to go into matters of public importance and other serious matters. Public money worth lakhs and crores of rupees is spent on these commissions. The commissions are entrusted with the job of finding the facts and figures and making various suggestions. Once a case is transferred to the Commission of Inquiry, the Government has no say in it. The public eagerly awaits for the report of the Commission. The public is itself a party to the Commission and that is why it eagerly awaits for its report. It wants to see the action taken by the Government on the report of the Commission. There have been instances when the party in power did not want to make the report public when it found that the report went against the Government. In Azamgarh, the Parliamentary Constituency I represent, a serious incident took place. There was a quarrel between the lawyers and the police personnel on some issue and on that pretext the lawyers went on strike. The strike prolonged. In order to bring the strike to an end, the S.S.P. of the district ordered police firing on the lawyers, and gowns, files and vehicles of the lawyers were set ablaze. The then District Judge also fell victim to these atrocities. He suffered injuries. On our request and on the request of the District Judge, a Commission of Inquiry headed by a retired High Court Judge was set up. Hundreds of lawyers including myself stood witness before the Inquiry Commission. The people of the areas were anxious to see as to what would be the stand of the Government in the police-lawyers dispute and what action would be taken by the Government in this regard. The Inquiry continued for a pretty long time. Finally, the Commission gave its verdict and held Shri C.P. Satpathi, the S.S.P. of the district responsible for the lapse. The report said that the S.S.P. ordered lathi charge and firing in an organised manner on innocent lawyers and the District Judge. No action has so far been taken on the report.

What to talk of taking action, even the report of the Commission was not placed before the House. The people of the area, the lawyers, the advocates and the Judges are anxious to know as to why the Government does not take any action when the Commission held Shri Satpathi guilty. Whether or not Government took any action, the people wanted to know as to who was guilty. But the Government took pretext of the amendment of the Act and did not place the report in the House. This created anguish, ill will and mistrust against the Government in the minds of the people. I, therefore, request that reports of the Commission should invariably be placed before the House. Finally, I would like to say that the amendment which has been brought forward is a good one and I support it.

[English]

SHRI INDRAJIT GUPTA (Midnapore).  
Mr Chairman, Sir, I have great pleasure in complimenting the Government for bringing this amending Bill and thereby restoring the previous position which existed prior to 1986, and which made it mandatory for the Government to lay on the table of the House—that means to make it public—the findings of the Commissions of Inquiry. In the present case which led to this situation, I recall, that the assassination of the then Prime Minister, Shrimati Indira Gandhi was an unprecedented occurrence for our country. There are other countries, some neighbouring countries also, where political assassinations of the Prime Ministers, the Presidents and so on have taken place on a number of occasions. In our country we have followed a different tradition. At least since after the killing of Mahatma Gandhi and up to the time of the killing of Shrimati Indira Gandhi, we had taken a democratic path. Even if we have serious differences with the Government, with the ruling party, or a particular Prime Minister and want to remove them from power it should not be done by the bullet but by the ballot. We were trying to follow this path and this tragic occurrence came as a really tremendous shock to the entire country. We had our political differ-

ences with Shrimati Indira Gandhi; she was not our party leader, but she was the Prime Minister of the Country, Head of the Government. There may not be any single Indian who was not deeply perturbed and disturbed by this killing and the circumstances in which it took place. The Commission was set up by the then Government. The choice of the hon. Judge, who was to act as the Commission, was the choice of the Government. They selected Mr. Thakkar. He went into the whole matter and came out with a very voluminous report on the basis of his enquiry and findings. And then suddenly, the House was informed and the country was informed that the Government had decided that this report would not be made public and would not be laid on the table of the House. I was surprised that not a single Congress Member in this House protested against this mockery of the Commissions of Inquiry legislation which was there. The Prime Minister was killed and the people of the country wanted to know what was behind it, who were the forces responsible. It is something which had never happened in this country before. I do not claim any credit for this, but when I was here, I and other Members from the Opposition at that time were shouting on several occasions and were demanding that this report must be made public; that it was not the private property of the Government or anybody else.

People of this country have a right to know what is the conspiracy behind the murder; who are responsible for it; who have hatched it. But Government refused to give any details and it was only after tremendous pressure which was created inside the House and outside the House—and I must say the Press in this country played a crucial role in criticising the Government and accusing it of trying to suppress the truth, it was the period of suppression of truth, it was a period when truth regarding the Bofors deal was suppressed, when the truth regarding identity of people who smuggled money out of this country and encash it away in foreign banks was sought to be suppressed and then the murder of the Prime Minister of this country was sought to be suppressed—the Govern-

[Sh. Indrajit Gupta]

ment was compelled by sheer force of public opinion to rescind their earlier decision in respect of that particular report and to lay it on the Table of the House. It leaked out also. Large extracts from it began to appear in the Press and the Government was left with no alternative but to lay it on the Table of the House. But still they refused to amend that Bill which they had passed in 1986.

I am not going into the merits of Thakkar Commission's Report. It was debated in the House earlier. It is not the final word on the subject, in my opinion. Simply because it concludes by saying that the needle of suspicion points to a particular person, I don't think all the intricacies of this assassination have been disclosed or revealed even till today. This is important because in future I would like to say that when reports of Commission of Inquiry are published which contain many things perhaps with which that particular Commission was not able to deal definitively, finally, but those have been raised—the Commission itself has raised and brought to public light—there should be some machinery or some system or some procedure by which some follow up action is taken. Thakkar's Report has not solved this question, by simply pointing a needle of suspicion on one person only. Of course, it is lamentable that even after the needle of suspicion was sought to point at a particular person, that person was immediately reinstated and put in a very key position in the Prime Minister's Secretariat. I don't know what kind of respect is shown to the Report of the Commission of Inquiry. So many more questions are there which remained unanswered to this day. Why not another Commission of Inquiry, or some investigation by a special team and so on was being contemplated to follow up those points? For example the main assassin, Beant Singh was shot. As you know, within a short time after the assassination, he was taken into custody and he was shot down by other guards on duty. So many speculations have been there on this question. Whether it was done deliberately in order to prevent him under interro-

gation from coming out with further facts which will throw light on the conspiracy? We don't know till this day why Beant Singh was shot; by whose order he was killed, we don't know. We don't know who was responsible for the fact that these two people—Beant Singh and Satwant Singh—were given duty on that particular morning at the same spot which was not their normal duty at all. All these things read like some piece of fiction or some detective story. One man asked for his duty to be changed from his normal position to the point near the gate by which Smt. Indira Gandhi was to pass and other said that he was not well and was suffering from some stomach problem and, therefore, wanted to be posted on a spot which is near the toilet. Is it all a coincidence? The Report unfortunately does not reveal who was responsible for changing the normal duties of these two *santries* and putting them on that single place at that particular time so that both of them can operate together. These are very valid points. The Report speaks of the avoidable delay in rushing the Prime Minister to hospital. Why the ambulance car was not immediately available? Why there was a delay? As we know that doctors in the hospital have said that when she arrived, she was well. Clinically, she was already dead. There was no point in trying to revive her or save her. But if that delay had not taken place, I do not know there might have been some faint chance of reviving her. Who was responsible for those arrangements? Who was responsible? Her personal security who was walking along with her or just behind her was to fire at apparently, but nothing at all. We are lay men but we know that personal security are supposed to be highly trained people whose job is at the risk of their own lives, to cover physically with their own bodies, to cover the person who is being attacked. But nothing was done. So many questions are there. We know there is a background to this assassination. It came only four months or four and a half months after the Operation Blue Star. We cannot forget it. I don't like to speak about these things. This Operation Blue Star, whether it was right or wrong, whether it was a correct move to take or not, the history will decide.

But the Government at that time decided to carry out this Operation Blue Star and there is no doubt that that action has done more than anything else to antagonise the entire mass of the Sikh community, even those people who prior to Operation Blue Star were not supporting these terrorists and Khalistanis. But after this what they considered to be the desecration of their place of worship—their main place of religious worship, where they consider that the entry of the armed forces and then firing inside and killing of people and all that—is something which they are not prepared to condone. Has it no bearing on what happened four months or four and a half months later? But there is no finite inquiry made into all these side aspects of this sole assassination which I believe would have revealed the responsibility of many other people and many forces behind this assassination. Anyway, I want to know whether there is any possibility of following up these things by any subsequent investigating team or inquiry. They would be necessary, I think, if such things are not to be repeated in our country again. But the present Government, by restoring the previous position—whatever friends on this side may say—has done a very correct thing. And the suppression of this Report, which the previous Government was made to do was nothing but an insult to public morality and an insult to the rights of the people to get at the truth about these things.

Therefore, it is a very good thing and a commendable thing that this Bill has been brought and I hope, the entire House, including the Opposition, will support it and vote for it. And, that will be some another milestone in the path which this Government is trying to follow, namely, to restore democratic values and to undo many undemocratic things which were done in the past.

I welcome this Bill.

SHRI A.N. SINGH DEO (Aska): Sir, I rise to support the Bill for restoration of high principles which the National Front promised to the people. It is unfortunate that our friends on the other side are still behaving like

*Bandwa Mazdoor*. The previous amendment said, I quote:

"When the Government is satisfied that in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or in the public interest..."

It is well-known that our friends on the opposite side equated the sovereignty and integrity of India with the Gandhi family. They equated the security of the State with the Gandhi family. Friendly relations with foreign States also depend on the Gandhi family. I want to say this because I want to say the perspective with which this Bill was brought.

AN HON. MEMBER: Which Gandhi are you referring to?

SHRI A.N. SINGH DEO: The Finance Minister made it clear when he referred to it. I am not referring to the Gandhi which the Finance Minister referred to. I was referring to the present Gandhi, and not the earlier Gandhi... (*Interruptions*)

So, this amendment was brought after 20 years, when it was thought fit to keep the Thakkar Commission report a secret. Why was it kept secret? It was not for the integrity and sovereignty of the country, which was in danger.

The danger was that the whole palace clique—as we would call it—would be exposed; who was behind the assassins of Mrs. Indira Gandhi—that would have been exposed.

Now our friends take the excuse of Kashmir. They ask whether a Commission is going to be set up to inquire into the happenings in Kashmir. They say that a position may come about when we may have to hide certain facts. Then why are they demanding a Commission; why are our honourable friends and especially their camp followers in the National Front—I am sorry, the National Conference—are also demanding a Commission of Inquiry?... (*Interruptions*)

[Sh. A.N. Singh Deo]

Again, they say that a Commission of Inquiry may expose something; and, therefore, this should not be amended. But this National Front Government, the Janata Dal and its other friends have promised to the people that they would take away whatever undemocratic act that has been perpetuated by the Congress. There is a saying in English that the leopard does not change its spots. It is unfortunate that our friends, even after learning that they have been thrown out by the people of the country for their acts of omission and commission, are not willing to change their spots. They are again propagating that this is a bad amendment; especially our friends who have nothing to say, or add to this debate, just get up and talk about Kerala, and what happened here or there, without saying a word as to whether this present action is a good action of this Government or not.

An inquiry commission is set up to find out facts. They are being set up since 1952, during Jawaharlal Nehru's time; and the Act was amended in 1971, to include a provision that all the facts should be brought before the people. When they are placed before Parliament, people take cognisance of them, and will debate on what is wrong and what is good. So, you cannot expect a better democratic principle than this. Unfortunately, they went back on this, because they wanted to hide certain things. They wanted to hide the fact that their own staff who was going with Mrs. Indira Gandhi, was going behind her, near here, ran away when the firing started. And he was, for four years, banished from near the throne; and again he was brought back, after the Thakkar Commission report was suppressed. Now he is a member of the Rajya Sabha.

Therefore, the motive behind is not the welfare of the country, the motive is not sovereignty of the country, the motive is not public interest. It was brought only to serve a personal interest, that is, only for equating a single family with public interest. That is why this Act was brought in. Therefore, it is the

duty of the National Front Government to get this changed. Therefore, I congratulate the Minister for having brought this amendment. I strongly support this amendment, and I hope our friends on the other side will realize their mistakes, and support this amendment.

SHRI G.M. BANATWALLA (Ponnani): Mr. Chairman, I rise to welcome the Bill. It is timely and I am happy to see that the Government has moved in the direction of undoing serious, undemocratic public wrongs that had been done as a result of the amendment of the Commissions of Inquiry Act in the year 1986. Even at that time, I had spoken in the same vein striking a note of caution.

The Commissions of Inquiry Act was enacted, I believe, in the year 1952. At that time, there was no provision in the Act making it imperative or compulsory on behalf of the Government to place on the Table of the House the Report of any Commissions of Inquiry. As a result, there were several complaints that Reports of very important Commissions of Public Inquiry never found the light of the day. The Law Commission went into this question; and in one of its Reports, even the Law Commission suggested that when a Commission of Inquiry was instituted and the Report was received, then within a period of six months, the Report must be laid on the Table of the House. On the basis of this recommendation of the Law Commission, the Commissions of Inquiry Act was amended in the year 1971; and it was provided that the Reports of the Commissions of Inquiry must necessarily come before this House. However, it was unfortunate that in the year 1986, through an Ordinance, the Act was amended. I need not go into the circumstances of this Ordinance; that Ordinance was promulgated just 4 or 5 or a few days after the House was adjourned in July 1986 or so. But then that amendment to the Commissions of Inquiry Act gave arbitrary powers to the Government of India to decide whether or not to place the Reports on the Table of the House. There were no inbuilt safeguards also. At that time, I pleaded in this House that even if you wish to take those powers which you should not take

then, for the sake of God, at least have some inbuilt safeguards. I had also moved at that time certain amendments to the Bill. However, for reasons best known to the entire nation, the Amendment Bill at that time was passed; and as a result of that, an attempt was made to suppress the Thakkar Commission Report. I do not want to go into the details of this history, but, then there was a pressure from the people as a result of which the Thakkar Commission Report was laid on the Table of the House.

Now I want the Government to ponder over one aspect of the whole thing. The Report must be laid on the Table of the House. But what constitutes a report is again a matter that creates a lot of problems. So, what constituted the Report of the Thakkar Commission we had so much of discussion here in this House; and there was even a ruling by the Speaker as to what papers constituted a Report and what papers did not constitute a Report. Many of those who were at that time on the Opposition benches are today on the Treasury Benches. They had argued at that particular time that what was being placed on the Table of the House of the Report as the Thakkar Commission Report was not a complete Report.

Nevertheless, there was ruling by the Speaker and we all went with that ruling. The fact remains that there are a lot of other important papers which have not been placed on the Table of the House and which, some could still argue, constitute the report of the Thakkar Commission. They are not still laid on the Table of the House. I am very happy that the Government calls itself an open Government. I am happy that the Government wants to uphold the right to information. There may be certain serious instances which belie the claims that the Government makes. We shall go into those instances at the appropriate time. But here in this particular Bill, while I compliment the Government for bringing forward this Bill saying that the report should be laid on the Table of the House, I want to remind you that there are several papers concerning the Thakkar Commission report which, many still think,

constitute the report of the Thakkar Commission, many even among those who are in the Treasury Benches.

I must say therefore that they must also come forward to place those papers also which this House has been asking, on the Table of the House, so that the claim to public accession to information could really be granted.

Now, Mr. Chairman, Sir, in addition I must say that it was a serious public and democratic wrong to have said that once a Commission of Inquiry is appointed its report may or may not be placed on the Table of the House. Mr. Chairman, Sir, a Commission of Inquiry is not a mere fact finding body. I had been listening to several members with rapt attention. But I submit with all respect that a Commission of Inquiry is not a mere fact finding agency. If the purpose is merely to find out the facts, discover facts, if the purpose is only to secure evidence for the Government, then there are several investigating agencies that the Government has. Facts can be collected, evidence can be collected with the help of those investigating agencies. Why is a Commission of Inquiry then instituted? Not merely for the purposes of finding facts. There is a greater objective. And that has to be understood. A public issue agitates the mind of the people. There is a crisis of confidence and as a result of that crisis of confidence a Commission of Inquiry is appointed. Therefore, it will be a serious public wrong to appoint a Commission of Inquiry on an sensitive issue that had agitated the mind of the people, that had brought about a crisis of confidence and still to withhold that report, that would have been a serious public wrong, as I said. The Commission of Inquiry is appointed in order to satisfy the public about the truth of the state of affairs concerning a matter which had created a crisis of public confidence and when we have such a healthy attitude towards the Commissions of Inquiry the logical conclusion to which one reaches is that whenever a Commission of Inquiry is appointed its report in due time must be placed on the Table of the House along with the report of

[Sh. G.M. Banatwalla]

the Government about the action taken thereon.

Now that takes me to another aspect of the whole problem.

MR. CHAIRMAN: Kindly conclude.

SHRI G.M. BANATWALLA: Mr. Chairman, do you want me to conclude?

MR. CHAIRMAN: It is one hour debate. We have already consumed two hours.

SHRI G.M. BANATWALLA: So, the entire wrath must come upon me. I fail to understand this particular thing. Mr. Chairman, I will try to run along the points that I wish to make.

There are several Commissions of Inquiry specially about communal riots; and recommendations made. But those recommendations are never implemented. So, in addition to the importance of the Commission of Inquiry report being placed on the Table of the House, there is also the necessity of implementation as far as possible of the various recommendations of the Commissions of Inquiry. I must urge upon the Government to see to it that the recommendations of several Commissions of Inquiry are properly gone through, scanned and action taken wherever possible.

In addition to Commissions of Inquiry, at times Committees are appointed by the Government. They are appointed on several important issues. Now, here we have a Government that makes claim of right to information and all that. There is a report of a Committee that goes by the name "High Power Panel on Minorities" presided over by Dr. Gopal Singh, appointed by the then Government. For the past several years, the report is lying with the Government and we have been demanding that the report be placed on the Table of the House. Why should the minorities be denied at least this information as to what were the recommen-

dations of the High Power Panel which was appointed for their welfare? This is certainly a public wrong. I urge upon the Government to see that this public wrong is also undone.

On the issue, I have just two more sentences and then I have done. There is a public agitation; public mind is agitated on various allegations of suppression of the fundamental rights and human rights of innocent people in Kashmir. I must also urge upon the Government that a proper Commission of Inquiry be appointed on this question. It is not proper that public mind should continue to be agitated. It must have the fullest information on the allegations of atrocities and suppression directed against the people of Kashmir, the Kashmiris, in the name of suppressing terrorism. I must therefore urge upon the Government that a proper Commission of Inquiry with a mandatory report, to look into all the matters in Kashmir since 19th January 1990 be instituted. We should have that report as early as possible and that report should also be laid on the Table of the House.

[*Translation*]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Chairman, Sir, I would like to congratulate the Government for bringing forward this amendment, but at the same time I regret for the delay. Had the Government got it passed in the first session itself and had the Thakkar Commission Report, which has been referred to in the House time and again been laid in the House, the fabric of the House would have been somewhat different. Besides, their strength would have been far below 195 seats which they have won. I regret for the delay on the part of the Central Government in bringing forward this amendment Bill. Such a Bill should have been introduced on priority basis in the first session itself. Commission of Inquiry (Amendment) Bill is not like the Bofors deal which would expose people of their deeds. I feel that this Bill is in the interest of the Congress also. The Congress has already done the things which it was supposed to do. Now it is the turn of the National Front Government

which is bringing forward this amendment. If it commits any mistake, it will bear its consequences. There is nothing for the opposition to be worried about. We want to place before the House the reports of the Commissions of Inquiry whenever they are set up for a specific purpose. The opposition has already had its innings. If they oppose such an important Bill, what will be the justifiability of making a demand for a Commission of Inquiry. There is no need to set up a Commission of Inquiry if its report is not to be laid on the Table of the House. In 1952, Pandit Jawaharlal Nehru was there. He was a democrat and he had faith in democracy. An amendment to Commission of Inquiry Act was brought forward in 1986 and I cannot understand the reasons for bringing forward this amendment. Nehru's policy was right. The amendment that was brought forward in 1986 was totally against the conscience of Pandit Nehru and Shrimati Indira Gandhi. From their heavenly abode they might be cursing their followers for bringing forward the above amendment. Had the Congress Party allowed a discussion on Thakkar Commission Report and placed the report on the Table of the House, the results would have been different. They carried out the above amendment. They were destined to rule for 5 years which they did. Now why should they bother? Now it is our Government and we will face the consequences of any report that would come to us. They should, therefore, extend their support to our proposal.

[English]

The Commission of Inquiry is always set up for the purpose of making inquiry into any definite matter of public importance.

[Translation]

In other words, Commission of Inquiry will be set up for matters of public importance. When a Commission of Inquiry is set up, it involves expenditure, valuable time of V.I.Ps is consumed and the time of witnesses is also killed. Even after incurring expenditure and wasting time, if the report of

the Commission is not placed before the House, what is the use of setting up such a Commission?

[English]

The Inquiry Commission's report should not be withheld from Parliament and the State Legislature as the case may be, under any circumstances.

[Translation]

We will place the report of the Commission on the Table of the House and as such the hon. members of Congress Party should extend their support to this amendment. They should do so because the people are the highest court in our country. They are more powerful than the Supreme Court and the House of the people comprising 545 members which is considered to be the supreme authority. They have seen as to how powerful the people are! The people who were in power for the last several years and who claimed that the sun did not set in their kingdom are sitting in the opposition and we are occupying the seats behind the treasury benches. This is the result of the verdict of the people. I am speaking in favour of the Congress Party also. Now they have 195 seats in the House. I warn them to be cautious lest their number should come down to 20-25 or 2-4 in future. I, therefore, request them to extend their support to this amendment in their own interest as it will be a due regard to the departed souls of Jawaharlal Nehru and Shrimati Indira Gandhi. Shrimati Indira Gandhi was not their Prime Minister alone. She was the popular Prime Minister of the whole country. That is why they should extend their support to this amendment so that it could be made public as to who was her assailant. Let the Thakkar Commission Report be placed on the Table of the House. There are different versions about the sequences at the time of Shrimati Gandhi's assassination. According to one version, Shri Dhawan was holding an umbrella above Shrimati Gandhi's head and was walking by her side. There was no sun shine at that time. The bullets fired at that time should have first

[Sh. Girdhari Lal Bhargava]

Nehru and Shrimati Indira Gandhi.

hit the person who had abundant love for her. He should have first faced the bullets. But he did not come forward. According to Thakkar Commission Report, the needle of suspicion moves towards Shri Dhawan who was present on the spot. This has been a subject of discussion all over the country. He is not an ordinary person. Mr. Chairman, Sir, had it been the case of an ordinary person like you and me, there was no need for having the matter discussed in the House. The common man has no protector in this country. During the Congress Rule, I cannot say if commodities were selling cheap or not, but human life had certainly become very cheap. If a person was lying on the road, nobody came to take care of him for 4-5 hours. That is why I said that in the Congress Rule, if any thing had become cheap, it was the man who had no protector. Clothes and other commodities also did not become cheap. This Government wants to bring down the prices of all commodities. It wants to make provision for holding enquiries into the killings of human beings who are considered to be the supreme creatures of God, I would like to point out that the full report of the Rangnath Mishra Commission which went into the causes of killing during communal riots in Delhi has not been laid on the Table of the House. The report of the Thakkar Commission also has not been laid. These reports should be placed before the House in the larger interests of the country. The National Front Government should have brought forward this amendment in the very first session nullifying the amendment made in 1986 in the Commission of Inquiry Act, 1952. Though late, the National Front Government has taken a step in the right direction by deciding to place the reports of all commissions of Inquiry which would be set up under the Commission of Inquiry Act. The reports will be considered in the House and then only any decision could be taken. I support the amendment brought forward by the National Front Government and request my friends in the Congress Party to extend their support to this amendment in conformity with the conscience of Pandit Jawaharlal

[English]

THE MINISTER OF HOME AFFAIRS (SHRI MUFTI MOHAMMAD SAYEED): Mr. Chairman, Sir, I am thankful to the hon. members for extending support to the amendment to the Commissions of Inquiry Act. Under the Commissions of Inquiry Act, 1952, it was mandatory for the Central Government or the State Governments, whenever they appointed an Inquiry Commission, to lay the Report of that Commission on the Table of the House within six months. In 1986, keeping in view the Thakkar Commission's Report, the then Central Government made an amendment whereby powers were given to the Government to withhold the Report or part of it, if it was detrimental to national security, security of higher dignitaries or friendly relations with neighbouring or other countries. Sir, you know that the people of India wanted to know the circumstances which led to the assassination of Indiraji who was assassinated at her own residence by her own security people. So, it was a matter of great importance. When the Central Government got powers to withhold the Report, it created doubts among the people as to who was responsible, what were the circumstances, why she was not given proper protection. Then there was great agitation by the then Opposition. The Opposition compelled the Government to lay the Report but the Government laid on the Table of the House, only part of the Report, not the whole of it. I can quote the then Notification which was issued by the then Home Ministry and it rather asked the Commission to make enquiry about the following matters:

- (a) the sequence of events leading to all facts relating to the assassination of the late Prime Minister;
- (b) whether the crime could have been averted and whether there was any lapse or dereliction of duty in this regard on the part of any the individuals on security duty at the time of the commission of the crime and

other individuals responsible for the security of the late Prime Minister;

- (c) the deficiencies if any, in the security system and arrangements as prescribed or as operative in practice which might have facilitated the commission of crime;
- (d) the deficiencies, if any, in the procedures and measures as prescribed or as operative in practice in attending to and providing medical attention to the late Prime Minister after the commission of crime and whether there was any lapse or dereliction of duty in this regard on the part of individuals responsible for providing such medical attention.
- (e) whether any person or persons' agencies were responsible for concealing, preparing and planning the assassination and whether there was any conspiracy in this behalf and if so, all remit
3. The Commission may also recommend the corrective remedies and measures that need to be taken for the future with respect to matters specified in Clauses (c) & (d) above;
4. The Commission shall submit its report to the Central Government as soon as possible but not later than six months."

So, Sir, when the present Government is rather moving amendments, it has its own arbitrary powers, it has the discretionary power. If the Government appoints an Inquiry Commission, then the Inquiry Commission submit its report. Then, it is the discretion of the Government whether it will place it on the Table of the House or not. So, we are giving up this power. Otherwise, what is the purpose of appointing an Inquiry Commission? Any event, any incident, wherever it happens, when you appoint an Inquiry Commission, then the people would like to

know the facts. Mr. Chidambaram has mentioned one instance where the present Government is rather withholding its report. As far as Wadhwa Committee Report was concerned, the report was submitted to the Home Ministry on 26.3.1990. You said that we were not prepared to lay it on the Table of the House. We will lay it on the Table of the House. So, my submission is that the objective is very clear and there cannot be any *male fide* intention. The Government wants that if any Commission is appointed, it will submit its report and it should be the property of the House and the Members of this House and the people of India should know its findings.

SHRIP. CHIDAMBARAM: My question is regarding the appointment of a retired Justice, Shri Subramaniam Poti. How could he enquire into Delhi riots? Does he say that he is an independent person? Let him say that.

SHRI MUFTI MOHAMMAD SAYEED: He was appointed by the Lt. Governor of Delhi. It is in his competence.

SHRI P. CHIDAMBARAM: Is it that the retired Justice was appointed by the Lt. Governor without consulting and without obtaining the approval of the Home Ministry?

SHRI MUFTI MOHAMMAD SAYEED: I said that the report was submitted on 26th March, 1990.

SHRI P. CHIDAMBARAM: 26th of March? Your dates are wrong. Please check up. The matter came up before the Supreme Court... (Interruptions)

SHRI MUFTI MOHAMMAD SAYEED: I say, on the 26th of March the Report has been submitted to the Home Ministry.

SHRI P. CHIDAMBARAM: Home Ministry? Sir, I am asking a very simple question, let the Home Minister answer. Is it his case that retired Justice Subramniam Poti was appointed by the Lt. Governor without con-

[Sh. P. Chidambaram]

sulting and without obtaining the approval of the Home Ministry? Let him say 'yes' or 'no' we will accept it.

SHRI MUFTI MOHAMMAD SAYEED: I say, we don't come into the picture. It is within the competence of the Lt. Governor to appoint. It is within his competence, we don't interfere.

SHRI G.M. BANATWALLA: Just one question, Sir. Certain documents connected with the Thakkar Commission's Report have still not been placed on the Table of the House. Do you propose to place them on the Table of the House?

SHRI MUFTI MOHAMMAD SAYEED: We propose to lay on the Table of the House the whole Report.

SHRIGUMAN MAL LODHA: Would the hon. Home Minister assure the House that action would be taken against all those persons who have been named in the Thakkar Commission's Report as responsible for the murder of Mrs. Indira Gandhi or against whom some action is required to be taken? Would the hon. Minister assure the House?

MR. CHAIRMAN: This is not connected with the Commissions of Inquiry (Amendment) Bill.

SHRI INDRAJIT GUPTA: Sir, in citing the Government Notification giving the terms of reference of the Thakkar Commission, the Home Minister referred to the charge which was given to that Commission to go into any serious lapses of security and dereliction of duty which may have occurred. In that Report there are many things connected with these questions which have not been covered, have not been dealt with and many things have been left shrouded in mystery. I would like to know, because this is not a

matter which has no relevance for the future also—the question affecting the security of the Prime Minister, whoever the individual may be. Therefore, would it not be in the fitness of things for the Government to set up some other investigating machinery or some special investigating team or something to go into these aspects which were there originally in the terms of reference, but had not been dealt with or could not be dealt with adequately by the Thakkar Commission? Would you just leave them hanging in the air like that?

SHRI MUFTI MOHAMMAD SAYEED: Sir, the Government would appreciate the suggestion made by Indrajitji. We would like to examine this suggestion whether it is possible to do it. We have to go into details. We have to make *de novo* the investigation because previously some committee was appointed, some investigating agency was here and it recommended some measures. We have to go again into them and see what can be done.

SHRI SRIKANTA JENA (Cuttack): May I know from the hon. Minister when he is proposing to place the entire Report of the Thakkar Commission in this House?...*(Interruptions)*

SHRI MUFTI MOHAMMAD SAYEED: I have already said that the full Report will be placed on the Table of the House during the current Session.

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Commissions of Inquiry Act, 1952, be taken into consideration."

*The motion was adopted*

MR. CHAIRMAN: The House will now take up clause-by-clause consideration of the Bill.

*Clause 2—(Amendment of section 3 of Act 60 of 1952)*

SHRIGIRDHARILAL BHARGAVA: Sir,  
I move:

Page 1, line 6,—

for "shall be omitted" substitute—

"Shall always be deemed to have been omitted and it shall be obligatory to lay before the House all the reports submitted in the past." (4)

MR. CHAIRMAN: Another amendment by Shri Nathu Singh is similar to that of Shri Girdhari Lal Bhargava. So, he need not move it separately.

(Interruptions)

MR. CHAIRMAN: I shall now put the Amendment No. 4 moved by Shri Girdhari Lal Bhargava to the vote of the House.

*Amendment No. 4 was put and negatived*

MR. CHAIRMAN: I shall now put Clause 2 to the vote of the House.

The question is:

"That Clause 2 stand part of the Bill."

*The motion was adopted*

*Clause 2 was added to the Bill.*

*Clause 1—(Short title)*

*Amendment made*

Page 1, line 4,—

for "1989" substitute "1990"  
(2)

(Shri Mufti Mohammad Sayeed)

MR. CHAIRMAN: The question is:

"That Clause 1, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 1, as amended, was added to the Bill.*

### Enacting Formula

*Amendment made*

Page 1, line 1,—

for "Fortieth" substitute  
"Forty-first" (1)

(Shri Mufti Mohammad Sayeed)

MR. CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

*The motion was adopted*

*The Enacting Formula, as amended, was added to the Bill.*

### long title

MR. CHAIRMAN: The question is:

"That Long Title stand part of the Bill."

*The motion was adopted.*

*The Long Title was added to the Bill.*

SHRI MUFTI MOHAMMAD SAYEED:  
Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

*The motion was adopted*