

17.10 hrs.

DEFAMATION BILL—Cond.

[English]

(Interruptions)

MR. DEPUTY SPEAKER : Now Mr. Thampan Thomas to speak on the Defamation Bill.

SHRI DINESH GOSWAMI (Guwahati): Sir, I have given notice on this subject of floods in Assam and asked for a Calling Attention on this.

MR. DEPUTY SPEAKER : We will take it up afterwards.

SHRI DINESH GOSWAMI : The hon. Minister of Agriculture has not stated a very important thing.

*(Interruptions)***

MR. DEPUTY SPEAKER : A discussion cannot be allowed on this statement. Now Mr. Thampan Thomas.

*(Interruptions)***

MR. DEPUTY SPEAKER : I cannot allow it. Nothing will go on record. Now Mr. Thampan Thomas.

*(Interruptions)***

MR. DEPUTY SPEAKER : Nothing will go on record. Now Mr. Thampan Thomas.

*(Interruptions)***

MR. DEPUTY SPEAKER : Nothing. It is not allowed. These will not go on record. No; nothing, Now Mr. Thomas.

*(Interruptions)***

MR. DEPUTY SPEAKER : Mr. Thampan Thomas, I have called you. *(Interruptions)* Order, please. Nothing will go on record. Only Mr. Thampan Thomas can speak now.

(Interruptions)

MR. DEPUTY SPEAKER : Mr. Thampan Thomas, please speak. Otherwise I will call the next person. Are you going to speak, or not ?

(Interruptions)

SHRI THAMPAN THOMAS (Mavelikara) : Sir, the most sacred right in a parliamentary democracy, which is the freedom of speech, is certain to be curtailed by this Bill. This Bill will have far-reaching consequences. It will muzzle the Opposition; it will muzzle the Press.

I can understand the speed with which now Mr. Chidambaram wants to move this Bill because of the recent events in our country. And, I fear very much, one of the things which even the Opposition and even the public men could not bring out, the Press were able to bring and we were able to make it in the Bofors case. And, tomorrow, I fear under this Bill, if it is passed, Chitra Subramaniam, who aided the news to be brought to India will be arrested and put in prison. Using this, that can be done. And many of the Press recently have investigated many things and brought many things into light which were not known to the public, and I fear this Bill is brought on seeing all these things.

Also, this is ratified by Shri Shantaram Naik, when he was speaking, that even the recent like the Modi murder case and also Sanjay Singh's statement which has aggravated, that some complaints have been received, against somebody connected with the Prime Minister's office, all those have aggravated, to bring this Bill all on a sudden.

I take a very serious objection to taking a plea that this was discussed earlier and this Bill or something was there in the form of a discussion of either of the Houses of Parliament, or before the public. It was never. The thing which was pending in 1978 before the Rajya Sabha was a coordinated amendment to the Indian Penal Code. About 204 amendments were sought to be made after a detailed study, and 1972 onwards the matter was pending before various committees, their recommendations were obtained, the opinions of institutes, schools, colleges and trade unions were collected and after that those amend-

**Not recorded.

ments to the Indian Penal Code, in the light of the recommendations made by the Law Commission as well as the Press Commission and the report of the Second Press Commission, and all these things were brought, and it could not be passed. That is true.

But what is now brought is a separate law, another law which is named as India Defamation Bill. That is being moved now. Such a position was not at all there. I will say what has transpired in the Rajya Sabha in the year 1978, when Janata was in power. The Minister who presented the Bill says there, I will quote one sentence :

“The committee held the first sitting on the 23rd December 1972. It invited opinions from various individuals, Bar Associations, organisations including trade unions, political parties and law officers of the Government of India and the States and the Supreme Court, the Indian Law Institute, universities and the State Governments. etc.”

So, such a detailed inquiry was conducted at that time and there were the amendments brought to the Indian Penal Code extending to 204 clauses and which were being discussed. And in that what has come up. One section, that is what Mr. Chidambaram the hon. Minister has quoted, that the Janta Government has given its concurrence to such a Bill. One provision is mentioned in this Bill. It is about punishment and which has also been recommended by the Law Commission subsequently was brought at that time. On that pretext, what is now being brought is this, which is a draconian way of approach. That is, to put anybody who criticises a person in office or to go to the jail for a minimum period of three months and to put him in jail for two years. This subject matter was never anywhere. Nobody knows such a thing. So, the discussion that was held in the Rajya Sabha and the Bill which has been passed in the Rajya Sabha in the year 1978 cannot be a plea for moving this Bill and behind that no shelter can be taken. And what has been done by the Janata Government at that time, it stands good even now, today. If that had been brought today, in the light of that discussion, in the same manner, we also support it, because that was on the basis of the recommendations and consul-

tations made and that too make amendments to Sections 499 and 500 of the Indian Penal Code. It is not an Act of this nature.

Also, I will take this Law Commission Report on this aspect, about the defamation law, what the Law Commission had said.

The Law Commission very clearly says that there were two opinions. It says that defamation law can be a civil law and it could be executed in a civil court for defamation. It is a tortious one. There were two opinions to retain it in the criminal law. Therefore, the Law Commission decided that it should be retained in the criminal law since in our country if freedom is given, it is being misused.

In page 330 of the Report of the Law Commission (42 to 46), it made only a recommendation that the punishment can be of rigorous imprisonment or simple imprisonment. Earlier in section 499 and 500, the punishment for defamation is only a simple imprisonment for two years. The Law Commission said that it can be changed to rigorous imprisonment for two years. Is it the way in which this Bill has been brought now? The Press Council said that many countries examined and said that it is considered as a law and it can go for compensation. In page 45 of the Report of the Second Press Commission under Para 5, it was stated that civil law alone is applicable. That is the system prevalent in developed countries. But in our country which is being in a developing nature and where there are problems, it can go to the criminal court also. Sir section 13 of the Chapter III is a brand new one. It is Rajiv Gandhi's creation and that too in the events of what had happened now. In this manner, they want to make an authoritarian Government. They can even put the burden of proof on the person who is chargesheeted, who is alleged to have committed an offence, and he has to prove himself that he has not committed it. The very basic fundamental jurisprudence of criminal law is that a person who is alleging, charge sheeting, who is prosecuting, he has the burden of proof. Here it is the other way round. Section 13 says that you have to go to jail for a minimum period of three months if you say

[Shri Thampan Thomas]

something. After this Bill is passed, will any newspaper or anybody in the public meeting dare to say something knowing that he will have to go to jail? It is subsequently stated that there was something or it can constitute or it can come under the definition of a criminal case. A criminal case can be charged if a false charge is made. Naturally the person will have to go for prosecution and he is rest assured that he will have to go to Jail for a minimum period of three months. What will happen now? Even the criticism against anything, discussion against anything and check and balance in society which is built up on the basis of a healthy criticism, will go away. Naturally this will be an authoritarian society, where you cannot speak, you will have to shut your mouth and eyes towards all ills and odds and you will have to approve whatever the Government says. Such a condition will come and the freedom of the press will be taken away.

I am reminded about the Bihar Bill. I am reminded about the Tamil Nadu Bill. By this Bill, the freedom of the press will go away and nobody will be able to criticise the Government.

Therefore the only result of this Bill will be that you will not be in a position to tell anything against any person in office. It means that the freedom of the press will be curtailed for ever and they will not be able to expose things hereafter. What happened in this House during the last two sessions and we were able to establish certain things with the help of the press, press by investigating and many things have come out. It will not be able to do it once this Bill is passed now. Minimum punishment is guaranteed. If he feels that he has to go to jail may be for one hour for something which has come out and which he feels that it was said in a particular circumstance. Now he cannot do that. The same approach is made in the matter of Industrial Relations Bill also. If a person goes on strike or participates in a strike which is subsequently declared as an illegal strike, then he has to go to jail for minimum two months. From where this concept of providing for minimum punishment has come to India, I would like to know. What is the way of thinking? What is the thinking

of our Minister that a person shall have to go to jail compulsorily for a minimum period? With that, what do you want to do? You want to encroach upon the citizens rights by providing that for a minimum period you will have to go to jail if you criticise. Then nobody will come forward with a criticism. That means, you are silencing everyone. You want to silence everyone by the threat of providing for minimum punishment.

Then the other aspect is, which is one of the important aspects; that you want to silence by using your office threatening the opposition or the press or whoever wants to criticise that if you do that, finally you will have to go jail. Therefore, this cannot be accepted.

The second thing is basic jurisprudence. That is, a person who alleges he will have to prove his innocence. That is not provided in the criminal law. In certain sections of the Customs Act or something like that where there is an offence against the State, there is onus of proof on the person who is engaged in smuggling. If something is with him, the onus of proof is on him to prove that it is not smuggled article but it is a legitimate article. But in the defamation case where hitherto under sections 500 punishment was for two years simple imprisonment, you changed it to giving burden of proof on the accused person and also the prosecution can rebut it. Shri Somnath Rath simply put it saying that a person aggrieved and a person who has done it, there are two parties, Is it so? In most of the cases, even in the Criminal Procedure Code, I have the right even to arrest though I am not a police officer. The police officer and others are executing agencies only. If a person aggrieved goes to the court, only the State undertakes it on the basis of a complaint so as to effectively execute it. All those things will be available under the Criminal Procedure Code which are applicable here. So to say that a person who files a complaint and supports it by an affidavit and there is only a dispute between two parties, then why do you want to bring in criminal law? If what Mr. Somnath Rath has said is Government's proposition, then I would like to say that only on this reason, this Bill has to be withdrawn because that is not a criminal

law; that is a civil law. If there is a civil law, a dispute between two parties, that is a civil right and for a civil right, you can go to civil court. It is provided in the defamation case. If that is the case, there is no reason for this Bill. The Bill has only to be withdrawn. Whereas it has a criminal implication, a criminal defamation means, a person can be charge-sheeted and punished to jail. And that can be done as a summary trial. A summary trial means, a person is put in prison on the basis of a summary trial. It is a very arbitrary one. Summary trial means even the person who is accused of having committed an offence suppose, he is an editor of a newspaper, whatever may be his reputation, whether Times of India or Indian Express or The Hindu or any other paper, there is an allegation against the editor of the paper that he has committed an offence, he can be brought to the court and he can be summarily tried. Summary trial means other procedures under the law are not required. All those things can be suspended. Then he is asked to prove his innocence. In the circumstances and procedural difficulties he is not in a position to defend himself. Then the judge says you go to jail. The judge feels that he need go to jail only for one hour. But he cannot do that. He has to punish him minimum for three months. What a draconian law is it? What freedom this country has got! All the freedom which we were enjoying hitherto is being curtailed. For what? Only for one person. Somebody want to continue in office as Prime Minister. He feels irritant. He feels that somebody criticises him. Somebody who takes up the office of the Prime Ministership, he should be prepared to hear the criticism. You may be hearing the criticism in the country. There is a poor man. When he is hungry he may be shouting for this. He may be telling that the money of the country was being taken away outside. He may be shouting that your policies are bad. He may be shouting against that. Now, tomorrow, you want to put a stop to that. This is encroaching upon the fundamental rights of the people of this country. This cannot be in any manner supported. The shelter of Press Council's Report or Law Commission's Report, or any other thing cannot take care of this position. Thank you, Sir.

[*Translation*]

DR. G.S. RAJHANS (Jhanjharpur) : Mr. Deputy Speaker, Sir, I am one of those few persons who had the fortune or misfortune of sitting on both the sides of the table.

I used to be the publisher of one of the largest newspapers of the country for many years and confronted a number of defamation cases. I know the various type of defamation cases and what the people do in such cases.

SHRI NARAYAN CHOUBEY : Just tell a bit about them.

SHRI G.S. RAJHANS : I am telling, please give me some time.

We had exposed espionage case in a remote corner of the country. A defamation case was filed against us in a remote count in Jammu and Kashmir. When myself (the publisher), the writer and the Editor reached there, everytime we found that the culprit who was involved in the espionage case managed to get the hearing postponed by 10 days. We were returning and going there again after 10 days only to find that he has managed get another postponement for 7 days. It was difficult for us to stay there for 7 days. This process continued for several years. We were given feelers with the hints that we should withdraw the case without tending any apology and the case will be closed. We were prepared to face every hurdle. We decided that let the case run for 20 years and we may be required to go there for innumerable times, but we will fight the case. We fought the case and won and that person was imprisoned.

We wrote against the Judges and the judges ruined us. A judge from Punjab got a case filed against us and a judge from Allahabad also did the same. We had written only this much that the Judges of the High Courts keep their relatives as advocates and one judges the other.

[*English*]

They say : "you pat my shoulder and I will pat your shoulder."

[Shri G. S. Rajhans]

[*Translation*]

The judges warned us either to tender apology or to face dire consequences. We had to attend the Courts for 50 times at both these places but we did not tender apology, in the mean time some colleagues advised us to make a compromise. We did not tender any apology and they also did not drag the case any further.

If you can give me time I can cite scores of such cases. (*Interruptions*)

[*English*]

We were not in a compromising position.

[*Translation*]

What I mean to say is that there are a number of such cases. I read the entire Bill very carefully.

AN HON. MEMBER : Seems to be restless after reading ?

DR. G.S. RAJHANS : I am all right after reading. I say that if the newspaper makes factual reporting, there is no need for it to fear anybody. The Bill provides that if the newspaper defames anybody by mistake, it should publish a regret and the matter will end there.

SHRI NARAYAN CHOUBEY : Are you going to wash out their dirt ?

DR. G.S. RAJHANS : Please just listen to my second point. The Congress Centenary Committee asked me to write the biography of Pandit Motilal Nehru. I wrote that biography in 1985 after putting hard labour. Shri Rajiv Gandhi released the book in the centenary function. I had written a very good book. Presently that book is in the library. Some of my colleagues are envious of me for that.

SHRI NARAYAN CHOUBEY ; Do they belong to the Congress ?

DR. G.S. RAJHANS : They do not belong to the Congress. First of all you

please listen to me. They published a news in a largely circulated daily that I have written a lot of odd things against Pandit Motilal Nehru. I was stunned. I met the Editor of the weekly and gave him two copies of my book. Thereafter, I requested him to go through the book line by line. I told him that not a single word was written against Pandit Motilal Nehru. He told me that nothing wrong was written in the book and that he would issue a correction. Thereafter I sent him 20 telegrams, wrote letters and met him personally too. But he did not issue a correction. I had to suffer the damage to my image and it also put a very bad impression on the public mind.

Now I would like to cite an instance I experienced personally. Some people helped me a lot in the elections in Bihar. After some days, the session of the B.P.C.C. was held in Patna. Just before that a largely circulated weekly in Patna published that I had abandoned those relatives and friends of mine who had helped me in the elections. What more ugly thing could be there that this. All the delegates and activists who has had come to attend the B.P.C.C session surrounded we and sought to know if I had done like that. I was tired of explaining them and told them that it was a false thing and there was no substance in it. I met the Editor of that newspaper and explained him everything. I am telling you how injustice is done to somebody.

I was a close relative of Shri L.N. Mishra. Not only relative, I was his associate as well. I have seen him falling victim to the media. The newspapers wrote a lot of things against him. The same newspaper which is writing many odd things against Shri Rajiv Gandhi these days used to write odd things against Shri L.N. Mishra in 1973-74. When Shri L.N. Mishra was murdered, the Editor of the very newspaper published that Mishra ji was a very nice and large-hearted person and that it was difficult to find a man like him. It is a matter of distress that he shed a lot of crocodile tears after his death. Mishraji was a very sensitive person. When a lot of things started coming in the newspapers, he used to become very restive and would telephone to the Editors. He used

to tell them what was the truth in it. These people used to come to him and would well him to forget whatever was published and assured him that no such thing would come in the newspapers any further. I told Mishraji to expose it. When he desired to know the procedure of exposing, I explained him the simple way. I advised him to invite those 10 persons who were blackmailing him and give them the same kind of suit pieces with stitching charges and thereafter invite them to a party. Then I advised him to ask them to attend the party in the same suits, the pieces of which they had been given. They should be told that Mishraji wanted to see them in that dress. All the 10 journalists came to the party and it appeared as if they were in uniform. Everyone of them was surprised to see the other in the same dress. Then it was revealed that all these journalists were on pay rolls. It will take hours if I start unasking them. This Bill has been brought forward against the black mailing being done by these blackmailers. After all, what objection the opposition members have got to it? I say that . . .

SHRI SOMNATH CHATTERJEE : You are right, the Prime Minister has given uniforms to all of you.

DR. G.S. RAJHANS : We shall give you the same uniform. Please to allow me express my view for a minute. Please know if anybody who falls victim to blackmailing does not have any right to expose the person who blackmailed him. What is there in this Bill? This Bill is pure and simple and it is against the blackmailing. I can still say that big newspapers do not indulge in blackmailing. You go to smaller places. Except a few . . . (*Interruptions*) please listen to me attentively. I have got a lot of experience which will benefit you. Small newspapers are being published in districts and towns. That is what we call yellow journalism. The papers consist of only 2 sheets, These small papers write that the Collector has done this and that and the M.P. is a thief. He owns property worth Rs. 50 lakhs. Now the M.P. will either give money to that newspaper or if he is honest, he will have to face the odds as where from can he offer money . . .

SHRI HARISH RAWAT (Almora) : Such newspapers are not published regularly. They are published once in 6 months only with this specific motive.

DR. G.S. RAJHANS : It is a Centre of corruption. He says you do whatever you like. He tells the engineer to do whatever he likes and tells the Collector the same thing, but he says that do this small work of his. You must have seen recently in the T.V. that a journalist of a tiny newspaper goes to the flat allotting authority and blackmails him. He says that he should either allot him a flat or he will expose the cases of corruption against the authority. The authority in turn advises him not to drag him into the scandal and offers his services to him. The journalist wants allotment of a flat and the authority gives his consent. The journalist points out that there are already 2 flats in his name and wants to know from the authority how can he be allotted one more flat in his name. The authority tells him to leave it to himself and assures that his work will be done. The authority assures a solution which will satisfy both the parties. This is what yellow journalism is called. There should be some check on these small newspapers which are being published in districts and towns as they indulge in blackmailing. Where is the question of freedom of speech and freedom of expression in it? Whoever will fall their victim . . . I would like to tell you one more interesting thing. In the world of newspapers there is a type of reporters called stringer. They call themselves reporters. What happens is that suppose somebody is a school teacher . . . (*Interruptions*) I am just explaining you. Somebody is a petty advocate and some other is a lecturer in a small college. Our journalist brethren might be knowing . . . (*Interruptions*) If you do part time, you will fall within the purview of the Wage Board. He sends some news to the newspaper. On the basis of news transmitted by him, he hardly gets . . . in a month. First of all, we . . . (*Interruptions*)

[*English*]

. . . Very interesting story. Give me a little more time, Sir.

MR. DEPUTY SPEAKER : You have got to listen to others' interesting stories also

DR. G.S. RAJHANS : Please listen to me for one minute.

[*Translation*]

He gets Rs. 20 to Rs. 50. He has to pass through hard tests to become a stringer. We also used to sanction them . . . One day I enquired of a person as to why does he take so much pains to become a stringer. He explained that though he is an ordinary stringer here, he poses himself to be a reporter, a correspondent in his district, has influence on the Collector, Commissioners and Engineers and gets his work done very quickly. He earns thousands of rupees in this way. He requested me better not to pay a paisa, but appoint him as a stringer. What I mean to say is that this Bill is a very healthy Bill and we should welcome it. The provisions incorporated in this Bill leave scope to rectify a wrong thing. I want to know as to why had the Janata Party brought forward this Bill if it was wrong? (*Interruptions*) If it was brought forward by the Janata Party, we should, at least, be given the opportunity to support the good work they have done. That was all, I wanted to say.

[*English*]

SHRIMATI GEETA MUKHERJEE (Panskura) : Mr. Deputy Speaker, Sir, after hearing Mr. Rajhans it seems to me probably in our country, there were never any cases of blackmail and never any law to deal with them. I believe that there are very many laws to deal with the question of blackmail. Nobody here is standing to defend blackmail. Let it be very clear.

PROF. MADHU DANDAVATE : Last among them are women.

SHRIMATI GEETA MUKHERJEE : I am not a lawyer. I need not go into the details of the law. But there are enough laws to deal with the matter. As a commoner, and with some experience, I know that there are enough laws to deal with cases of blackmanil. The question arises in my mind from several angles. Since my hom colleagues from the Opposition have spoken at length on many legal points, I shall not repeat them, though I support their conten-

tions very clearly. But I shall try to raise some other matter. The first question is, as far as I know, in legal terminology, circumstantial evidence is a very important factor. The circumstantial evidence about rushing through this Bill has really created very grave apprehension in my mind. I am yet understand what made the Government to rush through this Bill. The Business Advisory Committee met on Thursday, not very many days ago and reported that they would take up such and such etc. and that was presented to Parliament and was approved by Parliament. There was not even a mention of this Defamation Bill, the time was not fixed either. Everybody knows that during these 4 days holidays, most of the Members would have gone back to their home. Everybody would take that nobody would be here and mostly people were likely to come back on Monday morning. By Monday morning already this item is in the agenda Defamation Bill to be introduced, then the next Bill to be introduced, and then consideration and passing of the Defamation Bill. Naturally, there is nobody on earth who would take it that these are all just fortuitous; nor can I. Therefore, the question has arisen in my mind all this GALI GALI MEIN SHORE HAI : SUCH AND SUCH CHORE HAI, that is the principal provocation behind this Bill. I think, for the ruling Party also, this will be the most counter productive step that could have been taken, considering the situation that they are under shadow, whether they understand it or not. The whole country understands it.

In these circumstances, it seem to me that this is impolitic, unwise and counter-productive. The very same time-old proverb again comes to my mind which I have often repeated here, Vinashkale Vipareetabuddhi. In every case, you can see this Vipareetabuddhi.

PROF. MADHU DANDAVATE :
Viparitakale Vinasabuddhi !

SHRIMATI GEETA MUKHERJEE : It has been pointed out already at length by Shri Amal Datta and I will not repeat it. It is very clear that Press people are being threatened. How beautiful this Statement of Objects and Reasons has been written. The first thing that most of the Members

see before going through the Bill is the Statement of Objects and Reasons. I do not know whether they will accept it or not. I also read the Statement of Objects and Reasons and I found that it is containing nothing new. Law Commission said this. The Press Commission said this. It is only a question of codification of all that in a single Bill. This is the impression said to be made out by this. That is the Statement of Objects and Reasons.

SHRI P. CHIDAMBARAM : Please read it. (*Interruptions*)

SHRIMATI GEETA MUKHERJEE : Chidambaramji, one bad habit I have not yet acquired. That is saying anything without reading it. I believe that that much of credence is probable given to me by many of the Members on that side, let alone the Members on this side. I not only read it but I read it very very carefully. After reading the Statement of Objects and Reasons, I almost came to the conclusion that there is nothing new. Then I just do not know why this hurry. That made me really go to some lawyers and consult and what is it all about. (*Interruptions*) None of them were here. Let me tell you that I want to a lawyer who is a great admirer of Shri Rajiv Gandhi I will not name him but I want to him. I asked him "Can you tell me if there is anything new in this?"

SHRI SOMNATH CHATTERJEE :
Aberration of law.

SHRIMATI GEETA MUKHERJEE : He said "There is nothing new." He also said that "They are writing whatever they like" and so on and so forth. I went on "Please tell me if there is anything new." Then he told me "Well, read Section 499."

PROF. MADHU DANDAVATE : But, don't give him. He will go to three months imprisonment ?

SHRIMATI GEETA MUKHERJEE : "Read Section 499 carefully and see if the same things have been repeated."

According to his advice, I read Section 499 carefully and after reading Section 499 carefully, even an ignorant person like me found that there is very significant change

from Section 499 in this Clause 15. Not being a lawyer, if I am wrong, you are all welcome to correct me. It was a question if some truth is revealed which is in public interest, even if it goes against a person, that would be exempted from the punishment. If I understood correctly, this is the exception. I read this three or four times. In Clause 15 (1), of this Bill I see that it is written :

"Notwithstanding anything contained in this Act, a person accused of any offence under this Chapter shall not be guilty of the offence if, and only if, it is established that the imputation made or published by him is true. . .

Please note the words 'if and only if'. It means that it has to be "established" that it is true. It must be established. There is a big difference from IPC Sec. 499 to this. In IPC Sec 499, it does not use 'establish' Is there any meaning in this? The first change is that the truth has to be established. Then the other serious change is—everybody has already said about that—that both in Clause 8 and here the onus of the responsibility of proof has been shifted to the accused. On this question, I suddenly remember my own experience in this Parliament when the question of custodial rape was discussed. At that time, I was in the Central Parliament and not in the Legislature. I came across this question of shifting the burden. This is a very serious question. There, even when the burden was shifted, there was a lot of talk everywhere and to this day even in the case of an ordinary rape, if it is not custodial rape, then the burden of proof has not been shifted. For the women, whether she is raped by custodial authorities or by anybody else, it is the same thing. Even then, you have not changed that law of shifting the onus of proof that is establishing the case. Here, just for punishing the press and public, you want to make certain great modifications. On the question of defamation, everywhere you shift this burden of proof. So, therefore, from this, I came to one understanding that it is not only not fortuitous but it is a very serious and deliberate move to blackmail the Press. If the word 'blackmail' has any meaning, then this is blackmail. I am asking here in the Parliament, after this,

[Shrimati Geeta Mukherjee]

whether the Parliamentary impunity will remain? . . . (*Interruptions*). Let me at least press myself very clearly. This is a question of blackmailing.

PROF. MADHU DANDAVATE : It is "immunity."

SHRI P. CHIDAMBARAM : She is saying impunity.

PROF. MADHU DANDAVATE : That was spelling mistake. (*Interruptions*)

SHRIMATI GEETA MUKHERJEE : I stand corrected. It is immunity. I have not come from Harvard University. I only read in ordinary schools. Once Prof. Dandavate said that he did not read in Doon School. Tomorrow, I will come brushing up my English. Please you forgive me today. Coming to my point, when this question of Shri Ajitab Bachchan's having a House outside the country was raised in the Press, here it was denied by the ruling party members, ordinary members, by the person who was very closely connected with him, by an M.P. If the truth had to be established at that time, the truth of Mr. Ajitab Bachchan having a house violating the FERA in Switzerland would never have come out—because the truth has to be established; otherwise, you will attract the law of defamation. That is why, the Indian Penal Code was earlier like that, a general statement. It seemed me that it had some sense in it. Now the change also has a sense in it, and that sense is clear, to suppress the right of the people to criticise, the right of the people to lay bare the circumstances so that the circumstantial evidence can lead to the real knowledge of the fact. How am I going to be in possession of the files of Bofors? I am not in possession of the files of Bofors. I cannot directly establish the truth. I cannot go into the Submarine deal directly; I cannot establish the truth. . .

18.00 hrs.

PROF. MADHU DANDAVATE : Those files have been nationalised.

SHRI SOMNATH CHATTERJEE : Already the Indian Ambassador has referred to it.

SHRIMATI GEETA MUKHERJEE : Generally, I can create a situation where people will make such a noise that somebody will be forced to get at the truth. Therefore, it seems to me that this Defamation Bill, the way it has been brought and the Clauses which have been included in it, all have a method in madness and that is, sabotaging or suppressing criticism, with the sinister aim of having the atmosphere of corruption well protected by this law. That is the clear meaning of this law. Therefore, I thoroughly oppose it.

MR. DEPUTY SPEAKER : Mr. Namgyal.

THE DEPUTY MINISTER IN THE MINISTRY OF SURFACE TRANSPORT AND DEPUTY MINISTER IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI P. NAMGYAL) : Sir, I propose that we may extend the time of the House for some more time because there are Members from both sides who want to speak . . .

SOME HON. MEMBERS : No, no. (*Interruptions*)

PROF. MADHU DANDAVATE : Sir, the entire Opposition is opposed to it.

MR. DEPUTY SPEAKER : The House stands adjourned to reassemble tomorrow at 11.00 a.m.

18.02 hrs.

*The Lok Sabha then adjourned till
Eleven of the Clock on Tuesday,
August 30, 1988/Bhadra 7,
1910 (Saka).*