

Central Government draws up some phased plan to revive the dying industries, particularly jute, which is the potential foreign exchange earner. The jute mills need modernisation and diversification. I would urge the Central Government to offer financial assistance to the entire gamut of sick industries and thus ensure more employment to the people of West Bengal.

13.14 hrs.

*The Lok Sabha then adjourned for Lunch till Fifteen Minutes past Fourteen of the Clock*

14.18 hrs.

*The Lok Sabha re-assembled after Lunch at Eighteen Minutes past Fourteen of the Clock.*

[MR. SPEAKER *in the Chair*]

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

AND

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

CONTD

[*English*]

MR. SPEAKER: How do we go about today? I think one side of the case is put before the House. And the other side was also put before the House. But then, the mover of the Motion should reply in detail and time should be made available to him. We have other Members also who would like to speak. The mover of the Motion can reply to the submissions for any number of hours,

depending on time factor. But then, should we have the speeches also from both the sides without limit? It is a legal matter, but it is not purely, simply legal. But then, it is better if one understands the complications..

SHRI MANI SHANKAR AIYAR (Mayiladuturai): I would like to submit that in case there are Members of the House who would like to speak, they may be afforded an opportunity of doing so. I, for my part, would greatly appreciate if the House and in particular you yourself, Mr. Speaker, Sir, were to afford such an opportunity to me. Perhaps there would be other Members too. But I am willing to submit myself to the will of the House in this matter. I thought it should just express my own desire of being afforded the opportunity of being having heard.

[*Translation*]

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Speaker, Sir, I have given the notice in writing.

MR. SPEAKER: That is why I am asking.

(*Interruptions*)

SHRI NITISH KUMAR (Barh): Mr. Speaker, Sir, after listening to him, probably we may also be interested in putting forth our views points. (*Interruptions*)

MR. SPEAKER: He has very carefully stated that

[*English*]

I am submitting to the will of the House.

[*Translation*]

Shri George Fernandes, would you like to speak?

SHRI GEORGE FERNANDES: Yes, Sir.

[English]

SHRI INDERJIT (Darjeeling): As requested already, in case you are allowing Members to speak, I would also like to have the privilege of joining the discussion.

SHRI E. AHMED (Manjeri): Only those Members whose names have been given should be given the opportunity to speak.

MR. SPEAKER: We have 545 Members in the House. If I give opportunity to one Member and then if every other Member wants to speak then it becomes very difficult. We would also like to conclude this matter today itself. That has also to be borne in mind. The best thing to do in this matter is to allow the mover of the Motion to speak and cover all the points which have been made. But, I am leaving it to you.

SHRI E. AHMED: In that case clarifications may be allowed.

MR. SPEAKER: From whom the clarifications can be sought?

SHRI NIRMAL KANTI CHATTERJEE (Dum Dum): Some of us withdraw our right to speak.

[Translation]

SHRI NITISH KUMAR: Mr. Speaker, Sir, it would be better if one Member from each party is allowed to speak.

MR. SPEAKER: In that case there are 21 parties in the House.

SHRI LALK. ADVANI (Ghandhi Nagar): Sir, if we can fix the time say 4.00 or 4.30 hrs for the reply then you can accommodate as many Members as you can prior to that time.

MR. SPEAKER: Somnathji, how much time do you need?

SHRI SOMNATH CHATTERJEE (Bolpur): I need about two and a half hours.

MR. SPEAKER: I would like to ask Mr. Fernandes, how much time he will take.

[Translation]

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, this aspect was discussed yesterday itself. I would like to submit that the counter arguments have more importance than the time factor. So I am not referring to time constraint. Many facts presented here, have only misled the House. Yesterday itself when the Counsel for Justice Ramaswami was speaking here you made it repeatedly clear, that whatever the Counsel has to say, he is allowed to say and there won't be any time constraint. I am not asking for unlimited time to speak in the House. However, whatever is relevant and necessary, I would definitely like to say in the House. I think it absolutely necessary to highlight the findings of the Committee appointed by the former Speaker. I just want to highlight those very things and seek time for all this. (Interruptions)

MR. SPEAKER: No-no. It is not like that.

(Interruptions)

SHRI GEORGE FERNANDES: I think one hour will be required for all this. (Interruptions)

MR. SPEAKER: Others are also to be allowed.

SHRI GEORGE FERNANDES: I will try to conclude as early as possible.

[English]

SHRI JASWANT SINGH (Chittorgarh): Sir, I had really a very brief submission to make but I find after listening to the learned Counsel for Justice Ramaswami, that it has become necessary for me to rebut some of the assertions made by him.

If they are addressed to by others I shall omit them. But, I have re-worked what I have to say and I find that I will not be able to do justice to what I have to do unless I take a minimum of about 40 minutes to 45 minutes.

SHRI MANI SHANKAR AIYAR (Mayiladuturai): I hope I will be able to complete my submission in about 15 minutes to 20 minutes and I will certainly not exceed 25 minutes.

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): Mr. Speaker, Sir, we will give less time to the Congress (I).

SHRI K. P. UNNIKRISHNAN (Badagara): I will also like to make a speech. (*Interruptions*)

MR. SPEAKER: Mr. Ahamad, Mr. V. S. Rao and Mr. Reddiah, please depend on your colleagues. This is a very complicated matter and we know that you would be able to enlighten us. But, there will not be anything which you will gain by saying the same things over and over again. I will allow Members to speak but not allow to cover the same points. Let us be very clear on that point.

SHRI SOMNATH CHATTERJEE: Except me.

MR. SPEAKER: Because as far as the Mover of the Motion is concerned, he will get time. But it is not necessary that each and every one of us in the House should speak. It is not necessary that the same points should be made by the Members again and again. Now, if there is any new point, most welcome, any new aspect, most welcome. But then the rules do not provide. But, they specifically prohibit repeating the points made by the Members. Let it be understood. It is not necessary that each one of us should speak. I think, let us decide that Mr. Somnath Chatterjee, as a Mover, will reply to the debate at 4.30 p.m. Please bear this in mind also. So, within the time available to us, will do it.

SHRI JASWANT SINGH: Mr. Speaker, Sir, I will cut short all the preliminaries. But it is necessary for me to emphasise the momentousness of the occasion and I for one am awed by the majesty and the import of it, as it is the first exercise by us as Legislators, in this our judicial role. I consider it necessary to point out and to underline that. Because, the occasion is path-breaking and precedent-setting, it is imbued with deep historicity. What we do or fail to do today will become archival material to be referred to by successive and succeeding generations of Legislators. It is also necessary for me to very briefly re-assert that this is not an exercise of the judicial role of Parliament, it is not a partisan political activity, it is not routine law-making and it is not at all the usual administrative function along party lines. It is, of course, Sir, not a regional issue of South, North, East or West. It indeed really far transcends such damaging distractions. It is also not an occasion to impute motives, to cast aspersions, to denigrate the moral authority of this sovereign legislative body or in fact more importantly any of the designated instruments of this body of the constituent of it body. For example, a Committee which had been formed by this Parliament under the orders of the Chair and designated with the responsibility of assisting the Parliament.

Sir, it is also, of course not an occasion for us to engage in a universal commentary or a blanket condemnation of the entire judiciary.

I do also find it necessary to very briefly assert that the fate of this Motion is directly linked with the moral health of the nation. Misbehaviour in the executive, indeed even in the legislature, we have known earlier we have dealt with it variously and I am sadly led to believe that we will also have to continue to deal with that kind of misbehaviour and corruption. But the manner in which we address ourselves to the misbehaviour of the judiciary will, to my belief, assist us in correcting the wrongs of the legislature and the executive also.

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I believe this is how I shall endeavour to address myself to my responsibility that in this first ever demand placed upon us as a legislature about the misbehaviour of judiciary, we must be deeply conscious of the gravity of the enormous responsibility that is being placed upon us. That is also why that of course while we cannot condone any misbehaviour, we cannot equally condemn lightly either.

The judgement of the legislature is not arbitrarily arrived at. It is certainly not flippantly discussed and it must not be delivered lightly. That is why I come to what I have to submit. I consider it my duty to caution all my colleagues that we, as legislators, on this occasion, for the first time, are being tested not in our legislature role that in our judicial role. If we found wanting or being any less than justly, but unequivocally against misbehaviour, then, we, would, of course, be injuring ourselves, but, in the process, we would certainly be causing grave injury to the nation.

The learned counsel for Justice Ramaswami very broadly made observations which I will very briefly refer to. He referred to the inadmissibility of the original Motion because of certain figures. He also referred to the Speaker not having engaged in the setting up of the Committee proper with proper consultation, and he suggested that Parliament is not bound by the Committee report. And then he addressed himself to the specific charges against Justice Ramaswami very broadly not exhaustively. His submission being that the charges were trivial, that evidence was either not led or that the evidence was perverse or it was misrepresentative. Hence, it was wrongly interpreted. He admitted that Justice Ramaswami chose not to appear before the Committee being apprehensive of prejudice. In consequence, he suggested the inquiry was vitiated and charges not proven. He led certain new evidence and he referred to certain legal aspects about investigation, etc.

I think it is necessary for me to submit to you what I think we are seized with I am very simply putting it the question; and I put this in the context of the submission made by the learned counsel for Justice Ramaswami. We are seized with the question of removal from office of a judge of the Supreme Court; we are seized of that question on ground, which can only be two; the Constitution speaks of only two grounds for removal and they are proven misbehaviour or incapacity. I am not going to read out Article 124 (4) or Article 124 (5) because I am sure it has already been done so by very eminent colleague, who is much more able in this field than I am. Mr. Somnath Chatterjee will cover this much more adequately.

There are, I submit, only two grounds on which this legislature, this body in its judicial role can apply itself to the question of removal and those two grounds are either incapacity or misbehaviour.

Article 124(4) and 124(5), also the Judges Inquiry Act of 1968 and the Judges Inquiry Rules of 1969 are our guide-posts in that regard. This is a consequence of our adoption of the Constitution. We have set up certain procedural barriers so that, as I submitted, the deliberations of the legislature are not flippant, are not lightly taken. These barriers that we have adopted for ourselves have been pointed out by my good friend hon. Shri Somnath Chatterjee when he made his first submission. But it is necessary to say that before the adoption of the Constitution, what existed before it was the Government of India Act of 1935 and there is the only one earlier known case of the removal of a justice and that too by a Federal Court because then what was needed was simply investigation by the Federal Court.

The Federal Court submitted a report to the Government and in this case, in 1949 Justice Sinha was removed. It is necessary for us to recollect that the Federal Court inquired in 1949 into 5 charges against Justice Sinha and out of these 5 charges brought against the Judge, as was pointed out, 4 were not established. Only

one charge was established out of 5. An order dated 22 April 1949 passed by the then Governor General of India accepting the report of the Federal Court and removing Justice Shiv Prasad Sinha from the office of the Judge of the High Court of Judicature at Allahabad said:

"After giving the most anxious consideration to the matter, in view of this being the first case of its kind in the history of the Indian High Courts, I, Chakravarty Rajagopalachari, Governor General of India, accept the above report of the Federal Court, etc.."

That was in the April of 1949. I am struck by the importance of our deliberations from April 1949 and now in May 1993 when for the first time we are having to undertake, to discharge that responsibility, but after the adoption of the Constitution and all the various successive barriers of scrutiny and checking and rechecking, I would not go into all those. I shall also not go into the observations made by late lamented Justice Savyasachi Mukharji, which are quoted in the Committee's report and which were quoted by my friend Shri Somnath Chatterjee.

I need only draw your attention to what late Justice Savyasachi Mukharji observed. He advised Justice Ramaswami to desist from discharging judicial functions etc. So that investigation could be proceeded with and to please be on leave. Why did he do so? Because he felt that the Supreme Court must uphold the rule of law. It is therefore, necessary that those who uphold the rule of law must live by law and Judges must therefore, be obliged to live according to law. The law of procedure and the norms applicable in this case enjoin that the expenses incurred by the courts for the Judges must be according to the rules, norms and practices and so on.

He explained why he was persuaded to advise a brother Judge to not appearing on the Benches other to take the action that he suggested to take.

I will not go into the aspect of certain very prominent jurists of the country and the Press of the country being seized of it, the jurists expressing their views. I shall also not go into the aspect of a certain number of Members of Parliament being seized of the matter, addressing a Motion to the Speaker, the Speaker finding the Motion in order and all the subsequent chain of action that was then set in motion including the setting up of the Committee.

It is, however, necessary to point out that the Committee as was then constituted comprised and I find it necessary to mention it of Hon'ble Justice P. B. Sawant, a sitting Judge of the Supreme Court of India, it comprised Hon'ble Justice P. D. Desai, a chief Justice of the High Court Bombay and it comprised Hon'ble Justice O. Chinnappa Reddy, who was a former Judge of the Supreme Court and was included in the Committee as a renowned jurist, so that other than purely members of the judiciary, a jurist also be there. That is why I have found it necessary to read out those names.

What are we engaged in and what are we not as a legislature? I submit, Sir, that this legislature in its judicial role is not an appellate body. The findings of the Committee should somebody be aggrieved with the findings of the Committee cannot appeal to in this legislature when this legislature engage itself in the judicial role.

Secondly, of course, this legislature when it is engaged in the judicial role must examine the findings of the Committee, but it cannot and it must not go behind the findings of the Committee, or behind the records of the Committee. It cannot begin examining, taking fresh evidence or it cannot begin to unravel the entire arrangement or methodology adopted by the Committee or the evidence taken by the Committee.

Thirdly, we are in our judicial role not judging incapacity.

Fourthly and this is our task this legislature in its function and responsibility and role which

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is judicial, is to look at misbehaviour and misbehaviour only. We are to look at misbehaviour, we are to look whether that misbehaviour is proven and we are to look whether that misbehaviour is such as to warrant removal. This is the task, that is the responsibility that is before this legislature.

I will, therefore, devote some time to submitting to you, what I think is misbehaviour and that I think the principle preoccupation of this Parliament ought to be today when addressing itself to examining the question or the Motion for the removal is you must examine, only against the litmus paper test of misbehaviour.

I will not quote Article 124(4) or Article 124 (5). I shall also not quote the Judges (Inquiry) Act, because they have been quoted.

I do, however, find it necessary to point out that in the entire submission made by the learned counsel for Justice Ramaswami, not at one point has he addressed himself to at least to the best of my recollection, and I sat here through most of his representation to the Parliament it is possible that when I went out he might have said so but to the best of my recollection nowhere in his six-hour long submission did he address himself to rebutting to answering whether the conduct of Justice Ramaswami falls within the purview of misbehaviour or does it not fall within that purview.

Therefore, I looked at Justice Ramaswami's own submission made to you, as a Speaker of the House. And only at two places I could find that. It comes somewhere in between the sentences of page 17, Volume III second paragraph. He says:

"Can this ever be 'misbehaviour' as contemplated under article 124(4) of the Constitution? Can a sitting judge of the superior judiciary be sought to be removed on grounds of

'misbehaviour' on a finding that I should have, as Chief justice purchased silver plated maces instead of silver maces? And if such a finding is recorded, can it ever be said that the members of the Committee were dealing with me fairly and justly.."

Then, he goes on to refer to misbehaviour. Again the only other time that he does refer to is on page 21, second paragraph. Here it is proved misbehaviour. That is the critical requirement. Proved misbehaviour is not the requirement, for example, in case of a civil servant. Here proved misbehaviour is what required. Here Justice Ramaswami is attempting to answer the first requirement and he says:

"to frame the definite charges, I say so because article 124(5) of the Constitution uses the words 'investigation and proof of misbehaviour'. The act of 1968, according to my belief, provides methodology of how misbehaviour has to be proved, but does not stipulate the procedure for investigation."

This was the point made by the Counsel also, but briefly, yesterday about procedure for investigation.

Sir, I will make just one more reference to Justice Ramaswami's submission. That is on page 22. It is on the top of the second paragraph. When he makes the submission, he says:

"proof required for these proceedings for his removal is proved beyond reasonable doubt."

I think, these are important aspects to be addressed to because this is critical; this is central to our entire concern and indeed our responsibilities. Therefore, I will dwell little longer on this aspect of misbehaviour. Firstly, what is 'misbehaviour'? Therefore, we have to be clear in our mind about the meaning and interpretation of 'misbehaviour'. I searched all over and I must candidly admit that the Committee has addressed this question very adequately. I quote page 42, paragraph 72:

"The word 'misbehaviour' is not defined in the Constitution and rightly so because it was obviously thought undesirable to confine it to a strait-jacket formula. It is an expression which has to respond to the "felt necessities" of the situation."

Sir, I am covering every aspect of this 'misbehaviour'. The second is about the definition, what is 'misbehaviour'. Again I am referring to paragraph 72, which says:

"Misbehaviour by a Government servant would certainly mean a lapse by him from the proper standard of conduct in the discharge of his functions as a Government servant.."

It reflects again on this very same paragraph. It says:

"Every dishonest act of a Government servant including acts by which he uses his position for enriching himself or others would clearly amount to misbehaviour."

Then, there is an answer here to some of the points raised by Justice Ramaswami and his counsel.

"The attack on the validity of the Inquiries Act on the ground that the word 'misbehaviour' is vague must therefore fail".

"The word 'misbehaviour' when employed in respect of holders of high offices has a well-understood and well-defined meaning according to the tradition and standards maintained by the members of a particular service or office."

This is the meaning. I have covered only very briefly the aspect of the meaning and interpretation of what is 'misbehaviour'. But, it

has to be proved misbehaviour because that is the Constitutional requirement.

May I draw your attention to para 76, page 44:

"The expression 'proved misbehaviour' in our Constitution has perhaps been borrowed from the Australian Constitution."

This the Committee further examines. Please see page 45.

"Misbehaviour is limited in meaning in section 72 of the Constitution to matters pertaining to-

- (1) judicial office, including non-attendance, neglect of or refusal to perform duties; and
- (2) the commission of an offence against the general law of such a quality as to indicate that the incumbent is unfit to exercise the office.

Misbehaviour is defined as breach of condition to hold office during good behaviour. It is not limited to conviction in a court of law."

I leave the thought with you. The word 'misbehaviour' was used not to suggest the proof of an offence. Now, I come to para 78:

"To determine whether or not an act or a course of conduct is sufficient in law to support an impeachment, resort must be had to the eternal principles of right, applied to public propriety and civil morality. The offence must be prejudicial to the public interest and it must flow from a wilful intent or a reckless disregard of duty to justify the invocation of the remedy. It must act directly or by reflected influence react upon the welfare of the State. It may constitute an international

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violation of positive law, or it may be an official dereliction of commission or omission, a serious breach of moral obligation, or other gross impropriety of personal conduct which, in its natural consequences, tends to bring an office into contempt and disrepute."

"Furthermore, an act which is not intrinsically wrong may constitute an impeachable offence solely because it is committed by a public officer. The official station of the offender may also, to some extent, affect the impeachability of his offence. For example, a judge must be held to a more strict accountability for his conduct than should be required of a marshal of his court, and this discrimination in official responsibility permeates through all the gradations of official rank and authority."

Very briefly, 'misbehaviour' is the antithesis of good behaviour. Therefore, when the judge exercises the power and appropriates the emolument of an office, he has thus vitiated, he defies the supreme law of the land.

I will just take a little more time. It is necessary for us to be clear that in the motion of removal motion of impeachment, the motion itself is remedial. But, it is never vindictive. It is a safeguard of the State. The safeguard of the State is indeed its principle objective.

It is disciplinary in its intent rather than being a penal measure.

The third aspect about proved misbehaviour relates to what standard of proof or degree of proof ought to be applied because the learned counsel for Justice Ramaswami spent a lot of time yesterday examining only the charges, the evidence, etc. and to submit that

non of those was proved. What standard of proof is, therefore, ought to be applied?

May I take you to page 50, para 81? :

"On the question of the standard of proof, the Commission made some interesting observations:

The degree of proof required to discipline a Judge is analogous to that required in disciplining an attorney. This degree of proof must be 'clear and convincing'. There must be more than a 'preponderance of the evidence', but the proof need not be beyond and to the exclusion of a reasonable doubt."

Let me, because the Committee addressed itself to this aspect a great deal, then take you to page 59.

MR. SPEAKER: But there appears to be no difference of opinion in what was submitted by the lawyer and what was held to be the degree of proof required in this case by the Committee also. They are of the same view.

SHRI JASWANT SINGH: I am submitting because the impression that was conveyed by the learned counsel for Justice Ramaswami was. (Interruptions)

MR. SPEAKER: That is exactly what the Committee also has held.

SHRI JASWANT SINGH: He has conveyed through the Legislature, through us yesterday, that the evidence tendered to the Committee is vitiated, etc. and that the evidence does not prove.

MR. SPEAKER: That is different. But then the Committee has come to the conclusion that it has to be beyond a shadow of doubt and the lawyer also has said the same thing. The yardstick applied by the Committee is the same. They have come to the same conclusion.



SHRI JASWANT SINGH: The yardstick applied, I submit, is the same but the conclusions drawn are different.

MR. SPEAKER: Yes, that is different.

SHRI JASWANT SINGH: The Committee has drawn a certain conclusion but the learned counsel in his responsibility, of course and I understand has drawn altogether a different conclusion.

MR. SPEAKER: Regarding standard of proof required, there is no difference of opinion.

SHRI JASWANT SINGH: I will then go on, Sir, because there was a point made by the counsel which was about misbehaviour and monetary recompense. It was a submission made by the counsel that if moneys had been wrongly spent and if he recompensated the moneys subsequently, then it is not misbehaviour.

May I draw your attention to page 51?

"Judge Law Motte's case establishes that monetary recompense does not necessarily cure unlawful financial gain and is not sufficient to obliterate misbehaviour!!"

Then I would like to take you to page 59. Here, on page 59, may I draw your attention particularly to a paragraph 96 which is really spilling over from page 58?

One of the questions mooted was and this indeed the counsel also mooted that misbehaviour is set right by monetary recompense. I draw your attention to page 59:

"Mere monetary recompense is not enough if the person intentionally committed serious and grievous wrongs of a clearly unredeeming nature and offered recompense only when discovered."

Second is:

"The illustration to Section 403, Indian Penal Code, makes it clear that temporary misappropriation is also criminal misappropriation."

15.00 hrs.

So, the suggestion by the learned counsel for Justice Ramaswami that when Justice Ramaswami discovered some uncovered bills etc. He immediately repaid, the point is not dealt there. The monetary recompense by itself is not an absolutions of misbehaviour.

I take you and which I consider to be an important point to the ground of non-appearance by Justice Ramaswami or his counsel before the Committee and I would draw your attention to page 55 and the observations there. The learned counsel for Justice Ramaswami spent a lot of time in asserting why he considers the Committee to be vitiated ab initio, he considers that the Committee would be prejudiced, that the Committee would not grant him justice etc. This has been examined in other lines also. But this particular observation on page 53 because the Fifth amendment in the Courts of U. S. A. is an amendment about self-incrimination which is similar if a somewhat more protective device for non-appearance is important. The device adopted or the reason cited by the learned counsel for Justice Ramaswami indeed Justice Ramaswami himself were lack of faith in the capacity of the Committee to grant him justice.

Let me point out.

"The spectacle of a judge invoking the Fifth Amendment is not a pretty one. for a judge owes an obligation to cooperate in promoting enforcement of the law. Unwillingness to fulfil that duty, as shown by reluctance to aid in a grand jury investigation of suspected criminal activity, may properly be

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considered to be evidence of a disregard for this obligation".

Which obligation Sir? A Judge's obligation to cooperate in promoting the enforcement of the law. A judge against whom an enquiry is made is under an obligation to cooperate, and not to raise pettifogging objections to obstruct the enquiry.

I submit that despite no matter what kind of apprehensions the counsel for justice Ramaswami or indeed justice Ramaswami himself might have had about appearing before the Committee, an obligation of a judge is not similar to a commonly charged criminal. An obligation of a judge is in direct relationship or in correspondence equally weight equally with the high office he holds.

There was a point made by the counsel for Justice Ramaswami about the Supreme Court and the High Court and that justice Ramaswami is now in the Supreme Court and what is alleged to have happened actually happened in the High Court etc. Therefore, these do not really apply.

May I draw you to page 57? The end of the first paragraph is:

"The word 'misbehaviour' is not limited to misbehaviour in the office presently held but may in appropriate case extend to misbehaviour in earlier judicial office".

It is very categorical. Therefore, the point made by the counsel about the charges related to his function as Justice of the High Court and now in his capacity of Supreme Court Judge do not apply etc., do not hold water.

I do not want to go into the charges specific, because I am really considering the totality. There were 14 charges. Of the 14, 10 had been proven; two are partially proven; two not proven.

In the case of Justice Sinha as we have seen out of five, only one was proven. It is not the number of charges that are proven. It is also not the quantum of money which is involved, that is of critical importance. It is the misbehaviour attendant upon misuse of office that is important.

Here I would like with your permission to quote just the conclusion of the Committee on page 130, para 242, because that really answers all the questions, all the observations that had been raised by the counsel about the charges proper.

In para 242, page 130, it was stated:

"Justice Ramaswami's conduct, that is, his several acts of omission and commission, reflected in our findings on charges No. 1, 2, 3, 7, 9, 11, 12 and 14 taken together, and in our findings on charges No. 1, 2 and 3 severally, discloses wilful and gross misuse of office, purposeful and persistent negligence in the discharge of duties, intentional and habitual extravagance at the cost of the public exchequer, moral turpitude by using public funds for private purposes in diverse ways and reckless disregard of statutory rules and brings disrepute to the high judicial office and dishonour to the institution of judiciary and undermines the faith and confidence which the public repose in the administration of justice. The acts are of such a nature that his continuance in office will be prejudicial to the administration of justice and to the public interest. The acts, therefore, constitute "misbehaviour" within the meaning of Article 124(4) of the Constitution of India.

Sir, there are just three simple questions I had addressed to myself. one is, is this, on the findings of the Committee, sufficiently convincing for me to come to the conclusion that Justice

Ramaswami is guilty of misbehaviour? My answer is, 'yes' he is.'

The second question that I asked myself is: Is it proved misbehaviour? The answer, Sir, is, 'Yes' it is proved misbehaviour'.

And the third question, Sir, that I asked is. Is it that the misbehaviour of such nature has to warrant removal? And the answer that I came to, Sir, is: 'Yes, it does warrant his removal.'

I have very little else to add, and I conclude, Sir, but before concluding, I will make just one submission and it will not take me more than a minute.

Sir, the first submission that I wish to make is that the right and responsibility of removal of a Judge in the form of a motion of impeachment, Sir, is in essence a measure of ensuring judicial independence. I submit, Sir, that the impeachment prescribed by our Constitution weighs well the evil to be redressed and adjusts the ordained relief to the occasion. It is the expression of the sober will rather than the restive whim of the people. It restrains judicial tyranny without overwringing the authority of the courts. It regulates the conduct of the judges without disturbing the poise and balance of their judgements. It strikes directly at the judicial fault without destroying the judicial independence that is essential to the preservation of our constitutional jurisprudence. This great body of fundamental law must be maintained intact. It absorbs the changing needs of changing times, yet does not change. Upon it the stability and the integrity of our institutions rest. Upon it our civil liberties depend. And without it our republic government could not long endure.

That is why, Sir, in concluding I hereby appeal to the House and to my colleagues in the House that if you agree with me, then it is your bounden duty to support the motion because its rejection would be a dereliction of our responsibility and our duty towards the judicial

role of the Legislature. It would amount to condoning misbehaviour in judiciary; it would, I submit in all humility, taint and enfeeble the nation.

Sir, I support this Motion. In supporting this Motion, I urge all my colleagues to even now recognise the gravity of the situation and to unanimously and unitedly adopt this Motion with one voice.

DR. DEBI PROSAD PAL (Calcutta North West): Mr. Speaker, Sir, today, this hon. House is facing a great and momentous time. The hon. Members of this House should bear in mind that never in the history of this Parliament since our independence a situation had arisen where this hon. House had to consider the conduct of a judge of the highest judiciary.

Sir, sitting as a judge in my life, serving the cause of justice throughout my life I yield to none in this House and outside in maintaining the integrity and independence of the judicial institution. Judiciary, in our constitutional framework, is a very important safeguard against the inroads which the other different organs under the Constitutions might make. Therefore, it is for the safeguard of the constitutional democracy in this country that the judiciary should be given the greatest independence so that they can dispense with justice without any fear or favour, without any illwill or affection. It is therefore, the tenure of the judges, under the Indian Constitution, has been a fixed and a judge cannot be removed either in the High Court or in the Supreme Court unless the procedure as provided for under Article 124(4) of the Constitution of India is followed. This removal of a judge may be necessary, because there are many occasions when a judge might, by his conduct or by his action, not be deserving the position which he occupies. It is because of this reason that our Constitution has provided the very important safeguards against the removal of a judge. And what is that safeguard? Under Article 124 of the Constitution, the notice of Motion which has to be moved, has to be admitted

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by the hon. Speaker after consulting such persons as he may desire think to be fit. It is therefore necessary that if a Motion is to be admitted, it requires a very serious consideration. This Motion was introduced by the hon. Speaker of the earlier Ninth Lok Sabha. It is common knowledge that at the fag end of the Session this Motion was admitted. I do not know whether the statutory requirements have been complied with and the persons who are thought to be fit by the hon. Speaker at that time were all consulted.

Be that as it may, once the Motion has been admitted and enquiry committee has been constituted that enquiry committee undoubtedly is a high-powered committee constituted of eminent judges either sitting or retired. But I do not agree with Shri Jaswant Singh that when the report of the enquiry committee is submitted before the House, we have got to accept it, and it is sacrosanct. This is not the law. Under section 6 of the Judges Enquiry Act, the report is to come before the hon. House for consideration. "Consideration" here has been judicially interpreted as a judicial consideration. The report of the Committee is nothing but a report of the committee consisting of a group of persons, however, highly placed they may be in order to investigate into the charges, investigate into the allegations which have been made. The Supreme Court itself in the case of Saegthi Ramaswamy Judgement in 1992, in Mrs. Ramaswamy case has made it clear that this Committee is only an inquiry committee. It is a statutory committee, not a tribunal or a court whose verdict is binding upon everybody. Like a fact finding enquiry in a disciplinary proceedings, the fact finding authority gives its report. The disciplinary authority might accept that report or might modify it or may reject it. This Committee's report stands on no better position or on a better footing than this and is only a recommendation.

Therefore, when the Committee has submitted the report undoubtedly, it is entitled to

higher respect as it is constituted of very high persons in the judicial office. But this House, as the Supreme Court itself has pointed out, in considering this report is not exercising the legislative power. It is exercising the judicial power and the Members of the House each one of us have to remember that solemn constitutional obligation which has been cast upon the Members of the House. It is not to indulge in passions of prejudices not to be swayed by external considerations but we have got to determine the question with a judicial mind in the exercise of our judicial power, we are all judges in the proceedings today. We have got to decide judicially whether the charges of the allegations which have been made against the hon. Judge of the Supreme Court can be said to have been established. The report of the Committee undoubtedly will be entitled to very high respect but that cannot be sacrosanct, that cannot be binding. It is not a court or tribunal but more fact finding authority.

I may not holding any brief for Justice Ramaswami. I am sitting here. I am now addressing the House as one of the Judges of this court deciding this case and I shall be failing in my constitutional obligation if I do not apply my judicial mind to the facts of this particular case. Therefore, I would beseech the hon. Members not to forget the solemn constitutional duty and obligations which have been cast upon each one of us.

Now the question arises, why Justice Ramaswami did not attend this Inquiry Committee. I am only placing the facts before this hon. House. It is for the Members of the House as judges of this House to take the decision. I am not holding any brief for Justice Ramaswami. But the facts have got to be taken into account.

For any inquiry committee which starts investigation, as the Judges Inquiry Act has provided that they are to set up the committee is to lay down the procedure for holding the inquiry. The procedure has to be evolved and then only

the inquiry may start. I find from the representations made by from Justice Ramaswami that he wanted the procedure to be established first by the inquiry Committee so that if in later times there is any deviation, there is any breach of that procedure, it may be he may seek for redress or justice.

I do not whether Ramaswami was informed of any find that there is no procedure established by the Inquiry Committee. It is a well-established rule of law for any fact finding authority that before any charge or allegation is made, we have got first of all to make a preliminary investigation. Any legal practitioner practising in any court is aware of this elementary proposition of law. If somebody makes any allegation that cannot be the charge on which a person can be indicted. The fact finding authority must have to make some preliminary investigation and on this preliminary investigation, if the fact finding authority is satisfied, that certain charges do stand prime facie then only the charges can be levelled. Now, I do not know. At least from the Inquiry Committee's report, I do not find them.

I find from the representation made by Justice Ramaswami that he wanted certain documents to be placed before him. He wanted certain material evidence to be considered by him. I do not find from the Inquiry Report whether that was made available to him.

I am only placing the facts before the House. Shri Somnath Chatterjee you have not yet read it. Dr. Debi Prosad Pal: I have read it. Mr. Somnath Chatterjee, more than what you have done

SHRI SOMNATH CHATTERJEE: Let us see.

DR. DEBI PROSAD PAL: What conclusion the House will draw, that will be your solemn obligation. I am not defending Justice Ramaswami. But these are the facts

which you must take into account. You are exercising the function of a judge. Can any judge in determining the question the rights, ignore this thing? You have got to consider it. I am only placing these facts before this House which is now playing the role of a judge.

If this is as and if he has not participated in the Inquiry, I do not hold any brief for him but the report of the Inquiry Committee is subject to scrutiny by this House. You cannot accept it as a biblical truth. You, as a judge, has got to consider how far it is acceptable or not.

Now the first thing that you have to consider is, in removing a judge on the ground of proved misbehaviour or incapacity, what are the factors you have got to take into account? The word 'misbehaviour' has not been defined by the Constitution. Shri Jaswant Singhji has rightly said that there is no definition of misbehaviour under the Indian Constitution. The Judges Inquiry Act has also not defined what is misbehaviour. If a particular persons is to be charged with misbehaviour, then the question does arise, what is the standard of indicting him. Misbehaviour has not been defined. It has got to be given a meaning. Under the American law, there is the provision for indicting a judge of the Supreme Court. The allegation is either high crime or misdemeanour. Now if misbehaviour means mere infraction of the law, then suppose a judge is driving a car with the licence which had expired, there is an infraction of the law, would this House consider it to be a ground for removing a judge?

AN HON. MEMBER: Why not?

DR. DEBI PROSAD PAL: When I appeal to your sense of judgement, if somebody says 'why not', then certainly, it will be your judicial conscience; if it is satisfied, then, certainly, you can. But I appeal to this House whether this will mean that this is an infraction of the law. That does not mean that there is a proved

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misbehaviour for the purpose of removal of a Judge from the high office. We must remember that judicial independence also requires that a Judge can be removed only on certain grounds in public interest for the administration of justice. Misbehaviour, as Shri Jaswant Singh has rightly pointed out, means that there must be some unjust enrichment by the Judge by the action or conduct. In other words, there may be a misappropriation of funds; there may be a theft; there may be, for example, the favouring of somebody by the exercise of his office. These are illustrations of misbehaviour. Apart from this, in the exercise of the judicial function of a Judge, his conduct with the litigants, his conduct with the professional people, his conduct with the brother Judges may be such that it may amount to misbehaviour in the exercise of judicial functions; in the exercise of his judicial conduct. But if there is no allegation regarding his misbehaviour in a judicial proceeding or in his judicial conduct, then he cannot be indicted. There may be cases also, undoubtedly, where even outside the sphere of judicial activity, a Judge can also be indicted. But that will amount to a misbehaviour like misappropriation, theft, giving certain favours by under exercise of his office. These are some of the illustrations which amount to a moral turpitude. Unless the misbehaviour is such which amounts to moral turpitude, I would request the Members of this House to consider whether any kind of a misbehaviour will be entitling the House to approve the motion of removal.

Now, what has happened here? I would request the hon. Members of the House to read the Inquiry Committee Report. There is no allegation as far as I find excepting in the concluding portion which is not the finding but it is an opinion. There is no finding by the Inquiry Committee against justice Ramaswami for any criminal misappropriation. There is no finding against him for any improper misappropriation

by misuse of his office. What has happened? The main charge against him was that there has been an expenditure of an amount which is far in excess of what he is entitled to spend. Undoubtedly, But what has happened? The explanation of Ramaswami and that has not been negatived is that a major part of the expenditure of Rs. 1,97,000 and odd has been spent for using a portion of his premises as office. Now, the Inquiry Committee did not reject that contention. The Inquiry Committee did not reject any of the contentions like purchase of curtains etc. There was no allegation of misappropriating it. You must remember one thing. I would like to remind the hon Members of this House about their solemn obligation to be performed. If any of the finding was there, if there was any misappropriation either of the funds or of the property, then certainly it would amount to a misbehaviour for which the hon. Judge can be removed by a motion of this House. But that has not been the finding of the Inquiry Committee. The Inquiry Committee, for example, talked of issue of car which was sent from Chandigarh to Madras. If the conduct rules provide that if you spend certain amount of money in excess of what you are entitled to, that excess amount can be recovered from the person concerned.

Now I appeal to you that you as a judge have to decide today if there is a rule that if an excess expenditure is incurred, the excess can be recovered from the person and the person is agreeable to pay the amount, does it amount to a misbehaviour amounting to moral turpitude? If this amounts to a misbehaviour amounting to moral turpitude, let us search our hearts in that event how. How many Members of this House, how many Ministers in this House, whether sitting or past be occurred of misbehaviour amounting to moral turpitude or not. The rule itself provides for it. The law is, if the rule provides that the amounts can be recovered from the person, then it does not amount to misbehaviour, as. The rule provides for a remedy. If the infraction of the rule provides for a remedy

and if the remedy can be availed of, it does not amount necessarily to misbehaviour amounting to moral turpitude. These are the things which this hon. House has to consider. I was told by the Mover of I should have expected from the Mover of the Motion that he would draw the attention of the House to the specific charges proved. But instead of doing that, he only relied upon whatever the Committee has said. (*Interruptions*)

MR. SPEAKER: Dr. Pal, no comments on what the Mover of the Motion has said.

DR. DEBI PROSAD PAL: All right, Sir. In Sarojini Ramaswami's case the Supreme Court made the legal position very clear. Today, for example, if we without considering whether Inquiry Committee's Report is acceptable or not, we approve of the Motion, there is remedy also. The aggrieved judges can even move the Supreme Court. Kindly consider this important position. If today without examining whether this Inquiry Committee Report is acceptable or not, by the sheer majority we approve of this Motion and if the whole matter goes to the Supreme Court, the Supreme Court finds that there is no finding of the Inquiry Committee, no charges are against him regarding proved misbehaviour then this decision of the august body which is the Supreme body in this country, will be liable to be quashed, liable to be set aside. Shall we by our conduct or by our action indulge in such a situation where without consideration of how much of the Report is acceptable, as a judge of this court we are now assuming the role of a judge if we do approve of this Motion without even considering and merely dittoing what the Inquiry Committee has said, we shall be failing in the discharge of our constitutional obligations. And if the matter comes before the Supreme Court challenging our decision of the Supreme Court by a process of judicial review finds that there is no finding of the charges, then what will happen to the decision of the august body? The people have reposed their highest confidence in us. Then are we shall be failing in our duty?

The Judges Inquiry Act under Section 6, Sub-section (2) requires the consideration of the Inquiry Committee's Report. The consideration is a judicial consideration. It has been held by the Supreme Court itself. A judicial consideration postulates and requires the consideration from all its aspects. Whatever the Committee has said. Therefore, I will beseech you I will implore this august house that we must not fail in the discharge of our constitutional obligations by not applying our judicial mind and by proceeding blindly on the basis of report of the enquiry Committee. The Judges cannot speak before the people and they are undoubtedly under a disadvantage. When an allegation is made against the judges, they have no right to speak to the Press or in any other mode except in a proceeding like this. He can defend himself through his counsel or himself. Therefore, whatever defence he has made, I am not saying that you accept it in toto. I am not saying that you reject it in toto, I may say one that this august House shall apply its judicial mind. Please be not be sweeved by political considerations, please not be swayed by passions and prejudices. We are now standing at a very critical point. If constitutional democracy is to be safeguard, if the independence of the judiciary, is to be maintained we are also to see that the judges are not likely liable to be dealt by any extraneous considerations. You must remember that whatever you do today, we shall be answerable for that to the future generations. If we do not discharge our constitutional obligation in the manner in which the framers of the Constitution wanted it, then, there will be a serious lapse on our part.

And, therefore, I beseech this House kindly to bear this in mind. If you find on your own judicial application of your mind that there has been any proof of any misconduct by Justice Ramaswami, you can take a decision undoubtedly. But the proved misbehaviour does not mean that whatever the Inquiry Committee

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has said, that has become the proved misbehaviour. Under the Constitution, the Enquiry Committee makes a report and Parliament considers it. When you consider it after applying your judicial mind and when this motion is adopted, then only this misbehaviour becomes a proved one. Prior thereto, there is no scope for the misbehaviour to have been proved.

I would, therefore, Sir, request this hon. House that when it exercises its judicial mind, it should exercise it with restraint, with circumspection, also keeping in mind that the dignity of this House lies not in the wanton exercise of a highest power vested in this House but in the restrained way in which it exercises that power because the people of this country, the people around the world are watching with great interest, how we discharge our constitutional obligation.

[Translation]

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Speaker, Sir, although I usually speak in Hindi in the House but on this issue please excuse me I will speak in English as all the documents pertaining to the issue are in English.

[English]

MR. SPEAKER: Your speech in English will also be translated in toto.

SHRIGEORGE FERNANDES: Thank you, Sir.

Sir, I believe that it is necessary for us to remember that the Motion or the Notice of Motion that was given on the 27th of February, 1991, did not originate on that day. The subject that is being debated by us, namely, the conduct of the judge of the Supreme Court which has been

investigated by a Committee of three judges, was first discussed in the national media in may 1990.

Thereafter it figured in the Supreme Court. On the 20th July 1990 the then Chief Justice of the Supreme Court made a statement in the open court where he referred to the controversy that was raging in the Press on which when the distinguished members of the Bar, including the president of the Bar Council had approached him, had waited upon him in a delegation, in a deputation and went on to suggest that some action was called for, he made a comment which I think this House should bear in Mind. He said "this was an unprecedented and an embarrassing situation. It called for caution and establishment of a salutary convention. I have obtained from the Chief Justice of the Punjab and Haryana High Court the necessary papers." Thereafter the Chief Justice went on to appoint a Committee of three judges of the Supreme Court- Justice Flay, Justice Shetty and Justice Venkatachaliah. They were asked to investigate into those charges that were being made, some of the papers that had become available and give a report. In the meanwhile the Chief Justice had requested Justice Ramaswami to desist from attending to his work. This Committee was appointed on the 29th of August 1990 and the Committee gave its report on the 6th of November 1990.

As I said earlier, the notice of motion for impeachment surfaced in this House on the 27th of February 1991. Yesterday the Counsel for the Judge, Justice Ramaswami, spoke about 108 Members; anyone going to them and asking them to sign it..

MR. SPEAKER: I have removed it from the records.

SHRIGEORGE FERNANDES: I am glad that you have done it. I will make a reference to the limited point that an effort was made to malign the Members of Parliament. This has



nothing to do with the side of the House that we sit. The message that was given was that Members of Parliament can be persuaded to sign on any piece of paper on the basis of which one can even proceed to impeach a Judge of the Supreme Court. It was not just a piece of paper. It was not someone going around and asking Members of Parliament to sign it. There were documents and those who signed this particular motion were aware of the existence of those documents and many of them had gone through those documents. What were those documents? They were not statements published in some papers. Very often we stand up in the House and say that Papers have said this and someone from some other side of the House or from the same side of the House disputing what the Papers have said.

Here, one was not dealing with the newspapers have published, photocopies of something that had appeared in some newspaper or the other. The report were with the Members when this notice of motion was given; and the reports that were submitted to the Speaker of the House to whom the motion was addressed included (1) the statement of the Chief Justice in the Supreme Court; (2) the report of the three Judges of the Supreme Court — Justice Ray, Justice Shetty and Justice Venkatachaliah. It is a long report running into some twenty plus pages; (3) the findings of a Committee of District Judges (Vigilance) that had been appointed by the High Court of Punjab and Haryana; and the audit observations of the Accountant-General of Haryana, which had made a number of charges responded to the replies of the Judge to those charges; and then gone on to make further comments. Now the Accountant-General of a State works under the Jurisdiction of the Comptroller and Auditor General of this country. And these reports were with the Speaker. I am making this point for a variety of reasons because the decision of the Speaker was challenged not only by the Counsel, but it has been challenged by Justice Ramamurthy. (*Interruptions*) I am

sorry, Justice Ramaswamy. I do not know, I am constantly taking the name of Ramamurthy.

He challenged this. He challenged this in a language that is most offensive, through a letter running into 18 pages addressed to Justice Sawant who was the Presiding Officer of the Committee that was appointed by the Speaker. He says this, Sir, I told you that I need a little time because these points need to be brought to the notice of the House.

He goes on to say:

“The factum that 108 Members of the Lok Sabha signed the motion is not per se a ground for its admission. Section 3(1) requires the hon. Speaker to make a preliminary enquiry and apply his mind to the material on record before admitting the same.”

And the Speaker had all this material; and I am unable to believe that Justice Ramaswamy was not aware of this fact. And I again repeat Sir, that I am unable to believe that Justice Ramaswamy was not aware of this fact that the Speaker had this material before him, that he had gone through that material. He must have gone through that material, if not has gone through it; but he must have gone through it. And thereafter, he acted on the basis of the law that was enacted by this House. I was amazed to hear what Mr. Pal had to say. He has been a Judge, apart from having a Doctorate in Law. He has been a Judge of the High Court and I was amazed to hear, and I was amazed with what the Counsel for Justice Ramaswamy had to say yesterday. I was also amazed with what Justice Ramaswamy repeatedly has told the Committee through letters or his lawyers because he has been invariably acting through proxies. What they had to tell the Inquiry Committee? The Speaker should have made enquiries, the Speaker should have consulted various people, the Speaker should have approached the Supreme Court Chief Justice, the High Court Chief Justice.

[Sh. George Fernandes]

Sir, the law is very clear. We enacted this law.

The law says:

"If a notice is given of a motion for presenting an Address to the President, praying for the removal of the Judge signed, in the case of a notice given in the House of the People, by not less than 100 Members of that House,..."

"then, the Speaker or,....may after consulting such persons, if any, as he thinks fit..."

It is in the hands of the Speaker whether he needs to consult anybody, whether there are people who he believes he should consult.

"...and after considering such materials, if any..."

Again, in other words, it is even envisaged in this law that when you make a motion, this law at least takes it that you may not even have given any supporting documents. He may just be making a statement.

Therefore, it says:

"...such materials, if any, as may be available to him, either admit the motion or refuse to admit the same."

It is the Speaker's absolute power. No one will be in a position to question that power. Nobody will be in a position to question that power. How he uses his power, it is for the Speaker to decide. The person who sits in the chair of the Speaker is the custodian not only of the rights of the Members of this House but he is also the custodian of the Constitution, of the

laws. Once the office of the speaker takes a decision on this, that is the decision.

Supporting the Speaker had said 'no'. On the basis of the materials before me, on the basis of the discussions I have had with persons, if any, that I thought I should consult, I will not admit it. What would have happened? Could the 108 Members stand up and say here that we insist on you on you to admit our motion. Speaker's is absolute and final decision.

Again Justice Pal I call him Justice Pal because he has been a Judge and all Judges are addressed as Justices went on to say. I again repeat, the counsel yesterday kept hammering that Justice Ramaswami should have been given an opportunity before charges were framed against him. He, in this very lengthy epistle, makes that point repeatedly that he should have been given the documents, that the Inquiry Committee has now shown certain minimum decency of showing him the documents. Counsels write letters in which they make allegations in which they make every kind of insinuations and insist on getting documents.

What does the law say? Section 3, sub-section (3) says:

"The Committee shall frame definite charges.."

It does not say 'may frame', or the Committee will first telephone certain people, consult certain others, take directions, take orders from any other authority, from the Chief Justice of the Supreme Court or the High Court as the case may be. It does not say any of those things.

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

Then sub-section (4) says:

"Such charges together with a statement of the grounds on which each such charge is based shall be communicated..."

It means, the Committee is expected to apply its mind before framing the charges. The Committee looks at the grounds which it has secured in any way. In this case, Mr. Speaker admitted the motion, consulted or considered certain documents which have been sent to this Committee. So, the Members of the Committee consulted those documents. They studied those documents. They come to certain conclusions. section 3(4) says:

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

Now Sir, this is the law. And what happens once this chargesheet has been sent and the grounds have been sent? The next thing that happens is this letter of January 21. And this becomes a public document! I was amazed when the Counsel for Justice Ramaswami kept saying here yesterday how the media has been trying the Judge, how unjust the media has been, how he has been facing trial, what kind of ignominy he has been subjected to in the media and so on. but this letter went to the media. This letter went to the press. And it went to the press from the office of the Judge who wrote this letter! In this letter itself he says. The last sentence of this letter is.

"I have no objection if you make this communication public."

In other words, he intends to make it public. And he made it public. It has appeared in the newspapers. How does he start? His opening shot is one of blackmailing his colleague judges. not just his colleague judges, but this opening shot is blackmailing the entire Supreme Court. It is an incredible situation. The man says:

"I never wanted matters to reach a stage where I am left with no recourse."

MR. SPEAKER: That which has not come on the record should not go on the record while pleading the case against the accused.

SHRI GEORGE FERNANDES: I am so delighted that you made that point! I am so delighted because Sir, none of this came on record, Volume III, parts 1 to 3 and those relevant papers, volume 3, part 4, etc... This is where the whole House was taken for a ride yesterday. This is the Motion. This is the Report of the Committee. This is what we received of the Investigation Committee. You Sir, as Speaker, received these documents on the 20th of July 1992. Here Mr. Speaker, this is from Shri P. B. Sawant, Presiding Officer, Committee appointed under the Judges Inquiry Act, 1968. July 20, 1992- 'Secret'. Mr. Speaker, Sir, as you are aware of the notice of motion etc., I will not read it. This is addressed to you Sir, Hon. Shri Shivraj Patil, Speaker, Lok Sabha, on the 20th of July. This is all you received along with, I am sure, volumes of papers which contained the evidence. You did not receive this Sir, do you know Sir, when it has surfaced?

SHRI A. CHARLES: Sir, I am on a point of order. (*Interruptions*)

AN HON. MEMBER: What is this? What point of order? (*Interruptions*)

MR. SPEAKER: Why are you saying that? Should you not be allowed to raise a point of order? Yes, Mr. Charles, what is it?

SHRI A. CHARLES: From the Publications Counter, we received these volumes.

SHRI GEORGE FERNANDES: Sir, he does not know what I am going to say. Should you allow him?

MR. SPEAKER: Let him have his say.

SHRI A. CHARLES: We received Volumes 1, 2, 3 and 4. I want your ruling whether all these form part of the whole Inquiry Report or..

MR. SPEAKER: I will reply to your point of order after I hear Shri George Fernandes.

SHRI GEORGE FERNANDES: This is today's Order Paper, viz. 11 May. I am citing only the order paper because I want to be very specific.

MR. SPEAKER: Do you mean to say that you have not received these papers?

SHRI GEORGE FERNANDES: No sir, I am not saying that. You said that I should not bring in anything as part of evidence if that is..

MR. SPEAKER: I will tell you. The report was received by this Office and then that report was sought by the Judge before it was given to the Parliament. The Supreme Court decided that that report has to be presented to the House first and then if the Judge wants to reply to the report, he may receive the report from the Officer and send a reply to it.

**16.00 hrs.**

Because of that kind of judgement, we sent this report, which was received by us to the Judge to make his submissions and to give his defence. In reply to our letter and the report which was given to him, he has submitted his defence. That defence was also printed because it was voluminous. You know that these are two big

volumes; one is the report and the other is reply. We got it printed and circulated to you.

SHRI GEORGE FERNANDES: I have no quarrel on this. I am making only a limited point.

MR. SPEAKER: Before you proceed, I shall have no objection to anything. I know certain allegations have been made against certain of the persons who were holding the inquiry. So far we have seen that those things do not form part of the record. But while speaking if you wish to bring them on record, and if the House thinks that it should go on record, then I have no objection. So far, whatever has been said we have scrupulously avoided allowing it to go on record.

SHRI GEORGE FERNANDES: Sir, I will be abiding by your decision. May I make a submission before you come to any decision?

MR. SPEAKER: I am not coming to any decision. My intention is not to obstruct you. Supposing somebody is holding an inquiry and something is said against him, why it is necessary that it should become part of the record?

SHRI GEORGE FERNANDES: I would like you to bear with me.

MR. SPEAKER: So far we have not allowed anything to be said against any Judge on the floor of the House, unless he is subjected to the inquiry on the floor of the House. Supposing the Judges are sitting there as the Members of the Committee and supposing somebody has said something against them, would you like that to become the part of the record?

SHRI GEORGE FERNANDES: I need to make several points.

MR. SPEAKER: You have said that some insinuations are heard against them. It is more than enough.

SHRI GEORGE FERNANDES: It is not enough. I think we have been discussing about the momentous nature of work that we are doing. Personally I do not subscribe to the idea that there is anything momentous. We are doing our duty. We are not sitting here, as somebody said, as judges because I am one of those who went to court.

MR. SPEAKER: On this point my ruling is that we are performing semi-judicial function.

SHRI GEORGE FERNANDES: I bow to your decision. We should know about the person who has come before this House with this voluminous paper which has been quoted here yesterday. The entire presentation which has been quoted yesterday was nothing but a recital of what is contained within the two covers of this paper. There was nothing else. One should know what the person is who has presented this paper, who has come to the House and has said- I will read the very first sentence of Justice Ramaswami's letter to the House:

"For years I have been deciding fate of others. Today it is your turn...."

MR. SPEAKER: Let us once for all decide this issue and I will leave it to you. I am not objecting to your saying anything against Justice Ramaswami, against whom or in favour of whom or in whose case, we are sitting here to take a decision. I have no objection. But supposing some of the person or Justice Ramaswami also said something against the Judges who were sitting in the Committee and during your speech it comes on record. I would rather not like to have that thing or record through you also.

SHRI SOMNATH CHATTERJEE: At least Shri Sibal spared us on that, he did not refer to it.

SHRI LAL. K. ADVANI: In the report of the Committee itself there are allegations made by

a Judge against the judges and it is on record. The Judicial Committee is fair enough even to incorporate the objection made by Justice Ramaswami that Prof. Madhu Dandavate, the principal signatory to this nation had attend the marriage of Desai's daughter or son. All these allegations are there on record. Yesterday, what we heard from the Counsel of Judge. All that he said against the Judge is on record here. Yesterday, we heard from him a peroration which amounted to the fact that the entire judicial inquiry, investigation conducted was a farce. He described it as a farce. Sir, he used the word 'farce'. That is the sum and substance of it. It is, therefore, I think that what is being cited by Mr. George Fernandes is very relevant under this. *(interruptions)*

MR. SPEAKER: Is it the wish of the House that the matters of this nature should go on record?

SEVERAL HON. MEMBERS: Yes.

MR. SPEAKER: Okay. You go ahead. Pleas. Now, if something is coming on Justice Sawant or Justice Desai or Justice Chinnappa Reddy..

*(Interruptions)*

SHRI LAL. K. ADVANI: Sir, today, we are discussing the conduct of Justice Ramaswami.

MR. SPEAKER: This is exactly what I have said. You can say anything against Justice Ramaswami but not against those people who were sitting there in the Committee to decide.

SHRI SOMNATH CHATTERJEE (Bolpur): Mr. Speaker, sir, it is a fact that there is some reference in the Report of the Committee. But the fact is that when Mr. Justice Ramaswami appeared here, through his Counsel, his Counsel did not raise or take that plea at all. Therefore, obviously, he has given up that objection about

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the composition of the Committee. Therefore, the earlier objection taken by him is no longer persisting with that objection. Therefore, now, according to the present stand of the Counsel, there is no real objection to the composition of the Committee. So, there is no reason for not appearing before it. (*Interruptions*)

SHRI GEORGE FERNANDES: Sir, I will not bring any name here. I will not read the entire letter. If you suggest that I should not make this entire letter a part of the record, Sir, I bow to your decision.

MR. SPEAKER: I am not shielding. I am not speaking in favour of Justice Ramaswami. Justice Ramaswami's conduct is being discussed here on the floor of the House. Whatever you want to say, you can say. But if you want to say against Justice P. B. Sawant, Justice Desai and Justice Chinnappa Reddy or whatever others have said, and you want to quote them here, should that go on record?

SHRI GEORGE FERNANDES: No.

MR. SPEAKER: I am again putting it to you. If there is anything said by Justice Ramaswami, against Justice P. B. Sawant, Justice Desai and Justice Chinnappa Reddy, should that go on record?

SHRI GEORGE FERNANDES: I will not say anything. (*Interruptions*)

MR. SPEAKER: I am leaving it to the judgement of this House. I am not taking it on my own.

SHRI GEORGE FERNANDES: Sir, even if there are matters which touch on the character of certain persons and so on, I will not deal with them. I will not bring them on record. I will only point out how the Judge has reacted to this whole

Inquiry. This letter is in response to the communication that he received from the Inquiry Committee. What does he say?

In the very opening lines of the opening para, he says:

"I never wanted matters to reach a stage, where I am left with no recourse to question the credibility of some of those who man this great institution, that is, the Supreme Court, by demonstraining lack of rectitude and integrity. I never wanted to wash dirty linen in public. Even in this age, I will not indicate all that I am aware of, as to me, the institution is more important than the men who serve it. I am pained, however, to note that what has transpired ever since my persecution, has left me beleaguered and that men and event, during this period have treated me unfairly."

MR. SPEAKER: This is perfectly all right. This can go on record. Mr. Advani, you have not probably followed what I had said. I was saying something different. Please continue.

(*Interruptions*)

SHRI GEORGE FERNANDES: I will show this document to you later.

MR. SPEAKER: This is perfectly all right. You go ahead. There are certain other things which Mr. Somnath Chatterjee has followed.

SHRI GEORGE FERNANDES: Sir, I will give this document later.

MR. SPEAKER: I don't need it. Let it go on record.

SHRI GEORGE FERNANDES: There is a material in this which I will not use.

MR. SPEAKER: That is exactly the point.

*(Interruptions)*

And you will find that have said that I am not using it.

MR. SPEAKER: Now you have the sanction of the House. Let it go on record.

SHRI GEORGE FERNANDES: Thank you.

SHRI RAM NAIK (Bombay North): As judges, we must know what is there?

MR. SPEAKER: If that is your pleasure, you can have it.

SHRI GEORGE FERNANDES: I may point out this particular observation which contains in this letter which was published, which is a matter of contempt of court case that is pending in the Supreme Court. Then he goes on to say how this whole Committee that was set up was not right. He writes to the Presiding Officer and says as follows:

"I would have thought that for the choice of the judge of the Supreme Court and of the Chief Justice of one of the High Courts, the normal convention of referring the matter to the President of India and thereafter with the concurrence of the hon. Justice of India appointing two members as referred to ought to have been followed."

The Speaker's decision is questioned; but it does not remain there. He further goes on to say as follows:

"The reason which necessitates the requirement of meticulously following this procedure is to ensure that the

choice of the person concerned is not left to the hon. Speaker himself so that no allegation could ever be made that concurrence of a particular person is required for embarking upon an inquiry. It is a constitutionally acceptable principle that the hon. Speaker should have no direct access in the matter of appointment of this nature to pick and choose members of such committee by name and of his choice. The choice of the two members of the committee therefore is vitiated on account of non-conformity with the above mentioned practice and convention."

He displayed ignorance of the law under which this particular appointment was made. Then he goes on to ask the Presiding Officer as follows:

"Tell me the manner in which your appointment was sought. How you were taken into confidence and the manner in which you conveyed your concurrence to the hon. Speaker."

He has given his charges. This is his response. *(Interruptions)* This is very important. The matter does not rest there. Then he goes beyond that and challenges the very virus of the Act. The very law under which the Committee was appointed was challenged. He says as follows:

"I wish to inform you also at this stage that no Chief Justice of a High Court is entitled to be a member of such an Inquiry Committee and conducts proceedings against the sitting judge of the Supreme Court. Section 3(2) of the Act, 1968, to the extent it allows, is unconstitutional and violates the basic structures of the Constitution. The constitution of this Committee in this regard also is *per se* illegal."

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So, he rejects the Committee. He rejects the Members of Parliament's wisdom. He rejects the Speaker's judgement.

Now, I come to a very important point which has been repeatedly mentioned here yesterday; and I was surprised again Dr. Debi Prasad Pal referred to it just a while ago that documents were not made available; and we are trying a man who has been knocking at every door wanting documents.

Now here is the clinching evidence if any one needs any evidence. He says in this letter on page 14 as follows:

"Since I am discharging my constitutional functions as a Supreme Court Judge. I have hardly had any time to meticulously go through the material that has been forwarded to me."

And yesterday we heard here so much of eloquence which impressed so many people, that nothing was given, not a piece of paper. He had to go to the court. He was called on Saturday. The lawyer went and he was not given anything and there he writes:

"I have hardly had any time to meticulously go through the voluminous material that has been forwarded to me. Indeed the Committee with the assistance of eminent counsel and able advocates and record has taken several months to frame the charges."

Even now he concedes,

"the charges, after lot of sifting of the material, study of the voluminous documents to read, which he does not have the time, the charges have been framed. I am little surprised that the

Committee chose to ask me to produce my evidence by February 10, 1992 so that the proceedings may commence, giving me hardly 25 days to prepare my case. This is, of course, consistent to the attitude of bias of the Committee against me."

If he were only to stop there, then one could have understood the pain, the anguish, the concern, the worry and all other feelings that must have gone in his mind.

But subsequently, he says:

"The framing of charges by the Committee itself suggest a complete non application of mind."

Now he says there is no application of mind at all. He said you had all the assistance and so much of time then he says non application of mind.

"You have reproduced the allegations forwarded to the Speaker on the basis of which the notice of motion was admitted..."

and then

"On a general scrutiny of the charges framed against me as well as on the basis of that the charges are framed, I will be able to demonstrate that each of the charges that have been framed is entirely baseless and that you have in fact, not even considered the documents in your possession before framing the charges which further reflect upon the complete non application of mind.."

The he gives a remarkable proposition which I will refer to later but he goes on to pronounce:



"In these circumstances, the very constitution of the Committee is illegal and on various grounds as enumerated by me, you are obliged to resign from the Committee and or withdraw the notice communicated to me on January 14, 1992."

He has pronounced this judgement on the Committee and lastly, in the last paragraph he says:

"The present communication by me to you as Presiding Officer should not be construed as my having submitted to your jurisdiction. Indeed it is unthinkable that I would in the context of what I have stated over, consider myself emanable to your jurisdiction."

This letter is of January 21, 1992. Therefore, when you refer to this particular document that he has now produced here, I have very strong views on this.

The views are that yesterday when this document was the only thing that was cited in this House, what was sought to be done, something that is not done, that he yesterday reading the evidence first said "I will not accept this Committee", he rejected the Committee, he refused to acknowledge that it was even legal, that it was legitimate, that it was legitimate. He refused to acknowledge the vires of the law itself. He challenged the very constitutionality of the law and having done all that, having boycotted the Committee in every sense of the charge, then he finally when the report reaches him, pointed out that it went to Justice Ramaswami through the Secretariat of the Parliament. When the report goes to him and when it becomes obvious that this report will now be debated here, this reply from Justice Ramaswami comes to us on January 31, 1992.

This document, this report, was tabled in this House on the 15th of December, 1992 and then six weeks later we get this voluminous reply, in which the evidence that is now submitted to us has nothing to do with what was submitted before that Committee. I could have understood Justice Ramaswami going to that Committee and submitting all that rests between these two covers, of this document, everything that he wanted to say in his defence. But he chose not to do it. But if I read this letter, it is only to make the point that from the word 'go', Justice Ramaswami was very clear that he would non-cooperate with this Committee.

Yesterday, a lot was mentioned about the various courts in the world, how the Americans treat their Judges and how they treat their respected Judges. I draw your attention to page 53 of the Report of the Inquiry Committee.

On page 53, in paragraph 85 a particular case is cited.

"The spectacle of a Judge invoking the Fifth Amendment is not a pretty one..."

and we know what the Fifth Amendment is about, that is, refusing to testify! So, the spectacle of a Judge invoking the Fifth Amendment is not a pretty one. Paraphrased, it could be read in the context of this case that the spectacle of a Judge refusing to appear before a Committee is not a pretty one.

For to continue the quotation,

"...for a Judge owes an obligation to cooperate in promoting enforcement of the law."

And if you look at the Constitution, all of us take an oath when we come here, some of us have to take more than one oath before coming here. That is, we go before the Returning Officer

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and also take an oath and each one of our respective oaths have different words, and different connotations.

In the case of a Judge, the oath or affirmation to be made by the Judges of the Supreme Court and the Comptroller and Auditor-General of India it is in the Third Schedule says:

"That I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the laws."

It says "and the laws"! We are expected to do our duty to the best of our ability. We also owe allegiance to our Constitution in our oath. He is expected to do his duty by the Constitution and by the laws. And here is a Judge who refused to go before a Committee, duly constituted by the law. And then says this does not stop here, this particular citation does not stop here on page 73, it says:

"See In Re. Sarishn."....various reference of the American court are given,

"...holding that a Judge's refusal to answer question by a removal proceedings constitutes cause for removal."

So, even if all that was said yesterday here were true, which it was not, if all that we heard for almost six hours were the Gospel truth, which was not, the mere fact that Justice Rajendra Prasad failed to appear before a Committee constituted by you, Sir, by the Speaker, is, under the law of the land, if one has to fall back on case law, on an universally accepted case law, because this

applies to a worker if an employee of a company or any factory or a worker, refuses to accept a charge-sheet, or having accepted it because he has no option, refuses to go before an inquiry committee, then his services will be terminated or are being terminated and the Supreme Court itself has held that if a man finds it proper not to defend himself, when he had an opportunity, then he has no business to come and waste our time here.

And if we are sitting in whatever capacity, then he had no business to come and take our time yesterday. He had absolutely no right to take our times yesterday.

Sir, I will now like to deal with some aspects of the charges and counter charges. Before I refer to the report, I would like to refer to the findings, on the basis of which some of the Members of this House chose to give this notice of motion. I have here with me the letter from the Accountant General, audit, Haryana, Chandigarh dated 6.9.90, which is a part of the record, addressed to the Registrar of the Punjab and Haryana Highcourt, Chandigarh. Some of the charges were figured here. I will not deal with telephone problem because yesterday everything was sought to be very trivial. Mr. Sibal has said:

"You are treating a Supreme Court judge as some Lower Division Clerk." I do not know why the law should be different for the two. I do not subscribe to this. Let me make my point very clear. I refuse to accept that there should be one law for judges, one for the Members of Parliament, one for the wealthy and mighty in this country, one for the ordinary poor workers and the ordinary people. I do not subscribe to this. But it appears now that there are people holding very high positions, some people of very great eloquence, who believe that the law should be

class-oriented or class-based or status related; that the rich can get away with the murder but the poor cannot even thrive to feed a hungry stomach.

Sir, I will not deal with the issues that have been touched. But there is a very interesting observation here about his residential telephones at Chandigarh. This was available with the Speaker; this was available with all of us when we filed the Motion. It says:

"An amount of Rs. 9.10 lakhs was paid as telephone charges on account of two residential telephones maintained at Chandigarh residence of the former Chief Justice during his tenure of two years approximately."

The former Chief Justice has commented it is very significant that he used to discharge himself all his official duties in respect of administration work from his residence in view of the fact that Chandigarh was a sensitive and terrorist affected area and therefore the expenditure be considered as normal. Now I will refer to the comment of the Accountant General. It says:

"While there is no ceiling for the residential telephone calls, the trend of expenditure on this account during his tenure was high."

This must be one of those understatements which I have seldom experienced because thereafter he says:

"During the similar period from 1985 to 1987, the expenditure on account of the residential telephone of the then Chief Justice was about Rs.38,000."

So, Rs.30,000 for two years and against that, it was Rs.9.10 lakhs. This is not disputed by anybody. This is only an explanation why it is so

much..(Interruptions) The Chief Justice had a long vacation when the court did not sit. The courts in our country have more vacations than anything else. You know it..(Interruptions)

AN HON. MEMBER: This should not go on record. (Interruptions)

SHRI GEORGE FERNANDES: Sir, it is quite legitimate. (Interruptions)

MR. SPEAKER: Does the Law Minister object to it?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): Sir, I have no objection..(Interruptions)

Because the judges have to go to their residences during long vacations. (Interruptions)

SHRI NITISH KUMAR (Barh): Yesterday, he was convinced by Shri Sibal and today he is convinced by Shri George Fernandes.

SHRI H.R. BHARDWAJ: If his speech is silver then silence is gold.

SHRI GEORGE FERNANDES: I am sure he has a judicious mind, not just an open mind but a very judicious mind.

MR. SPEAKER: It is better than not getting convinced by both of them.

SHRI GEORGE FERNANDES: Shri Somnath Chatterjee said that it was Rs. 1,300, if it were taken as the total number of days the amount of money divided by the total number of days. But what about the vacations; what about the Saturdays and Sundays. If you take all that into account, it comes to Rs.2000 a day. (Interruptions) Yesterday the Counsel for Justice Ramaswami repeatedly tried to impress on us

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[Translation]

that he was living alone: simple man; simple living; his entire family is in America. That is important because that can be linked with this. (Interruptions)

SHRI R. PRABHU (Nilgiris): Sir, I am on a point of order.

SHRI GEORGE FERNANDES: I am not yielding. (Interruptions)

AN HON. MEMBER: He is living below the poverty line. (Interruptions)

SHRI R. PRABHU: Sir, he is deliberately misleading the House. They have relied so much on this report of the Committee. According to what Shri George Fernandes is saying the telephone charges are about Rs. 9 lakhs and odd. This is in charge number 10. The Committee has held that charge number 10 is not proved.

SHRI GEORGE FERNANDES: I will come to that point. It is a very important point that he made and I will deal with that. (Interruptions)

SHRI GEORGE FERNANDES: They would be well-advised not to interrupt me. (Interruptions)

SHRI SOMNATH CHATTERJEE (Dumdum): There is no evidence of personal gain.

SHRI GEORGE FERNANDES: The fact is that the State has paid the telephone bill of Rs. 9,10,000. That is not disputed. This is the most significant thing and I am very grateful to the hon. Member, Shri Prabhu for making this point.

I will come to some aspects of this Committee's work and its findings. You will have to give me a little time to make my point.

SHIR RAM NAIK: The speech of Shri George Fernandes is becoming lengthy like the tail of Hanuman.

[English]

MR. SPEAKER: When you said that you need one hour I had thought that you would need more than that. So you can continue.

(Interruptions)

SHRI GEORGE FERNANDES: I will just make one or two more points.

SHRI NITISH KUMAR: The House is enlightened.

SHRI GEORGE FERNANDES: For instance, yesterday, the whole idea of the maces was dismissed as some kind of a joke. What is this about the buying of silver maces, the dignity, the majesty of the court which the judge manifested? "We have them in Madras, so we should have them in Haryana." The whole thing was treated as some kind of a joke. But, this Accountant General's Report brings out a point that the total cost of the maces was Rs. 360790. But in Madras from where this culture was sought to be transplanted in the Punjab and Haryana High Court the same maces were purchased for Rs. 2000 each.

Whereas in Haryana, each one of these twenty-four maces cost Rs. 13,500 and one mace for the Chief Justice, because it had the head of the lion cost Rs. 14,500. Now, why was this difference? There was nothing hanky-panky. That is not in charge. There was nothing hanky-panky only in terms of the price because the quotation was that if you want a mace with the wooden shaft and certain other metal and just silver plating, then it will cost you less, but if you want a solid silver, then this is the price. And Justice

Ramamurthy..(Interruptions). I am sorry, Justice Ramaswami I do not know which Ramamurthy is in my head, Sir argues with his brother Judges as to why this should be done and how significant it is to have this. The Judges had their own reservations. They refused to sign the minutes and lot of things happen. Then he places an order on his own. The order is placed orally. It is not even in writing, it is an oral order. And then he does not choose to have the cheapest available which the Judges in Madras chose to have. But in his case, he goes to order the solid silver material and the court is put to a loss of Rs. three lakhs, or if one does not want to call it a loss, then at least an unnecessary expenditure, for ostentation. That is not really ostentation in the real sense of the term but perhaps satisfies the ego of some people or, Sir, may be there are other reasons. I am not saying anything. There may be some other reasons, I do not know. We would like to know. And this is what has been brought out by the Accountant General and these papers were with us, these papers were with the Speaker and that is how this matter came up in the first instance.

I said that I will deal with some of the specifics of the case that has been made out by the Committee. And this is where I said that I am grateful to my colleague, Mr. Prabhu, for raising this issue because what has the Committee done? What was the basis or what was the standard it set for itself while sifting the evidence, while evaluating it, while going through all the documents, while calling people, listening to them and then coming to their own conclusions. Now, here was a statement of Rs. 3,60,000. The committee could have perhaps asked a lot of questions, very embarrassing, very uncomfortable question. It did not do that and it is perfectly right in saying that the Committee has not gone on to prove that as come kind of an act of malleasance on the part of the Judge, this point is brought out on page 61 of Volume-II where the Judges say how to go about with this inquiry. The very first line on page 61 is: "We are

convinced that reason and prudence require that we adopt the higher standard of proof, that is, proof beyond reasonable doubt, in a proceeding for the removal of a Judge of the Supreme court or a Judge of a High Court.

I did not participate in that discussion though as usual I had some interruptions on some other subject. But I was in the House when this law was discussed. The late Mr. Yashwantrao Chavan was the Home Minister who piloted this Bill. I will not go into the history of this Bill. But there are people in this House who were there at that time. Atalji intervened in that discussion. He may or may not remember it. As a member of the Fourth Lok Sabha he intervened in the discussion on the particular Judges Inquiry Act. There were Member in this House who said that the supremacy, the sovereignty of Parliament is being surrendered: it is Parliament which should sit in judgement, it is our right to know if somebody in the judiciary commits an act which required his impeachment and then it should be we who should sit in judgement. Atalji, Member said that in the United States of America the matter first goes to the House of Representatives where it is debated pro and con and at the end of it, if they come to the conclusion that it needs the investigation, it is referred to be investigated by a Committee of the Senate and then the Senate Committee holds its theory and then takes a decision on impeachment.

But the then Home Minister, later Mr. Yashwantrao Chavan, pleaded the matter because this issue has gone to a joint Select Committee earlier and said why it is necessary that the names of the judges should not be dragged into controversies, into unnecessary situations. I think there was wisdom in making judges themselves enquiry into the conduct of a brother judge so that no prejudice is brought into any kind of investigation. Politicians have their own angularities; their own prejudices no matter how objective they want to be. They are under pulls and pressures. I will not go into various

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aspects of it as we are not discussing personal experiences or common experiences. I am only making a point that Parliament, in its wisdom, decided that the judges themselves should probe into the conduct of a brother judge because they would have much greater understanding of the person, of the man, of the system, of the judiciary and just about everything that concerns these matters.

When two sitting judges, illustrious men in their own right one a judge of the Supreme Court, one a Chief Justice of the High Court and one as was pointed out yesterday by Shir somnath chatterjee a man of such erudition, a man of such distinction outside when he was on the bench and no when he is outside the Bench one of the most outstanding judges we have ever had in this country justice O. Chinnappa Reddy when these three persons sit and summon you and say: "Brother judge, please come; here are some charges against you and we would like to hear you on these matters", you know the respons.

I would take you to some of these specific charges only to again make the point as to how the enquiry committee has gone backwards to give the benefit of the doubt, not to drive home the charge, where the charge could have been driven home but they have chosen not to, in keeping with that standard set by themselves and in keeping with their own understanding of how the system operates.

I refer you to page 122, para 224:

"Justice Ramaswami, it may be recalled, assumed office as a Judge of the Supreme Court on 6.10.1989. Therefore, 5.10.1989 was virtually the last day of his office as

Chief Justice of the high Court of Punjab and Haryana. Three days earlier, that is, on 2.10.1989, which was a holiday being Mahatama Gandhi's birthday, the Registry put an office not.."

It was on a holiday. It is an exhibit. It must be with you.

"...proposing the creation of five temporary posts of Deputy Registrars. The note pointed out that out six existing posts of Deputy Registrars two were vacant. It also gave justification for the creation of five temporary posts in that cadre. It is in evidence that though 2.10.1989 was a holiday and the Registry was closed, the aforesaid proposal for the creation of five temporary posts of Deputy Registrars was initiated and it went through the successive stages of the Registry and was also approved by the Chief Justice. all on the day, that is, 2.10.1989. Next day, proposals for promotion were initiated by a note and the whole process was gone through and the Chief Justice passed orders on 4.10.1989 on the said note promoting Bajwa, Khanna and Phandair, and three others. These three persons, Bajwa, Khanna and Bhandair, were not eligible to be promoted as they had not worked as Assistant Registrars for the minimum period of one year to make them eligible to be considered for promotion as Deputy Registrars under the amended Rule which itself had just then been amended reducing the period of eligibility from three years to one year as Assistant Registrar. But they were not eligible even under the amended rule as they fell short of the one year period by a few days, so, the rule was relaxed by the Chief

Justice. They were also given a deemed date of promotion as Assistant Registrar by a separate order."

Now, Sir, I take you to para 227 on the next page which says:

"It appears, however, that there was a practice in the High Court of Punjab and Haryana for the outgoing Chief Justice to create additional posts and also to give promotions. The practice has to be deprecated. However, in view of its existence and in the circumstances mentioned by us earlier, we are not in a position to say that the charge of out-of-turn and unlawful promotions to a favoured group of Officers by way of reward in wilful phuse of power is established beyond reasonable doubt."

"Beyond reasonable doubt" the Judges said 'No', the Inquiry Committee said 'No'. sir. Subsequent to the appointment of Justice Ramaswami as a Judge of the Supreme Court, sir, the new Chief Justice of the Punjab and Haryana High Court cancelled each of these appointments. And the Audit put up a report that consequent upon these appointments, the stage was, an infoructuous expenditure of Rs. 1.49 lakhs was incurred by the High Court and yet, look at the consideration which this three-men Committee gave to Justice Ramaswami. It says, 'It was wrong, but we will not feel that this has been proved doubtful'. (interruptions). I am grateful to Mr. Prabhu for bringing this.

Then, sir, I take you to paragraph 229 on page 124 Sir, there have been so many items on which lakhs of rupees have been squandered and they were part of the charge. para 229 says:

"Taking B.S. Bhandar's trips first, we find, from the evidence of Mohan Dutt Sharma, Bhandair and the TADA bills

submitted by him, that Bhandair made one trip to to Madras and back by air in February 1988 and a second trip to Madras by staff car in May 1989, the return journey being performed by air. He made nine trips to Mussprice, and back by staff car and one trip to Dehradun and back by staff car. All the trips were mentioned by Bhandair in the statements of claim for TADA as official and all the trips except one trip to Mussonie were approved and the TADA bills were sanctioned by Justice Ramaswami personally under his signature. The said one trip to Mussonie in March 1988 alone was confirmed by the Secretary (Administration) to the Chief Justice.

SHRI SOMNATH CHATTERJEE (Bolpur):  
This is complete liberalisation!

SHRI GEORGE FERNANDES: How, Sir, I read para 231 on page 125. It says:

"Although it would have been proper and expected of Justice Ramaswami to have reimbursed the High Court of the expenses incurred on the journey performed by Bhandair for his private purposes, in view of the evidence as regards what appears to be the practice prevalent in the Punjab and Haryana High Court, we do not think that very much out of the way could be said to have been done on a few occasions on which his services were employed as well as the use of the car was made for the private purposes of Justice Ramaswami."

So, again benefit of doubt was given to him.

Sir, I draw your attention to paragraph 234:

"B.N. Vohra made eight trips to Madras by air, six trips to Mussonie by staff car, two trips to Dehradun by staff car, one trip to Shimla, one trip to

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Haridwar and one trip each to Mathura and Agra. In one of the trips to Madras, he went to Tirupati and during two trips to Madras, he also went to Coimbatore. All the trips were claimed by Vohra as official and all of them were approved by Justice Ramaswami and the TA/DA bills were also sanctioned by him."

Paragraph 235 says:

"B.N. Vohra, Witness No. 10, stated that all the trips were made under the direction of Justice Ramaswami. In almost all the trips, he accompanied and attended on Justice Ramaswami at the various places to which he went either holidaying, on leave, or on vacation. On one occasion, he was instructed by Justice Ramaswami to go to Mussorie alone, but he did not remember in what connection he had gone. On another occasion, he was asked to go to Mussorie to make arrangements of accommodation for Justice Ramaswami who wanted to go holidaying there. On yet another occasion, he had gone to Mussorie to make arrangements for the stay of the family members of Justice Ramaswami."

Paragraph 236 says:

"On those occasions when Vohra did not accompany Justice Ramaswami or did not make the trip to attend on him or to do any official work, there was no justification for Justice Ramaswami to send him to attend to his private work at Mussorie and to sanction him TA/DA from the High Court funds. However, these occasions being rare, we may not take serious notice of the same."

Sir, if these things were done by a Lower Division Clerk in your Secretariat, I do not know what you would do. I do not want you to answer

it because there would be occasions in the Government where the employees misuse the TA/DA and such other facilities and I know what happens to them. They lose their jobs. They are even prosecuted and are jailed. But they certainly lose their jobs. We have the vigilance report. I am sure the Law Minister reads the report of the Central Vigilance Commission and the State Vigilance Commissions.

THE MINISTER OF STATE IN THE  
MINISTRY OF LAW, JUSTICE AND  
COMPANY AFFAIRS (SHRI H.R.  
BHARDWAJ): As Ministers we use aircrafts.  
What are we teaching here?

SHRI GEORGE FERNANDES: We are  
not discussing that.

SHRI H.R. BHARDWAJ: You must have  
also used. I saw you on private aircrafts. Let us  
not discuss it. Let us be honest. We take our  
Private Secretaries and we take our cars to  
holidays. so, please do not say all these things.  
(Interruptions)

[Translation]

SHRI MADAN LAL KHURAN: How many  
times did you go. Please let us know.  
(Interruptions)

[English]

SHRI H.R. BHARDWAJ: I always use staff  
car. I am under a code of conduct to use staff car  
and not any other car. I cannot stay in any other  
accommodation except the State  
accommodation. I cannot travel in any other  
vehicle.

SHRI GEORGE FERNANDES: I have not  
charged him, Sir. I am only reading what the  
Committee has found out and if he wants to justify  
all these things, the privilege is his. (Interruptions)



SHRI NITISH KUMAR (Barh): Sir, here is a Law Minister who is proud of breaking the laws. (Interruptions)

SHRI H.R. BHARDWAJ: I am the only Minister who go by my rules. Otherwise you will not see me here. But these are very trivial matters. (Interruptions)

SHRI NIRMAL KANTI CHATTERJEE: He says, he is the only Minister who goes by the rules. He relegates everybody else including the Prime Minister.

SHRI H.R. BHARDWAJ: I follow meticulously the code of conduct rules.

[Translation]

SHRI BASUBEBACHARIA: Does it mean, others do not follow?

SHRI HARI KISHAN SINGH: As far as I know personally. Our Finance Minister Shri Manmohan Singh neither misuses the official car and nor allows his private Secretary to misuse the car. (Interruptions)

[English]

SHRI GEORGE FERNANDES: Yesterday, the Counsel for Justice Ramaswamy started with a very eloquent statement saying some people compare him to Mark Antony. He started by saying if justice Ramaswami is guilty of moral turpitude, is guilty of bogus quotations, then he should go. These were the words of the Counsel for Justice Ramaswami:

I would now like you to page 73, para 124:

"Even a cursory glance at the items found in different rooms, as shown in the list Ex. 15, reveals that there were air-conditioners (with stabilizers), sofa sets, six sofa chairs, six

dressings tables, four study tables, four double beds, one single bed, five Godraj almirah, six geysers, one dining table with eight chairs, and eight extra chairs, nine other chairs, bed-side tables, wall clocks, a refrigerator, a colour T.V. a T.V.-V.C.R. cabinet, pedestal fans, suit/attache cases, brief case, kitchen articles including crockery and cutlery, articles of bed linen such as blankets, bedsheets, pillow covers, pillows and quilts, towels, carpets, curtains and various sundry articles found in the residential portion of the Chief Justice's official residence. In the office portion, there were six sofa sets, three air-conditioners with stabilizers, tables of different sizes, sofa chairs, ordinary chairs and several other sundry items. It will be necessary for us to refer in detail to the various purchase notes, sanction orders, vouchers and bills and stock registers."

Then, Sir, I will not take your time by reading the next para. I will take you to para 128 at page 75:

"Innumerable quilts, mattresses, bed sheets, bed covers, pillows, pillow covers and blankets were purchased for the residence of the Chief Justice. Some of the purchase notes and bills are Exs. So and so. On 17-2-1990, when charge was handed over, fourteen blankets, thirty bed sheets, eleven mattresses, nine bed covers, twenty four pillows, nineteen pillow covers, and ten quilts were found in the different bed rooms. The total cost of the bed line purchased for the residence of Chief Justice during the tenure of Justice Ramaswami come to Rs. 28,785. The total cost of 96 towels

[Sh. George Fernandes]

and several dozen napkins purchased for the residence of the Chief Justice during the tenure of Justice Ramaswami was about Rs. 11,000."

The cost of bed linen was Rs. 28,785 and that of towels and napkins was Rs. 11,000.

17.00 hrs.

Yesterday so much was said here about simplicity. Yesterday so much was said here about one man living there in one room. In fact, in one of his communications, he mentions how he used only one room.

Only two linen, bed linen Rs. 28,000/-  
Towels and napkins alone Rs. 11,000.

"Thus the total cost of the bed, bath and table linen purchased during the tenure of Justice Ramaswami comes to Rs. 39,785. The cost of these items alone exceeds by a few hundred rupees the permissible ceiling under the High Court Judges Rules read with Ministers Residence Rules."

Yesterday what eloquence was in evidence here in ridicule of the the whole charge of misuse of public money!

Now I take you to para 134p. 79, the 7th sentence on the top.

"Altogether thirteen new loose carpets were purchased under these four purchase notes on 15-3-1989. We may consider the carpets purchased under the purchase note Ex. 58 as carpets purchased for the office portion (extension wing) in view of the sizes of the carpets. The remaining loose

carpets which were found in the residential portion on 17-2-1990 are of the value of Rs. 96,000/-. We may also notice here that the purchase notes mention only one 6' x 9' carpet as purchased for the office of the Chief Justice at the residence. All the other loose carpets are mentioned as purchased for the High Court. This statement is untrue since they were found in the residential portion of the official residence. The reason for showing them as having been purchased for the High Court or for use in the High Court is not far to seek. By the time these carpets were purchased, wall to wall carpets had already been fixed in the entire office portion at the official residence. It was, therefore, not possible to show that they were purchased for use in the office portion at the residence. The whole exercise was in the nature of a facade in that although the carpets were meant for being used in the residential portion, they were shown as having been purchased for use elsewhere i.e., High Court."

We heard the counsel yesterday. Hang him. He is an honourable man. Produce evidence, produce proof. I say, I give the proof now.

I would not take much time. Even despite what Shri Ram Naik may feel about it, I would not take much time.

I want to give evidence to this House that there has not been malfeasance but there has been an attempt. Here in this case it is proved and my hon. colleague Shri Jaswant Singh has read last portion of what the final findings of the Committee are. I want to give evidence in support of the last paragraph he quoted so appropriately in the course of his speech. (Interruptions)

I take you to para 136 to the last but sixty line at p.80:-

"The value of the wall to wall carpets and the loose carpets and curtains found in the residential portion of the official residence of the Chief Justice on 17-2-1990 was Rs. 1,52,465 plus Rs. 96,003.91 plus Rs. 19,043.50 as found in paras 133, 134 and 135 above. The total value thus adds upto Rs.2,67,512.41, which is about 7 times the total value permissible under the rules."

I will not read out all of para 137. I will take you to the last sentence of the para.

"Thus purchases were made wilfully, in breach of law with a view to gain a personal advantage by way of use of the said excess articles, without ever intending to pay for such user..."

Now, I quote para 138 which says:

"There is no evidence to show that the excess expenditure incurred on purchasing these items was sanctioned or authorised by the concerned Government. Those articles were also not supplied by Government as a special case out of their funds. Those cases may stand on a different footing. On the other hand, as will be shown hereafter, they were all purchased by Justice Ramaswami himself or under his direction and sanctioned by him out of the public funds at his disposal without special or general sanction of the competent authority."

From here, I'll take you to para 150. It says:

"In Ex. 57 (collectively) there are 5

purchases notes for the purchase of furniture, all in the identical language. We may extract one of these notes and it is as follows:-

Sir, You have five notes exactly as this particular note that I am now going to read. It says:

"This case relates to the purchase of sofa set, sofa chairs, centre table and corner tables for office at the residence of Hon'ble the Chief Justice."

It is submitted that a high-level meeting was held which was attended by the Chief Engineer and Chief Architect. The Chief Architect gave designs of furniture to be provided in the extension wing of the residence of Hon'ble the Chief Justice. Hon'ble the Chief Justice along with the Registrar visited many shops of furniture for placing the orders and quotations were also obtained. His Lordship selected the furniture manufactured by M/s. Salwan and Co., Sector 18, Chandigarh. Accordingly, as desired by His Lordship an order was placed with the said firm for supply of sofa set 3-seater (1 set), sofa chairs (6), centre table (1) and corner table (1). The dealer has sent an advance Bill No. 548, dated 6-2-1989 amounting to Rs. 59,430 for payment. It is within the competency of the Hon'ble Chief Justice to accord sanction.

The case is, therefore, submitted for according sanction to the payment of Rs. 59,430 to M/s. Salwan and Co., Sector 26, Chandigarh."

There are five notes identical

[Translation]

SHRI HARCHAND SINGH (Roper): Mr. Speaker, Sir, I am on a point of order. I would like to know whether all this money was spent by pay at cost. (Interruptions)

[English]

SHRI GEORGE FERNANDES: Please see the last sentence of the para.

This is significant in the context of what the Counsel for Mr. Ramaswami said repeatedly yesterday about the Justice: Mr. Justice Ramaswami could not be expected to know what is being bought, who is buying it and where it is coming from.

The last sentence says:

"Each of the purchase notes and the signatures following it, including the signature of the Chief Justice, are on one page only. Here again the recitals could not possibly have escaped the attention of the Chief Justice."

Yesterday, we were told that if he is guilty, then, throw him out; hang him. (*Interruptions*)

I now take you to para 154. I am coming to the end of my submission.

"Some of the purchase notes contain the further recital that the Chief Justice had personally visited the shops and selected the articles to be purchased. In some of the purchase notes, the Registrar also is said to have accompanied the Chief Justice. An attempt has been made to show that the Chief Justice did not visit the shops though the Registrar might have visited the shops. The proprietors of the two major suppliers, namely, M/s. Salwan and Co., and M/s. Krishna Carpet Co., stated that the Chief Justice had never visited the shops but the Registrar did. These witnesses were obviously under the impression that they were shielding the Chief Justice by saying so, though we see nothing wrong in the Chief

Justice visiting the shops and choosing the furniture and the carpets, particularly when such heavy amounts were being spent on them. We do not think that any false recitals about the visit of the Chief Justice and the Registrar to the shops would have been made in the purchase notes, as their was at that stage, no need to make any such false statement, particularly when the purchase notes were to be placed before both the Registrar and the Chief Justice for their approval. The said recitals were in fact approved by them. We find that the Chief Justice and the Registrar did visit the shops as mentioned in the contemporaneous documents."

Now para 156 on page 92. I will take you to the last sentence. These are clinching paras which the Counsel for Justice Ramaswami chose not even to read perhas. And if he had read, he did not remember and if he had read and remembered, then suppressed it from this House. It says:

"From the evidence, it is readily seen that no genuine attempt was made to obtain quotations from different dealers, whether it was furniture or carpets that were being purchased. There were a large number of dealers of both furniture and carpet in Chandigarh. Yet, all quotations were obtained from the same set of dealers. The obtaining of quotations was reduced to a farce despite the fact that the amounts involved in the purchases were large. That the quotations were being obtained from the same set of dealers, could not have possibly escaped the attention of the Chief Justice, since the purchase notes mentioned the names of the persons from whom quotations had been

obtained. Several purchases were effected on the basis of quotations obtained on the very day of purchase from the same set of dealers on some occasions. Further, all the purchases were made at the instance of Justice Ramaswami or under his direction and in some cases he had also visited the shops to choose the articles. In some cases, purchases were effected even before quotations were obtained. All these circumstances taken together lead to a legitimate inference that he was aware of the fact that the quotations were not genuine. This shows that there was wilful disregard of the procedure required to be followed under the relevant rules before effecting purchases on such a large scale and this was with his connivance."

Now para 158. It says:

"We, therefore, find that Justice Ramaswami, in wilful abuse of his powers and authority as Chief Justice of the High Court of Punjab and Haryana, got purchased in violation of the rules, items of furniture, furnishings and electrical appliances, far in excess of and wholly disproportionate to the requirements of and far beyond the limits prescribed for the residential portion. The principles of financial discipline regulating expenditure by Heads of Departments were totally ignored. The rule prescribing a limit of Rs. 38,500 towards the cost of furniture, furnishings and appliances to be made available to a Chief Justice in the residential portion of his official residence was knowingly and wilfully ignored. No separate or special sanction was obtained from competent governmental authorities for such

excess purchases. Furniture, etc. of the value of more than Rs. 6 lakhs, that is, at least, sixteen times the limit, was unauthorisedly purchased by him out of the public funds, namely, contingent grant of the High Court at his disposal. This was to the personal advantage of Justice Ramaswami who had the benefit of its use without paying or ever intending to pay for such user. The far too extravagant and wasteful expenditure on furniture, furnishings and electrical appliances at his official residence and the manner in which the purchases of furniture and carpets were effected from the same favoured dealers without obtaining genuine quotations and, therefore, without ascertaining whether the price paid was fair and reasonable, sometimes against advance bills and against cash payments in large sums, and in disregard of the Financial rules were such as to bring dishonour and disrepute to the judiciary so as to shake the faith and confidence which the public repose in the institution. In regard to the office portion also, the excessive expenditure could possibly have been avoided by observing economy and financial discipline."

Sir, what more evidence is needed? I am not reading this whole book, as this Book was read yesterday by the Counsel. I would only make a few final submissions. I want to make just one point about these cars, since so much has been submitted by me, let me make one or two submissions.

Sir, I take you to page 112, para 197. I quote:

"In an explanation furnished by Justice Ramaswami to the Accountant General he stated that he had necessarily to requisition car CHE-3

[Sh. George Fernandes]

for his use in Madras as the Tamil Nadu Government would not provide him with a car for more than two or three days and he did not want to subject himself to the embarrassment of borrowing a car etc."

Then, Sir, I take you to the next para wherein Shri Vohra says and I quote:

"His Lordship has desired that two staff cars bearing Nos. CHF-3 and CHK-5959 may be placed at the disposal of His Lordship and the office is directed to make arrangements for sending the above said cars along with two Drivers. The cars along with the Drivers would report on 25.5.1989 at Madras at the residence of his Lordship.

On 31-5-1989 there was a further office note which recited as follows:

"This case relates to the reimbursement of petrol charges and repair charges in respect of official Car No. CHK-5959 and CHE-3 allotted to the Hon'ble Chief Justice. These cars were taken to Madras on an official visit. This shows that the cars were not taken to Madras for the use of Private Secretary but only for the use of Justice Ramaswami."

Earlier the point made is that one of the cars was meant for the use by the private secretary. The fact that has been brought out in the course of the evidence is that it was not meant for the private secretary because the private secretary went there, delivered the cars and came back and the cars were meant for the use of Justice Ramaswami and his family because here on the next page you have the evidence of Baljit Singh, Driver of CHK-5959 who was examined as witness No.33. He stated and I quote:

"In Madras I used to carry the family members of Chief Justice Ramaswami. No officer of the Punjab and Haryana High Court travelled in the car in Madras city. I had not taken the car outside Madras except for coming to Madras. The said car was taken out of Madras by another driver. I had however not taken the said car out of Madras and I do not know the name of the said driver. He was the private driver of Justice Ramaswami at Madras. I do not know to which places the said driver had taken the car in question out of Madras. When the Car CHK-5959 was taken to Madras, I was asked to drive private cars in Madras.

This direct evidence about the use of the car belies the claim that the car was taken to Madras for the use of the Private Secretary."

And Sir, on page 114, apart from the coincidence of dates, B.S. Bhandari had stated before the Enquiry Officer in the disciplinary proceedings against him as follows:

"It is correct to that on 21.5.1989 I and Shri Khanna had gone to Madras in staff cars which we left there for the use of Justice Ramaswami who had to celebrate the marriage of his son.

He admitted before us that this was a correct statement and tried to explain it by saying that he had left the cars for the use of the Chief Justice who might have used the cars for the celebration of his son's marriage. The Chief Justice was himself in Madras from 4.6.1989 to 15.7.1989 only. The cars had gone there earlier on 21.5.1989 from Chandigarh and returned to Chandigarh on 5.8.1989. All these circumstances lead to the inevitable inference that the cars had been taken to Madras for his private use and more particularly for the marriage of his son."

I hope the Law Minister does not say that all Ministers do that.

SHRI H.R. BHARDWAJ: Minister do attend marriages/- not their own, but of others in staff cars!

SHRI GEROGE FERNANDES: The point that was made yesterday by the Counsel for Justice Ramaswami was that this point has been argued in many places outside this house, particularly in representations made to various person in high authority, whose names I am not expected to mention here; all this is not malleasance in the course of his responsibilities of the Judge, in other words when he was occupying the Bench; these are all incidental matters, administrative matters and so on and so forth, and therefore a there is no reason for taking such a grave notice of these matters. Yesterday the Counsel also went on to say that in any other country and he referred again and again to America on such matters it would have merely dealt it with contempt.

I refer to Para 81 in Page 49 of Vol. II.

"In the case of Judge Stewart F. La Motte, Jr., shortly after assuming the Bench, the Judge received an air travel credit card which he used to incur an expenditure of approximately 2,000 dollars..."

In America 2,000 dollars is just like Rs 2,000 in India. I hope this will not be disputed.

"In personal charges for various trips to different places. In that way, the Judge used for his own personal purpose the credit card meant for official purposes. The charge was that

the Judge knew or must be presumed to have known that the charges on his air travel card would not be deducted from his salary. The explanation of the Judge was that he thought that the charges would be deducted from his salary. He made restitution when he was discovered, and reimbursement was demanded. At the hearing, several Circuit Judges testified and were ready to testify that the Judge had a reputation for truthfulness and honesty. The Judicial Administration Commission who enquired into the matter did not accept the explanation of the Judge and found that there was clear and convincing proof that the Judge knew or must be presumed to have known that the charges on his air travel card would not be deducted from his salary. The Commission recommended the removal of the Judge from office, for conduct unbecoming of a member of the judiciary."

This is for two thousand dollars in America.

Here we are discussing not just money, here we are discussing misuse of public fund; not just that but malleasance of a nature which has made this Committee to finally say I won't repeat all that because my colleague Shri Jaswant Singh has it in Paragraph 242 of Vol. II, which is its final conclusion that:

SHRI MRUTYUNJAYA NAYAK:  
(interruptions)\*

MR. SPEAKER: That is not going on record. Shri Fernandes is quite relevant.

SHRI MRUTYUNJAYA NAYAK: I have one question; you may reply.

SHRI GEORGE FERNANDES: I am not yielding to him. The conclusion is:

"Justice Ramaswami's conduct, that is, his several acts of commission and omission, reflected in our findings on charges No. 1, 2, 3, 7, 9, 11, 12 and 14 taken together, and in our findings on charges No. 1, 2, and 3 severally, discloses wilful and gross misuse of office, purposeful and persistent negligence in the discharge of duties, intentional and habitual extravagance at the cost of the public exchequer, moral turpitude by using public funds for private purposes in diverse ways and reckless disregard of statutory rules and dishonour to the institution of judiciary and undermines the faith and confidence which the public reposes in the administration of justice...

"... The acts are of such a nature that his continuance in Office will be prejudicial to the administration of justice and to the public interest. The acts therefore constitute misbehaviour within the meaning of Article 124(4) of the Constitution of India."

Sir, I will not take any more time; I have only one more sentence to say, one last point, I would say. There is so much to say; but I can appreciate, Sir, if..

MR. SPEAKER: I would have given you the entire time, if there is no other Member.

SHRI GEORGE FERNANDES: I apologise, I am sorry, Sir.

MR. SPEAKER: You have made all relevant points. You have nothing irrelevant. But the only constraint is that there are others who want to speak.

SHRI GEORGE FERNANDES: I am concluding with just one reference, Sir. These are the proceedings of this House of 1991, July. This is a matter which did not concern Judges, but it did concern a Member of this very House, Mr. Mudgal. The Prime Minister and the Leader of the House, Pandit Jawaharlal Nehru moved a motion on June 6, 1951 on the issue of Mr. Mudgal. I will not go into the whole affair of Mr. Mudgal. But, while moving that Resolution, Panditji said and I quote:

"The dignity of the House and the proper behaviour of every hon. Member is dear to the House and I felt that any action taken by a Member which might not be in consonance with propriety and good behaviour and what is expected of him should be inquired into; that would be fair both to the House and to the Member concerned."

A Committee was appointed to find out in what circumstances he accepted Rs. 2,000 from the Bullion Merchants of Bombay to lobby for them as a Member of Parliament. The Committee held him guilty and the last sentence, the concluding sentence of the committee's report is:

"The finding of the Committee is that Shri Mudgal's conduct is derogatory to the dignity of the House and in consistent with the standards which Parliament is entitled to expect from its Members".

Sir, all that I want to say is that this is the conclusion which the Committee of two sitting Judges and one former Judge have also come to. It is the dignity of the Court, of the judiciary, of the institutions, the faith of the people in those institutions. In a similar case, it was Panditji who moved the Resolution; he appointed a committee.



Fortunately, the House did not have to expel the Member because the Member resigned. But, when the House passed the Resolution, the House said that the Member would have been expelled, if he had not resigned. In other words, the House stood up to uphold its own dignity and the standards which is expected from its Members.

I do hope, today, the House will once again assert the dignity of the institution without our democracy will fail.

SHRI R. PRABHU (Nilgri): Mr. Speaker, Sir, today we are discussing a historic motion. An impeachment motion has been moved by an hon. Member against an hon. Justice of the Supreme Court who has had a distinguished judicial career for more than 20 years.

Yesterday, before the motion was moved, I raised a point of order. Sir, I also did not articulate my point of order very much and I was happy that you did not allow my point of order, because if you had allowed my point of order, then, this discussion would not have taken place. Then, the facts against the Judge, the facts in favour of the Judge would not have come to the notice of this hon. House.

Sir, I would like to just take you to the sequence of events from the date on which Shri Dandavate gave this impeachment motion till we took it, that is yesterday, very quickly. A notice by Mr. Madhu Dandavate and 100 others was given on 27th February, 1991 to the speaker under article 124(4), section (iii). The Lok Sabha was dissolved on 12th March, 1991.

I have the greatest respect for the former Speaker. I am only making this point because Mr. George Fernandes, my hon. colleague, has made points about the Justice not respecting this House or not respecting the Chair. That is why I have to make this point. I remember very graphically that near about six p.m. may be two

or three minutes before six the Speaker was mumbling something. And we were running into the well of the House and asking what he was saying. Before we could understand what he said, he vanished into his chamber. This was on 12th March, 1991. Later on, we came to know from the news that the impeachment motion had been admitted.

You have been hon. speaker of this House. You have been hon. Speaker in Maharashtra. You have been in Parliament for so many years. When we move any motion, be it a call-attention motion or any short-notice question or anything, what does the Speaker normally do? I have to go into this because he was saying all this. Speaker refers it to somebody may be the Ministry or somebody, asks for some facts, tries to understand.

MR SPEAKER: Please, please. There are certain things which we can avoid. It is not necessary to make those points.

SHRI R. PRABHU: My point is only this that prima facie the Speaker had to be satisfied that there was a case.

MR. SPEAKER: Okay, you can make that point. But you do not have to go into all those details.

SHRI R. PRABHU: All right. I am sorry. Because he made this point, I am having to reply to this point.

MR. SPEAKER: You can say that the prima facie case has to be established.

SHRI R. PRABHU: Yes, Sir. Prima facie case has to be established.

MR. SPEAKER: We are the House at the apex. If we do not follow the rules, if we do not follow the laws which we make, the same criticism can be levelled against us also.

SHRI R. PRABHU: I remember even in this session, I gave a call-attention motion about three weeks back. It has still not been admitted. It might never be admitted. This happens every session.

But it is such a very important motion. We are trying to impeach a Supreme Court Judge. The Speaker admits it without according to us calling for any facts in this case.

SHRI RAM NAIK (Bombay North): I have a point of order. This issue was raised yesterday. You have given a ruling that all formalities have been completed properly. So, it would amount to repetition of the views.

(Interruptions)

DR. KARTIKESWAR PATRA (Balasore): Any allegation against the Speaker should not be accepted.

SHRI R. PRABHU: I am not making any allegation. Mr. George Fernandes said that the Speaker was not respected by the Judge. That is the reason. (Interruptions)

DR. KARTIKESWAR PATRA: No Member should be allowed to bring in any allegation against Speaker. (Interruptions) This should not be entertained.

MR. SPEAKER: Mr. Prabhu, one of the most important things in this case is that the notice was admitted. Then, it was sent to the Judges. And Judges have come to certain conclusions which are not different from the Speaker's admission also. That fact has to be borne in mind. Please leave that. You come to the substance.

SHRI R. PRABHU: I am not trying to repeat or go into the charges. I am not going into the charges. Because I am not a lawyer myself, I would not be able to do justice to it. (Interruptions)

The Speaker appointed a Committee on 15th March, 1991. He appointed a Committee and did not constitute a Committee. I am leaving it there. The Committee did not function after it was appointed. Why? Because the Lok Sabha was dissolved. Then what happened? The Tenth Lok Sabha was elected. It was constituted. Then, the Attorney-General of India gave an opinion that the motion had lapsed. The motion was not alive. Then, what happened? The sub-Committee on judicial accountability something that had nothing to do with this Parliament filed a writ petition in the Supreme Court and told the Supreme Court, look, the motion that was moved by 108 MPs was still pending in the Lok Sabha.

So, the Supreme Court in its wisdom gave a 4:1 judgement and the motion was kept pending. I may not be challenging that. But Sir, about Supreme Court and Parliament, as you know, there has been a lot of controversy. The Supreme Court has told that the motion be kept pending.

Now, this motion has never been put to the House before. It was admitted by the Speaker, but the first time it came to the House was only yesterday. As you rightly observed yesterday, there are no rules of procedure for impeachment motions. So, we have to make our own rules. Shri George Fernandes mentioned some Section of the Judges Inquiry Act and said that that was the rule, and that the Speaker's decision was final. I have nothing to say about that. But we are a Parliament of 500 and odd Members and when such an important motion is being admitted, after all, should not the Judges Inquiry Act be read with the rules of the House? I am not casting any aspersions on anybody. But for example, if you have to remove Deputy Speaker or Speaker, under Rule 200, what is normally done? It is put to the House. Why is the Judges Inquiry Act not read with the rules of the House and why is it not brought to the House for admission? I am not saying it is right or wrong. But, for the first time, it was brought to the House only yesterday and this House could say something on it, only

yesterday. Till then, the House was not aware of it

MR. SPEAKER: Mr. Prabhu, I am sorry that I am interrupting you. The scheme under the law is that after a notice is given to the Speaker by more than one hundred Members, it is not brought before the House. Why? Because, unless there is some substance in the charges and that substance has to be proved by the Judges sitting in the Committee, it is not brought before the House and the Members are not given any opportunity to discuss it. When the notice was given to the Speaker, the Speaker referred it to the Committee. The Committee went into it and after the Committee came to the conclusion that there was some substance, it was brought before the House. If the Committee were to come to the conclusion that there has been no substance, it would not have been brought before the House.

SHRI R. PRABHU: I accept that. The point here is that the Attorney General gave an opinion that it had lapsed. Nobody in Parliament objected to it. The Speaker did not give any decision. Then, soem Sub-Committee on Judicial Accountability goes to the Supreme Court and says that they are not happy with the Members of Parliament and asks the Court to give a decision to the effect that the motion be kept pending. That is all that I am saying. I am not saying whether you have the right or you do not have the right.

MR. SPEAKER: It is not the individual. It is the Speaker.

SHRI R. PRABHU: I am not saying anything about it. What I am trying to say is only this. Yesterday, I made a point that out of the 108 Members who signed, 58 Members are not elected to this House. Now, this motion was brought before the House for the first time only yesterday. According to the Judges Inquiry act, Section (6), the wording is very clear. Subsection 1(a) of Section (3) of the Judges Inquiry Act says

that there have to be 100 signatures from 100 Members to support the resolution. I am not quoting the rule because everybody knows it. You have over-ruled my point of order. It does not matter. But the point here is that we have opened a Pandora's Box by saying that this motion can be kept pending. Does this not mean that all the motions that have been kept pending in the Ninth Lok Sabha can be brought here again?

ONE HON. MEMBER: No, no.

SHRI R. PRABHU: I had moved privilege motions in the Ninth Lok Sabha and in the Eighth Lok Sabha. I can agitate it now here saying that I can bring those motions here. When this motion can be kept pending, why not other motions?

MR. SPEAKER: The reason is, for this motion, the Judges Inquiry Act and the rules made there under apply. And to your privilege motion, rules of this House apply. That is the difference.

SHRI R. PRABHU: Anyway Sir, my other contention here is that we have not satisfied 124(4) Section 3(1) (a), which says that 100 Members of the House have to be a party to this motion. Yesterday also, I mentioned that you have affected my rights and privileges as a Member of this House, viz. the Tenth Lok Sabha, by allowing the Members of the Ninth Lok Sabha to be a party to this Resolution today.

I have made my point. It is up to you now.

I go further. This Lok Sabha is two year's old. According to on there is a lacuna, may be right or wrong, to the effect that Opposition has the same strength as that of the ruling party. They could have very well brought another Impeachment Motion. Why did not they bring another Impeachment Motion? That is because nothing had happened. Only a Committee was appointed but until the Supreme Court's decision came, that Committee did not start any work.

[Sh. R. Prabhu]

Shri Jaswant Singh and Shri George Fernandes have vexed eloquence about this being a Committee of three Judges. I have the greatest respect for those three Judges, and whatever they said we should not question. Of course, one of the Members, Shri Pal has answered that point by quoting the Supreme Court's decision in the case of Sarojini Ramaswami Vs Union of India. The Supreme Court said that we as Members of Parliament have to apply our judicial mind and each of us is a judge in this particular case of impeachment. Some of the persons on the other side are not willing to accept it. When we accept the Supreme Court's contention that motion can be kept pending, why should we not accept this contention of the Supreme Court?

Even the Indian Express and Shri Jethmalini, against whom I have moved a Privilege Motion yesterday, have said that we are a judicial body and we should apply our mind. So they conform to the Supreme Court's decision.

The Committee basically found no case of misappropriation; no case where the furniture is missing or no case of pilferage. I came from my Constituency on Sunday I was waiting in Bangalore Airport for 6 hours to catch the flight to Delhi. There I had the privilege of meeting one of the retired Supreme Court Judges, who is respected very much in this country. I was reading this book just to understand what was happening. He started talking to me. I am not saying anything that should not go on record.

MR. SPEAKER: You have not taken the name, so I am not stopping you. The moment you give the name, I will stop you.

SHRI R. PRABHU: Sir, what he said is very important. He said that this Judge should be impeached because he is guilty of pilferage; guilty of removing furniture and replacing the  
\*\* Expunged as ordered by the Chair.

carpets. I told him that I am going through this book, reading charge by charge but there is no charge like that. He said that I have mistaken. People have told him so. I told him that I will send him a copy of this. He promised to tell me that if he will find that there is no charge substantiated and that this Impeachment Motion does not stand then he will agree with me that it should be voted out.

A lot has been said that we must uphold the dignity of judiciary; Justice Ramaswami should have resigned and he should not have out the Indian Parliament to this sort of trouble. Much has been said by Shri Somnath Chatterjee that as soon as the Committee was appointed Justice Ramaswami did not appear before the Committee. He wrote charge against them saying that the Judge is junior to him and he should not hear his case. All this was said yesterday. I am not going into what Justice Ramaswami has said or what the Committee judges have said and whether these judges were living in bigger houses and were spending more money than Justice Ramaswami. What I would like to say Sir, is Justice Ramaswami is a Supreme Court Judge and these judges are also of equal rank. I am not a lawyer but my advocate friends have told me suppose I go to court and I have some problem with the Judge, I can make an application to transfer my case to another court.

Now, here, they say that Justice Ramaswami should have resigned. Why didn't these Judges say, that Justice had said this sort of thing against us, we do not hear this case, you appoint another Committee? Why should they say that these allegations are trivial? They judge themselves. The first part of the Report says that the allegations are frivolous; we are living in the houses built by the State Government and we have not spent the money, the State Government had spent the money. \*\* That is there in the Report. I can quote, if you want.

MR. SPEAKER: This is exactly what I was

trying to avoid from the record when Shri George Fernandes was speaking.

SHRI R. PRABHU: I withdraw it.

MR. SPEAKER: That will go off the record.

SHRI R. PRABHU: But, Sir, the point that "the houses were built" will be on record. "Drinking" will go off the record. The word "houses" will be on record; that the houses of the Judges were built by the State Government. I think, there is nothing wrong in it.

MR. SPEAKER: Now, let us understand that we are not judging the judges who were sitting there as Judges. We are judging the judges who are before us.

SHRI R. PRABHU: Mr. Somnathji made this point. He said, he made allegations against these Judges.

MR. SPEAKER: That is all. Nothing more than that.

SHRI R. PRABHU: So, I was pooh-poohing the allegations against them.

MR. SPEAKER: If you agree, please don't do that.

SHRI R. PRABHU: I am not going to say that. I am not commenting. They pooh-poohed the allegations which are of similar nature against Justice Ramaswami. But against Justice Ramaswami, they held it as misbehaviour. I am not going into the facts.

MR. SPEAKER: I will go through the record and I will allow only that can go on record.

SHRI R. PRABHU: It is your privilege, Sir,

we should understand this. Under what circumstances, Justice Ramaswami was made the Chief Justice of Punjab and Haryana High Court? He is the seniormost Judge in Tamil Nadu. He had been a Judge in Tamil Nadu for more than 17 years. He had a distinguished career there. No other Judge, Sir, at that time, was willing to go as Chief Justice of Punjab and Haryana High Court. Why at that time, after Justice Ramaswami, left and was elevated to the Supreme Court, another Judge was posted from Karnataka as the Chief Justice of Punjab and Haryana High Court and he resigned within two months? (*Interruptions*) I do not have to bring evidence on that. This is a fact.

Sir, I asked some of my Advocate friends, what is all this. Why do Advocates fight among themselves? Why do Judges fight among themselves? What is all this? Then, they said, that all these things came about because certain systems were brought into the Punjab and Haryana High Court. Now, Mr. George Fernandes very eloquently said about maces, about solid silver maces and about hollow silver maces, silver plating and all that. I do not understand the procedures of court very well. But what I understand, I am repeating Sir, maybe I am wrong, you can correct me Sir is that, before he went there, that case was not posted according to any pattern, before any Judge.

MR. SPEAKER: It is not going on record. It is not part of the record. This is based on hearsay. This is not the kind of matter which can go on record. Please avoid it. If it is necessary, it could have been put in the Committee then, they would have decided it. It is not there.

SHRI R. PRABHU: Which Committee?

MR. SPEAKER: The Judges Committee. That aspect you don't have it.

SHRI R. PRABHU: That is what I am trying to say. All right, I will not go into that aspect.

About silver maces, he said, he brought silver maces. So, that is wrong. He tried to make this Court like a chartered High Courts of Madras or Calcutta or Bombay, by introducing all the

proceedures, systematising the whole thing. This is like having a good doctor and finally, you allow him or you ask him, cajole him, console him and send him to a rural area by saying, you go and work there for two years and improve the sytems there. As soon as he goes there, all these small rural doctors start making allegations against this doctor. This a similar situation. There is nothing. *(Interruptions)*

MR. SPEAKER: Please a void these things.

SHRI R. PRABHU: I am not saying Punjab is a rural area. Punjab is the most forward area.

SHRI R. PRABHU: I am not saying that Punjab is a rural area; it is the most forward area.

SHRI CHANDRA SHEKHAR (Ballia): The impression it will create in Punjab and Haryana as if there was no other Chief Justice except Mr. Ramaswami.

SHRI R. PRABHU: Then there is no outsider Chief Justice in Punjab.

MR. SPEAKER: That is why I am not allowing it to go on record.

*(Interruptions)*

SHRI R. PRABHU: When everybody has not taken up this point, why should I? I meant no disrespect to anybody.

MR. SPEAKER: I know. But this is a

SHRI R. PRABHU: I am not a lawyer. I do not know the legal matter. So, I am not able to put it properly.

These are difficult times, You know how people are living in rural areas, how people are living in the whole country. there is scarcity of water; there is a scarcity of food. People do not know what they are going do tomorrow. All they have is a faith in God; and next comes their faith in the judiciary. When people have this sort of a faith in the judiciary, we should not shaken this faith in the judiciary by bringing frivolous charges like carpets were rolled up and were lying at his residence. Furniture was pushed here and there and that also was there at his residence. Silver maces should not have been bought. So, that is a misbehaviour. All this is so trivial that does not call for an impeachment motion against a judge. There is no charge of a judicial misconduct. Even though the Committee has gone into it and given all sorts of findings, they have not said that there is any judicial misconduct; they have not said that justice was sold; they have only said that there have been some administrative losses; therefore, it is a misconduct.

So, I request the hon. House to go through all the evidence and apply their mind, look at their conscience and defeat this Motion of Impeachment.

MR. SPEAKER: Shri Sobhanadreeswara Rao Vadde.

*(Interruptions)*

Shri Bhogendra Jha, you have not given me your name. as usaul, you are asking me for time. I will give you.

*(Translation)*

SHRI LAKSHMI NARAIN MANI TRIPATHI (Kaiserganj): Sir, I also want two minutes to speak, I have given a notice.

MR. SPEAKER: I am ready to sit here throughout the night, you may speak as long as you want but don't regret afterwards that it has become very lengthy.

SHRI LAKSHMI NARAIN MANI TRIPATHI:  
Sir, I would not speak for more than two minutes. Therefore, please give me an opportunity to express my views.

17.54 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

[English]

SHRI SOBHANADREESWARA RAO VADDE (Vijayawada): Mr. Chairman, for the first time in the history of Parliament of our country, we are expected to discharge a noble task. The very fact that, this Motion seeking removal of one of the sitting judges of the Supreme Court of India, has been moved, it shows our deep commitment to democracy and the rule of law. The basic question before us is whether we should clearly prove that nobody is above law in howsoever high position he may be placed.

Yesterday, we had heard Shri Somnath Chatterjee, our learned friend, the move of this Motion and subsequently Mr. Kapil Sibal, the able lawyer for Justice Ramaswami.

Mr. Chairman Sir, we have also gone through the literature, the documents that have been supplied to us by the Lok Sabha Secretariat. We felt Mr. Sibal, the lawyer, of course, has done his job in a meticulous manner to plead on behalf of Justice Ramaswami. We are well aware in our judicial process. Even now a person who has actually committed a murder, his lawyer will try to defend to the best of his ability to find out certain small loopholes and deficiencies in the prosecution charges. That is what Mr. Sibal has done yesterday, the whole exercise.

But I really wonder, why Mr. Sibal has not thought it proper to appear before the Committee which was entrusted this responsibility to inquire into the charges that have been forwarded to the Committee by the hon. Speaker of Lok Sabha.

Anyway, I feel very sorry for the simple reason that Justice Ramaswami, the sitting Judge of the highest judicial institution of this country, who himself is the protector, who himself is the person who is supposed to protect the law and interpret the law, flatly refused to appear in person or deploy a counsel on his behalf to answer the charges that have been placed on him.

Just now Shri R. Prabhu, my friend has said one or two things which I say, may be not knowing the full details that is why he has said so. In fact yesterday, Shri Sibal also said the same. Before the hon. Speaker has admitted the motion and made an announcement on the floor of this House regarding the admission and constitution of the Committee, he was in his possession the vital documents that were there to show prima-facie. Justice Ramaswami has transgressed his limit stand that is why he has come to that decision.

Subsequently there was some delay between the constitution of the Committee and actual proceedings initiation. That was because of some cases that were filed before the Supreme Court. The court on 29.10.1991 has given a decision in regard to those cases before that:

"A common judgement was pronounced by the Constitution Bench of the Supreme Court on 20.10.1991. The Supreme Court, by majority of 4:1 held inter-alia that the motion for presenting the address for the removal of Judge did not lapse with the dissolution of Ninth Lok Sabha and that the action of the Speaker in admitting the motion and constituting

the Committee was within his competence. The court also upheld the vires of the Judges Inquiry Act 1968."

It is after the judgement of the Supreme Court, the Committee has started functioning and the Committee, with all due respects to the sitting Judge of the Supreme Court, Justice Ramaswami, has given ample opportunity to Justice Ramaswami to prove that the allegations or the charges made were false. But he did not utilise the opportunity and almost at every point of time, himself, through his letters and his lawyers, was always making it very clear that he would not submit to the jurisdiction of the Committee.

18.00 hrs.

This is a most objectionable matter. Really that shows the disrespect of the sitting Supreme Court Judge to the law of the country. In fact, I will not again repeat what my friends have said regarding the constitutional provision of sub-section 4 of Article 124 of the Constitution which has given the scope to see that the Judges who misbehave are removed. Knowing pretty well all those provisions he has flatly refused. So, this is most unfortunate.

The lengthy arguments of Shri Sibal for almost six hours yesterday, have not convinced us. One point is clearly established that Justice Ramaswami has transgressed his limits and it was not the job of the Committee to come to a conclusion that Justice Ramaswami had misappropriated funds or whether he has faulted by giving his judgements for some other consideration. It was not the task of the Committee to look into that aspect. The Committee was particularly charged with certain allegations by 108 Members of this august House and it was the

duty of the Committee to examine those issues only.

When they have examined them, ten of the 14 charges were established. The degree of difference may be different. For example, in the first charge though the initial allegation was that he had spent Rs. 50 lakh, it was proved beyond any doubt, that he had spent Rs. 6 lakh. It is 13 times more than the limit, which is Rs. 38,000 which he was expected to spend.

I will not narrate what my friends stated at length. I only wish to mention one thing which he has not mentioned. It is really very strange for the Hon'ble Justice to have spent public funds for the purchase of 12 suitcases and briefcases in a matter of six months from April 1989 to October 1989. If he had purchased from his own pocket nobody will care. But spending public funds like that in a matter of six months to buy 12 suitcases spending several thousands of rupees is really ridiculous and we cannot appreciate the action of the Hon'ble Justice.

So, we have come to the opinion that apart from the offences he has committed by spending unauthorisedly the public funds details of which are also given in the report, his offence is compounded by his refusal to appear before the Committee and explain his viewpoint. If he really was of the strong opinion that he had not committed any mistake he should have appeared before the Committee or his counsel should have established it before the Committee.

So, we feel that a person of the stature of a sitting Judge of the Supreme Court does not deserve to continue in that high post, in the background that is given and in view of the report that has been presented before this august House.

So, we are supporting the Motion for the removal of Justice Ramaswami. Especially, I do not say that either the executive or the parliamentarians or the number of legislators,



are all perfect or that we are not committing any mistakes or that we are not going against the law, or any such thing. But, if something goes wrong in the judiciary, that will be the worst day for the entire nation. So, in the present circumstances we have to see that the dwindling standards in that sector are to be restored.

Especially the removal of Justice Ramaswami will go to some extent in that direction. So, with that end in view, we support the Motion for removal of Justice Ramaswami moved by Shri Somnath Chatterjee.

Sir, I thank you for giving me this opportunity.

SHRI MANI SHANKAR AIYAR (Mayiladuturai): Mr. Chariman, Sir, before I begin my speech, may I seek a clarification from you? Earlier when Mr. Speaker was sitting in the Chair, there was a discussion about the amount of time that would be required by different speakers. When Mr. George Fernandes suggested that he needed about an hour, I had suggested, I needed about 25 minutes. Mr. George Fernandes was eventually given the latitude of exceeding according to my calculation, the time given to him by 63 minutes: May I have an assurance from you, Sir, that if I were to cross the limit of 25 minutes, some element of latitude would be shown to me also?

MR. CHAIRMAN: Okay.

SHRI MANI SHANKAR AIYAR: Thank you very much.

Mr. Chairman, Sir, I am deeply conscious of the solemnity of this occasion. It is because I am so conscious of it that I have chosen to obey very strictly the rules of this House, which state that a Member of this House should speak from the seat allotted to him. Also, I will attempt to curb my natural exuberance. I will attempt to use words of restraint that do not come naturally to me and I only hope that if my vocabulary is not

of the kind that I usually resort to, it will not be taken to mean that the fire in my breast is not burning.

Mr. Chariman, Sir, the reason why unlike Mr. George Fernandes who says, "this is not a momentous event in the history of this Parliament, merely an ordinary regular everybody event" that I regard it as momentous is that never before has the proceedings reached the points against a judge where a motion of impeachment has actually been moved in this House and is under consideration.

Yesterday during one of those interruptions for which he is so renowned that he drew attention to it himself today. Mr. George Fernandes pointed out to us that where precedent does not exist, after what his Government, of which he was the Minister for Industry, did to the Constitution; and we are required to go by the British precedent. And it is for that reason, rather than any great love for colonial legacies like silver maces, that I draw attention to the British precedent on the question of impeachment.

Sir, in the British Parliament it is stated in Basu's commentary on the Indian Constitution, 5th Edition, Volume III, Page 85 that the present procedure for impeachment dates back to the act of settlement of 1701. From 1701 till today is approximately 292 years. Close on three centuries have passed since the modern system of bringing about impeachment of judges was introduced in the British Parliament. In these three centuries, Sir, I am informed by Mr. Basu in the Fifth Edition of his commentary on the Indian Constitution, Volume III, Page 86, that only one motion of impeachment has been carried against a judge and that judge was Sir John Barrington. I am grateful to my hon. friend, Mr. George Fernandes, for having drawn my attention and the attention of this House to the importance of the British precedent where there is no Indian precedent.

[Sh. Mani Shankar Aiyar]

I think it is a measure of the gravity of the charges that is required to be brought to Parliament, that through the rumbustious 18th Century when any student of British political history will tell you that the degree of corruption in that society was far, far greater than even what is alleged about ourselves and that through the 19th Century and the turbulence of the 20th Century in all this time, it has only been considered once that charges brought against a British judge were sufficiently grievous to warrant impeachment. Therefore, since I am not a lawyer and have never been in a court of law, I listened with the utmost attention to the statements made, the very long and detailed statement made by the learned counsel for the defence, Shri Kapil Sibal yesterday. I was impressed by his forensic brilliance. I was perhaps even overwhelmed by that forensic brilliance. But, I did also have the opportunity of listening with equal care and equal attention to what I might describe as the counsel for the offence, Shri Somnath Chatterjee. I listened to both of them. I have been impressed with what I have heard from both of them. I have attempted to obey Shri Somnath Chatterjee's injunction that we should maintain an open mind in this regard and I have allowed my mind to remain sufficiently open to have listened to absorbed what Shri Somnath Chatterjee, said as counsel for the prosecution, as also what I heard from Mr. Kapil Sibal, in his capacity as the counsel for the defence. I am not willing to dismiss what I have heard from Shri Sibal for a period of close on six hours in this House. I am not willing to say that I will not take it into consideration merely because what he said is already contained, according to Shri George Fernandes, within the covers of one of the volumes presented to us. I do not believe that Shri Kapil Sibal's statement should be denigrated as being merely a reading of what was between two covers. He did not read what was between two covers. He based himself upon what was between two covers. What we had from Shri George

Fernandes, which took him 63 minutes more than he said he would need, was simply a reading between the two covers of a volume that has been with us. (Interruptions) Mr. Chairman, Sir, if any Member of the Opposition wishes to make me yield, I am prepared to yield. But, I would request you that since they are not Shri Basu, there is no need for them to give a running commentary on what I have to say. But, if they want to ask me a question, I will be more than happy to yield. (Interruptions)

Sir, the reason why having listened to both, the counsel for the prosecution and the learned counsel for the defence, I find myself unable to support this motion for the impeachment of a judge of our Supreme Court, is three fold.

Firstly, I am not persuaded that what has brought us to this pass this pass in which we find ourselves today is motivated exclusively by concern for judicial rectitude. I find animus, I find extraneous considerations and I find myself unable to not weigh them in the scales of justice.

Secondly, I do not believe, as a result of what I have heard that we have reached the proper stage where recourse to a motion of impeachment in this session itself is warranted. The third is I wish to place before the House my concern about the personal considerations which appear to have resulted in the presentation of this Motion of Impeachment. I seek your indulgence. (Interruptions) Mr. Chairman, Sir, I offered right at the beginning that I would yield to anyone who attempt to interrupt me and I sought that there should be no running commentary. If Shri Nitish Kumar, whose witticisms are so greatly appreciated by the press Gallery because he looks at them every time he makes them wishes to get himself a box item in tomorrow's newspapers, I am willing to yield to him.

SHRI NITISH KUMAR: I am looking at you.

MR. CHAIRMAN: Do not have question

and answer session. Please go on in your own way.

SHRIMANI SHANKAR AIYAR: Yes, Sir. But I seek your protection to be prevented from being subjected to a runing commentary.

I come first to what I described as myself not being persuaded that we have come to this present passe merely out of concern and exclusively out of concern for judicial rectitude. We are her because of a committee of two judges and one jurist. The jurist happens to be a judge. So, I shall call it loosely a committee of three judges. We have come to this passe because a committee of judges has presented us with the report. This committee, however, would not have come into existence if there had not been a Motion of Impeachment presented to the Ninth Lok Sabha and there would have been no Motion of Impeachment in the Ninth Lok Sabha had there not been antecedents to that Motion. It is therefore, essential and necessary for us to look into those antecedents.

I am aware that I am stating on extremely thin ice here I am required and I intend to obey that injunction of my own conscience not to say anything that could be construed of said to imply any form of criticism of the judges who have looked into this issue. I am also aware that I am required to be extremely circumspect about the decisions that were taken by the Chair even if they were taken by the Chair in the previous Lok Sabha. Nevertheless, I seek your indulgence, while being as careful as I can and being as circumspect as I can, to draw attention to some of the antecedents to this Motion which have been brought to the knowledge of this House, not merely by the valumes that were presented before us but by the statement that we heard from the learned counsel for the defence yesterday.

The first and foremost of these, which causes me some concern, is that within a few days of the new Chief Justice of the Punjab and

Haryana High Court taking over from Justice Ramaswami, he ordered an internal audit, over and above the external audit that had already taken place. As was pointed out to us by the learned counsel, that internal audit was completed in what must be record time. If my memory for date is correct I am unable to verify this once again because we do not have, despite Shri A. Charles request, the text of Shri Kapil Sibal's statement here he told us that the internal audit was ordered on the 24th of October, 1989 and within a period of less than sixteen days, the internal audit completed an examination which, according to that internal audit, revealed close of half a crore rupees worth of various kinds of misdemeanour and presented this report on the 9th of November to the Chief Justice of the Punjab and Haryana High Court.

The sheer dispatch with which this work was done, the way in which subsequently now that we have the report of the Committee of three judges we are aware of the numerous mistakes made in that internal audit, makes me ask what else could be the significance of the dates 24th October, 1989 and the 9th November, 1989.

The fact is that, Sir, on the 17th October, 1989, a week before the internal audit was ordered, the Eighth Lok Sabha was dissolved and we went in for an election and by the 9th November, 1989 it was widely predicted in the press, among Opposition parties as well as in sections of the Congress party that the defeat of the Congress party in that election was likely and it did take place.

Unfortunately I think it is extremely unfortunate that this should have happened Mr. Justice Ramaswami did not hand over his residence on the day that he left the Punjab and Haryana High Court, to be elevated to the Supreme Court. He left Chandigarh as his place of residence on the 6th October, 1989, but as the learned counsel for the defence emphasised to us he did not hand over his residence to his

[Sh. Mani Shankar Aiyar]

successor till the 17th of February, 1990. During that period of close on four months in fact a little more than four months Mr. Justice Ramaswami was not in control of his residence. And a very large number of the charges that have been laid against him, whether it is in the memorandum, the motion presented by the 108 M.P.s. or as Shri Ram Naik tells us 115 M.P.s.; let me stick to the figure of 108 since that seems to be the conventional wisdom and then a number of the other statements that have been made in the report of the Committee of judges are based upon what was found in the residence of Justice Ramaswami as on the 17th of February, 1990 when he had actually left the place on the 6th October, 1989.

18.23 hrs.

[MR. SPEAKER *in the Chair*]

Then we were confronted with the situation in which there is a report floating around, an internal audit which should have been kept in the normal course internal to the Punjab and Haryana High Court, leaked to the press either accidentally or more probably deliberately.

SHRI BHOGENDRA JHA (Madhubani): Will you enlighten us as to what was the hurdle or obstruction in his not handing over the charge immediately and what was the reason for delay of four months?

SHRI INDRAJIT GUPTA (Midnapore): How can he give this information?

SHRI MANI SHANKAR AIYER: I am afraid I do not have the answer to that question. I am going on the basis of the evidence that was given to us that from the 8th October, 1989 till the 17th of February, 1990, Mr. Justice Ramaswami was not residing in Chandigarh, he was residing here in Delhi and he was asked to hand over

charge of his residence at Chandigarh only on the 17th February, 1990 and it is garments to not that a very large number of charges that were made against him derive from the positioning of furniture and furnishing as on the 17th of February, 1990. (*Interruptions*) Mr. Speaker, Sir, when you were not occupying the Chair, I had made an offer that if anybody wishes to ask me a question, I was prepared to yield immediately. I asked that in exchange for that a running commentary by not conducted. Now I have yielded to Shri Bhogendra Jha the minute he rose and I am giving an honest reply that I do not know the reason for which Mr. Justice Ramaswami handed over his house on the 17th February, 1990 since those reasons were not adduced before us during the deposition of Shri Kapil Sibal. But I am pointing out to the fact that there was this big gap. And why is it that this gap was going on? There was a change of Government, there was change in the political scenario of this country of great importance, and in that atmosphere, an internal Audit Report, which has subsequently been found to be erroneous on a large number of points of fact, was leaked to the press and a controversy was started against the interests of Mr. Justice Ramaswami. And when this controversy was started against Mr. Justice Ramaswami, no less a person than the then Chief Justice of the Supreme Court of India, Mr. Justice Sabyasachi Mukherjee asked Mr. Justice Ramaswami to proceed on leave until such time as the controversy died down. And in response to and in rebuttal of numerous charges that have been made in this House from the opposite side that Mr. Justice Ramaswami had no respect whatsoever for his fellow Judges, I wish to emphasise that when the Chief Justice of the Supreme Court asked him to proceed on leave, Mr. Justice Ramaswami immediately complied. And having complied for a period of several months, the Chief Justice and his colleagues there are three of them sitting in a Committee were looking at the documents that had been adduced, that had been prepared, that had been submitted. They were looking into this.

and to the best of my knowledge Mr. Justice Ramaswami while reserving his right to defend himself, while insisting that he should be assumed to be innocent until proved guilty, did nothing to flout the dignity of the Court, and the dignity of the Chief Justice. Unfortunately, the Chief Justice of India died, \*\*

However, subsequent to that there were two other Chief Justices.. (*Interruptions*)

MR. SPEAKER: That is not going no record.

SHRIMANI SHANKAR AIYAR: There was a total of three Chief Justices in succession, who were looking..

[*Translation*]

SHRI KAMLA MISHRA MADHUKAR (Motihari): Mr. Speaker. Sir. he has quoted. Please try to understand what he has said. You know what he means.

[*English*]

SHRI MANI SHANKAR AIYAR: Sir, my expression has not been understood by him clearly, and, if you, permit forgive me, might I just repeat it in Hindi.

MR. SPEAKER: Please don't repeat it now.

SHRI MANI SHANKAR AIYAR: No, Sir. Thank you. I ignore that question.

Three Chief Justices and their colleagues were looking into the charges (*Interruptions*). I plead with you that if Mr. Nitish Kumar wants a box in tomorrow's papers, I will sit down, and he can cut his joke. But this way of constantly conducting a running commentary I don't approve of.

[*Translation*]

SHRISHARADYADAV (Madhepura): Mr. Speaker, Sir, he is not saying anything which would hurt anybody. He often speaks in this manner to many hon. Members. There is nothing to be displeased. It is only to make the discussion lively.

MR. SPEAKER: I would like to advise every hon. Member to restrain..

SHRI SAHRADYADAV: However, I would request him not to take it otherwise.

[*English*]

SHRI MANI SHANKAR AIYAR: Mr. Speaker, Sir, I was referring to three Chief Justice and their colleagues being seized of this issue. Now, it has been suggested that it is Mr. Justice Ramaswami who has great contempt for his fellow Judges. I wish, however, to refer you to the Synopsis of Debate of the Lok Sabha for Yesterday Monday, the 10th of May which contains a synopsis of Shri Somnath Chatterjee's speech at pages 882 to 887.

I wish to draw your attention specifically to page 884. In this Mr. Somnath Chatterjee is cited. I do not say 'quoted' because I know this is a summary and this is nto the totality of his words. But he is cited here as saying that:

"A while the Chief Justice had advised Justice Ramaswami to desist from discharging a judicial functions so long as the investigations continued and until his name was cleared on this aspect and Justice Ramaswami applied for six weeks leave, but no action was taken for months together."

Sir, yesterday I was sitting in this House and I heard Mr. Somnath Chatterjee using these

[Sh. Sharadyadav]

words, But no action was taken for months together. No action was taken by whom? By the three Chief Justices and three of their colleagues. Who is holding our judicial system in contempt? If the Chief Justice of India believes that he requires time to look into the charges that are being levelled against Justice Ramaswami in a political situation that is fraught with tension and where certain members of the Bar, who are also active member of political parties, are threatening such action as going on 'dharma' which include a gentleman who once used to be the Law Minister of India, even in this charged atmosphere where charges are being levelled against Mr. Justice Ramaswami, who established his reputation as an absolutely brilliant lawyer in Madurai ..(Interruptions)

Sir, when I made this sound yesterday, you ruled it out as unparliamentary. I want to know whether when I say that Mr. Justice Ramaswami established his reputation as a brilliant lawyer in Madurai, these people, who know nothing about Tamil Nadu, are right in contemptuously saying 'hai hai' (Interruptions) I am a Tamilian who has lived all my life in North India.

[Translation]

SHRISHARAD YADAV: Mr. Speaker, Sir, he has not said anything to this effect. (Interruptions)

SHRINITISH KUMAR: Mr. Speaker, Sir, there is some reason behind his action. Therefore, it should not be expunged. How can you expunge a gesture ..(Interruptions)

[English]

MR. SPEAKER: This is also unparliamentary.

(Interruptions)

SHRI MANISHANKAR AIYAR: Sir, I was saying that after establishing his reputation as a brilliant lawyer in Madurai, Mr. Justice Ramaswami rose through the different echelons of one of the oldest courts of our country, the Chartered High Court of what used to be the Madras Presidency and is now the State of Tamil Nadu, to a position where he became no less than the Chief Justice of a High Court of which I, first as an Indian, out also as a Tamil, am proud.

Sir, he was found fit to go to Punjab and handle the High Court of Punjab and Haryana at an exceptionally sensitive moment in the history of Punjab state, and therefore in the history of Haryana because what was happening in Punjab was having a spillover effect on Haryana. He reached there, as we were told by the learned counsel yesterday, on the 6th of November, 1987. In other words, a few months after 'Operation Black Thunder II' and it was in that period as this House was informed in the Ninth Lok Sabha, from 1987 to 1989 during and in the aftermath of 'Operation Black Thunder II' that the Prime Minister at that time was able to report with some pride and considerable belief to this House that more than half the police stations in Punjab had not reported more than one incident of terrorism in the previous two years. At that extremely sensitive time every judge was subjected to an overall and generalised threat. Some of them were subjected to specific personal threat. We know that the proxy was against India that was being conducted through terrorists in Punjab, was being funded, aided, abetted and supported from across our borders where not only Pakistan but several other agencies were involved. You will not permit me to name them. I do not need to because everybody here knows that enemies of India with crores and crores in their hands, not crores of rupees but dollars, were willing to subvert our judiciary which is part and parcel of the totality of the system. Then that proxy war was being conducted against India, this Tamilian of whom I am extremely proud who

proved himself to be an Indian first, by conducting himself and conducting the affairs of the Punjab and Haryana High Court in such a manner from November, 1987 through October, 1989 that even in the sur-charged political atmosphere of 1990 and 1991, nobody has suggested that there was an element of impropriety of corruption, of treachery about his actions as a judge. I do not think that a model of rectitude in a court, without a single stain upon his character when he steps into the official portion of the residence, suddenly becomes a monster, a demon and rakshasha when he goes into his private bed room. How many table napkins? Ah! Yes there were 96.

I want to ask in this atmosphere when the Chief Justice and three of his colleagues were carefully examining the charges that were brought against Justice Ramaswami, was it necessary for 108 Members to suddenly precipitate the matter? The motion of impeachment that was brought, that was drafted on the 7th February, 1991 and brought to the attention of the Speaker on 28th of February, 1991 was an act designed to precipitate events. It was not the desire of the Chief Justice that we proceed with an impeachment motion. It was not desire of the three judges who were looking into those documents that we should proceed with the impeachment motion. This was the unilateral desire of 108 Members of Parliament that instead of allowing the Chief Justice of India and his highly respected colleagues to come to a considered and logical conclusion about the veracity or otherwise of the charges that were being made against Justice Ramaswami in an internal audit report, we should try and involve Parliament.

Again I come to politics of it. As of the 28th February, 1991. We had lost the Government. Earlier the Government that had been formed after the elections of 1989, based on an unprincipled alliance had fallen. We were about to lose the next Government, the Government of Shri Chandrashekhar. We had reached a point of

crisis where the strain between the dog that was wagging the tail, was so great that Shri Chandrashekhar, on the 28th February, 1991, who only one week away from getting so fed up with those who were supporting him that he was about to throw in the towel and seek the dissolution of the Ninth Lok Sabha.

Around the 28th February, 1991, when it was most likely that the Ninth Lok Sabha would get dissolved, certain political parties know how they would have to go into the election field with an issue, these 108 Members of Parliament snatched what was the jurisdiction of the Supreme Court away from the Supreme Court by producing a motion for impeachment.

I think it is extremely important that when we look at who those 108 Members were, we take into consideration one factor. They did not represent a cross-section of this House. Yet they did represent the minimum required to present a motion of impeachment. But they were all drawn from parties that numerically did not constitute a majority of the House. That is perfectly legal thing to do. It is a perfectly moral thing to do. But I believe that it is a consideration which we today in the 10th Lok Sabha must bear in mind that at a time when the Government was tottering, at a time when it was very in public knowledge, when even my eleven year old daughter was knowing what would happen, that this Ninth Lok Sabha was going to come to an end and parties would be required to take an issue into the field and it had been definitively proved that the Bofors issue on which they had made so much hay in 1989 was no longer going to be valid in 1991, that they would pick on what was their favourite theme that they were all illywhite and we were all a load of corruption.

This is politics. This is not a matter of the judiciary. In this atmosphere, a motion of impeachment was introduced and when this motion of impeachment was introduced, the Congress party, which constituted the largest

[Sh. Mani Shankar Aiyer]

single party of that House, and it is also the largest single party of this House, made it quite clear to the Chair, to the Hon. Speaker at that time and, I do not wish to cast any kind of aspersion upon him honour as the Speaker at that time or to call into question the authority of the Chair upon which you sit, at that time, there were messages that were conveyed to him about how the largest party in the House wished to be consulted in regard to the motion of impeachment which, if it was to be passed, would require the support of that largest party of the Ninth Lok Sabha.

You had made it completely clear that I cannot call into question the action taken by the Hon. Speaker at that time and I am not, because I know you are going to restrain me. I am not going to do that. What I want to do is to bring to your attention a fact. I was not a Member of the Ninth Lok Sabha. I, therefore, did not have the privilege of sitting here on the 12th March, 1991. But I do have the privilege, in the 10th Lok Sabha, of coming into this House every day either by that door or by this door because this is my seat. As I walk into this House, there is a photograph which never fails to catch my attention. It is a photograph which was taken of the Ninth Lok Sabha. It is dated. The date is printed on it. That date is the 12th March, 1990, when the Hon. Speaker was so deeply convinced that the Ninth Lok Sabha probably did not have even 24 hours to live.

SHRI NITISH KUMAR : 91 March.

SHRI MANI SHANKAR AIYAR : 91, 12th March when the Hon. Speaker knew that this House did not have even 24 hours to live, he made arrangements for all Members of that Lok Sabha to be called together for a photograph to be taken and it is that photograph which is there and it was only after that photograph was taken, that the Hon. Speaker entered the House and

when he entered this House, there was a large amount of business to be conducted including as I see from the record, trying to keep one lady Member Mrs. Mayawati under control, the Hon. Speaker used to have considerable difficulty in this regard. Than what happened on that day? (*Interruptions*) What is the last act, the very last act of the Hon. Speaker of the Ninth Lok Sabha? It is to make the announcement. So it says in the Lok Sabha Debates, 9 series, Vol. 14 No. 7 cols. 115-118.

The very last act of the Hon. Speaker at that time was to say that he adjourned the House sine die. That was at 19.47 hours. At 19.46 hours, less than 60 seconds before he was pronouncing it, what happened? Sir, you will forgive me. I have to teach my six hon. friend Shri George Fernandes who was in the Fourth Lok Sabha. I am a new boy who has only come into the Tenth Lok Sabha a little bit of constitutional law that when the House is adjourned sine die, it is not prorogued. What he quoted yesterday to Shri Kapil Sibal was about what will obtain in the event of a prerogation and not in the event of a dissolution. That is by way of a remark made in parenthesis.

I now come back to the fact that at 1947 hours on the 12th March 1991 this House is adjourned sine die and at 1946 hours the hon. speaker has said that he has found the motion in order and therefore admitted it and is appointing a Committee of three Judges. He used the expression constitute which is what the language of the law says. He says "I constitute a Committee of these three Judges." But, Sir, I think it is necessary for Members of this House to take into account the argument we heard from the Bar of the House from the learned Defence Counsel yesterday that there is a difference between "constitution" and "appointment". If it had been the intention of the Judges Inquiry Act that three Judges being appointed by the hon. Speaker, it would have said so. It used the expression "will constitute a Committee of three Judges". And



the expression "constitute" was explained to us by an extremely learned Counsel yesterday. Now, I completely agree that Members of this House are free to accept whatever interpretation they wish. We are sitting here in a quasi judicial capacity. If hon. Members of this House or some of them believe that there is no material distinction between the "appointing a Committee of three" and "constituting a Committee of three" they are welcome to their interpretation. But, as far as I am concerned, and as far as other people with an open mind are concerned, we give significance to the word "constitute". It does not mean "appointment". And, to constitute a Committee would have required a far greater degree of consultation in the plain meaning of the term than apparently it would have appeared to place. From what we know on the record, one thing is clear. I am not questioning the behaviour of the Hon. Speaker. I am merely drawing attention to the fact that telephone calls were made to two Judges and one Jurist who happened to be named as a Judge at the sole discretion of the Hon. Speaker of that time whereafter there was a process of obtaining the concurrence from the Chief Justice, a process of concurrence which involved the dissolution of the Committee of three sitting Judges that the Chief Justice had himself appointed at that time. Is this the way justice is conducted in this country? The answer is "Yes". Yes, this is the way in which an attempt is made to do justice.

Of the 108 Members who voted for that motion and submitted themselves almost immediately thereafter to the will of the people, the people of India rejected for want of another term nearly half of those Members. Something in the region of 45 per cent of the Members who signed the motion of impeachment were rejected by the people of India within two months of their signing that motion of impeachment.  
(Interruptions)

SHRI HARI KISHORE SINGH: Sir, I was

one of the signatories to that motion. I got elected by defeating the Congress candidate who forfeited her security deposit.

SHRI MANI SHANKAR AIYER: I congratulate him. I congratulate him on being one of the 58 who came back to this House. I am very that because of the noble contribution he makes to our deliberations in this House that  
(Interruptions)\*

(Interruptions)

MR. SPEAKER: That is not going on record.

(Interruptions)

[Translator]

MR. SPEAKER: It has been expunged.

(Interruptions)

[English]

SHRI MANI SHANKAR AIYER: Mr. Speaker, Sir, I seek your protection. I think, Members of this House would find it of more than passing historical and constitutional interest that Article 124 of the Constitution was debated in the Constituent Assembly on the 24th of May, 1949. At that time this Article was numbered 103. I have only this morning looked through the Constituent Assembly debate for that day and I find that there was a Member of the Constituent Assembly Shri Tajamul Hussain who had proposed an amendment at that time to what is today called Article 124(4) that after a Motion for Impeachment is admitted, it should be examined by a committee of all the judges of the Supreme Court. Now that amendment was negatived. I sometimes wonder now whether our founding fathers would not have been better advised to have asked that instead of a committee of three judges against whom the charge could be brought

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I am not bringing the charge \*\*the two words that have so frequently been used against Justice Ramaswami, could have been avoided. We would have had a committee of all the judges of the Supreme Court. However,, that may be, I have to live with the reality. And it was in these circumstances that the committee came into existence.

I have been through the antecedents that led to the Motion, I have been through the Motion which led to the constitution of the committee of judges. We have been subjected during the course of even the few interventions that have taken place in this debate to repeated homilies, firstly, from Shri Somnath Chatterjee and subsequently from that master of homilies Shri Jaswant Singh to keep our minds open. Now I would say that is important... (Interruptions)

[Translation]

SHRI SURYA NARAYAN YADAV (Sahasra): Mr. Speaker, Sir, the hon. Member has stated that the three man committee was constituted under rules. I would like to know from you, whether Justice Ramaswami is innocent and the report submitted by the three judges is to be blamed for (Interruptions).

[English]

SHRI MANI SHANKAR AIYAR: I sometimes feel that it is a grave mistake in speaking in this House to use the English language. It is because he has been unable to understand my English or possibly the translation is defective that he is making such a statement.

[Translation]

SHRI SURYA NARAYAN YADAV: Sir,

the hon. Member of considers himself to be a scholar of English language. (Interruptions)

[English]

SHRI TARIT BARAN TOPDAR (Barrackpore): It is highly derogatory. (Interruptions)

SHRI MANI SHANKAR AIYAR: I was on the point of our having been assured. (Interruptions)

SHRI TARIT BARAN TOPDAR: There is no such rule that only English knowing people will be here. (Interruptions)

SHRI SOBHAMADREESWARA RAO VADDE (Vijayawada): I am on a point of order. He is casting aspersions. (Interruptions)

I accept that injunction. I believe that if we are going to conduct a semi-judicial or a quasi-judicial proceedings in this Parliament, it is essential that our minds be kept open but we cannot have an a symmetrical situation where the mind is kept open on this side and the mind is kept closed on that side. We want the mind to be open everywhere.

Then, Sir, we have a very distinguished and senior member of the opposition, Shri Jaswant Singh, being quoted in the newspapers the favourite newspaper of the opposition as saying with respect to all of us sitting on the Congress Benches in this House that the Congress has no conscience. (Interruptions)

AN HON. MEMBER: What is wrong in it? (Interruptions)

SHRI A. CHARLES: (Trivandrum): Sir, this is very unfair. I take strong objection to this. (Interruptions)

SHRI MANI SHANKAR AIYAR: Mr. speaker, Sir, when I read the charge against all my fellow Congressmen and me that we have no conscience, I could only say to myself "Ha, Ha, funny, funny!" because I do not have on my conscience the breaking of a 450 years old Masjid that is sacred to so many millions of our fellow countrymen (*Interruptions*)

SHRI HANNAN MOLLAH (Uluberia): It is a circus or what? (*Interruptions*)

SHRI MANI SHANKAR AIYAR: I do not have on my conscience the withdrawal of the special Protection Group that brought about the assassination of Shri Rajiv Gandhi. And I do not have upon my conscience having joined the troika of communalists and casteists in the name of communism to bring into existence the Government of 1989-90 which is now happily been being consigned to the dustbin of history.

I have a conscience but the difference between Shri Jaswant Singh and myself is not that he has a monopoly of conscience or that he is the only one who can conduct this patti parade in Parliament, but the difference is, I believe, in the rule of law. And Shri Jaswant Singh has informed us in this House nearly a year ago that he believes in the doctrine of reverse jurisprudence. The rules of law says that I have to assume a man to be innocent until he is proved guilty. The rule of law says that no judge of India is above the law of the land but it equally says no judge of India is below the law of the land. The rule of law says that charges may be brought, to arguments may be conducted, proof may be adduced verdict charges may be pronouncing and a sentence may be passed. But... (*Interruptions*)

SHRI ANIL BASU (Arambagh): What do you mean by "below the law"? Let him clarify that first. (*Interruptions*)

SHRI MANI SHANKAR AIYAR: But, Sir,

the doctrine of reverse Jurisprudence placed before this House by Shri Jaswant Singh, nearly a year ago which has gone uncontradicted by any of his masters on the front benches and has not been challenged by any of his backbenchers and which, I therefore, take to be the fascist doctrine of the B.J.P. stipulates that Shri Jaswant Singh or any of his cohorts can make any large against any public person and if he is a Congressman then he must be held guilty. And in the case of Justice Ramaswami, what we have been witnessing is that, I am talking about what has been happening in the Press and much more importantly, what we have witnessed in this House since yesterday — we are having a kind of Star Chamber proceedings.

19.00 hrs.

The assumption is made by one side that the man is guilty and all that remains is for us to pass the verdict of impeachment. On this side I know that yesterday talking to my colleagues in the lobby, there were a large number of people who were in favour of impeachment, who have since heard Shri Kapil Sibal and feel that impeachment is not justified. There is a small minority of people also I am talking now about my colleagues on the Congress benches and I am looking at one of them just now who said to me that they were against impeachment earlier, but now having listened to the proceedings, they are in favour of impeachment. There is an open mind on the Congress benches. There are some of us who believe that the man should be impeached. There are others who believe that the man should not be impeached. There is probably a very large number of us who believe that we have not been given an opportunity in this House to come to a valid and judicial conclusion. But on the other side? I do not know what the outcome of their voting will be. Although I am an Aiyar, I am not an astrologer. Therefore I am incapable of saying what exactly they would do. But I am willing to take a small bet here, and Sir, Since you do not allow gambling in the House,

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I believe it at just one cup of coffee in the Central Hall. The small bet that I take is, not one single Member of the BJP, not one single Member of the Janata Dal, and not one single Member of the CPI (M) and all its little adherins and not one single Member of the CPI is going to do anything but vote for this motion. They made up their minds before they came here, long before the proceedings started in this House. They had recourse to the Press to say in a column not only that they were going to vote in favour of impeachment before they had the opportunity of listening to the learned Counsel for the Judge, but also to provoke their friends in the Press to keep threatening Members of Parliament that they will publish the names if they vote against it. (*Interruptions*)

[*Translation*]

SHRISHARAD YADAV (Madhepura): Mr. speaker, Sir, with regard to what Shri Mani Shankar has said we feel very honestly that there are many members in the Congress Party who have not made up their mind. We have never thought that they have already made up their mind nor we say such things outside the House. At the same time, there are many members among us who make up their mind after listening to the debate

SHRI MANI SHANKAR AIYAR: I express my gratitude for his clarification. Now I request you to please allow me to speak. (*Interruptions*) Now I am waiting for a red light to stop them, so that we can proceed.

[*English*]

SHRI MANI SHANKAR AIYAR: We were told by Shri Jaswant Singh that the function of this House in an impeachment proceedings is that we can examine the conclusions of the Committee of Judges; but we cannot examine

what went into the conclusions that these Judges came to. This is the appalling consequence of this Doctrine of Reverse Jurisprudence where on that basis he stood in this House and with reference to the death in a car accident of a Police Officer close to 22 years ago had attempted to pretend that he has the proof that my party's former Prime Minister and a martyr to this country, Shrimati Indira Gandhi, was an accessory after the fact of murder. I cannot accept it. Either we have the rule of law in a democracy or we have the doctrine of Reverse Jurisprudence in a Fascistic Society. Happily we are still a democracy because they are in the opposition. (*Interruptions*)

[*Translation*]

SHRI JASWANT SINGH: Mr. Speaker, sir, I am speaking in Hindi, as was requested by some of my friends. I had said in this House about the doctrine of reverse jurisprudence. (*Interruptions*) The Bofors issue was also raised in the House. I had said this in connection with Solanki episode. I had then said and will say it now also that reverse jurisprudence applies to Governments only and not to the people. If allegations are made against any Government, it will be considered guilty, until it proves that it is not guilty. Whereas, if allegations are made against any persons, he will be considered innocent, until he is proved to be guilty.

[*English*]

MR SPEAKER: Can you give any authority to support your doctrine?

[*Translation*]

SHRI JASWANT SINGH: No, this is my own view.

SHRI MANI SHANKAR AIYAR: Mr. Speaker, Sir, I am thankful to Shri Jaswant Singh for giving this clarification after one year

[English]

MR. SPEAKER: Jurisprudence is the one which applies to all.

[Translation]

SHRI JASWANT SINGH: I had expressed my views that reverse jurisprudence applies when allegations are made against Governments.

MR. SPEAKER: I have not read any such thing till now.

SHRI JASWANT SINGH: This is my own opinion. The hon. Member has full right to express his views clearly.

MR. SPEAKER: All right. Leave it.

SHRI JASWANT SINGH: Mr. Speaker, sir, incidently, I remember a line of stanza of Rahim's poem. I will not quote the first line, but I will quote the second line which reads:

"Pyade se pharzi bhayo, tedho-tedho jaye".

(Interruptions)

[English]

SHRI MANI SHANKAR AIYAR: I am very glad. I am very grateful for this clarification. (Interruptions) Sir, I wish to proceed now. (Interruptions) During the course of Mr. Kapil Sibal's presentation here in the House yesterday, there was one point made. In keeping with the National Front's usual habit of interruptions while keeping sitting, a short from the other side said, "This is not a court of first instance". And the gentleman from the Opposition who said that, met me outside to remark that this is not a Munsif's court. I think, therefore, it is important

to know whether it was necessary for Shri Kapil Sibal six hours of forensic brilliance, through every single charge that has been made against Mr. Justice Ramaswami. (Interruptions) At that time, it was explained to us by Mr. Kapil Sibal that the reason why he had to present all his arguments for the first time here in this House was because he had chosen not to accept the jurisdiction of the Committee of Judges. A man is innocent until proved guilty. He has every right to defend himself and he has every right to determine the procedure by which he will defend himself.

I recall, Sir, it is not a case that is immediately on all counts relevant, but it is relevant that when I was posted as the first Consulate-General of India in Karachi, the trial of Zulfikar Ali Bhutto was going on; and he close to defend himself only in the Supreme Court, not having defended himself elsewhere. When it was stated by the Supreme Court Judges there, that he should have introduced many of his arguments at an earlier stage, it did not help him from being saved from the sentence of death. I do not know what the legal position with regard to Justice Ramaswamy not having presented himself physically, in person to that Committee is. But, he has submitted a large number of documents and I am sure, those documents will be taken into consideration in the event of this House passing the impeachment motion and then Mr. Justice Ramaswamy going in appeal to the Supreme Court. We are told here by Mr. Kapil Sibal that Mr. Justice Ramaswamy had sought to place himself under the jurisdiction of the Supreme Court, because he said that as far as he was concerned, he had full faith in the judicial process; and then, he was willing to subject himself to the judicial process. That was not accepted, he was subjected to an impeachment process and in that impeachment process, he preferred to come here and put his arguments. I think, it is incumbent upon us, not to say as Shri George Fernandes attempted to say that he had no right to come here

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and take us, line by line, comma by comma, sentence by sentence, through all the charges that have been made against him for the last three years. I think, he had every right to decide what he will do in his own defence. When he came here, he gave us the highest respect. He said that whatever his reservations might be about that specific Committee\*\*

I do not agree with him, of course. How can I go against the hon. Speaker?

MR. SPEAKER: It will not go on record.

SHRI MANI SHANKAR AIYER: He said, he was willing to submit himself to the jurisdiction of our judiciary as well as to the jurisdiction of Parliament. And his argument consisted of taking up every single charge. He first took the charges that had been incorporated in the motion for impeachment and admitted at that stage provisionally that one of those charges have been partially proved, he told us on the basis not of his finding but the findings of the Committee of Judges that something like 90 per cent of the words contained in the motion for impeachment which is under consideration of the House today were false, mischievous and kasken.

Then, he had to take us through the findings of the Committee of Judges. As he was doing that because there was a constraint of time, because you insisted that he must conclude his arguments yesterday itself and he must do so in the shortest possible time the charges that the Committee of Judges had held to be not proved, the learned Counsel did not go into the details of those charges. And what did Shri George Fernandes do? Shri George Fernandes picked up three or four of the charges it is a fact that the Committee of Judges held to be not proved and the arguments regarding which Shri Kapil Sibal had not gone into details when he was speaking before us and read out at what I regard but obviously you did not

\*\* Expunged as ordered by the chair.

regard it at an inordinate length the original charges themselves and with a sneer in his voice, he would then read the conclusions of the findings of that Committee of Judges. Who is disrespectful to those three Judges? The man who reads those findings with a sneer in his voice or the man who comes before us and says, "I submit myself to the jurisdiction of the judiciary, I submit myself to the jurisdiction of the Parliament." I know he says through his Counsel that "if I am found guilty of any misbehaviour, I deserve to be impeached. That is the man whom we are sitting here to judge today.

Mr. Sibal could still be right. I am just asking you to consider that if he has converted his presentation here into the presentation before a munsif's court if he has said before us the sort of things, that perhaps he would have been better advised to say before the Committee of Judges what happens tomorrow if this House passes the motion of impeachment without taking into account what Shri Kapil Sibal told us and then Mr. Justice Ramaswami goes in appeal against that impeachment to the Supreme Court and he Supreme Court takes into account everything that Shri Kapil Sibal has said and then it throws out the impeachment. Nothing will undermine that delicate balance which we, our Judiciary, our Executive, and Parliament have got, more than to find Parliament in all sobriety passing historically and for the first time ever a motion of impeachment only to have the Supreme Court say that Parliament did not know what it was doing when it passed that motion of impeachment. Please think about it very carefully.

I think, Mr. Sibal was absolutely right when he said, that whether we pass this motion or we reject this motion, we are doing great damage to our nation. It is the responsibility of those who in the dying days of the Ninth Lok Sabha, knowing that that Lok Sabha was coming to its desolate end, that they brought this motion in consequence

of which the Tenth Lok Sabha has to pay for the actions of the Ninth Lok Sabha.

I would plead with you even at this last moment, that it is not a question of the honour of Shri Somnath Chatterjee that he has moved a motion for impeachment in this session and, therefore, if he does not get it passed in this session, the thing will lapse. It is stated in the Encyclopaedia Britannica, 1965, volume 12, page 1, that an impeachment trial in the United States of America requires the entire Senate to sit from 16 days to 6 weeks. That is how an impeachment trial is conducted. We are not being given 16 days, we are not even being given 16 hours to consider this matter! I plead with you, Sir, that what we were asked by Shri Kapil Sibal to do not to press this motion to the vote, would be the most sensible way of setting the issue.

MR. SPEAKER: Mr. Ayer, I do not want a wrong impression to be created. In the United States, the matter goes to the House of Representatives and then to the Senate Committee. Then it is passed. Here it comes to the Speaker, then goes to the Committee and then comes here.

SHRI MANI SHANKAR AIYER: I stand corrected. But the point of substance remains.

MR. SPEAKER: Nobody should go with the impression that this matter was not given the time it deserved.

SHRI MANI SHANKAR AIYER: Mr. Speaker, Sir, I still maintain that even though I do not want anyone to go away with the impression that enough time has not been given, I still maintain that the most rational course, the course assigned to save our Constitution, to save our nation, to save the balance that has been built into our Constitution between the executive, the judiciary and this Parliament, the most sensible and sensible course, would be not to press this

motion. If this motion is going to be pressed for a vote, if I am compelled to cast my vote, then it could go against my conscience to send an innocent man to the gallows. His guilt has not been established beyond reasonable doubt. Establishing the guilt of someone beyond reasonable doubt is the second requirement of the rule of law, the first requirement being that you assume that he is innocent until he is proved guilty. I, therefore, cannot, in all conscience, to the conscience of every open mind in this House, whether it is on this side of the House or on that side of the House. Whether that process of keeping the mind open would lead a conclusion that the impeachment is justified or not justified, but remember that this moment in history demands that each of us goes to our grave or to our funeral pyre, with a clear conscience that we have not sought political advantage by holding an innocent man to be guilty. Nor should we be frightened by the prospect of political disadvantage, having to cost a vote which is different to that which our conscience dictates.

I would, if I am permitted to, vote against this motion. But I am also a disciplined party man and I shall vote as a disciplined party man should the matter be presented to the vote. Thank you very much.

SHRI CHANDRA SHEKHAR: When the hon. Member was speaking, he made certain reference "Committee You, very rightly, asked the reporters not to record it. But it is not taken by the media. I did not want to disturb him at that time. He said at the time." "You rightly said that it should not go on record. But that is not known to the media. So, it may be published tomorrow and it will not be a good reflection on those Members. What you said to the reporters should be made known to the media also.

MR. SPEAKER: They are expected to go through the record and correct it. If my voice is not audible, I cannot raise it to make it audible. They have to go through the record.

SHRIMANI SHANKARAIYER: Sir, if Shri Chandra Shekhar's remarks are permitted to go on record, will you allow..

MR. SPEAKER: I think Shri Chandra Shekhar's observation also should go off the record.

SHRICHANDRA SHEKHAR: No matter!

SHRI MANI SHANKAR AIYER: If that goes off the record, I have nothing further to add.

[Translation]

SHRI BHOGENDRA JHA (Madhubani): Mr. Speaker, Sir, the Parliament has taken very important decisions several times, which have changed the course of our country and this is the first occasion in the Parliament's history since the inception of Parliament and adoption of Constitution that we are sitting here to decide on the Impeachment issue against a Judge.

Sir, some Members have mentioned about the Ninth Lok Sabha. During that period, some Members had approached me for taking my signature, but I had asked them to give me some time, so that I can become aware of the issue and then sign it. I did not sign it, as I could not get any information at my personal level. As some of the Members are saying that the Members have blindly signed the representation, it is not so. Neither any party whip was issued nor anyone was forced to sign it. I think the Members, who are saying these things, will understand it properly.

Mr. Speaker, Sir, I would like to submit another point. Shri George Fernandes was saying that we are the accusers. This is not true that we are not to act as court. He has given his consent and opinion on this issue that we are the accusers. According to the facts and the process before us, we are sitting here to decide on it as

a court. Sir, I had read a story in a book in my childhood that....

MR. SPEAKER: Please come on the law point.... there is shortage of time....

SHRI BHOGENDRA JHA: Mr. Speaker, Sir, I will conclude within your allotted time. Once upon a time, there was a shepherd who used to give decisions on people's disputes. The people were surprised to see his quality. When that place was dug up, where he used to stand and give decisions, the throne of King Vikramaditya was found there. So, that throne used to direct him about the decisions. When he was not standing at that place, he behaved like a normal man. We are also sitting here for doing such justice.

Mr. Speaker, Sir, I am happy that the counsel of Mr. Justice Ramaswami had presented his case in Parliament yesterday. It would have been better, if he himself had come. It would have helped in understanding the case. He would have been in a better position, if he had presented himself before the three Member Committee. Sir, how unjustified the allegations are which have been made by Mr. Justice Ramaswami and some of the Members. The Committee comprising of the Chief Justice of High court, and a retired judge, was set up under the law of the land and under the Constitution to investigate the cases of judges but a misconception about such a Committee strikes at such laws enacted during the Fourth Lok Sabha when I was a Member of the House. The procedure under that law that the Supreme Court should first examine the case and then the Parliament should examine it. This procedure was discussed, but it was not found appropriate that the Supreme Court should pass a judgement and then the Lok Sabha should sit to decide the case making that judgement a ground for investigation. That is why, a proposal for setting up a committee of three Members was presented. On behalf of Mr. Justice Ramaswami, his



Counsel told yesterday that even that three member Committee did not find many of the allegations true. It proves that this Committee has worked honestly and without any prejudice.

This fact proves what our colleague has said and what the learned Counsel had said yesterday.

A few moments ago, during the discussion, the Law Minister has said that there is no Minister who does not waste money. (*Interruptions*) He has not uttered the word dishonesty, but he had meant it. I think if this is true about the Minister himself, he should resign today. He may be wrong about others, but he must be having knowledge about himself. (*Interruptions*)

[*English*]

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): I may be allowed to explain on what he has said. I was just reminding my very senior colleague Shri George Fernandes that he used to travel by a special aircraft and all Ministers used staff cars. There is nothing in using staff cars. How is it amount to a misconduct or breach of conduct? You let me know, I will resign. The House should not be misled by senior Members.

[*Translation*]

SHRI BHOGENDRA JHA: Mr. Speaker, Sir, it is a matter of pleasure... (*Interruptions*)

SHRI SHARAD YADAV (Madhepura): I accept that he has not mentioned it completely, but you have said a lot more than this. (*Interruptions*)

[*English*]

SHRI H.R. BHARDWAJ: I have already

told you that we all use staff cars.

SHRI DEVENDRA PRASAD YADAV (Jhanjharpur): You said that you also indulged in malpractices. (*Interruptions*)

[*English*]

SHRI H.R. BHARDWAJ: I have four cars of my own.

[*Translation*]

SHRI BHOGENDRA JHA: You still have a chance to change your stance. We do not have any objection. (*Interruptions*)

[*English*]

SHRI H.R. BHARDWAJ: I am not an accused.

[*Translation*]

SHRI BHOGENDRA JHA: Now the problem is whom should we take lightly and whom seriously. If the words of an hon. Minister of Law and Justice are also to be taken lightly then I fail to decide as to whose words should be taken seriously. We may be law makers but we too are bound by law. One may be a Minister or an M.P. we should get opportunity to improve. So even from that point of view, it is important. Mr. Speaker, Sir, one of our Colleagues Shri Mani Shankar Aiyer said just now that why was Justice Ramaswami allowed to retain the official residence at Chandigarh for 4 months when he had already shifted here. None of us including Mr. Aiyer is, however, aware as to how the said residence at Chandigarh was still in his possession while he had already assumed his office in the Supreme Court. I, however, do not intend to level any fresh charge against Justice Ramaswami, nevertheless, keeping the bungalow at Chandigarh under his possession for 4 months is a matter of enquiry. I do not know why Shri

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Mani Shankar ji pointed at this fact.

Mr. Speaker, Sir, everybody has said that there is no charge against Justice Ramaswami's performance as an able judge and that he discharged his duty very well. What has been proved is that he can no more continue to occupy the position of a judge though we may have highest regard for him and he may be highly capable. Sir, I would therefore, like to make it clear that this motion of impeachment is not to level a charge on his ability. It is not a charge on the judiciary. This impeachment against him has been brought for the violation of rules committed by him in the capacity of Judge. I would therefore appeal to those who have spoken about a liberal attitude, that they should be unanimous in voting in favour of this impeachment motion so that the judiciary, democracy and parliamentary system could be safeguarded. We are also ready to accept any other decision by the Supreme Court later on. With these words I conclude.

[English]

SHRI K.P. UNNIKRISHNAN (Badagara): Mr. Speaker, Sir, I am grateful to you for your kind indulgence. This, I would say, is indeed a historic occasion, and a momentous one and here I beg to differ from my esteemed friend and colleague, Shri George Fernandes. Therefore, this is neither an occasion for an ordinary debate if the treasury benches versus the opposition nor is it an occasion for flippancy. This call for serious consideration of all issues in an objective manner. We are exercising a constitutional function, our extraordinary power given to us under the Constitution for an impeachment and removal of one who holds a high Constitutional office of, a judge of the highest court of the land, and therefore, this context itself merits serious consideration. If there is one, I do not have the long inventory or the information which my friend Mr. George Fernandes has presented

before the House nor am I acquainted with Justice Ramaswami, and has personal knowledge which my friend, Shri Mani Shankar Aiyar has displayed.

SHRI MANI SHANKAR AIYER (Mayilduturai): I have never in my life met or spoken to Justice Ramaswami. On one occasion, a fellow passenger told me that Justice Ramaswami was one of the occupying this high seat. I have absolutely no personal relationship with Justice Ramaswami.

SHRI K.P. UNNIKRISHNAN: I stand corrected. Yesterday, when I had an occasion to intervene, I requested you Sir, the arguments of distinguished that the defence counsel who appeared on behalf of Justice Ramaswami in this House, his long intervention should be made available to us to make the debate meaningful as also the speech of our esteemed colleague, Shri Somnath Chatterjee. Moving the motion But, unfortunately, it has not been done. And therefore, we are still in the dark; it will be an impossible task for us to remember all that Mr. Kapil Sibal had to say with forensic, skill and in his very lengthy defence. Therefore, we have to confine ourselves to mostly the facts and premises on whatever has come in the hon. Judges reports.

At this, time, I do not want to repeat all that has been said. Therefore, I would not go into the facts I would only like to pose before this House through you certain broader and more important question, involved in this case. If there is one institution which commanded respect and confidence of the people and justifiably so at least for the last 300 years in this country since the advent of the British Imperialism, it was the judiciary. The colonial judiciary was looked upon with a tremendous amount of confidence and respect; and that I consider was the foundation-stone for the rule of law in this country out of which we can say and legitimately say that we have learnt a great deal. That experience has enabled us to have a legal frame work and a

democratic constitution and it make us out from the rest of the third world. Therefore, judiciary, right from the British rule, had a particular position in the mind of the people, and we cannot allow this to be endangered or orded we cannot allow this to become suspect in the mind of the people; but unfortunately we are on the slippery path already.

For the last three centuries, the independence of the judiciary was guaranteed. In England, as you know, as a result of Act of Settlement, when it was made clear that the judges would hold office not at the pleasure of the King but during their good behaviour, but my friend, Shri Mani Shankar Aiyar has pointed out that it is very seldom that an impeachment is resorted to. (*Interruptions*) There have been several occasions in undeveloped and I can quote chapter and verse when the judges have been found drunk; when judges have been found wanting for various other reasons even for their personal or social behaviour in the court, but an impeachment was not resorted to. But our context is entirely different. After the Constitution, came into being this process got strengthened in this country through the very provisions of our Constitution, under which Parliament was entrusted with the responsibility of impeachment of judges of High Court along with some high Constitutional offices.

In the words of the first Chief Justice of India, the eminent jurist, Sir Kenia:

"The Court shall administer the law for the time being in forces" and has the goodwill and sympathy for all but is allied to none."

That is the cradle envisioned of judicial independence, and independence of judiciary by the founding fathers that we ought to cherish, The Constitution brought in various changes and gave a Charter of Fundamental Rights and process of judicial review. This, along with powers to issue writs became the cornerstone

of our democratic order and democratic rights, the structure of our democratic rights. Equally important is the role of the judiciary in preserving the federal character of our country, of our State and this makes the position of the judiciary absolutely pivotal and crucial. Therefore, the conditions of appointment and service and removal of members of the judiciary at higher levels has been specified and a Judge enjoys absolute immunity for anything said or done in his judicial capacity. We are dedicated to prserve this.

It is goog that this House some time ago looked into the question of enhancing the emoluments of the judges of the high court and Supreme Court in recent years so that it could attract the best talent. I want to mention this because of certain developments that had taken placed in recent years But I would like to say, that considering the scale of fees of eminent lawyers charge now, still a lot remains to be done.

As Lord Denning has pointed out, there is question no the threat of financial anxiety which prevents the best and men of integrity and men at the topmost levels of the profession from joining the Bench. But in spite of everything, except during the Emergency, the independence and high lands of judiciary has been fairly maintained. But the element of policy of compulsory transfer of Judges did alter the situation. As even in this case, we know, there was not a single charge as far as I have heard and as Shri Mani Shankar Aiyar told us, during the 15 long years that Justice Ramaswami was in Madras. Then what happened after his transfer.

A transfer of this kind does alter the situation. A transfer of this kind also entails personal and domestic hardship and financial hardship as well. I know I do not want to mention any name a good friend of mine who was transferred from South to the High Court of Jammu and Kashmir. I remember this telling me, that he had to keep his grand-daughter with him because he lost his

[Sh. K.P. Unnikrishnan]

daughter and every time he had to send her to Kerala he had to spend great deal of money, by way of airfare and by way of maintenance. There was also the problem of schools and education of children. There were numerous other problems they had to face, in the event of a transfer. Every trunk call he had to pay for was a burden and a judge had to sell his property and this personally I can verify and vouchsafe that this has happened. Therefore, the question of phone calls, the question of use of certain vehicles and so on, this has to be looked into afresh and new rules brought in I am not justifying any kind of violation that has gone in already. But what I am trying to say is that the conditions of service have to be looked into afresh in public interest.

The case for transfer was advanced in this House by the former Law Minister in public interest. But even at that time some of us did point out that this was a threat to the independence of judiciary. And, the independence of judiciary itself is may I say emphatically the highest form of public interest. This is not to say that protection must be given to corrupt or malicious Judges or those who fail by the yardstick of fair judicial behaviour.

Sir, judicial power like any other power can be abused. Any kind of power has to be used with great circumspection wisdom and restraint. But it is also difficult to compare what kind of abuse would do immeasurable damage, legislative excesses abuse of executive power or judicial misuse of judicial power.

Sir, I would like to quote Hamilton, who said:

*"The judiciary has neither the power of the purse nor the power of the sword neither money nor patronage on the one hand nor the physical force to enforce decisions on the other. It must*

rely entirely on the support of the people and positive responses of the people".

That is to say it calls for with certain amount of moral authority. If the Constitution is to guarantee independence of judiciary, it has to be respected in every sense, in letter and spirit. It cannot be done as was suggested little earlier by a code of conduct. Sir, judges are also human beings. Social beings are also influenced by the existing social milieu and environment. And in this country, which is a federation of fraternity of caste, there is a new element of influence through the caste and strength through caste. Caste, community and religion are also factors in the complex social situation that is obtained here.

Sir, a judge who launched in securing appointment through lobbying begins his career, may I say with 'misbehaviour'. The judicial appointees have to be made immune from the strong political and social pressures of the day. And, therefore, judges have to be judged in the overall context of existing social milieu values and the pressure it generates and the Parliament, which has been given the great power of impeachment, has also to be greatly circumspect and cautious in dealing with the reports that we as Members may get about judges.

Impeachment, I beg to say, cannot be an everyday affair. That is why I said that this is a momentous occasion. A new precedent is going to be laid today, this is not like any other motion. It cannot be an everyday affair. Nor can we be called upon to perform the duty of a drainage inspector in this House?

There are examples even in this House when certain attempts were made to pillory the judges and some of them had failed as in the case of late Justice Shah. It was ironical that the people who tried to put him in the dock thought it fit to make him the omnipotent tribunal and commission to look into the emergency

excesses. What happened then to the charges that were levelled against him? I would not for a minute suspect the motives of those who did it or those who raised these charges. Were they take or frivolous? I do not know. I am only underlying the point that these proceedings ought to be initiated and pursued so that no damage is done either to the judiciary or the Parliament, which is constitutionally endowed with these extra-ordinary powers.

Sir, this motion is based on a notice of impeachment motion moved in the 9th Lok Sabha. It does raise some disturbing questions. I would only want to refer to certain lacunae in the procedure itself as I pointed out yesterday in dealing with this very process.

Sir, general procedure and conduct of business in this House is bound by the provision of the Constitution and the rules of procedure specifically made under article 118 of the Constitution. Therefore, we derive the power itself from the Constitution. Unfortunately, the rules of procedure it does not provide rules which are provided for in many other countries, in United States, in Australia, in France. But, it is regulated through another law. But can there be a conflict between the two and if so what shall prevail? If dissolution of the House takes place and which terminates the rights of the Members who constituted the dissolved House and which terminates the work of the Parliamentary Committees, can there be an exception and when motion lapse, can one motion and procedures initiated under it remain alive more so when the Constitution is insistent under Article 124(4) that the motion for impeachment shall be presented in the same session? Why is it so? it is because a motion for impeachment should not be allowed to left dangling. That means that the founding fathers were keen that such motions should not be and cannot be kept dangling for long. If that is so, can a motion or action initiated under that motion be kept pending after the House is dissolved? How can the motion, like

this motion alone jump the barrier and wall of dissolution?

I have not understood it. This is a question which I would like to pose. I am aware that the Supreme Court has given an interpretation and I respect it. But, it is possible that this cardinal fact was overlooked, or it was not posed before the Court. Similarly, the court has permitted Justice Ramaswami to seek a review before the honourable court in case the Parliament presents an Address to the President for his removal. This is extraordinary and I must say dangerous.

Is there any such provision in the Constitution? Then what happens to the Parliament endowed with the powers of impeachment and so far understood to be the final arbiter in the matter of removal of Constitutional dignitaries like the judges.

The present case also raises another basic question whether the Chief Justice of the High Court or even the Supreme Court should be loaded with administrative responsibilities like authorisation of purchase of furnitures and stationery, maintenance of building or probably it is best left to an Administrative Officer. Judges are called upon only to judge and to give judicial verdicts, not to administer offices, Guest Houses and fill in forms, what is generally brought in by PAs and various other retainers. Therefore, the judge should concern himself with judicial work and maybe certain promotions and appointments in the court.

In United Kingdom, there has been a great deal of discussion in recent years about a Judicial Performance Commission to look into complaints of litigations. I think, in this vast country with a well-established judiciary from the sub-division levels to the Highest Supreme Court, it does call for a mechanism, apart from impeachment where there is a constant review of judicial performance. That is not to say that it should threaten judicial independence. There

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should be a constant review of a body with limited jurisdiction and only serious cases involving bribery, corruption and gross misuses of office should be taken up by Parliament for consideration of impeachment proceedings. Judicial accountability, I would say, can be best ensured by such a two-level review. It is very difficult for Members of parliament to chase or follow the habitual offenders and their devious ways, nor should it be said that we are indulged in witchhunting. But what are the parameters of the concept of misbehaviour. We have no guide to go by. If it is only judicial misbehaviour, one can understand, but there have been cases when people have been indicted, as like the bickering case where it was felt late that the decisions were wrong. It is extremely unfortunate that the present case has been shrouded in a controversy. On the one hand, is the question of evidence which the hon. Counsel for the judge has invited the attention of the House to. But I am unable to understand how the learned judge decided that he can carry on in spite of clear expression of lack of confidence by his brother judges and his refusal to appear before a committee constituted by the hon. Speaker of Lok Sabha. He was bound to appear before the committee. At least as a holder of the office of a Judge and a Constitutional office holder, he should have respected the Parliament, and the Lok Sabha and the Speaker, even if all the evidence that has been adduced were to be wrong. It is unimaginable that he thought he should function as a solitary repository of justice and wisdom, supremely unconcerned about what is happening around on the contrary, if he had sacrificed himself at the altar of justice, he would have upheld the concept of justice itself and provided a warning for all around. The learned counsel for the judge who put forward skilful plea, told us that it would have been a miscarriage of justice if the judge did not have an opportunity to rebut the charges. With due respect. I beg to differ and at least having done so through his counsel he could have left the

scene even at this later stage. But, unfortunately, that has not happened. I do not know whether the Bar or the litigants would have the requisite confidence now to appear before him and seek justice. Thus, the case and the strange behaviour of this judge have presented us with a crucial dilemma. In this context, I can only urge that we cannot vote this on the basis of the spirit of a party but look into the facts and look into our own conscience. This cannot be an issue and this need not be an issue between the Government and the Opposition parties, not it is a north-south issue. It would be dangerous to look at it that way. It would have far-reaching consequences if we attempt to do so. May I also say that nor need it be elevated into an issue of moral worth? How many of us can say that we can sit in judgement on a moral issue?

The House would forgive me if I refer to our own election expenditure. How many of us can say that our declarations of on entering this House have been truthful or correct? I do not think there are many people who can say that ... (*Interruptions*). What is important is that judiciary should remain independent and the bulwork of our cherished Fundamental Rights and Parliament should remain, what it ought to be, a mirror of hopes and aspirations of the people Parliament's powers. I would again repeat, cannot be abridged by courts. The Supreme Court cannot become a third Chamber.

Sir, that alone can strengthen the Constitution which is already under stress of a different kind, into which I do not want to go now.

Let us not contribute to yet another convulsion. Already the country is slowly drifting to a path where the country itself is becoming ungovernable. Let us not further contribute to it. Again I would repeat and say that what is at stake is not morality and we cannot judge it as such.

If that had been so, even on a priority basis,

I would have said I wish we had presented the address to the President and addressed ourselves in exercising this power taken to task certain constitutional authorities for fiddling around with people's right of franchise, fiddling around with electoral system and trying to destroy the very cornerstone of this election system.

That is where it was been a fit case. Let us not make it into a morality issue.

After all, as the sagas said:

"Dharmasya Tatwan Nihatam  
Guhayam"

20.00 hrs.

\*SHRI C.K. KUPPUSWAMY (Coimbatore): Honourable Speaker Sir, At the outset, I would like to thank you very much for having given me an opportunity to speak on this momentous occasion.

We have taken up in this House a motion based on charges against a Honourable Judge who was appointed by the President of India under Article 124 of the Constitution. The accusations are quite frivolous in nature as they accuse him of to have purchased certain furniture, Carpets and using of Cars and telephones.

I would like to ask the fellow members of this august House a pertinent question. How many of them would say that they have not spent any more than what the Election Commission has prescribed to spend on election expenses while contesting an election. If they say that the limit prescribed by the Election Commission is sufficient to run the Campaign for an election, I am prepared to give up my seat from this august House. Is it not a mistake? Instead you are finding fault with a Judge who had purchased furniture for his official residence. It was not his own residence. On his being transferred there, he went in for furnishing the same. The furnishings

are now only in the use of the Judge who, occupied the seat following his transfer from that place. They are now adding to the comfortable use of household furnishings in the official residence of the Judge who is now there. (Interruptions) I am being interrupted now. I hail from the great warrior family of Dheeran Chinnamalai. While I am speaking please do not interrupt. I come from the great tradition of Veerapandia Kattabomman. I will not run away and will not yield to your interruptions. Please do not think you alone can speak. Tamil race is an ancient one. It has lived through stone age and beyond. Tamils spread the message of universal brotherhood. We belong to rich cultural heritage and a great warrior's tradition.

On seeing what is going on today, I feel very sorry. It pains my heart. I am ashamed and am in great anguish. This House which has a great tradition is passing through a painful experience now. These frivolous accusations and the proceedings that follow now have only made us a laughing stock in the eyes of others. We may not be able to hold our head high before the world and before the future generations to come. We have come to such a Passe now. I would like to cite an instance. Great Pandiya King was ruling over the Pandiya Kingdom. This incident is from the Tamil Epic Silappathikaram. When Kovalan went to sell his wife's Chilampu (the anklet) he gave it to a goldsmith to dispose it off. At the same time king had ordered a search for the lost anklet of his queen. By mistaken identity Kovalan was brought to the court of the King and was pronounced a thief and finally sentenced to death. No sooner than the King realised that he committed a grave mistake by way of putting an end to the life of an innocent citizen, he gave away his life. When he found out that the anklet found with Kovalan belonged to his wife Kannagi and was not of his Queen's he punished himself. We Tamils hail from such a great tradition.

An Hon'ble Member: Narrate the story of Manu Neethi Cholan too:

C.K. KUPPUSWAMY: I would like to say one thing to my fellow members. Think of what you are doing now. Is it not wrong? I would like to cite another instance, \*\**(Interruptions)*

HON'BLE SPEAKER: This is not going on record.

C.K. KUPPUSWAMY: What did Justice Ramaswamy do? He had purchased certain things which was used by him in his official residence and later on continued to be used by his brother judge who came there after his transfer. These sort of frivolous charges should not have been made against an Honourable Judge of the highest court of the country. As regards to purchase of Carpets, one of the dailies, I think it is Indian Express, which has referred to him as Carpet Ramaswamy. It is a shameful act. *(Interruptions)* please sit down. Shri Jaswant Singh was referring to North-South and East-West. I would like to assure him one thing. We from the

South are prepared to co-operate with those hailing from other parts of the country. I would welcome it. I think Shri George Fernandes has gone out. He is not here now. I would like to refer to the conduct of an Honourable Member of this House. During emergency he was at large. What did he do? He was living with the Sandalwood Smugglers. That member was in the hiding for about 15 days in Veerapandi near Trippur. Can he deny that? Such a member is claiming that he stands for sincerity, honesty and integrity. Such people are accusing Justice Ramaswamy, that causes me great concern giving rise to worry. I do not deny the fact that there are sincere and honest members in this august House. There are good people and good friends with integrity. We would appreciate and admire such good people such parliamentarians. Many such people were there earlier too! But what is happening now? During the last days of the previous parliament...*(Interruptions)* If I am not

allowed to continue, I will not yield. The House will not go on. Be careful. *(Interruptions)* I would like to address the friendly members of this House. Congress party do not seek to protect the offenders of law. That is not our policy. So I request the Honourable Members of this House not to support this motion. As far as I am concerned I would oppose the motion and vote against it. With this I conclude.

Thank you.

MR. SPEAKER: Mr. Inderjit may speak now.

*(Interruptions)*

MR. SPEAKER: Dr. Kartikeswar, I am not giving a chance. No, no.

DR. KARTIKESWAR PATRA (Balasore): I want only two minutes, Sir.

MR. SPEAKER: I will allow you.

*(Interruptions)*

SHRI INDERJIT (Darjeeling): Mr. Speaker, Sir, I am grateful to you for giving me an opportunity to speak even briefly on this historic occasion.

It is indeed a momentous Resolution I feel certain basics need to be clarified. A certain amount of confusion has crept into our discussion because of certain distortions. For instance, the Counsel for Justice Ramawami yesterday declared

"that the charges against Justice Ramaswami were trivial in nature and did not warrant the indignity of an impeachment motions."

A problem has arisen because of



Semantics. We are using the expression 'impeachment' which conjures up in our minds the impression of the impeachment of Warren Hastings, the great drama and what have you. The fact of the matter is that in the Constitution neither Clause 124(4) nor clause 124(5) of the constitution (5) mentions the word 'impeachment'. We must remember that the word used is 'removal' not 'impeachment'. If we understand this correctly, then a certain balance will come into our discussion.

Secondly, Sir, a lot of confusion has been created because we have been talking in terms of corruption. The question is not one of corruption, the question is one of misbehaviour. A lot has been said that the word 'misbehaviour' has not been defined. If we look at the report of the three eminent judges, we are clear that 'misbehaviour' has been described and defined at great length.

Sir, before I proceed further, I would like to point out that certain half truths have also been put across. Mr. Kapil Sibal is a very eminent advocate, spoke brilliantly and seemed to sway the whole lot of us. But then yesterday for instance, on the question of impeachment he spoke about quoted what had happened in some countries abroad gave us the impression that there was only one impeachment in the United States. Of course, there was only one in so far as its Supreme Court is concerned. I would like to quote none other than the eminent commentator of Shri Durga Das Basu, to put the record straight. He points out on page 229.

"That there was only one impeachment of a Supreme Court Judge and that was of Mr. Samuel Chazé in 1804."

But that case resulted in acquittal. Mr. Kapil Sibal is right in so far as that there was an acquittal. But why did the acquittal take place? It was because the whole exercise at that time was designed to arraign and impeach this judge

on political grounds, because Shri Durga Das Basu goes on to add that:

"it is broadly acknowledged that this acquittal has established that a judge cannot be impeached merely on political grounds."

More importantly, Sir, this authoritative book goes on to say:

"On the other hand, the successful impeachment of several federal judges in the 20th Century has established that want of good behaviour for the purposes of impeachment need not necessarily be an indictable offence, though it must be to some misconduct."

So, this is just one basic fact we ought to be very clear about, that impeachments have taken place successfully against a number of judges in the United States.

Sir, then I go on to point out one other fact. We have, unfortunately, adopted a system in which we have given a fixed tenure to our Supreme Court judges. Originally, all bureaucrats hold office during the pleasure of the President or the King as in the case of Britain. But, as pointed out by my good friend Mr. Unnikrishnan, the judges hold office during good behaviour. We decided to give a fixed tenure of 65 years to the supreme Court judges. Therefore, it was very important that a provision was made in the Constitution to ensure that if a judge was incapacitated or most importantly, if he misbehaved then he could be removed. This is something which we ought to bear in mind.

Sir, the question of 'misbehaviour' has been fully defined and I think this particular definition needs to be read. It has been quoted by others, but I may be allowed to indulge in reading it again. It says:

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The word 'misbehaviour' as applicable to the judges of the Supreme Court and the High Courts in the context of Articles 124(4) and (5) and other relevant provisions of the Constitution means conduct or a course of conduct on the part of a judge which brings dishonour or disrepute to the judiciary as to shake the faith and confidence which the public reposes in the judiciary."....

"It is not confined to criminal acts or to acts prohibited by law; it is not confined to acts which are contrary to law; it is not confined to acts connected to the judicial office. It extends to all activities of a judge—public or private."

In other words, the concept of misbehaviour is very clear. Certain things are not done and that is something which we need to introduce in our own body politic and in the ethos of our country, certain things must not be done.

For example, I was a little surprised when my good friends, Shri Bhardwaj said today, "We all break the rules".

SHRI H.R. BHARDWAJ: I am sorry. When did I say, "We all break the rules" I am sorry. You tell me from the Chair.

MR. SPEAKER: I have not heard Mr. Bhardwaj saying that we all break the rules.

SHRI H.R. BHARDWAJ: I never said.

SHRI INDERJIT: The hon. Law Minister has reason to be angry but what he said was All of us use official cars, All of us carry our Private Secretary in our trip. Other friends have also said.

SHRI H.R. BHARDWAJ: He is doing great injury to me. I must correct him strongly.

MR. SPEAKER: The rules applicable to the Ministers are different.

SHRI H.R. BHARDWAJ: You can go through the record.

SHRI BASUDEB ACHARIA (Bankura): I think, what he said was: Except him, others do not follow the rules. (*Interruptions.*)

SHRI INDERJIT: I had no intention of hurting him I gladly withdraw the remark I made. I am perfectly willing to go by what my hon. friend said earlier on record. I will not quarrel about it. He is a good friend.

MR. SPEAKER: This is not a debate. We are not arguing to each other's statement. We are on a specific point.

SHRI H.R. BHARDWAJ: I can say more about you. He has been my client. (*Interruptions*)

SHRI INDERJIT: I have honourably withdrawn what I have said. In fact, I had no intention of hurting him. But he says he has a lot to tell about me. I have not the slightest hesitation in inviting to invite him to tell all on the floor of the House. I have nothing to hide. The point simply is this. This is not the occasion to quarrel. I am only making a general point. The general point for example, my friend, Mr. Unnikrishnan said, "We are all breaking the electoral law". I was only making one point. My point that I make is, the time has come that we must stand up and say, "No more breaking of the rule, no more violations of law". We must remember there is increasing violence in the country today. Why has the violence increased? Basically because we are doing a lot of violence to basic norms, basic values and so on and so forth.

SHRI MANI SHANKAR AIYAR: I want to ask Mr. Inderjit whether he agrees that we must establish these norms by asking the ex-Ministers

to leave the houses in which they are living long after they have been ejected from office?

SHRI INDERJIT: I have great pleasure in responding to this particular query. Two years after I have been re-elected to this Lok Sabha, I am still without a Government bungalow. The Government bungalow allotted to me is under illegal and unauthorised occupation of an ex-Member. I am, therefore, all with him.

Sir, this is a serious matter. I will now come to another very important matter. I know everybody is waiting to listen to my good friend, Shri Somnath Chatterjee. The important point I would like to make is, on this question we have all been told that Lok Sabha is now sitting as a quasi-judicial body. According to some, we are sitting as a Privy Council. It seems to me extraordinary and absurd and, in fact, horrendous that it is now suggested that after we have made our decision, suppose we were to hold Justice Ramaswami guilty, that he can go in appeal to the Supreme Court. This is totally contrary to the original scheme of things. The original scheme of things was absolutely correct namely, that this Parliament would sit as a Privy Council and, therefore, there should be no question of an appeal whatsoever to the Supreme Court once Parliament has sat and given its judgment in this matter. In this particular respect, the Speaker was once described by Pandit Jawaharlal Nehru as one who embodies the dignity and the prestige of this House. So, I think the time has come when this particular issue must be taken up by the Speaker, by the Government and by all leaders of the Opposition together. We cannot have a situation where the dignity of Parliament as envisaged by the Constitution makers is compromised and I do not think it should ever be compromised. (Interruptions) Unfortunately, I am a layman. I am not a lawyer. Otherwise, I sure I would probably come up. But maybe, you might seriously think in terms of what could be done. Two other things I would like to make very briefly. For example, everybody today is saying

perhaps for good reasons that we should not be using impeachment for a case of misbehaviour. This is too small a matter. As someone whom I greatly respect told me a little ago, it does not look right that we should be using a Brahmsira for a small lapse. Perhaps the time has, therefore come to take a good, fresh look at what can be done in cases involving. There grave judicial impropriety. There is misbehaviour. If we are giving the judges a fixed tenure up to the age of 65 and a man goes wrong, how do you punish him? Something will have to be done. Maybe, we should have a Committee to go into this questions. I would like to leave this matter in the hands of the Speaker.

But my good friend, Mani Shankar referred to the discussions in the Constituent Assembly. It was my privilege as a young journalist to be present in the press gallery on that occasion. It was May 24, 1949. On that particular day, Mani mentioned what Shri Tajamul Hussain had said. Shri Tajamul Hussain was greatly worried and what was his worry? I would like to quote him and share with this House. What he said. He said:

"If the majority party in Parliament is not in favour of a particular judge, then removal will become very easy and the judge should always be above politics."

You would say that politics would come in and the Government of the day would become vindictive and take action against a judge because all you want is 100 Members plus what you do for amending the Constitution.

So, Shri Tajamul Hussain went to suggest and as follows and I quote:-

"A judge of the Supreme Court shall not be removed from office except by an order of the President passed after a Committee consisting of all the judges of the Supreme Court had

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investigated the charge and reported on it to the President."

This could be one thing which we all you could possibly consider. However, then this particular debate had a certain disappointing aspect. Dr. Ambedkar did not speak on that occasion or on this particular aspect of the Constitution, he unfortunately kept quiet. The important thing is he totally opposed it. This amendment by Tajamul Huassain was negated. At any rates the Scheme which we now have adopted is a much better scheme in which the Supreme Court judges are involved initially and then the whole matter comes before Parliament and once Parliament has adjudged, there should be no question of any higher court of appeal.

One last point and I will have done. As I have said before, it is my great pride and privilege to belong to the media and I am therefore very unhappy and very greatly distressed that the counsel for the judge Ramaswami went out of his way to attack the Press.

The Press has conducted itself with great dignity and great in this particular case. How can you blame it? My friend Mani Shankar is a good friend. He is fully entitled to sneer but let me put the facts right. What was the Press expected to do when it had the report of the Auditor stating that all these wrongs had been done. It was Sunday for the Press to report it and I am glad that the Press has reported it. Subsequently, the matter came up before the Supreme Court and the then Chief Justice did certain things. These two were adequately reported. Subsequently when 108 Members decided to charge sheet the judge and go to the Speaker, what was the Press supposed to do? Keep quiet, because some of smart lacking or somebody had chosen to put pressure on that? No. The press reported on it. The Press has all along honourably reported the findings of

the Auditor, the findings of the Supreme Court, the findings of this Committee and finally of the charge-sheet. How can you blame the Press. Then, Shri Kapil Sibal, the hon. Counsel, turned around and said that the Press was maligning these people. I strongly protest. I think he has been gravely and grossly unfair to the Press. This sort of a thing should not be accepted. I think it should not only not be accepted by me I have had the privilege of being in the Press gallery for 40 years. But it should be something which should be denounced by the entire House here including my friend Shri Mani Shankar Aiyar. (Interruptions) Sir, I will not take more time. I will just make one last point, very brief point. I see, on occasions, there is a certain selective approach that gets to be adopted in regard to crime. I hope we are not going to create a new tribe of Samurais in this country, who would be above law, totally above law. We must not be selective enough where our own friends are concerned or those with whom we mix and sup we should not have one view about them and quite another view about the ordinary mortals. So, therefore, I hope that today's debate will start what I hope would be a cleansing process, the beginning of a cleansing process in which we must uphold the rule of law, uphold the basic norms and values especially if we really want to combat the growing violence and corruption in this country.

Sir, I know we have a certain difficulty. I wish we had more time to debate this matter. I also wish we had more time to have a fresh look at all that Shri Kapil Sibal had to say; to have a fresh look and a detailed, leisurely look at what Shri George Fernandes has said. In certain ways, it becomes a little unfair that we listen to the debate, listen to the various speeches and then we are expected to Press and push the button straightaway.

So, finally all I say is we, on this side of the House, have approached this particular debate with an open mind. I can say that with all humility

that we have approached this debate with an open mind. We are all going to vote on the basis of our conscience. I hope it will be for us to decide, for each individual Member to decide, how we are going to vote for, against or otherwise. *(Interruptions)* abstain I will not take more time of the House. I will only say once again this. My appeal once again to all my fellow Members is that the time has come when we must stand up for certain values and norms.

My one last point is about my great regret. I do honestly wish that Justice Ramaswami had chosen to tender his resignation. Yesterday, his Counsel advocated very strongly that this House should not vote on this particular motion. His plea was: 'Please do not vote on this motion.' I subsequently talked to him. I have no hesitation in taking the House into confidence that after the debate was over, I walked over to him and I said: "You made an excellent suggestion. Why do you not take it one step further and persuade your client to resign."

With these words, I thank you for giving me a chance. I earnestly hope that this could debate will mark be the beginning of a new chapter.

MR. SPEAKER: Shri Somnath Chatterjee, before you start, I will give two minutes to Shrimati Chandra Prabha Urs. Is there anything very novel which you want to say?

*(Interruptions)*

SHRI EBRAHIM SULAIMAN SAIT (Ponnani): Sir, how long are we sitting today?

MR. SPEAKER: After Shri Somnath Chatterjee speaks, we have the voting and then we will leave.

SHRIMATI CHANDRA PRABHA URS (Mysore): As we are discussing this motion moved by Shri Somnath Chatterjee, the House has been acting as a Court in this historic case.

As you have already told, it is acting as a semi-judicial body. We are acting as Judges.

Sir, after hearing both the sides, Members should judge and exercise their franchise either for or against this motion. But here I would like to point out, one thing. Shri George Fernandes has rightly put it, that he is one of the complainants and the Judge being the accused party. I would like to know whether the complainant Member who is one of the signatories to this motion would vote freely when the voting takes place. That is the basic question: I want to be clarified in this regard. If so, they are the complainants. And the other party being accused, I do not think that should participate in the voting if at all the voting takes place.

When this motion could be carried over from Ninth Lok Sabha to Tenth Lok Sabha you have already made it clear that it could be carried over could this also be carried over from Tenth Lok Sabha to the next Lok Sabha? This is another questions to which I want a specific answer.

Then, of course, we have got an open mind to do anything with the Committee's report or with hon. Justice Mr. Ramaswami. We have kept an open mind. If you allow us to vote, we will vote and exercise our franchise in a frank and fair manner. But before that, I would make an appeal to you to give a ruling in this regard. Can the complainants or the first party be involved in voting?

MR. SPEAKER: My ruling will be very clear that they can. On the second point, this motion will be voted in this House today itself.

*(Interruptions)*

DR. KARTIKESWAR PATRA (Balasore): Mr. Speaker, Sir, only two minutes.

*(Interruptions)*

MR. SPEAKER: You make a very good speech. But today, I would like to hear Mr. Chatterjee. *(Interruptions)*

MR. SPEAKER: Some other day *(Interruptions)*

MR. SPEAKER: I have disallowed other Members also. Please sit down now.

*(Interruptions)*

MR. SPEAKER: I have not allowed others.

*(Interruptions)*

MR. SPEAKER: That will be a sort of discrimination again them. *(Interruptions)* Please cooperate. Please take your seat.

SHRI SOMNATH CHATTERJEE: Mr. Speaker, Sir, I shall have to crave the indulgence of the hon. Members because at this late hour, I am able to begin my submissions in reply. And I am afraid, I have to take a little time. I am sure, I will be shown the consideration as all of us have received from the hon. Members of this House particularly because of this very solemn matter with which we are now dealing.

As I had said in my opening submissions, this motion has not been brought with any sense of elation nor with any sense of frivolity. Although some sort of snide suggestions might have been made, but nobody has really suggested why anyone of the sponsors of notice of motion would do that particularly against Justice Ramaswami. What is that we have against him per se. There are so many Judges in the whole of India. Are we against Judges appointed by a particular Government? Or are we against those who have been Judges of a particular High Court or of the Supreme Court? What is that we have against him personally? Nobody has suggested that.

Further, what is the politics in it? Some sort

of veiled suggestions and insinuations are being made. We are told about the change in the political administration in this country after the 1990 election.

Why should we select him for the purpose of these proceedings? As I said earlier, nobody has disputed that. Certain things came out audit objections to which replies had not been forthcoming. We found that even the learned Judge had refused to submit himself before the brother Judges of the Supreme Court itself.

Shri Mani Shankar Aiyar was not right. He was swayed by some emotion. He himself said as to what has happened. When the former Chief Justice, Shri Mukherjee requested three of these senior most Judges of the Supreme Court in August 1990, seeking their advice on the question, whether the involvement of hon. Shri V. Ramaswami in certain proceedings in relation to certain administrative decision and certain other administrative actions or omissions as Chief Justice of Punjab and Haryana High Court would render it embarrassing for him to function as a Judge of the Supreme Court of India, Justice Ramaswami wrote to the Chief Justice that he did not recognize any such jurisdiction, that is, the jurisdiction to consider the question of embarrassment to anybody or authority. He, however, offered to give such cooperation as he thought it was necessary to ascertain the facts and he submitted certain statement without prejudice to his stand that he was not legally liable to render any such account or expenditure. And Sir, for sometime, he had taken leave. *(Interruptions)*

SHRI MANI SHANKAR AIYAR: I would like to clarify Mr. Speaker, Sir, that when I referred to Mr. Justice Ramaswami being willing to place himself under the jurisdiction of the judiciary including the Supreme Court, I did not say, at any stage, that he was willing to submit to the jurisdiction of this Committee of three Judges, established by the Hon. Speaker.

SHRI SOMNATH CHATTERJEE: Sir, I am sorry, he is not paying attention to what I am saying and also he has not read the report it seems because it is only at page 2. He has not even crossed page 2.

SHRI MANI SHANKAR AIYAR: I am not referring to that Shri Somnath Chatterjee.

SHRI SOMNATH CHATTERJEE: This is the Committee of three Supreme Court Judges.

SHRI MANI SHANKAR AIYER: I wish to clarify what I have stated. Has Shri Somnath Chatterjee had made that statement without reference to me, I would not have got up? But I wish to clarify that I never said that Mr. Justice Ramaswami agreed to submit himself to the jurisdiction of this Committee. What he said was that he was willing to submit himself to the jurisdiction of the judiciary as a whole, including the Supreme Court and there is a difference between the two. And it is not I who has not read the report and it is he who has not understood what I have said.

SHRI SOMNATH CHATTERJEE: Let him understand what he means.

SHRI MANI SHANKAR AIYAR: No, a false statement was made.

SHRI SOMNATH CHATTERJEE: I do not envy your teachers.

Therefore, these questions as well have been posed not even directly but nobody has given any answer. And Sir, I do not have anything personal against him. I had occasions to appear before him also. But certain allegations have come.

Sir, this proceeding which is under Article 124(4) of the Constitution is not our creation. The founding fathers of our Constitution felt that there must be some provision in the Constitution of

India. The Judges of the High Court and the Supreme Court are eminent persons. They should not be touched or dealt with in a manner which is not consonant with their position. But can anybody contend in the whole world, anywhere, at any point of time, that no human being can ever make mistakes and that no human being because he occupies a particular position can indulge in something which is not desirable or wrong or improper. If any such things happen, as the Judge himself has said, the judiciary is no longer is what it was; there are pressures on the judges and I will read out what he has stated. I quote:

"There is a serious fall in the standard of the judiciary. There are pressures including political pressures on the Judges."

And, Sir, if some Judge succumbs to the political pressures and if some Judge behaves in a manner which makes him unsuitable to continue in that position, what is to be done? And I have not evolved this procedure. The procedure has been evolved by the great leaders of this country, the founding fathers of the Constitution. And according to that procedure, a Notice of Motion was filed. And, Sir, the Speaker of this House was to decide: Will the merit of the matter like this, of this procedure depend on who for the time being is incumbent speaker? Will it depend on taking recourse to Article 124(4) is good or bad, if Shri Rabi Ray is the Speaker or not or Shri Shivraj Patil is Speaker or not? Let us not create this situation in this House. This is too serious a matter. Therefore we said that we have followed the procedure which has been evolved by the Constitution of India. The hon. Speaker, rightly or wrongly, had admitted it. At the moment we cannot go into that question; I shall come to what the Supreme Court has said. The procedure as laid down by the statutory law was followed. A Committee of Judges was appointed. Although initially there had been some challenges to their suitability to be members of this Committee, yet

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Mr. Kapil Sibal had consciously I take it not raised that question. Therefore we can proceed on the basis that the Judge, through his counsel, has given up that point. Otherwise he has taken all the points for six hours; he did not take that point any longer. Therefore when he has come before the Supreme Court of Parliament, he realised.....

SHRI A. CHARLES: If you go through Para 45 in Page 22, it goes against your statement now.

MR. SPEAKER: That is a submission made by the Judge and the submission made by his lawyer is referred to here by Shri Somnath Chatterjee.

SHRI SOMNATH CHATTERJEE: We say in a court of law that if a particular point is not argued, although germane- suppose so many points have been taken up in the Trial Court, in the Appeal Court you do not argue all those points, you argue the best points you think you have- shows that the other points are not being pressed further. That is what I am saying. Well, you have to kindly apply your mind!

That Committee has given a decision. The Supreme Court has constructed the legal provision and the constitutional provision. I personally might have felt that the decision of the Parliament would be immune from any further attack or further judicial review. But the Supreme Court in its wisdom has held in a recent judgment relating to this very matter, Justice Ramaswami's matter, that there will be another opportunity of judicial review, not appeal, to go to the Supreme Court of India. Therefore, as I indicated in the beginning, if this Parliament commits something wrong, not right, then there is another opportunity for him before his brother Judges. Why should he think that his brother judges would not do justice to him? He does not

accept anybody's jurisdiction over him. That is the trouble.

Instead of going on the basis of objective assessment of the report, we have gone on, with all respect and humility I submit, sometimes a little beyond the objectivity of the report and we have entered into an arena which might have been avoided.

The position is that after hearing the lengthy peroration of the learned counsel for the Judge who, I got the impression, was speaking with contrived bravado and the speeches of other hon. Members, particularly Shri Mani Shankar Aiyar and Shri Debi Prosad Pal he has forgotten what he told me three days back I am more than convinced that the Indian judiciary as well as this Parliament would be subjected to public scorn and ridicule if this learned Judge continues for a day more from tomorrow. Because of all the irregularities, improprieties and offences he has committed, he has forfeited his right to continue in the exalted position of a Judge of the Supreme Court of India. I got the impression when I was hearing Shri Kapil Sibal's speech, a good friend of ours, that his client, the learned Judge, has neither any sense of shame, nor any use of contriteness, nor any regard or respect for truth and far less for the Parliament. And through his learned lawyer, he indulged in a rhetoric of confusion and deliberate distortion of facts, if not public deception; and in the process, truth and reasons have been sacrificed. (*Interruptions*) Sir, I hope to establish that the House yesterday has been told untruths and some half-truths; and the Members of this House have been taken for a ride in the name of referring to the so called injustice caused to his client; of course, no doubt, encouraged by the indicative applauses from time to time that he received from some sections of the House which made him the subjective and at the same time aggressive.

If this motion is defeated today, the Members of this House who will vote against this motion



will go down in the history as wreckers of the great institution and as the destroyers of judicial honesty and integrity, and along with which judicial independence honesty and integrity, and along with which judicial independence will also be seriously affected. I would humbly endeavour to show that deliberate attempts have been made yesterday by the learned Judge through his learned Counsel to mislead this House to pass off contentions as evidence of facts. (*Interruptions*)

MR. SPEAKER: This is not allowed please. Let us maintain a standard. No personal remarks please.

(*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, sobriety and decency have been treated as weaken of the case against the Judge. But, if the House and the people want, let all this sordid details be placed. Sir, I cannot help now, but to fully expose the conduct, the dishonourable conduct of the sitting Judge of the Supreme Court and of his misbehaviour. He has joined issue on facts; and I shall endeavour to deal with the same.

But, before that, I crave your indulgence to deal with certain points which have been emphasised to be the procedural irregularities committed by the then hon. Speaker and this Committee of three learned Judges.

The Speaker has been criticised again through his Counsel and I find that this learned Judge has the habit of abusing others if somebody goes against him. And I do not know, Sir, what will be your fate also, if you give a ruling against him. It has been contended again, before this hon. House through his Counsel that the Speaker should not have admitted the motion without preliminary enquiry and without taking the House into confidence and no committee should have been constituted. This was the submission again

made yesterday and also suggested by the hon. Members.

Sir, I say that it is very unfortunate, to say the least, that this baseless charge was repeated in spite of the clearest decision of the Supreme Court of India in a writ petition that was filed before the Supreme Court in which Mr. Sibal himself appeared for one who is a name-lender of the learned Judge himself; and I cannot but refer to that.

This is the judgement relating to this very matter. This is the judgement of the Supreme Court's five learned Judges, reported in 1991, Volume IV, Supreme Court Cases 699. At page 754, paragraph 105, it says and I read, Sir:

It says:

The position is that at the stage of the provisions when the Speaker admits the motion under Section 3 of the Judges Inquiry Act, a judge is not, as matter right, entitled to such notice. The scheme of the statute and the rules made thereunder by necessary implication exclude such a right. But that may not prevent the Speaker, if the facts and circumstances placed before him indicate that hearing the judge himself might not be inappropriate, he might do so. But a decision to admit the motion and constitute a committee for investigation without affording such an opportunity does not by itself and for that reason alone vitiate the decision. Contention is disposed of accordingly."

The other passage at page 759, paragraph 115 which was contended by Mr. Sibal, client for whom he appeared, said that the Speaker was guilty of mala fide. It starts from paragraph 113. It says:

This relates to the mala fides alleged against the Speaker. The averments in this behalf are identical in both Raj Birbal's and Shyam Ratan Khandelwal's petitions. We may notice the relevant averments:

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It is, therefore, disconcerting to not that the Speaker acted contrary to constitutional practice. It is assumed that this high constitutional functionary would have known of the well settled and established constitutional practice in regard to the fact that the motions lapse with the dissolution of the House. Action of the Speaker, therefore, in admitting the motion in the manner that he did smacks of mala fides and, therefore, deserves to be struck down.

The action of the Speaker is mala fide on yet another count. The Speaker has not resigned from the primary membership of the Janata Dal. The petitioners verily believe first signatory to the motion is the erstwhile Prime Minister of India Shri V. P. Singh who happens also to be the leader of the Janata Dal. The signatories to the said motion the petitioners verily believe belong mostly to the Janata Dal though the details of this fact are not precisely known to the petitioners. The Speaker as has been indicated earlier ought to have allowed Parliament to look into the matter and discussed as to whether motion ought to be admitted. The Speaker ought to have at least tabled the motion in the House to ascertain the views of the Members of the Parliament belonging to various Houses. The Speaker, to say the least, ought to have transmitted all materials to Justice Ramaswami and sought a response from him before attempting to admit the motion."

Other submissions are also made. How the Supreme Court dealt with them. Paragraphs 114 and 115 say:

"The averments as mala fides are inter-mixed with and inseparable from touching the merits on certain issues. Indeed mala fides are sought to be impunged to the Speaker on the ground that he did not hear the judge did not have the motion discussed in the House

etc. We have held these were not necessary. But point was made that the Speaker not having denied the appearance on oath must be deemed to have admitted them. It appears to us that even on the allegations made in the petition and plea of mala fides are required to be established on strong grounds. No such case is made out." With Janata Dal membership and so on and so forth.

"The case of mala fides cannot be made out merely on the ground of political affiliation of the Speaker either. That may not be a sufficient ground in the present context. At all events as the only statutory authority to deal with the matter of doctrine of statutory exceptions or necessity might be invoked. Contention cannot, therefore, be accepted."

In spite of these decisions of which Shri Sibal is aware, his client is aware. It has been solemnly repeated here as if it is res integra. That there is no decision in this country. And again and again, hon. Speaker of this House is being maligned by a person who is occupying the position of a judge in the Supreme Court of India. The minimum courtesy and respect to the presiding officer of the Parliament, Lok Sabha is not being shown. And this is how he is submitting himself to the jurisdiction of the Supreme Court of Parliament.

Sir, therefore, I say deliberately I am sorry to use this expression against my friend Shri Kapil Sibal this House was misled in spite of the clearest decision of the Supreme Court or for that matter the identical issue had been decided.

Sir, I can only say such a contention should be treated with all the contempt that it deserves.

Now, Sir, with regard to the procedural

irregularities, it was said that it was an adversarial jurisdiction. There are prosecutors. Here is the Judge. Therefore, nobody, on behalf of this Sub-Committee of the Judicial Accountability or any of these signatories to the Motion should have been allowed to appear. Neither the Members of this House who have signed the Motion, are the prosecutors nor is the Committee. This is not the concept of prosecution which has been involved in the Constitutional provision.

SHRIBUTA SINGH (Jalore): Shri George Fernandes said it.

SHRISOMNATH CHATTERJEE: He might have said it. If you accept his statement, you accept it. I am entitled to make my submission.

There is no question of prosecution here. This is the procedure which is open to the country. There is no other procedure. This cannot be initiated. What happened in Justice Sinha's case? The Central Assembly itself had voted against him. There may be facts where you cannot think of Tamil Judge. We have heard that expression on the floor of this House. Yesterday, I made that appeal. The question of who was the appointing authority should not be important. Judge it on facts, judge it on merits. Are you going to decide a Motion like this as to which caste he belongs, or which community he belongs to which State he belongs or to which college he belongs? That will be a sad day for this country. I hope that will be the last day when I shall be participating in such a proceeding, when we shall consider about the fate of a judge of this country on the basis of those considerations.

Therefore, there is no question of any prosecution. This is a procedure as to how you find whether a person is guilty or not guilty. Here I cannot think of any proceeding in this country, under any law, where so much of protection is being given to a person against whom inquiry is being made, where inquiring authorities are of such eminence.

The Judges Inquiry Act was passed in the year 1968 by this hon. House. No other inquiry, I know of, where sitting judges of the Supreme Court, a Chief Justice of a High Court and a Justice are necessarily to be members, not even the retired Judges. As was correctly pointed out, the reason is very obvious. If a judge has been arraigned, he should be tried by his peers. Therefore, nobody can say that the inquiring agency has something against a particular judge or the judiciary as a whole. Therefore, when that is the procedure which has been laid down, I do not know how the concept of prosecution; how the concept of accused is coming in. This is a case where the statutory procedure is, as evolved under the overall parameters of the Constitutional provision that is being followed. What else can we do? Nobody even if all of us want, if unanimously we decide, can evolve a new procedure which will be binding on any judge. Therefore what is the good of saying, form a Committee, form a House Committee, let it go into all this. These are all irrelevant. Supposing the House Committee comes to a unanimous conclusion that a judge is guilty of certain offences, then what will happen?

Will he be bound by that? He will not be bound by that. He said, it can only be proceeded by a proper report, proper inquiry, according to the Judge Inquiry Act. Therefore, in my submission, there is no question of anybody looking into this either the Committee or the Members of Parliament who had submitted their motions taking up a role of a prosecutor and trying to victimise a judge.

DR. DEBI PROSAD PAL: Under what the statutory powers, can a sub-committee of judicial accountability being a third party participate in the proceeding of the enquiry?

SHRISOMNATH CHATTERJEE: Will you wait? I shall meet that point. Whether you like it or not, I shall try to meet that point. Any honest, any objective reading of the report of the Inquiry Committee will show that everything was

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determined, looked, went through by them without any pre-determined bias, although some charges had been framed where ultimately evidence did not come up and those charges have not been proved. One may say, when certain serious allegations have been made, even then the judges said, in our conscience, we are not very clear; evidence does not seem to us to be such that we shall come to a finding against the judge.

I think we might feel that sufficient material was there before that Committee. Let us not forget in what difficult circumstances the Committee was functioning. The judge who had his own version to make had not made his version. They were trying just to collect the material from their records unimpeachable document, they have not secured evidence outside the official record. Whoever was examined as a witness was connected with the High Court or with the Accountant General Office. These are all Government employees. What can this Committee do? This Committee had been made a target of attack; and all sorts of motives had been imputed to it; all sort of criticism had been made of this Committee.

Yesterday, I shuddered to think. If the Committee report is rejected, the way it has been contended by some of the hon. Members here, whether any self-respecting judge will ever accept in future any assignment to be on any committee. Nobody will accept such a position. I think they much have responded in the discharge of their duty to the nation. Justice Sawant and Chief Justice Desai did not even agree to act on the Committee until the Government permitted, although they were not obliged to seek that. They say, Rashtrapatiji the President of India should allow us to function. Otherwise, we are sitting judges; we should not go away from our seat of work; and we should not devote our time to this inquiry; and only when Rashtrapatiji, the President of India, permitted them to act in this Committee:

they acted. There was no zeal on their part, no interest on their part that they must serve in this Committee, come what may.

I shall have to trouble the hon. Members and you, Sir, to try show how meticulous care they have taken for the purpose of framing charges, for the purpose of giving full opportunities to the judge concerned and how and in what way the judge responded to that. You see Page 10, paragraph 21, towards the end.

21.00 hrs.

How have they framed the charges? The law requires it. They are obliged to do it. You may kindly see the Act, the Judges (Inquiry) Act. Section 3, sub-section (3) says:

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

It was their obligation to do that. And, what did they do? They did not copy the charges from the Notice of Motion. That would have been easier. There were 11 charges which the Members of Parliament, numbering 108 or 115, I do not know submitted. We got them. It was a very easy job done. No; they did not do that.

I read paragraph 22, at page 11:

"It is necessary to state here that although the Committee, while formulating the charge, took notice of the charges as mentioned in the Notice of Motion, the Committee did not adopt or adapt all the said charges. The charges were framed by the Committee on a security of all the relevant material available to it at the relevant time. For example, the Notice of Motion refers to purchase of items worth Rs. 50 lakhs for the High Court and for that purpose it relies upon the

Report of the District Judge (Vigilance). The said Report, however, did not deal at all with the purchases for the High Court but dealt only with the purchases made for the official residence of the Chief Justice. The charges formulated by the present Committee in regard to purchases are confined to the purchases for the official residence of Chief Justice. Again in the grounds in support of charge No. 5 of the Motion, it has been stated that Shari S.S. Virdi, Chief Engineer of the P.W.D., was responsible for purchasing air-conditioners and electrical equipment worth Rs. 1,13,000 and providing them at the residence of the Chief Justice as the Chief Justice had favoured him in a case in the High Court to which the said Virdi was a party. The present Committee did not formulate any charge on the basis of the said allegation for want of material. It is not necessary to elaborate this matter any further."

Therefore, they said that they did not blindly accept whatever was mentioned in the Notice of Motion. The Notice of Motion was prepared on the basis of information available to the members of parliament. As you know, we all try to get information. You have rightly, if I may say so, said on many occasions that we just cannot rely on newspaper reports, and then try to raise something. But sometimes it happens that we have no other course. We admire many times the ingenuity and capacity of the media to bring out the facts which are otherwise not known even to us, the Members of Parliament. I may not be as alert and articulate to find out from the corridors of powers what are there in the dark hooks and corners of the North Block and the South Block. But if somebody is able to get information, then I would say, "Very well, let us try to find out, what is the truth of it."

That was precisely what was done. You will see what they did.

Let us see the paragraph at the bottom of page 10 which mentions what was done after the charges have been framed.

"In the statement of grounds on which the charges were based, the names of witnesses proposed to be examined and documents proposed to be tendered in respect of the charges were indicated at the end of the grounds in support of each charge. It was also mentioned there that, if felt necessary, other documents and witnesses would be called in evidence."

So, the fullest opportunity was given. Whatever he wanted he could have it. He was told, "These are the materials, these are the witnesses, who will be required to come to give evidence in this matter."

It was even said, and it was argued solemnly that the Committee did not hold any preliminary investigation.

Kindly come to page 31, paragraph 53.

Mr. Sibal has said that no preliminary investigation was undertaken and an impression was given to the House as if the Committee did not hold any preliminary investigation. Sir, obviously many of the Members of Parliament might have been influenced by that and started thinking how this Committee has framed the charges without even preliminary investigation. Sir, kindly refer paragraph 53 of page 31. This point was taken before him, them. It says:

"As regards the second objection, it is incorrect to say that no preliminary investigation had been undertaken by the Committee. In fact, a detailed preliminary investigation had been

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undertaken by the Committee and a gist of the same has been duly recorded in the Minutes of the meetings of the Committee dated 29-11-91, 30-11-91, 7.12.91, 8.12.91, 9.12.91, 4.1.92, 5.1.92, 6.1.92, 7.1.92, 8.1.92 and 9.1.92..."

So, on 11 different dates, they had 11 meetings and they were also assisted by no less a lawyer in this country, who is one of the eminent lawyers of this country, than Mr. F. S. Nariman. Sir, the minutes had been annexed in para II of volume II from page 76 onwards. Elaborate minutes have been kept; what are the issues that were discussed have been mentioned. The minutes have been annexed to this report so that everybody, who has any inclination to find out what had happened before the Committee, can easily find out. You will find that on many of these occasions, Mr. F. S. Nariman, Senior Advocate was present....(Interruptions)

DR. DEBI PROSAD PAL: Mr. Nariman he was the Chairman of the Sub-Committee of Judicial Accountability..(Interruptions)

SHRISOMNATH CHATTERJEE: Sir, after having become an ex-judge, he has become wiser..(Interruptions) I did not disturb him. I had to listen to the fulminations and ngmarole.

Sir, one of the minutes is very clear. Kindly see page 81 of the Second part, Volume II. This is the minutes of the meeting of the Committee held on 9th January 1992. It says:

"Having considered the motion of 108 Members of Parliament along with its explanatory note and all relevant materials, the Committee has finalised the definite charges against the Hon'ble Judge including a statement of the grounds on which each such charge is based on which basis the

investigation is proposed to held. The list of documents and witnesses is also mentioned in the statement of grounds in respect of each charge.

It was decided to serve the charges along with the grounds and also copies of documents of the Hon'ble Judge both by registered post A/D as well as by hand delivery.

The Committee also fixed the date for presenting the written statement of defence as 4th February...

The Committee further resolved that the proceedings of the investigation will be held in camera. So, the learned judge may not feel any embarrassment. However, the Committee decided that the signatories to the Notice of Motion and or their advocates will be permitted to remain present and watch the proceedings on the condition that no part of the proceedings will either be divulged or published in any manner. The Committee also further decided to permit, subject to similar conditions, those who apply in writing for permission to remain present to watch the proceedings. However, such permission may be granted at the discretion of the Committee."

Then, Sir, there are other portions also. I need not trouble you at this stage. On this 9th meeting, after preliminary investigation, they framed the charge-sheet.

Sir, there it has been said that at this stage, the Committee should have given the judge an opportunity to appear and to take part in the proceedings. There is no such provision. If you go through the Act or the rules you will notice opportunities to be given after the charges are framed. This was precisely the Supreme Court has also held.

Sir, kindly see the Act, subsection (3) of Section 3 page 8. It says.

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

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

SHRICHIRANJI LAL SHARMA (Karnal):  
Sir, my point of order is that the hon. Member, who moved the Resolution, has a right to reply, to repel the arguments which were advanced by the defence counsel and not to advance denovo presentation. He started the argument arguing as if he is arguing the case afresh. He has only to repel the argument advanced by the defence counsel.

SHRI SOMNATH CHATTERJEE:  
Therefore, the point that was taken that there was no preliminary investigation; no opportunity is given to me at this stage. I am showing that this is the provision in the Act.

Kindly see page 14 of the same booklet, the rule (5) deals with the Service on the Judge of the charges framed against him. Then Rule 6,

"When the Judge appears, he may object in writing to the sufficiency of the charges framed against him and if the objection is sustained by the Inquiry Committee may amend the charges and give the Judge a reasonable opportunity of presenting a fresh written statement of defence."

Then, he would have had one opportunity if he said that these were charges that arose. Then,

he said to the Members of the Committee: why have you framed these charges. The rule permits the amendment of the charges. He never took that point except abusing the judges, members of the Committee.

DR. KARTIKESWAR PATRA (Balasore):  
Sir, the Committee on appointed could not hear the guilty person. So, without having heard the guilty person, the Committee has submitted its report. I would like to know whether it is mandatory on the part of the august House to consider the report of that Committee. The august House should freshly hear the guilty person and consider it freshly. But, I am afraid, whether we can do wrong or some sort of justice at this stage. I will cite one example when impeachment was brought against Warran Hastings. After seven years of its judgement, his career and his fate was totally ruined, though he was honourably acquitted. For this case also, we should do some sort of consideration whether we will support the impeachment motion or we will do no other consideration. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Mr. Speaker, Sir, I was referring to Rule 6 of the Judges Inquiry Rules, 1969. I drew your kind attention to the provisions there in saying that an opportunity is available to the concerned judge to make out a case for amendment of the charges.

Then rule (7) says that if the Judge admits that he is guilty, then the Committee shall record such admission. It has not happened.

Rule 7(2) says that if the Judge denies that he is guilty of the misbehaviour, then the inquiry shall proceed.

Then rule (8) says: that if the Judge does not appear, on proof of service on him of the notice referred to in rule 5, or, upon publication of such notice, the Inquiry Committee may proceed with the inquiry in the absence of the Judge. What can we do? He has said: I would not appear before

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you. And I will show you what has been his stand. Kindly come to page 7 of the Second Volume, which is the Report of the Committee. Please see paragraph 16. It says that after the Supreme Court pronounced its judgement regarding the fact that the notice of motion had not elapsed by the dissolution of the House. Paragraph 16 says:

"This Ministry of Law and Justice communicated on 20-11-1991 to the Secretary General of Lok Sabha the request of the President to Justice P.B. Sawant and Chief Justice P.D. Desai to function as Members of the Committee.

This is as I was telling you. Now, what is the reaction of Judge? Even before charges are framed, even before he is asked to appear, even before the preliminary investigation has been started by the Committee within six days, what he does?

Paragraph 17 says:

"Within a few days thereafter on 26-11-1991, Shri Atul Vig, Advocate of Justice Ramaswami, addressed a letter to the Presiding Officer of the Committee demanding that the entire material on the basis of which the Hon'ble Speaker and constituted the Committee, be forwarded to him. He chose to add that in the event of his request not being granted, within a reasonable period of time, he would be left with no choice but to seek appropriate remedies. He further added that the request was without prejudice to his right to question both the constitution of the Committee and any proceeding undertaken by the Committee thereafter. He sought to make it expressly clear by writing the letter that his client should not be

deemed to have submitted to the jurisdiction of the Committee. A similar letter was again written by Shri Atul Vig on 6-12-1991 reiterating that if he did not receive the material before the weekend, he would be left with no choice but to move the court of appropriate jurisdiction for a mandamus in that regard."

Paragraph 18 says:

"At the meeting held on 7-12-1991, the Committee considered the letters of Advocate Shri Vig and although there was no obligation to furnish any documents to Justice Ramaswami until the framing of the charges, if any, the Committee decided to furnish to him copies of all documents received from the office of the Hon'ble Speaker of the Lok Sabha."

This is an attitude of the Committee which is against him, which is taking recourse to improper procedure.

Paragraph 18 further says:

"The Secretary of the Committee forwarded the said copies of documents to Shri Atul Vig on 7-12-1991.

Then, Sir, kindly see paragraph 19. It says:

"The next letter on behalf of Justice Ramaswami was by Shri Ranjit Kumar, Advocate on 11-12-1991. Shri Ranjit Kumar requested inspection of the original documents, copies of which had been supplied on 7-12-1991. He also wanted two sets of copies of documents to be supplied, one for the use of his Senior Counsel Shri Kapil Sibal and another for Justice Ramaswami."



Nothing has happened till then except the constitution of the Committee. Paragraph 19 further says:

"Shri Ranjit Kumar was informed on the same day that the originals of the documents had been called for"- because they were not with Lok Sabha "and that he could take inspection on their receipt. On 24-12-1991. Shri Ranjit Kumar was informed that originals of documents were received and that he should inspect the documents from 26-12-1991 onwards. Inspection was accordingly taken."

Then, Sir, kindly see paragraph 20:

"The Committee met on various days from 29-11-1991 onwards and started the security of various documents already received. The Committee asked for and obtained further documents from the High Court of Punjab and Haryana, the Chandigarh Administration, the Office of the Accountant General, the Supreme Court of India, etc. On a careful scrutiny and consideration of the documents received from various sources and all other material aspects, the committee framed 14 definite charges against Justice Ramaswami alleging variously conduct amounting to wilful and gross misuse of office, wilful and persistent failure or negligence in discharge of duties, habitual extravagance at the cost of public exchequer, moral turpitude, using public funds for private purpose in diverse ways and bringing the high judicial office into disrepute.

"The acts and omissions alleged on the charges collectively were stated to amount to misbehaviour within the

meaning of Article 124 (4) of the Constitution of India. A copy of the charges was annexed."

Therefore, even before the charges are framed, without any obligation, the inspection of whatever documents were available with the Committee was given to him. Really they went out of their way to do that. Then.....

DR. DEBI PROSAD PAL (Calcutta North West): Sir, there is one matter which I wanted to raise. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: I cannot be dictated like this. (*Interruptions*)

DR. DEBI PROSAD PAL: This enquiry committee was meticulously going into the framing of the charges and the enquiry committee was assisted by Mr. Nariman in the preparation and framing of charges. Under what rule of procedure Mr. Nariman, who was the Chairman of the Sub-Committee of judicial Accountability, being a non-official body could assist the enquiry committee to frame the charges? Under what rules? (*Interruptions*)

SHRI SOMNATH CHATTERJEE: I do not know he was the Chairman of the Judicial Committee. I do not take notice of it. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, I shall note that point. I have noted that point.

What is the reason for so much of anxiety for Dr. Pal? Why do you not hold patience for a while? If you are hungry, go away. Do not disturb us. (*Interruptions*) Sir, as it is, it is 9.25 p.m. I am waiting from 2 o'clock for my opportunity and he has taken my time and obstructing me.

(*Interruptions*)

Sir, Please see para 25 on Page 11. This is the Committee which has been formed; the

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Committee has given its report. We had nothing to do with that and this Committee's findings are being attached in a manner while I can only say that it leaves a very bad taste in the mouth, to put it very very mildly.

Sir, kindly see para 23 where the service of the charges has been mentioned. It was said— even Dr. Pal said— that procedure has not been indicated. Whatever the procedure, the rules and the Act that have been applied, has not been said by anybody. Even then it is elaborated here as to what the procedure they are going to follow. It is dealt with in para 23 on page 11.

I quote:

"He was informed, a copy of the notice was annexed. He was requested to file his defence. He was requested to produce the witnesses. He was requested to produce the documents he wanted to rely on. He was informed that the proceedings would be held in camera but the Committee would like to know whether he desired the proceedings to be conducted in public. He was further informed that the signatories to the Notice of Motion and or their advocates would be permitted to remain present and watch the proceedings on the condition that no part of the proceedings would be divulged or published in any manner. It was made clear that anyone who applied in writing for permission to be present to watch the proceedings would, in the discretion of the Committee, be granted such permission, subject to similar conditions. Copies of all documents of which copies could be made were sent along with the charges. In the case of the remaining documents,

where it was not possible to give copies because of their volume, he was offered inspection of such documents, with due notice. All the statements made in the notice communicated to Justice Ramaswami were made in pursuance of decisions taken by the Committee at its various meetings before finalising the charges and communicating them to Justice Ramaswami."

Therefore, he knew the procedure. Even the offer was made to hold it in camera. He was told— please file your statement, whatever witness you want to produce, please produce. It was not done, as we all know. What is the ground that has been given?

After these charges are submitted, it was given on the 14th of January, 1992 and I requested you to kindly see it. This is something unique. I am glad the Prime Minister is also here.

Please see page 13, paras 24 and 25. Within a week, he sends a missile which Shri George Fernandes has read out earlier in the day.

Please see paragraph 24 and 25 on page 13. Paragraph 24 says:

"Justice Ramaswami chose not to file a written statement of defence." That was his own decision. "Instead, on 21-12-1992 he addressed a letter to the Presiding Officer of the Committee in which he, inter alia, questioned the constitution of the Committee and the authority of the Speaker to constitute the Committee."

How can this Committee answer that? This is the response of a supposedly responsible person occupying the office of the Judge of the Supreme Court and in the meantime, the Supreme Court has held that the notice of motion has not

lapsed that a Committee should be constituted, the Committee should go into the matter. But he does not even accept any decision of the Supreme Court of India, again challenging the authority of the Committee and the Constitutional authority of the Speaker as well to constitute the Committee. And, Sir, he said:

"He levelled various allegations against the individual Members of the Committee and finally stated:

"The present communication by me to you as Presiding Officer should not be construed as having my submitted to your jurisdiction. Indeed it is unthinkable that I would in the context of what I have stated ever consider myself amenable to your jurisdiction."

Paragraph 25 says:

"This letter was followed by another letter dated 24.1.1992, the opening paragraph of which was as follows.

"As I have indicated in my letter on 21-1-1992 I have no intent on the submit to the jurisdiction of the Committee in the light of the circumstances already communicated to you."

Sir, it was said with very great bravado. 'Well, I have no faith in the Committee'. Why not? This is very uneasy. The lawyer does not persist with the compliant about the composition of the Committee, obviously he has given up. Then why does not he have confidence in the Committee. Sir, it is very easy to say, 'I don't have any confidence in the committee, I have confidence in the House' because he has to come here. If I say tomorrow, Sir, 'I have confidence in the Deputy-Speaker and no confidence in you', will you slip away from the

Chair? It is an easy attitude. Does it depend on his subjective satisfaction? Can anybody take up an attitude that the statutory procedure is being followed and say 'although I am a Judge of the Supreme Court, I am bound by the rules of law, I am bound by the Constitution, I have an obligation to accept the procedure that has been adopted, to the decision of the Speaker and the decision of the Supreme Court in the meantime'? And he said, 'I have no confidence in you'. Why not? some explanation has to be given as to why he has no confidence in him. Supposing I say, 'Prime Minister, I have no confidence in you, I have confidence in Kalpanath Rai', then what will happen? (*Interruptions*). Nothing will happen, right. Precisely, Sir, I am obliged of the honourable Prime Minister, nothing will happen. Nobody will take note of such. \*\*

MR. SPEAKER: That word will not go on record.

SHRI SOMNATH CHATTERJEE: Now, Sir, there is something more. Sir, in the facts of this case something unique in the world has happened, I believe.

Sir, this Judge solemnly asked for an opportunity and demanded the right that 'I shall cross-examine you the Presiding Officer, Justice Sawant. Have you ever heard like this, Sir? I have not heard. I have spent almost 40 years in the profession, I have never heard anybody saying that 'I may be allowed to cross-examine a Judge'. What he has said, Sir? Please see paragraph 25 I think, Sir, this should be the last clinching point. Sir, paragraph 25 says:

"After raising certain other issues, towards the end of the letter of 24th January, 1992, he categorically stated. "I do not intend to submit to your jurisdiction". He questioned the procedure adopted by the Committee

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in framing charges and suggested that the Committee should have first held an inquiry, collected the documentary evidence, recorded statements of witnesses and communicated the same to him before framing charges. He also told the Committee that if the Committee were to conduct the inquiry in the manner indicated by him in his letter he would, then, be in a position to consider whether or not he should submit of the jurisdiction of the Committee."

Then Sir, there is the next sentence—it should go to which book I do not know, probably the book of jokes. It says:

"He also added that in the even he chose to participate in the proceedings he would first cross-examine the Presiding Officer."

This is the attitude of a Supreme Court judge. He wants to cross-examine the Presiding Officer. For what purpose? Then, letter after letter have been sent. I would quote from paragraph 27 on page 14. It says:

"The Committee was not obliged to take notice of the letters and to answer the queries raised by Justice Ramaswami. Yes, the Committee by its letter dated 27.1.1992 in reply to his letters of 21st and 24th January, 1992, inter alia, informed him that it was inappropriate for him to enter into correspondence with the Tribunal constituted to investigate his conduct. He was also informed that he may raise all the objections as he may have in his written statement of defence because all objection can only be (and will be) judicially considered by the

Committee and dealt with in accordance with law. Even though he has not done so, the Committee proposes except to the extent that some of the issues have already been answered by the judgement of the Supreme Court in Writ Petition No.491.91 and by Committee's replies to his letters."

Sir, if I may read the later portion of paragraph 28, it says:

"It was the duty which he owed to the oath which he had taken, to the Court in which he was serving, to the institution of judiciary and to the public who had reposed such great faith and confidence in the Judges, and, therefore, provided them various safeguards. Instead, he chose to abstain from participating in the proceedings and to address letters to the Committee asserting that it was unthinkable for him to submit to the jurisdiction of the Committee and raising technical questions of procedure as well as making wild allegations and unwarranted insinuations against the Members of the Committee."

Sir, regularly, the Committee has gone on replying to his letters without any obligation to do so. Now, I quote paragraph 33. It says:

"Justice Ramaswami's Counsel also addressed several letters to the Committee in connection with the supply of copies of documents and inspection of documents, while all the time repeating that his letters should not be construed as submission to the jurisdiction of the Committee. That was the constant refrain of his letters. The question of supply of copies of documents and inspection of other

documents has been fully dealt with by the Committee in the Order pronounced by the Committee in its open sitting on 24.2.1992 before commencing the recording of evidence."

DR. KARTIKESWAR PATRA: Mr. Speaker, Sir, when the Act was formulated....

MR. SPEAKER: It is not going on record.

*(Interruptions)\**

SHRI ANBARASU ERA (Madras Central): Mr. Speaker, Sir, he is going on quoting page after page. Is this the correct way for meeting the points raised by Mr. Kapil Sibal?

MR. SPEAKER: I think this is the correct way.

SHRI SOMNATH CHATTERJEE: Sir, Mr. Fernandes has already drawn the attention of the hon. Members of the House to the judgement of the American Court. They are very fond of that country. It has been said that the judge's refusal to answer the questions on the removal proceedings constitute a cause for removal. I am only reiterating that point to save time. A question has been raised by Mr. Sibal ver solemnly that documents were not allowed.

inspection of. It was being solemnly argued from the bar by Mr. Sibal that inspection of the documents was not allowed. This is a fact which has not even been attempted to be dealt with.

"As regards inspection of documents, the position is as follows:

In response to the letter dated 11th December, 1991 of the learned advocate for Justice V. Ramaswami, inspection was offered by the Committee by its letter dated 24th

December, 1991 and inspection was conducted by the learned advocate and his colleague on 26th December, 1991. In the course of the said inspection, the learned advocate had sought the originals of certain documents which were not available at that time and he was intimated that next date for inspection would be fixed later under intimation to him on hearing would be fixed later under intimation to him on hearing from the Punjab and Haryana High Court. Thereafter, on 14th January, 1992 the definite charges and the grounds in support thereof along with the copies of the documents, the list of documents and list of witnesses in respect of each charge were served on Justice V. Ramaswami. The list of documents in support of each charge themselves indicated the copies to the documents which were available for inspection. Those documents included the originals of documents of which inspection could not be given on the 26th December, 1991. Footnote No. 4 to the statutory notice issued to Justice V. Ramaswami along with the charges indicated that it was not possible to send copies of some of the documents which were voluminous and that inspection may be taken of the same with advance notice of two days. Since inspection was being offered by the said notice, of all the documents in support of the charges, it was not necessary to separately intimate the learned advocate about continuing of the inspection which had remained incomplete on 26th December, 1991. However, the learned advocate for Justice V. Ramaswami by his letter dated 22nd January, 1992 addressed to the Secretary of the Committee stated that neither Justice V. Ramaswami nor his advocates were in a position to sit the whole day during office court hours and inspect the documents and that copies of all documents which had been shown as "for inspection" in the list of documents should be supplied, "no matter how voluminous they may be, as without these documents, the complexity of the matter cannot be appreciated."

He would not file a written statement. He

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would not accept their jurisdiction. He said, "They have no right to proceed against me". Yet, every document has to be supplied to him, even copies and that was done.

"The stand taken by the learned Advocate that he or his colleagues were not in a position to inspect the documents the whole way was unreasonable. Once an Advocate accepts a brief, it is his duty to give full time to the same. By its letter dated 23rd January, 1992, the Committee pointed out to the learned advocate that since some of the documents of which inspection was being offered were public documents and others were voluminous, it was not possible to give copies of the same. The Committee further indicated to the learned advocate that if any particular document or page from out of the said documents was needed by him after he inspected the same, the request for supplying the copy of the same could be considered.

This shows with what fairness and anxiety, the Committee has tried to proceed. It shows whatever requests have been made for documents, for inspection, how this committee has gone out of its way to help him.

"Though as stated above an advocate in a case cannot refuse to inspect documents during office hours and though Saturday is a holiday in the Lok Sabha Secretariat the learned advocate was by the said letter dated 23rd January, 1992 given sufficient accommodation by being permitted to inspect the documents between 4 and 6 p.m. on working days and between 10.30 a.m. and 5 p.m. on Saturdays."

As you are aware, the Lok Sabha staff do not come on Saturdays. Although Lok Sabha Secretariat is closed on Saturday, from 10.30 a.m. to 5 p.m., he was allowed to come, as special favour and to open the offices on Saturday only to enable him to have inspection of the documents.

"After further correspondence with the learned advocate with regard to photocopying of documents to which it is not necessary to make reference in detail, the Committee by its letter dated 4th February, 1992 forwarded to the learned advocate an abstract of the relevant pages, bills etc., in order to facilitate inspection. The learned advocate was requested to take inspection of the relevant registers and files and to point out the specific pages, bills etc., from the registers and files and was informed that photocopies of the same would be given to him provided photocopying could be done without detaching them from the registers/files as concerned as the detachment would amount to tampering with the files and documents received from the High Court."

If a page is an integral part of the document, for photocopying it just cannot be torn off. That would be tampering with the document. Even that was made fun of. Mr. Sibal has said, just for the sake of making copies for document, they say: It cannot be detached, therefore no copies can be given.

"By letter dated 7th February, 1992 the learned advocate intimated the Secretary to the Committee that he accompanied by two other persons would come for inspection on Saturday the 8th February, 1992 at 11.30 a.m. The said letter which was addressed though prejudice to the right of the

Committee" further stated that "I may also were photocopies of documents after inspection". Inspection was taken by the learned advocate along with Shri Jagdish Singh Khehar, Advocate and Ms. Rashmi Kathpalla, Advocate on 8th February, 1992. The request of Shri Anjit Kumar for continuing the inspection on Sunday, the 9th February, 1992 could not be acceded to as the said date was reserved for going through the documents by the Counsel appointed to lead evidence before the Committee which was to start recording evidence on the 10th February, 1992. Since the hearings of the Committee were scheduled to commence on the 10th February, 1992 and the documents were required at the hearings of the committee, the learned advocate was intimated by the Committee's letter dated 8th February, 1992 that he could take inspection of the documents on all working days after the Committee's work was over upto 6 p.m. and on Saturdays between 10.30 a.m. and 5 p.m. Thereafter, since the proceedings stood adjourned on account of the unfortunate demise of Justice V. Ramaswami's mother, the learned advocate was intimated by letter dated 9th February, 1992 that inspection might be taken from 10.30 a.m. to 5 p.m. everyday from 13th February, 1992 onwards until and including 22nd February, 1992 (except Sunday). After giving intimation on 14th February, 1992 the learned advocate, Shri Ranjit Kumar took inspection along with Shri Jagdish Singh Khehar and Ms. Rashmi Kathpalla, Advocate on 14th February, 1992. On Saturday, the 15th February, 1992 inspection was taken on behalf of Shri Ranjit Kumar by Shri Jagdish Singh Khehar and Ms. Rashmi

Kathpalia, Advocates. Thereafter, no inspection was taken up to and including 22nd February, 1992. In one of the four letters to the same date viz., 17th February, 1992 the learned advocate stated that "I have with me the list of the documents which are already photocopied and are in your possession, which, I was told, would be forwarded to me if I give details of each of those documents. I am in a separate letter forwarding the list in details of these documents." No such letter or list has been received by the Committee so far."

SHRISOMNATH CHATTERJEE: And a grievance is being made solemnly by the counsel that "Well, I was not given even photocopy which I wanted to take at my own cost. Photocopies were ready. They did not even indicate which are the documents which they wanted although in writing he said "I will indicate to you. I will send you the list."

Page 66 is also relevant. I have to read in the middle of P. 66. I am skipping some of the relevant portion page 66:-

"It has further to be noted that the neither Justice V. Ramaswami nor his advocate on his behalf ever asked for extensions of time to file the Written Statement of Defence and or to put in appearance before the Committee. This was probably consistent with Justice Ramaswami's stand that he would never think of submitting to the jurisdiction of the Committee. However, the Committee had on its own by its letter dated 27th January, 1992 written to Justice V. Ramaswami in reply to his letter dated 21st January, 1992 and had offered to give reasonable extension of time to file the written statement of defence and to put in appearance if he felt that the time was insufficient to enable him to do so and a request was made in that behalf and the further

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time required was indicated. There was no response to this offer of the Committee.

As regards the other questions raised in the correspondence addressed by Justice V. Ramaswami including those relating to the competence of the Committee to proceed with the inquiry, since no written statement has been filed raising the said questions, it is not proposed to deal with them at this stage. They will be dealt with at the appropriate time.

Then the Committee decided to proceed with the inquiry as there was no response.

"Before proceeding to record the evidence, the Presiding Officer made it clear that the Committee's duty to investigate the truth or otherwise to the charges levelled against the learned Judge. In taking the evidence, the Committee will follow the broad principles of Evidence Act and the principle of natural justice and the counsel appointed to lead evidence before the Committee will take notice of the said procedure."

Kindly see two documents Mr. Kapil Sibal referred to from the other book which is a reply. Although I make my submission presently that this cannot be really looked into but even then without subject to that contention, kindly come to p. 82 and p. 83.

A lot of comment was made. Well, there was no reply to these letters. Kindly see it. It is amazing. I refer to page 82, the middle portion. Those are the two letters he has referred to.

"In his letter dated February 3, 1992 counsel for Justice V. Ramaswami asked the following:-"

"I would like to be informed with reference to each of the charges that have been framed in respect of the investigation to be conducted by the Committee, as to which part of the document supplied to me and referred to and sought to be relied upon for proving the said charge. Could you please also inform me as to the specific document which will be required..."

Then, he is asking for a lot of information. Which Judge which Inquiry Officer can be asked to give him information like this? He will indicate: 'Give me information on this.' I can only say it is impertinence. Then, kindly see page 83.

"Again in another letter dated February 3, 1992, counsel for Justice V. Ramaswami asked as under..."

Sir, this is coming from a person who has deliberately refrained from appearing before the Committee in spite of the decision of the Supreme Court saying that the Inquiry is still alive. Kindly see it. It is very important. This is being written to the Committee.

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

Sir, just see the amazing audacity can the Counsel, the lawyer just because his client is a judge write in this manner to a sitting Supreme Court Judge? One is the Chief Justice of a High Court. Another is a very eminent Jurist. The counsel is writing him saying: "You please collect and collate the data and supply to me. on such and such things.

It has been stated:



"In respect of each of the queris raised above, please supply the relvant data applicable to Supreme Court of India."

These two letters were solemnly referred to by Shri Kapil Sibal. (*Interruptions*)

SHRI MANI SHANKAR AIYAR: I asked him his permission. Now I put the question. Can you please also comment, while doing this, on the two letters that were specifically referred to by the Defence Counsel which are dated the 17th January and the 24th January? Without going into that, without reference to those letters, he is talking about the two letters of February. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: The, Dr. Debi Prosad Pal is reminding me so many times about the outsiders taking part. Kindly come to page 17 of the report of the Committee. I quote paragraph 37, page 17:

"For participating in the Committee's proceedings some persons and bodies had sought permission of the Committee. The Sub-Committee on Judicial Accountability was, on their request, allowed to be represented by their Counsel Shri Prasahnt Bhusan and Kum. Kamini Jaiswal. The sub-committee was not allowed to participate directly but their Counsel was allowed to suggest questions that might be asked of the witnesses by the Committee's Counsel. It was also made clear to the Sub-Committee that the permission was granted to them on the condition that they will not divulge or publics any part to the documents or the proceedings. Shri George Fernandes and Jaswant Singh M.Ps., signatoreis to the Notice of Motion, sought and obtained similar permission to be represented by their Counsel and on the same terms. Shri Jaswant Singh

was represented by his counsel Shri Arvind Nigam.." (*Interruptions*)

DR. DEBI PROSAD PAL: I want some clarification now. The Committee framing the charges. At the time of framing of the charges how Mr. Nariman, who was the Chariman of the Sub-Committee Judicial Accountability, a completely third party, could come into, the picture? That was not the stge when they could participate in the proceedings. At the time of framing of charges, how Mr. Nariman could come into the picture?

SHRI SOMNATH CHATTERJEE: I have no evidence. There is no evidence nor am I yielding. I hope, Justice Ramaswami will come to you if the motion is adopted you go before the Supreme Court for him. Shri Krishnaswamy, M.P. has been openly pleading for Justice Ramaswami and he has been espousing his cause even here.

"Shri M. Krishnaswamy, M.P., claimed that he wanted to help the Committee to investigae the alleged charges and demonstrate that there was no case against Justice Ramaswami. He sought the permission of the Committee to participate in the proceedings. Permission was given to him to assist the Committee in the same manner in which the sub-committee on Judicial Accountability and the two MPs had been granted permission."

No objection is taken when Mr. M. Krihsnaswami is appearing before the Committee.

"A body called the Forum For The Rule of Law based in Tamil Nadu also sought and obtained similar permission. Shn Krishnaswamy was represented by his Counsel Shri J.S.

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Kehar and Shri Yashank Adhyaru, while the Forum For the Rule of Law was represented by their Counsel Shri Rupert Barnabas. The Counsel for Shri Krishnaswamy and the Forum For The Rule Of Law”.

Both of whom appeared for Justice ramaswami.

“gave written questions to the Counsel for the Committee to be asked of the witnesses. The questions were numerous and exhaustive. They were in the nature of searching cross-examination. The questions which are in writing form part of the record.

As many as 47 witnesses were examined by the Committee and 244 Exhibits were marked. The number of documents is in fact much more than 244 because some of the Exhibits consists of several documents all of whom have been marked collectively as a single Exhibit.

Although Justice Ramaswami had not chosen to appear before the Committee, the Committee by its letter dated 7.2.1992 had intimated him that nonetheless the Committee would send to him copies of every day's proceedings before the Committee. Accordingly, copies of every day's proceedings, whenever they were ready, were being sent to him including the documents exhibited of which photocopies could conveniently be made.”

Your experience is there; my humble experience is there. Not only they have tried to proceed according to the rules and the Act. They have gone out of their way to help the learned Judge so that he does not feel any inconvenience or any grouse.

Para 40 says:

“It may be mentioned here that during the course of the proceedings Counsel for Krishnaswamy, MP, Shri Adhyaru, and Counsel for the Forum For The Rule Of Law, Shri Rupert Barnabas, kept on intermittently writing letters, sometimes in irrelevant language, to the Committee making untrue allegations in regard to the conduct of the proceedings. The Committee had, therefore, passed an Order in the open proceedings making it clear that objections, if any, ought to be raised by them on the spot.”

In truth, they would go back, think something, advised to do something, instructed to do something and write letters and take points which were not taken seriously as appeared from this. It further says:

“Shri Adhyaru, Counsel for Shri Krishnaswamy, was similarly informed by a letter that the Committee was strictly following the procedure prescribed by the Judges (Inquiry) Act and the Rules made thereunder that they were being given full opportunity to put all question suggested by them through the Counsel for the Committee and that they were availing themselves of the opportunity so afforded. It was also conveyed to him that the record of the proceedings was being faithfully maintained and, therefore, his allegations and insinuations were false and misleading. It was obvious that all such objections were being raised with the end in view of using them in some other proceedings. For the purpose of keeping the record straight, it may be stated that whenever the Committee's attention was drawn to any matter connected with the recording of the evidence, the matter

was considered and, wherever found necessary, appropriate action was taken.

•After considerable progress had been made in the inquiry, the Secretary of the Committee received a notice from the Supreme Court of India."

Shri Krishnaswamy, MP had gone to the court and filed a writ petition challenging it for its continuance. (*Interruptions*)

DR. DEBI PROSAD PAL (Calcutta North West): There is no answer to the queries of his charge. Proceedings start only after the charges are framed. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: I am not yielding. There is a limit to this. Too much of loyalty is shown. (*Interruptions*)

DR. DEBI PROSAD PAL: Out of the time of framing of charge, the Inquiry Committee it has to prepare, frame and establish the charge. How was the Chairman of a Sub Committee on Judicial Accountability Shri Nariman was not a party? He was a third party. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, he is abusing his right as a Member of Parliament. I have not yielded to him. He is saying something for which there is nothing on record. He cannot go on like this. There is a limit to all this. (*Interruptions*)

MR. SPEAKER: Shri Charles, it is not necessary to raise it again and again. You have raised it once. That is all right.

SHRI SOMNATH CHATTERJEE: Mr. Speaker, Sir, Shri Sibel, on this aspect....(*Interruptions*)

SHRI A CHARLES (Trivandrum): Sir, we cannot accept that.

MR. SPEAKER: You may not accept it but you have to hear him.

(*Interruptions*)

MR. SPEAKER: I would like to say that yesterday we allowed Shri Kapil Sibel to argue the case for more than five to six hours.

(*Interruptions*)

AN HON. MEMBER: But it is not our fault.

SHRI ANBARASU ERA (Madras Central): He is reading line by line. In stead of that, he can better lay it on the Table of the House.

MR. SPEAKER: That is your own view.

(*Interruptions*)

MR. SPEAKER: By making these intermittent statements, you are just prolonging the discussions. Please cooperate yourself.

SHRI SOMNATH CHATTERJEE: Mr. Speaker, Sir, in my own imperfect way, I am trying to deal with the points raised. It may not be liked by my hon. friends but I cannot help it.

Now Sir, I have to refer to a very important aspect of this case which Shri George Fernandes has indicated. What is discribed as a reply in this Volume III is something which has been compiled and has been produced for the first time in this House. None of this so-called material was before the Committee. Nobody has checked the veracity of it. Nobody has an opportunity to find out the correctness of it. So many things have been said as if, Sir, that it is Bhagvad Gita and whatever is written here must be true. And Sir, this Judge, who does not have the courage or the fairness or his commitment to judicial procedure or the laws of the land and the Constitution, who refuses to go before the Committee, who refused to submit to the jurisdiction of the Committee,

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does not make out a case, although through his alter egos he goes on participating in the Committee proceedings by putting questions, searching, cross-examination. He does not make out any case before the Committee. But here, this is now supposed to be his case. Sir, are we entitled to, at this stage, after the Committee's Report has come, to take into consideration, to take into account any material which was not before the Committee. Again, this is like reopening the entire thing, as he did not do it directly, according to the law and procedure. He is trying to do it indirectly now.

Sir, Shri Kapil Sibal elaborately read out from this. At that time, there was no objection. He says, "Well, this is the case." He says at page 48 of this compilation in Volume III and I quote:

"The proceedings of the Committee stand vitiated, inter-alia, on the following counts and should be declared to be null and void:-

There is evidence on record to show that the counsel for Sub-Committee on Judicial Accountability as well as its members had complete access to the records available with the Committee and that counsel for Sub-Committee on Judicial Accountability was consistently advising counsel for the Committee both prior to and during the course of the proceedings and the conclusion thereof."

How does he know? How does this Judge know? He was not there. He says that without any authority, without any responsibility and this is supposed to be correct as against what has been stated in the Committee's Report. He says something now. After the case is decided in the appeal, additional evidence, if it has to be taken, the Judge has to give his permission.

MR. SPEAKER: Shri Chatterjee, let us understand that this is not in the form of evidence,

this is in the form of argument.

SHRI SOMNATH CHATTERJEE: I am obliged to you, Sir.

MR. SPEAKER: This is in reply to the report which is to be considered by this House.

22.00 hrs.

SHRI SOMNATH CHATTERJEE: I am obliged to you. If it is argument, argument must be based on records.

MR. SPEAKER: Well, you can accept it or reject it.

SHRI SOMNATH CHATTERJEE: I submit that it should not be accepted. The point is that the entire reply has been prepared after the report was submitted.

MR. SPEAKER: I explain. The Judge wanted the report to the Committee before it was given to the House. In the judgement it was stated that the report will be given to the Judge and if he wants, he would be allowed to reply to the House in writing or orally, through the lawyer also it can be done; we will see what is to be done. That is why the report was sent to him. In reply to the report, he has sent his written argument.

SHRI SOMNATH CHATTERJEE: Let him send his comments and his arguments. But in the shape of comments on the record of the proceedings can he say something as if it is evidence which is being given, which is not on record? That is the point I am on. The entire thing is this. Because he had not made anything before the Committee.

SHRI LAL K. ADVANI: In Vol. IV there are no arguments. It is just producing new evidence which was not before the Committee at all. Therefore Mr. Chatterjee says that this House need not take it into account, apart from the

arguments given by him.

SHRI SOMNATH CHATTERJEE: I respectfully submit, one can make inference, one can make comments that these are the flaws in the arguments, in the reasons given by the Committee, this is the procedure which was wrongly followed by them, this is what has happened, on the basis which must have some relation to the facts that had transpired before the committee. That is what I am saying.

MR. SPEAKER: You are right.

SHRI SOMNATH CHATTERJEE: He can make every comment that this decision of the Judge is wrong for these reasons. He cannot say the Judge is wrong because I say this did not happen. Now he is giving evidence in the form of this whole compilation. That is my respectful submission before this House and before you.

MR. SPEAKER: The deciding authority may or may not accept it. We may not accept it also.

SHRI SOMNATH CHATTERJEE: We may not accept it; but the question is I have to spend time on this to show why it should be rejected. At least let me make the submission. No new material, contentions or documents which were not before the Committee could be made. At least documents cannot be brought which were not before the Committee; that is an attempt to give new evidence. Contentions which were never made cannot be made now. He cannot say that this is what had happened; that somebody was seen whispering to the Counsel. Things which were not before the Committee cannot be looked into for our purposes and that is precisely what has been done. He has obviously quoted from Vol. III which in my submission is entirely extraneous and should not be looked into for the purpose of deciding this matter.

The committee had no occasion to decide

on his version. The Committee had no occasion to consider any version of the Judge on the facts of the case, any version of the Judge as to the procedure that was followed, any version of the Judge as to what might have happened or might not have happened. And now to say that the report is wrong because the Judge now says something else, something which he had not condescended to say before the Committee.

SHRI CHANDRA SHEKHAR: Mr. Speaker, under what law this report was sent to Justice Ramaswami for his comment?

MR. SPEAKER: Are you questioning my authority?

SHRI CHANDRA SHEKHAR: I am not questioning your authority. I want to get this information. I do not understand why you take every question in that spirit. Do I say anything offensive?

MR. SPEAKER: I respect you very much and I hate to contradict your statement.

SHRI CHANDRA SHEKHAR: I wanted to know under what rule this was sent to Justice Ramaswami for his comments, because there is nothing in the Judges' Enquiry Act.

MR. SPEAKER: May I explain? Firstly because the Supreme Court itself in the judgement had said that the Judge will have an opportunity to make his submission either in writing or orally to the House; and if it is not done, there would be an opportunity for him to come to the Supreme Court and make his submission. That was one thing. Secondly, the principles of natural justice require that if an opportunity has to be given to anybody against whom we are going to decide or in favour of whom we may decide, it is better to hear him before deciding. These are the principles on which it was done.

SHRI CHANDRA SHEKHAR: If you hear him, we can understand, either in writing or orally. But, once the Committee's report is there and another report is submitted by the Judge, they cannot be treated on par.

MR. SPEAKER: Shri Chandra Shekhar, let us understand that: what really happened is the Committee gave the report. Now, what is given by the Judge is not the report, it is not the evidence, it is not the judgement; it is his response, his defence to the report which is given by the Committee. And the expectation is that this body which is sitting here to decide this matter would have an opportunity of hearing what the Judge wants to say. Supposing he has said that, "I do not want to come before you; I have sent the writtent submission". then we would consider it. This is the logic and we did it. We did it because the Supreme Court wanted it. Why should a doubt arise in your mind about our sending it to him?.

By allowing him to make a submission, we are not giving the judgment. Judgment has to be given by this House and not the Presiding Officer or the Officers who are sitting here.

SHRI SOMNATH CHATTERJEE: I have never said that he had no right to submit it.

MR. SPEAKER: I am not saying that.

SHRI SOMNATH CHATTERJEE: I have only submitted that what has transpired before the Committee and the Materials available to the Committee, he can challenge the reasons given by the Committee or to say whether there was any violation of natural justice.

MR. SPEAKER: I can understand. Suppose there is something which cannot be accepted, we will not accept it; the House will not accept it.

MR. SPEAKER: I can understand. Suppose there is something which cannot be accepted,

we will not accept it; the House will not accept it.

SHRI SOMNATH CHATTERJEE: Therefore my humble submission before you and the hon. Members is that we are quite late the whole submission of Mr. Sibal has been, with reference to his replies saying as the case is this as contained in the reply all contrary findings must be wrong, which case, according to me, was not placed before the Committee. A new case for the first time on facts is being made and on the basis of that to say, "Well, these findings are all wrong", is not fair.

Let me come straightway to the charges because these are the points about the procedure, about the inspection, about the violation of natural justice. These are the points that had been taken. So far as Charge No.1 is concerned, it is substantially covered by Shri Fernandes. I can only request the hon. Members because there is hardly any time now available... (Interruptions) I would earnestly request my hon. friend, I do not think I have disturbed anybody. Please give me this little courtesy.

(Interruptions)

MR. SPEAKER: If you interrupt, you will be required to sit for more time.

SHRI SOMNATH CHATTERJEE: It was not my fault. I was told, I will get time at 2.30 pm; and instead of that, I have got it at 9 o'clock.

MR. SPEAKER: It is not your fault. You are cooperating.

SHRI SOMNATH CHATTERJEE: We are talking of momentous occasion, a historic occasion, we are talking of reminding ourselves of that; and we have been treated, as if by interruptions and shouting this matter can be decided.

(Interruptions)

The main charge has been Charge No. 1, relating to the purchase of materials, etc., which Shri George Fernandes has substantially covered; and I am not going into that, although they are very relevant. I adopt what he has submitted, to save the time. But, how are they dealt with? This is very important. *(Interruptions)* May I have little time please?

*(Interruptions)*

AN HON. MEMBER: It is not from this side.

MR. SPEAKER: Wherever it is, let there be order.

*(Interruptions)*

SHRI SOMNATH CHATTERJEE: With great sort of a, if I may say so, simulated emphasis, it was suggested, well, ultimately it will appear that materials were there less than 30,000 and everybody enjoyed very much. What is this? He said, well, for a few yards of carpets, few towels, few suitcases, you are throwing away a Judge of the Supreme Court. But what has happened? How did he deal with this? He admits that 13 lakhs were involved.

*(Interruptions)*

Then, I shall exercise my right to give a reply and it has to be till 4 o'clock in the morning. Then, do not blame me.

MR. SPEAKER: You can rest assured that I am not going to stop you.

SHRI SOMNATH CHATTERJEE: I know, you will not stop me. But unnecessarily it is being taken. *(Interruptions)* I did not even read. I should read. To do justice to the matter, I should read as to how things were done, how things were purchased or how purchase bills were prepared and learned Judge was involved in it absolutely. *(Interruptions)* If I had not this little consideration

from my hon. friends here, then, I will have to make myself heard. I will have to assert my right. In his reply, he copiously read and mentioned. The learned Committee has referred to three lists, including the list prepared on 17th of November, 1990 when the Judge went all the way from Delhi to Chandigarh although he had ceased to be a Chief Justice on 6th of October. After nearly 4½ months, he went from Delhi to Chandigarh to make over the possession. Just imagine. Obviously, there was some reason. Why should he take the trouble after 4½ months to go and make over the possession himself? He could have sent his Secretary, his PA, even his driver - anybody - for that matter. If the key was lying with him, he could have sent the key there. But he went all the way. Kindly see page 8:

"The hon. Members of this House may also note that of the total amount of the items mentioned in the three lists valuing Rs. 13,41,554 how does he deal with it? How these 13 lakhs become less than Rs. 30,000 which amused some of my friends here very much yesterday?"

He said:

"No original records like vouchers, purchase notes and bills have been produced with respect of items valuing Rs. 4,14,106."

This is absolutely incorrect. Therefore, this is the objection I am taking. He says now in his reply that there are no documents and Mr. Sibal says these Rs. 14,14,000 has to be deducted because there are no records produced. Who says no records are produced? The most interested party says, no records are there although very elaborately it has been dealt with. We very entry in that list of Rs. 13,41,000 is supported by the list. And he said original records were not produced. Repairs for an amount of Rs. 19,400 are also not supported by any such

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documentation. He says that. Therefore, what should happen? You deduct the amount as if article which have purchased with these amounts have vanished!

They say, you deduct this amount. Therefore, it suggests that the items mentioned in Lists D-1 and D-2 may not have been purchased for the residence of Justice Ramaswami at all.

"Having stated the above and after excluding from the total sum of Rs. 13,41,554.40, the sum of Rs. 4,23,506.00, the balance figure comes to Rs. 9,18,038.40.

It is very interesting arithmetic. A sum of Rs. 13,41,554.40 is supposedly in excess. I say there is no evidence of Rs. 4,14,106. You deduct it. I myself deduct it. He said: "No". Then, I have to explain about only Rs. 9,18,038.40 as deduction. From that, what is being deducted now?

"Now, Sir, of this amount let us exclude the amount admittedly spent on purchase of items used for the new office wing. The two major items in this context are sofa-sets, carpets and foam laid underneath the carpets. The value of nine sofa-sets purchased for the value of carpets and foam comes to Rs. 1,61,913.00. The total of these two items is Rs. 4,55,379.00.

This is also incorrect. It is very difficult. That is why I am saying, any body with responsibility can look into this. Because, in the Committee's Report, they have mentioned it Exhibit number, purchase note number, voucher numbers, entries in the books. Everything they have said. He says, according to him, this is for the Office. You deduct that. Therefore that Rs. 13,41,554.40 becomes Rs. 9,18,038.40. Now,

you deduct Rs. 5,00,000.00.

"In other words, Sir, of Rs. 13,00,000.00, items to the value of approximately Rs. 4,00,000.00 are said to have been in the residential portion of the house occupied by me. Of Rs. 4,00,000.00, Sir, Rs. 1,22,000.00 is the value of the seven air-conditioners which, to the best of my recollection, were already installed at the time I occupied the residence.

Sir, these are unimpeachable evidence. Everything has been given. He is deducting Rs. 1,22,000.00 because according to his recollection, this was already there. This is the Judge whose cause is being propounded by some of my friends here. Eight air-conditioners were purchased for Rs. 1,39,432.00 on 30th March, 1988 when he was very much there in Chandigarh. My friend here rightly said, all these money came from the budget of Punjab and Haryana! Eight air-conditioners are mentioned in the list Exhibit 12-B. It is prepared by Shri S.S. Dogra, of the items purchased and provided at the residence of Justice Ramaswami during his tenure of Office. He does not deal with this. He says, according to his recollection, it was already there. As mentioned earlier, at the bottom of the list, there is a certificate of Shri Dogra's verified as per record 'mentioned', in C.O. Section. The entry list relating to eight air-conditioners, there the price is mentioned as Rs. 1,39,432.00. Shri M.D. Sharma has also deposed to the fact of the purchase of eight air-conditioners. Of the eight air-conditioners, seven air-conditioners were in the residential portion of the Chief Justice's official residence on 17th February, 1990 when he was present. And in his presence, the possession was given. One in each of four bed rooms, one in the dining room, two in the drawing room were there. The value of the seven air-conditioners found in the residential portion alone is Rs. 1,22,000.00 which is more than three times the permissible ceiling. Now, what he says? He says, to the best of his recollection, they were already there, installed at the time he



occupied. the residence. Seven air-conditioners were installed in the visitor's room before the construction of the new office which is relevant and so on.

Then, later on he says: "To the best of my recollection, the air-conditioners were already installed at the residence that I occupied. If we exclude the sum of Rs. 1,22,000.00 from Rs. 4,00,000.00, we are left with items allegedly of the value of Rs. 2,78,000.00 which are to be explained." The documents are there. The vouchers are there. It was purchased during his time. He says they were already there. Therefore, from Rs. 9,18,038.40, you deduct Rs. 4,14,106. You deduct another Rs.5 lakh. Because, according to him they were not used by him.

Then deduct another Rs. 1.22 lakh, because, according to his collection, they were already there, although the evidence is to the contrary. Then he had to explain about Rs.2.78 lakh. What does he do? Of the Rs.2.78 lakh, a sum of Rs. 1.52 lakh is attributable to carpets which are laid in the visitor's room, Secretary's office and in one office room, etc. It reads as follows:

"Was upon the construction, required to dismantle the carpets and not to put them to any further use? As you are aware, all wall carpets are always fixed to the floor with the binding agents."

It is not understood how with the construction of the new wing, carpet of the value of Rs. 1.52 lakh are sought to be used for residential purpose, although evidence is clear, finding is there for the residential purpose. Therefore, what should happen to Rs.2.78 lakh? You deduct the price of Rs. 1.52 lakh because, according to him, they were no longer necessary; they had been used. Therefore, they are not within his house. Any reasonable person would exclude it from a sum of Rs.2.78 lakh, the figure then left is to be explained. Wonderful jugglery of figures. I cannot

explain this. Therefore deduct it. If I may say so, I do not use any other expression, it is an incorrect allegation as to the date of purchase, etc. Even then Rs.1.26 lakh has to be explained. What does he do? Rs.96,000 is the value of the loose carpets found lying at his residence. No witness before the Committee, had stated that these were purchased but never delivered and put to use at his residence during his tenure.

Mr. George Fenandes has read it. I do not have the time also to read it. The findings is to the contrary. Then he said, so far as these rolled carpets are, concerned, the price has to be deducted from Rs. 1.26 lakh. Therefore, from Rs. 13 lakh, by his jugglery, only goods worth Rs.33,000 were there. Therefore, it is not less than Rs.30,000. What crime have I committed? This is an amazing arithmetic and on that basis, it is being solemnly argued to the great amusement of all that what a frivolous charge has been made for carpets for utensils, for towels, for suit-case and all that. The judge is being thrown out.

From Rs. 13 lakh, you deduct this amount, according to him, from which there was no document, and it came to Rs.9 lakh. He says, Rs.5 lakh you have to deduct again because goods worth Rs.5 lakh were placed somewhere else. Then it comes to Rs.9 lakh and odd, then from that, you have to again deduct Rs.1.22 lakh, because his recollection is something else. Then from Rs. 1.20 lakh, he said, the value of the carpets is Rs.96,000. Well, he said, I had nothing to do with that. Therefore, deduct it from that amount. It is only Rs.30,000. Therefore, he should claim give me Rs.8000 worth of more furniture and fittings, etc. Therefore, he is aggrieved that he has been given much less quantity of furniture, fittings than his entitlement. Let us all make an effort to give all this to him if he remains a judge tomorrow. This is the position of the entire charge no.1 on which specific findings have been made, have been dealt with in this fashion.

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Charge No.2. I am sorry, I am not really doing justice to this matter. So far as charge 2 is concerned it has been read out, some portion by Mr. George Fernandes; there is a specific finding with regard to favoured dealers. This is a very important. What is his answer? Mr. Kapil Sibal said, these are the concerns which have been supplying in the past. No evidence. Wo said that? That was not before the Committee. Nobody made that case; nobody proved it. Now, he says, in this so-called reply, that, according to him, they were already purchased from them.

Sir, all the rules have been given. The financial rules are there. I would like to know whether it is the view of anybody in this House that the rules which are framed under the appropriate laws, under the Constitutional provisions can be flouted by a Judge of the Supreme Court or High Court or not. I would like to know that. Is it being contended that the rules shall not apply?

Shri Kapil Sibal solemnly argued that the financial rules do not apply, because they apply to subordinate courts. That is absolutely wrong. I will show to you that this has been specifically stated. There is a communication from the Government of India. I am sure that Shri Manmohan Singh would not like it; otherwise the Chief Justices will go on spending and all the Government's liberalised money will go.

*(Interruptions)*

We are on excellent terms. Only thing is that he does not give me money.

Sir, I am really hurrying through.

Let us see page 63. The hon. Prime Minister and the Finance Minister, Shri Manmohan Singh may please see that their orders are not all violated.

Now paragraph 104 says:

"While considering the charges, it is useful and necessary to bear in mind certain financial regulations. Ex. 122 is a letter dated 7-3-1968 from the Deputy Financial Advisor to the Government of India, to the Chief Commissioner, Chandigarh, which shows that the Punjab Financial Rules and Regulations applicable in the State of Punjab are applicable to the High Court of Punjab and Haryana. This is also the evidence of the Accountant General."

At the bottom of page 63, it is said:

"The Chief Justice of Punjab and Haryana Court is designated as one of the Heads of the Department under the major sub-major head "Administration of Justice."

Then the rules are quoted. It says,

"Every Government employee incurring or sanctioning expenditure from the revenues of the State should be guided by high standards of financial propriety".

I have get no time to read all. Then it is given how stores are purchased and about the tender system to be followed.

At page 69, it is said:

"Some of these principle expressly laid down in so many terms in the Punjab Financial Rules are readily seen to be sound general principles which have to be observed by every one in whatever authority entrusted with the power to expend public funds, irrespective of any rule of regulations to that effect. Observance of these

principles is necessary for the occasional deviation from principles. if demanded by the urgency of the situation and the public interest, may be pardonable but a persistent and determined deviation from principles, intended to gain personal advantage, leading to the legitimate inference of a wilful conduct, cannot be overlooked."

He tried to brush aside that these rules do not apply. Supposing these rules do not apply, according to him there are no rules. But then, prudence will apply, propriety will apply. that there should be no wastefulness. There should be no lavish spending. After all, if somebody is spending money not for his own, then he has an obligation to see that the money is not wasted. It is public money. How can anybody for that matter a Judge of the Supreme court say that the financial rules do not apply to him, although they do apply, and say, "I can do whatever I like".

It was solemnly argued before us by Shri Sibal that if at all the rules under Article 229 will apply, and that under Article 229 the Government cannot interfere with the powers and rules of the Justice.

I will only cite one case. I have got many with me but I will cite only one. Even under Article 229 I am very sorry that a man of his ability has said so it is said that with regard to appointments, promotions, etc., transfer, the Chief Justice is the highest authority.

But so far as emoluments are concerned, so far as salary, allowance, etc. of an employee is concerned, no expenses can be incurred without the Government's approval. The Supreme Court has categorically said this when this was questioned. Now I would quote AIR 1976 Supreme Court page 123:

"If the rules made under

Clause 2 of article 229 relate to salaries, allowances or pensions, then since in them is involved the question of finance, the framing of the rules requires the approval of the Governor."

That means the State Government. Then, it is said: that the question of finance is involved. In regard to finance, Government's approval is required. That is why, everybody has to go and placate the Finance Minister.

I would like to read AIR 1975 Supreme Court page 889. (Interruptions)

PROF. P.J. KURIEN (Mavelikara): Sir, kindly tell us the approximate time so that we can go out and come back. (Interruptions)

MR. SPEAKER: May I make a declaration that today the Parliamentary Affairs Minister has not kept the Bill's ready. And if you interrupt, you will be required to sit for more time.

(Interruptions)

MR. SPEAKER: It is a constitutional point. You hear him.

(Interruptions)

SHRI ANIL BASU (Arambagh): Sir, at the beginning itself, he has said that he requires more than two and a half hours. (Interruptions)

PROF. P.J. KURIEN: Sir, yesterday we were knowing as to how much time Mr. Kapil Sibal would take. Kindly tell us as to how much more time Shri Somnath Chatterjee will take. (Interruptions)

SHRI SOMNATH CHATTERJEE: I would like to finish early. I am also hungry. What are you talking? (Interruptions)

PRO. P.J. KURIEN: Shri Somnath Chatterjee, you can take any amount of time. I only want to know how much more time you will take. So that we can go and have food and come back... (Interruptions)

MR. SPEAKER: Let me find out from him.

(Interruptions)

SHRI SOMNATH CHATTERJEE: I am sorry. I am encroaching upon the great patience of the Members. Already great courtesy has been shown to me. I am obliged to all the hon. Members here. I am deeply touched by their kind consideration towards me. It is not my personal case. I may be, in an imperfect way, trying to do it. Sir, unfortunately you had picked my name. I would have been happier if somebody else has done this... (Interruptions)

MR. SPEAKER: We have taken an hon. Member who can enlighten us.

SHRI SOMNATH CHATTERJEE: Sir, I am trying in a humble way.

MR. SPEAKER: Shri Somnath Chatterjee, can you give kindly some indication as to how much more time you would take so that the Members can go out for a cup of coffee and come back.

SHRI SOMNATH CHATTERJEE: Now it is 10.35 p.m. I shall try to finish it by 11 p.m... (interruptions) You may go out now. Sir, kindly give me five minutes more because they are taking time to go out. (Interruptions)

SHRI NIRMAL KANTI CHATTERJEE (Dum Dum): Sir, today the Finance Minister must be happy because it is an austerity budget on which the Parliament is functioning. (Interruptions)

SHRI SOMNATH CHATTERJEE (Bolpur):

I am giving some importance to it and I earnestly request my hon. friends here, on both sides, to kindly give me little opportunity to place it. Why I am pressing it because the point is being taken on behalf of a Supreme Court Judge that he is not bound by the financial rules. Therefore, this is totally unregulated expenditure by the Chief Justice. According to him it is totally unregulated by the rules of procedure which was binding on him. Therefore, these rules should not be applied and the Committee was wrong in applying these rules.

I am submitting, Sir, as quickly I could. I have placed only one relevant passage. There are other passages which would show that the rules were applicable. Then Shri Sibal argued that it is Article 229, if I do not deal with, it will be said tomorrow and papers have also given their views about our respective performances. I have no grievance on that. They are entitled to assess. Therefore, it will be said that this point was not even answered. The question of a Constitutional point is taken, been namely, Article 229 postulates that the Government cannot interfere in the matter of the High Court expenditure. I am only showing that our Supreme Court has said repeatedly, not once, with regard to appointment, with regard to promotion, with regard to transfer of the employees or even subordinate judiciary. Certain High court orders or decisions cannot be interfered with. With regard to money; with regard to expenditure, the Government must give its approval because financial implications are there and that is what the Supreme Court has said at page 889 in 1975 judgement, where the Chief Justice had given a special salary to an officer. It says:

"If the Chief Justice of the High Court wanted to appoint the Registrar at the initial salary of Rs. 1500/- with a special salary of Rs. 250/- per month, special approval of the Governor should have been taken in view of the fact that the rules did not permit such salary and

the higher salary involved greater financial burden on the Government."

Therefore, the Government can interfere. The Government voice has to prevail. It cannot be said, 'Article 229 means any Chief Justice or any judge of any High Court in India can spend any amount he likes on any thing. This type of argument was being made solemnly, appearing for the judge of the Supreme Court of India saying, 'no I can spend any money I like, who is the Government to interfere with me! How can the Government frame rules? I am saying this is totally contrary to the law laid down by the Supreme Court of India.

Now, I will quote from the 1971 Supreme Court judgement, which make it absolutely clear. It says:

"The Governor's approval must be sought to the extent the rules relate to salaries, leave or pension. This exception, it is abundantly clear, had to be made because the finances have to be provided by the Government and to the extent there is any involvement of expense the Government has to approve of it."

Now, it is being solemnly argued, well he is not governed by any rules any regulations and Article 229 of the Constitution means that he is not governed and the Government cannot give anything with regard to that. No financial rule will apply. Therefore, if financial rules apply and if certain procedure has been there regarding purchase of documents, regarding expenditure to be incurred, the method of expenditure to be incurred; how things can be purchased, whether there is a necessity for it, he solemnly argued that that does not apply to him. Therefore, he was in open field. He could do anything in life. Therefore, even if any extra expenditure according to the complaint has been incurred, well, it was not covered by any rules. Therefore,

what is the mistake he has done.

Sir, the result is I am respectfully submitting consciously, deliberately and knowing the provisions with regard to this rules, he has gone spending and, therefore, whether something is in his office room or something is in his bed room or in his visitors room it is immaterial. He tries to explain it. He does not appear before the Committee: does not give his versions; does not allow the Committee to find out the Committee would have very well found out, as it has done suo motu without the judge's cooperation, without the judge's help in 3-4 charges. When the Committee could not be satisfied, on their own they have said the charges have not been proved. Does this show a Committee with pre-determined mind? Does it show that the Committee has a bias against this judge?

They have themselves, on their own, without any appearance ex-parte sitting, they have taken a decision that: 'No, for these 4 matters, although the charges are framed, there is no evidence; we say it has not been proved. If it is so, my submission is that it clearly indicates that most fair treatment was given to the learned judge and he cannot have any reasonable grievance.

Sir, I will hurriedly indicate only the charges. Please see the charge 2. It is in para 160.

On purchase of wall-to-wall carpet, I am not reading it. The rest of the charge is regarding excess purchase can excess price which is not proved. The Committee holds that one portion is proved and another portion is not proved. The Committee comes to that findings.

What is the answer in the reply against this? In the reply you will see on which reliance is placed as if it is the answer to this it is total concoction. This is a very serious matter. With all humility I submit before this hon. House that the reply is given on the basis of concocted material, without any supporting document.

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supporting evidence, without placing them before a duly constituted Committee to verify the correctness or otherwise of that.

And now he is saying before this House that this is all wrong because according to him this did not happen. According to me it did not happen; therefore, it is wrong!

This cannot be the basis on which charges can be controverted.

Please see charge 3 with regard to woolen carpets. It has been held:

"Quotation from the said firm was not genuine as found under charge 1, in view of our finding under charge 1, there was a practice of splitting the bills etc."

They say the charge is proved to the extent that 12 loos carpets, which were found to be shown as having been kept for use in the High Court, were found in the residential portion on 17.2.1990 when possession was handed over by Justice Ramaswami and they were meant for being used in the said portion. Here is a finding of that portion. Rest of the charge has not been proved.

Charge 4 is with regard to items of furniture which are purchased from Salvo & Company for Rs. 58,908 again from a hand-picked dealer from one person. And advance payment is made. I do not know whether the Government permits it in normal manner. Advance payment is made to the supplies shop keeper. There is no security for this advance payment. No contract is entered into. Somebody goes there and places an order for supplying some furniture. He asks for advance payment. The judge visits the shop; items selection; advance payment is made under his sanction the Chief Justice's sanction for

excessive purchases, so far as the official residence is concerned, which could possibly have been avoided.

Then nine sofa sets—I hope it is not giving ideas to anybody here. Nine sofa sets were purchased under the above mentioned five different vouchers. However, only five sofa sets were found etc. The remaining sofa sets were not used in the office. Therefore, I find that Charge No. 4 is also proved to that extent.

Then about Charge No. 5 regarding some items missing, the Committee says, it has not been proved except as regards five suitcases.

Then charge No. 6 for all of them the answer is that this version is right—this version which never saw the light of the day until it was calculated by you to us, nobody knew all these things, the Committee never knew all this. Because of what he has stated here, therefore all the charges are wrong!

There is Charge No. 6 six sofa sets etc. The Committee has not proved, therefore, we are troubling ourselves.

Then, Sir, this is very interesting, kindly permit me to take three or four minutes on Charge No. 7. It was a matter of great decision, it was laughed away a Judge is being sought to be removed for suitcases. I do not know which Judge could afford to have 18 suitcases. Charge No. 7 relates to purchase of suit attache brief cases and the disappearance of five of them and the replacement of the remaining. Sir, it goes on. It says.

"The purchase notes show that Justice Ramaswami has desired that the purchase be made immediately and one of the purchase notes mentioned that the three suit cases described here were to be provided to Justice Ramaswami for office use and the two

others mentioned in Ex. 71 and 72. These three suit cases described to be provided to him, by the time of the preparation of the purchase note, the suitcases had already been purchased. What is significant here is that Justice Ramaswami assumed charge of the Judge of the Supreme Court."

kindly listen, whoever has the patience.

SHRI CHANDRA SHEKHAR (Ballia): I have got patience, but it is totally irrelevant. What the Committee says and what Justice Ramaswami says before the House are on par because that Report has already been circulated to the Members and the Committee Report has also been submitted. I do not know under what provision, if I say this, the Speaker will say that I am doubting his integrity. So, I shall not say it, but the whole thing is that I do not know under what circumstances Mr. Chatterjee is entitled to say that what Justice Ramaswami says is a total concoction. I say he is right. If the Committee Report and that Report have been circulated to the Members without any authentication, what report should take priority over the other, how can you say that he is wrong? And under what rule, I have not known yet that that report has been circulated because nothing in the Inquiry rules of procedure indicates that he is entitled to submit his report to this House. Whatever he had to say, he could have said before the Committee. He was not entitled to say anything before the House. According to the law, the Speaker is all powerful, that I know, and he can do anything, that I know.

MR. SPEAKER: Chandra Shekherji, you are probably...

SHRI CHANDRA SHEKHAR: I am sorry, Mr. Speaker, whenever I raise a point, you just say, 'Are you doubting my intentions?' Here is the Inquiry Committee Report. I know from you...

MR. SPEAKER: I am explaining it, Chandra Shekharji.

(Interruptions)

SHRI CHANDRA SHEKHAR: I honestly want to know under what provisions you allow Justice Ramaswami to bring all these facts which are unsubstantiated, where the Speaker has been attacked, the attack of Justice Ramaswami against the Speaker has been circulated by the Members by the courtesy shown to Justice Ramaswami.

MR. SPEAKER: Chandra Shekherji, I will explain to you. Don't put the Speaker at least in the dock at the same time.

SHRI CHANDRA SHEKHAR: Again I say, I am not putting you in the dock, but you should not doubt the intention of the Members.

MR. SPEAKER: I will explain to you. I thank you very much for giving the opportunity.

SHRI SOMNATH CHATTERJEE: Sir, from my time it is going.

MR. SPEAKER: Of course, it will be deducted.

When this Report was received by us, one of the things which was to be considered by us was how to get this Report to the Members.

This was a secret report. This was to be translated into Hindi. We kept it secret for sometime until this was translated and then we called a meeting in which the Attorney General, the Law Secretary, the Secretary of the Parliament Affairs Ministry, the hon. Members of this Committee have all participated. I think the Law Minister was also there and we discussed as to how this is to be done. It was brought to our notice that when the matter was taken to the Supreme Court, the Supreme Court

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had said: 'you appear before the Committee and if you think that you are not satisfied with what the Committee says, then you have the opportunity to appear before the Parliament. If you are not satisfied with that, then you have the opportunity to come to us also. That was the judgment given by the Supreme Court. That is why, this matter was discussed in the Committee. It was attended by the Attorney General, it was attended by the Law Secretary and it was attended by some others also. It was decided what to do and then the Australian precedent was quoted. They had quoted in the Supreme Court judgment that the provisions in our Constitution and laws are identical to the provisions in the Australian Constitution. In the Australian precedent they had allowed the judge to appear before the Committee and we hope that the Parliament will allow this kind of courtesy to the judge also. They had said this in their judgment in writing and that is why, we tried to carefully follow what was written in the judgment. We applied our minds, we consulted each other and we gave it.

Now, what we are doing here is, we are giving an opportunity to a person against whom some allegations are levelled. If he has brought anything before us and if it is not, according to the law, acceptable or admissible, we can reject it. We can throw it out. But by allowing him to come before you, we are not giving a judgment. The judgment is in your hands and it depends on your vote, it depends on your understanding of facts, it depends on your understanding of the report and it depends on your understanding or acceptance of the submission, it is entirely in your hands. But what kind of objection can be taken to the facility given to a person who is accused of certain things to make his submission either orally or in writing to facilitate you to understand the other side of it? What we have actually done is, yesterday we have allowed one side to come as well as the other side; today we have allowed one side to come as well as the

other side to come and ultimately, the judgment is yours.

SHRI CHANDRASHEKHAR (Ballia): Mr. Speaker, Sir, I am not questioning you. Please bear with me for a minute. The procedure is that when the report is submitted you will consider the report in a particular manner and that manner has been specifically mentioned in this Judges Inquiry Committee report under the heading 'Consideration of Report and Procedure for presentation of Address for removal of Judge'. I quote from the last paragraph on page 9. It says:

"If the report of the Committee contains a finding that the judge is not guilty of any misbehaviour or does not suffer from any incapacity, then no further step shall be taken in either House of Parliament in relation to the report and the motion pending in the Houses of Parliament shall not be proceeded with. If the report of the Committee contains a finding that the judge is guilty of any misbehaviour or suffer from any incapacity, then the motion referred to in sub-section (1) of section (3) shall, together with the report to the Committee, be taken up for consideration by the House or the Houses of Parliament in which it is pending."

Only the report of the Committee will be considered by the House. This is specifically mentioned. I do not know how the Supreme Court has given this judgement. I have great respect for the Supreme Court judgment, but the Supreme Court judgment does not override this provision which is specifically mentioned in the Act of Parliament and whoever was giving you advice, whether the Attorney General or the Law Secretary, I have great respect for them. But under what rule, under what procedure this Act was passed? My objection is not that we cannot take this decision.

When my hon. friend, Mr. George Fernandes was trying to quote something, you said in this



house: Do not bring in matters which are derogatory in nature, because you do not want that to come into the proceedings of the House.

But you have put the whole report, whole arguments of Justice Ramaswami as part of the proceedings of this House. If it is not a part of the proceedings, I do not know how this report has come, whether it has been laid on the Table of the House or not. If it is a fresh document, how this was circulated to the Members of the House. I know also the rules and procedure. If it is laid on the Table of the House, your observation yesterday about the intention of Mr. George Fernandes quoting certain portions, does not hold good because the whole report is a part of the proceedings. All the abuses that were hurled upon the former Speaker, upon the Committee members are a part of the proceedings.

My objection is, Mr. Speaker, if you do not take cognizance of it.

MR. SPEAKER: I hope that Chandrashekhar Ji who has been a very senior Member of this House does not present this case in this manner. It is very far from anybody in the House to say anything against the former Speaker or anybody in the House to say that somebody has contrived it to bring it on the report, well, I do not know what is the meaning of it.

SHRI CHANDRA SHEKHAR: This is the fact. This is not the intention. It is the result which is accounted in Parliamentary politics.

MR. SPEAKER: Let it not be an argument between you and me.

SHRI CHANDRA SHEKHAR: Mr. Speaker, you have started it and I am ready for it because I have no prejudice, no bias nor am I afraid of anything. I did not want this situation to be created. But you, Mr. Speaker, created it by your

observation and I have no other option but to reply to you.

MR. SPEAKER: May I tell you, what has been stated by Justice Ramaswami against the hon. former Speaker, against the hon. Judges has been dealt with in the report given by the Committee. They have been dealt with in the report given by the Committee. The allegation has been there, how it has been brushed aside has been given.

What I have been telling Mr. Fernandes was, supposing some allegation is levelled against Justice Sawant or Justice Desai or Justice Chinnappa Reddy, it would not be necessary for us to repeat those things here and bring it here. That was my intention. If there is something in the report given by the Committee itself and if there is something given in the submissions given also. It may not be necessary for us to bring it again on the report. I was trying to be very correct. I do not know why this kind of impression has been given to the hon. Members. Here is a case in which we are trying to be as correct as possible.

Let us not doubt each other's intention. I may very humbly say that because these kinds of matters are raised on the floor of the House, sometimes misunderstanding develops. We are all sitting here. I would like to know from the hon. former Speaker also, did he get any impression that we are trying to do anything of this kind? In the interest of the present sitting Speaker and in the interest of the fairness of the House, I would like to say, if that is the impression, then my apology to you. Is that your impression?

SHRI SOMNATH CHATTERJEE: I am sure, everybody in this House will agree with me that, no person who has been accused of something, of something wrong has got better opportunity either before the Committee or before this House than Justice Ramaswami. Nobody has got almost unlimited opportunity. Unlimited

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opportunity has been given and he cannot have any grievance.

MR. SPEAKER: I am on a completely different point. It would not be fair to this case, it would not be fair to this House, it would not be fair to the Chair, if the doubts are created and if we have the opportunity, we are not clearing the doubt.

23.00 hrs.

SHRI CHANDRA SHEKHAR (Ballia): Nobody has doubt.

MR. SPEAKER: Then why this is this being raised? You may not have doubt. If the former Speaker has, let me hear from him. Have you any doubt about this.

THE MINISTER OF AGRICULTURE (SHRI BALRAM JAKHAR): I have absolutely no doubt.

MR. SPEAKER: He has absolutely no doubt. We are dealing with a case of a different person. Why should we bring in other persons unnecessarily?

SHRI SOMNATH CHATTERJEE (Bolpur): I am trying to conclude. I am sorry I exceeded by ten minutes.

MR. SPEAKER: This is how when we try to judge others, they say judge not and you be not judged. I'm not trying to judge anybody here. Please do not judge me also.

SHRI A CHARLES (Trivandrum): I am on a point of order. This is a very valid point. I would like to draw your attention to Rule 9 on p. 14. I am reading from p. 14 last paragraph:-

Committee shall-

(a) cause its report to be prepared in duplicate,

(b) authenticate each copy of the report by putting his signature thereon, and

(c) forward, within a period of three months from the date on which a copy of the charges framed under sub-section (3) of Section 3 is served upon the Judge."

Under this rule, it is incumbent on the Speaker to forward a copy of the inquiry report to the Judge concerned. Kindly look into that. I want your ruling on this.

SHRI SOMNATH CHATTERJEE: Let me finish.

SHRI A. CHARLES: What about this? As a matter of procedure a very serious allegation has been made. This is the rule.

SHRI SOMNATH CHATTERJEE: I quote from p. 98:-

"By the time of preparation of purchase notes, the suit cases had already been purchased. What is significant here is that Justice Ramaswami assumed charge as a Judge of the Supreme Court on 6-10-1989 and there could be no possible urgency to purchase the six suit cases for any official purpose on 3-10-1989 when they were purchased. If any suit cases were necessary to carry papers, already a large number of suit cases and trunk had been purchased. There were as many as seven trunks in the residence of the Chief Justice when he handed over charge on 17-2-1990 and twelve suit attache briefcases had already been newly purchased during his

-The Presiding Officer of the Inquiry

tenure. This great hurry in purchasing the suit cases on the cery eve of his departure from Chandigarh, to assume charge of his new office at Delhi assumes significance.

I am trying to save time. What I am respectfully submitting is, just because the items are suit cases or furniture or towels and so on and so forth, therefore, that cannot meant that they cannot be subject matters of valid and proper inquiry. Taken together, it is a colossal amount and there cannot be a greater evidence of wasteful and lavish expenditure by a person, out of public funds. This person is occupying a high position. Rectitude is required from him and it is essential. I am not reading the other charges because of lack of time. But I am adopting them. *(Interruptions)* May I proceed for my final submission? *(Interruptions)* You are not doing justice to anybody.

Sir, I am submitting that there is no proper answer or even acceptable answer. What has been stated in the so-called reply is nothing but an after thought; nothing but concocted materials contrary to the evidence on records; contrary to the specific findings and the person who kept himself away from the inquiry should not be allowed now to present the case of facts, so-called facts to make a case ont he basis of new materials which were not there. It completely gives a new dimension to the situation.

My respectful submission before this House is, as I said earlier, that this is a matter of great importance. The very fact is that the Constitution which came into force in 1951 and today we are in 1993, for 43 years, no such occasion has happened. That shows that this is not being used, this jurisdiction of the power is nt being used with any casualness; not with any regularity. It is not that this action is taken against any and every Judge who gives any decision contrary to our perceptions or to our liking. How many

impeachment proceedings have been initiated? I do not know any except this one, against a Judge before the Lok Sabha, before the Parliament of India. That shows the utmost circumspection is being applied by the Parliament, by the Members whoever they are in subjeeting the notice of motion under article 124(4) read with the Judges Inquiry Act. It is not a matter which is taken as a routine matter; it not a matter which is taken, as I said earlier, in such a casual manner. Because of the circumstances which remained, that raised a query not only before the legal fraternity, before the Judiciary which disturbed the Chief Justice of India which made him pass an order requesting the Judge concerned not to sit in the matter, not to discharge the judicial function, but before everybody. In such a matter, what we did as signatories to the motion of Inquiry is that we invited an investigation. We were not passing a judgement. We did not know who would be appointed. Can it be said that the 108 Members of Parliament or anybody for that matter were controlling these three Judges? No responsible person can say that. Some insinuations is there. But, as far as the Members of the Committee are concerned, nobody has said they have been influenced. Whatever objection was taken, that was given a go-by there. Then, what was the objection in submitting to the jurisdiction? One must be humble. As I said, anybody occupying a public office should invite an investigation and inquiry when charges are made against him. If charges are made, everybody would expect an inquiry. If you are all right, pure, if there is nothing wrong, why do you not submit to an inquiry? What is the harm? It would have been held in camera. He could have said these are the matters. From the beginning, this gentleman has challenged everybody's authority. Nobody has been spared. Members of Parliament have been abused; the Speaker has been abused; the Supreme Court Judges have been abused; the Committee members have been abused. Everybody's bona fides have been questioned. We have not brought this motion with any sense of vendetta and

[Sh. Somnath Chatterjee]

vindictiveness. But the question is when such a situation has arisen, when such damning materials have come, how have they proceeded? This Committee has been constituted according to the rules, according to the Act of Parliament. The way they proceeded, I cannot but appeal to the hon. Members to support the motion. The judiciary is under strain.

All of us know that judiciary is under strain. The Judge himself has not hidden that. He said: Judiciary is facing great problems. Pressures are there. If we find that there is a judge who runs away from the proper inquiry that there is a judge who has indulged in open violation of the rules of the land, who has indulged in a wasteful expenditure, who does not face an inquiry, who takes up an attitude of complete non-cooperation and then makes out a case which has no relation to the facts of the case, what will happen? Mr. Kapil Sibal, it is very easy for him it suits his purpose and suited his client's purpose to say, "don't vote for it either way." He said: Even if this motion is defeated, why will it affect the judiciary? Why? If it is defeated, why will it affect the judiciary? It is because that he already knows that his client's conduct is such that nobody can have any faith in him in future. What will be the Supreme Court from tomorrow if after this, he continues there and sits tomorrow in the Supreme Court? Who will give him any sense of respect when everything has come up? It is merely a number game. If today some hon. friends here feel that no, they would vote against the motion, I can only appeal to my friends here. (Interruptions)

SHRI SOMNATH CHATTERJEE: Sir, it is not a question Mr. Kapil Sibal. He also said it. I appreciated his remarks, He said: I am not appearing for the judge, I am appearing for the institution of the judiciary. I am asking every you of my hon. friends on all sides of the House, "please ask that question, will you enhance the reputation of the judiciary as a whole my defeating

this Motion?" If you allow a judge who has been condemned and has been found guilty to go scot-free, you are not only doing injustice to this Parliament, you are doing injustice to the judiciary as a whole. As I said, we shall lose faith of the people. The Supreme court will lose faith of the people. This is not question of any personal vendetta. I have nothing against him. I am sure, most of the hon. Mmembers here do not know him personally. But let the consideration of the South India, Tamils and these things not be brought. (Interruptions)

SHRI MANI SHANKAR AIYAR (Mayiladuturai): It has not been said here. Nobody said it. (Interruptions)

SHRI SOMNATH CHATTERJEE: It was said here. We shall come and go. but the institution has to be maintained. Nobody is permanent fixture in this House. But this Parliament should remain and judiciary should remain, the Supreme Court should remain unsullied, unpolluted and undenigrated. Therefore, once we have found these facts on which there is really no answer on merit, I submit, Sir, the only course open to the hon. Members of this House is to vote for this Motion.

MR. SPEAKER: As the Motion - Item No. 12 - for presenting an Address to the President and the Address to the president - Item No. 14 - are required to be adopted by a majority of the total Membership of the House and by a majority of not less than two-thirds of the Members present and voting, the voting has to be by a Division.

- ✓ Let the lobbies be cleared.
- ✓ Now the lobbies are cleared.
- The question is:

This House resolves that an address be presented to the president for the removal from

office of justice V. Ramaswami of the Supreme Court of India for his following acts of misbehaviour:

(1) That during his tenure as Chief Justice, Punjab and Haryana between November 1987 and October 1989, Justice V. Ramaswami personally got purchased carpets and furniture for his residence and for the High Court costing about Rs. 50 lakhs from public funds from handpicked dealers at highly inflated prices. This was done without inviting public tenders and by privately obtaining a few quotations, most of which were forged or bogus.

(2) That he also got payments made to handpicked dealers for furniture and carpets ostensibly purchased for his residence which were never delivered.

(3) That he misappropriated some of the furniture, carpets and other items purchased from Court funds for his official residence costing more than Rs. 1,50,000 and did not account for the same at all.

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

(5) That he purchased from public funds more than Rs. 13 lakhs worth of furniture and other associated items for his official residence at Chandigarh even though he was entitled to furniture worth Rs. 38,500/- only. That in process, he wilfully evaded several rules, and sanctioned money for such purchased by splitting up bills.

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

quotations. This was done even after the other judges of the High Court had opposed the purchase of these maces on the ground that they were wholly unnecessary and appeared to be relic of the colonial past.

(7) That he misused public funds to the extent of Rs. 9.10 lakhs by making the court pay for non-official calls made on his residential telephones at Chandigarh during his 22½ months in office as Chief Justice of Punjab and Haryana High Court.

(8) That he abused his authority as Chief Justice to make the Punjab and Haryana High Court pay Rs. 76,150 for even his residential telephones at Madras.

(9) That he misused his staff cars provided to him by taking them from Chandigarh to hill stations for vacations and to Madras for his son's wedding and spent more than Rs. one lakh of public money for paying for the petrol of these staff cars. He even got himself paid for false petrol bills and other false bills relating to car repairs, etc.

(10) That he sanctioned as official the pleasure trips or the trips made for his own personal work by his subordinate staff to places like Madras, Mussoorie, Manali, etc., even though there was no official work to be done in those places.

(11) That he gave four unjustified promotions each within 18 months to several members of the subordinate staff of the High Court whom he misused for aiding and abetting his above acts done for his personal gain."

ADDRESS TO THE PRESIDENT UNDER  
CLAUSE (4) OF ARTICLE 124 OF THE  
CONSTITUTION

(1) Where as a notice was given of a motion for presenting an address to the President praying for the removal of Shri V.

[Sh. Somnath Chatterjee]

Ramaswami from his office as a Judge of the Supreme Court of India by not less than one hundred members of the House of the People (as specified in the Annexure 'A'). @

And whereas the said motion was admitted by the Speaker of the House of People;

And whereas an Inquiry Committee consisting of -

(a) Shri P.B. Sawant, a Judge of the Supreme Court of India,

(b) Shri P.D. Desai, Chief Justice of the High Court at Bombay, and

(c) Shri O. Chinnappa Reddy, a distinguished Jurist, was appointed by the Speaker of the House of the People for the purpose of making an investigation into the grounds on which the removal of the said Shri V. Ramaswami from his office as a Judge of the Supreme Court of India has been prayed for;

And whereas the said Inquiry Committee has, after an examination made by it, submitted a report containing a finding to the effect that Shri V. Ramaswami is guilty of the misbehaviour specified in such report (a copy of which is enclosed and marked as Annexure 'B');

And whereas the motion afore-mentioned, having been adopted by the house of the People in accordance with the provisions of clause (4) of article 124) of the Constitution of India, the misbehavior of the said Shri V. Ramaswami is deemed, under sub-section (3) of section 6 of the Judges (Inquiry) Act, 1968, to have been proved;

Now, therefore, the house of the people requests the President to pass an order for the

removal of the said Shri V. Ramaswami from his office as a judge of the Supreme Court of India."

### The Lok Sabha divided

#### Division No. 13

#### AYES

23.20 hrs

Abedya Nath, Mahant (Gorakhpur)

Acharia, Shri Basudeb (Bankura)

Advani, Shri Lal K. (Gandhi Nagar)

Agnihotri, Shri Rajendra (Jhansi)

Ajit Singh, Shri (Baghpat)

Anjalose, Shri Thayil John (Alleppey)

Baitha, Shri Mahendra (Bagaha)

Bala, Dr. Asim (Nabadwip)

Baliyan, Shri N.K. (Muzaffarnagar)

Bandaru, Shri Dattatraya  
(Secunderabad)

Barman, Shri Palas (Balurghat)

Barman, Shri Uddhab (Barpeta)

Basu, Shri Anil (Arambagh)

Basu, Shri Chitta (Barasat)

Berwa, Shri ram Narain (Tonk)

Bhargava, Shri Girdhari Lal (Jaipur)

@ Please see motion on pp. 660 to 662 marked .....

@ @ laid on the Table of the House on 17 December, 1992.

Bhattacharaya, Shrimati Malini  
(Jadavpur)

Dhumal, Prof. Prem (Hamirpur)

Brahmo Chaudhury, Shri Satyendra Nath  
(Kokrajhar)

Dikshit, Shri Shreesh Chandra  
(Varanasi)

Chakraborty, Prof. Susanta (Howrah)

Dome, Dr. Ram Chandra (Birbhum)

Chandrasekhar, Shrimati margatham  
(Sriperumbudur)

Drona, Shri Jagat Vir Singh (Kanpur)

Chatterjee, Shri Nirmal Kanti (Dumdum)

Fernandes, Shri George (Muzaffarpur)

Chatterjee, Shri Somnath (Bolpur)

Fundkar, Shri Pandurang Pundlik  
(Akola)

Chaudhary, Shri Rudarsen (Bahraich)

Gangwar, Dr. P.R. (Pilibhit)

Chauhan, Shri Chetan P.S. (Amroha)

Gangwar, Shri Santhosh Kumar  
(Bareilly)

Chavda, Shri Harisinh (Banaskantha)

Chhotey Lal, Shri (MohanlalGANI)

Gautam, Shrimati Sheela (Aligarh)

ChikhliA, Shrimati Bhavna (Junagarh)

Ghangare, Shri Ramchandra Marotrao  
(Wardha)

Choudhary, Shri Ram Tahal (Ranchi)

Giri, Shri Sudhir (Contai)

Choudhury, Shri Lokanath  
(Jagatsinghpur)

Girija Devi, Shrimati (Maharaj Ganj)

Choudhary, Shri Saifuddin, (Katwa)

Gopalan, Shrimati Suseela (Chirayinkil)

Chowdhary, Shri Pankaj (MaharajGANI)

Gowda, Prof. K. Venkatagiri (Bangalore  
South)

Das, Shri Dwaraka Nath (Karimganj)

Gupta, Shri Indrajit (Midnapore)

Das, Shri Jitendra Nath (Jalpaiguri)

Hossain, Shri Syed Masudal  
(Murshidabad)

Deshmukh, Shri Ashok Anandrao  
(Parbhani)

Jai Prakash, Shri (Hardoi)

Devi, Shrimati Bibhu Kumari (Tripura  
East)

Jaswant Singh, Shri (Chittorgarh)

Jatiya, Shri Satynarayan (Ujjain)

| 751 | <i>Motion for Presenting an Address to the President under</i> | MAY 11, 1993 | <i>Article 124 of the Constitution</i> 752 |
|-----|--|--------------|--|
|     | Jena, Shri Srikanta (Cuttack)                                  |              | Madhukar, Shri Kamla Mishra (Motihari)     |
|     | Jha, Shri Bhogendra (Madhubani)                                |              | Mahajan, Shrimati Sumitra (Indore)         |
|     | Joshi, Shri Anna (Pune)  |              | Mahato, Shri Bir Singh (Purulia)           |
|     | Joshi, Shri Dau Dayal (Kota)                                   |              | Mahendra Kumari, (Shrimati) (Alwar)        |
|     | Kalka Das, Shri (Karolbagh)                                    |              | Malik, Shri Dharmpal Singh (Sonapat)       |
|     | Kamal, Shri Shyam Lal (Basti)                                  |              | Malik, Shri Purna Chandra (Durgapur)       |
|     | Kanaujia, Dr. G.L. (Khcri)                                     |              | Mandal, Shri Sanat Kumar (Joynagar)        |
|     | Kapse, Shri Ram (Thane)  |              | Mandal, Shri Suraj (Godda)                 |
|     | Kashwan, Shri Ram Singh (Churu)                                |              | Manjay Lal, Shri (Samastipur)              |
|     | Katheria, Shri Prabhu Dayal (Firozabad)                        |              | Masood, Shri Rasheed (Saharanpur)          |
|     | Katiyar, Shri Vinay (Faizabad)                                 |              | Maurya, Shri Anand Ratna (Chandauli)       |
|     | Khandelwal, Shri Tara Chand (Chandni Chowk)                    |              | Mishra, Shri Ram Nagina (Padrauna)         |
|     | Khanduri, Maj. Gen. (Retd) Bhuwan Chandra (Garhwal)            |              | Misra, Shri Janardan (Sitapur)             |
|     | Khanoria, Major D.D. (Kangra)                                  |              | Misra, Shri Satyagopal (Tamluk)            |
|     | Khurana, Shri Madan Lal (South Delhi)                          |              | Misra, Shri Shyam Bihari (Bilhaur)         |
|     | Koli, Shri Ganga Ram (Bayana)                                  |              | Mollah, Shri Hannan (Uluberia)             |
|     | Kori, Shri Gaya Prasad (Jalaun)                                |              | Mukherjee, Shri Subrata (Raiganj)          |
|     | Krishnendra Kaur (Deepa), Shrimati (Bharatpur)                 |              | Mukhopadhyay, Shri Ajoy (Krishnagar)       |
|     | Kumar Shri Nitish (Barh)                                       |              | Munda, Shri Kariya (Khunti)                |
|     | Kumar, Shri V. Dhananjaya (Mangalore)                          |              | Murmu, Shri Rup Chand (Jhargram)           |
|     | Kunjee Lal, Shri (Sawai Madhopur)                              |              | Naik, Shri Ram (Bombay North)              |
|     | Laljan Basha, Shri S.M. (Guntur)                               |              | Narayanan, Shri K.R. (Ottapalam)           |
|     |  |              | Odeyar, Shri Channaiah (Davangere)         |



|   |  |
|---|--|
| Oraon, Shri Lalit (Lohardaga)                 | Raj Narain, Shri (Basgaon)                 |
| Pal, Shri Rupchand (Hooghly)                  | Rajaravivarma, Shri B. (Pollachi)          |
| Pandeya, Dr. Laxminarayan<br>(Mandsaur)       | Ram, Shri Prem Chand (Nawada)              |
| Panwar, Shri Harpal (Kairana)                 | Ram Badan, Shri (Lalgarj)                  |
| Passi, Shri Balraj (Nainital)                 | Ram Singh, Shri (Haridwar)                 |
| Paswan, Shri Chhedi (Sasaram)                 | Ramdew Ram, Shri (Palamau)                 |
| Paswan, Shri Ram Vilas (Rosera)               | Rana, Shri Kashiram (Surat)                |
| Paswan, Shri Sukdeo (Araria)                  | Rao, Shri D. Venkateswara (Bapatla)        |
| Patel, Dr. Amrit Lal Kalidas<br>(Mehsana)     | Rawai, Dr. Lal Bahadur (Hathras)           |
| Patel, Shri Haribhai (Porbandar)              | Rawat, Shri Bhagwan Shankar (Agra)         |
| Pathak, Shri Surendra Pal<br>(Shahabad)       | Rawat, Prof. Rasa Singh (Ajmer)            |
| Patidar, Shri Rameshwar (Khargone)            | Ray, Shri Rabi (Kendrapada)                |
| Patnaik, Shri Sivaji (Bhubaneswar)            | Ray, Dr. Sudhir (Burdwan)                  |
| Prakash, Shri Shashi (Chail)                  | Raychaudhuri, Shri Sudarsan<br>(Serampore) |
| Pramanik, Shri Radhika Ranjan<br>(Mathurapur) | Roshan Lal, Shri (Khurja)                  |
| Prasad, Shri Hari kewal (Salempur)            | Roy, Shri Haradhar (Asansol)               |
| Prem, Shri B.L. Sharma (East Delhi)           | Roypradhan, Shri Amar (Cooch<br>Behar)     |
| Purkayastha, Shri Kabindra (Silchar)          | Sakshiji, Dr. (Mathura)                    |
| Rai, Shri M. Ramannna (Kasaragod)             | Sanghani, Shri Dileep Bhai (Amreli)        |
| Rai, Shri Nawal Kishore (Sitamarhi)           | Sarode, Dr. Gunvant Rambhau<br>(Jalgaon)   |
| Rai, Shri Ram Nihaor (Robertsganj)            | Scindia, Shri Madhavrao (Gwalior)          |
|   | Shakya, Dr. Mahadeepak Singh<br>(Etah)     |

*Address to the President under*

|   |  |
|---|--|
| Sharma, Shri Rajendra Kumar<br>(Rampur)       | Swami, Shri sureshanand (Jalesar)                  |
| Sharma, Shri V.N. (Hamirpur)                  | Syed Shahabuddin, shri (Kishanganj)                |
| Shastri, Acharya Vishwanath Ds<br>(Sultanpur) | Tandel, Shri D.J. (Daman & Diu)                    |
| Shastri, Shri Rajnath Sonkar<br>(Saidpur)     | Thakore, Shri Gobhaji Mangaji<br>(Kapadwanj)       |
| Shastri, Shri Vishwanath (Gazipur)            | Thangkbalu, Shri K.V. (Dharmapuri)                 |
| Shukla, Shri Astbhuja Prasad<br>(Khalilabad)  | Thomas, Shri P.C. (Muvattupusha)                   |
| Singh, Dr. Chattrapal (Bulandshahr)           | Tirkey, Shri Pius (Alipurduars)                    |
| Singh, Shri Devi Bux (Unnao)                  | Tomar, Dr. ramesh Chand (Hapur)                    |
| Singh, Shri Hari Kishore (Shohar)             | Topdar, Shri Tarit Baran<br>(Barrackpore)          |
| Singh, Shri Mohan (Deoria)                    | Tripathi, Shri Lakshmi Narain Mani<br>(Kaisarganj) |
| Singh, Shri Pratap (Banka)                    | Tripathy, Shri Braja Kishore (Puri)                |
| Singh, Shri Rajveer (Aonla)                   | Uma Bharti, Kumari (Khajuraho)                     |
| Singh, Shri Ram Prasad (Bikramganj)           | Unnikrishnan, Shri K.P. (Badagara)                 |
| Singh, Shri Ramashray Prasad<br>(Jahanabad)   | Vajpayee, Shri Atal Bihari (Lucknow)               |
| Singh, Shri Satya Deo (Balrampur)             | Varma, Shri Ratilal (Dhanduka)                     |
| Singh, Shri Uday Pratap (Mainpuri)            | Veerappa, Shri Ramchandra (Bidar)                  |
| Singh, Shri Vishwanath Pratap<br>(Fatehpur)   | Vekaria, Shri Shivlal Nagjibhai<br>(Rajkot)        |
| Sinha, Shri Shiva Sharan (Vaishali)           | Verma, Shri Phool Chand (Shajapur)                 |
| Soren, Shri Shibu (Dumka)                     | Verma, Prof. Rita (Dhanbad)                        |
| Sukhbans Kaur, Shrimati (Gurdaspur)           | Verma, Shri Sushil Chandra (Bhopal)                |
| Swami, Shri Chinmayanand (Badaun)             | Virendra Singh, Shri (Mirzapur)                    |
|   | Yadav, Shri Chandra Jeet (Azamgarh)                |

Yadav, Shri Chun Chun Prasad  
(Bhagalpur)

Yadav, Shri Ram Saran (Khagaria)

Yadav, Dr. S.P. (Sambhal)

Yadav, Shri Sharad (Madhepura)

Yadav, Shri Surya Narayan  
(Saharasa)

Yumnam, Shri Yaima Singh (Inner  
Manipur)

Zainal Abedin, Shri (Jangipur)

The motion at item No. 12 and the Address at item No. 14 in the list of business are not carried by the requisite majority required under clause (4) of article 124 of the Constitution.

✓ *The motion was negatived.*

SHRI SOMNATH CHATTERJEE: No hon. Member of this House is against this motion. Therefore, the Judge should understand that there is only one view.

MR. SPEAKER: The House stands adjourned to meet again tomorrow 12th May 1993 at 11 a.m.

✓ MR. SPEAKER: Subject to correction, the result\* of the division is :

**23.24 hrs.**

✓ Ayes: 196

✓ Noes: Nil

*The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, May 12, 1993/Vaisakha 22, 1915 (Saka)*

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\* The following members also recorded their votes.

AYES: Shri Munshi Ram Saika and Shri Ram Pal Singh.