12.00 hrs.

STATEMENTS RE. C.B.I. REPORT ON IMPORT LICENCE CASE

THE PRIME MINISTER, MINISTER OF ATOMIC ENERGY, MINISTER OF ELECTRONICS AND MINISTER OF SPACE (SHRIMATI INDIRA GANDHI): Mr. Speaker, Sir, for several days tempers have run high in this House. It is necessary for us all to see the entire matter in a calmer frame of mind and in the proper perspective. That will be my endeavour in rising to speak.

The House has spent many hours debating the issue of making public the C.B.I. report and in the process, a situation has arisen which causes us the gravest concern and is bound to have wide repercussions. It is therefore a matter of sorrow that a senior member who was known to feel strongly about upholding the proprieties and respect for the due processes of law, should decide to use coercive methods to prevent the functioning of the House. Obstructionist methods do not become less dangerous by using evocative terms like 'Satyagraha'. While speaking of democracy there are some who are building up an atmosphere of confrontation because they are basically against fully representative democracy, and wish to undermine the people's faith in parliamentary institutions. The misguided resort to satyagraha plays into their hands. Satyagraha was used as a political weapon when no other way was open to Indians to register the people's will. But our political system affords the fullest scope for the people's will to assert itself. The persistence with which some members are obstructing the work of the House does not auger well for our parliamentary democracy In all seriousness I urge Hon'ble Members not to bring about a deadlock. As Members of this august House it is our duty to see that no group is allowed to subvert the parliamentary process. The Opposition also must recognise that the work of the country should not be thwarted. Important and urgent legislative business, concerning vital economic issues which are exercising the minds of the people and have a direct bearing on their well-being, has been delayed.

My colleagues have already given our reasons for not placing the C.B.I. report on the Table of the House. However, suspicion is sought to be created in the public mind and I should like to clarify this matter. We have nothing to hide nor are we objecting to the placing of the report on merely technical grounds. The C.B.I. is an investigating authority. It would run counter to the accepted principles of our judicial process to make public an investigating document at a time when the trial against the accused is imminent. Under the Code of Criminal Procedure, the documents, which an investigating officer is required to maintain, are case diaries which contain day to day records of the investigations conducted by the investigating officer. As soon as the investigation is complete, the investigating officer, under Section 173 Cr. P.C., has to submit a charge sheet if any persons have to be tried for any offences, or a final report in the prescribed form if the case has to be closed for want of evidence, to the Magistrate having jurisdiction. No other report is prescribed under the Cr. P. C. In the C.B.I, standing instructions lay down that the investigating officer should prepare a detailed report giving a summary of the oral and documentary evidence which has come on record during investigation, and a discussion of this evidence. This report contains only a summary of the statements of witnesses and references to documents relied upon by the prosecution. Also, statements recorded during investigation are inadmissible in evidence and cannot be used except for the limited purpose of contradicting a witness as laid down in Section 162 of the Code of Criminal Procedure. What is treated as evidence are the statements which witnesses actually make in court and the documents which are produced

and proved during the court trial. Therefore, if this report were placed on the Table of the House, the ensuing debate would virtually amount to a concurrent trial which will not only defeat the ends of justice, by prejudicing the trial in court, but may also result in a conflict between the courts and Parliament. I am sure this is ont the intention of Hon'ble Members. For these reasons, such a report has never been placed on the Table of the House in the long history of the C. B.I. which has established reputation both for integrity and imparliality.

Now when a copy of the charge-sheet, which is a fairly detailed document, has been made available, why should so much time be taken up merely in demanding a copy of the report? Does this not indicate that the real intention behind the demand is not a proper discussion of the case but rather its exploitation for a political purpose? It is also unfortunate that because of some small supposed political gain, some Hon'ble Members of the Opposition are trying to set a new precedent which might make the functioning of the C.B.I. difficult in future.

I have given reasons why the report can not be laid on the Table of the House. But in view of the entirely unjustified propaganda being carried on inside, the House and outside, and to accommodate the sentiments of the Opposition, while maintaining legal rectitude, Government is willing to acept your suggestion....

SHRI SYAMNANDAN MISHRA: whose suggestion?

SHRIMATI INDIRA GANDHI: The Speaker's

SHRI SHYAMNANDAN MISHRA: It is never done.

SHRIMATI INDIRA GANDHI: If they do not want it to be put as your suggestion I am prepared to withdraw it and put it as the Suggestion whoever made it, that the Leaders of the Opposition might see, in confidence and under oath of Secrecy, the CBI report, statements made by witnesses and documents seized during the investigation, the investigation, the report of the handwriting expert and even the case diaries whih are not even shown to the accused. Our hesitation to do so was merely to prevent situations in the future which would inhibit people from giving information. I sincerely hope that this eminently fair and practical offer will be accepted. If the opposition reject even this, it will be patent that Government has nothing to hide but that many of the Opposition parties are not at all interested in truth or justice, but in pursuing narrow partisan ends.

In this situation, we must all conduct ourselves i nthe fullest consciousness of our high responsibility. The first element of this responsibility is to ensure that Parliament functions. The cause of democracy cannot be served by bringing Parliament to standstill. I beseech you not to use any method which will undermine the very basis of the highest democratic institution in our country, namely Parliament. Let it not be said that the achievement of generations was wrecked in a moment of anger.

SHRI MORARJI DESAI (Surat): Mr. Speaker, Sir, I was pained to hear the Prime Minister, while trying to make some compromise, making innuendos against me and the opposition, which was very unfair in my view. There is no doubt in my mind, as I said the otherday, the satyagraha is an unusual step in Parliament. But if the Government only takes some troubles and has some patience to understand why we had to take this step, or say that we have to take this step, I am quite sure that it will not be possible for any reasonable person to say that we are doing it with any sense of irresponsibility

[Shri Morarji Desai]

or in any way to damage the functioning of Parliament. As a matter of fact, we have been compeled to take this action only because we are thwarted from pursuing the legitimate duties that we have got to perform in this House, in putting before the public all things that go wrong so that proper redress is available in the cause of justice. This is done only on account of the absolute majority that the Government has in the House. The Government is certainly run by a majority that is parliamentary democracy. But it does not mean that the Government have all the wisdom and they will never make mistakes.

The case in question that has arisen today is an extraordinary case of scandal and corruption. If the opposition fail in its duty to expose it in order that proper justice may be done, the future generations will never forgive us ,and this Parliament itself will be reduced to a nullity. It is inorder to uphold the best traditions of Parliament that we have got to take resort to this action, if Parliament is not enabled to do its duty by the Government. That is why we said that it need not be put, if they say so, on the Table of the House, but these documents which are mentioned by the Prime Minister should be put before a Committee of Leaders presided over by the Speaker. This Committee will certainly include the representatives of Government, leaders, also and this Committee will decide what action is necessary, so far as Members of Parliament are concerned.

If this Committee can not take action, then what is the fun of the Committee seeing the papers? Nobody is interested in merely perusing these papers. If any suspicions have arisen in the minds of the members of the opposition about the intentions of the Government, it is the conduct of the Government whih is responsible for it. It is the duty of Parliament to take action on the conduct of its Members so far as it relates to their functioning as Members. It is the duty of Parliament alone to take action against them whatever other action may be taken in law courts. This Parliament cannot abdicate its study. That is why the Opposition has got to see that it performs its duty. It is, therefore, that we asked from the very beginning that these papers should be given to the House.

When did we ask for them? We asked when a solemn assurance, unequivocal and categorical, was given by the Government to the House that when the investigations are over they will come to Parliament and will take it into confidence and take further action in its advice. What does this mean. Does not this mean that the Parliament was promised that they will be shown all papers and that further action will be taken after its advice is taken? But what does Government do? The Government, instead of coming to the Parliament as promised, files a case in court on the day on which the Parliament met and then says, it is *sub judice*. I hope, my honourable colleagues will not pass any remarks while I am speaking. I shall be obliged to them if they do not do it because that does not fit in with the solemnity of the occasion, as I see it. This is not an ordinary occasion, as I see it. This is an unusal step that we habe taken, and that I have advocated

I have learnt *Satyagraha* at the feet of Mahatma Gandhi. I do not think I can learn it from the Prime Minister. It is not only for political rights or for political matters that *satyagraha* can be resorted to. For every injustice, for every right cause, for holding truth *Satyagraha* can be resorted to. That is the philosophy that he has taught us. When in Parliment, the Opposition is completelly immobilised by the action of the Government and by the contemptuous treatment of the Parliament that has been shown troughout the proceedings on this matter, what has the Opposition to do? This is where the Opposition had

to consider it very carefully and seriously.

It was only on a consideration of all these factors that we came to a conclusion that we cannot allow this to go on without redress because, otherwise, the Parliament will come into contempt and will vecome a mockery. It is in order to uphold the authority of Parliament and its best traditions that we have taken this unusual step.

The case has been filed in court and it will go on. But if we have to wait until that case is over for taking any action which may be called for, after perusing the papers that will be put before us. *i.e.* before the Committee, then we may have to wait for 12 years, and several Parliaments will have gone by that time. Who will be entitled to do it then? It is not possible; it is not practicable proposition at all.

Then, there is no conflict with courts about it because the action which the Parliament has to take will be taken on the report of this Committee. It is not necessary to divulge everything there. It is only the action which is divulged. If any criminal action is to be taken, it will be taken by the Government. It will be suggested to the Government.

Then again this is confined only to the members of the House, including Ministers. We are not concerned with any other people who may be involved in this case and who are outside Parliament, and who are not Members of Parliament; we are not concerned with them; we do not want to do anything about them. That also, we have specified. We do not want that the CBI report can become an ordinary document always to be placed before the House; we have never demanded that. But when it comes to the business of Parliament where it becomes vital to have it, then Parliament is the highest body and it must have it. It must have all the papers. No secret papers of Government can be secret from Parliament. The only stipulation would be that, when Parliament sits in a secret session, nothing can be divulged. After all, the authority of Parliament is above Government, and Government is not above Parliament. If that is not realised by Government, it will be a sorry day for Parliamentary democracy. And Parliament cannot abdicate its authority. It was, therefore, in all seriousness that I pleaded with the Prime Minister when I had an occasion to discuss this matter with her two days back and I placed all these matters before her for her consideration. It is not as if one is taking resort to this action without any sense of responsibility. It is, therefore, that I am pained that the Prime Minister should attribute to us irresponsibility or want of knowledge and also political maturity—or political madness; that is what it amounts to. It is only to stop the political madness of the Government that we have got to act very sanely in this matter, and that is what we are doing. This is what power does. I hope, the Prime Minister will realise it, if not today, some day it will have to be realised. Power has that effect on everybody. I do not exclude myself from it. Please do not think that I am excluding myself from it. But I have been conscious of it. Therefore, it has touched me the least; it has not touched me more. But I cannot say that it has not touched me at all. Therefore, one has to be conscious about it. And it is the function of the Opposition to see to it. It is in the course of the performance of that duty that we are doing this. If these documents are given to the Committee of leaders presided over by Speaker, that cannot be done only for perusal; that will have to be done for any action that has got to be taken, that flows out of it, against the members of the House. And that cannot wait for the completion of the case. The privilege motion has to go on. You yourself have ruled

that the two are not in conflict. Therefore, any action that requires to be taken about members will have to be taken. If this Committee has to give an undertaking, if we have to give an undertaking, that action can not be taken and we will have to wait till the completion of the case, I am very sorry that we cannot agree to it. But if this Committee, presided over by you, can take action and suggest to Government whatever is required to be done or for action to be taken in this House as regards Members of Parliament—which will in no way interfere with the criminal case—, if that is agreed to, I should certainly agree to that proposition; the whole Opposition will agree to it; I have no doubt about it. But it is not clear whether the Prime Minister is agreeable to that course. I was told that they are not agreeable to this course. If that is so, then we are bound to begin the action immediately afterwards. Therefore, I shall be grateful on behalf of the Opposition if this is clarified in clear terms by the Prime Minister.

श्रीमती इन्दिरा गांधी : मुझे राज्य सभा में बुला रहे हैं, क्या करू ?

MR. SPEAKER: The Prime Minister just says that she is going to the Rajya Sabha.

SHRIMATI INDIRA GANDHI: I am asking for your instructions. A message has come from there.

(Interruptions)

SHRI SHYAMNANDAN MISHRA (Begusarai): The Prime Minister did not choose to mention about the action that would ensue after our perusal of the report. Otherwise, what is your understanding?

(Interruptions)

MR. SPEAKER: You better ask not my understanding. My understanding has gone through many stages.

SHRI SHYAMNANDAN MSHRA: But your understanding has already been understood by the Prime Minister in one respect to which we have taken definite objection.

(Stats)

SHRI JYOTIRMOY BOSU (Diamond Harbour): Our demand from the last session has been for a probe by a Committee of the Parliament. That is all. That is the main thing.

MR. SPEAKER: The original demand was that the CBI report be laid on the Table of the House.

SHRI JYOTIRMOY BOSU: We do not want to go into that.

MR. SPEAKER: That is all and the latest is something else. Therefore, I say it goes through many stages.

(Interruptions)

MR. SPEAKER: If you want the Prime Minister to reconsider it and if she wants, she may reply at a later stage.

SHRIMATI INDIRA GANDHI: I think I have made it very clear in my statement.

(Interruptions)

श्री मधु लिमये (बांका) : उन्होंने कह दिया है कि मुरारजी भाने की विनती उनको कबूल नहीं है । साफ कह दिया ।

SHRI P. G. MAVALANKAR (Ahmedabad): We want action. There must be some action.

SHRI SHYAMNANDAN MISHRA: The Prime Minister's assurance about action to be taken—that is the crux of the matter.

SHRI P. G. MAVALANKAR: What action do they want to take?

(Interruptions)

श्री मधु लिमये : अध्यक्ष महोदय, आपने अपनी स्टेटमेंट में कहा है कि श्री तुल मोहनराम प्राइमा फेशी मिसडेमनर के लिए

जिम्मेदार है। इसीलिये मुरारजी भाई ने कहा है कि सुब्रमण्यम राम हों या अन्य व्यक्ति हों, चूंकर वह अपराधी हैं तो उनके खिलाफ कार्रवाई करने का पार्लियामेंट को अधिकार होना चाहिये। इस के बारे में प्रधान मंत्री का क्या जवाब है। हम स्पष्ट उत्तर चाहते हैं, वरना हमारा स्टैण्ड रहेगा।

(*Interruptions*)

PROF. MADHU DANDAVATE (Rajapur): Will the report be available for mere perusal or for action?

SHRI JYOTIRMOY BOSU: I would like to know what purpose will it serve if we are only allowed to peruse it merely What purpose will it serve? (*Interruptions*).

SHRI PILOO MODY (Godhra): I would like to know. In an important matter like this misunderstandings cannot be allowed to prevail and, therefore, I appeal to you, and, through you, to the Prime Minister, that if she is satisfied that merely showing all these documents to the Opposition leaders will exonerate the stand that she has taken, why she should be afraid thereafter to allow the Opposition leaders also to share the same opinion. The Opposition demand is quite categorical that we do not want to create a library society Having read the report and the supporting documents if we find something therein which requires action against other Members of Parliament, then, that right should be reserved by the Opposition. This is a very simple demand. After all, they have read the papers and if they are satisfied that there is no suspicion against anybody-else, what difficulty is there, I do not understand.

MR. SPEAKER: Whatever was there has come. Both of them have spoken. There is no scope for further .... (*Interruptions*).

SHRI MADHU LIMAYE: Why not?

MR. SPEAKER: We are not discussing what is there and what is not there.

श्री मधु लिमये : मैं कहना चाहता हूं प्राइम मिनिस्टर के बयान पर।

PROF. MADHU DANDAVATE: After you announced that after the Prime Minister's statement Shri Morarji Desai will speak, and he spoke and at the close of his speech he has sought a categorical information. He wants to know from the Prime Minister whether those reports will be available only for persual or whether they will go for action. We are not prepared to wait till the criminal proceedings are over.... (*Interruptions*).

MR. SPEAKER: So long as you keep it pending, there will be no end.

SHRI C M. STEPHEN (Muvathupuzha): The court has exclusive jurisdiction. What they are now saying is entirely a new demand.

SHRI RAJA KULKARNI (Bombay—North-East): No debate on it (*Interruptions*)

MR. SPEAKER: The Prime Minister has already spoken She has nothing to and

The Prime Minister's presence is wanted in the other House. Her presence is required there also. She has to go to Rajya Sabha.

SHRI P. G. MAVALANKAR: We want a Parliamentary Committee.

SHRI SHYAMNANDAN MISHRA: There is no other way for us...

PROF. MADHU DANDAVATE: If the Prime Minister does not reply to the point raised, that means, she wants the report to be seen only for perusal but not for action. We want action, not merely perusal.

SHRI SHYAMNANDAN MISHRA: Would it not amount to this.. (*Interruptions*).

PROF MADHU DANDAVATE: What is the Prime Minister's reply to the query made by Mr Morarji Desai? (*Interruptions*).

MR SPEAKER Will you kindly sit down?

PROF MADHU DANDAVATE She wants to give for perusal and not for action

SHRI SHYAMNANDAN MISHRA May I make a submission?

MR SPEAKER We have already taken enough time

SHRI SHYAMNANDAN MISHRA If, after perusal of the documents, we come to certain conclusions about the course of action to be taken

SOME HON MEMBERS Io, no (*Interruptions*)

SHRI SHYAMNANDAN MISHRA What is this, Sir? (*Interruptions*) We can't understand this

MR SPEAKER Shri L N Mishra

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12 34 hrs

QUESTION OF PRIVILEGE AGAINST SHRI L N MISHRA RE IMPORT LICENCE CASE—*contd*

THE MINISTER OF RAILWAYS (SHRI L N MISHRA) I, (*Interruptions*)

श्री हुकम चन्द कछवाय (मुरैना)

सी० बी० आई० की रिपोर्ट ।

कुछ माननीय सदस्य पढ़ दो ।

SHRI SHYAMNANDAN MISHRA On a point of order (*Interruptions*)

SHRI L N MISHRA I lay the statement on the Table of the House (*Interruptions*)

Statement

MR SPEAKER, Sir the House would kindly recall that, with the permission of the Chair, I had made a personal explanation in the House on 28th August, 1974 to clarify some allegations made by some Hon'ble Members in the Opposition. The two main allegations were: (1) that I had granted the licences on the representation of 21 Members; and (2) that I got the Memorandum prepared or forged either at my office or at my residence

2 In the first part of my statement, I had said "Mr Speaker, Sir, since my name has been mentioned I would like to make a brief statement by way of personal explanation I recollect having received a letter purporting to bear the signatures of a number of MPs when I was in charge of the former Ministry of Foreign Trade As far as I remember, I passed on the letter to the offi e concerned, in the normal course of business No order was passed by me, nor any licence was issued during the period I remained in that Ministry"

3 As the House will see, in my statement quoted above I had stated that the licences in question were not issued during my period in the Foreign Trade Ministry nor had I passed the order to this effect.

4 My above statement of August 28, 1974 is factually correct and is fully borne out by the C B I charge-sheet, on which my friends opposite have relied so much to prove their case. Taking the facts given in the charge-sheet itself, the representation was delivered on or about 22-11-1972 and despatched to the C C I E on 24-11-1972 I ceased to the Minister of Foreign Trade on 5-2-1973 It was only after the receipt of the report of the Controller, Pondicherry on 22-2-1973—when I was no longer the Minister in charge of this department that the matter was re-examined and further action taken, which culminated in the issue of these licences. The decision to sanction these licences was taken on 9-9-1973—over seven months after I had ceased to be Minister of Foreign Trade and the licences were actually issued even much later. My colleague