

REPORT
OF
COMMISSION OF INQUIRY



सत्यमेव जयते

New Delhi,
June 11, 1964

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REPORT
of
THE COMMISSION OF INQUIRY

*(Constituted under Home Ministry's Notification No. S.O. 3109
dated November 1, 1963)*

NEW DELHI
June 11, 1964.

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PART I
INTRODUCTION
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CHAPTER I

INTRODUCTION

(i) Constitution of the Commission of Inquiry

On Saturday, July 13, 1963 a deputation consisting of Master Tara Singh and twentytwo other persons waited upon the President of India and submitted to him, for his consideration, a Memorandum in writing containing certain allegations against S. Partap Singh Kairon, the Chief Minister of the Punjab.

2. The memorandum so presented to the President of India was signed by Shri Devi Lal and twentysix other persons. Out of the signatories, three, namely, S. Buta Singh, S. Darshan Singh and Maulvi Abdul Ghani Dar are sitting Members of the Union Parliament, nine, namely, Shri Devi Lal, Shri Bachan Singh, S. Gurcharan Singh, Shri Om Prakash Anihotri, Shri Chaudhry Ram Singh, Shri Jagan Nath, S. Kulbir Singh, Shri Tak Ram and Shri Ajit Kumar are sitting Members of the Vidhan Sabha of the Punjab Legislature. Four of the signatories, namely, Chaudhri Kartar Singh, Professor Sher Singh, Shri Krishan Lal and Shri Balramji Das Tandon are sitting Members of the Upper House of the Punjab Legislature. Two signatories, namely, Lala Jagat Narain and Shri Ghasi Ram were formerly but are not now Members of the Punjab Legislature. The rest of the signatories, namely, Shri Charan Das Ghasi, Shri Roop Lal, S. Basant Singh, S. Govinder Singh, Shri Yagya Dutt Sharma, Shri L. R. Balley, Master Tara Singh and Shri D. S. Rathi do not appear at present to be members of any legislature. Difficulty was experienced in a few cases in deciphering the names of the signatories to the Memorandum and 26 names, in total, could only be made out from among the signatures appended to it. All the signatories to the Memorandum claim to be representatives of the non-Communist opposition parties.

Paragraph 1 of the Memorandum runs as follows:—

“That being highly aggrieved by the misdeeds and blatant acts of corruption and gross misrule of the present Punjab Chief Minister, Sardar Partap Singh Kairon, and being further aggrieved by the partisan handling by the present Prime Minister, Shri Jawaharlal Nehru of the series of complaints containing documentary proof against Sardar Partap Singh Kairon, the representatives of the non-Communist opposition parties approach the President of India with this Memorandum praying for a Public Enquiry against the said S. Partap Singh Kairon either by way of a Reference by the President under Article 143 of the Constitution of India or by way of an appointment of a Judge of the Supreme Court of India under the Commission of Enquiries Act.”

In paragraph 3, the charges are formulated under 21 heads to which reference will be made hereafter in greater detail.

By Notification No. S.O. 3109, dated November 1, 1963 issued by the Ministry of Home Affairs and published on the same date in Part II—Section 3—Sub-section (ii) of the Gazette of India Extraordinary, the Central Government in exercise of the powers conferred on it by Section 3 of the Commissions of Inquiry Act, 1952 (Act No. 60 of 1952) constituted the present Commission to enquire into and report on the allegations made in the said memorandum. The full text of the said Notification is set out below:

“Ministry of Home Affairs

Notification

New Delhi, the 1st November, 1963

S.O. 3109.—Whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making an inquiry into a definite matter of public importance;

Now, therefore, in exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (Act No. 60 of 1952), the Central Government hereby appoints a Commission of Inquiry consisting of Shri Sudhi Ranjan Das, formerly Chief Justice of India, to inquire into and report before the 1st February, 1964, on the allegations made against Sardar Partap Singh Kairon, Chief Minister of Punjab, by Shri Devi Lal and certain other persons in a memorandum presented to the President of India on the 13th July, 1963.

2. And whereas the Central Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of sub-section (2), sub-section (3), sub-section (4) and sub-section (5) of section 5 of the Commissions of Inquiry Act, 1952, should be made applicable to the Commission, the Central Government hereby directs that all the said provisions shall apply to the Commission.

(No. 57/83/63-Pol.)

V. Viswanathan, Secy.

(ii) Relevant provisions of the Commissions of Inquiry Act and the Rules framed thereunder

It will be convenient, at this stage, to refer, very briefly, to the relevant provisions of the Commissions of Inquiry Act, 1952 (hereinafter referred to as “the Act”) and the Rules made thereunder. Section 3 confers power on the “appropriate Government” to appoint, by a notification in the Official Gazette, a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification. The “appropriate Government”, as defined by Section 2, means “the Central Government in relation

to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List I or List II or List III in the Seventh Schedule to the Constitution," and "the State Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List II or List III" of the said Seventh Schedule. Section 4 confers on the Commission the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of (a) summoning and examining any person, (b) requiring discovery and production of any document, (c) receiving evidence on affidavits, (d) requisitioning any public record, (e) issuing Commissions for the examination of witnesses or documents, and (f) any other matter which may be prescribed. Section 5(1) authorises the appropriate Government, by notification in the Official Gazette, to confer on the Commission all or any of the additional powers mentioned in sub-sections (2), (3), (4) and (5) of that section. Those sub-sections comprise the powers to require any person, subject to any privilege he may claim under the law, to furnish relevant information on the subject matter of the inquiry [sub-section (2)], to enter any building and seize any books of account or documents, or take extracts or copies therefrom [sub-section (3)], when any offence described in certain specified sections of the Indian Penal Code is committed in the view or presence of the Commission, to record the facts constituting the offence and forward the case for trial to a Magistrate having jurisdiction to try the same [sub-section (4)]. Sub-section (5) provides that any proceeding before the Commission is to be deemed to be a judicial proceeding. Sections 6 and 7, which are not very relevant to matters under discussion in this Inquiry may be passed over. The next important section is section 8 which indicates the procedure to be followed by the Commission. It reads thus:

"The Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members."

Section 12 authorises the appropriate Government to make rules to carry out the purposes of this Act.

In exercise of powers conferred on it by section 12 of the Act, the Central Government made Rules from time to time. It will suffice to refer to the Central Commissions of Inquiry (Procedure) Rules, 1960 which were promulgated on May 7, 1960. Rule 2 provides for notice to persons for giving evidence. Sub-rule (1) of that Rule runs thus:

"2. (1) The Commission shall, as soon as may be after its appointment,—

- (a) issue a notice to every person, who in its opinion should be given an opportunity of being heard in the inquiry, to furnish to the Commission a statement relating to such matters as may be specified in the notice;

- (b) issue a notification to be published in such manner as it may deem fit, inviting all persons acquainted with the subject-matter of the inquiry to furnish to the Commission a statement relating to such matters as may be specified in the notification."

Sub-rule (2) requires an affidavit to be filed in support of the facts set out in the statement and sub-rule (3) refers to documents which have to be furnished to the Commission along with the statement. Rule 3 lays down the procedure to be followed by the Commission after the statements are furnished to it under Rule 2. Sub-rule (1) of Rule 3 prescribes as follows:—

"The Commission shall examine all the statements furnished to it under rule 2 and if, after such examination, the Commission considers it necessary to record evidence, it shall first record the evidence, if any, produced by the Central Government and may thereafter record in such order as it may deem fit,—

- (a) the evidence of any person who has furnished a statement under rule 2 and whose evidence the Commission, having regard to the statement, considers relevant for the purpose of the inquiry;
- (b) the evidence of any other person whose evidence, in the opinion of the Commission, is relevant to the inquiry."

Rule 4 safeguards the interests of persons likely to be prejudicially affected by giving them a right of hearing and Rule 5 gives the right of cross examination and representation by legal practitioner to certain persons referred to therein. Rule 6 lays down:—

"The Commission shall have the power to regulate its own procedure in respect of any matter for which no provision is made in these rules."

CHAPTER II

PRELIMINARY PROCEEDINGS AND DIRECTIONS

(i) Procedure adopted by the Commission

The first sitting of the Commission was held on November 23, 1963 at No. 27 Safdarjung Road, New Delhi, upon notice, given under Rule 2(1) (a), to the Memorialists, who have made the allegations into which the Commission is to inquire, and to Sardar Partap Singh Kairon, against whom the allegations are directed, as persons who, in the opinion of the Commission, should be given an opportunity of being heard in the inquiry. After hearing learned counsel appearing on both sides as to the procedure to be followed in the inquiry the Commission decided, in exercise of the powers conferred on it by section 4(c) of the Act, to receive evidence on affidavits. Accordingly, the Commission gave the following directions for the filing of statements by affidavits:—

....the Memorialists would file their affidavits by 7th of December and supply copies of their affidavits to the counsel for Sardar Partap Singh Kairon. The affidavits of Sardar Partap Singh Kairon would be filed by 21st of December..... If the Commissioner decides that the filing of any affidavits in reply is necessary, he would give time to the Memorialists.”

The following extract from the minutes of the proceedings sets out the observations made by the Commission by way of clarification and for the guidance of the persons appearing before it:—

...the Memorialists should file affidavits in support of the charges that they wanted to press. With regard to the affidavits, the Commissioner made it clear that these affidavits should be affirmed by those witnesses who should be competent to speak to the facts constituting the particular charge. He suggested that the affidavit should state: “I.....s/o.....residing at solemnly affirm and say that these are the facts with regard to charge No.” and then at the end of the affidavit there must be a verification. The Commissioner directed that the verification should not be in an omnibus form. The affidavit should be properly verified, namely, that if the person has any personal knowledge about the facts alleged in the affidavit, he should state that “the statements in paragraphs.....are true to my own knowledge” and if he has gathered some information from some source, he should state that “the statements in paragraphs..... andare based on information gathered from.... (source) and believed by me to be true.”

Towards the end of the sitting the Memorialists drew the attention of the Commission to Section 8 of the Act and inquired whether the Commission would in future sit in public or in private. In answer to such query, the Commission made the following observations:—

.....by temperament and training as a judge, he certainly disliked any camera inquiry because that robbed the proceedings of the appearance of justice. He personally thought that proceedings in the nature of judicial proceedings should ordinarily be open and under the public gaze. But that would depend on the nature of the allegations levelled and the affidavits filed. If there are involved scandalous things or matters of security or things which would excite public feeling which will vitiate the atmosphere, then it could be held in camera. But it could be decided only after he had gone through the affidavits of both the sides. *Prima facie* his inclination was to hold it as a public inquiry but if strong reasons existed for a contrary procedure, then he would have no hesitation in saying that it would be in camera."

At the second sitting of the Commission held on November 25, 1963, at the same place, the Commission took up for consideration the question whether the Commission should, under Rule 2(1)(b), issue a notification inviting all persons acquainted with the subject matter of the Inquiry to furnish to the Commission a statement relating to such matters as might be specified in the notification and the following directions were given:—

.....Shri Veda Vyasa will give his arguments in support of his contention in writing and file it with the office and give a copy of it to the other side by Wednesday the 27th November. The Counsel appearing for Sardar Partap Singh Kairon will send their counter arguments the next day, i.e. on the 28th November and at the same time give a copy of it to Shri Veda Vyasa. Any argument in reply to it that Shri Veda Vyasa may think necessary to place before the Commission will be filed with the office on the 29th November. After considering these written arguments, the Commissioner will take such steps as may be necessary. If any public notification is decided to be issued, the public should be given about ten days' time from the date of issue of the notification to file their affidavits.

It is clearly understood that Counsel for the memorialists will file affidavits in support of the charges by the 7th December and Counsel for Sardar Partap Singh Kairon will file counter-affidavits by the 21st December as originally directed. Counsel for Sardar Partap Singh Kairon will file counter-affidavits to the affidavits to be filed by the public, if any, within seven days after they receive copies of the same. In case the time given to the public expires after the 21st, then the Counsel for Sardar Partap Singh Kairon will file their counter-affidavits against the affi-

avits filed on behalf of the memorialists on the day following the receipt of the affidavits of the members of the public, if any, and will also file counter-affidavits to the affidavits of the public, if any, within seven days after receipt of such affidavits, if any."

Written arguments were duly submitted by learned counsel as directed. In the view that the Commission took of the nature and scope of its power and duty as hereinafter stated (Chapter IV) the Commission on December 3, 1963 directed a notification under Rule 2(1) (b) to be published in the leading newspapers. Pursuant to the directions, notifications were published in the following newspapers, namely:—

1. The Statesman, New Delhi.
2. The Hindustan Times, New Delhi.
3. The Times of India, Delhi.
4. The Sunday Standard, Delhi.
5. The Patriot, New Delhi.
6. Milap, Delhi.
7. Nav Bharat Times, New Delhi.
8. The Tribune, Ambala.
9. Akali Patrika, Jullundur.
10. Veer Partap, Jullundur.
11. Hind Samachar, Jullundur.

The text of the notification was as follows :—

"Office of the Commission of Inquiry
Notification

New Delhi, the 8th December, 1963.

Whereas by Ministry of Home Affairs Notification No. S.O. 3109, dated November 1, 1963 the Central Government appointed a Commission of Inquiry to enquire into and report before the 1st February 1964 on the allegations made against Sardar Partap Singh Kairon, Chief Minister of Punjab, by Shri Devi Lal and certain other persons in a memorandum presented to the President of India on the 13th July 1963.

Now, therefore, this Notification is issued, by and under the order of the Commissioner, inviting all persons acquainted with the subject matter of the inquiry to furnish to the Commission affidavits containing a statement of facts set out in several paragraphs relating to such of the charges contained in the aforesaid memorandum as to which the deponent is competent to depose. Such affidavits must be strictly confined to those charges only and the statements of facts to be set forth in the affidavits must be expressed to be related to particular items of charges. Such affidavits must be properly verified in the following manner, namely, "that the Statements in paragraphs and

of the foregoing affidavit are true to my knowledge" and in case the statements are derived from information received, "that the statements in paragraphs and are based on information received by me from (naming the informant) residing atand believed by me to be true". If the information has been received from an official of the Punjab Government and the deponent does not desire to disclose his name, the verification should be that "the Statements contained in paragraphs.....and.....are derived from official file No..... (identifying the file)." The original affidavits with a copy of each must be filed on or before December 18, 1963 at the office of the Commission at No. 27 Safdarjung Road on any working day between the hours of 10.00 A.M. and 1.00 P.M. The deponent should also supply a copy to the leading Advocate for the memorialists, Shri Veda Vyasa, and a copy to the leading Advocate, Shri J. G. Sethi, who appeared for Sardar Partap Singh Kairon. Inspection may be had of the copy of the aforesaid memorandum filed before the President of India at the said office of the Commission on any working day between the hours of 10.00 A.M. and 1.00 P.M. Affidavits not verified in the manner indicated above or not filed within the date and time specified above will not be taken into consideration by the Commission.

By order,
T. N. Mahadevan Pillai
Secretary to the Commission
of Inquiry

Office : 27, Safdarjung Road,
New Delhi."

(ii) Affidavits filed before the Commission

Pursuant to the directions hereinbefore given, the Memorialists filed, on December 7, 1963, 25 affidavits in support of their charges. These 25 affidavits have, for easy reference, been marked as "M" Series, i.e. M-1 to M-25. On December 18, 1963, 54 affidavits affirmed by members of the public were delivered in the office of the Commission by the deponents or their representatives in person and 10 were received by post within the appointed date. All these 64 affidavits have been marked P-1 to P-64. On December 21, 1963, 102 affidavits were filed on behalf of Sardar Partap Singh Kairon. These counter-affidavits have, for easy reference, been marked as CM Series, i.e., CM-1 to CM-102. In opposition to the 64 affidavits filed by or on behalf of the public, a bunch of 328 counter-affidavits have been filed on December 26, 1963 by or on behalf of Sardar Partap Singh Kairon, which have been marked as 'CP' Series, i.e., CP-1 to CP-328. Eleven counter-affidavits have also been filed on February 24, 1964 on behalf of Sardar Partap Singh Kairon in opposition to the affidavits sent by some members of the public by post. These have also been included in the 'CP' Series.

(iii) The Memorialists' claim to file affidavits in reply and to inspect documents

At the Third Sitting held at the Auditorium of the Institute of Chartered Accountants of India, on December 30, 1963, the memorialists raised the question of filing affidavits in reply to the 102 counter-affidavits (CM Series) filed on behalf of Sardar Partap Singh Kairon. Strictly speaking, this being an inquiry under the Act, and there being no lis between the parties who were not, in the eye of the law, arrayed against each other as will be explained hereafter, the Memorialists could have no legal right to file an affidavit in reply. Apart from the aforesaid technicalities, however, the fact remained that it was the Memorialists who had set the ball rolling and who are persisting in pressing the allegations made by them in their memorandum against Sardar Partap Singh Kairon, and that, therefore, they might well be regarded, for all practical purposes, as in the position of complainants. This being the real position in fact the Commission took the view that the Memorialists should, in all fairness, be given an opportunity to file affidavits strictly in reply refuting, if they could, the allegations made in the 102 counter affidavits filed on behalf of Sardar Partap Singh Kairon in opposition to the 25 affidavits filed by the Memorialists in support of the allegations in their memorandum. Once Sardar Partap Singh Kairon had been permitted to file affidavits in opposition to the Memorialists' 25 affidavits, it followed that the Memorialists should be given an opportunity to reply to those counter-affidavits.

Pressing the analogy of the rule applicable to contending parties, the Memorialists prayed for inspection of all relevant documents, whether they were in the possession or power of Sardar Partap Singh Kairon or not and submitted that the Commission should send for diverse documents from the custody of banks, autonomous bodies and individuals in exercise of the wide powers that had been conferred on it by the Notification read with Section 5 of the Act. After hearing learned counsel on both sides, the Commission took the view that for the limited purpose of enabling the Memorialists to file affidavits in reply to the counter-affidavits filed on behalf of Sardar Partap Singh Kairon, the latter could not properly be called upon to produce for inspection documents which were not shown to be in his possession or power. It was entirely a different matter whether the Commission would require third parties, e.g. banks, autonomous bodies or individuals to produce their books and papers to the Memorialists before they put in their replies to the counter-affidavits filed on behalf of Sardar Partap Singh Kairon. The Commission would certainly exercise its power to secure production of all relevant papers, etc. if it considers it necessary for the purposes of its inquiry and report. The Memorialists had no right to ask for production of those documents to formulate new charges in reply to the counter-affidavits.

Accordingly, on January 11, 1964 the Commission gave the following directions for inspection and the filing of affidavits in reply by the Memorialists:—

- “(1) that Sardar Partap Singh Kairon do cause to be produced for inspection all documents and all files containing

documents which, in his application dated January 3, 1964, he has specifically agreed to do; and/or now enumerated in the list filed by Counsel for Sardar Partap Singh Kairon;

- (2) that Sardar Partap Singh Kairon do also cause to be produced for inspection all files belonging to the Government of the Punjab or any department thereof (not covered by the documents in paragraph 1 hereof) on the basis of information derived from which statements in the 102 counter-affidavits filed on his behalf have been verified to have been made and his own books of account, if any;
- (3) that if there be any objection to giving inspection of any portion of the files or documents mentioned in paragraphs 1 and 2 hereof on the ground of such portions not containing any entry relevant to the subject matter of this inquiry or on the ground of privilege such portions may be sealed up but that then the objection to give inspection of such portions must be formulated by affidavit affirmed and duly verified by the Secretary or other responsible officer of the department concerned and produced along with the files concerned;
- (4) that in case of dispute as to the validity of such objection, such dispute must be raised on affidavit affirmed and duly verified by the Memorialists and the Commission will examine or cause to be examined such portions of the files in respect of which the giving of inspection is objected to and give its ruling on the validity of the objection;
- (5) that no further direction is given at this stage for the production of any document mentioned in the list filed by the Counsel for the Memorialists on January 1, 1964, other than those mentioned in paragraphs 1 and 2 hereof;
- (6) that the question whether the 25 affidavits have gone beyond the scope of the charges contained in the memorandum submitted by the Memorialists to the President of India on July 13, 1963, or have sought to introduce new charges not covered by those contained in the said memorandum is left open for argument at the time of hearing after the affidavits in rejoinder have been filed by the Memorialists;
- (7) that all documents referred to in paragraphs 1 and 2 hereof be produced in batches at the office of the Commission in the Institute of Chartered Accountants building on and from January 14, 1964;
- (8) that inspection be given and taken on all working days commencing from January 14, 1964 between the hours of 10-30 a.m. to 1-00 p.m. and 2-00 p.m. to 4-00 p.m. until inspection is completed;

- (9) that inspection be completed on or before 4-00 p.m. on January 31, 1964;
- (10) that only the Memorialists or their advocates and typists be at liberty to appear and take inspection of the files and documents hereby directed to be produced for inspection;
- (11) that the affidavits in rejoinder to be affirmed and duly verified in the manner already indicated by the Memorialists and strictly in reply be filed together with copies of the same on or before 5-00 p.m. on February 14, 1964; and
- (12) that the next sitting of the Commission is fixed for February 17, 1964 when it will consider all the affidavits filed before the Commission and hear arguments in support of or against the charges on the basis of the said affidavits and also the question left open under paragraph (6) hereof."

It was also at this sitting that the Commission decided and declared, under Section 8 of the Act, that the future sittings of the Commission shall be held in public.

Some questions cropped up from time to time during the course of the inspection of documents and suitable directions were given by the Commission. On February 14, 1964 the Memorialists filed 41 affidavits in reply and these have been marked as 'R' Series, i.e. R-1 to R-41. All told 571 affidavits covering 4229 pages in all have been filed between December 7, 1963 and February 24, 1964. Besides these documents a large number of petitions in connection with production and inspection of documents have been filed and had to be considered by the Commission. Finally at the hearing numerous entries in a number of Government files were referred to by both sides which the Commission had to consider and note. The affidavits filed are set out in the list annexed hereto.

CHAPTER III

QUESTION OF TAKING ORAL EVIDENCE

(i) Hearing of Arguments

At the seventh sitting of the Commission which was held on February 24, 1964, the Commission indicated that under Rule 3, the Commission would proceed to examine all the statements furnished to it on affidavits and for that purpose he would hear arguments of learned Counsel for the Memorialists in support of the allegations contained in the memorandum and learned Counsel for Sardar Partap Singh Kairon in opposition thereto. Learned Counsel for the Memorialists submitted that it was the duty of the Commission to collect all available evidence by the exercise of its own powers and for that purpose call for relevant documents and accounts from different banks, local authorities and others and direct Sardar Partap Singh Kairon, his wife, sons (Sardar Surinder Singh Kairon and Sardar Gurinder Singh Kairon) and his brother Sardar Jaswant Singh Kairon to appear before the Commission to be cross-examined. Learned Counsel submitted that in a matter of such complexity and magnitude, oral evidence should be taken first and Counsel should be called upon to advance arguments on the whole case. The Commission pointed out that Section 4(c) of the Act authorised the Commission to receive evidence on affidavits which it had done and that following the directions contained in Rule 2(1) (a) and Rule 2(1) (b) the Commission had given ample opportunities, not only to the Memorialists and Sardar Partap Singh Kairon but to all members of the public to file affidavits giving all material information to the Commission. The language of Rule 3(1), in the opinion of the Commission, made it abundantly clear that the recording of oral evidence was left entirely to the discretion of the Commission. The Commission took the view that where the affidavits taken and read together were reasonably clear and unambiguous and the Commission was able to hold, without any reasonable doubt, that a *prima facie* case had not been made out in respect of one or more of the charges, the persons making or supporting such charges could not be permitted to have another opportunity to adduce fresh evidence or to cross-examine the person charged on the off chance of being able to make out a case which in legal parlance may be said to be sufficient to go to the jury. Likewise if a *prima facie* case had been made out in respect of one or more of the charges the person charged could not be permitted to claim another opportunity to clear himself by adducing fresh evidence or cross-examining the persons making the charge. The Commission was of the opinion that where the affidavits were so evenly balanced that it could not come to a firm conclusion then and then only could the Commission say that it was necessary to record oral evidence. Such being its opinion, the Commission rejected the submission of learned Counsel for the Memorialists and directed learned Counsel on both sides to argue their respective cases on the basis of the evidence contained on the affidavits on record. Thereupon learned Counsel for the

Memorialists divided their part of the work as between themselves and advanced elaborate arguments on the topics assigned to them respectively.

Learned Counsel for the Memorialists as between them argued for 28 days (i.e. from the seventh sitting to the thirty-fourth sitting) and were followed by the Counsel appearing for S. Partap Singh Kairon, who, between them, argued for 25 days (i.e. from the thirty-fifth sitting to the fifty-ninth sitting) and advanced equally detailed arguments on all the charges. Learned Counsel for the Memorialists were then heard in reply on questions of law for two days. After carefully persuing the numerous and in some cases voluminous affidavits with the annexures thereto in the light of the critical arguments thereon advanced before it, the Commission did not, in view of the conclusions arrived by it as hereinafter stated, consider it necessary to record any oral evidence by way of cross-examination of the deponents or otherwise.

By the Notification constituting it, the Commission was required to submit its report before February 1, 1964. The time for submitting the report was, however, extended from time to time, the last of such extensions being upto June 30, 1964. The Commission is now filing its Report within such extended time.

(ii) Acknowledgement of assistance

The Commission is happy to place on record its deep appreciation of the great assistance that it has derived from the learned and forceful arguments—prepared with care and advanced with commendable ability—by learned Counsel on both sides. But for their help in classifying the material evidence contained in the affidavits filed on behalf of both sides under different heads of charges it would have been difficult, if not impossible, for the Commission to wade through the numerous and voluminous affidavits filed before it. It is, indeed, a matter for gratification that, by and large, the tone and standard of arguments were kept up on a high level expected of respectable and responsible members of the Indian Bar.

The Commission offers its felicitations and thanks to the Press reporters who have covered the entire proceedings lasting over a fairly long period of time and published reports thereof which have been factually correct and fair. The Commission gratefully acknowledges the cooperation it has received from the Press in the discharge of its onerous duties.

The Commission has received uniform courtesy and consideration from the Ministry of Home Affairs for the very satisfactory arrangements made for the holding of the sittings of the Commission and otherwise.

The Commission also records its gratitude to the authorities of the Institute of Chartered Accountants of India in general and to their Secretary, Shri C. Balakrishnan, in particular for having made their excellent auditorium available for the sittings of the Commission throughout the entire period of its public sittings except for a brief period of five days.

Finally, the Commission freely acknowledges its indebtedness to Shri T. N. Mahadevan Pillai of the Home Ministry who was deputed to perform the duties of the Secretary to the Commission which he has discharged to the entire satisfaction of the Commission. His knowledge and experience have been of immense help to the Commission and his courtesy and tact in handling many delicate situations that frequently arose in connection with the inspection of documents/files were indeed exemplary. He and the other staff assigned to the Commission have worked long hours and shown excellent team work.

PART II
POWERS AND FUNCTIONS OF THE COMMISSION

CHAPTER IV

POWERS AND FUNCTIONS OF A COMMISSION UNDER THE ACT

(i) Interpretation of the provisions of the Act

The long title of the Act describes itself as "An Act to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers." Section 3 of the Act makes it abundantly clear that the appropriate Government may appoint a Commission of Inquiry only for the purpose "of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification" and that the duty of the Commission so constituted is only to make the inquiry and perform the functions accordingly. Three things are implicit in this section, namely (i) that the subject matter of the inquiry must be "a definite matter of public importance", (ii) that the scope, power and authority of the Commission are to make an inquiry into that definite matter of public importance, and (iii) to perform such functions as may be specified in the notification. The Notification constituting the present Commission requires it "to inquire into and report.....on the allegations made against Sardar Partap Singh Kairon, Chief Minister of Punjab, by Shri Devi Lal and certain other persons in a memorandum presented to the President of India on the 13th July, 1963." The second paragraph of the notification makes all the provisions of sub-sec. (2) to sub-sec. (5) of Section 5 of the Act applicable to this Commission.

Sardar Partap Singh Kairon holds the high public office of the Chief Minister of the Punjab and the allegations of the Memorialists are directed against him. A cursory perusal of the opening paragraph of the memorandum will leave no doubt in the mind of anyone that the allegations made against such a high public servant do undoubtedly and directly raise "a definite matter of public importance". It is this definite matter of public importance that this Commission has been enjoined, by the Notification, "to inquire into and report on". For the discharge of its duties the Notification has conferred certain powers on the Commission. It is the duty of the Commission, by exercising its powers, to collect evidence, not only from the Memorialists but also from any member of the public who may be able to furnish information bearing on the allegations contained in the memorandum, to sift the evidence, to reach what conclusions appear to it to flow from such evidence and to make its "report" to the appropriate Government which constituted the Commission. The subject matter of inquiry by the Commission being thus a definite matter of public importance any member of the public has an interest in this inquiry. Indeed Rule 2(1) (b) peremptorily requires the Commission to issue a notification inviting all

persons acquainted with the subject matter of the inquiry to furnish to the Commission a statement relating to such matters as may be specified in the notification. The public thus having an interest in the inquiry, the Memorialists on whose memorandum the appropriate Government took action and set up this Commission are not *dominus litis* and cannot stop the inquiry by abandoning their allegations. Unless and until the appropriate Government declares, under Section 7 of the Act, that this Commission shall cease to exist, this Commission shall be bound to proceed with the inquiry and make its report to the appropriate Government. It is obvious, therefore, that the inquiry to be made by the Commission differs from a civil litigation or a criminal proceeding pending before an ordinary court of law. In a civil action, there is a plaintiff and a defendant and a lis or issue between them which the plaintiff may choose to abandon. In a criminal case there is a prosecutor and an accused and a charge which the prosecutor may withdraw, with or without the permission of the Court as prescribed in the Code of Criminal Procedure. In both cases the issue or charge has to be determined by the Court by a judgment or order which becomes binding and enforceable as between the parties. In an inquiry under the Act, however, there is no plaintiff or prosecutor, there is no defendant or accused and there is no lis or charge to be adjudicated upon by the Commission by a judgment or order binding and enforceable inter-parties. In short, the Commission is not expected and, indeed, is not competent to finally adjudicate upon any issue or charge or pronounce any judgement or order which will be binding and enforceable. Its function is only to inquire and to report to the appropriate Government. In other words, the Commission is a machinery set up by the appropriate Government to inquire into a definite matter of public importance, to collect such relevant materials as it may and to make a report to the appropriate Government containing its own view on the basis of such materials so as to inform the mind of the appropriate Government and to enable it to take such action as it may, in the circumstances, think fit. What that definite matter of public importance is in a given case will depend on how it is defined in the notification constituting the particular Commission. Such, it is apprehended, is the nature and scope of the powers and functions of a Commission constituted under the Commissions of Inquiry Act, 1952.

(ii) Judicial pronouncement on the meaning and import of the Act

The nature and scope of the powers and functions of a Commission constituted under the Act has been explained by the Supreme Court of India in *Shri Ram Krishna Dalmia v. Shri Justice S. R. Tendolkar and others* (1959) S.C.R. 280—A.I.R. (1958) S.C. 538. Repelling the argument that the conduct of an individual person or company cannot possibly be a definite matter of public importance and giving several instances the Court observed:

“In each case the question is: is there a definite matter of public importance calling for an inquiry.....Quite conceivably the conduct of an individual or company or a group of individual persons or companies may assume

such a dangerous proposition and may so prejudicially affect or threaten to affect the public well-being as to make such conduct a definite matter of public importance urgently calling for a full inquiry."

It is thus clear that the existence of a definite matter of public importance is the *sine qua non* for the exercise of its power by the appropriate Government to constitute a Commission under the Act and that the conduct of a single individual may conceivably be a definite matter of public importance. In the same case the Court also explained the powers and functions of the Commission in the terms following—

"As has been stated by the High Court itself in the latter part of its judgment, the only power that the Commission has is to inquire and make a report and embody therein its recommendations. The Commission has no power of adjudication in the sense of passing an order which can be enforced *proprio vigore*. A clear distinction must, on the authorities, be drawn between a decision which, by itself, has no force and no penal effect and a decision which becomes enforceable immediately or which may become enforceable by some action being taken. Therefore, as the Commission we are concerned with is merely to investigate and record its findings and recommendations without having any power to enforce them, the inquiry or report cannot be looked upon as a judicial inquiry in the sense of its being an exercise of judicial function properly so called and consequently the question of usurpation by Parliament or the Government of the powers of the judicial organs of the Union of India cannot arise on the facts of this case...."

Rejecting the objection that the Commission has no power to suggest any measure, legislative or judicial, to be taken by the appropriate Government the Court observed—

"An inquiry necessarily involves investigation into facts and necessitates the collection of material facts from the evidence adduced before or brought to the notice of the person or body conducting the inquiry and the recording of its findings on those facts in its report cannot but be regarded as ancillary to the inquiry itself, for the inquiry becomes useless unless the findings of the inquiring body are made available to the Government which set up the inquiry. It is, in our judgment, equally ancillary that the person or body conducting the inquiry should express its own view on the facts found by it for the consideration of the appropriate Government in order to enable it to take such measure as it may think fit to do. The whole purpose of setting up of a Commission of Inquiry consisting of experts will be frustrated and the elaborate process of inquiry will be deprived of its utility if the opinion and the advice of the expert body as

to the measures the situation disclosed calls for cannot be placed before the Government for consideration notwithstanding that doing so cannot be to the prejudice of anybody because it has no force of its own. In our view the recommendations of a Commission of Inquiry are of great importance to the Government in order to enable it to make up its mind as to what legislative or administrative measures should be adopted to eradicate the evil found or to implement the beneficial objects it has in view."

In a forthright speech during the debate on the Waters Tribunal in the House of Lords the Lord Chancellor Viscount Kilmuir put up a spirited defence of the Tribunal of Inquiry Act, 1921 on which our Act has been modelled. Said his Lordship—

"Let me state quite shortly the arguments for some such procedure as the present. The sanction of the public inquiry is necessary on occasions for the purpose of maintaining a high standard of public administration and, indeed, of public life. The modern system has developed in consequence of the inadequacies of the machinery of inquiry by Select Committee on the one hand and the limitations of the ordinary process of law on the other. The ordinary processes of law are geared to a charge or claim brought by one person against another. They do not fit when it is necessary to discover what has actually happened before the responsibility of or between individuals can arise, and, as has been discussed earlier in this debate, there are other fields, such as wreck inquiries, inquiries into accidents, courts of inquiry in the services and the Committee of Privileges of the House of Commons, where the inquisitorial procedure is a necessary concomitant of their work. In all those cases the question of discovering what has actually happened is of prime importance. After the true facts have been found and stated it may be necessary to stigmatise conduct which, although not a criminal offence or a civil wrong, falls short of the requisite standards of our public life. It may be necessary to kill harmful rumours which are found to be unjustified. It may be necessary and this I am sure was very much in the minds of the Government who introduced this measure—to restore public confidence in public conduct and administration. These ends may well be of such importance to the life of the nation as to justify means which inflict hardship on individuals."

The Law Commission agreed that the Act should remain on the Statute Book.

(iii) Powers and Functions of the present Commission

This Commission has been constituted by the Central Government by a Notification issued by it in exercise of its powers under the Commissions of Inquiry Act, 1952. For the purpose of ascertaining the definite matter of public importance which this Commission is to inquire into and report on, reference must be made to the terms of

that Notification. That Notification in express terms requires this Commission to inquire into and report on the allegations made against S. Partap Singh Kairon by Shri Devi Lal and certain other persons in a memorandum presented to the President of India on July 13, 1963. It is abundantly clear on the face of the Notification and on a true construction of it that the duty of this Commission is to inquire into and report on the particular allegations made against S. Partap Singh Kairon by certain persons named in the particular memorandum referred to in the Notification. This Notification has not constituted this Commission for undertaking an open inquiry. This Commission is not like those which are appointed to inquire into communal or other riots, causes of epidemic diseases, espionage, ship wreck or the like. The powers and functions of this present Commission are circumscribed by the terms of the Notification. It is to inquire into and report on particular charges made by particular persons against a particular person who holds a high public office which make the subject matter of the inquiry a definite matter of public importance. The Commission has no jurisdiction or power to inquire into or report on any allegation made against any person other than S. Partap Singh Kairon by any person other than Shri Devi Lal and the signatories in any charge-sheet other than the memorandum referred to in the Notification.

A good deal of arguments was advanced before the Commission by learned Counsel on both sides as to what this Commission can do and what it cannot do. Learned Counsel for S. Partap Singh Kairon submitted that this Commission has not been invested with any power to lay down any rule of conduct for a Minister or subordinate officials or to consider or decide any question about the ministerial responsibility for the acts of the subordinate officials or whether what has been called the rules of obligations or standards of conduct of Ministers applicable in England or any other highly developed country are applicable to the standards and the circumstances in India. He maintained that this Commission cannot arrogate to itself the power of deciding or expressing any opinion as to when a Chief Minister or any other Minister should resign or should be asked to do so. According to him this Commission has been appointed only to give its opinion about the allegations made in the memorandum according to the judicially recognised standards and rules of natural justice. Learned Counsel for the Memorialists, on the other hand, contended that in this inquiry there were no contending parties, no list as in civil suit or criminal trial, that here the issue was a political issue and the Commission had to find out what the real facts are. In any case, the Commission is expected to indicate in its report its opinion on the conduct of the Chief Minister and as ancillary thereto whether he should or should not be removed from office. After hearing forceful arguments on both sides the Commission sees no reason to modify its opinion as to its powers and functions as noted in the preceding paragraph of this section or to deviate from the principles authoritatively laid down by our Supreme Court.

PART III

**HISTORY OF THE PRESENT CONTROVERSY AND ITS IMPACT
ON THE PRESENT INQUIRY**

CHAPTER V

HISTORICAL BACKGROUND

(i) Events that led up to the present Inquiry

For the purpose of entering upon a detailed analysis of the evidence on record in the light of arguments advanced by learned Counsel and appreciating the points arising in the inquiry and arriving at its conclusions the Commission considers that it will be helpful and profitable to take note of the events leading up to the constitution of the present Commission of Inquiry. S. Partap Singh Kairon, whose conduct as the Chief Minister of the Punjab is the subject matter of the present inquiry, returned to India about 34 years ago after completing his education in the Universities of Michigan and California in the United States of America. He says that during his fairly long stay in America, he came into contact with the revolutionaries of the Ghadar Party and that he came back to India imbued with ardent patriotism and radical political ideas. He entered active politics and has been a sitting Member of the State Assembly since 1937. According to his affidavit in opposition (CM-89) the cataclysmic upheaval which followed the partition of the country into two dominions in 1947 when large masses of people were uprooted from their original hearths and homes had thrown up urgent and serious problems of resettlement and rehabilitation of the displaced persons in which work he had taken a keen interest.

In April 1952, he became the Development Minister in the Congress Government in the Punjab and as such was placed in charge of Revenue and Consolidation, Agriculture and Forests and Animal Husbandry. Agricultural being the bed rock on which depended the prosperity of the people of the Punjab, it received his urgent attention. The resettlement of the displaced persons on the evacuee property that took place after 1947 had to be followed up by giving the ownership of the land to the actual tillers of the soil and by eliminating the interests of intermediaries in land-holding. He claims that within a short time the intermediaries were eliminated in the case of 59.4 lacs acres of land 6,23,794 tenants became owners of 17,62,829 standard acres of land. The declaration of the ceiling of landholding made 4,12,512 standard acres of land available as surplus lands in 1952. The work of consolidation of holdings had to be put upon a rational basis. Modernisation of agriculture received tremendous impetus at his hands. Animal husbandry was given special attention by him. Nor was agriculture in Hill areas overlooked and many orchards flourished in the Kulu Valley. It was under his inspiration, he claims, that progressive nationalisation of the transport system was undertaken on 50 : 50 basis as between State and private enterprise.

In 1956, Sadar Partap Singh Kairon became the Chief Minister of the Punjab. He adopted a ten point programme to provide: (1)

efficient, clean and impartial administration, (2) scrupulous enforcement of law and order, (3) enforcement of the regional language formula along with propagation of Hindi, the national language, (4) free and compulsory education upto the 8th class and free education upto Matriculation Examination, (5) maintenance of the tempo of developmental activities during the Second Five-Year Plan, (6) satisfactory solution of the evils of water-logging and flood, (7) promotion of trade and small industries and encouragement to industrialisation, (8) special attention to the interests of labour and backward classes, (9) development of Local Self-government, and (10) vigilant protection of our borders. In order to implement this socialistic programme, he had to face and overcome the challenge of communalism, orthodoxy and reaction. As he was determined to usher in an era of peace and tranquillity in the Punjab, he refused to have any truck with communalism of any kind. He set his face against the Hindu communalism with their claim for Maha Punjab as resolutely as he did against the Akali communalism led by Master Tara Singh for Punjabi Suba. He claims to have put down the Hindi Raksha Samiti's agitation in 1957 and later on the second Akali agitation for Punjabi Suba in 1960. He also succeeded in saving the peasants from exploitation by the Communists and suppressed the anti-betterment levy agitation started by them which necessitated the arrest of 2051 Communists. He poses the question as to where the Punjab would have stood if he did not take the bold stand that he did. It is his claim that he has burried communalism and restored security and ushered in an era of prosperity with rapid growth of industrialisation and a marked rise in the standard of living. Under his stewardship, law and order situation is said to have been improved bringing down the incidence of crimes of all kinds. He states that to maintain public peace and eradicating corruption the Police and Vigilance Committees had to be improved and what he calls "unconventional methods" had to be adopted to provide prompt and effective chastisement of the corrupt. The setting up of Flying Squads in different departments had, according to him, helped in the suppression of corruption in those departments. He claims for his Government the credit for prompt disposal of factional feuds by District Conciliation Committees with the Deputy Commissioner as Chairman, the progressive increase in the recovery of government dues, the prompt settlement of compensation for acquisition of land for Government projects, the elimination of bottlenecks of financial procedure by extensive delegation of financial powers to administrative departments, the delegation of powers in Education Department, the reorganisation of the Health Department, the nationalisation of text books in complete disregard of vested interests, the removal of all obstruction to dynamic policies by cutting the irksome redtapism. He has, he says, given encouragement to young talented officers and secured fair salary to the technical personnel. It is his claim that as a result of his efforts the *per capita* income of the people of the Punjab has increased from Rs. 330 per annum in 1956 to Rs. 401 per annum at the present time and that his policy of industrialisation has reduced unemployment by providing new jobs to the younger generation and that with the improvement in industrial production looking for export market, the Punjab has become one of the most prosperous States of India. The catalogue of achievements claimed by

S. Partap Singh Kairon and set out in detail in his affidavit (CM-89) is, indeed, impressive and, if correct, he may well be proud of them. and the State of the Punjab and its people would undoubtedly have ample cause for feeling beholden to him for such meritorious services rendered by him to them. It may be mentioned here that the excellence of his work and the beneficial effect thereof on the social and economic life of the people of the State have been acknowledged and praised by a number of people who have filed affidavits to that effect before the Commission. In some of them, claim has even been made that but for the strong personality of the present Chief Minister the State of the Punjab with delicate border problems would have disintegrated and gone to pieces and that none but S. Partap Singh Kairon can save the State from the fissiparous tendencies of numerous groups or political parties. That some part of his claim is well-founded will be evident even on a cursory glance at the green fields in the country side all over the Punjab and the humming machinery working in numerous factories in the industrial towns of the Punjab.

On the other hand, the numerous affidavits filed on behalf of the Memorialists and in particular the affidavit in reply affirmed by Maulvi Abdul Ghani Dar (R-41) dispute and controvert each of the claims put forward by Sardar Partap Singh Kairon. According to them S. Partap Singh Kairon has brought the State of the Punjab to the verge of ruin by his systematic maladministration, the unabashed abuse of his official position and power to derive pecuniary gains for himself, the members of his family and relatives, compendiously called "the Kairon tribe". They maintain that the only concern of S. Partap Singh Kairon is, by hook or crook, to cling to power and authority to satisfy his inordinate lust for power and accumulation of ill-gotten wealth and that with that end in view he has collected round him a band of unscrupulous followers by the lure of sordid gains and has encouraged a set of sycophant civil servants who out of fear of his wrath or hopes for future reward are at all times at his beck and call to help him and his family members in the achievement of their nefarious objects. They categorically assert that by his notorious favouritism and nepotism and his ruthless vengeance he has thoroughly demoralised the conscientious civil servants and fostered corruption amongst unscrupulous Government employees from top to bottom and has vitiated the entire political atmosphere. Their apprehension is that unless he is forthwith removed from the high and responsible position of the Chief Minister of the State, the people of the Punjab, who can no longer stand the strain of his misrule, will rise in revolt and the entire machinery of the State will collapse and disintegrate. They point out that even a sizeable part of his own party members cannot tolerate his autocratic conduct and refer to the complaints made by Shri Probodh Chandra and others to the Congress High Command in 1958 and again in 1960 giving lurid details of his maladministration and the vast wrongful gains made by the Kairon tribe. They conclude by saying that the persistent clamour for ending the vicious regime of the Congress Government in the Punjab headed by S. Partap Singh Kairon who has been guilty of every known form of nepotism and corruption has led up to the presentation of the present memorandum

of charges by the Memorialists, who represent the non-Communist opposition parties, to the President of India and has culminated in the constitution of the present Commission of Inquiry. The charges formulated in the memorandum and its enclosure and supported by the affidavits filed on behalf of the Memorialists are formidable and, if true, certainly disclose a state of affairs in the State which is extremely deplorable and call for immediate rectification. That his sons have in many ways exploited his powers, position and prestige, sometimes even to his knowledge or with his connivance cannot be gainsaid and it will be dealt with in detail hereafter.

S. Partap Singh Kairon in his affidavit (CM-89) and in other affidavits has sought to explain the animosity of the Memorialists by saying that in implementing his ten-point programme he naturally incurred the wrath of many people including a few of his own party men, whose vested interests had been prejudicially affected or whose political ambition could not be fulfilled. He asserts that he could not tolerate any compromise on the issue of nationalism which he holds to be the sheet anchor for the safety of the nation. He has narrated his version of the history of the public life of most of the signatories to the memorandum and also some of the deponents who have affirmed affidavits against him and has endeavoured to explain how each of them has been labouring under a sense of frustration, jealousy and grievance for non-fulfilment of his personal advancement and why they have joined hands with each other to tarnish his reputation—social and political—by sheer vindictive vilification to injure his sons' businesses built up by their hard and honest labours and eventually to pull him down from the high office where his countrymen have placed him. He refers to the confidence and support he enjoys of the people of the Punjab in general and of the members of the Punjab Legislature in particular as testified by their vote of confidence in him as their leader. According to him the agitation against his honesty and integrity has been worked up by a handful of determined, disgruntled and frustrated persons who have nothing in common except a sense of personal grudge, hatred and vendetta against him and who care nothing for the well-being of the State they live in. His learned Counsel points out that there is no love lost between him and the Memorialists and it is openly and frankly admitted by Maulvi Abdul Ghani Dar in his aforesaid affidavit (R-41).

(ii) Impact of the political feud on the assessment of the evidence

The foregoing summary of the rival allegations and contentions will, it is hoped, disclose the strained attitude of the two contending parties and the delicate problems they pose before the Commission. It is against the background of this open and undisguised spirit of hatred, ridicule and contempt that the Commission has to evaluate the evidence appearing in the numerous affidavits filed before it. The Commission's attention has been pointedly drawn to various defects and infirmities in the verifications at the foot of the different affidavits filed by or on behalf of the Memorialists which are said to be indicative of the utter uselessness thereof. It is not necessary to detail them minutely in the Report. Broadly speaking the infor-

mation is said to have been derived from the following categories of sources:—

- (i) From living persons who do not swear affidavits or when they have sworn have not said that they supplied the information;
- (ii) from persons who are dead and cannot disprove them;
- (iii) from the Chief Minister or his wife or sons who could not have given such self-condemning information;
- (iv) from sources that cannot ordinarily be accessible, e.g., Defence Ministry and other Ministries or banks;
- (v) from records which cannot obviously give such information.

In short the allegations in the affidavits filed by the Memorialists are not based on the personal knowledge of the deponents but are said to be based on files of Government or Municipalities which could not possibly and obviously give such information. It has been very strongly urged by learned Counsel for S. Partap Singh Kairon that no reliance should be placed on them at all. The Commission is not of opinion that there is not some force in this contention. The Commission is not suggesting that the technical rules of evidence or procedure must govern an inquiry under the Act but it must bear in mind that the principles enshrined in the Evidence Act and the Code of Civil Procedure are based on sound good sense and are calculated to protect the just interests of parties who may be subjected to an inquiry. The Commission, therefore, feels that, in the circumstances of this case, it will not be prudent to accept and rely on the allegations in the affidavits unless they are supported and corroborated by documentary evidence or by the pressing probabilities of the case.

With these preliminary observation, the Commission now proceeds to consider the evidence laid before it by numerous and in many cases voluminous affidavits in the light of the arguments advanced by learned Counsel appearing in the Inquiry.

PART IV
GENERAL DISCUSSION ON THE CHARGES

CHAPTER VI

GENERAL DISCUSSION ON THE MEMORANDUM OF CHARGES

(i) The Meaning and Import of the Memorandum

Taking his stand on this interpretation of the Notification set forth in an earlier part of this Report, learned Counsel for S. Partap Singh Kairon takes up the memorandum and on a minute examination of the different clauses thereof contends that most of the charges are levelled against S. Surinder Singh Kairon. He refers to Charge 1 which relates to "the known assets of S. Surinder Singh Kairon and family" which, he submits, can only refer to S. Surinder Singh Kairon and his family. He draws the attention of the Commission to the paragraph in continuation of item No. 32 of Charge 1 where reference is made to "the organised loot of wealth through force, coercion, intimidation and unfair means by a person who before his father's rise to power could not command even monthly emoluments of Rs. 200/-". There can be no doubt that that person is S. Surinder Singh Kairon. In the premises learned Counsel submits that the Commission has no jurisdiction, power or authority to inquire into or report on any of those charges in the memorandum, except Charge 21 which raises a question of victimisation, and the charges in Annexure I to the memorandum which relate to other cases of "corruption, corrupt behaviour and nepotism." He contends that as these allegations constitute charges of corruption, the Commission must give its decision following the recognised legal principles applicable to corruption and according to natural justice. The Commission, it is pointed out, has not been constituted to consider whether the Chief Minister or the officers of the Government, e.g. Secretaries, Deputy Secretaries, Superintendents and others are inefficient or to enter upon a discussion of any abstract problem of political philosophy as to the responsibilities of a Minister or a Chief Minister or the acts of his subordinates or when and in what circumstances a Minister or a Chief Minister should resign or be removed or how far the rules of obligation or rules of standard observed by Ministers of advanced democracies, in England, Canada or in the United States of America can be expected to be adopted or observed in this country which, as a democracy, is yet in the stage of its infancy. Learned Counsel for S. Partap Singh Kairon maintains that this Commission has been constituted only to decide the specific acts of corruption alleged against S. Partap Singh Kairon in the memorandum referred to above and not to consider the misdeeds or any other wrongful act or conduct of his sons or any other person and that if any one of those acts is unconnected with S. Partap Singh Kairon, no recommendation or finding thereon is expected from or can be given by the Commission. The charges of corruption, he argues, should be examined on well established principles embodied in the Prevention of Corruption Act, 1947, and the judicial decisions thereon. In all acts of corruption, he points out, there must be two ingredients, namely: (a) that the accused person has acted corruptly, and (b) that he has done so with a view to gain pecuniary advantage for himself or any other person. In order to bring home a charge of corruption both these ingredients must, on legal evidence, be found to exist.

Both the foregoing arguments of learned Counsel for S. Partap Singh Kairon appear to the Commission to be founded on an extremely narrow interpretation of the memorandum in question. In paragraph 2 of the memorandum, the Memorialists clearly averred that they were "submitting below their charges against the said Partap Singh Kairon." In other words, they made it clear that all the charges they made were against S. Partap Singh Kairon, in whatever language they might have made it. In paragraph 3 of the memorandum the charges placed before the President are set out. Charge 1 contains a list of properties and businesses said to have been acquired during the last 5/6 years. Shortly put, the charge is thus formulated: Immediately before S. Partap Singh Kairon became the Chief Minister "*he and his family*" owned just a few bighas of land and the condition of "*the family*" was such that his wife (Smt. Ram Kaur) and his son (S. Surinder Singh Kairon) had to seek employment. In contrast to that, the known assets of S. Surinder Singh Kairon *and family* amassed during the past 5/6 years amounting to a few millions of rupees are set out in a list of such alleged acquisitions. The reference in the beginning of this charge is to S. Partap Singh Kairon "*and his family*". The expression "*the family*" in the middle of the charge is plainly to the same family that is S. Partap Singh Kairon's family. There is no reason to hold, in such circumstances, that the words "*and family*" after the name of S. Surinder Singh Kairon refers to a different family, i.e., the smaller family of S. Surinder Singh Kairon. If that were meant then one would have expected that the reference would be to "S. Surinder Singh Kairon *and his family*". That was not done. On the contrary the entire trend of the charge is that before S. Partap Singh Kairon became the Chief Minister he and his family were in a poor condition and now his son *and family*, i.e., the self-same family, have amassed fabulous wealth. From the fact that a comparison was being sought to be made of the wealth possessed at two different times it may naturally be concluded that the entity whose possessions were being compared was identical. The point of comparison of wealth would lose its force if the possessor of wealth were different. It must be remembered that the memorandum is not a Statute, deed or other legal document which must be construed strictly. It is neither more nor less than a catalogue of grievances against S. Partap Singh Kairon and should, therefore, be read and understood as an informal document in that light. The language employed in this inartistic document must be construed according to its apparent tenor and intention. Some observations apply to the use of the words "*and family*" in the paragraph in continuation of item 32 of Charge 1 and in Charge 19. Charges 3, 11, 12, 13, 14, 15, 16 and 21 expressly refer to S. Partap Singh Kairon by name and Charges 4, 5, 6, 7, 8, 9 and 10 are unmistakably directed to his Government. "Personal influence" referred to in Charge 20 cannot but be a reference to the personal influence of S. Partap Singh Kairon. Charge 17 begins with a reference to "Mrs. Partap Singh Kairon" but ends with "Kairon's family". Only Charges 2 and 18 do not name S. Partap Singh Kairon but refer to his son S. Surinder Singh Kairon. The inclusion of these Charges in the list of misdeeds and blatant acts of corruption and gross misrule of S. Partap Singh Kairon clearly indicates that they have been so included because the acts therein complained of were, according to the Memorialists, referable to and were made possible by the

misdeeds, blatant acts of corruption and gross misrule of S. Partap Singh Kairon. The Commission, therefore, holds that all the charges enumerated under different heads in the memorandum must be treated as charges against S. Partap Singh Kairon. Whether in any given case the evidence before the Commission establishes the existence of the necessary nexus or *vinculum juris* between the act or conduct complained of and S. Partap Singh Kairon is an entirely different matter and will depend on a consideration of the facts and the probabilities of the surrounding circumstances.

The second contention of the learned Counsel for S. Partap Singh Kairon that all the charges must be taken as founded on corruption within the meaning of the Prevention of Corruption Act 1947 also appears to the Commission to be equally untenable. In construing the memorandum it has to be borne in mind that it is not an indictment framed by the Court in a criminal trial. It is, in substance, a catalogue of the grievances of the Memorialists. The opening words of the memorandum in so many words say that "being highly aggrieved by the misdeeds and blatant acts of corruption and gross misrule of the present Punjab Chief Minister . . . the representatives of the non-Communist opposition parties approach the President of India with this Memorandum. . . ." Their grievances arise out of (i) the misdeeds, (ii) the blatant acts of corruption, and (iii) the gross misrule of S. Partap Singh Kairon. It is, therefore, not a technical charge of corruption alone that has been raised. It also includes charges of misdeeds and gross misrule of S. Partap Singh Kairon. Further, the Commission is not persuaded to think that these politicians in using the words "blatant acts of corruption" had in their mind the technical legal variety of corruption which alone attracts the operation of the Prevention of Corruption Act 1947. The Commission finds nothing on the face of the memorandum to indicate that the Memorialists did not use the word "corruption" in its ordinary etymological meaning signifying rotten, putrid or impure act or conduct which they, rightly or wrongly, imputed to S. Partap Singh Kairon. The Commission will, therefore, have to examine each charge and ascertain the kind of misdeed, corruption or misrule that the Memorialists seek to impute on S. Partap Singh Kairon and whether the evidence before the Commission establish that kind of misdeed, corruption or misrule on the part of S. Partap Singh Kairon.

(ii) Charge of acquisition of wealth

Charge sheets have twice been presented against S. Partap Singh Kairon to the Congress High Command by one or more members of the Congress Party in the Punjab Legislature to which reference has been made in the course of this Inquiry. In both of them definite charges of acquisition of properties by the abuse of power by S. Partap Singh Kairon as Chief Minister had been made. In the first Charge Sheet dated May 4, 1958 presented to Shri U. N. Dhebar, the then Congress President by Shri Prabodh Chandra reference was made to the Kairon Brick Kiln Cooperative Society and Amritsar Cold Storage as really *a family concern* of S. Partap Singh Kairon though outwardly organised as a cooperative concern.

The second Charge Sheet of Shri Prabodh Chandra which was presented by him on August 14, 1960 to Shri N. Sanjeeva Reddy, the then Congress President, contained "Charge 11—Acquisitions of the Kairon Family" and a list of 16 properties and businesses was set out and it was contended that in law the onus was on S. Partap Singh Kairon to prove the bona fide circumstances through which such large acquisitions were made, in so short a time by persons ill equipped to make such acquisitions.

The first charge in the present memorandum presented to the President on July 13, 1963 runs thus:

"(1) That immediately before Sardar Partap Singh became the Chief Minister, he and his family owned just a few bighas of land in village Kairon and it is no disparagement, but a reiteration of facts to say that the economic condition of the family was such that his wife Sharimati Ram Kaur and his son, Surinder Singh, had to seek employment as a school teacher and lecturer respectively. That, in contrast the known assets of Surinder Singh Kairon and family amassed during the past 5-6 years and amounting to not lakhs, but a few millions of rupees are as follows."

Here follows a list of 32 items of properties and businesses. The meaning and import of this charge in the present memorandum has already been explained in the preceding section. It should be noted that in all the three charge-sheets the charge of acquisition of wealth has always been formulated as acquisition by or for the benefit of the Kairon family.

(iii) Introduction of the case of Joint Hindu Family

In support of Charge 1 which relates to acquisition of properties the Memorialists have filed three affidavits, namely one affirmed by Maulvi Abdul Ghani Dar (M-6), a joint affidavit of Shri Devi Lal, Lala Jagat Narain, Vir Yagya Dutt, Prof. Sher Singh, Chaudhury Lahori Ram Bali and Babu Bachan Singh (M-7) and the third affirmed by Master Tara Singh (M-25). The two last mentioned affidavits (M-7 and M-25) are replicas of the affidavit of Maulvi Abdul Ghani Dar without the annexures thereto. In paragraph 2 of these three affidavits it is alleged for the first time that S. Partap Singh Kairon, his mother, brother (S. Jaswant Singh Kairon) and the sons of the two brothers constitute an "undivided Hindu Joint Family" and in paragraph 6 of these affidavits it is said "That now this family is possessed of the following known assets:—" Then follows a list of 19 items of properties and businesses said to be possessed by "this family" at the date of this affidavit, i.e. December 7, 1963. The words "this family" in paragraph 6 clearly means the "undivided Hindu joint family" mentioned in paragraph 2. The point to be specially noted is that in these affidavits the Memorialists have, for the first time, introduced the new case of the Kairon family being a joint Hindu family consisting of the two brothers, their mother and their respective sons. Learned Counsel for S. Partap Singh Kairon has strenuously urged, not without considerable justification and force, that the introduction of this new

case was made deliberately for a set purpose and that that purpose was this, namely that if the Kairon family was a joint Hindu family governed by the Hindu Law of coparcenary and the properties and businesses were acquired by or for the benefit of the said joint Hindu family then S. Partap Singh Kairon would *ipso facto* have a share in those properties and businesses and that then his known source of income, which was only his salary as the Chief Minister, would at once appear to be wholly disproportionate to the value of the properties and businesses so acquired and consequently a presumption would arise against him under Section 5(3) of the Prevention of Corruption Act 1947, which he would be required to rebut. It is certainly a new case and it is necessary to scrutinise the evidence with care and caution.

(iv) Is Kairon family a joint Hindu family governed by Hindu Law?

The relevant paragraphs in the affidavit of Maulvi Abdul Ghani Dar (M-6) have already been referred to. Paragraph 2, which is important for the purposes of the present discussion, has been verified in a curious way. What is clear from the verification is that the deponent has no personal knowledge of the matter. His statements are based entirely on information derived from certain records therein specified and from two living persons namely Shri Harbhajan Singh, Chairman of the Praja Socialist Party, Punjab, and Shri Sajjan Singh Margindpuri. Shri Sajjan Singh Margindpuri who is described by the deponent as ex-Parliamentary Secretary, Punjab, and is stated to be a confirmed enemy by S. Partap Singh Kairon, has not made any statement on oath that the Kairon family is a joint Hindu family or that he gave any such information to Maulvi Abdul Ghani Dar. It is now common knowledge that there is no love lost between S. Harbhajan Singh and S. Partap Singh Kairon whose son, S. Surinder Singh Kairon, prosecuted S. Harbhajan Singh as herein before stated. S. Harbhajan Singh has filed an affidavit (P-19) as a member of the public. He has been taking a keen interest in this inquiry and brought his Counsel from the very first sitting of the Commission. He does not say that he gave any information to Maulvi Abdul Ghani Dar or any body else about the status of the Kairon family. Paragraph 15 of his affidavit is material but even in this paragraph he does not say that S. Partap Singh Kairon, his brother and their respective sons and mother constitute a *joint Hindu family*. All that he says is that they form a joint family. This statement, again, is not his personal knowledge but is verified as true to his information received and believed to be true from the records of the case *Mr. Surinder Singh Kairon versus Harbhajan Singh*. The only relevant information on the question under debate is the answers given by S. Surinder Singh Kairon in cross-examination in that case, namely—

“My father and my uncle Sardar Jaswant Singh, along with the children and mother are joint in mess and residence. Their properties are also joint. Their properties are also jointly managed. We own about hundred or hundred and twenty-five bighas of land canal and tubewell irrigated situated in District Amritsar. We are also running two brick-kilns.”

Even in this deposition S. Surinder Singh Kairon does not appear to have been pointedly asked whether the Kairon family was a joint Hindu family and he did not say so. At the date of this cross-examination S. Partap Singh Kairon was the Chief Minister and as such his ordinary place of residence was at Chandigarh. His brother S. Jaswant Singh and his mother Smt. Har Kaur were ordinarily residing in village Kairon. It is not disputed that Mukut House, Amritsar, had been acquired in 1955 and S. Surinder Singh Kairon was residing there with his wife Smt. Kusum Lata. In these circumstances, it would not literally be correct for S. Surinder Singh Kairon to say that his father and uncle along with their children and mother were joint in mess and residence unless he meant that whenever any one of them went to the place of residence of any other of them he messed and resided with that other during the stay. When S. Surinder Singh Kairon says: "We own about hundred or hundred and twenty-five bighas of land of canal and tube-well irrigated, situated in District Amritsar" he is unmistakably referring to the ancestral land that was of his grand father S. Nihal Singh. It may not be unreasonable to hold that when in answer to two previous questions he said: "Their properties are also joint. Their properties are are also jointly managed," he was referring to those ancestral properties. His evidence militates against the theory of the properties and businesses being assets of the alleged joint Hindu family when lower down he asserted that his father "has no time for other private business. He is not running any business," or that his uncle "Sardar Jaswant Singh Kairon, to my knowledge, does not carry any other business excepting the brick kilns." It appears to the Commission, therefore, that it will not be right or safe to read too much into statements of dubious imports made by S. Surinder Singh Kairon under stress of cross-examination in a hotly contested criminal case.

As already stated, Maulvi Abdul Ghani Dar in his affidavit (M-6) has verified his statements in paragraph 2 thereof as also based on information derived from records. It is not quite intelligible what information on this point could the records other than the records of the Patwaris of village Kairon, Tehsil Tarn Taran, District Amritsar, give to the deponent. No copy or extract from any or those other records has been annexed to this or any other affidavit filed on behalf of the Memorialists. The records of the Patwaris of village Kairon have also been mentioned by S. Harbhajan Singh, Chairman Praja Socialist Party, Punjab, in the verification of paragraphs 16 and 17 of his affidavit (P-19) to be the source of the information on which his allegations in those two paragraphs had been based. It will be interesting to note what information S. Harbhajan Singh derived from those revenue records. In paragraphs 16 and 17 S. Harbhajan Singh states:

"16. That the agricultural land which stood in the names of the family members in village Kairon in the year 1958 was as under:—

- (1) Mr. Partap Singh about 107 Kanals 6 Marlas.
- (2) Shrimati Ram Kaur, wife of Partap Singh 4 Kanals 3 Marlas.

(3) Nirman Kaur, wife of Jaswant Singh about 92 Kanals.

(4) Shri Jaswant Singh, 3 Kanals 17 Marlas.

17. That Mr. Partap Singh and Shrimati Nirman Kaur jointly purchased 55 Kanals 17 Marlas of land in village Kairon from Sarvashri Autar Singh, Sardul Singh, Hardial Singh, Kartar Singh, sons of Hari Singh in the year 1950-51. This land was subject to a previous mortgage."

The unequal holdings of S. Partap Singh Kairon and his brother S. Jaswant Singh Kairon, and of their respective wives, joint acquisition of land by S. Partap Singh Kairon, and his brother's wife do not appear to be consonant with the existence of a joint Hindu family as now alleged by the Memorialists.

Like S. Harbhajan Singh who has filed affidavit (P-19) several other members of the public have put in affidavits in support of the charges. It is not necessary for the Commission to go to the length of saying, as has been done by learned Counsel for S. Partap Singh Kairon, that all these deponents have been set up by the Memorialists. It will suffice to refer very briefly to those affidavits with a view to examine what bearing they have on the question in issue. Thus S. Nasib Singh in paragraphs 1 and 6 of his affidavit (P-29) verified as true to his knowledge categorically asserts that the Capital Cinema of Patiala is owned by S. Surinder Singh Kairon. S. Jaswant Singh, son of S. Sunder Singh, who claims to be the Assistant Manager of Rajindra Deva Orphanage says in paragraphs 28 and 31 of his affidavit (P-3) that S. Surinder Singh is the owner of the Capital Cinema, Patiala. Likewise, S. Indar Singh (P-5) and S. Joginder Singh (P-27) mention only the name of S. Gurinder Singh as the owner of Nandan Cinema. Shri Parkash Chand (P-24) refers to S. Surinder Singh as the real proprietor or one of the proprietors of the four cinemas named by him. In paragraphs 10, 11, 12 and 13 of his affidavit (P-25) Shri Ram Kishan Rakesh avers that S. Surinder Singh Kairon is the owner of Neelam, Chandigarh, Elite Cinema, Hissar, Neelam Cinema Faridabad, and Capital Cinema, Patiala, respectively. The naming of S. Surinder Singh Kairon alone or S. Gurinder Singh Kairon alone as the real owner of the different cinemas quite clearly runs counter to the case of those properties being assets of any alleged joint Hindu family.

On the other side are the several affidavits filed on behalf of S. Partap Singh Kairon categorically denying the existence of the alleged joint Hindu family. In his counter-affidavit (CM-89) S. Partap Singh Kairon affirms as true to his knowledge:

"In reference to para 2, I deny that there was or is an UNDIVIDED JOINT HINDU FAMILY with my brother and my sons. I state that I am governed by customary law being a Jat Agriculturist and amongst Jat Agriculturists, there are no Joint Hindu Families. I further state that I and my brother owned in equal shares our ancestral land, including a tube-well at Kairon, as well as an ancestral house and a brick-kiln in the same village. My brother has his own business and is entirely separate from

me. My son, Surinder Singh is aged 31 and Gurinder Singh is aged 29, and they carry on their business on their own and independently and I have no concern whatsoever with their earnings or assets and liabilities or the conduct of their business. Regarding my assets as well as of my wife, I filed a declaration with the Congress High Command (Annexure I)."

In paragraph 2 of his counter-affidavit (CM-88) S. Jaswant Singh awears as true to his knowledge:

"That I am a Jat agriculturist of Amritsar district. I am governed by the customary law and do not form a joint Hindu undivided family with my brother Sardar Partap Singh Kairon."

S. Surinder Singh Kairon and S. Gurinder Singh Kairon in their respective affidavits (CM-46, CM-1 and CP-2) deny the existence of any joint Hindu family and claim that they have their separate businesses. All the affirmations in the counter-affidavits quoted above have been verified as true to the knowledge of the respective deponents.

Before concluding its references to the affidavits filed on either side, the Commission must take note of the two affidavits in reply filed by Shri Jagat Narain (R-24) and Maulvi Abdul Ghani Dar (R-26). A little scrutiny will reveal that these two affidavits are to some extent mutually destructive. At the end of paragraph 3 of his affidavit in reply (R-24) Shri Jagat Narain refers to S. Surinder Singh Kairon by name as the owner of Elite Cinema, Hissar. In paragraph 4(ix) he refers to the Capital Construction Company and the Halwara Contracts as assets of S. Surinder Singh Kairon and blames the latter for not having disclosed it. Shri Jagat Narain concludes his affidavit in reply (R-24) by saying that S. Surinder Singh Kairon has assets vastly disproportionate to his own claimed sources of income. The attribution of ownership of properties and businesses to S. Surinder Singh Kairon alone is *ex facie* destructive of the case of the self same properties being the assets of any alleged joint Hindu family. Maulvi Abdul Ghani Dar, however, in his affidavit in reply (R-26) at paragraph 1 strongly maintains that "the family of Sarvashri Partap Singh Kairon and Jaswant Singh Kairon is an undivided joint Hindu family". Turning to the verification it will be found that the contents of paragraph 1 have been "verified as true from information received and believed to be true", without disclosing any source of such information. An averment so verified cannot possibly be taken into consideration as evidence on which the Commission can act.

There is no dispute that S. Partap Singh Kairon and his brother S. Jaswant Singh Kairon belong to a family of Jat agriculturists of Tehsil Tarn Taran in the district of Amritsar. It is quite clear from authoritative text books that the Jats form essentially an agricultural tribe and are almost invariably governed by customary laws recorded in the relevant Riwaz-i-Am of the Tarn Taran Tehsil which was prepared after consulting, *inter alia*, the Jats of the Dhillon Caste to which this family belongs. It cannot be doubted, on the authorities as they now stand, that the Jat agriculturists are presumed

to be governed by their customary law and not indigenous Hindu law. There is also clear authority that such a family does not shed their customary law only because some of its members are well educated and take to service or business to supplement their income.

On a consideration of the circumstances in which this case of a joint Hindu family has been introduced for the first time after a lapse of five years after the controversy was started by Shri Prabodh Chandra who submitted his first charge-sheet in May 1958, and on a critical examination of the evidence appearing on the affidavits filed before it and taking into account the total absence of any evidence of the Kairon family having shed or abandoned their customary law and also of the absence of any evidence showing any of these properties and businesses having been acquired out of the nucleus of any joint family fund or of the participation of S. Partap Singh Kairon in the management of any of them or of his sharing any portion of the profits therefrom, the Commission has no hesitation in coming to the conclusion that this case of Kairon family being a joint Hindu family is purely an after thought and not substantiated on facts.

(v) Were these properties or any of them acquired jointly?

The fact that the Kairon family did not constitute a joint Hindu family but was and is governed by their customary laws does not necessarily militate against the idea of the members acquiring properties jointly. It is admitted that S. Nihal Singh died leaving him surviving three sons, S. Partap Singh Kairon, S. Jaswant Singh Kairon and S. Ishar Singh Kairon (since deceased) and that he left some landed properties in Kairon. It is also not disputed that such ancestral properties devolved on his sons and are now held jointly by S. Partap Singh Kairon and S. Jaswant Singh Kairon. If they can hold ancestral properties jointly there can be no obstacle in the way of their acquiring fresh properties jointly. Here again the conclusion must depend on the evidence before the Commission. The same comments as have been made to refute the theory of acquisition of wealth by or for the benefit of the alleged joint Hindu family governed by Hindu Law will apply with equal force to the case of joint acquisition by the Kairon family governed by customary law. The attribution of ownership of many of these properties to S. Surinder Singh Kairon or S. Gurinder Singh Kairon individually is clearly destructive of the case of joint acquisition. Further, there is no evidence of any of these properties having been acquired by or out of any joint fund or with the joint contribution of capital by the members or of participation of S. Partap Singh Kairon or his brother S. Jaswant Singh Kairon in the management of any of these properties or businesses or of the sharing of the profits thereof. The Commission is, therefore, not persuaded to hold that these properties or businesses can be treated as items of acquisition made by the members of the family jointly or as tenants in common.

(vi) Were the properties or businesses acquired by the misuse of the influence and power of S. Partap Singh Kairon?

Assuming that the Kairon family was not a joint Hindu family governed by the Hindu Law and that the properties or businesses

in question had not been acquired by such alleged joint Hindu family or jointly by the members of the Kairon family governed by customary law and that the same had been acquired by S. Surinder Singh Kairon or his wife Smt. Kusum Lata or S. Gurinder Singh Kairon individually and that S. Partap Singh Kairon or his brother S. Jaswant Singh Kairon or any other member of the family had no share or beneficial interest therein, it will still be open to the Memorialists to show, if they can, that the acquisition of these properties by the sons or relatives was the result of the misuse of the influence and power of S. Partap Singh Kairon by himself or by his sons and relatives. The following questions will then arise—

- (a) Did S. Partap Singh Kairon misuse his powers as the Chief Minister of the Punjab to help his sons or relatives to acquire any of the properties or businesses in violation of law or rules of established procedure?
- (b) Did any of the Ministers or the Government servants at the bidding, direct or indirect, of S. Partap Singh Kairon show undue favour to his sons or relatives and help them to acquire properties or businesses in violation of law or rule of established procedure?
- (c) Had S. Partap Singh Kairon any reason to know or suspect:
 - (i) that his sons or relatives were exploiting his influence and power for dishonestly acquiring properties or businesses in violation of law or rule of established procedure; or
 - (ii) that any Minister or Government servant was, out of fear of incurring the displeasure of S. Partap Singh Kairon or out of hope for future reward, dishonestly showing favours to his sons or relatives and helping them to acquire properties or businesses in violation of law or rule of established procedure,

and in either case did he connive at such conduct or fail to take any step to prevent the recurrence of such conduct?

Learned Counsel for S. Partap Singh Kairon readily concedes that if either of the first two questions (a) or (b) is, on legally admissible evidence, held to be satisfactorily established in respect of any of the charges, S. Partap Singh Kairon would have no answer to the said charge and the Memorialists must succeed thereon. Learned Counsel, however, strenuously joins issue on the third question (c) which will be discussed later.

With the foregoing observations the Commission proceeds to deal with the specific charges and in dealing with Charge 1 the Commission will deal with the items of properties in the chronological order of their acquisition. In order to appreciate the charges it will be necessary to have a clear notion of the relationship of the persons whose names will crop up frequently and for that purpose two geneological tables are set out hereunder.

TABLE I

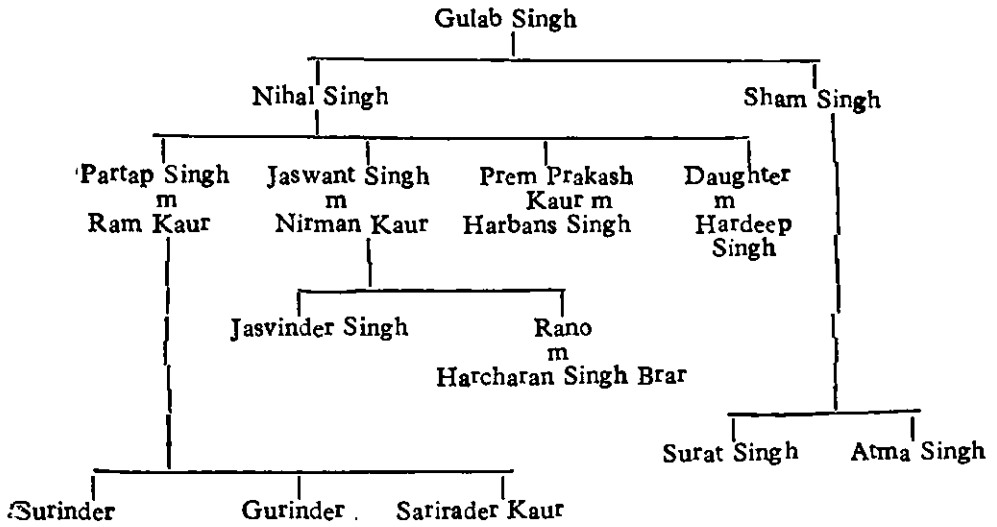
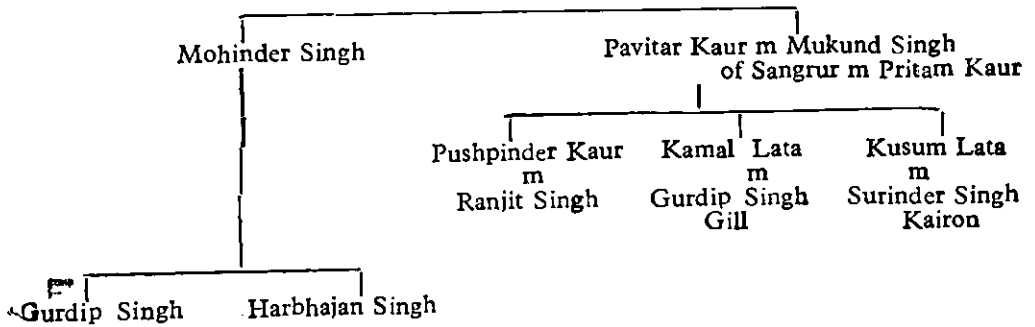


TABLE II



PART V
CHARGE I
ACQUISITION OF WEALTH.

CHAPTER VII
AMRITSAR COOPERATIVE COLD STORE LTD.

(i) The charge as framed

The fifth item of alleged acquisitions by the Kairon family grouped under Charge 1 of the memorandum is described as "Cold Storage at Amritsar Rs. 2,00,000/-." It conveys the impression that the subject matter of this charge is the acquisition of an item of immovable property of the value of Rs. 2,00,000/- as a result of the corruption of the Chief Minister S. Partap Singh Kairon. It is said that, in point of time, it is the first acquisition of the Kairon family. This charge figures in both the charge-sheets submitted by Shri Probodh Chandra to the President of India in 1958 and 1960. There the Amritsar Cold Storage is said to be really a Kairon family concern though outwardly organised as a Cooperative concern. This is sought to be supported by showing that out of the total capital of Rs. 78,900/- the members of the Kairon family held shares of the value of Rs. 60,000/-.

(ii) Affidavits for and against the charge

In support of the charge the Memorialists have filed three affidavits, one affirmed by Maulvi Abdul Ghani Dar (M-6), the second by Shri Devi Lal and five other Memorialists jointly (M-7) and the third by Master Tara Singh (M-25). As against these affidavits six affidavits have been filed on behalf of S. Partap Singh Kairon affirmed respectively by Shri V. P. Johar, Registrar, Cooperative Societies, Punjab (CM-11), S. Amar Singh, Chairman, The Punjab State Cooperative Bank Ltd. (CM-12), Dr. Amrik Singh, Cheema, Director of Agriculture, Punjab (CM-74), S. Gurinder Singh (CM-1), S. Surinder Singh Kairon (CM-46) and S. Partap Singh Kairon (CM-89). In reply the Memorialists have filed an affidavit affirmed by Maulvi Abdul Ghani Dar (R-39). S. Harbhajan Singh, Chairman, Praja Socialist Party, Punjab has filed an affidavit (P-19) as a member of the public which has been countered by two affidavits affirmed respectively by S. Surinder Singh Kairon (CP-10) and by Shri V. P. Johar annexed to the affidavit of S. Partap Singh Kairon (CP-203).

(iii) Case which the Memorialists presented before the Commission at the initial stage

The three affidavits which were presented before the Commission are identical in language except that the several annexures to the affidavit of Maulvi Abdul Ghani Dar (M-6) are not annexed to the affidavits of Shri Devi Lal and others (M-7) and of Master Tara Singh (M-25). In paragraph 6 of each of those three affidavits were set out the particulars of what have been described as the known assets of the Kairon family. Item (iii) of those particulars has been described as "Amritsar Cooperative Cold Storage, Amritsar, valued

at Rs. 3,00,000/-". Against this item there is the following note— "A family acquisition under the garb of a Cooperative Society." The charge is further particularised in Annexure 'A' to the affidavit of Maulvi Abdul Ghani Dar (M-6) which is not attached to the other two affidavits. That Annexure 'A' which consists of nine paragraphs may now be summarised: The Amritsar Cold Storage is in fact a family concern of S. Partap Singh Kairon. The Society has been given large loans though it does not comprise actual growers. The capital of the Society was Rs. 78,900/- out of which Rs. 60,000/- stood in the names of the members of Kairon family. The Audit Report dated May 6, 1957 states that it consists of a group of close relatives of the Chief Minister none of whom is interested in storing his products, that it is a sort of private limited company with 12 members including five Cooperative Societies, that he had advised enrolment of growers as members but that the present clique was not prepared to do so, that S. Surinder Singh Kairon as Managing Director was drawing a salary of Rs. 500/- which was not the case in other Stores. The deponent then states that the Society is not maintaining proper accounts to conceal the true state of affairs. Vast loans were received on account of the influence of the Chief Minister. To maintain the control of the family over the Society the Managing Directorship was given to S. Surinder Singh Kairon and then to S. Gurinder Singh. In the construction of the Cold Storage and collecting materials S. Partap Singh Kairon allowed his sons to make full use of Government machinery including the services of one S. Sadhu Singh who was often contacted by S. Partap Singh Kairon on telephone from his residence at Chandigarh. This Sadhu Singh applied for permit for iron for the Cold Storage on March 5, 1956. On the same day (March 5, 1956) by official telegram order was sent for reserving 15 tons of angle iron and plates. This was confirmed by letter No. 1182 dated March 5, 1956 carried personally by an official in which instructions were given that no other permits be entertained until S. Partap Singh Kairon's son had sorted out his requirements. The Annexure concludes with the remark that there was misuse of power in the issuing of permits and also in the grant and repayment of the loans by S. Partap Singh Kairon and other members of the family.

It will be noticed that the allegations in Annexure 'A' have not been separately verified at all. The contents of paragraph 10 and Annexure 'A' have been verified as "true to my information as stated in the verification of the various and respective items of para 6 above and believed to be true." Turning to paragraph 6(iii) one finds that the contents thereof have been verified as true to his information based on the several records mentioned therein. Nothing has been stated on the basis of the personal knowledge of any of these deponents. The Commission's comments on the perfunctory, unsatisfactory and irregular verification have already been recorded and need not be repeated here. Suffice it to say that in view of this kind of verification in the supporting affidavits and the antagonism of the Memorialists towards S. Partap Singh Kairon who reciprocates the same feeling towards the Memorialists, it will not be safe to rely on their affidavits unless the allegations therein are supported by other dependable evidence and record.

This case was met by the counter-affidavits noted in the preceding section. After those counter-affidavits had been filed the Memorialists had inspection of the Government files referred to in those counter-affidavits. Having got inspection of the files and taking copious notes, the Memorialists filed a rejoinder affirmed by Maulvi Abdul Ghani Dar (R-39). How the case has been developed and presented in arguments before the Commission will appear from discussion of those arguments.

(iv) Facts emerging from the affidavits and the record

It is abundantly clear on the record that at all material times the Punjab Government was enthusiastically encouraging the formation of cooperative ventures as a means to promote the progress and prosperity of the country. On June 21, 1954 an application for registration from 15 members consisting of 12 individuals and three cooperative societies was received by the Assistant Registrar, Cooperative Societies, Amritsar. On June 23, 1954 the Amritsar Cooperative Cold Store Ltd., Amritsar was registered as a Society. It will hereinafter be referred to as "the Society". The names, description, age and address of the 15 members are set out in Annexure 'A' to the affidavit of Shri V. P. Johar, the Registrar, Cooperative Societies, Punjab (CM-11). As already stated, there were, amongst the members, three Cooperative Societies and 12 individual members whose names need not be set out for it is not alleged that any of them was in any way related to S. Partap Singh Kairon. Col. Narinjan Singh Gill, who was the moving spirit behind the Society, was its first President. In August 1954 the Government took the policy decision that the Government would supply to Cold Stores machinery, insulation and other building materials, e.g. bricks, slack coal, cement, iron etc. instead of advancing cash loan. The Society did not make much headway and when Col. Narinjan Singh Gill went abroad on or about October 30 1954 on an ambassadorial assignment the Society fell into a moribund state. It appears that in December 1954 a new party, being a leading zamindar, was willing to join the Society but he later on changed his mind and the proposal did not materialise. In February 1955 a second party, the owner of an ice factory, offered to come in but he also backed out. The number of members dwindled down eight out of the 15 old members having gone out. It was at this juncture that on or about January 6, 1956 twelve new members named in Annexure 'B' to Shri V. P. Johar's affidavit (CM-11) joined the Society. Some of these 12 new members including S. Surinder Singh, Smt. Ram Kaur, S. Atma Singh who were of the Kairon family and S. Karan Singh and S. Mohinder Singh went out from time to time. The present membership has gone up to 29 and their names and holdings are set out in Annexure 'C' to Shri V. P. Johar's affidavit (CM-11). The Punjab Government on January 18, 1956 addressed a letter to the Registrar, Cooperative Societies, emphasising the urgent need for a Cooperative Store at Amritsar to help the potato growers of the district and advised him to approach and enlist the support of leading men of the locality named therein and called for a report. At this date S. Partap Singh Kairon was not the Chief Minister of the Punjab. He took the oath of office on or about January 22, 1956. On or about March 5, 1956 the maximum credit limit of this Society was fixed at Rs. 2 lacs

which was, on or about December 8, 1960, enhanced to Rs. 4 lacs. Shri V. P. Johar denies that proper accounts are not maintained by the Society and refers to the Audit Report dated February 1, 1962 which is the latest report and which says—"The working of the Store has been found satisfactory and accounts were kept up to date in all manners."

(v) Discussion on the points of arguments

Learned Counsel for the Memorialists has taken great pains in placing before the Commission relevant provisions of the Punjab Cooperative Societies Act, 1954 and Rules of 1956 formed thereunder and also the Bye Laws of the Amritsar Cooperative Society Ltd. He has referred the Commission to various notes and correspondence included in the files of which the Memorialists have had inspection and on the basis thereof he has urged seven points which the commission now proceeds to discuss.

The first point argued by learned Counsel for the Memorialists is that the Society is not a genuine cooperative institution but is a family concern of the Chief Minister. It has already been stated that the Society was registered with Col. Narinjan Singh Gill as the President. It was and is a legal entity having a perpetual succession. Share holders may come and shareholders may go without affecting or impairing the identity and the independent existence of the Society. As noted above there are at present 29 members of the Society. Out of them four are themselves Cooperative Societies. As far as can be ascertained from the names about eight members, namely, Nos. 1 to 6, and, possibly 21 and 22, are related to S. Partap Singh Kairon. The remaining 17 members are not related to the Chief Minister. Under Section 18 of the Act each member has only one vote irrespective of the number of shares held by him. Originally a member's holdings could extend to Rs. 25,000/- but under the present Act of 1961 the limit of holdings has been reduced to Rs. 10,000/-. It happens that some members who had joined before had subscribed shares of the value of more than Rs. 10,000/- but had not withdrawn the excess by selling the shares of the excess value. It is, however, clear that such members do not get any dividend or any other benefit for the excess number of shares held by them. It appears that the total share capital of the Society is now Rs. 1,66,200/- divided into 831 shares of Rs. 200/- each and the shares held by the first six members shown in Annexure 'C' to Shri V. P. Johar's affidavit (CM-11) who are admittedly related to S. Partap Singh Kairon are 326 shares of the aggregate value of Rs. 65,200/-. If to this is added the holding of S. Gurdip Singh and S. Harbhajan Singh being Nos. 21 and 22 of that Annexure 'C' who are the cousins of Shrimati Kusum Lata, the wife of S. Surinder Singh Kairon, the total holding of this group will come up to 328 shares of the aggregate value of Rs. 65,600/- only as against the total holdings of 503 shares of the aggregate value of Rs. 1,00,600/-. In the circumstances there is no reason to hold that the Society has become a sort of appendage to the Kairon family. To support the theory that the Society is a family concern it has been pointed out that the members chose S. Surinder Singh Kairon and, after he went

out, S. Gurinder Singh Kairon as the Managing Director. There is no evidence on which it can be held that the remaining 21 members are non-entities or are at the back and call of S. Kurdip Singh or the other members who are related to S. Partap Singh Kairon. It is said that one S. Mohan Singh had, in March 1956, applied for membership of the Society but his application was turned down. Under clause 6 of the Bye Laws of the Society, framed in 1954 when the Kairons were nowhere near the scene, it is for the Managing Committee to admit or not to admit a new member. A Cooperative Society is an institution where a sense of cooperation amongst the members is essential. It is, therefore, understandable if the Managing Committee had refused to admit into the fold some person whom they evidently regarded as undesirable. It is significant that no other similar case, recent or old, has been brought to the notice of the Commission.

The second head of argument was that the Society was deliberately not run on cooperative principles but was utilised for purposes extraneous to the Society, namely, for financing the other business concerns of the Kairon family. S. Amar Singh, Chairman, Punjab State Cooperative Bank Ltd. in his affidavit (CM-12) has given a brief outline of the constitution of the Bank. There are 26 members of the Board of Directors out of which only three are nominees of the State Government. The Executive Committee consists of ten members, namely President, Vice-President and Registrar as ex-officio members and seven members elected by the Board from amongst themselves of whom at least one must be out of the three nominees of the State Government. The Board and the Executive Committee are therefore, to all intents and purposes, composed of independent persons. The Board has delegated its powers to the Executive Committee. Loans are granted on applications from member Societies only recommended by the Cooperative Department to the maximum limit fixed by the Registrar. S. Amar Singh states that on March 24, 1956 the Bank granted a cash credit limit of Rs. 1,50,000 which was at the request of the Registrar raised to Rs. 2,00,000/-. Within that limit loans were advanced by the Bank to the Society on various dates. During the period from March 12, 1956 and October 5, 1956 the Cold Store was under construction and for that purpose loans aggregating to Rs. 1,90,000/- were advanced to the Society as it found in File 17—Cold Storage. From the side of the Memorialists no complaint has been made that any portion of these loans had been misused or diverted to a purpose extraneous to the legitimate purposes of the Society. Shri Amar Singh states that on February 5, 1961 another loan of Rs. 2 lacs was given by the Bank to the Society. This loan is said to be repayable in five-annual instalments. It was granted on the security of the land, buildings and machinery of the Society. S. Gurinder Singh admits in his affidavit (CP-2) that he had on different dates borrowed the total sum of Rs. 2,78,000/- from the Society. It is true that S. Gurinder Singh was paying to the Society interest which was 2 per cent more than the rate of interest that the Society was paying to the Bank and, therefore, the Society was not a loser financially. Nevertheless, if the money was not required for the purposes of the Society it should not have borrowed it at all and in any case it was improper for S. Gurinder Singh, who was the

Managing Director of the Society and in a sense in a judiciary position, to borrow any money from the Society and utilise it for his private purposes. The fact that this loan was shown in the books of the Society and permitted by the Managing Committee may not, strictly, be accepted as a justification for this improper diversion of the funds of the Society. The failure of the Society to pay up the instalments of loans regularly may well have been due to this large sum having become locked up with S. Gurinder Singh. S. Amar Singh says that on November 25, 1963 a sum of Rs. 1,20,000/- besides interest was outstanding against the Society. Learned counsel for S. Partap Singh Kairon has said that the Inspecting Officer of the Reserve Bank for the first time in July 1963 animadverted upon this irregularity and it was also mentioned in the Audit Report for the period ending June 1962 which was made in August 1963. Since then upto December 1963 the amount of loan taken by S. Gurinder Singh has been paid except to the extent of Rs. 70,000/- besides interest. It is said that out of the loan taken by the Society from the Bank about Rs. 78,000/- inclusive of interest will be due in December 1964 and December 1965. That circumstance, however, does not appear to be any justification for S. Gurinder Singh not paying back the sum of Rs. 70,000/- borrowed by him from the Society. After all this is said and done, the Commission does not appreciate how this fact of S. Gurinder Singh's taking loans from the Society for his personal purposes with the knowledge and approval of the Managing Committee can possibly form the subject matter of a charge against his father S. Partap Singh Kairon. There is not an iota of evidence to show that he was a party or privy to this irregularity committed by S. Gurinder Singh. It is ridiculous to suggest that some members of the Kairon family became members of the Society in January 1956 with the object of utilising the Society's funds in or after 1961.

The third point taken by learned Counsel for the Memorialists was that the Society was run in utter disregard of the statutory provisions and no attempt was made by the Cooperative Department to check the irregularities. Shri Probodh Chandra in his two charge-sheets and the Memorialists in their supporting affidavits have referred to an Audit Report of the Assistant Registrar said to have been made on May 6, 1957 but Shri V. P. Johar has said in his affidavit (CM-11) that no such report is on the records of his office. Learned Counsel for the Memorialists said that that report was filed in the case brought by S. Surinder Singh Kairon against S. Harbhajan Singh, Chairman, Praja Socialist Party, Punjab and was now in the Supreme Court of India. The main points of that report have, however, been set out in Annexure 'A' to Maulvi Abdul Ghani Dar's affidavit (M-6). The subsequent Audit Reports are, however, available and have been referred to. It will be seen that the shortcomings pointed out in these reports are minor irregularities to be found in any such Audit Report, e.g., cash in hand sometimes exceeded the fixed limit, cash book was not signed regularly, audit fees were not paid etc. There was a possibility of reduction in the audit fees and accordingly many societies did not pay, but when it was evident that no reduction would be made it was paid up. The other irregularities, although improper, were not of a serious nature to merit the drastic action of winding up and the Cooperative Department cannot be castigated as partisans for not having taken such action.

Further, in the Audit Report of 1959-60 the working of the Society was found satisfactory. In reply to the query in a column in each of the Audit Reports as to whether there had been any breach of the Act, Rules or Bye Laws, the answer invariably was "no". In the Audit Report of May 6, 1957, on which much stress was laid by learned Counsel for the Memorialists, it was said that the clique belonging to the Kairon family declined to admit any grower as a member of the Society. Barring one case of S. Mohan Singh no other instance of the application of any person, grower or otherwise, having been turned down has been brought to the notice of the Commission. In any case, the members of the Society cannot now be stigmatised for any lapse that may have happened on a date prior to May 1957. If any such thing occurred after 1961 the aggrieved person could go up on appeal to the Registrar under Section 68 of the 1961 Act. No such instance has been noticed. The other complaint in that Report dated May 6, 1957 was that a salary of Rs. 500/- was being paid to S. Surinder Singh Kairon. The members are expected to know and are the best judge as to whether they are getting a good return for their money. After S. Surinder Singh Kairon S. Gurinder Singh is getting Rs. 1000/- per month. There is nothing in the Act or Bye-laws against such payment and no other Assistant Registrar has ever taken any exception to such payment in any of the subsequent Audit Reports.

That the Chief Minister actively assisted in the installation of the Cold Storage and permitted his name to be used by the Assistant Registrar to obtain materials for the Society and that the officials of the Cooperative Departments acted as "Lackeys" of the sons of the Chief Minister form the subject matter of the fourth and fifth points pressed by learned Counsel for the Memorialists. It has already been said that the Punjab Government was extremely keen that Cooperative Cold Storages should be set up in rural areas to help the growers of vegetables and that they were prepared to give all possible encouragement to promote the idea of cooperation. Reference has also been made to the policy decision for supplying machinery, building materials, e.g. bricks, cement, iron and the like. A sum of Rs. 2,50,000/- was required to build a Cold Storage. Frantic efforts were made to enable societies to raise a capital of Rs. 50,000/- so as to entitle them to get a loan of Rs. 2 lacs. The efforts failed, to the great disappointment of S. Narinjan Singh Gill who expressed his disappointment in a letter to the Assistant Registrar, Marketing. The State Government still persisted in its efforts by giving all sorts of concession by granting special quotas for slack coal for burning bricks, cement and iron. The Government advised and helped the Societies to get machinery from approved suppliers. This Society placed orders on February 14, 1956 for plants recommended by the Assistant Registrar, Marketing. The price of the machinery was paid by the Government direct to the suppliers and was adjusted against the sanctioned limit of the Society's loan. In October 1955 before S. Partap Singh Kairon became the Chief Minister, the Registrar, Cooperative Societies asked his Assistants to take greater interest and see that the Cold Storage of this Society was organised and set up before May 1956. Therefore, it is clear that helping the Cooperative Societies was a part of the general policy of the Government from before the date, when S. Partap Singh Kairon became

the Chief Minister and consequently on January 27, 1956 a memorandum was issued by the Assistant Registrar, Cooperative Societies to the District Industries Officer. This memorandum has been said by learned Counsel to show the interest of S. Partap Singh Kairon who had become the Chief Minister barely a week before this date. The Commission is not prepared to accept this imputation as well founded. The memorandum is nothing but a continuation of the set policy adopted by the Punjab Government from before. The other document which was said to show the interest of the Chief Minister was the letter of the Assistant Registrar in which there was a reference to I.P.M. "I.P.M." was erroneously interpreted as referring to the Chief Minister for it really referred to the Irrigation and Power Minister who at that time was none other than Prof. Sher Singh, one of the Memorialists. There were suggestions that special favour was shown to this Society by letting it have the use of bulldozers or giving permits for cement. Bulldozers were not given to the Society free of charge. Anybody willing to pay may have the use of the bulldozers. The position regarding the permit for angle irons has been fully explained by Dr. Cheema. The Society could only get a fractional part of the 14 tons that had been reserved for it and no other person was deprived of his share. A good deal of argument was spent on a man named Sadhu Singh and the number of telephonic messages that came from the Chief Minister's house at Chandigarh to the Cold Storage of this Society as given in the affidavit of S. Harbhajan Singh. Apart from the admitted fact of bitter enmity between S. Harbhajan Singh and S. Surinder Singh Kairon which should make one careful and circumspect in assessing his evidence, all that these calls may establish is that Sadhu Singh was contacted on the phone by somebody from the Chief Minister's house. Who that person was has yet to be proved.

In point No. 6 aspersions have been made on Shri V. P. Johar, the Registrar of Cooperative Societies. All that he said is that no such Audit Report of May, 6 1957 as is referred to by Maulvi Abdul Ghani Dar is to be found in his records, which is true enough, for according to learned Counsel for the Memorialists, that was filed in the criminal case against S. Harbhajan Singh. It is true that Shri V.P. Johar did not refer to the Reserve Bank report pointing out that moneys had been improperly advanced to S. Gurinder Singh. This omission need not have been deliberate. It should be remembered that in S. Gurinder Singh's own affidavit (CP-2) he has said that he had taken Rs. 2,78,000/- from this Society. Therefore, there was no incentive for Shri V.P. Johar to conceal that fact.

The last point has already been incidentally dealt with. There is no evidence in support of the argument that S. Partap Singh Kairon himself exerted any influence in favour of his sons and relations in the matter of this Amritsar Cooperative Cold Store Ltd.

(vi) Findings on the facts

As a result of the foregoing discussion the Commission holds—

- (a) that Amritsar Cooperative Cold Store Ltd. being a Society registered under the Cooperative Societies Act and as such a legal entity, it cannot, in law, be said to be the concern of the Kairon family;

- (b) that as the members of the Kairon family hold much less than 50% of the shares in the Society and as each shareholder has one vote irrespective of the number of his/her shares, it cannot be said that the members of the Kairon family had or have any greater control over the Society than the other members possess;
- (c) that there is no evidence that the majority of the shareholders are nonentities and are subservient to the members of the Kairon family who are in the minority;
- (d) that after February 17, 1961 S. Gurinder Singh did take loans from time to time from the Society and utilised the same for his own private purposes;
- (e) that although he took the loans openly after making entries in the books of the Society and with full knowledge of the Managing Committee and the members it was nevertheless improper for him, who was the Managing Director of the Society, to have done so;
- (f) that although there were some shortcomings as noticed in the different audit reports they were of a minor character not calling for any drastic remedy by way of winding up;
- (g) that there is no evidence to justify the insinuation that the officers of the Cooperative Department were at the beck and call of the sons and relatives of the Chief Minister in respect of this Society;
- (h) that there is no sufficient reason to hold that Shri V.P. Johar had deliberately suppressed any material fact; and
- (i) that there is no evidence whatever that S. Pratap Singh Kairon himself had taken any interest in this Society or exerted any influence over anybody for the granting of loans to this Society or otherwise.

CHAPTER VIII

KAIRON BRICK KILN SOCIETY

(i) Charge as framed

In the second charge-sheet of Shri Probodh Chandra of 1960 which is Annexure I to the memorandum, Charge 5 was "Pertaining to the Brick Kiln of the Kairon family." The gravamen of the charge was that S. Partap Singh Kairon was and still is interested in the two brick kilns, one at village Kairon and the other at village Jaura, that he at first transferred them to the name of his brother and that later on a Cooperative Society was formed and both the licences were transferred to that Cooperative Society which, to all intents and purposes, is a family concern of S. Partap Singh Kairon. The second imputation was that the Kairon family has evaded payment of sales-tax. This charge No. 5 was reproduced from Shri Probodh Chandra's first charge-sheet of May 1958. Coming to the present memorandum one finds that under Charge 1 three items, namely, 9, 11 and 12 are set out as properties acquired by the Kairon family within the short space of 5/6 years after S. Partap Singh Kairon became the Chief Minister. They are thus described—

"(9) Kairon Brick Kiln Society. (11) and (12) Two Brick Kilns in village Kairon and Jaura, Amritsar District."

In course of arguments, however, learned Counsel went back to the charge as previously formulated and put forward his arguments under two heads noted above.

(ii) Affidavits bearing on this charge

The only material placed before the Commission, in the first instance, were three affidavits, one affirmed by Maulvi Abdul Ghani Dar (M-6), the second by Shri Devi Lal and five other Memorialists (M-7) and the third by Master Tara Singh (M-25) in paragraph 6 of each of which these kilns were set out as item (v). Annexure 'C' to the affidavit of Maulvi Abdul Ghani Dar (M-6) which is not found in the other two supporting affidavits, contains allegations on the lines of those found in the two charge-sheets of Shri Probodh Chandra. In opposition to the aforesaid supporting affidavits four counter-affidavits affirmed respectively by Shri L. R. Davar, Director, Food and Supplies and Deputy Secretary to the Government of the Punjab (CM-14), S. Daljeet Singh, I.A.S., Excise and Taxation Commissioner (CM-15), S. Jaswant Singh Kairon (CM-88) and S. Partap Singh Kairon (CM-89) have been filed on behalf of the latter. Maulvi Abdul Ghani Dar has filed an affidavit in reply (R-26) on behalf of the Memorialists.

(iii) Facts appearing from the affidavits and Government files:

S. Partap Singh Kairon and his brother S. Jaswant Singh Kairon had inherited a plot of lease-hold land in village Kairon which had been leased out by ten lessors at and for the rent of 80,000 bricks for

ten years (File ASR/67 page 69). Prior to June 1949 there was no system of licensing of brick kilns. On June 8, 1949 the Punjab Control of Bricks Order, 1949 for the first time imposed control on the manufacture of bricks. According to the Food and Supply Department letter No. 10378-FC-49/12674-79 of October 24, 1949 brick kiln licences were decided to be given to four categories of persons therein mentioned. On the representation of refugees, the Food and Supply Department, by memo No. FC-50/2454-63, of February 28, 1950, liberalised the policy by withdrawing all conditions formerly laid down and provided that one who possessed a kiln or would set up one in future would be entitled to the allocation of coal, subject, of course, to the availability of supply and should be given a licence. On April 26, 1950 S. Partap Singh Kairon, then only an M.L.A., applied to the District Magistrate for and obtained a brick kiln licence in his name which was numbered 67. On February 11, 1952, *i.e.*, shortly before S. Partap Singh Kairon became a Minister he made the following endorsement on the application of his brother S. Jaswant Singh for the transfer of that licence No. 67 to the latter—

“Please transfer brick kiln licence No. 67 to my younger brother S. Jaswant Singh (Kairon). I have no objection in this matter. He will have this as his own concern and I have nothing to do with it.

N.B.—Please transfer security Rs. 500 be transferred to S. Jaswant Singh.”

The request was duly acceded to in keeping with the Government policy and as a simple matter of routine, and no inquiry was necessary as at that time any one having a workable kiln could get the licence transferred to him. S. Partap Singh Kairon avers that ever since this time he has had no share or interest in this Brick Kiln and he said so also when he disclosed his assets to the Congress High Command. As the authorities did not agree to the Security Deposit of Rs. 500 being transferred to S. Jaswant Singh Kairon, S. Partap Singh Kairon on December 23, 1952 applied for and withdrew the security deposit of Rs. 500 and in May 1953 S. Jaswant Singh furnished fresh security of Rs. 500 on his own account.

It appears that one Shri Chiranji Lal had on lease a site for a brick kiln in village Jaura for which he held licence No. 36. Subsequently the said Chiranji Lal was dispossessed of the kiln site by order of the Civil Court and one S. Uttam Singh, a brother-in-law of S. Jaswant Singh became lessee and licence No. 119 was issued to him. On October 6, 1952 S. Uttam Singh represented to the District Organiser, Civil Supplies and Rationing, Amritsar that he was, for some domestic reasons, unable to run the kiln and requested him that the kiln may be transferred to S. Jaswant Singh Kairon. The District Organiser acceded to the request.

On August 13, 1953 a policy decision was taken that transferring of slack coal should be freely allowed to the kiln owners irrespective of the fact whether anyone owns one kiln or more. A safeguard was provided that if a brick kiln licensee did not operate the licensed kiln during any three consecutive periods, *i.e.*, during a period of 1½ years, his licence would be cancelled and would not be subsequently renewed [Para. 2(iv) of Memo No. 29/Mis/F.C.-53/3873, dated August 13,

1953]. This policy, at the request of the trade was continued further. (Memo No. 1392-FC-54/1234, dated February 22, 1954). On March 17, 1956 a circular was issued to the effect that if any firm/person was in possession of more than one licence on 1-8-1955 it/he would remain eligible for the same number of licences in future (Para. 10 of Memo No. 8037-5CC-56/4473-82).

On April 6, 1957 a Cooperative Society was registered under the name of Kairon Cooperative Brick Kiln Society, with 14 members of which six belonged to the Kairon family and the remaining eight were their near relatives. On May 15, 1957 S. Jaswant Singh applied to the District Food and Supplies Officer, Amritsar that both his licences No. 67 (Kairon) and No. 119 (Jaura) be transferred to the Society. The Food and Civil Supplies Officer by his Memo No. 1248 of June 4/6, 1957 recommended that S. Jaswant Singh be permitted to run the kilns in the name of the Society and that the necessary amendments be made in the licences. The Director, Food and Civil Supplies by his memo No. 8093-2S-57/11554 of July 2, 1957 informed the District Food and Civil Supply Officer, Amritsar that there was no objection to the proposed change in favour of the Society subject to the condition that S. Jaswant Singh would not be entitled to get a separate licence in lieu of these licences at any later stage and that the individual members of the Society would also not be entitled to a separate brick kiln licence in future. Between September 15, 1962 and November 2, 1962 several members, of which four belonged to the Kairon family and three were close relatives, went out and on September 15, 1962 seven new members were admitted. These new members are not alleged to be relatives of the Kairon family.

(iv) Arguments advanced and refuted

As already indicated learned Counsel for the Memorialists sought to make two points. The first head of argument is that the Society is in fact a family concern and that the garb of a Cooperative Society was given in order to circumvent the directions of the Food and Civil Supplies Department. In support of this contention reliance was placed on two Memos., one No. 30456-3-S-50-10205, dated September 20, 1956 and the other No. 22342-3S-56/13662, dated November 22, 1956. It appears that it having been brought to the notice of the Government that several brick kilns had been allotted to one and the same person resulting in creation of monopoly, the Department requested the District Food and Supplies Controller, District Food and Supply Officers and Assistant Officers to intimate if there was any such monopoly holder in their respective districts. Likewise by the second mentioned memo, the District Officers were requested to report the names and particulars of persons who were holding licences in respect of more than one kiln whether in their own name or in the names of different members of their family or under various partnership styles so that some tangible order could be passed in cases. What happened as a result of these inquiries has not been brought to the notice of the Commission. It has not been shown by reference to any dependable document that the policy decision taken on March 17, 1956, namely that if any firm/person was in possession of more than one licence on 1-8-1955 (as S. Jaswant Singh Kairon was) it/he would remain eligible for the same number of licences in future, was in any way revoked, altered or modified. It is true that on July 2/16 1957

and on November 14, 1957 brick kiln owners in this area were asked to give answers to certain questions in a *pro forma* and S. Jaswant Singh was one of 41 brick kiln owners who failed to return the *pro forma*. It will be remembered that on July 2, 1957 the two licences of S. Jaswant Singh Kairon had already been transferred to the Society and, therefore, strictly speaking, he was no longer a brick kiln owner. He has, however, denied in paragraph 5 of his counter-affidavit (CM-88) that he deliberately withheld the information and explains that the matter came to his notice only in November 1957 on receipt of a reminder and the information was promptly supplied through his Munshi. The Society was registered under the Cooperative Societies Act and was an independent legal entity apart from its members. It was registered with 14 members of which six belonged to the Kairon family and eight were outsiders though closely related to one or other of the members of the Kairon family. On September 15, 1962 seven outside persons became members and between that date and November 22, 1962 seven members including four members of the Kairon family had gone out. When it is remembered that under Section 16 of the Cooperative Societies Act, 1954 corresponding with Section 18 of the 1961 Act each member has one vote irrespective of the number of shares held by him it will be found that the members of the Kairon family would be in a minority. Besides, there is no reason why members of a family should not cooperate with themselves *inter se* and/or with close relations. Supposing that a registered society can be said to be a family concern, even then there is nothing to show that it is not permissible for such a Society to hold two licences. Reference was made to the evidence of S. Surinder Singh Kairon in cross-examination in the criminal case brought against S. Harbhajan Singh, the Chairman of the Praja Socialist Party, Punjab where he said—"We are also running two brick kilns." It is understandable that a layman, who has no notion of a registered Society as a separate legal entity, may say what S. Surinder Singh Kairon did in that case. Indeed, the Memorialists themselves are saying so. In the opinion of the Commission there is no substance in this part of the argument advanced on behalf of the Memorialists.

The second head of argument has been put in alternatives. It is said that the Society had evaded sales-tax in respect of the Jaura Brick Kiln for 1955-56, 1956-57 and 1957-58 or alternatively if the Society did not manufacture and sell bricks then the Society must have sold the slack coal supplied to them and made huge profits in the blackmarket. S. Jaswant Singh in his counter-affidavit (CM-88) says that sales-tax duly assessed by the Sales-Tax Authorities was regularly paid, namely, Rs. 1015·99 for the year 1955-56, Rs. 162·81 for the year 1956-57 and Rs. 1100·87 for the year 1957-58. The low figure of Rs. 162·81 for the year 1956-57 is said to be due to the fact that on account of heavy floods that year the brick kiln at Jaura completely collapsed and that at Kairon was also badly damaged and that both the kilns had to be repaired and reconstructed. As the area was flooded and water-logged in 1956-57, the bricks burnt were not of good quality being overburnt and disfigured, and huge loss was suffered. Immediately the comment is made that there was a deliberate design to confuse the issue in that the figures of sales-tax were not given separately for the two kilns but had been lumped together. Reference is made to the starred question No. 2693

put by Maulvi Abdul Ghani Dar on September 23, 1958 in the Punjab Vidhan Sabha and the answer thereto. The answer shows the position of sales-tax paid as follows:—

Year	Jaura	Kairon
1955-56	/10/-	1015-7-0
1956-57	nil (No business)	162-13-0
1957-58	nil (No business)	1100-81

The comment follows that if no business was done at Jaura what had happened to the slack coal supplied for that kiln? The coal must have been sold in the blackmarket. The assessment order files marked "Flag 'E'" have been referred to. They show that coal registers and account books were produced before the Sales-Tax Officer and were found to have been kept regularly. The total number of wagons supplied for the two kilns during the material time were 46 and according to the answer elicited by the question put in the Vidhan Sabha one wagon burns one lakh of bricks. The answers to Questions No. 1979 and 2565 show that the number of bricks sold by the Society came up to 34,92,702. It is quite possible that some bricks could not be sold and also that some quantity of coal was lying in stock. Reference has already been made to the policy decision which permitted free transfer of coal from one kiln to another belonging to the same owner and there could be no impropriety in coal being diverted from Jaura where the kiln had collapsed to Kairon where the kiln was working though damaged.

(v) Findings of facts arrived at

On a consideration of the evidence laid before it the Commission is of the view—

- (a) that a Cooperative Society formed with persons belonging to a particular family and their relatives is not illegal;
- (b) that the fact that some members of the Kairon family and some relatives of one or other of those members were members of the Kairon Cooperative Brick Kiln Society Ltd. did not affect its legal status as a Society or invalidate its registration as a Society;
- (c) that assuming that a Society so formed can be properly described as a Kairon family concern no impropriety or illegality has been shown to have been committed;
- (d) that there is no evidence that sales-tax was evaded or that any coal was sold in the blackmarket;
- (e) that there is no evidence that the transfer by S. Partap Singh Kairon of his interest in the Kairon brick kiln to his brother S. Jaswant Singh Kairon was a benami transaction; and
- (f) that there is no evidence that S. Partap Singh Kairon was in any way concerned with the management of the affairs of the Society or the alleged irregularity or illegality if any had been committed by S. Jaswant Singh Kairon or the Society in the matter of payment of sales-tax or diversion or sale of coal.

CHAPTER IX

PARKASH CINEMA

(i) The charge and its development

The acquisition of Parkash Cinema formed one of the charges in the charge-sheet submitted by Shri Probodh Chandra on or about May 4, 1958. It was one of the two charges grouped under the caption "Misuse of position by Chief Minister to benefit a relative in giving cinema licence". The charge as then formulated was as follows :—

"Another permanent cinema building located opposite Railway Station, Amritsar has been recently purchased by the brother-in-law of the Chief Minister. It is significant that licence for cinema refused to the original owner for about 10, 15 years is being sanctioned to the new party. Four shops forming part of the cinema building were vacated forcibly by the help of hirelings. Those occupying premises for the last ten years approached the police in vain for help."

It is to be noted that in this charge-sheet, it was not alleged that the brother-in-law of S. Partap Singh Kairon was a mere benamidar for the Kairon family or had no money of his own to pay the price of the property.

This charge was repeated in Shri Probodh Chandra's second charge-sheet of August 1960 in the following terms :—

"Charge 4—Pertaining to Parkash Cinema, Amritsar.

That S. Partap Singh Kairon as Home Minister and being incharge of licensing of the cinemas in the State granted a cinema licence for a building after its ownership had passed on to his daughter-in-law (Mrs. Surinder Singh Kairon) and his brother-in-law S. Harbans Singh though that building had failed to secure a licence in the immediate preceding past."

Then follows a statement under heading—"Nature of Allegation". The point to note is that in this charge-sheet also there was no allegation that S. Harbans Singh had no resources out of which he could purchase this property, nor that S. Harbans Singh was a benamidar for anybody and all that was suggested was that S. Surinder Singh Kairon had slipped in through his wife.

In the present memorandum Parkash Cinema valued at Rs. 4,00,000 figures as item 3 of Charge 1 without any further elucidation. It has not been made clear, therefore, whether the entire property or a moiety of it is claimed to belong to S. Surinder Singh Kairon or the Kairon family. One thing, however, appears to be rather

significant that the allegation made in the two earlier charge-sheets that S. Partap Singh Kairon had, as the Home Minister, granted this cinema licence to benefit his relations has been dropped and not even faintly hinted at.

In support of this charge, three affidavits had been filed in the beginning, namely one by Maulvi Abdul Ghani Dar (M-6), the second by Shri Devi Lal and five other Memorialists jointly (M-7) and the third by Master Tara Singh (M-25). In paragraph 6 of those affidavits Parkash Cinema valued at Rs. 6,00,000 has been set out as item (i) with a remark on the right hand side that this property was acquired in the name of Smt. Kusum Kumari, wife of S. Surinder Singh Kairon and S. Harbans Singh, brother-in-law of S. Partap Singh Kairon. In paragraph 11 of those affidavits the deponents have stated that in the construction and building of the properties detailed in several sub-para's which include sub-para (i) which relates to Parkash Cinema, the members of the Kairon family have used cement, iron and bricks far in excess of the quantities actually sanctioned, and that the licence was issued in violation of the concerned law and the rules. It is significant that the deponent has mentioned no particular provision of law or rules which is alleged to have been violated. This paragraph, in so far as it relates to Parkash Cinema, is a mere repetition of the last paragraph of Charge 4 of Shri Probodh Chandra's second charge-sheet of 1960. None of the deponents has personal knowledge about this matter but has made it on the basis of information derived from certain records. Those records might conceivably have shown the quantity of materials that had been sanctioned but it is utterly unintelligible how they could give the deponent any information as to the quantity that was actually used in this building. In none of these three affidavits did the deponents state that S. Partap Singh Kairon had, as the Home Minister, granted the cinema licence to benefit his relatives. The allegations made in these affidavits have been denied both by S. Harbans Singh (CM-40) and S. Surinder Singh Kairon (CM-46) and in his affidavit in reply (R-18) Maulvi Abdul Ghani Dar has not reiterated the allegation.

One S. Giani Ajmer Singh has filed an affidavit (P-49) alleging, *inter alia*, that in the middle of 1958 S. Partap Singh Kairon through his son S. Surinder Singh Kairon asked Shri O. P. Jain, the then Assistant Director, Industrial Supplies, Jullundur to use his influence for getting iron angles for use in the Parkash Cinema, that Shri O. P. Jain went out of his way to telephone to Modi Oil and General Mills of Gobindgarh to reserve about two tons of iron angles for S. Surinder Singh Kairon, that the latter got from Shri O. P. Jain a letter addressed to the District Industries Officer, Patiala, requesting him to issue a permit to S. Surinder Singh Kairon, that armed with this letter S. Surinder Singh Kairon went to the District Industries Officer and obtained from him the necessary permit and that all this process was completed within a day. S. Giani Ajmer Singh, however, has no personal knowledge about this matter but claims to have derived all this wealth of information from "late Lala Kedar Nath Sehgal, ex-M.L.A." who in his turn is said to have verified these facts personally from the official records of the District Industries Officer, Patiala. How those records could possibly show the

telephone call sent by Shri O. P. Jain, or the personal movements of S. Surinder Singh Kairon from place to place is beyond one's comprehension and cannot be explained by Lala Kedar Nath Sehgal who, unfortunately, is dead. S. Surinder Singh Kairon (CP-10, paras 73—75) and S. Partap Singh Kairon (CP-48) and Shri O. P. Jain, whose affidavit has been annexed to the affidavit of S. Partap Singh Kairon have denied these allegations and it is not surprising, therefore, that learned Counsel for the Memorialists have not pressed this part of their case in their arguments advanced before the Commission.

Another member of the public, named Shri Ram Krishen Rakesh, has filed an affidavit (P-25) supporting Charge 1(iii) of the present memorandum. In paragraph 1 he states that "Parkash Cinema was originally acquired by Shri Harbans Singh, the brother-in-law of Sardar Partap Singh Kairon and Shrimati Kusum Kumari, wife of Shri Surinder Singh Kairon". This quite clearly implies that these two persons were the true owners. But he immediately adds—"As a matter of fact Surinder Kairon is the owner of this cinema and the manipulations in records may be different". It is curious that the allegations in this paragraph have been verified as true to information derived from the records of the Punjab Legislature. The allegations in this paragraph have been denied by S. Surinder Singh Kairon (CP-10, paragraph 25).

(ii) Facts emerging from the affidavits and officials files

Maulvi Abdul Ghani Dar in his affidavit in reply (R-18) says that one Shri Kedar Nath, who was interested in starting a cinema business had made his application in October 1941 but that the Town Planner had raised certain objections and had even moved the higher authorities against the proposal. The deponent then states that there is nothing in the file to show what had happened to those objections. He, however, agrees that eventually permission was given and the construction of the Cinema Hall was started and actually completed. Learned Counsel for the Memorialists have not gone into that past history and nothing further need be said about it. It appears from the official file that on December 11, 1941 Shri Kedar Nath, son of Lala Bhagwan Das, applied to the District Magistrate, Amritsar, praying that a licence for exhibition of films under section 3 of Act II of 1918 be granted to him. In his application he stated that he intended to build a Cinema Hall in the Civil Lines just opposite to the Railway Station on lands measuring about 4000 yards which he owned. He stated that an application for sanction of the building plan had already been submitted to the Amritsar Municipality as well as to the District Magistrate. He said he would abide by the rules framed under the Act and would exhibit only certified films. In reply to Shri Kedar Nath's application of December 11, 1941 a memorandum was sent to him on May 18, 1942 by Mr. E. P. Moon, I.C.S., the then District Magistrate, Amritsar, stating that he was prepared to grant a licence for opening a cinema at the proposed site provided he (Shri Kedar Nath) complied with all the requirements of the Punjab Cinematograph Rules, 1941. Copies of the memorandum with plans were sent to the Executive Engineer as well as to the Executive Officer of the Municipal Committee, Amritsar, for information. There

74 M. of H.A.—5.

is no dispute that eventually the appropriate authorities granted the necessary permission and the Cinema Hall was completed. It does not appear, however, that Shri Kedar Nath actually started the running of the cinema.

On March 21, 1952 two persons, Shri Natha Singh and Shri Durga Das, had purchased the Cinema Hall and applied for the necessary licence for the running of the Cinema. The application set out below will clarify the position:—

“To
The District Magistrate,
Amritsar District,
Amritsar.

SUBJECT:—Running of Regal Cinema situated on G.T. Road, opposite
Tonga Shed, Railway Station, Amritsar

Sir,

Your humble petitioners beg to state that in 1942 L. Kedar Nath of Amritsar, who wanted to erect the Regal Cinema, applied to the District Magistrate, Amritsar, and in reply Mr. E. P. Moon wrote, *vide* his letter No. 3400-M dated the 18th May, 1942, that he was prepared to grant a licence for the cinema provided the requirements of the Punjab Cinematograph Rules, 1941, were complied with. The necessary formalities of the Municipal Committee were also satisfied and the permission to erect the building was accorded and the construction started. The then Superintendent of Police, Amritsar (Mr. Garrad) also inspected the place in the presence of L. Kedar Nath and suggested demolition of seven shops existing in front of the building and opening another gate to facilitate improvement from traffic point of view. These 7 shops were demolished, the cinema building was completed and was leased out to L. Roshan Lal.

During the intervening period both L. Kedar Nath and the lessee L. Roshan Lal plunged in adverse financial circumstances and could not proceed with the running of the cinema. After the partition of the Province the said cinema building was requisitioned and used by Government as a godown for Muslim property for some time. Now the petitioners have taken up the lease of the said cinema. The building needs petty repairs and renovation of electric fittings which is being taken up in hand. Your petitioners beg to submit that the building in question was erected in the pre-partition days under proper sanctions of the authorities and the restrictions which were imposed by the Government of India on cinemas after the partition are not applicable in this case. We, therefore, humbly request that you will be good enough to issue the necessary licence for the running of this cinema.

Thanking you in anticipation.

We beg to remain Sir,
Your most obedient servants,

2, Race Course Road,
Amritsar.
21-3-1952.

Natha Singh
Durga Das”

On July 14, 1952 the District Magistrate ordered:

"From

The District Magistrate,
Amritsar.

To

Messrs. (1) Natha Singh (2) Durga Das, 2, Race Course Road,
Amritsar.

No. MC/6107/17, dated the 14th July, 1952.

Memorandum

A licence for running a Regal Cinema will be granted to you in case:

- (a) the building is put by you in a structurally safe condition, and
- (b) you amend the exit in the north east corner of the compound in the following way:—

The northern and eastern walls should be removed by 20' and 35' respectively so as to have a larger exit in the corner.

Sd/ A.D.M. (14-7-1952)

for District Magistrate, Amritsar."

It is thus clear from the above order that licence would automatically follow on the fulfilment of the two conditions.

Again there was a period of hiatus and Shri Natha Singh and Shri Durga Das do not appear to have actually started the running of the cinema. The owners, it seems, became involved in litigation and there was a mortgage decree against them. Subsequently the interest of the owners was sold at a court sale and certain persons named in paragraph 3 of S. Harbans Singh's affidavit (CM-40) purchased the property at Rs. 65,000 subject to the mortgage decree for Rs. 56,892/9/-. It is from these auction purchasers that S. Harbans Singh and his wife Smt. Prem Parkash Kaur, sister of S. Partap Singh Kairon, purchased the property by three registered sale deeds in the beginning of 1958. They also purchased the interests of the mortgagee decree holders. In October 1958, Smt. Kusum Kumari, wife of S. Surinder Singh Kairon, joined S. Harbans Singh as half partner in the place of his wife Smt. Prem Parkash Kaur.

On or about October 13, 1958 S. Harbans Singh as the managing partner of "Parkash Theatre" moved the Municipal Committee, Amritsar, for permission to remove the defects and put the building to use as a cinema. The Municipal Engineer forwarded a copy of that application to the District Magistrate enquiring if the latter had any objection to the proposed use of the building as a cinema. On October 17, 1958 the General Assistant I put up a note that he had

discussed the matter with the District Magistrate and he agreed that the present case did not come within the category of a "New Case", for sanction had already been given by the then District Magistrate and that the proposal was only to remove defects. The District Magistrate on October 17, 1958 forwarded the application to the Executive Engineer with a request to examine and report if the site is suitable and conforms to the requirements of sub-rule (1) of rule 19 of the Punjab Cinema (Regulation) Rules 1952. Similarly, on the same day, the Superintendent of Police was asked to report if the applicant had been taking any part in any activity undermining the security of the State. The Tehsildar was also asked on the same day to report if the financial position of the applicant was sound. On the next day, i.e. October 18, 1958, the Tehsildar certified that the financial condition of the applicant was very sound. On October 18, 1958 S. Ranjit Singh the Senior Superintendent of Police, Amritsar, also made a favourable report on the political activities of the applicant who was known to him. On October 19, 1958, the Executive Engineer reported that the site was suitable and conforms to the requirements of sub-rule (1) of rule 19 of the 1952 Rules. Thereafter on October 28, 1958 S. Balwant Singh, the then District Magistrate, Amritsar, wrote to the Municipal Engineer, Municipal Committee, Amritsar, in reply to his letter of October 13, 1958 that there was no objection to the improvement of the cinema building provided it conformed to the provisions of the Punjab Cinema (Regulation) Act 1952 and is also in accordance with the sanctioned plans. A letter dated 31st October, 1958 was also written by S. Balwant Singh to the Home Secretary for the information of the Government explaining the position and stating that he had allowed the proposed improvements as it was not a "new case". It should be noted that the District Magistrate himself gave the necessary permission and wrote to the Home Secretary only "for the information of Government". Apparently the Home Secretary agreed with the District Magistrate's view and so on November 6, 1958 a reply came from the Home Secretary advising the District Magistrate to ensure that there was no infringement of the provisions of the Punjab Cinema (Regulation) Rules 1952 due to the structural alterations in the building. The matter does not appear to have gone up further to the Home Minister.

The defects having been fully rectified Parkash Theatre, through its proprietors S. Harbans Singh and Smt. Kusum Lata, applied on February 6, 1959 that the building might be inspected by the department concerned and the licence might kindly be granted before February 12, 1959 when they intended to start the Cinema. All requisite fees were tendered with the application. On February 7, 1959, the Executive Engineer gave his report that the building had been inspected and found structurally safe and in conformity with rules. He also set down the seating capacity and said that detailed report will follow. On February 11, 1959 the Regional Electric Inspector certified that the fire fighting installations had been, on inspection, found to comply with the relevant rules under the Cinema as well as Electricity Acts. On February 11, 1959 the licence was issued and the Cinema started functioning on February 12, 1959.

(iii) Points urged by the Memorialists in arguments before the Commission

To start with, learned Counsel urged that S. Harbans Singh was a mere benamidar and the real owner was S. Surinder Singh Kairon and he referred to the answer to Question No. 39 reported in Vol. I, No. 14, at pages 77-78 of the Punjab Vidhan Sabha Debates dated April 5, 1962 wherein it was said that S. Surinder Singh Kairon was the owner of Parkash Cinema. It is not clear on what material the answer was given. In any case, it can hardly be said to be binding on S. Harbans Singh or Smt. Kusum Lata. If S. Harbans Singh was the benamidar for S. Surinder Singh Kairon then there would have been no necessity of introducing another benamidar in the person of Smt. Kusum Lata. Multiplicity of benamidars does not help the real owner or strengthen his title. Further, the naming of the cinema as "Parkash" after the name of the wife of S. Harbans Singh is also some indication of S. Harbans Singh having a real personal interest in the concern.

At one time it was sought to be made out in course of arguments that S. Harbans Singh was not in a position to buy this property. This argument is untenable. He owns about 300 acres of land in Rajasthan and pays super agricultural-tax, and he affirms having paid his share of the expenses out of his own resources and partly by raising loan. The Commission sees no cogent reason to disbelieve him on this point. Before Smt. Kusum Lata came on the scene, S. Harbans Singh had, by three registered deeds, purchased the property. It has been argued that the building was in a dilapidated condition for a number of years and it was wholly improbable that a Rajasthan landlord unfamiliar with the Cinema trade should invest Rs. 1,30,000 on a hazardous venture. It will be remembered that S. Surinder Singh Kairon also was, up to that date, wholly inexperienced in cinema business, for before his wife acquired a half share in this Parkash Cinema in October 1958 she or her husband had no experience of running a cinema business and if S. Surinder Singh Kairon could go in for such a venture through benamidars why could not S. Harbans Singh do the same? It should be remembered that although he had landed properties in Rajasthan, Punjab was his home and he may have had the intention to return to his home State.

Learned Counsel then fell back on his second line of argument, namely that Smt. Kusum Lata had no money of her own to buy a half share in this property. Learned Counsel for S. Partap Singh Kairon replied that Smt. Kusum Lata had to pay Rs. 84,000 in October 1958 and the balance of Rs. 46,000 by February 11, 1959. He referred the Commission to the Civil Misc. Writ No. 794 of 1958 filed by Smt. Pritam Kaur, the senior widow of late S. Mukund Singh of Sangrur, the father of Smt. Kusum Lata, wherein it was stated that between 1952 and 1958 her co-widow Shrimati Pavittar Kaur had drawn from the Court of Wards the aggregate amount of Rs. 2,19,000 and there was nothing to prevent her from paying Rs. 1,30,000 to her youngest and favourite child Smt. Kusum Lata with whom she has been living after her marriage. The Commission is not of opinion that the suggestion is wholly untenable. In any

case, in view of the fact that the Commission has held that there was no joint Hindu family, that no joint acquisition had been made otherwise and that S. Partap Singh Kairon had no share or interest in any of the properties or businesses, it is immaterial for the purposes of this inquiry whether Smt. Kusum Lata was or was not the real owner of the half share of Parkash Cinema except perhaps that it may throw the burden on her husband to show from what source he got the money to buy the half share.

(iv) Findings on facts

On a consideration of the evidence on record and in the light of the discussions in the preceding sections, the Commission holds—

- (a) that there is no evidence to show that in the matter of the purchase of Parkash Cinema, S. Harbans Singh was a benamidar for S. Surinder Singh Kairon or that S. Harbans Singh had no funds of his own with which he could purchase it;
- (b) that there is no evidence to show that S. Surinder Singh Kairon had purchased a half share in Parkash Cinema in the benami of his wife Smt. Kusum Lata;
- (c) that there is no reason to hold that the decision of the District Magistrate (S. Balwant Singh) that the application of Parkash Theatre through S. Harbans Singh for licence was not a "new case" was, on the facts of this case, erroneous or was a *mala fide* decision;
- (d) that the prompt disposal of the inquiry by the officials was remarkable and may be indicative of the desire of the officials concerned to please and oblige the Chief Minister's daughter-in-law Smt. Kusum Lata, and her husband S. Surinder Singh Kairon, and of the inquiry being rather perfunctory but no violation of any law or rule of established procedure has been shown to have been committed; and
- (e) that assuming that S. Surinder Singh Kairon had prevailed upon the officials to expedite matters by the exercise of his own influence on them or by exploiting the influence of his father S. Partap Singh Kairon, or that the officers had *suo moto* expedited the matter of inquiry to please or oblige the Chief Minister's son. S. Partap Singh Kairon is not shown to have exercised his influence as the Chief Minister or Home Minister to secure the licence for his relatives.

CHAPTER X MUKUT HOUSE

(i) Charge as formulated

In the present memorandum submitted to the President, the Mukut House has been shown simply as an item of property acquired by the Kairon family. It is item 13 of Charge 1 and is worded as follows:--

“(13) Occupying Palatial (Mukut) house, Amritsar. 4,00,000.”

No detailed allegations are to be found in the memorandum. It appears, however, that the Mukut House also formed one of the subject matters of complaint made in Shri Prabodh Chandra's second charge-sheet which was submitted to the Congress High Command in August 1960 and a copy whereof has been attached to the present memorandum as Annexure I. In that Annexure I the charge was thus formulated:

“Charge 7—Pertaining to Mukut House, Amritsar.

That S. Partap Singh Kairon for his own use and for the use of his family abused his position as Chief Minister/Home Minister by misusing the process of requisition and derequisition of houses and thereby misused his official position.”

The gravamen of the charge was the abuse of position by S. Partap Singh Kairon himself as Chief Minister/Home Minister.

charge

(ii) Case of the Memorialists in the affidavits filed in support of this

In support of this charge the Memorialists filed, in the first instance, three affidavits affirmed by Maulvi Abdul Ghani Dar (M-6), by Shri Devi Lal and five others (M-7) and by Master Tara Singh (M-25). Mukut House was dealt with in detail in Annexure 'E' to M-6 which is not to be found in M-7 or M-25. Shortly summarised the whole of the Memorialists' case as made out in the supporting affidavits hinges upon the suggestion that S. Surinder Singh Kairon wanted to have Mukut House, that in June 1958 the District Magistrate was prevailed upon, presumably by S. Surinder Singh Kairon, to issue a notice for requisitioning the upper storey of the Mukut House, that a deal or pact was then entered into between Shri K. K. Meattle (the son of the owner) and S. Surinder Singh Kairon that instead of the upper storey being requisitioned for S. Surinder Singh Kairon, one of the flats in the ground floor would be derequisitioned and then given to S. Surinder Singh Kairon and that as a result of that deal the notice for requisitioning the upper fiat was withdrawn and one of the flats on the ground floor was derequisitioned. Thereafter the other flat on the ground floor was derequisitioned and S. Surinder Singh Kairon took possession of it on

a rent of Rs. 125 per month. The whole house was air-conditioned at a cost of about Rs. 50,000. Paragraph 31 of the affidavit of Shri Ram Kishen Rakesh (P-25) was generally on the same lines. Thus the entire edifice is built upon this so called deal. It will be noticed that the case so made in the supporting affidavits is quite clearly a departure from the charge as formulated in the second charge-sheet submitted by Shri Prabodh Chandra.

In opposition to the above case of the Memorialists, six affidavits were filed on behalf of S. Partap Singh Kairon, namely CM-22 affirmed by Shri P. N. Bhalla, I.A.S., District Magistrate, Amritsar, CM-23 by Shri S. L. Verma, Under Secretary, Health Department, CM-24 by S. Balwant Singh, I.A.S., Chief Representative, Indian Oil Company Ltd., who was the District Magistrate of Amritsar in 1958, CM-46 by S. Surinder Singh Kairon, and CM-89 and CP-208 by S. Partap Singh Kairon. Relevant official flats have also been referred to on both sides.

(iii) Facts that emerge from the record

On July 28, 1955, the ground floor of the Mukut House, consisting of two flats, was requisitioned by the District Magistrate. A copy of the order of requisition is attached to the affidavit of Shri Bhalla (CM-22) as Annexure I. The owner went up on appeal. In the appeal it was alleged that the owner was a heart patient and had been advised by Doctors not to climb stairs but to live on the ground floor. Before the competent authority, however, this plea had not been taken and so, on October 10, 1955, the appellate authority dismissed the appeal. The two flats were then let out to Dr. Manchanda and Dr. Bawa each paying Rs. 125 per month. In May 1958 Dr. Bawa was transferred to Patiala and it was proposed that, on Dr. Bawa vacating his portion, Dr. Manchanda would shift to Dr. Bawa's portion and one S. Basant Singh would be given the flat that would be vacated by Dr. Manchanda. The story of the issue of a notice of requisition of the upper flat in June 1958 appears to be a complete myth. The fact is that in 1955, there was a talk of requisitioning the upper flat which did not materialise and the ground floor had been requisitioned on July 28, 1955. No notice for requisitioning the upper storey appears, on the record, to have at all been issued in June 1958 or at any time after July 1955. Shri P. N. Bhalla (CM-22) denies that any notice for the requisition of the upper floor had been issued as alleged and says that consequently no question of withdrawing the same arose. This being the true position, there could be no occasion for Shri K. K. Meattle to enter into any deal with S. Surinder Singh Kairon, and the whole story of deal or pact between Shri K. K. Meattle and S. Surinder Singh Kairon on which the Memorialists' case had been built must fall with it.

It appears on the evidence before the Commission that on coming to know that Dr. Bawa was shortly to vacate his flat Shri K. K. Meattle on August 18, 1958 applied to the District Magistrate that the portion occupied by Dr. Bawa might be derequisitioned for the use of his invalid mother, the owner of the House. The then District Magistrate, S. Balwant Singh on the same day passed the derequisition order. Copies of the application of Shri K. K. Meattle and the

order of derequisition are set out in Annexure II to Shri P. N. Bhalla's affidavit (CM-22). S. Balwant Singh who passed the derequisition order has said in his affidavit (CM-24) that he passed the order for derequisitioning the said portion in due exercise of his powers and that in doing so he was not approached or influenced in any way by S. Surinder Singh Kairon or S. Ranjit Singh or S. Partap Singh Kairon. As the flat occupied by Dr. Bawa had been derequisitioned, the proposed allotment of a flat to one S. Basant Singh had to be cancelled on the same day. S. Partap Singh Kairon in his affidavit (CM-89) has stated that he has no knowledge of the allegations regarding the derequisitioning of the ground floor flats. He has denied that S. Surinder Singh Kairon was occupying the entire house or that his help was sought or that he helped or connived at S. Surinder Singh Kairon getting any portion of the Mukut House derequisitioned. S. Surinder Singh Kairon in his affidavit (CM-46) has denied that he was the owner of the Mukut House or was in possession of the entire house. He has denied that he or anybody on his behalf had prevailed upon the District Magistrate in June 1958 to issue the alleged notice for requisitioning the upper storey or that Shri K. K. Meattle had ever approached him or that there was any deal between them. He has asserted that he negotiated for a lease of a part of the ground floor only after it had been derequisitioned and was lying vacant and that never at any time before that date had he anything to do with the same. He has stated that at first he came into possession of only one of the ground floor flats as a lessee at Rs. 125 per month. It appears from the records that after S. Surinder Singh Kairon had got the lease at Rs. 125 per month of the portion of Mukut House which had been occupied by Dr. Bawa and got into possession of it, Dr. Manchanda found it inconvenient to live in the adjoining flat and moved the authorities to get him another accommodation. Whether the inconvenience was due to the fact that he had to share a common drawing room with his neighbour S. Surinder Singh Kairon or to the altercations of the servants of the two tenants is not clear on the record but it is understandable that although the two Doctors could comfortably live side by side it might have proved inconvenient for Dr. Manchanda to live side by side with a non-medical neighbour. Be that as it may, an effort was made first to get Dr. Manchanda the house which was likely to be vacated by Dr. Kartar Singh but when it turned out that the latter would not be transferred, a house on Dunichand Road was requisitioned for Dr. Manchanda on December 6, 1959, i.e., about four months after Dr. Bawa's portion had been derequisitioned. On April 9, 1959, i.e., about four months after the house on Dunichand Road had been requisitioned for Dr. Manchanda, the latter moved into that house. The flat in Mukut House which Dr. Manchanda vacated remained vacant. On May 4, 1959 an office note was put up by the Requisition Clerk before the District Magistrate that that portion was lying vacant and Government was incurring financial loss. Again on June 19, 1959 the same clerk put up another note that the two flats on the ground floor of the Mukut House were not sufficiently detached and there was no application from any officer for allotment of that vacant portion. Accordingly, on June 26, 1959 the District Magistrate derequisitioned that portion also. All these facts appear from File No. 254 DR 172 which had been inspected by the Memorialists and to which their learned Council referred at the hearing. After that portion of the ground floor thus became vacant S. Surinder

Singh Kairon took that portion also on lease at Rs. 125 per month and thus became the tenant only of the entire ground floor at and for Rs. 250 per month. He has denied that he has become the owner of the Mukut House or is in possession of the entire Mukut House or had it air-conditioned at a cost of Rs. 50,000. He says that he is a mere lessee of the two ground floor flats at and for a rental of Rs. 250 per month and has installed only two air-conditioners therein. It transpires that on January 25, 1960 certain questions regarding the Mukut House were asked by Shri Prabodh Chandra and Maulvi Abdul Ghani Dar in the Punjab Legislature. Then in August 1960, Shri Prabodh Chandra submitted his second charge-sheet which is Annexure I to the present memorandum. It also appears that in January 1961 S. Partap Singh Kairon's Secretary wrote to the District Magistrate, Amritsar calling for a detailed report regarding the requisition of the Mukut House which seems to negative the case that S. Partap Singh Kairon had any knowledge of the requisition or derequisition of the Mukut House. The Additional District Magistrate submitted the report to the Chief Minister's Secretary. Maulvi Abdul Ghani Dar has filed an affidavit in reply (R-35) which adds no fresh information but only reiterates that everything was being done under the influence of S. Partap Singh Kairon. Evidently he believes in repetition of assertions to establish his point. There is no tangible evidence in support of his insinuation in this behalf.

On the evidence summarised above, it is clear that the story of the deal was only a dramatic embellishment invented to lend colour and plausibility to the charge. It is not now alleged that S. Surinder Singh Kairon has acquired the entire Mukut House valued at Rs. 4,00,000 as implied in Charge I, item 13 or that he got the entire house airconditioned at a fabulous cost of Rs. 50,000. Seeing that the entire fabric of the charge fell to the ground, learned Counsel for the Memorialists tried to retrieve his position by suggesting two things, namely: (a) that although the plea of illness of the owner had been rejected by the appellate authority in 1955, the District Magistrate accepted that plea in August 1958 without a sifting inquiry into the truth of the alleged illness and thereby acted improperly and (b) that the order of derequisition had been made on the same day, i.e. August 18, 1958, when the application for derequisition had been made. As regards (a), it appears from the order dated October 10, 1955 of the appellate authority placed before the Commission by learned Counsel for the Memorialists that the plea of illness was rejected on the ground that it had not been taken before the competent authority rather than on the ground of its not being true. As regards the derequisitioning of the ground floor flat that was in the possession of Dr. Bawa, the District Magistrate, S. Balwant Singh, had said in his affidavit (CM-24) that he passed the order of derequisition as he had been satisfied about its necessity on the materials he had before him. As regards (b) the order of derequisition dated August 18, 1958 was undoubtedly made very expeditiously but this haste was not the ground on which the charge was based. Assuming that it was done by the District Magistrate to accommodate and please S. Surinder Singh Kairon, the son of the Chief Minister, although S. Surinder Singh Kairon says that he came on the scene after the portion fell vacant, there is no tangible

evidence to show that S. Partap Singh Kairon had any hand in the matter. It was pointed out that while S. Partap Singh Kairon had admitted that he stays at Mukut House when he goes to Amritsar, S. Surinder Singh Kairon has said that his father stays in the Circuit House and not at Mukut House. It is not appreciated how this discrepancy between the father and the son affects the real issue in the case unless it were to be said that S. Surinder Singh Kairon should, for this discrepancy alone, be disbelieved all along the line. If the Commission had to apply the same high standard of perfection to the affidavits filed on behalf of the Memorialists then not much substance will be left in their respective affidavits.

(iv) Findings on facts

The result of the foregoing discussion may now be summarised below :—

- (a) That the charge as formulated in the second charge-sheet which has been annexed to the present memorandum, namely the abuse of his position by S. Partap Singh Kairon as the Chief Minister/Home Minister, has not been sought to be supported by any evidence and has been completely dropped;
- (b) that the case of a deal or pact alleged in the supporting affidavits is entirely unfounded, for no notice of requisition of the upper storey, which was the occasion for the alleged deal, had been issued at all in June 1958;
- (c) that none of the officers who dealt with the matter has been shown to have done anything in violation of any law or rule of established procedure;
- (d) that although there is some force in the submission that the order of derequisition of one of the ground floor flats dated August 18, 1958 was made with expedition almost amounting to undue haste, there is no evidence to show that this haste was the result of the exercise of influence by any one on the District Magistrate or that if any influence had been exercised on him at all, it was done by S. Surinder Singh Kairon and not by Shri K. K. Meattle on his own account and in his own interest; and
- (e) that assuming that the District Magistrate had, on account of the influence of S. Surinder Singh Kairon, or *suo moto*, acted expeditiously to please the Chief Minister's son, there is no evidence whatever to show that S. Partap Singh Kairon had any hand in the matter at any stage.

CHAPTER XI
NATIONAL MOTORS

(i) Charge as formulated

Charge 1 items 10,17,27,28 and 32 relate to National Motors and its appendages as different items of properties which are alleged to have been acquired by the Kairon family within the space of 5-6 years as a result of the exercise of the influence and powers of S. Partap Singh Kairon, the Chief Minister of the Punjab. Those items are thus described—

- “(10) The National Motors (Agency for Fiat cars, Dodge and Fargo Trucks and buses of different makes) Amritsar.
- (17) National Motors at Jullundur and Patiala.
- (27) Service Station in Patiala.
- (28) Petrol Pump in Patiala.
- (32) National Motors at Hoshiarpur, Pathankot, Kulu, Ambala, etc.”

There is no dispute that items 10, 17 and 32 refer to one and the same business concern and that items 27 and 28 are ancillary business run as appendages to the same business. There is no further elucidation of this charge in the memorandum itself. The second charge-sheet against S. Partap Singh Kairon presented by Shri Probodh Chandra to the Congress High Command in 1960 which is Annexure I to the memorandum contained an enunciation of this charge in some detail. After setting out the materials relied on in support of the charge the charge-sheet concluded with the remark: “The firm National Motors is actually owned by Sardar Surinder Singh Kairon, s/o S. Partap Singh Kairon”.

(ii) Affidavits bearing on the charge

In support of the charge, the Memorialists have filed five affidavits affirmed respectively by Maulvi Abdul Ghani Dar (M-6), Shri Devi Lal and five other Memorialists (M-7), Master Tara Singh (M-25), Shri Rup Lal Sethi (M-21) and S. Jagjit Singh (M-24). Paragraph 6 of each of the first three affidavits (M-6, M-7 and M-25) sets out the properties possessed by the Kairon family at the date of those affidavits. Items (vi) and (xix) in that paragraph run thus—

- “(vi) The National Motors, Amritsar, Jullundur, Patiala, Hoshiarpur, Pathankot, Kalka, Ambala, Chandigarh, Kasauli (Simla) valued at about Rs. 20,00,000/-.
- (xix) Service Station and Petrol Pump, Patiala valued at Rs. one lakh.”

The charge is elucidated further in Annexure 'D' to the affidavit of Maulvi Abdul Ghani Dar (M-6) which is not to be found attached to the affidavits of Shri Devi Lal and others (M-7) and Master Tara Singh (M-25). The 18 paragraphs of Annexure 'D' to the affidavit of Maulvi Abdul Ghani Dar (M-6) have, however, been reproduced verbatim in the 18 paragraphs of both the affidavits of Shri Rup Lal Sethi (M-21) and S. Jagjit Singh (M-24). Learned Counsel for S. Partap Singh Kairon has been at pains to point out that the charge as framed in the memorandum read with Charge 1 of the Annexure I thereto was confined to the use of influence of S. Partap Singh Kairon in the obtaining of the agency of the Premier Automobiles Ltd. but that it was not alleged that the object in obtaining the agency was to benefit the Premier Automobiles Ltd. by making purchases for the Punjab Roadways, or that any purchase had been so made or that any benefit accrued to the National Motors. The charge, according to learned Counsel, was simply one of securing the agency as an asset of the family. Learned Counsel next passes on to the supporting affidavits and submits that the substance of the allegations in these affidavits was that the agency of Fiat Cars and Fargo and Dodge Chassis was obtained to benefit National Motors by diverting the purchase for the Government from other agencies to the National Motors. Learned Counsel then refers to the affidavit in reply affirmed by Maulvi Abdul Ghani Dar (R-25) and argues that the charge had undergone further change. The Commission considers that this is a very strict and narrow reading of the case of the Memorialists. The gravamen of their charge under this head of "National Motors" has, broadly speaking, been the same throughout. Shortly summarised the charge as formulated in Annexure I to the memorandum was that S. Partap Singh Kairon recommended Metro Motors Private Limited (hereinafter called "Metro Motors") to the Tatas with the object of obtaining pecuniary advantage for his sons and relatives, that as he was interested in passing on pecuniary advantage to that concern, he hit upon the device of obtaining the agency of Fiat Cars and Dodge and Fargo Chassis heretofore held by Metro Motors for National Motors after obtaining for Metro Motors the agency of Tata-Mercedes-Benz and concluded by saying that National Motors was owned by his son S. Surinder Singh Kairon. There has been no basic change from this case, although fresh materials have been collected and incorporated in subsequent affidavits for the purpose of re-inforcing their case and, may be, for adding a little embellishment to it.

S. Partap Singh Kairon has had full opportunity to meet the case made out in the five supporting affidavits and has filed not less than 13 counter-affidavits affirmed respectively by S. Daljit Singh, Excise and Taxation Commissioner (CM-15), Shri S. C. Chhabra, I.A.S., Provincial Transport Controller (CM-16), Shri C. R. Kamath, General Sales Manager, Premier Automobiles Ltd., (CM 17), Shri Jagmohan Singh, Executive Engineer, Municipal Committee, Patiala (CM-18), Shri Bishan Bihari Lal, Excise and Taxation Officer, Amritsar (CM-19), Shri Hari Krishan Das, Managing Director, Metro Motors (P) Ltd. (CM-20), Shri P. N. Sahni, I.A.S., Director of Industries (CM-21), S. Harbhajan Singh son of Mohinder Singh (CM-38), S. Surjit Singh (CM-41), S. Surinder Singh son of Bir Singh

(CM-42), S. Gurdip Singh son of Mohinder Singh (CM-44), S. Surinder Singh Kairon (CM-46), and S. Partap Singh Kairon (CM-89). The Memorialists have filed an affidavit in reply affirmed by Maulvi Abdul Ghani Dar (R-25). It is in this affidavit that copious extracts from various official files have been set out. These files were produced as relevant by S. Partap Singh Kairon and the deponents on his side had relied on them and he cannot complain if the Memorialists have made use of them in support of their case. Of course, if the Memorialists have introduced anything new which is not strictly in reply to the counter-affidavits and which S. Partap Singh Kairon has had no opportunity to meet, the Commission will certainly not pay any attention to such new matters.

(iii) Facts as they emerge from the affidavits and official files

In 1954 the Punjab Roadways had three Depots, namely at Ambala, Amritsar and Jullundur. In that year on the recommendation of Shri R. P. Kapur, the then Secretary, Transport Department, Shri Jagat Narain, the then Transport Minister, now one of the Memorialists, approved that orders for the chassis required for the Punjab Roadways might be placed by the Transport Department for Dodge/De Soto/Fargo all of which were the makes dealt in by Premier Automobiles Ltd. of Bombay. In 1955 when Shri Bhim Sen Sachar was the Chief Minister and Shri Jagat Narain was still the Transport Minister, it was decided that all future purchases of buses for the Punjab Roadways should be confined to only three makes, i.e., Leyland, Mercedes-Benz and Dodge/De Soto/Fargo. In 1956 the Punjab Government decided to have one make for each Depot—namely Mercedes-Benz for Amritsar, Dodge/De Soto/Fargo for Ambala and Leyland for Jullundur. This was for facilitating the maintenance and the efficient operation of the Depots.

During the years 1955 to 1959 the Metro Motors were the dealers and agents for Premier Automobiles Ltd. for the sale and distribution of Fiat and Plymouth cars and Fargo chassis in the large territories mentioned in the affidavit of Shri H. K. Das (CM-20) and the affidavit of Shri C. R. Kamath (CM-17) which covered, perhaps, more than one-third of the present Punjab and Himachal Pradesh. This dealership agreement is said to have been governed by a formal agreement which has not been produced but which is said to have contained a clause providing that the Metro Motors would not, without the prior permission of the Premier Automobiles engage in the sale of any other make of cars within or without its territory. Shri H. K. Das, the Managing Director of Metro Motors says in his affidavit (CM-20) that as this dealership was not proving profitable he started making efforts for the more profitable dealership of Tata-Mercedes-Benz vehicles. He became, in his personal capacity, a partner of Union Motors of Sri Ganganagar who had obtained the distributorship of Tata Engineering & Locomotives Co. Ltd., Bombay, in respect of their Tata-Mercedes-Benz vehicles for the Bikaner Division. Premier Automobiles Ltd. took exception to his association with the dealership of Tata-Mercedes-Benz in Bikaner. This strained relationship induced Shri H. K. Das early in 1959 to endeavour in right earnest to secure for Metro Motors the distributorship of Tata-Mercedes-Benz.

Accordingly, Metro Motors applied for the distributorship of Tata-Mercedes-Benz on some date which does not appear on the record. To reinforce the application Shri H. K. Das, the Managing Director of Metro Motors, approached S. Partap Singh Kairon, who had visited the workshop and show rooms maintained by Metro Motors and had been pleased with them, for a testimonial which the latter gave him on March 26, 1959. Reference will be made to this letter in greater detail hereafter. Metro Motors succeeded in securing the dealership of Tata-Mercedes-Benz vehicles for Karnal and Ambala area on a date which cannot be found in the record. As a result of Metro Motors obtaining the distribution rights of a competitive product without obtaining the prior written consent of Premier Automobiles Ltd. the latter on July 31, 1959 cancelled the dealership agreement with Metro Motors after giving a month's notice. This is supported by Shri C. R. Kamath, the General Sales Manager, Premier Automobiles Ltd. in his affidavit (CM-17).

In 1959 Ambala Depot was bifurcated and a new Depot was set up at Gurgaon and it was automatically allotted the same vehicles as were used in Ambala Depot, namely Dodge/De Soto/Fargo. In 1963 two additional Depots were added to the Punjab Roadways, one at Chandigarh and the other at Pathankot. Leyland was allotted to Chandigarh and Dodge/De Soto/Fargo to Pathankot.

In the meantime a firm was constituted with, it is alleged, S. Harbhajan Singh, S. Gurdip Singh and their father S. Mohinder Singh who, it may be recalled, is the maternal uncle of Smt. Kusum Lata, the wife of S. Surinder Singh Kairon. In compliance with the request of the Commission, the Punjab National Bank Ltd., along with their letter dated May 15, 1964, produced before the Commission, amongst other documents which will be mentioned hereafter, an unregistered deed of partnership dated August 3, 1959 purporting to have been executed by S. Mohinder Singh and his two sons S. Harbhajan Singh and S. Gurdip Singh as the three partners. In this deed S. Harbhajan Singh is described as resident of Amritsar and the other two as residents of Raipur, District Ludhiana. The partnership was stated to have commenced as from June 1, 1959 and the partnership business was to carry on "the business of sales, purchases, hire and purchase of automobiles including motor cars, scooters, tractors etc. etc. their spare parts and their component parts and as Engineers and Mechanics and to work as Agents to the Manufacturers of the Automobiles and their parts and other allied business under the name and style of National Motors until determined as hereinafter provided." S. Harbhajan Singh was to be the Managing Partner. There were two witnesses to the deed, namely Pritam Chand and the other Kripa Singh, whose address was given as The Mall, Amritsar. On August 1, 1959 the Premier Automobiles Ltd. granted the dealership of their products to National Motors as follows—Fiat Cars for Patiala and Fargo chassis for Jullundur, Amritsar, Pathankot, Kulu and Hoshiarpur. Shri C. R. Kamath says in his affidavit that before appointing a substitute dealer in the place of Metro Motors due enquiries were made through the District Sales Manager of the Company for the North Zone whose recommendation was supported by him. Shri C. R. Kamath also states that National Motors comprised

the three partners already named above. He further says that in terminating the dealership of Metro Motors and in granting the dealership to National Motors his Company acted entirely on its own and was at no stage approached or influenced by S. Partap Singh Kairon or any one else on his behalf. On or about August 10, 1959 National Motors was, for purposes of sales-tax, registered with the Excise and Taxation Officer, Amritsar. The statement made and signed by one S. Partap Singh, the attorney of National Motors, at the time of registration and recorded and kept in the office file of the Excise and Taxation Officer, Amritsar relied on and produced by S. Partap Singh Kairon reveals that the date of commencement of the business of the firm was August 1, 1959, the nature of the business was motors and its spare parts, the investment was Rs. 500 and the business premises was at Mukut House, The Mall, Amritsar for which Rs. 3,000 was paid as rent. The words "per mensem" after the figure Rs. 3,000 are obviously a mistake for "per annum" which Rs. 3,000 was exactly the annual rent (at Rs. 250 per month) payable by S. Surinder Singh Kairon who used to reside there. It appears that for the year 1959-60 the firm made returns for the second quarter ending on September 30, 1959 and the third quarter ending on December 31, 1959 on February 25, 1960 but the return for the fourth quarter ending on March 31, 1960 was not filed until January 29, 1962. For these three quarters of 1959-60 the firm had deposited respectively Rs. 7,632.17, Rs. 70,651.03 and Rs. 40,000.00 aggregating to Rs. 1,18,283.20. The assessment for 1959-60 was finalised on April 10, 1962. The following figures showing sales during the eight months of its working and sales-tax assessed thereon appear from the same assessment order:—

	<i>Amount</i>	<i>Tax assessed</i>
(1) Sales chargeable at 1% for supply of vehicles to Government Departments	Rs. 20,878.01	Rs. 208.78
(2) Sales chargeable at 4%	Rs. 651.07	Rs. 26.04
(3) Sales chargeable at 7%	Rs. 19,72,185.99	Rs. 1,38,053.02
	Rs. 19,93,715.07	Rs. 1,38,287.84

After deducting Rs. 1,18,283.20 which had been deposited from the total tax assessed a sum of Rs. 20,004.64 was the balance due for which chalan was issued. It appears from a note on the non-realisation/non-levy of tax and penalty in the case of National Motors, Amritsar made on August 27, 1963 by an inspecting officer that upto that date neither any quarterly return had been made nor any tax had been deposited by the firm in respect of the years 1960-61, 1961-62, 1962-63 and the first quarter of 1963/64. Shri Daljeet Singh, the Excise and Taxation Commissioner, says in his affidavit (CM-15) that the assessment for the year 1960-61 was made for Rs. 1,32,341.01 on October 25, 1963 and the assessment for the year 1961-62 was made for Rs. 1,14,019 on November 11, 1963 and that under Section 10(6) of the Punjab General Sales-Tax Act, 1948 penalties of Rs. 10,000/- and Rs. 5,000/- were imposed for late voluntary payment of tax for those two years.

He further says that the assessment for the year 1962/63 is in progress and the firm has deposited by way of voluntary payment for that year (1962/63) a sum of Rs. 1,28,000/- and that it has also made advance payment of Rs. 40,000/- for 1963/64. The amount of tax and penalty assessed for the years 1960/61 and 1961/62 were paid by six cheques. The delay in assessment is sought to be explained by S. Daljeet Singh by pointing out that a large number of old cases were pending and that in Amritsar District alone 1540 cases for 1960/61 and 1961/62 were concluded in the year 1963/64 and that 1441 cases of 1960/61 and 1961/62 are still pending. The certificate, dated December 16, 1963 issued by the State Bank of Patiala indicates, *inter alia*, that the firm enjoyed cash credit facilities from the State Bank of Patiala against stocks to the limit of Rs. 1 lac from August 28, 1959 to September 27, 1959 which was raised to a limit of Rs. 4½ lacs from September 28, 1959 to April 1960. S. Surinder Singh Kairon says in paragraph 69 of his counter-affidavit (CM-46) that he furnished security for the cash credit limit sanctioned to National Motors by the State Bank of Patiala. This was done by charging his Capital Cinema, Patiala as a collateral security in favour of that Bank.

(iv) Rival arguments put forward:

On the above facts learned Counsel for the Memorialists urge that National Motors is Kairon family's second biggest known acquisition, the biggest being what has been described as the Halwara contract. He maintains that S. Partap Singh Kairon has had a direct hand in the acquisition and development of this asset namely the termination of the dealership of Metro Motors by the Premier Automobiles Ltd. and the grant of the dealership by the latter to National Motors and the conferment in return of vast official patronage on the Premier Automobiles Ltd. According to him S. Surinder Singh Kairon and the members of the Kairon family are the real owners of this concern, S. Mohinder Singh and his two sons S. Harbhajan Singh and S. Gurdip Singh who are ostensibly put forward as the three partners of National Motors are men of no substance but mere benamidars for S. Surinder Singh Kairon. Learned Counsel emphasises that National Motors has been receiving vast patronage from the Government of which S. Partap Singh Kairon is the head and also utmost latitude and undue favour from the Government employees in the matter of non-payment of sales-tax for a long time and the utilisation thereof for other purposes, and large pecuniary benefits from the earnings of the firm.

Learned Counsel for S. Partap Singh Kairon, on the other hand, refutes these arguments by saying that the letter written by S. Partap Singh Kairon to Shri N. Annaswamy on March 26, 1959 was an innocuous letter of introduction and nothing sinister can or should be read into it. He argues that if the object at the back of the mind of S. Partap Singh Kairon was to use his official position and prestige to obtain a dealership for his son or relatives and if he had as much influence on the Tatas or the Premier Automobiles Ltd. as he is now alleged to have, he could have got for them the dealership of Tata-Mercedes-Benz vehicles which are regarded as of higher standard

or he could get for them the dealership of Fiat cars, and Dodge/De Soto/Fargo trucks for the entire territory for which Metro Motors held the dealership and the dealership which he is alleged to have secured from the Premier Automobiles Ltd. would not have been confined, as to makes, to FIAT cars for Patiala only and Fargo trucks and buses only for Jullundur, Amritsar, Pathankot, Kulu and Hoshiarpur alone. He denies that National Motors got a vast patronage from the Government of the Punjab and points out that during the period from August 1, 1959 upto about the end of March 1963 no order for Fargo chassis had been placed with National Motors and no commission had accrued to it on account of sales to the Punjab Roadways and that it was only at the fag end of the financial year ending on March 31, 1963 that, for the first time, 32 Fargo chassis were purchased for the Pathankot Depot for which gross commission at 4% accrued to the National Motors. Out of this the firm had to pay the expenses of running the concern, free servicing, insurance and incidental charges leaving barely one per cent. He refers to certain facts as establishing that S. Mohinder Singh and his sons are the partners and as such the real owners of National Motors, which will be dealt with later. He maintains that it was Surinder Singh son of Bir Singh who was the Accountant of National Motors and who signed the cheques drawn on the firm's account with the Punjab National Bank Ltd. He explains that small bits of services rendered by S. Gurdip Singh or S. Harbhajan Singh were referable only to a desire of a near relative to extend courtesy and good offices to another relative. He points out that the delay in the assessment of sales-tax was due entirely to the inefficiency of the officers of that department and drastic disciplinary action has had to be taken against those erring officers. The rival arguments have to be scrutinised with care and the Commission will have to arrive at its conclusions on a proper assessment of the entire evidence and the irrestible probabilities established on the record.

(v) Consideration of the rival contentions:

There are three questions for the Commission to consider, namely—

- (1) Is National Motors owned by S. Mohinder Singh and his two sons, S. Harbhajan Singh and S. Gurdip Singh or by S. Surinder Singh Kairon?
- (2) In either case did S. Partap Singh Kairon, directly or indirectly, use his position and power, as the Chief Minister of the Punjab, in the acquisition and development of this business?
- (3) If the answer to the second question be in the negative, was the influence of S. Partap Singh Kairon exploited by the owner/owners of National Motors in securing vast patronage from the Punjab Government and undue favours or advantages from the Government officers, particularly in delaying assessment of sales tax?

Learned Counsel for S. Partap Singh Kairon urges that logically, if the second question is answered in the affirmative, it will make no

difference whether National Motors belongs to the son or the relatives of S. Partap Singh Kairon and the first question need not be discussed at all. But, at the same time, the first question concerning the real ownership of the firm is of vital importance in deciding the second and third questions for the facts bearing on the second and third questions will have to be considered in the light of the findings on the first question which will lend colour to those facts. An act or conduct of S. Partap Singh Kairon or of S. Surinder Singh Kairon may well assume an aspect and complexion if S. Surinder Singh Kairon be the true owner of the National Motors which may be totally different if S. Mohinder Singh and his two sons be the real partners in that firm. The Commission, therefore, proposes to deal with the three questions in the order stated above.

Regarding (1): S. Mukund Singh, a Zamindar of Sangrur was murdered sometime on or about April 11, 1928. He left him surviving two widows, Smt. Pritam Kaur and Smt. Pavitar Kaur and three daughters Smts. Pushpinder Kaur, Kamal Lata and Kusum Lata. Kusum Lata was married to S. Surinder Singh Kairon, the elder son of S. Partap Singh Kairon. S. Mohinder Singh is the brother of Smt. Pavitar Kaur. S. Mohinder Singh has two sons, S. Harbhajan Singh and S. Gurdip Singh. The relationship of these persons will appear from the genealogical table set out in an earlier chapter of this Report.

S. Harbhajan Singh in paragraph 8 of his counter-affidavit (CM-38) claims that they have 96 bighas of ancestral land. He does not mention anything about the location or value of this ancestral land or its income. S. Gurdip Singh who has filed an affidavit (CM-44) is totally silent on these matters. S. Mohinder Singh who should be in the know has not filed any affidavit at all. Taking the lands at a value of Rs. 1000/- per acre at which lands have been sold in Sangrur the value of these 96 bighas would not exceed Rs. 20,000/- and the income would hardly exceed Rs. 3000/- to Rs. 4000/- per annum which after meeting the family expenses will hardly leave any saving. In any case, it is admitted that many years ago S. Mohinder Singh went to Calcutta in search of fortune. It is said that he was doing Motor Transport business at Calcutta which may mean that he was driving a bus, or truck or taxi bought or taken on hire-purchase system. Seeing that on the death of S. Mukund Singh in April 1928 S. Mohinder Singh post haste came to Sangrur to look after his sister Smt. Pavitar Kaur and the latter's minor daughters, it may be safely concluded that the business could not have been very attractive in respect of its profits. It has not been alleged and far less proved that after his return from Calcutta S. Mohinder Singh did any stroke of work by way of service or business or had any earning of his own. It is not alleged either by S. Harbhajan Singh or S. Gurdip Singh what are their own academic qualifications or whether, apart from the disputed properties or businesses of National Motors, Elite Cinema at Hissar and Nandesh Exhibitors, either of them had any share in any other business or held any other employment and if so what income they made. In the absence of any dependable evidence there is no escape from the position that S. Mohinder Singh and his two sons have been completely dependent

on Smt. Pavitar Kaur whose income was not very high either. She was getting only maintenance for herself and her three daughters, besides lump sums paid to her occasionally for specific purposes. On the evidence before the Commission there is cogent reason for holding that S. Mohinder Singh and his two sons had no means of their own to invest moneys to run the National Motors. It is clear from evidence on the record that the two sons of S. Mohinder Singh were from time to time employed by S. Surinder Singh Kairon for doing odd jobs for him and that they lent their names as benamidars of S. Surinder Singh Kairon in connection with acquisition of properties or business, without having any share or interest therein. Thus, S. Gurdip Singh was pressed into service in the following ways—

- (i) In taking the lease of Kothi I in Patiala on which the Capital Cinema was built. This will be dealt with in another chapter of this Report while dealing with Capital Cinema, Patiala;
- (ii) In the application for a loan in the name of Fine Films from the Punjab Finance Corporation for setting up a deep freezing unit at Faridabad, S. Gurdip Singh and Smt. Kusum Lata along with S. Surinder Singh Kairon were represented to be partners of Fine Films which S. Surinder Singh Kairon now claims as his exclusive property and to which S. Gurdip Singh lays no claim;
- (iii) S. Gurdip Singh applied to the District Magistrate, Gurgaon for permission to build the Neelam Cinema, Faridabad which S. Surinder Singh Kairon claims to be his own property and to which S. Gurdip Singh makes no claim; and
- (iv) The application for acquisition of land for the New India Spinning and Weaving Mills was made in the name of S. Gurdip Singh describing himself as the Managing Director, although the Company had not then been incorporated and S. Gurdip Singh was not made even an ordinary Director after the Company was registered.

Likewise, S. Harbhajan Singh's name was utilised in the applications for permission to construct the Capital Cinema, Patiala and also for the grant of telephone licence for that cinema in which he never had any share or interest. It is difficult to attribute all the foregoing acts and conduct of these brothers wholly and solely to their sense of courtesy and brotherliness.

It has already been noted that S. Mohinder Singh and his two sons had no experience of conducting any business. The nature and duration of the work of S. Mohinder Singh at Calcutta euphemistically called Motor Transport business have not been stated anywhere and cannot have been of any moment, seeing that he abandoned it and came back to Sangrur to look after his sister. S. Harbhajan Singh or S. Gurdip Singh does not claim any experience even as a motor mechanic or taxi driver. None of the three alleged partners ever did any business at all and much less in the dealership of motor cars and trucks.

These are, however, only negative aspects of the matter and if the matter stood there it would perhaps have been unwise to hold that the three ostensible partners were in fact and in truth mere benamidars for S. Surinder Singh Kairon. There is, however, ample positive evidence on which the Memorialists rely to establish their contention that S. Surinder Singh is the real owner of National Motors. Such evidence may now be referred to one by one.

(i) It appears from the certificate issued by the State Bank of Patiala on December 16, 1963 that National Motors enjoyed cash credit facilities from that Bank to a limit of Rs. 1 lac for the period of only one month, i.e. from August 28, 1959 to September 27, 1959, when it was raised to a limit of Rs. 4½ lacs from September 28, 1959 to April 16, 1960. It is clear on the evidence that the State Bank of Patiala insisted on some collateral security over and above the stock of cars and trucks to be paid for on delivery. That security was furnished by S. Surinder Singh by charging the Capital Cinema, Patiala which was his own property. Why should he mortgage what is his exclusive property for securing the cash credit facility for National Motors unless he had an interest in it? It is too much of a good thing to say that it was purely an act of accommodation by a person for his wife's maternal uncle and his sons.

(ii) Shri Kundan Lal, General Manager, Movies Exhibitors says in his affidavit (CM-45) that the Elite Cinema, Hissar, is the exclusive property of S Gurdip Singh. He gives the valuation of that cinema as Rs. 2,40,296.16 and in paragraph 13 of that affidavit states that "the funds required for the construction of the Elite Cinema were supplied by S. Gurdip Singh and most of these funds came from Messrs National Motors, a concern of which S. Gurdip Singh is a partner." S. Gurdip Singh in his affidavit (CM-44) claims that the Elite Cinema was built out of his own resources. S. Surinder Singh Kairon in paragraph 70 of his affidavit (CM-46) denies that Elite Cinema, Hissar belongs to him or that S. Gurdip Singh is a man of very ordinary means. Again in paragraph 72 he says categorically: "I am not the owner of Elite Cinema, Hissar." The impression sought to be created by all these affidavits is that S. Gurdip Singh was a partner of the National Motors and, therefore, moneys flowed freely from that concern to enable S. Gurdip Singh to acquire and build up another asset of his own. On January 18, 1963, however, S. Surinder Singh Kairon wrote a letter to the General Manager, Oriental Bank of Commerce Ltd., Delhi, asking for a loan of Rs. 1,50,000 from the Bank's Faridabad office on the security of a regular mortgage of a plot of land at Faridabad. As the formalities would take some time he requested that an overdraft of Rs. 30,000 might be given to him immediately. In that letter S. Surinder Singh Kairon set out a brief list of his assets. The third item was thus described—

"One Cinema at Hissar known as 'Elite' valued at Rs. 6 lacs in the joint names of myself, my wife and Gurdip Singh who is relation and whose share is only 1/16th."

The letter was signed by "Surinder Singh" described as "Sole Proprietor Fine Films" which, incidentally, in the application for a loan from the Punjab National Bank, was described as belonging to him.

his wife and S. Gurdip Singh. That the signature "Surinder Singh" is the true and proper signature of S. Surinder Singh Kairon is obvious to the naked eye when it is compared to the admitted signatures of S. Surinder Singh Kairon even on his affidavits (CM-46 and CP-10) filed before the Commission and also the signatures "Surinder P. Singh" on the Account Opening Form addressed by "Surinder P. Singh" of 187 Golf Links to the Punjab National Bank Ltd. of Parliament Street and the relative signature on the Specimen Signature Card in relation to Account No. 772/7 produced by that Bank in original. The matter does not rest there. On January 21, 1963 he borrowed Rs. 30,000 from the Oriental Bank of Commerce Ltd. of Faridabad on an on demand promissory note signed as follows:

"For Fine Films
Surinder P. Singh
Sole Proprietor."

He drew a cheque for Rs. 10,000 on that Bank signed in the same way on the same day. On February 25, 1963, S. Surinder Singh Kairon asked the Oriental Bank of Commerce Ltd., Faridabad "to open/continue a cash credit Account to be Called M/s Fine Films in the books of the Bank." In that application he declared that he was "the sole proprietor of the firm of M/s Fine Films". He said he would sign as Surinder P. Singh. In the loan application form he described himself as "S. Surinder P. Singh, s/o S. Partap Singh Kairon". All these original documents have been produced by the Head Office of the Oriental Bank of Commerce Ltd., Delhi, in compliance with the request of the Commission. There can be no manner of doubt about the genuineness of these signatures. If, therefore, S. Surinder Singh Kairon is the owner of the Elite Cinema to the extent of 15 annas in the rupee then it becomes unintelligible why moneys should flow freely from the National Motors to the Elite Cinema except on the hypothesis that S. Surinder Singh Kairon was also the sole owner or had a preponderating share in National Motors. It may, however, be said that S. Gurdip Singh cannot be bound by such a claim of ownership of Elite Cinema made by S. Surinder Singh Kairon behind his back. In any case, so far as S. Surinder Singh Kairon is concerned this gives a lie direct to his assertions in his affidavit above referred to.

(iii) The matter is put beyond any reasonable doubt, so far, at least, as S. Surinder Singh Kairon and S. Gurdip Singh are concerned by the Account Opening Form dated January 15, 1962 in relation to Current Account No. 1116. This was an application by "Surinder P. Singh" and "Gurdip Singh" carrying on business as Motor dealers and automobile engineers under the name and style of Messrs National Motors, G.T. Road, Jullundur. Although the application was made by both, the cheques were to be drawn only by Surinder P. Singh. There is, therefore, only one specimen signature card reading—

"For National Motors
Surinder P. Singh
Partner."

Although this application was addressed to the Manager, New Bank of India Ltd., Jullundur, it appears to have been handed in at the Chandigarh office of the Bank and forwarded by the latter to the Jullundur office with a forwarding note dated January 10, 1962 which reads—

“.....In this connection we may write that both the partners, namely Sh. Surinder P. Singh and Sh. Gurdip Singh are fully known to us as well to H.O. Kindly inform the party on telephone No. 3608 at Jullundur.”

The Head Office of the New Bank of India Ltd., New Delhi, sent these papers to the Commission in compliance with its request. Reference must, however, be made to a certificate dated May 7, 1964 issued over what purports to be the signature of one Avtar Singh Bansal, Manager of the Chandigarh office. The certificate reads as follows:—

“Certified that the Account Opening Form of M/s National Motors, Jullundur City, was brought to me by Shri Gurdip Singh, with signatures of Shri Gurdip Singh and Shri Surinder P. Singh on it, for attestation and introduction.

Shri Gurdip Singh was accompanied by Shri Surinder Singh of M/s. National Motors, who was a person other than Surinder Singh Kairon son of S. Partap Singh Kairon.

After attestation the Form was forwarded to our Jullundur Branch along with our letter No. 430 dated 10-1-1962.

For the New Bank of India Ltd.

Sd/- (Avtar Singh Bansal)

Manager”.

It is clear that the Account Opening Form dated January 15, 1962 was brought to the Chandigarh Manager by S. Gurdip Singh “with the signatures of Shri Gurdip Singh and Shri Surinder P. Singh on it for attestation and introduction”. What is significant is the second paragraph of the certificate. How did the Manager remember on May 7, 1964 who came with S. Gurdip Singh on January 10, 1962? With what purpose did the Manager in his certificate produced before the Commission on May 7, 1964 refer to the presence of the man ‘Surinder Singh of M/s. National Motors’ at his office on January 10, 1962? Obviously it was deliberately intended to create a confusion as to the identity of the man who signed on the application and the specimen signature card as “Surinder P. Singh”. It is significant, however, that the Manager did not venture to say that it was that Surinder Singh who was not S. Surinder Singh Kairon who had signed in his presence or acknowledged the signature or the application and Specimen Signature Card as his. Fortunately the Commission has before it the signature of S. Surinder Singh Kairon when he signs as “Surinder P. Singh” as hereinbefore stated and also the signature reading “Surinder P. Singh” made by Surinder Singh son of Bir Singh produced by the Punjab National Bank Ltd. The two are different to the naked eye. The signatures “Surinder P. Singh”

on the original Account Opening Form and Specimen Signature Cards produced before the Commission by the New Bank of India Ltd. tally exactly with the other admitted signatures reading "Surinder P. Singh" of S. Surinder Singh Kairon. There is not the slightest doubt, therefore, that S. Surinder Singh Kairon was a partner of National Motors if not the sole proprietor thereof. At least S. Gurdip Singh is bound by his own joint application to the New Bank of India Ltd. where he and S. Surinder Singh Kairon have been described as partners of National Motors.

Before concluding this topic reference must be made to the Account Opening Form dated September 14, 1959 by which S. Harbhajan Singh, S. Gurdip Singh and S. Mahinder Singh requested the Punjab National Bank Ltd., Civil Lines, Jullundur, to open an account in the name of National Motors of which they asserted to be the three partners. The account was to be operated on by S. Harbhajan Singh as the Managing Partner whose specimen signature card is also produced. This was account No. 7852/4. This account appears to have been closed for there are rubber stamps placed upon the Account Opening Form, specimen signature cards and the deed of partnership reading "Account closed" and the dates below the initials in the stamp are 20/6 without specifying the year. On October 16, 1963 an application was made to the Punjab National Bank Ltd., Civil Lines, Jullundur, by the same three persons as partners of National Motors to open another account. This application related to Account No. 9201/4 which was opened with an initial deposit of Rs. 300/- only and was to be operated upon by S. Harbhajan Singh or the Manager Sardari Lal Passi. Six days later, to wit on October 22, 1963 a letter in a printed form was sent to the Bank authorising the Bank to honour cheques drawn on this account by Surinder P. Singh s/o Bir Singh and his specimen signature was given at the foot as well as on a specimen signature card. It was on this authorisation that S. Surinder Singh son of Bir Singh drew six cheques on October 25, 1963 and three cheques on November 20, 1963 for different amounts aggregating to Rs. 3,44,360-10 on the Punjab National Bank Ltd. in payment of sales-tax. The specimen signature reading "Surinder P Singh" signed by this Accountant is obviously different from other signatures "Surinder P. Singh" admittedly signed by S. Surinder Singh Kairon. The controversy as to the interest of S. Surinder Singh Kairon in National Motors had come out on the surface and formed one of the charges in the memorandum presented to the President of India on July 13, 1963 on which this Commission was constituted on November 1, 1963. There is, therefore, a good deal of force and plausibility in the suggestion that this authorisation made on October 22, 1963, of a handy Surinder Singh to sign cheques on the National Motors account with the Punjab National Bank Ltd. as "Surinder P. Singh" was merely a device resorted to for creating evidence to explain away any part that S. Surinder Singh Kairon may be detected to have taken in the affairs of National Motors signing himself as "Surinder P. Singh". It is entirely unintelligible why Surinder Singh son of Bir Singh should have taken it into his head to introduce the letter "P" in the middle of his name. He has not attempted any explanation, obviously because he has none. On the contrary he has in his affidavit (CM-42) simply stated that he had been authorised by the

partners of National Motors to operate on their account with the Punjab National Bank Ltd., Jullundur, carefully concealing the fact that such authorisation had been made only three days before the first six of the cheques mentioned in his affidavit had been drawn by him. Learned Counsel for S. Partap Singh Kairon felt equally baffled by the facts revealed by the documents produced by the different Banks and particularly by the New Bank of India Ltd., Delhi and had to admit that the signature "Surinder P. Singh" on the Account Opening Form submitted by S. Surinder Singh and S. Gurdip Singh to that Bank was the true and proper specimen signature of S. Surinder Singh Kairon.

(iv) It will be recalled that in the statement made by S. Partap Singh, the attorney of National Motors, before the Excise & Taxation Officer, Amritsar on or about August 10, 1959, when the firm was registered for sales-tax purposes, Mukut House, The Mall, Amritsar, was given as the address of the business premises of the firm. Again at a subsequent date the address of the firm was given as "C/o Neelam Cinema, Chandigarh". None of the three alleged partners resides in Chandigarh. Even the deed of partnership produced by the Punjab National Bank Ltd. shows that S. Mahinder Singh and S. Gurdip Singh were residents of Raipur, District Ludhiana and S. Harbhajan Singh was stated to be of Amritsar without giving any specific address. One of the attesting witnesses, S. Kirpa Singh subscribed himself as of "The Mall, Amritsar". The circumstances that the address of the firm was registered as at Mukut House at the office of the Excise and Taxation Office, Amritsar and was at a subsequent date also said to be "C/o Neelam Cinema, Chandigarh", do indicate that S. Surinder Singh Kairon was concerned with the National Motors.

Reference was also made to the tape-recorded conversation alleged to show the interest of S. Surinder Singh Kairon, but it is not necessary for the Commission to pronounce any opinion as to the admissibility of them in this inquiry which is proceeding only on the evidence on affidavits.

It is true that S. Mahinder Singh, S. Harbhajan Singh and S. Gurdip Singh are not strictly speaking parties before the Commission although the two last named persons have filed affidavits in this inquiry and S. Gurdip Singh's joint application has been produced before the Commission. It is equally true that this Commission is not a court deciding any issue between S. Surinder Singh Kairon on the one hand and S. Mahinder Singh and his sons on the other. Nevertheless, for the purposes of this inquiry, on the evidence before it, both negative and positive, the Commission has no hesitation in holding that S. Surinder Singh Kairon had a share in National Motors, if he was not the sole owner thereof and the averments to the contrary in the affidavits of S. Surinder Singh Kairon (CM-46), S. Gurdip Singh (CM-44), Shri Kundan Lal (CM-45) S. Harbhajan Singh (CM-38) and S. Surjit Singh (CM-41) are utterly false and blatant lies and that the most charitable view that may be taken of the averments of Shri C. R. Kamath (CM-17) is that he is a gullible person who was easily misled.

Regarding (2): This head of argument advanced by learned Counsel for the Memorialists is founded on the letter which S. Partap Singh Kairon had written to Shri N. Annaswamy, the Sales Director of Tata-Mercedes-Benz of Bombay which is set out below:—

“Dear Shri Annaswamy,

- I understand, from Shri H. K. Das, Managing Director of M/s. Metro Motors, Ambala Cantt., that you have under your consideration his application for dealership of your vehicles.
2. I have known Shri Das and his organisation for over ten years and have very high opinion of his business capability and integrity. His firm M/s. Metro Motors enjoys a very high reputation for courteous and efficient dealings. Their service set up is perhaps the best in the Punjab.
 3. Mr. Das has been a General Motors dealer for Chevrolet and Vauxhall Vehicles and he supplied most of the vehicles to the State Transport undertaking and other departments. His dealings were found to the satisfaction of all concerned. In 1951 he supplied the first big lot of diesel engines. The experiment proved so beneficial that the department soon decided to standardise on diesel engines.
 4. It has always given me a great pleasure to know of his success in business and I feel if he is afforded an opportunity of associating with a reputable organisation like yours, your products would be in very appropriate hands.

Yours sincerely,

Sd/- (Partap Singh)”

Paragraph 1 of the letter shows that Metro Motors had already applied for the dealership of Tata-Mercedes-Benz vehicles. In paragraph 2 S. Partap Singh Kairon sets out his high appreciation of the business capability, integrity and reputation of Shri H. K. Das, the Managing Director of Metro Motors and the excellence of their service set up. The crucial paragraph is said to be paragraph 3. It is said that clear hints are given in that paragraph that Shri H. K. Das enjoys the confidence of the Government. The statements that he supplied most of the vehicles to the State Transport Undertaking and other Departments, that his dealings were found satisfactory by all, that his supply of Diesel Engines proved so beneficial that the Department concerned soon decided to standardise on Diesel Engines could, according to learned Counsel for the Memorialists, be nothing but a broad hint that if a Tata-Mercedes-Benz dealership were given to Shri H. K. Das it would be in good hands and the Tatas may expect big business. It is urged that everyone knew and, indeed, S. Partap Singh Kairon himself stated in paragraph 12 of his counter-affidavit (CM-89), that the Government policy was to encourage the transport undertaking of the State and that, therefore, the Punjab Government was likely to be bulk purchaser of bus chassis. In such circumstances a recommendation by the Chief Minister of the

State, learned Counsel contends, cannot but be an irresistible inducement for the manufacturers of trucks or bus chassis to accede to it. In fact Metro Motors did get the dealership of Tata vehicles for Karnal and Ambala area. The suggestions cannot be said to be wholly devoid of plausibility.

The question naturally arises why did Metro Motors give up the agency for the vehicles of the Premier Automobiles Ltd.? Shri H. K. Das in paragraph 4 of his counter-affidavit (CM-20) says that as the Premier agency was not profitable he tried to get the Tata agency and that at first in his personal capacity he became a partner of Union Motors of Sri Ganganagar which had a Tata agency for the Bikaner Division to which the Premier Automobiles Ltd. took exception. He does not say when he joined the Union Motors nor when and how the Premier Automobiles Ltd. expressed their disapproval of his conduct. He says that in the beginning of 1959 he began in right earnest to secure a Tata agency and that is why he approached S. Partap Singh Kairon to give him a letter of introduction which he did on March 26, 1959. All this he did because the Premier agency was not profitable. He does not give any particulars of his sales or the running expenses or profits of Metro Motors. So there is nothing to support his *ipse dixit* that Premier agency was not profitable. The attention of the Commission was drawn to the questions put by Shri Probodh Chandra in the Punjab Vidhan Sabha (Starred Question No. 4946) and the answer given thereto which showed that while in 1959/60 the sales of Tata-Mercedes-Benz and Leyland declined from the sales of those makes in 1958/59, the sales of Dodge/Fargo in 1959/60 went much higher up than those in 1958/59. Reference was also made to the assessment order on National Motors for 1959/60 and it was pointed out that within a period only of about eight months National Motors which was a new comer in this line of business had effected sales of the value of Rs. 19,93,715 within a territorial limit which, in its extent, was much less than that of Metro Motors as described by Shri H. K. Das himself in paragraph 3 of his affidavit (CM-20). It is clear, therefore, that paucity of profit could not be the real reason for this desire of Shri H. K. Das for a change of agency and that the real inducement, according to the argument, lay elsewhere, namely, the promise of patronage by S. Partap Singh Kairon.

The question as to why the Premier Automobiles Ltd. readily gave the agency to National Motors has also to be considered and answered. Shri C. R. Kamath, the General Sales Manager of the Premier Automobiles Ltd., says in paragraph 7 of his affidavit (CM-17) that before appointing a substitute dealer in the place of Metro Motors due enquiries were made through the District Sales Manager who recommended that the agency be given to the National Motors and that he (Shri C. R. Kamath) agreed with that recommendation. S. Harbhajan Singh, in paragraph 7 of his affidavit (CM-38), fully supports the statements of Shri C. R. Kamath on this point. Now, learned Counsel for the Memorialists asks as to what the Premier Automobiles Ltd. would have found if any inquiry had actually been made. Shri C. R. Kamath, who gives the names of

the three partners, would have found that National Motors had come into existence on June 1, 1959 with a capital of Rs. 500/- but had not commenced its business at all, that none of the three alleged partners had either financial resources or practical experience in this line of business, nor any social standing except as being the relatives of Smt. Pavitar Kaur and of S. Surinder Singh Kairon, the son of the Chief Minister, who had married the youngest daughter of Smt. Pavitar Kaur. It is impossible to believe, learned Counsel states, that on this result of the inquiry the Premier Automobiles Ltd. would ever think of granting its agency to such a firm. If, however, the enquiries had gone deeper and unfolded the real truth, the Company would have found, as learned Counsel suggests that it did find, that S. Partap Singh Kairon was at the back of the newly formed National Motors and that S. Surinder Singh Kairon was in command of the operations which he was directing from Mukut House, The Mall, Amritsar, which was made the Headquarters of National Motors. The Premier Automobiles certainly acted in its own best interests but that was founded not on the achievements of National Motors which were nil but on the lure of official patronage of the Punjab Government—the same bait that had been swallowed by the Sales Director of the Tata-Mercedes-Benz vehicles.

Learned Counsel for S. Partap Singh Kairon replied that if it were in the mind of S. Partap Singh Kairon to secure a dealership for his son or relatives he could have got a Tata agency or if he preferred the Premier agency he could have got it for the whole of the Punjab and not for a few districts only. This argument is countered by the other side by an equally plausible argument that an astute politician like S. Partap Singh Kairon would not be so crude as to bring down upon him a public hue and cry by adopting such an obviously corrupt course of action. Indeed, the desire to avoid public criticism was the only reason, learned Council for the Memorialists contended, for setting up a benami partnership deed showing three outsiders as partners of National Motors. Learned Counsel for S. Partap Singh Kairon also urges—and he repeated this argument over and over again—that from August 1959 upto about the end of March 1963 the Government purchased for the Punjab Roadways 32 Fargo Chassis for which make National Motors held the agency and the only commission that National Motors earned on Government purchase of Fargo chassis during this entire period was in respect of these 32 Fargo chassis out of 65 chassis for which orders had been placed at the fag end of the financial year in order to save the funds from lapsing. It was urged by him that it was absurd to suggest that S. Partap Singh Kairon would enter into a conspiracy in early 1959 with a view that National Motors would at the end of March 1963 earn some commission on 32 Fargo chassis. Learned Counsel for the Memorialists suggested in reply that the State patronage did not consist only in placing orders for the purchase of chassis for the Punjab Roadways but could be effectively given in diverse, devious and insidious ways, e.g. by granting route permits only to those private persons who would buy Fargo trucks or bus chassis.

Practically at the close of the hearing or arguments before the Commission, the Punjab National Bank Ltd., produced some documents including a deed of partnership dated August 3, 1959 to which

reference has been made already. According to that deed the partnership of National Motors commenced on June 1, 1959. An argument may, conceivably be built up on the juxtaposition of the material dates which are as follows:—

26.3.1959—Letter of S. Partap Singh Kairon.

1.6.1959—National Motors formed.

30.6.1959—Premier Automobiles Ltd. gave notice of termination of agency to Metro Motors.

31.7.1959—Agency of Metro Motors terminated.

1.8.1959—Agency granted by Premier Automobiles Ltd. to National Motors.

1.8.1959—National Motors commences business as stated before the Sales-Tax Officer.

August 1959—Account opened with State Bank of Patiala.

28.8.1959—Cash credit account with the same Bank upto Rs. 1 lac.

28.9.1959—Cash credit limit raised to Rs. 4½ lacs on collateral security given by S. Surinder Singh Kairon.

It may be suggested that the letter of March 26, 1959 was but a link in the entire chain and that the subsequent dates indicate that from the very beginning the bargain had been definitely formed—and S. Partap Singh Kairon was a party or at least a privy to it—that the Metro Motors would take up the Tata Agency, that a firm in the name of National Motors would be formed to take up the Premier Agency. That such an argument is attractive can hardly be disputed. The fact of associating S. Kirpa Singh who is stated to be a life long friend of S. Partap Singh Kairon from his college days in the United States of America with the management of National Motors as his watch dog is also said to be indicative of the hold S. Partap Singh Kairon wanted to keep on the affairs of the National Motors. Finally it was said that the noting by the Chief Minister's Private Secretary marked "Most Immediate" on File No. 110/R/CA-7/C at page 6 under date February 27, 1963 shows that the final decision for placing orders for Doge/Fargo chassis was taken by S. Partap Singh Kairon himself.

On a consideration of the evidence as a whole the Commission is not unimpressed with the suggestions made by learned Counsel for the Memorialists. While entertaining a feeling that those suggestions have at least the merit of plausibility the Commission is not persuaded to hold, as a fact, that it has been, on legal evidence, proved beyond reasonable doubt that S. Partap Singh Kairon had a direct hand in the matter of securing the Premier Agency for National Motors or that he personally exerted his influence or power, directly or indirectly, on the Government officials in the matter of Government purchases of Fargo chassis or otherwise to benefit National Motors in the development of its business or in the matter of delaying the assessment and levy of sales-tax. In the opinion of

the Commission the seemingly convincing plausibility in the arguments of learned Counsel for the Memorialists may yet be inconclusive and may lead to nowhere beyond the realm of suspicion. The Commission would be failing in the discharge of its solemn obligation if it were to condemn a person on mere suspicion, however strong. In the circumstances the benefit of doubt must be given to S. Partap Singh Kairon. The Commission, therefore, answers this query in the negative.

Regarding (3): That some powerful influence has been at work from before August 1, 1959 when National Motors got the Premier agency and commenced business cannot be gainsaid. The admitted figures to be found in the Sales Tax assessment orders clearly indicate the huge turn-over of National Motors. In the first eight months of its career National Motors effected sales to the tune of Rs. 19,93,715. The progress in the volume of its business was maintained in subsequent years. All this cannot be explained only by the business acumen of S. Surinder Singh Kairon. As the elder son of the Chief Minister he undoubtedly has a position and status and can easily ingratiate himself with the Ministers and the senior Government officials and impose upon the lesser Government employees. The impunity with which he ventured to file sales-tax return and to make statutory deposits long after due dates and to withhold production of books and information before the Sales-Tax Authorities was remarkable. Rs. 20,004.64 being the balance of Sales-Tax for 1959/60 was payable on April 1, 1960; Rs. 1,32,340.06 for 1960/61 was payable on April 1, 1961, Rs. 1,14,055.14 for 1961/62 was payable on April 1, 1962 and Rs. 1,28,000 for 1962/63 was payable on April 1, 1963. It is not known when Rs. 20,004 was paid, if at all, but the other amounts were paid by six cheques on October 25, 1963 and by three cheques on November 20, 1963. Thus National Motors had the use of the moneys realised from consumers for a long time. Yet S. Daljeet Singh says in his affidavit (CM-15) that all steps were taken. Whether the delay in the assessment of sales-tax was due to the congestion of work brought about by the inefficiency of the officials as now alleged and whether the penalty imposed was extremely light, the fact remains that National Motors did not make the voluntary deposits, evaded assessment and payment of tax for a long time, and escaped with a ridiculously low penalty. It is not necessary to go into the vain attempts these subordinate sales-tax officials made to contact the authorities of the firm at Mukut House. Suffice it to say that those unfortunate officials appear to have been reduced to a state of utter helplessness and some of them are now being subjected to disciplinary proceedings for no greater fault than that of furthering the interests of and accommodating the forceful personality that is S. Surinder Singh Kairon. The Commission has had occasion to watch the acts and conduct of S. Surinder Singh Kairon in respect of several other matters dealt with in different chapters of this Report and it has no hesitation in holding that in several matters S. Surinder Singh Kairon has taken the fullest advantage of his position as the son of the Chief Minister and has freely exploited the influence and power of his father in securing the agency of the Premier Automobiles Ltd. for National Motors and in developing its business and increasing its sales in diverse ways not perhaps always

above board. The Commission, therefore, answers this question in the affirmative.

(iv) Findings of the Commission

As already indicated in the preceding section the findings of the Commission on the basis of the available evidence may be briefly summarised as follows:—

- (a) That S. Surinder Singh Kairon was and is at least a partner in National Motors, if he is not the sole proprietor of it;
 - (b) that though the evidence and the probabilities of the case raise a certain amount of suspicion that S. Partap Singh Kairon had a direct hand in the matter of securing the Premier Agency for National Motors and that he personally exerted his influence and power, directly or indirectly, on the Government officials in the matter of Government purchases of Fargo chassis or otherwise to benefit National Motors in the development of its business the evidence falls short of proof and the Commission must give the benefit of doubt to S. Partap Singh Kairon and hold that the charge in respect of this item has not been brought home to him; and
 - (c) that S. Surinder Singh Kairon has taken the fullest advantage of his position as the son of the Chief Minister and has freely exploited the influence and power of his father in securing the agency of the Premier Automobiles Ltd. for National Motors and in developing its business and increasing its sales in diverse ways and in delaying the filing of the Sales-Tax return or making of the voluntary deposits without any effective step being taken against him and in getting away with a paltry penalty wholly inadequate to his lapses.
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CHAPTER XII

NEELAM CINEMA, CHANDIGARH

(i) Case of the Memorialists

"Neelam Cinema worth about Rs. 15 lakhs in Chandigarh" figures as the 22nd item of acquisition of the Kairon family set out under Charge 1 of the memorandum. It does not find a place in Shri Probodh Chandra's second charge-sheet being Annexure I to the memorandum. There is no indication in the memorandum as to the gravamen of the charge or the trend of it.

(ii) Affidavits bearing on the charge

In support of this charge the Memorialists have, to start with, filed four affidavits namely one affirmed by Maulvi Abdul Ghani Dar (M-6), the second by Shri Devi Lal and five others (M-7), the third by Master Tara Singh (M-25) and the fourth by Shri Ram Piara (M-9). The first three affidavits are carbon copies for all practical purposes except that the annexures to M-6 are not attached to M-7 or M-25. The last mentioned affidavit (M-9) is for all practical purposes a verbatim copy of Annexure 'G' to the affidavit of Maulvi Abdul Ghani Dar (M-6). This Annexure 'G' contains allegations of facts on which this charge is founded. It is not necessary to set out the details of those facts. Suffice it to say that the impression sought to be conveyed is that instead of putting up this cinema site to public auction tenders were once invited and after rejecting the tenders no other attempt was made to call fresh tenders or to hold a public auction but avoiding competition the site was sold to Messrs Cineramas which was a firm of which S. Surinder Singh Kairon, Smt. Gurdayal Kaur, the mother of S. Ranjit Singh who had married the elder sister of S. Surinder Singh Kairon's wife Smt. Kusum Lata and S. Gurdip Singh Gill were partners by private negotiations at a low price. After the sale, favour was shown to Cineramas by not enforcing the rules of forfeiture and resumption of possession and otherwise, although they were in default in the payment of all three instalments of the price.

In opposition to the two supporting affidavits filed on behalf of the Memorialists six counter-affidavits have been filed affirmed respectively by S. Surinder Singh Kairon (CM-46), Shri Prem Kumar, I.A.S., Additional Secretary, Capital Project (CM-27), Shri R. D. Gupta, Executive Engineer, Electricity Board (CM-28), Shri B. B. Vohra, I.A.S., Secretary, Agriculture Department (CM-29), Shri R. S. Randhawa, I.A.S., Additional Secretary, Revenue (CM-30) and by S. Partap Singh Kairon (CM-89). These deponents deal with the different allegations in the supporting affidavits and refute the charge in detail which it is not necessary to summarise here. Suffice it to say that the impression sought to be given is that S. Surinder Singh Kairon had nothing to do with this cinema site prior to November 1960, that the delay in the payment of arrears of instalment was due

entirely to the controversy over his claim for payment of the instalments by compensation bonds, that pending the disposal of that dispute the payment of instalments was deferred and that no favour was shown to him by the Punjab Government or their officials.

The Memorialists have filed an affidavit in reply affirmed by Shri Ram Piara (R-23).

It is not disputed but is openly acknowledged that Maulvi Abdul Ghani Dar and Shri Ram Piara are sworn political enemies of S. Partap Singh Kairon and the Congress Party. It is obvious from the affidavit of S. Pratap Singh Kairon that he too fully reciprocates the sentiments. In view, therefore, of the political feud and of their personal enmity the testimony of the deponents on either side should be accepted with great caution, especially when the affidavits filed by the Memorialists are not properly verified according to law. In a matter of this kind when passions are running high and feelings of hatred, ridicule and contempt are openly avowed, the Commission feels that no reliance should be placed on statements on either side unless they are found to be corroborated in material particulars by other dependable materials on the record.

(iii) Facts that emerge from the affidavits and contemporaneous official files

On October 5, 1953, the first site for a cinema measuring 1800 square yards situate in Sector 22 was put up to public auction and Messrs Rajeswar Parshad Charan Dass were declared the highest bidder and purchaser of that site at and for Rs. 1,35,000/- which worked out at an average price of Rs. 75/- per square yard. The Cinema built on this site is now known as "Kiron". Another plot containing an area of 3392 square yards in Sector 17 was auctioned on February 23, 1958 and Messrs Ram Lal Sham Lal were declared the highest bidder and purchaser at and for Rs. 5,07,000/- i.e., at an average price of Rs. 149/- per square yard. It transpired that the firm of Ram Lal Sham Lal belonged to the son and nephew of Seth Charan Dass whose firm had purchased the site of "Kiron" cinema so that as the proprietors of both the sites belonged to the same family, that family acquired a monopoly of control over the cinemas in the Capital. The cinema subsequently built on this second site was named "Jagat". To break this monopoly, on August 19, 1958 Giani Kartar Singh, who was then the Capital Project Minister, directed that a third cinema site in the commercial sector be sold, not by auction but by inviting tenders so that the antecedents of the intending purchasers could be verified before the site was allotted. Accordingly a third site comprising an area of 1774 sq. yds. was carved out and in November 1958 tenders were invited by public advertisements in the Press. In response to those advertisements only two tenders were received, one from S. Tarlochan Singh of Chandigarh for Rs. 2,23,333.03 and the other from the Movie (Private) Ltd., of Simla for Rs. 2,52,000. The first party made his tender subject to two conditions which could not be accepted by the Government and thesecond party was found to be related to the properties of "Kiron" and "Jagat". So both the tenders were rejected. After due consideration, Shri Saroop Kishen, I.C.S., the then Secretary, Capital

Project, approved of the proposal for calling fresh tenders. Accordingly on February 6, 1959 advertisements were issued in the newspapers fixing March 2, 1959 as the last day for submission of the tenders. In the meantime on January 23, 1959 Giani Kartar Singh, who had become the Agriculture Minister, sent in a note inquiring as to what had happened to the direction he had given as the Public Works Minister regarding the sale of a third cinema site. The file was then placed before Shri Suraj Mal, the new Public Works Minister, evidently for his permission to show the file to Giani Kartar Singh. Shri Suraj Mal on February 28, 1959 entered an emphatic note protesting that tenders had been invited without his orders and directing that the file be placed before the Chief Minister. On March 2, 1959 the Chief Minister made the following note:—

“It is really surprising that without showing this file to PWM and having his orders thereon the Department decided to call for fresh tenders. PWM may now examine this case and send the same to me with his comments. Fresh tenders which are due today should not be opened till further orders.”

On March 13, 1959 the Estate Officer put up a note that those who had given tenders were getting restive as the tenders were not being opened. Apparently on April 3, 1959, a meeting was arranged by S. Prithipal Singh, the Secretary to the Chief Minister who recorded on the file as follows:—

“PWM may kindly discuss this case with CM on the 16th April, 1959, at 10.00 A.M.

Shri B. B. Vohra's note dated April 27, 1959, countersigned by Shri Suraj Mal records the result of the discussion in the following terms:—

“Discussed with PWM. He desired that the 5 tenders which have not yet been opened should be opened in the presence of the parties concerned by E.O. after due notice. Further action will depend upon the amounts of these tenders and the persons/parties who have submitted them. The matter should be examined, CM and PWM desire, from the point of view of the best interest of the Project. We should try to obtain the best possible price without creating any monopoly of ownership or control.”

There is another note by Shri B. B. Vohra, dated April 27, 1959, to the effect—

“PWM has spoken to me about this case again. He desires that if it is found necessary to call tenders a third time, he should be shown the draft of the NIT before issue.”

On May 5, 1959, the tenders which had been received were opened by the Estate Officer in the presence of the representatives of the tenderers. The report of the Estate Officer is in Annexure 'D' to the

affidavit of Shri B. B. Vohra. Of the five tenders received, that of Messrs Nikkamal Payare Lal (Rs. 3,07,000/-) was the highest but it was found that only two tenders, namely those of Messrs Gaindamal Chiranji Lal (Rs. 3,01,000) and of Shri Hukum Chand (Rs. 3,00,101) were in order, the other three tenderers not having sent in the earnest money. Thereafter there appear on the file several notings and it seems that eventually it was decided to send for the representatives of Messrs Gaindamal Chiranji Lal and also Messrs Nikka Mal Payare Lal to come and discuss the matter. It was suggested that Messrs Nikka Mal Payare Lal might be permitted to deposit the earnest money although they had not done so when they submitted the tender. One Shri Kuldip Parkash, the representative of Messrs Gaindamal Chiranjilal came and said that he was not connected with the proprietors of "Kiron" but that Messrs Nikkamal Payare Lal were so connected. He, however, wrote a letter on May 15, 1959, stating that he would complete the construction of the building within 1½ years provided the construction plans duly sanctioned were given to him immediately after the allotment of the site and building materials were made available to him at controlled rates. Nobody came from Messrs Nikkamal Payare Lal although the firm of Messrs Nikkamal Babu Ram of Chandigarh whose proprietors were related to Messrs Nikkamal Payare Lal of Ludhiana had been contacted three times on the telephone. An attempt was made to induce Messrs Gaindamal Chiranjilal to withdraw the letter of May 15, 1959, but they do not appear to have done so. On June 3, 1959, Messrs Nikkamal Payare Lal wrote a letter to the Estate Officer explaining the reason for not sending Bank draft for Rs. 25,000/- along with their tender and enclosing a deposit at call receipt for Rs. 25,000/-. This was followed up on June 8, 1959 by a telegram from Messrs Nikkamal Payare Lal to the same effect. Copies of the above letter and telegram were also sent to the Public Works Minister and the Chief Minister who was also then the Home Minister. After Messrs Gaindamal Chiranji Lal had failed to withdraw their letter, Shri Suraj Mal on June 16, 1959, directed that a fresh tender be invited. Accordingly for the third time a notice calling for tenders by September 1, 1959, was published in the newspapers. Unfortunately in the notice the name of the officer to whom the tender was to be sent was not mentioned but this is said to have been rectified subsequently. No tenders were received at all. It was at this juncture that a letter dated September 30, 1959, came from S. Gurdip Singh Gill praying for the allotment of the cinema site in Sector No. 16, Chandigarh. The letter was written on letter paper with the letter head "From Cineramas, 187 Golf Link, New Delhi." It was signed by S. Gurdip Singh Gill over the description Managing Partner Cineramas, 187 Golf Link, New Delhi. It was addressed direct to the Minister, Capital Project and not to the Estate Officer who usually deals with such matters. It prayed for the site in Sector 16 which had been allotted to Messrs Charan Dass & Co. (obviously meaning thereby Messrs Ram Lal Sham Lal, the proprietors whereof were related to Seth Charan Dass) who had not uptill then built the cinema. It gave an undertaking to build within six to eight months. At the foot of this letter S. Narinjan Singh Talib, the Deputy Minister, Public Works made a note under date October 5, 1959: "Seems to be a good offer. Please discuss this matter personally." Evidently the letter was passed on to Shri B. B.

Vohra, Additional Secretary, Capital Project who after discussing the matter with the Deputy Minister entered the following note—

“Discussed with D.M. We should offer this applicant the 3rd site at the highest bid and on same condition as we wished to impose on the purchaser at the time of the last tender. The applicant should also be asked to give bank references regarding his financial position.

2 In case he accepts this offer, he will be asked to see us.” Accordingly an offer was made to the applicant by Shri V. P. Malhotra the Deputy Secretary, Capital Project by his letter of November 5, 1959. It was mentioned that the applicants, name would be considered or allotment of the cinema site No. 16 in Sector 17 provided the applicant agreed to pay Rs. 3,07,000 which was the highest amount so far tendered and also to accept the conditions mentioned in the schedule. The applicant was further requested to give bank references regarding his financial position and to submit bank draft to cover 10 per cent of the price as earnest money. The applicant was asked to send a reply within a fortnight. On November 27, 1959, S. Gurdip Singh Gill sent a reply to the above letter of the Deputy Secretary direct to the Deputy Minister and not to the Secretary or Deputy Secretary intimating that “all the conditions mentioned in that letter and the Schedule annexed to it are acceptable to us.” A payment warrant for Rs. 30,700 was enclosed with the reply. The reply also said that the constitution of the firm would also be submitted and that the balance to make up 25 per cent of the price would be paid as soon as demanded by the Estate Officer after allotment of the plot to the applicant. A partnership deed constituting the “Cineramas” was submitted later. After S. Gurdip Singh Gill had accepted the offer a letter of allotment was issued on December 7, 1959, in favour of S. Gurdip Singh Gill and not to Cineramas. It should be noted that the terms on which the allotment letter had been issued contained the following two conditions:—

“Until the full price has been paid no transfer of any right or title or any interest in the site shall be permitted without the previous sanction in writing of the Estate Officer.... You will not sell the cinema site or building constructed on it and will run the same yourself for at least ten years.”

It should be noted further that although a Bank reference was another condition which had been imposed and accepted none was given by the allottee or insisted upon by the Government.

Although there was no application by S. Gurdip Singh Gill that the allotment be recorded in the name of Cineramas, S. Narinjan Singh Talib, the Deputy Minister, Public Works, on April 29, 1960 noted saying “We do not want that it may again be a one man show” and suggesting that the plot should be recorded in the name of Cineramas. Shri B. B. Vohra in his note expressed doubt whether the department could allow any transfer without any application from the transferer and the proposed transferee. He said that his personal view was that the department should allow no transfer till the building had been built and the cinema had run for 10 years.

Deputy Minister S. Narinjan Singh Talib in his note dated may 28, 1960 referred to his previous note of April 29, 1960. Shri Suraj Mal, the Minister, Public Works, on June 15, 1960 agreed but directed that legal opinion be taken on the point whether the purchaser could transfer his interest. No legal opinion appears to have been taken at all. S. Narinjan Singh Talib, however, made a note on September 2, 1960 saying that he had wanted a certified copy of the partnership deed only for the Government record and directed. "Let the plot remain in the name of the person already holding the possession as managing partner of Cineramas." There the matter stood for the time being.

On November 29, 1960 S. Surinder Singh Kairon wrote a letter to the Estate Officer intimating that S. Nazir Singh had transferred his interest in the plot to him, that he had paid the full consideration, that there was no profiteering and that he undertook to pay the Government dues and abide by all conditions and praying that the plot to the extent of S. Nazir Singh's share be transferred to him. A deed of conveyance from the Government to the three partners with stamp duty calculated at the rate prevailing before the amendment of the Stamp Act and executed by S. Surinder Singh alone was submitted to the Estate Officer for execution by the Government and registration. Along with it two affidavits, one affirmed by S. Nazir Singh and the other by S. Surinder Singh Kairon in support of his claim were produced. No deed of conveyance by S. Nazir Singh in favour of S. Surinder Singh Kairon was produced or referred to. It may be here mentioned that on this very date the Indian Stamp (Punjab Amendment) Act 1960 enhancing the Stamp Duty on, amongst others, instruments of transfer received the assent of the Governor of the Punjab. Evidently the Deputy Minister S. Narinjan Singh Talib contacted the Estate Officer on the telephone and ordered that the exculsion of S. Nazir Singh from the partnership should be accepted and the name of S. Surinder Singh Kairon should be allowed to be substituted. In his unofficial letter to the Secretary, Capital Project, the Estate Officer after referring to the telephonic talk with the Deputy Minister, asked that in view of the latter's order the necessary approval be accorded. On December 7, 1960 the first instalment of the balance of purchase money fell due.

The several notings of the Deputy Secretary, the Secretary, the Deputy Minister P. W. and the Minister are important as well as interesting and may be set out in extenso:

"The Estate Officer's U. O. at page 111-112 *ante* may be seen.

The problem in the case is that Shri Nazir Singh has proposed to transfer his share in the Cinema to Shri Surinder Singh Kairon. This transfer is objectionable in two ways. Firstly, accordingly to the terms of the sale of site, the site cannot be transferred. If we allow the change mutually agreed upon between Shri Nazir Singh and Surinder Singh Kairon it would tantamount to a breach of this condition. Secondly, the full price of the

site has not been paid and we do not allow the transfer of sites when the full payment has not been made. In view of this the change in partnership cannot be given effect to.

(Sd.) V. P. Malhotra
9-1-61.

Secy (C).

I agree with D.S.C. entirely. If P.W.M. considers fit, he may show this case to C.M. also (We should not cause any embarrassment to C.M. by departing from our usual policy in this particular case)

(Sd.) Illegible
11-1-61.

I do not agree with the notes of Deputy Secretary and Secretary, C.P., as recorded above. In the first instance, the sale of the site is not being transferred. Moreover, the objection said to have been raised by the Auditors in the case of M/s Tund Industries does not apply in the present case at all. Though the industrial plot was sold by negotiations at a less price than the market, but here we have to cover from the purchasers the money up to the highest bid for the Cinema plot. Moreover, there is no change involved even in the ownership. The Managing Director, who had negotiated this deal and is responsible for full payment remains the same. Only one partner wants to transfer his share to another gentleman. In my opinion, therefore, neither we shall be causing any embarrassment to any authority nor departing from our usual policy in this matter.

(Sd.) N. Singh Talib,
D. M., P.W.,
13-1-61.

P.W.M.

I agree with D.M., P.W.

(Sd.) Suraj Mal,
17-1-61."

The net result was that the name of S. Surinder Singh Kairon was recorded in the place instead of S. Nazir Singh in respect of the half share in the cinema plot, although first instalment of the balance of the purchase money remained due.

The next problem that arose was whether the Government could execute and register the conveyance which S. Surinder Singh Kairon had submitted on November 29, 1960 when the other partners, namely S. Gurdip Singh Gill and Smt. Gurdoyal Kaur had not signed the same and S. Surinder Singh Kairon had not been authorised by them by any power of attorney to sign the conveyance for them. On January 30, 1961 the Estate Officer in his note asked for instruction whether S. Surinder Singh Kairon alone, who

held no power of attorney from the other partners, could execute the deed of conveyance from the Government to the allottee. The Deputy Secretary on March 16, 1961 advised the Estate Officer that the conveyance by the Government must be executed in favour of all partners who should sign, that the deed could not be executed in favour of one who did not hold any power of attorney from the other partners. Accordingly on March 22, 1961 the Estate Officer returned the papers submitted by S. Surinder Singh Kairon as it had not been signed by all the partners. There does not appear to be any direction from the higher authorities on this point until the document was registered in 1963 as will be noted hereafter.

The third problem that arose was with regard to the realisation of the arrear of instalments of the balance of the purchase price. As already stated the balance was to be paid in three annual instalments. As the allotment had been made on December 7, 1959 the first instalment of the balance of purchase money fell due on December 7, 1960. No payment was made. Accordingly demand notices were sent by the Estate Officer under Rule 11 of Chandigarh (Sale of Sites and Buildings) Rules 1952/60 on February 27, 1961 and again on April 6, 1961. No payment having been made in spite of two demand notices the Estate Officer in his note dated June 13, 1961 asked the Secretary for advice as to what he was to do for realising the arrears. The Deputy Secretary in his note dated July 12, 1961 pointed out that two defaults had been committed namely that the building had not been completed by six months, i.e. by June 7, 1961 and the first instalment due on December 7, 1961 had not been paid and, therefore, the site was liable for resumption. He advised the Estate Officer to take action accordingly. He, however, asked the Deputy Minister, Public Works to see the case before orders are issued. File went to S. Narinjan Singh Talib. Not having got any direction the Estate Officer on August 3, 1961 sent a reminder to the Secretary for instructions. On August 24, 1961 S. Narinjan Singh Talib, the Deputy Minister recorded a note recommending that three months' time for the deposit of the instalment be given. He wanted to discuss with the Deputy Secretary the question of extension of time for completion of the construction work. After discussion with the Deputy Secretary the Deputy Minister recorded another note that final orders be obtained from the Minister, Public Works. Shri Suraj Mal, the Minister, Public Works on September 5, 1961 wanted the Secretary to speak to him and after discussion eventually recorded the following order under the October 3, 1961:—

“CINERAMAS be asked to pay up the instalments and be asked to continue the construction of the building and should finish it up within six months. They should pay up the instalment quite regularly, otherwise Government will be forced to resume the plot according to the rules.”

The Deputy Secretary, on October 16, 1961 passed on the above order to the Estate Officer. On December 7, 1961 the second instalment of the balance of purchase price also fell due. On December

14, 1961 the Estate Officer wrote to the Secretary stating, *inter alia*—

“Your decision is repugnant to r. 11 of the Chandigarh (Sale of Sites and Buildings) Rules 1952/1960 which does not provide extension beyond three months of the payment of instalment in arrears.”

On December 16, 1961 Cineramas applied for extension of time upto March 31, 1962 on the plea that a lot of moneys had been locked up in the construction of the Cinema and the prices had gone up. This appears to be the first application by Cineramas for extension of time. On January 15, 1962 the Deputy Secretary noted—

“The view of the administrative department is that Government can extend the period of payment under S. 3 of the Capital of Punjab (Development and Regulation) Act by any period. Law Department are requested to advised on the point.”

The Law Department on February 6, 1962 gave its opinion—

“The reply to the query posed by the Administrative Department is in the negative. As a matter of fact, it is the E.O. alone who can extend the period in question to a maximum period of three months as provided in Rule 11 of the Chandigarh (Sale of Sites and Building) Rules, 1960.”

The Office note dated February 22, 1962 recognised that there was no other alternative but to recover the arrears as arrears of land revenue. S. Narinjan Singh Talib, the Deputy Minister, however, thought fit to record a minute on March 12, 1962 to the following effect—

“I think this is an important matter where we should not take a hurried decision. A final notice may be served upon the party, so that they are given one more chance to rise to the occasion and clear the arrears of instalment. Secy. (C) may please proceed accordingly.”

The Secretary on March 16, 1962 put up a note stating “there is no other choice but to either resume the site or recover the outstanding amount as arrears of land revenue” and repeated that “In fact no other course seems to be possible.” On March 20, 1962 the Capital and Health Minister, Shri Brish Bhan, who appears to have taken the place of Shri Suraj Mal, simply noted—“I agree.” The above decision of the Minister was conveyed to the Estate Officer on April 10, 1962 by which date the period of extension asked for by Cineramas on December 16, 1961 had expired. The Estate Officer prepared resumption notices which are on the file, but before he could sign and issue the same a telephone message came to him on April 24, 1962 from the Private Secretary to the Capital and Health Minister (Shri Brish Bhan) to the effect—

“Cineramas have been permitted by CHM to make payment of arrears by 31-7-62. The order is under despatch. No action to resume the site has, therefore, to be taken by this office now.”

The above order of Shri Brish Bhan appears to have been made on an application dated April 18, 1962 made by Cineramas direct to the Minister. The plea, on which that application was founded, was the same as that put forward in their application dated January 16, 1962, namely that lots of money had been locked up in building and air-conditioning plant and expressed the hope to start functioning by the end of June 1962 if not earlier and that the position will then ease down and they would be able to pay the instalments easily presumably out of the earnings of the Cinema. Again it was pointed out to the Minister (Shri Brish Bhan) by the Secretary by his note dated April 30, 1962 that extension beyond three months was illegal and the Minister was asked to reconsider. The Minister had no other alternative than to say, as he did in his note dated May 26, 1962, that as extension beyond three months was not authorised by law let the case proceed according to the normal procedure. This order, however, does not appear to have been communicated to the Estate Officer for it is found that about a month later, to wit on June 25, 1962, he wrote to the Secretary stating that the order of the Minister granting extension upto July 31, 1962 as intimated on the telephone by his Private Secretary had not been received and asking for advice for further action in the matter. On August 10, 1962 the Estate Officer sent a reminder to the Secretary. While the file was going backward and forward even the illegal extension was over on expiry of July 31, 1962 without the Cineramas making any fresh application for extension. On September 11, 1962 an elaborate office note was prepared setting out the entire history of the case with the following concluding words--

"No other alternative but to proceed. Before, however, the E.O. is asked to resume this site, the case may be submitted to CHM and his final orders may be obtained."

On September 18, 1962 the Minister made the following observations:—

"What we can resume is the plot sold but once it is constructed upon what is its effect on the building? If the ownership of the land vests in the Government and that of the building with the allottee the position is indeed anomalous. Has this point been examined at any stage? Dy. Secy. may please discuss."

The matter was referred to the Legal Remembrancer on October, 4, 1962 and after the laps of 50 days he gave his opinion on November 24, 1962 that there was no doctrine in India to the effect that whatever is planted in the land goes with the land. On December 7, 1962 the third and the last instalment of the purchase price also fell due.

On December 7, 1962 Shri V. P. Malhotra, the Deputy Secretary, put up a note for the Secretary that the above advice did not help and expressed the view that if resumption was for non-payment the arrears could be realised by the sale of the building as in the case of arrears of land revenue. The Secretary on December 10, 1962 returned the file with the note suggesting further discussion

with the Legal Remembrancer. After discussion with the Secretary the Deputy Secretary on January 9, 1963 thus recorded the result of the discussion:—

“Secy. desired that a notice should go to the allottee to make payment of the instalments due. I have conveyed this to the E.O. Secy. (C) desired that this case should be discussed by the Minister with the CM. A self-contained note should be given about the Neelam Theatre site for the Minister.”

A self-contained note was prepared on January 18, 1963 a copy of which is Annexure 17 to the affidavit in reply of Shri Ram Piara (R-23). The note ended with the words—

“This case is now submitted to the E.T.C.M. for discussion with the Chief Minister and taking a final decision.”

About this time Shri Ram Piara, M.L.A., now one of the Memorialists, wrote a letter to the Excise, Taxation and Capital Minister, Shri Ram Saran Chand Mittal, who took the place of Shri Brish Bhan, complaining about the arrears due from Cineramas. Whether the Excise, Taxation and Capital Minister (Shri Ram Saran Chand Mittal) discussed the matter with the Secretary and eventually with the Chief Minister, S. Partap Singh Kairon, does not appear from the files to which the attention of the Commission has been drawn.

On January 19, 1963 the Cineramas made another application for extension of time for payment of arrears on the score of business being slack on account of the Chinese aggression. On February 18, 1963 S. Surinder Singh Kairon asked for permission to make payment by setting off refugee claim as he stood in the shoes of S. Nazir Singh. On February 28, 1963 Shri Ram Piara asked starred question No. 2062 inquiring, *inter alia*, about the number of cinema sites allotted or sold by negotiations or auction so far in Chandigarh giving the location, price in each case and the names of those to whom the same were sold and to whom they were transferred later on. There were a number of pointed supplementary questions. In view of the impending questions Cineramas sent two cheques both dated February 19, 1963 for Rs. 76,750/- being the overdue first instalment and Rs. 6907.50 being interest thereon aggregating to Rs. 83,657.50 to the Estate Officer. Unfortunately those cheques were dishonoured on first presentation but were eventually cashed on April 7, 1963.

The Punjab Government officials had no jurisdiction or authority to permit S. Surinder Singh Kairon to make payment by setting off refugee claim which could only be verified by the Government of India. S. Surinder Singh Kairon insisted on the Punjab Government referring the matter to the Rehabilitation Department of the Government of India which was done on April 3, 1963. The Punjab Government asked for the opinion of the Legal Remembrancer as to what, in view of the reference to the Government of India, they should do. On May 3, 1963 the Secretary by a note recorded that

the Legal Remembrancer had advised that the question of payment of the price of land through adjustment of claim was a matter between the Government of India and the buyer. In these circumstances the Estate Officer was advised that he should let the law have its course and take the usual steps to enforce recovery of arrears with interest. On the very next day, i.e. on May 4, 1963 Shri K. S. Narang who had become the Secretary, Capital Project, in the place and stead of Shri B. B. Vohra, who had been transferred, wrote a confidential demi-official letter to the Estate Officer advising that S. Surinder Singh Kairon should be asked to finalise the matter within a reasonable time. Accordingly, on May 15, 1963 the Estate Officer by his letter requested S. Surinder Singh Kairon to finalise the matter with the Government of India early and not later than the first week of July 1963. On August 1, 1963 the Estate Officer again wrote to S. Surinder Singh Kairon to procure the decision of the Government of India by the 15th of that month and also said that even if his claim were allowed he would be entitled to adjust to the extent of 37½ per cent being half of the 75 per cent of the balance of the purchase price. Even this letter was not complied with but on September 17, 1963 half of the second instalment amounting to Rs. 41,828.75 along with penalty Rs. 8783.86 was paid to the Estate Officer. This Commission was constituted on November 1, 1963. On November 22, 1963 the Estate Officer sent a final reminder to S. Surinder Singh Kairon intimating that Rs. 1,47,304.21 including penalty still remained due and payment should be made within 15 days and that penalty from December 1, 1963 would be calculated and charged after payment. There was a warning that in default of payment the provisions of Section 9 of the Capital of Punjab (Development and Regulation) Act 1962 would be invoked and the site would be resumed. He concluded by saying that this might be treated as the final notice. In this affidavit filed on February 14, 1964 Shri Ram Piara (R-23) maintains that a large sum of money is still due from Cineramas.

(iv) Discussion on the arguments

On the facts appearing on the affidavits and the Government files no less than seven points were urged by learned Counsel appearing on behalf of the Memorialists and were sought to be refuted by learned Counsel for S. Partap Singh Kairon which may now be considered.

In the first place it is contended on behalf of the Memorialists that this Cinema site was illegally or improperly allotted to S. Gurdip Singh Gill, the Managing Partner of Cineramas. It is said that according to the policy decision of the Capital Control Board of November 1958 a copy whereof in Annexure 37 to Shri Ram Piara's affidavit (R-23) only bigger commercial sites such as are situated in the city centre or along V-2 Road could be sold by negotiations and not by auction and this small cinema site could not be sold by negotiation. There is no substance in this argument, for under Rule 3 of the Chandigarh (Sale of Sites and Buildings) Rules, 1952/1960 the sites at Chandigarh are to be sold by the State Government by auction or allotment and a policy decision cannot be sacrosanct

or override the statutory rules. It is said that under Rule 4 in the case of sale by allotment the sale price shall be the reserve price but no reserve price having been fixed for this sale the allotment by negotiation could not be made. This argument overlooks the last part of Rule 4(1) which provides that the reserve price shall be determined by the State Government from time to time. Therefore when the State Government makes an offer to a party to sell a site to him at a price specified in the offer, as it did on November 5, 1959 to S. Gurdip Singh Gill, it must be regarded that the price thus offered was the reserve price fixed by the State Government for that particular site.

It will be remembered that when a second notice inviting tenders for this site had been issued Shri Suraj Mal, the then Minister, Public Works, showed considerable annoyance as tenders had been invited without his orders and that the file was then sent to S. Partap Singh Kairon who endorsed a note on March 2, 1959 asking the Public Works Minister to examine the case and send back the file with his comments and also directed that the tenders which were due to be opened on that date should not be opened. Then there was a discussion between the Chief Minister and the Public Works Minister which was recorded in the note made by Shri B. B. Vohra and countersigned by the Minister, Shri Suraj Mal on April 27, 1959 directing that the tenders might be opened. On the same day another note was recorded by Shri B. B. Vohra that the Public Works Minister desired that if it were found necessary to call tenders a third time he should be shown the draft of the NIT before issue. It was said that these facts indicated that there was even at that time a deep design conceived by the Chief Minister and the Public Works Minister to eventually allot this site to the Chief Minister's relatives. It was at any rate a clear hint given to the officers that all the tenders should be rejected. If there was any such hint then the officers do not appear to have taken it. The subsequent notings clearly indicate that although Messrs Nikka Mal Payare Lal had not sent any earnest money the department was willing to extend the time and accept the deposit at a later date and that the department was only anxious to ascertain whether Messrs Nikka Mal Payare Lal were related to Seth Charan Dass as alleged by the representative of Messrs Gainda Mal Chiranjilal. Messrs Nikka Mal Payare Lal did not, however, send any representative although telephonic messages were sent to their sister firm at Chandigarh. Messrs Gainda Mal Chiranjilal had promised to withdraw their letter whereby they had imposed certain conditions which the Government could not accept but they did not withdraw that letter. In the circumstances there was no other alternative than to reject the tenders. A third notice inviting tenders was issued but no tender was received at all. It is true that in the advertisement the name of the officer to whom the tenders were to be sent was not, through oversight, mentioned, but the mistake was soon rectified. It is impossible to hold, on the evidence before the Commission, that a deep design had been hatched at that early stage or that the tenders received in November 1958 had been designedly rejected or that the third notice calling for tender was a bogus and got up show. It cannot, therefore, be stated that the

site was illegally or improperly allotted to the applicant. The only irregularity at the stage of allotment was that no bank reference had been insisted upon.

Learned Counsel for the Memorialists while dealing with this first point digressed into another topic and raised the question of benami which according to him, also vitiated the allotment of the site to S. Gurdip Singh Gill. Maulvi Abdul Ghani Dar in Annexure 'G' to his affidavit (M-6) and Shri Ram Piara in his affidavit (M-9) maintained that Cineramas of 187 Golf Link, New Delhi was owned by S. Surinder Singh Kairon, Smt. Gurdayal Kaur and S. Gurdip Singh Gill and, therefore, S. Surinder Singh Kairon was interested in this cinema site from the time it was allotted to the Cineramas. On the other hand in his counter-affidavit (CM-46) S. Surinder Singh Kairon said that he had no interest in the site when it was sold to Cineramas and that prior to November 1960 when he bought S. Nazir Singh's half share he had no interest in that site. Which of the two contradictory versions is supported by dependable record? (a) It appears that on April 12, 1961 a person of the name of Surender P. Singh requested the Parliament Street, New Delhi branch of the Punjab National Bank Ltd. to open a current account in his name. In compliance with the request of the Commission the Punjab National Bank Ltd. has produced the original application as well as the specimen signature card. It is now admitted that the signatures appearing on those documents and purporting to be those of Surinder P. Singh are the true signatures of S. Surinder Singh Kairon. The address of the applicant as given in that application is 187 Golf Link, New Delhi, which incidentally is the address of Cineramas as printed on the letter head of the application submitted by S. Gurdip Singh Gill for a Cinema site. This supports the Memorialists who mentioned that address as that of S. Surinder Singh Kairon. (b) Then comes the deed of partnership made on November 11, 1959 a copy of which is set out in Annexure 'H' to the affidavit of Shri B. B. Vohra (CM-29). It will be noticed that the deed constituted a partnership between three persons, namely S. Gurdip Singh of 187 Golf Link, New Delhi, S. Nazir Singh of village Bhagta District Bhatinda, and Smt. Gurdayal Kaur of New Patiala, their respective shares being -/4/-, -/8/- and -/4/- annas in the rupee. The partnership commenced from November 11, 1959, i.e. over a month after S. Gurdip Singh Gill had applied for a cinema site. It was executed at Amritsar. Although none of the partners resides at Amritsar, they all congregated at Amritsar for executing this deed. The deed was registered, again, at Amritsar on December 28, 1959. There were two attesting witnesses to the deed, (1) Jasinder Singh and (2) Surinder Singh. There is no dispute that this Jasinder Singh is the son of S. Jaswant Singh the brother of S. Partap Singh Kairon and this Surinder Singh is the son of S. Partap Singh Kairon. At the Registration Office the executants were identified by S. Harbhajan Singh son of S. Mahinder Singh who is none other than the maternal uncle of Smt. Kusum Lata the wife of S. Surinder Singh Kairon. The facts that S. Surinder Singh Kairon ordinarily lives at Amritsar where all the executants of the deed had congregated, that he and his cousin S. Jasinder Singh attested the deed and S. Harbhajan Singh.

the cousin of his wife had identified the executants at the Registration Office undoubtedly lend colour to the Memorialists' case that S. Surinder Singh Kairon was connected with Cineramas from its very inception and consequently in the purchase of the third cinema site at Chandigarh. (c) Reference has also been made to another document executed on the same day, namely, the Memorandum of Association of the National Enterprisers Financiers (P) Ltd. which shows S. Gurdip Singh Gill, Smt. Gurdalay Kaur and S. Surinder Singh as the three Directors. If there be no doubt as to the identity of these three persons, then it will certainly show their close association. There is, however, no definite evidence before the Commission relating to that document. (d) Reliance was placed by learned Counsel for the Memorialists on paragraph 25 of S. Surinder Singh Kairon's counter affidavit (CM-46) as indicating that it was he who was paying the half share of the earnest money. In that paragraph S. Surinder Singh Kairon said that he paid his share of the money which had been deposited upto date with the Estate Officer. He says that upto that date S. Gurdip Singh Gill and the other partner had contributed Rs. 20,000/- and Rs. 25,000/- respectively and he, therefore, contributed upto November 1, 1960 a sum of Rs. 50,000/- towards the partnership. It will be recalled that a payment warrant for Rs. 30,700/-, 10 per cent of the purchase price was sent by S. Gurdip Singh Gill along with his letter dated November 27, 1959 and the other 15 per cent to make up the 25 per cent had been paid before the site was allotted to S. Gurdip Singh Gill on December 7, 1959. If prior to November 1960 when he purchased S. Nazir Singh's interest in the plot he had no interest therein or in Cineramas, why should he contribute towards the moneys deposited upto November 1, 1960? If S. Nazir Singh was really a partner he would surely have paid his half share in the moneys deposited and he would have realised the same from S. Surinder Singh as part of the price of his share in the plot sold to S. Surinder Singh Kairon and there would be no occasion for S. Surinder Singh to pay half of the deposit money into the partnership till. This indicates, according to the Memorialists, that it was S. Surinder Singh Kairon who was the real owner of the half share in the plot in the benami name of S. Nazir Singh and paid his half share of the earnest money.

All the above arguments are plausible but do not, in the opinion of the Commission, clinch the matter. There is no evidence on the question of relationship between S. Nazir Singh and S. Surinder Singh. It is true that S. Nazir Singh has not filed any affidavit before the Commission explaining how he became a partner in Cineramas, whether he contributed any portion of the earnest money deposited for the price of this cinema site and in what manner he contributed, when did he sell his interest in the cinema site to S. Surinder Singh Kairon, whether there was a regular deed of transfer or any writing evidencing the transfer and what was the consideration for the transfer. S. Surinder Singh also does not, in his counter-affidavit, throw any light on the above matters. It is, however, a fact that two affidavits, one affirmed by S. Nazir Singh and the other by S. Surinder Singh Kairon were filed before the Estate Officer in support of the case of transfer of S. Nazir Singh's half share in this plot

of land. On a consideration of the entire evidence the Commission is of the opinion that although on the evidence there is a strong probability that S. Nazir Singh was a mere benamidar for S. Surinder Singh Kairon it is not conclusive on the point and for the purposes of this inquiry the Commission must proceed on the footing that S. Nazir Singh was the owner of a moiety of the cinema plot which he transferred to S. Surinder Singh Kairon.

The second main point urged by learned Counsel for the Memorialists is that the permission to transfer the site from the name of S. Gurdip Singh Gill to Cineramas was illegal. Although no request was made by S. Gurdip Singh Gill that the allotment might be registered in the name of Cineramas S. Narinjan Singh Talib *suo moto* suggested that the plot should be registered in the name of Cineramas. Shri B. B. Vohra doubted whether without any application from the proposed vendor and the proposed vendee the department should allow a transfer. His view was that no transfer should be allowed until the building was constructed and the cinema ran for 10 years. S. Narinjan Singh Talib on May 28, 1960 explained his previous note and on June 15, 1960 the Minister (Shri Suraj Mal) agreed with him but directed that legal opinion be taken if a purchaser can transfer. No legal opinion was taken but on September 2, 1960 the Deputy Minister (S. Narinjan Singh Talib) ordered that the plot may be allowed to remain in the name of the person already holding possession as managing partner of Cineramas. Learned counsel for the Memorialists contend that this change was not authorised by law. The Commission is unable to accept this argument. It should be recalled that the application of S. Gurdip Singh Gill of September 30, 1959 was made on the letter paper headed "Cineramas, 187, Golf Link, New Delhi." He appended to his signature at the bottom of the letter the appellation "Managing Partner, Cineramas". The offer made by the Government on November 5, 1959 was to S. Gurdip Singh Gill, Managing Partner, Cineramas and the acceptance sent by the latter was, again, on the letter paper of Cineramas and subscribed by him as "Managing Partner for Cineramas" and the allotment letter was issued accordingly. All these facts make it abundantly clear that the application was made for and on behalf of Cineramas and, therefore, there was no question of transfer from S. Gurdip Singh Gill to Cineramas. It is true that on the date of S. Gurdip Singh Gill's application and on the date of the Government's offer to him the partnership as constituted by the deed of November 11, 1959 had not come into existence for it was to commence on November 11, 1959 but on the date of the acceptance of the offer on November 27, 1959 and at the date of allotment on December 7, 1959 the partnership firm of Cineramas had come into being and commenced business. Further, a written partnership deed, to commence from the date of the deed, does not necessarily show that no partnership was in existence prior to that date. In any case, it is clear from the letter of acceptance, which is the most important document in this connection, that it was signed by S. Gurdip Singh Gill as "Managing Partner for Cineramas." Therefore, there was no question of any transfer from S. Gurdip Singh Gill to Cineramas.

The third point urged by learned Counsel for the Memorialists is that the transfer of S. Nazir Singh's interest in the site to S. Surinder Singh Kairon was permitted illegally. The notings on this point have been fully summarised at length. On November 29, 1960 S. Surinder Singh Kairon wrote a letter to the Estate Officer stating that S. Nazir Singh had transferred his interest in the plot to him for consideration, that he undertook to pay all Government dues and to abide by all conditions and praying that the plot to the extent of S. Nazir Singh's half share be transferred to him. He produced two affidavits one by S. Nazir Singh and the other by himself in support of this case. No deed of conveyance appears to have been executed or registered by S. Nazir Singh in favour of S. Surinder Singh. It is true that a registered deed is not required for transfer of a partner's interest in the firm even though the partnership assets comprise immovable properties of the value of over Rs. 100/- but here the position was that S. Nazir Singh had sold his interest in the plot itself to S. Surinder Singh Kairon. The letter of S. Surinder Singh Kairon dated November 29, 1960 and the two affidavits filed before the Estate Officer support this position. It was not a case of sale by a partner of his share in the partnership at all. Indeed clause 9 of the partnership deed quite clearly provided that "none of the parties are entitled to charge, transfer or in any way alienate his share or interest in the partnership." If, therefore, there was only a transfer by S. Nazir Singh of his share in the cinema site then *prima facie* a registered deed of transfer would be necessary. There was no such deed. But suppose no registered deed was necessary for the transfer of S. Nazir Singh's interest in the site it was nevertheless a transfer by a partner of his interest in the property. Even such a transfer would be repugnant to the condition on which the site was allotted to Cineramas. The definite condition was that the site should not be transferred before the cinema ran for 10 years.

As will appear from the notings already summarised the officers in the department were definitely of the view that this transfer could not be allowed. Indeed the Estate Officer on March 22, 1961, had returned the deed of conveyance submitted by S. Surinder Singh Kairon. The Deputy Minister S. Narinjan Singh Talib, however, took a different view and exhibited a keenness which has been characterised as uncalled for anxiety for S. Surinder Singh Kairon. He got his Secretary to telephone to the Estate Officer and inform him that the Deputy Minister desired that the exclusion of S. Nazir Singh from the partnership should be accepted and the name of S. Surinder Singh should be substituted. Not getting the formal order the Estate Officer, obviously for his own protection, wrote to the Secretary on the same day asking for the formal order. The Deputy Secretary Malhotra on January 9, 1961, noted that the transfer was objectionable on two counts, namely (i) that it would be sanctioning a breach of the condition of sale that the site should not be transferred and (ii) that it would be a transfer when the full price had not been paid. It should be borne in mind that the first instalment of the balance of the purchase money had just fallen due on December 7, 1960. Shri B. B. Vohra who had then become the Secretary agreed entirely with his Deputy and suggested on January 11, 1961 that "if PWM considers fit he may show this case to CM also. (We should not cause any embarrassment to CM by departing from our

usual policy in this particular case.)” The officers were evidently oppressed with the thought that an illegal and sordid action was being taken for the benefit of the Chief Minister’s son and begged that the matter be placed before the Chief Minister so that seeing the enormity of the mischievous violation of law and practice of the Department he may, for the sake of his own reputation and safety, cry halt to the illegal, unmoral and rank favouritism that was being perpetrated by the Government in the interest of S. Surinder Singh Kairon. Could there be a broader hint about the evil doing that was going to be perpetrated than what was implicit in the above noting. Certainly not. But the redoubtable Deputy Minister, in his extraordinary note under date January 13, 1961, brushed aside all the objections taken by the senior officials on the specious plea that the sale of the site was not being transferred and that there was no change involved in the ownership. According to him there was no transfer because the person whom he erroneously described as “Managing Director” who had negotiated this deed and was responsible for full payment remained the same and only one partner wanted to transfer his share to another gentleman. It was the height of special pleading. He did not take the hint of nepotism clearly implied in Shri Vohra’s note nor did he pay any heed to the second point made out by Deputy Secretary Malhotra that there could be no transfer until the full price had been paid. The Minister (Shri Suraj Mal) quietly agreed with the Deputy Minister on January 17, 1961 and the change was made in breach of the agreed condition of sale and when the first instalment of the balance of price remained unpaid and a flagrant violation of the provisions of Section 3 of the Capital of Punjab (Development and Regulation) Act 1952 was consciously perpetrated in the interest of the Chief Minister’s son. It is utterly impossible to accept the correctness of this decision. The Deputy Minister with whom the Minister agreed does not appear to have appreciated the difference in law between a firm and a company. A company is a legal entity quite separate from its shareholders. A sale of his holdings in the company by a shareholder does not affect the position of the company and its properties in any way. But a firm is not a legal entity in that sense and has no separate existence independently of the partners. The firm name is a compendious way of describing the partners. When it is said that the site was allotted to Cinemas it means in law that the site had been allotted to the three partners individually. A transfer by any one partner of his share in the site is a transfer of the site *pro tanto*. How could such an elementary legal principle escape the comprehension of the Deputy Minister and the Minister is, to say the least, surprising. The Deputy Minister equated the firm with a company and designedly introduced a confusion by calling the Managing Partner the “Managing Director”. Both the Deputy Minister and the Minister had the advice of experienced officers to guide them but they paid no heed to them. They did not even think it fit to refer the matter to the Legal Remembrancer, presumably apprehending that the latter’s opinion may put a spoke in the wheel. Be it remembered that it was this Minister who took umbrage at the conduct of the officials who had invited the second tender and referred the matter to the Chief Minister, that it was he who on June 15, 1960, had directed legal opinion to be taken which does not appear to have been taken at all. He did not, on this occa-

sion, in spite of the broad hint of illegality implicit in Shri B. B. Vohra's note, call for the opinion of the Legal Remembrancer, who was near at hand. The role played by the Deputy Minister (S. Narinjan Singh Talib) should be carefully noted. It was he who endorsed a note on the application of S. Gurdip Singh Gill that it was a good offer. It was he who, *suo moto*, and without any application from S. Gurdip Singh Gill, directed that the plot should be registered in the name of Cineramas and eventually on September 2, 1960, ordered that the plot should remain in the name of S. Gurdip Singh Gill as Managing Partner of Cineramas. It was this Deputy Minister who, on December 7, 1960, evinced an uncalled for anxiety by conveying, through his Private Secretary, to the Estate Officer on the telephone his desire that the name of S. Surinder Singh Kairon should be substituted in the place and stead of S. Nazir Singh. This Deputy Minister, it will be seen in another Chapter, was specially chosen by S. Surinder Singh Kairon to open the Capital Cinema at Patiala on January 1, 1961. Having regard to the events relating to this third cinema site that happened so far and noted above and that happened subsequently as will be noted hereafter, the Commission is constrained to hold that it was not a mere innocent mistake of law but was a cold, calculated act done in the interests of S. Surinder Singh Kairon and it is crystal clear that these two persons were out to oblige the Chief Minister's son and to curry favour with the Chief Minister himself in furtherance of their own interests. It is impossible to believe that they acted without the advice or direction of the Chief Minister or that they did not apprise the Chief Minister of the services they were rendering to him or his son.

Learned Counsel for S. Partap Singh Kairon argued that assuming that it was a transfer of interest by S. Nazir Singh to S. Surinder Singh and that the price was in arrears, there was no bar to the transfer being permitted as, according to him, Section 3(3) of the Capital of Punjab (Development and Regulation) Act 1952 permits transfer in such circumstances. The Commission is utterly unable to accept this interpretation of that Section. Section 3(3) runs as follows:—

“The unpaid portion of the consideration money together with interest or any other amount if any due to the State Government on account of the transfer of any site or building under sub-section (1) shall be a first charge on that site or building, as the case may be, and notwithstanding anything contained in any other law for the time being in force, no transferee shall, except with the previous permission in writing of the Estate Officer, be entitled to sell, mortgage or otherwise transfer (except by way of lease from month to month) any right, title or interest in the site or building transferred to him under sub-section (1) until the amount which is a first charge under this sub-section has been paid in full to the State Government.”

The words “any other amount if any due to the State government” are clearly stated to be in respect of the transfer under Sub-section (1), i.e. transfer by the State Government to the allottee. The

latter part of the Section imposes a ban against transfer by the transferee until the amount which is a first charge under this Sub-section has been paid in full to the State Government. In the present case the balance of the purchase money had not been paid in full and even one instalment of it had become due and was in arrears. This Sub-section, however, provides for the lifting of the ban "with the previous permission in writing of the Estate Officer". The Act clearly contemplates and treats the Estate Officer as a *persona designata*. Therefore, no person or authority other than the Estate Officer can give the requisite permission. In this case, the Minister and the Deputy Minister who had no authority whatever in this behalf usurped the function of the Estate Officer and in the teeth of the opposition of the Estate Officer who had on March 22, 1961, returned the deed submitted by S. Surinder Singh Kairon and overruling what the Commission holds to be sound advice based on perfectly valid objections took upon themselves the responsibility of sanctioning a transfer which was in clear breach of the agreed condition of sale and patently illegal.

The matter does not end here and this brings the Commission to deal with the fifth point urged by learned Counsel for the Memorialists which arises out of the non-payment of the instalments of the balance of the purchase money and what has been described as the complete inaction regarding their realisation, penalty and resumption of the plot. It will be recalled that the instalments fell due on December 7 of 1960, 1961 and 1962. The notings on the Government files which have been summarised in detail in the preceding section of this Chapter disclose a sad state of affairs. The first instalment became due on December 7, 1960. The Estate Officer sent two demand notices on February 27, 1961 and April 6, 1961. Nothing having been paid the Estate Officer on June 13, 1961, asked the Secretary for advice as to what he was to do. The Deputy Secretary Malhotra finding that two breaches had been committed, namely that the building had not been completed and the instalment had not been paid advised the Estate Officer to take action accordingly. Not having received a formal order from the Secretary the Estate Officer on August 3, 1961, sent a reminder to the Secretary and asked for directions. Although no application had been made by Cinemas for extension of time the overzealous Deputy Minister S. Narinjan Singh Talib ordered that three months' time be given for payment of the instalment. The Secretary spoke to the Deputy Minister and the latter advised the Secretary to take orders from the Public Works Minister who was none other than Shri Suraj Mal. Shri Suraj Mal on October 3, 1961, went one better over his Deputy Minister and gave six months' time from October 6, 1961. That order having been communicated to the Estate Officer on December 14, 1961, he replied to the Secretary that the decision was repugnant to Rule 11 of the Chandigarh (Sale of Sites and Buildings) Rules, 1952/1960. That rule runs thus:

"11. Procedure in case of default. In case an instalment is not paid by the transferee by the 10th of the month following the month in which it falls due a notice shall be served on the transferee calling upon him to pay the instalment within a month together with a penalty

which may extend to ten per cent of the instalment payable. If the payment is not made within the said period or such extended period as may be determined by the Estate Officer, but not exceeding three months in all from the date on which the instalment was originally due, the Estate Officer may proceed to have the same recovered as an arrear of land revenue or to take action under section 9 of the Act."

The Estate Officer in his note only said that extension beyond three months was not permissible and obviously out of deference to the Minister did not say that he (the Minister) had no jurisdiction, power or authority to extend the time at all. It is as plain as pikestaff that it was the Estate Officer, as a *persona designata*, who alone could extend the time. The reply, however, came that the view of the administration was that the Government could extend the time under Section 3 of the Capital of Punjab (Development and Regulation) Act, 1952. Such a palpable misreading of the Section is surprising and it is difficult to attribute it to merely innocent ignorance of law. Sub-sections (1) and (2) of Section 3 are relevant for the present purpose. Under Sub-section (1) the State Government may sell, lease or transfer any land "on such terms and conditions as it may, subject to any rules that may be made under this Act, think fit to impose". The power conferred on the State Government is, thus, expressly made subject to the Rules. The State Government cannot override Rule 11. Sub-section (2) of Section 3 provides for payment of the consideration money "in such manner and in such instalments and at such rate of interest as may be prescribed." By Section 2(i) "prescribed" means prescribed by rules made under this Act. Therefore, the manner, instalment and rate of interest are regulated by Rules made under the Act which the State Government has no power to ignore, circumvent or violate. The purported construction of Section 3 was palpably misconceived and utterly untenable. The opinion of the Legal Remembrancer was sought and on February 6, 1962 he answered the query about six months' extension in the negative and opined in unequivocal terms and quite correctly that the Estate Officer alone could extend the time.

In the meantime the second instalment had fallen due on December 7, 1961. Then came Cineramas on December 16, 1961 with their first application for extension of time upto March 31, 1962. The office note dated February 22, 1962 said that there was no other way but to recover the arrears as arrears of land revenue. In spite of the opinion of the Legal Remembrancer and the aforesaid office note S. Narinjan Singh Talib again came to the rescue of Cineramas and made a note on March 12, 1962 that he thought it was an important matter over which no hurried decision should be taken and advised that a final notice be served upon the party. He did not specify the period of this notice. In his exasperation the Secretary on March 16, 1962 recorded his view that there was no other choice but to either resume the site or recover the outstanding amount as arrears of land revenue. About this time Shri Suraj Mal had left and Shri Brish Bhan came in as Capital and Health Minister. On March 20, 1962 he agreed with the Secretary.

The order of the new Minister was conveyed to the Estate Officer on April 10, 1962 by which time even the period of extension asked for by Cineramas in their first application had expired. The Estate Officer prepared the resumption notices but before he could sign and issue the same came the ukase from the new Minister (Shri Brij Bhan) through his Private Secretary to the Estate Officer on the phone that "Cineramas had been permitted by CHM to make payment of arrears by 31-7-62.....No action to resume the site has, therefore, to be taken." This order appears to have been made on an application submitted directly to the Minister by Cineramas on April 18, 1962. This was their second application for time. In spite of his note dated March 20, 1962 in which he had agreed with the Secretary that there was no other way Shri Brij Bhan protected S. Surinder Singh Kairon and his firm by his order dated April 23, 1962 extending the time upto the end of July 1962, ignoring the legal advice given by the Law Department. The Secretary again pointed out to him that extension beyond three months was illegal and asked the Minister to reconsider the matter. The Minister could not escape and had to say that the case might proceed according to normal procedure. Clearly in the interest of S. Surinder Singh Kairon and his firm this order does not appear to have been communicated to the Estate Officer as the notings already summarised clearly show. An elaborate note setting out the entire history of the matter was prepared by the office for the consideration of the Minister of Capital and Health. Even the extended time expired but Cineramas did not make any further application for extension. A new idea dawned upon the Minister, namely that although the Government can resume the plot sold what will happen to the building. He wanted the Deputy Secretary to speak to him. Again a reference was made to the Legal Remembrancer which evoked the short reply that the English Common Law doctrine of what is planted on the Land becomes part of land does not apply in India. This advice brought no comfort or illumination to the unfortunate officers who in their exasperation said that a self-contained note be prepared and the case be discussed by the Minister with the Chief Minister. In consequence of this process Cineramas were getting the benefit of extension without asking for it. About this time the third instalment also fell due and Cineramas on January 19, 1963 put in their third application for extension of time.

It will be recalled that S. Surinder Singh Kairon in paragraph 29 of his counter-affidavit (CM-46) sought to give the impression that the delay in payment of the instalments was due entirely to the dispute about his right to pay up in compensation bond. He said he had "*all along* been contending" that "till the question was finally decided we were not bound to make any payment." Nothing could be farther from the truth, for his allegations are flatly contradicted by the record and his firm's applications. In Cineramas first application dated December 16, 1961 the ground put forward was that lots of money had been locked up in the construction of the cinema building and the prices had gone up. In their second application dated April 19, 1962 they pleaded that lots of money had been locked up in building and air-conditioning

plant and expressed the hope that they would be able to start functioning by the end of June 1962 if not earlier and then the position would ease down and they would be able to pay the instalments easily. In their third application filed on January 19, 1963 they found a fresh excuse in the national emergency arising out of the Chinese invasion and business consequently becoming slack. Not a word was said in any of the three applications for extension of time about his right to pay the consideration money in compensation bonds. It was only in their letter of February 18, 1963 that Cineramas for the first time trotted out this plea to gain time. The notings on this subject of payment by refugee compensation bonds went on in a desultory manner until November 22, 1963 when pursuant to the direction of the new Secretary who took the place of Shri B. B. Vohra, the Estate Officer, wrote a letter to S. Surinder Singh Kairon that Rs. 1,47,304.21 still remained due. This was after Rs. 83,657/- had been paid after Shri Ram Piara had put questions in the Assembly about the arrears. The payment was made by two cheques dated February 19, 1963 which were dishonoured on first presentation but were eventually cashed on April 7, 1963. Memorialists contend that a huge sum is still due from Cineramas. The complaint has been made that adequate penalty has not been imposed and the arrears have not been recovered as arrears of land revenue nor has the site been resumed as 350 other sites have been resumed. It is not clear from the evidence in what circumstances those sites were resumed, whether those sites were vacant or built up. The Commission does not consider it necessary to enter into these details. Suffice it to say that on a consideration of the entire evidence now before it, the Commission has no manner of doubt that undue favour was shown to the Chief Minister's son and that, too, in complete disregard of the advice given by experienced officers and the competent Legal Remembrancer and in conscious violation of the Act and the Rules binding on the Government. It is significant that S. Pratap Singh Kairon has not filed any affidavit affirmed by S. Narinjan Singh Talib or Shri Suraj Mal or Shri Brish Bhan nor has any of them come forward in spite of public advertisement issued by the Commission inviting affidavits for and against the charges to refute the charges by justifying their action and conduct.

The fourth point urged by learned Counsel for the Memorialists raised the question of evasion of Stamp Duty and improper concession given to S. Surinder Singh Kairon. Prior to November 29, 1960 the duty on deeds of conveyance of immoveable property under the Indian Stamp Act was fixed at 2 per cent of the value. The Punjab Government decided to enhance the duty. Accordingly, on October 24, 1960 a bill was introduced in the Vidhan Sabha. It was passed by the Punjab Legislature on November 21, 1960. The duty on conveyance was raised enormously. The Bill as passed received the assent of the Governor in the afternoon of November 29, 1960 and the information reached the Chandigarh office after 5.00 P.M. On the same day S. Surinder Singh Kairon presented before the Estate Officer the deed of conveyance of the cinema site signed by him alone. It was not signed by the other

two partners, S. Gurdip Singh Gill or Smt. Gurdayal Kaur nor did S. Surinder Singh Kairon hold any power of attorney from his co-partners to sign it on their behalf. It was stamped at the old rate. The difference between the old rate and the new rate in this case was over Rs. 30,000. A large number of instruments stamped at the old rate were presented by purchasers on November 29, 1960 but could not be executed on that day for want of time. According to the office note dated February 27, 1963 instruments numbered 286 and the deficiency in Stamp Duty was Rs. 1,74,230/-. Memorialists contend that the number of such documents was not more than 20 to 25. Learned Counsel for the Memorialists challenged the genuineness of the two Registers that have been produced on various grounds which do not seem to the Commission to be conclusive. As far back as January 16, 1962 the Chief Minister had administered an admonition to the officers on account of whose inefficiency the documents could not be executed and registered and he wanted detailed information. Information was collected. On March 29, 1963 the Secretary to the Chief Minister recorded a note on the subject of enhancement of stamp Duty and registration of deeds the relevant portion of which ran as follows—

“The Stamp Duty on Registration of Conveyance Deeds was enhanced from the 29th November, 1960, but a large number of Conveyance Deeds were pending in various Registration Offices as the staff could not cope with the large number of registration cases. C.M. has ordered that all deeds of conveyance received up to 29th November, 1961, with proper stamp duty at the rate of 2 per cent may be accepted and necessary registration allowed accordingly.”

The number of the year given as 1961 was obviously a mistake for 1960. This was endorsed by S. Ajmer Singh the then Revenue Minister on March 22, 1963. The Revenue Minister noted that the proposal had considerable financial implications, it involved remission of duty and suggested that as it was an important case and there was difference of opinion at some levels the Chief Minister might discuss the matter with him before final decision was taken. Eventually on July 26, 1963 a Notification was issued that in exercise of his powers under Section 9(1) proviso clause (a) of the Indian Stamp Act, 1899, the Governor had been pleased to reduce in whole of the Punjab the duty payable on four classes of instruments. Classes 2, 3 and 4 did not cover the deed of S. Surinder Singh Kairon. It was argued that it fell within the first class, namely—

“(1) Instruments presented to the Estate Officer, Capital Project, Chandigarh, or to the Colonisation Officer, Punjab, Chandigarh, for execution on or before the 29th November, 1960, even if such instruments remained unexecuted on account of insufficiency of stamp or other minor variations required to be made in the instruments.”

The fact that the deed was not signed at all by two of the three partners was regarded as “other minor variations required to be made in the instrument.”

Learned Counsel for the Memorialists contend that this notification caused a loss of Rs. 1,74,220 to the public Exchequer only to save for S. Surinder Singh Kairon the sum of Rs. 30,000 which accounted for about 1/58th of the total loss. The fact that the bill had been introduced in the Legislature on October 24, 1960 and had received the Governor's assent on November 29, 1960, was referred to as showing that there was no justification for showing this indulgence to the executants of the instruments who had for over a month failed to get their instruments registered. The Memorialists say that it was to enable S. Surinder Singh Kairon to evade his liability that this reduction was granted. S. Partap Singh Kairon in his counter-affidavit (CM-89) paragraphs xx to xxiv said that he had no knowledge whether by November 29, 1960, the deed of this cinema site was registered by the Estate Officer. He stated that it had been reported to him that hundreds of deeds were presented on November 29, 1960 at Chandigarh and other places. He denied that S. Surinder Singh Kairon sought his help or aid to save Rs. 30,000 and asserts he never approached him in this matter at all. He reiterates that a large number of representations were received by the Government that the owners should not be penalised for the inability of the Government to execute and register the deeds in time and he claims that the decision to reduce the duty was fair and equitable. Learned Counsel for the Memorialists point out that the files produced for their inspection contain but one application jointly made by four persons and their complaint was that although they had submitted their deeds some time ago deeds presented by others subsequently were registered before theirs. Learned Counsel for S. Pratap Singh Kairon did not refer to any other written representation but said that nowadays the Ministers are popular Ministers, easily accessible and oral representations are frequently made. It is no wonder that this plea evoked the sarcastic comment from learned Counsel for the Memorialists that a multitude of people came all the way to the Chief Minister at Chandigarh to make their oral representations but his own son never whispered a word about it in his ears. The question of reduction of duty was a political and administrative decision which must be left to the Government to decide. The Government has taken its decision and many people have undoubtedly benefited by it. It may well be that in issuing the notification the interests of those other people were taken into consideration but it cannot be denied either that the interest of the son also facilitated and accelerated the taking of steps to give relief to all. In the circumstances there is no compelling reason to hold, on the evidence before the Commission, that this reduction of duty was made wholly and solely with a view to benefit the Chief Minister's son. Although there are some suspicious circumstances relating to this matter, the Commission cannot act on suspicion.

The question of the knowledge of S. Partap Singh Kairon about what was happening regarding the illegal allotment of site in question, the illegal transfer of interest in the site when the price had not been paid in full and the illegal extensions of time for payment of dues has been canvassed at considerable length. That S. Partap Singh Kairon came to know of the second notice inviting tenders is not disputed for the file was submitted to him with the outburst of Shri Suraj Mal and he sent back the file to Shri Suraj Mal and he

sent back the file to Shri Suraj Mal with his note dated March 2, 1959. There was a discussion between him and the Public Works Minister recorded by Shri B. B. Vohra on April 27, 1959. In June 1959, the letter and telegram of Nikka Mal Payare Lal were endorsed to him. On January 9, 1961, the Deputy Secretary objected to the transfer of the share of S. Nazir Singh to S. Surinder Singh Kairon and on January 11, 1961, Shri B. B. Vohra agreed with him and suggested that the file should be shown to the Chief Minister to save him from embarrassment. The Deputy Minister S. Narinjan Singh Talib rejected this opinion and the Minister agreed with him. As appears from a subsequent note this Deputy Minister was extremely careful that no hurried decision should be taken and it is surprising that he would not forward the file to the Chief Minister which was specifically suggested by Shri B. B. Vohra. It will be recalled that when Shri Suraj Mal was annoyed with the Secretary for having issued the notice inviting tenders he directed the file to be placed before the Chief Minister, and it is incredible that when Shri B. B. Vohra made that pregnant note he would not speak to or pass on the file to the Chief Minister. On January 16, 1962, the Chief Minister knew, as is evident from his Secretary's note, that lots of documents had been presented on November 29, 1960 and he rebuked the officers for their inefficiency and desired that complete information should be obtained "unofficially" and given to him to enable him to pass orders. It is unbelievable that he did not know or that his son did not tell him anything about his deed or how the matter stood. Again on January 9, 1963, the Deputy Secretary suggested that a self-contained note be prepared and the case should be discussed by the Minister with the Chief Minister. A self-contained note was prepared and is on the file and it is difficult to believe that the Minister would not even at that stage send the file to the Chief Minister or discuss the matter with the Chief Minister. In February, 1963, Shri Ram Piara raised the question of the arrears of instalments due by Cineramas in respect of this cinema site and at least then the matter came to his notice. What enquiries did he make? None is on record. What steps did he take? Again the answer is "nil". If he had not previously known of the illegalities and irregularities that were being committed in the interest of his son he should, after coming to know of them, certainly have done something tangible. The fact that he did nothing is only consistent with the fact that he had knowledge about them all along and nothing came to him as a surprise. What could be the reason for the apparent disinclination on the part of the Deputy Minister (S. Narinjan Singh Talib) or the Ministers (Shri Suraj Mal and Shri Brish Bhan) not to pass on the file to the Chief Minister or to discuss the matter with him? None is alleged. There seems to be no reason why any of these three persons should take upon themselves the sole responsibility for sanctioning these illegalities and irregularities. The true explanation seems to be that these people were acting under the direction of the superior personality of the Chief Minister but were keeping him in the background. There appears to be a calculated design to so arrange matters that outwardly and on paper the Chief Minister does not come into the picture. This does not appear to be a solitary instance of keeping the Chief Minister out of the picture for the same technique will be seen practised when the Commission deals with Nandan Cinema and the Punjab Cold Storage. Evidently these

three persons were showing undue and illegal favour to the Chief Minister's son. Why? Obviously to oblige the son and also to please the father. If that were the object, as the Commission is inclined to hold it was, then all the greater would be the reason for them to let the Chief Minister know what services they were rendering to his son and through the son to him. In their own interest they would take directions from the Chief Minister. Why has not any of those three persons filed any affidavit explaining the position in relation to this charge? On a careful scrutiny of the evidence before the Commission and on the strong probabilities of the case the Commission finds no escape from the conclusion that the Chief Minister was fully aware of all the irregularities and illegalities that were being done in the interest of his son S. Surinder Singh Kairon in respect of this cinema site.

Another point urged by learned Counsel for the Memorialists was in connection with the non-payment of the electricity bill. It appears from the affidavit of Shri R. D. Gupta (CM-28), the Executive Engineer, Punjab State Electricity Board, that the Neelam Cinema was given electric connection on September 15, 1962. Monthly bills were regularly rendered. The consumer did not pay the bills regularly and Rs. 20,447.31 was outstanding upto the end of July 1963. In other words during 10½ months bills for Rs. 20,447.31 were allowed to remain in arrears. On July 13, 1963, the present memorandum was presented before the President and that apparently woke up S. Surinder Singh Kairon and arrears were paid up as follows:—

Rs. 7,500 on September 3, 1963,
 Rs. 4,000 on September 15, 1963, and
 Rs. 10,560.01 on October 28, 1963,

i.e. three days before this Commission was constituted. It is curious and most significant that while arrears had mounted up to over Rs. 20,000 the State Electricity Board did not think fit to discontinue the supply as they would do with lesser consumers. Shri R. D. Gupta has put forward a naive explanation in the concluding paragraph of his affidavit, namely—

“5. That for delayed payment of energy bills, the consumer had to pay an extra sum of Rs. 1142.33 by way of forfeiture of discount and this amount has also been received along with the payment of the energy bills.”

To equate the disallowance of discount with payment of a penalty is indeed a novel way of slurring over the dereliction of duty on the part of the Executive Engineer and his subordinate officers and the learned Counsel for S. Partap Singh Kairon has not attempted to improve upon it. There is no manner of doubt that S. Surinder Singh Kairon by exploiting his father's exalted position prevailed upon these officers to accommodate him or these officers *suo moto* to curry favour with S. Surinder Singh Kairon and to please his father desisted from taking the steps which they should have taken. There is, however, no evidence before the Commission that S. Partap Singh Kairon himself exerted his influence over these officers in this connection.

(v) Findings of the Commission

On the evidence on which reliance may be placed and on the probabilities of the case and in the light of the discussion on the arguments appearing in the last preceding section of this Chapter the Commission finds—

- (a) that there is no compelling reason to hold that in the beginning of the year 1959 there was any design on the part of Shri Suraj Mal and S. Partap Singh Kairon to reject all the five tenders made in pursuance of the second notice inviting tenders or that the third notice for tenders was a bogus and got up affair;
- (b) that there was no illegality or impropriety in the allotment of the cinema site by negotiation to S. Gurdip Singh Gill, Managing Partner of Cineramas, although the failure to insist on a Bank reference was somewhat irregular;
- (c) that although there are circumstances raising considerable doubt and suspicion, there is not sufficient evidence before the Commission to enable it to hold positively that S. Nazir Singh was a mere benamidar for S. Surinder Singh Kairon;
- (d) that the allotment of the site was made to S. Gurdip Singh Gill as Managing Partner and for Cineramas and, therefore, there was no transfer from S. Gurdip Singh Gill to Cineramas which can be said to be illegal;
- (e) that there was a transfer from S. Nazir Singh to S. Surinder Singh Kairon of a half share in the cinema site and the acceptance of such transfer was a breach of the condition of sale and a violation of the provisions of Section 3 of the Capital of Punjab (Development and Regulation) Act, 1952;
- (f) that the decision to the contrary of the Deputy Minister supported by the Minister, Public Works, was erroneous and in the circumstances appearing from the files cannot be explained away as a merely innocent mistake of law but appears to have been arrived at with a view to further the interests of S. Surinder Singh Kairon and to please the Chief Minister;
- (g) that all extensions of time sanctioned by the Minister and/or the Deputy Minister were wholly unauthorised, and illegal as they offended the provisions of Rule 11 of the Chandigarh (Sale of Sites and Building) Rules 1952/1960;
- (h) that the plea of right to pay up the consideration by refugee compensation bond was raised, not in any of the three earlier applications but, at the last stage only to gain time;
- (i) that taking into consideration the surrounding circumstances it cannot be said that the reduction of Stamp Duty was wholly and solely to benefit S. Surinder Singh.

Kairon, although his interest may have facilitated the promulgation of the Notification of July 26, 1963;

- (j) that on the evidence and the probabilities inherent in the circumstances there is strong reason to hold that the illegalities in the matter of transfer of interest and extensions of time sanctioned by the Minister and/or Deputy Minister in breach of the conditions of sale and in violation of the provisions of Section 3 of the Act mentioned at (e) above and Rule 11 of the Rules made thereunder were committed with the full knowledge of S. Partap Singh Kairon and if he did not actually direct their commission he certainly connived at them;
 - (k) that S. Surinder Singh Kairon by exploiting his father's position prevailed upon the officers of the Punjab Electricity Board to show favour to him by refraining from discontinuing the supply of electric energy or those officers did so *suo moto* with a view to oblige S. Surinder Singh Kairon and to please the Chief Minister; and
 - (l) that there is no evidence that S. Partap Singh Kairon himself exerted his influence over the officers of the Punjab State Electricity Board.
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CHAPTER XIII
CAPITAL CINEMA, PATIALA

(i) Formulation of the charge

In the memorandum under consideration, "Capital Cinema, Patiala, valued at Rs. 4,00,000" has been shown as item 26 under Charge 1 wherein have been set out the different properties and businesses said to have been acquired by the Kairon family within a short time after S. Partap Singh Kairon became the Chief Minister. No details of the charge are to be found anywhere in the memorandum. In Shri Prabodh Chandra's second charge-sheet (Annexure 1 to the memorandum), however, the charge was formulated more fully. It will be observed that the following imputations, so far as the Capital Cinema, Patiala, is concerned, were involved in the charge as then framed, namely—

- (i) that abusing his position as Home Minister S. Partap Singh Kairon got a house derequisitioned;
- (ii) that in order to accommodate an official a bungalow of a higher category was de-categorised; and
- (iii) that taking advantage of the fact that S. Partap Singh is the Home Minister another Cinema is being put up at Patiala in spite of the fact that a girls' school is within the prohibited limit.

The rest of the allegation relate to the Parkash Cinema which has already been dealt with.

(ii) Affidavits filed before the Commission

In support of the charge four affidavits have been filed by the Memorialists, namely (i) by Maulvi Abdul Ghani Dar (M-6), (ii) by Shri Devi Lal and five others (M-7), (iii) by Master Tara Singh (M-25) and (iv) By Shri Kulbir Singh (M-15). The whole of the affidavits of Shri Devi Lal (M-7) and of Master Tara Singh (M-25) are verbatim reproductions of the body of the affidavit of Maulvi Abdul Ghani Dar (M-6). Similarly the entire affidavit of Shri Kulbir Singh from paragraph 1 to paragraph 29 is a verbatim copy of the 29 paragraphs of Annexure 'J' to the affidavit of Maulvi Abdul Ghani Dar (M-6). There are no annexures to M-7 or M-25. It will be seen hereafter that the allegations contained in these affidavits have gone far beyond the three points involved in the second charge-sheet of Shri Prabodh Chandra of August 1960.

In opposition to these four supporting affidavits 11 counter-affidavits affirmed by S. Partap Singh Kairon (CM-89), S. Surinder Singh Kairon (CM-46), Shri Hardev Singh Chhina, I.A.S., Secretary, Vigilance Department (CM-35 and CM-80), Shri Gurdial Singh,

Inspector General of Police, and Joint Secretary, Home Department (CM-36), Shri P. N. Bhalla, I.A.S., District Magistrate, Amritsar (CM-37), Shri Ramesh Narain Pandey, Manager, Capital Cinema, Patiala (CM-43), S. Sunder Singh, District Magistrate, Patiala (CM-47), Shri J. S. Bawa, I.P.S., Assistant Inspector General of Police (CM-48), Col. Sultan Singh, Commandant, Punjab Home Guards (CM-49), and Dr. Anup Singh, Ex-M.P. Ex-Chairman, Punjab Public Service Commission (CM-85). After these counter-affidavits had been filed, the Memorialists, under orders of the Commission, got inspection of the relevant Government files and filed two affidavits in reply one affirmed by S. Kulbir Singh (R-15) and the other by Shri Jagat Narain (R-24), adding further to their case, which thus went through a gradual process of development from the stage of complaint to the stage of argument before the Commission. It is quite apparent that the Memorialists are now, alleging sinister influence of S. Partap Singh Kairon and of his son, S. Surinder Singh Kairon throughout the transaction relating to the acquisition of this Capital Cinema, Patiala. It has, therefore, become necessary for the Commission to closely scrutinise the case.

Three members of the public have come forward with their affidavits in support of the Memorialists' charge, namely, S. Jaswant Singh, Assistant Manager, Rajinder Deva Orphanage (P-3), S. Nasib Singh, Sarpanch (P-29) and Shri Ram Krishen Rakesh (P-25). In opposition to the three last mentioned affidavits, six counter-affidavits have been filed on behalf of S. Partap Singh Kairon. They are affirmed respectively by S. Amar Singh, Auditor (CP-13), S. Bharpur Singh, Ex-President, Rajinder Deva Orphanage (CP-14), Shri Ramesh Narain Pandey, Manager, Capital Cinema, Patiala (CP-15), S. Bishan Singh, Electrical Engineer (CP-17), Lt. Prem Singh, Ex-Secretary and Member, Rajinder Deva Orphanage (CP-18) and S. Partap Singh Kairon (CP-202) with certain other persons' affidavits annexed thereto.

(iii) Influence said to have been exercised in connection with the granting of lease of Kothi 1.

In 1892, A. D. Rajinder Deva Orphanage was established near the Railway Station, Lahori Gate, Mall Road, Patiala. There was within the Orphanage Kothi 1, together with the adjoining land belonging to Rajinder Deva Orphanage which was managed by a Committee consisting of 11 members. In 1954/1955 Kothi 1 was requisitioned and allotted to the Deputy Superintendent of Police, Central Intelligence Bureau, for residence-cum-office at and for the rent of Rs. 125 per month. In 1958, the Orphanage got sanction for building 11 shops but built only four and let them out for the aggregate sum of Rs. 200 per month. The Orphanage wrote to the authorities that it would not build the remaining seven shops for which sanction had been obtained. Whether this was for want of funds or not does not appear clearly on the facts before the Commission.

On April 4, 1960 a meeting of the Managing Committee was convened. S. Bharpur Singh was at that time the President of the Committee. That meeting is said to have been called at the instance of S. Babu Singh, a member, and Lt. Prem Singh, a member and the

Secretary. It is alleged that although there was no item on the agenda for leasing out Kothi 1, yet a resolution was got passed appointing a sub-committee consisting of S. Babu Singh, Lt. Prem Singh and S. Dalip Singh and authorising it to grant a lease of that house. On April 8, 1960, those three persons executed a deed of lease in favour of one S. Gurdip Singh, son of S. Mahinder Singh, the maternal uncle of the wife of S. Surinder Singh. The lease was for 20 years and the rent reserved was Rs. 425 per month with three options for renewal for 10 years at a time on an enhancement of 10 per cent in the rent at each renewal. Under the terms of the lease the lessee was entitled at his own expense and cost to renovate the building, to make any additions or to re-erect any other building on the demised premises. The Lease Deed also provided that the lessee should be entitled to obtain possession from the person then in occupation and he was authorised to take proceedings to evict the occupant at his own costs.

It will be recalled that neither in the Memorandum of Charges nor in its Annexure I was there any grievance made about the granting of the lease. It was in the two affidavits (M-6 and M-15) filed in support of the charge that this lease has been challenged as the outcome of an ulterior motive. What was the condition of this Kothi 1 in April 1960? It was in the occupation of a Deputy Superintendent of Police paying a rent of Rs. 125 per month. According to S. Bharpur Singh who had been a member of the Managing Committee for twenty years and was the President at the time swears to his personal knowledge that Kothi 1 was in a dilapidated condition and required heavy repairs and that as the maintenance of the said Kothi was costing the orphanage a good deal of money, the Managing Committee was considering the question of leasing it out for long period at a higher rent with liberty to the lessee to demolish and rebuild. A sub-committee was appointed which after negotiation let it out to S. Gurdip Singh at a rental of Rs. 425 per month which brought in an extra sum of Rs. 300 per month to the coffers of the Orphanage. Lt. Prem Singh who had been the Secretary and Member of the Managing Committee from 1959 to 1963 also states that the said Kothi 1 was very old and was in a dilapidated condition and the first floor had already before 1960 fallen down. It has been alleged that the question of letting out the house was not in the agenda and yet the resolution had been passed as hereinbefore mentioned. The Member-Secretary, Lt. Prem Singh denies that the meeting had been got convened for any indirect purpose or with any ulterior motive and says that it was convened in the normal course of business. He says that he does not recollect the agenda of that meeting but that the decision for leasing out the house could come well within the discussion on the budget. Besides, it was usual to bring up new items before the meeting with the permission of the Chair. He concludes that the decision was unanimously taken in good faith in the interest of the Orphanage. Learned Counsel for S. Partap Singh Kairon points out quite pertinently, that neither Maulvi Abdul Ghani Dar nor S. Kulbir Singh has any personal knowledge in the matter. Maulvi Abdul Ghani Dar verifies the allegations in paragraph 6(xvi) of his affidavit which covers the Capital Cinema, Patiala, as based on certain records including those

of the Rajinder Deva Orphanage, Patiala, and on information received, amongst others, from S. Jaswant Singh and S. Gian Singh Rarewala. S. Jaswant Singh claims to be the Assistant Manager of the Orphanage and has filed an affidavit (P-3) as a member of the public. S. Gian Singh Rarewala is now the President of the Managing Committee and is said to have filed a charge-sheet against the Chief Minister. It is surprising that the minute book of the Managing Committee of the Orphanage has not been produced before the Commission nor any extract therefrom has been annexed to the affidavit of S. Jaswant Singh.

It is alleged that S. Bharpur Singh, the then President and S. Babu Singh were influenced by S. Partap Singh Kairon and were prepared to do anything to please him. It should be noted that out of the three persons appointed as a sub-committee allegations have been made only against S. Babu Singh. There is no suggestion anywhere as to why the other two members, Lt. Prem Singh, the Member-Secretary, and S. Dalip Singh should act in the way they did unless it were for the good of the Orphanage. Lt. Prem Singh swears that the resolution in question was passed unanimously by the Managing Committee and no allegation or insinuation has been made against any of the eleven members of the Managing Committee except S. Bharpur Singh and S. Babu Singh. The truth or otherwise of these allegations against them depend, on ultimate analysis, on the testimony of S. Jaswant Singh for neither Maulvi Abdul Ghani Dar nor S. Kulbir Singh has any personal knowledge and both of them rely on information received from S. Jaswant Singh. S. Amar Singh, who was on March 1, 1960 appointed Auditor by the Rajinder Deva Orphanage to audit their accounts for the period from July 1, 1958 to March 31, 1960 and continued as auditor upto November 5, 1963 when he resigned says in his affidavit (CP-13) that in the course of his audit for that period he discovered serious irregularities in the accounts and found that a sum of Rs. 1958/- was short in cash accounts which after realisation from tenants as rent had not been deposited in the Bank by S. Jaswant Singh and that the said sum was recovered from him as to Rs. 458/- paid in cash just after audit and as to the balance of Rs. 1500/- by deduction from his pay at the rate of Rs. 50/- per month, the last deduction being in November 1963. The Commission feels that it will not be safe to rely on the testimony of such a person unless he were corroborated in material particulars by authentic record. The Commission now proceeds to scrutinise the allegations against S. Bharpur Singh and S. Babu Singh.

As against S. Bharpur Singh, Maulvi Abdul Ghani Dar could level no other charge except that both his sons were Government servants. In paragraph 20 of Annexure 'J' to his affidavit (M-6) Maulvi Abdul Ghani Dar dismissed S. Bharpur Singh with the following short remarks:—

“That S. Bharpur Singh Dhillon—the then president of the orphanage—has two sons—Gurjit Singh and S. Daljit Singh. S. Gurjit Singh is a Deputy Controller of Transport and S. Daljit Singh, Superintendent of Police and thus Shri Dhillon was influenced through them.”

S. Jaswant Singh in paragraph 9 of his affidavit (P-3) added, *inter alia*:

“That Shri Bharpur Singh, President of Managing Committee and Shri Babu Singh were out to please the Chief Minister for the benefit of their persons i.e., Shri Bharpur Singh to enable his son to get his given up arrears and Shri Babu Singh to have a satisfactory settlement of his disputed emoluments, pension and gratuity.”

Learned Counsel for S. Partap Singh Kairon pointed out quite legitimately that the aforesaid allegations were purported to be verified as true to information and knowledge which, in law, is no verification at all, for he does not say which part of it is true to his knowledge and which part of it is true to information and who his informant is. However, the Punjab Government files have been produced and inspected by the Memorialists. It appears that in May 1953 the services of S. Gurjit Singh son of S. Bharpur Singh had been terminated by the then PEPSU Government. Eventually on or about September 25, 1958 after the merger of PEPSU with the Punjab the Punjab High Court held the order of termination of service by the erstwhile Government to be invalid and directed his reinstatement. The Punjab Government applied for leave to appeal to the Supreme Court. A settlement was arrived at, namely that S. Gurjit Singh would not claim the arrears of salary from May 11, 1963 to September 25, 1958 and would be satisfied with reinstatement and that the Punjab Government would withdraw its application for leave to appeal to the Supreme Court. That application was withdrawn and S. Gurjit Singh was reinstated. In April 1960, however, S. Gurjit Singh made a representation for the arrears of salary being paid to him. Rao Birendra Singh, the then Minister of Transport recommended the rejection of that representation. S. Gian Singh Rarewala who was also a Minister in the Punjab Government strongly supported the claim for the arrears. S. Partap Singh Kairon agreed with Rao Birendra Singh and rejected the representation. The appointment of S. Gurjit Singh as Joint Transport Controller was the result of a decision taken by the Government of India. It is thus clear that not only no favour was shown to the son of S. Bharpur Singh, S. Partap Singh Kairon had rejected his application for the arrears of salary. If S. Partap Singh Kairon was minded to favour S. Gurjit Singh with a view to win the support of his father. S. Bharpur Singh, in the matter of the lease of Kothi 1, there was nothing to prevent S. Partap Singh Kairon to agree with S. Gian Singh Rarewala and sanction the payment of the arrears of salary. There is absolutely no foundation, whatever, for the uncharitable imputation against S. Bharpur Singh and it is not surprising, therefore, that learned Counsel for the Memorialists did not, in course of his arguments, seek to support their charge against S. Bharpur Singh.

A lot has been said about S. Babu Singh. It will be recalled that he was one of the three members of the sub-committee that granted the lease to S. Gurdip Singh and one of the eleven members of the Managing Committee which had appointed the sub-committee and authorised this sub-committee to lease out Kothi 1. It is not alleged how S. Babu Singh came to wield so much power as to induce all

other members to follow his dictation. S. Jaswant Singh who is the source of their information says in paragraph 7 of his affidavit (P-3):

“That Shri Babu Singh, a Superintendent of Police in the employment of the Punjab Government was retired in 1959, the demand of the Jammu and Kashmir Government for loan of his services was ignored as certain enquiries were alleged to be pending. After his retirement he came over as one of the members of the Managing Committee through Gurusingh Sabha. At that time his case for gratuity, pension and other emoluments was pending with and was disputed by the Punjab Government of which the Chief Minister was and is Sardar Partap Singh Kairon.”

Learned Counsel for the Memorialists referred at length to several Government files in support of his contention. It appears that as far back as November 28, 1957 a complaint was received against, amongst others, S. Babu Singh. On September 22, 1958 Major General Maneckshaw wrote to S. Waryam Singh, then Inspector General of Police recommending the extension of the service of S. Babu Singh who was then working under the Major General on deputation. S. Waryam Singh directed his office to examine the case. Eventually on April 3, 1959 S. Waryam Singh made a note, in agreement with the Assistant Inspector General of Police, stating that there was no case for extension. The Home Secretary on April 4, 1959 agreed with S. Waryam Singh and put up the file before the Chief Minister. On April 8, 1959 there is a note “CM has seen” which presumably means that the Chief Minister agreed that no extension would be granted. On April 22, 1959 the Inspector General of Police received a letter from the Secretary, Anti-Corruption Department that the charge-sheet enclosed therein be served on S. Babu Singh. On April 23, 1959 there is an office note to the effect that the allegations against S. Babu Singh being serious he should be suspended and an inquiry should be held. On the same day the Secretary, Vigilance Department suggested, for the consideration of the Chief Minister, that there were two courses open, namely to permit S. Babu Singh to retire on a suitable cut in his pension or to suspend him and direct an inquiry, his own view being that the latter course should be adopted. The matter went before the Chief Minister and on April 25, 1959 he endorsed an order to the following effect: “Babu Singh should be allowed to retire on a suitable cut in his pension if the charges are substantiated after inquiry.” On April 30, 1959 S. Babu Singh retired on the above terms. It should be borne in mind that all this happened at a time when it could not be anticipated that a year later a question of lease of Kothi 1 would arise and that S. Babu Singh would be one of the three members of the sub-committee appointed to execute the lease. At any rate, not much favour was shown to him for the sword of inquiry was held hanging over his head.

The pension of S. Babu Singh was held up for the cut in it had to be fixed after inquiry. On September 15, 1959 the Under Secretary, Vigilance Department, wrote to the Home Secretary regarding the issue of a clearance certificate. Nothing was shown to the Commission to have happened until April 8, 1960 when the lease had been

executed. On that day S. Babu Singh continued to be under the cloud of an impending inquiry. The lease having been executed there could be no question of holding out any inducement to S. Babu Singh; but learned Counsel said that one of two things had happened, namely that an understanding had been reached that on S. Babu Singh putting through the transaction of lease he would be rewarded by the Government dropping the inquiry or that having successfully completed the lease he was, for services rendered unasked, rewarded by having the inquiry against him dropped. It is said that after the date of the lease the entire course of proceedings changed in favour of S. Babu Singh. There is not a little of evidence in support of the first suggestion and if the services were rendered voluntarily and without any engagement there could arise no obligation for recompense. Reference was made to the following note made by S. Partap Singh Kairon under date July 5, 1960:

“So far as I recollect, the corruption charge was against S.P. (Shri Babu Singh) but there was adulteration of milk by subordinate officers under him for which we wanted to enquire and pull S.P. up though it was found out long after his departure. Hence no direct accusation.”

This note was characterised as a complete travesty of truth although a more charitable view was possible namely that the Chief Minister's memory had not served him well. The office noting of July 11, 1960 pointed out that the name of S. Babu Singh did not figure in the milk case and that the inquiry against him was dropped because of his having reached the age of superannuation and that it was decided to impose suitable cut in his pension. The new Secretary S. Hardev Singh Chhina said in his note dated September 13, 1960 that no inquiry could be instituted after the retirement of the officer and asked whether in view of the very good work done by S. Babu Singh he was to be allowed his full pension. This legal position obviously had not been brought to the notice of S. Partap Singh Kairon when on April 25, 1959 he made the order mentioned above. No inquiry being now possible a cut in pension could be imposed on S. Babu Singh on the basis of the entries in his confidential personal file. His personal file was without any blemish and so the Chief Minister had no other alternative than to order on September 19, 1960—“Give him full pension.” The Commission sees nothing improper or sinister in this order which, in the circumstances, was the only order that he could make.

A point was made about the re-employment of S. Babu Singh. The post of a Battalion Commander, Home Guards had fallen or was due to fall vacant. It appears from the letter written by Col. Sultan Singh, Commandant, Punjab Home Guard, to the Deputy Commissioner, Ferozepur, stating that Major General Gurbux Singh, the Commandant General, had approached Major Dayal Singh of Ferozepur and the latter had agreed to accept the post after his retirement in October 1961. A copy of the letter of Major Dayal Singh signifying his consent to the acceptance of the post was enclosed in this letter. On July 27, 1961 S. Babu Singh wrote a letter to Major General Gurbux Singh offering his services. On August 7, 1961 Major General Gurbux Singh replied to S. Babu Singh

offering him the Battalion Commandership of Muktsar. S. Babu Singh on August 14, 1961 thanked the Major General for his kind offer. On August 17, 1961 the requisite forms were sent to S. Babu Singh to be filled up by him. On September 24, 1961 the Deputy Commissioner, Ferozepur, wrote to Major General Gurbux Singh stating that Major Dayal Singh was then ready to join at once and that as the post had already been offered to Major Dayal Singh the Selection Board took the view that he should be selected. It was also pointed out that the date of birth of Major Dayal Singh was October 8, 1911 whereas S. Babu Singh was 57 years of age. The letter, however, ended with the statement that if Major General Gurbux Singh did not think Major Dayal Singh was suitable then the Selection Board would have no objection to S. Babu Singh being appointed. On September 29, 1961 Major General Gurbux Singh replied to the Deputy Commissioner that S. Babu Singh had been appointed and the age limit had been relaxed. On October 6, 1961 Major General Gurbux Singh wrote to Major Dayal Singh that as the latter had lost touch with the Department the Major General had committed himself to another person (S. Babu Singh) to accept the post. S. Babu Singh who had experience in the army and in police service and was found medically fit was accordingly appointed on a consolidated salary of Rs. 400/- per month. Again, the Commission sees nothing sinister in this appointment. There is no allegation against Major General Gurbux Singh and there is no evidence to connect S. Partap Singh Kairon with this appointment.

Another instance of undue pressure being exercised by S. Surinder Singh Kairon was relied upon by learned Counsel for the Memorialists and that related to S. Ranbir Singh. The last named gentleman is a retired judge of the Patiala High Court and after retirement he became the President, Guru Singh Sabha which is said to have been in over-all supervision of the Rajindra Deva Orphanage. It was said that S. Ranbir Singh as President called upon the Managing Committee of the Orphanage to explain the circumstances under which Kothi I had been leased out. In order that S. Ranbir Singh might not pursue the matter S. Surinder Singh Kairon put such pressure on the son of S. Ranbir Singh, namely S. Atma Singh who was a member of the Punjab Provincial Service that he committed suicide. In the first place, the alleged pressure was not by S. Partap Singh Kairon and in the next place if the allegation were true, then S. Ranbir Singh would be the first person to proceed with the inquiry with re-doubled vigour, which he certainly does not appear on the record to have done. S. Ranbir Singh has made no affidavit which he surely would have done to give vent to his pent up feeling if there was any truth whatever in the story. It is significant that neither the Guru Singh Sabha nor any of the eleven members of the Managing Committee has upto date taken any step whatever to get the lease set aside. The Commission is unable to accept the arguments in support of the case questioning the regularity of the granting of the lease or the exercise of any pressure by S. Partap Singh Kairon or S. Surinder Singh Kairon to induce any person to get the lease executed.

(iv) Exercise of pressure on Government employees to get Kothi I derequisitioned for the benefit of S. Surinder Singh Kairon.

It has already been stated that Kothi I had been requisitioned in 1954/1955 and allotted to the Deputy Superintendent of Police, Central Intelligence Bureau for use as office-cum-residence at and for Rs. 125/- per month. This Kothi I was leased out to S. Gurdip Singh on April 8, 1960. On May 24, 1960 Shri Kidarnath, the then Deputy Superintendent of Police, wrote a letter to the Chairman, House Allotment Committee asking for the allotment of House 7-C to him as Kothi I had been let out. Several criticism was levelled against Shri P. N. Bhalla who in his counter-affidavit (CM-37) has stated that the Deputy Superintendent of Police had asked for some suitable accommodation because "his office-cum-residence was in a dilapidated condition." It is true that Shri Kidarnath did not refer to the dilapidated condition of Kothi I but the fact is, as said by S. Bharpur Singh, the then President of the Orphanage in his affidavit (CP-14) and by Lt. Prem Singh, the then Secretary of the Orphanage in his affidavit (CP-18) that Kothi I was in a dilapidated condition. Shri P. N. Bhalla being then the District Magistrate, Patiala, may well have been familiar with the condition of that house and may have, on that state of his knowledge and without referring to the records, said that Shri Kidarnath wanted a house because Kothi I was in a dilapidated condition. Shri P. N. Bhalla should have been more careful before making the statement that he did but the Commission does not see that he gained anything by not stating the reason given by Shri Kidarnath in his letter or that he made the incorrect statement with any ulterior purpose. To proceed with the narrative, on June 8, 1960 the House Allotment Committee decided that 26-D Chhoti Baradari be offered to Shri Kidarnath as 7-C had been given to the income-tax people. On June 17, 1960 the Secretary, House Allotment Committee wrote to Shri Kidarnath offering 26-D to him with the remark: "If you don't occupy within 7 days your name will be removed and placed at the bottom of the list." On June 20, 1960 Shri Kidarnath replied that 26-D did not suit his purpose from the security point of view and asked for allotment of 28-C. A suggestion was made that in June 1960 S. Partap Singh Kairon had come to Patiala and had sent for the District authorities and told them to make Kothi I available to his son. The allegations are not properly verified and have been denied and the Commission finds nothing on record which may lend any colour to this case. It has to be remembered that in May 1958 Shri Shriman Narayan had in his note fixed S. Partap Singh Kairon with what he called "Constructive liability" for his son's doings and it is absurd to suggest that he should give such directions to the Government officers as he is alleged to have done. That house, 28-C, had been upgraded to 13-B and had been on June 15, 1960 allotted to Dr. Anup Singh, the then Chairman, Public Service Commission. On June 22, 1960 Dr. Anup Singh wrote a letter to the Chairman, House Allotment Committee that the allotment of 28-C upgraded to 13-B in his favour be cancelled without prejudice to his claim for a more suitable accommodation. On June 24, 1960 the Chairman made a note that 13-B was upgraded from C class and might be allotted to the Deputy Superintendent of Police, Shri Kidarnath. Accordingly on June 28, 1960

the house that was really 28-C but had been upgraded to 13-B for the purpose of being allotted to Dr. Anup Singh, the Chairman, Public Service Commission was allotted to Kidarnath at the rent of Rs. 175/- per month. There was no question of decategorisation of any house. It was a 'C' class house and it remained so. As the rent sanctioned for Kothi I was only Rs. 125 the difference of Rs. 50 was sanctioned by Shri Sharma, the Deputy Inspector General, Central Intelligence Bureau. The foregoing facts clearly indicate that the Deputy Superintendent of Police, Shri Kidarnath was not in any way amenable to the pressure of any one, for when house 26-D Chhoti Baradari was offered to him Shri Kidarnath refused to take it and it was only when house No. 28-C chosen by him was offered to him that he agreed to shift there. It has been said that the District authorities, i.e., the members of the House Allotment Committee were overawed into adopting a plan, namely that if S. Surinder Singh could induce Dr. Anup Singh to waive his turn then the house allotted to him would be allotted to Shri Kidarnath and that Dr. Anup Singh was persuaded to give up his entitlement. Dr. Anup Singh has filed an affidavit (CM-85) stating that as his daughter was studying in Delhi he found that the Circuit House was more suitable for him and his wife and as his term was to expire within the year he did not like to put himself and his wife to the botheration of running a separate household. He avers that he did not refuse an allotment for accommodating any one but did so for his own convenience. It was argued that Shri Sharma was influenced to sanction an additional allowance of Rs. 50/- to make up Rs. 175/- to be paid as rent for house 28-C. It was argued that Shri Sharma had been influenced because his wife had been given a job in the Medical Department. It appears that the lady was a qualified doctor and had been selected by the Public Service Commission and placed at the bottom of the time scale of Rs. 250—550 and so the insinuation is wholly untenable. When it is remembered that Kothi I had been requisitioned in 1954/1955 and that according to the Government circular dated February 10, 1954 applicable to Patiala after the merger of PEPSU a house requisitioned for five years was liable to be derequisitioned it will become clear why Shri Kidarnath himself had on May 24, 1960 applied to the Chairman, House Allotment Committee for another house alleging that Kothi I which was in his occupation had been leased out and why the District authorities and Shri Sharma, the Deputy Inspector General, Central Intelligence Bureau were anxious to find a new accommodation for Shri Kidarnath. If the Orphanage or anybody claiming under it had insisted on Kothi I being derequisitioned the District authorities would have had no answer to make in view of the Government circular. Finally, it was asked that when there were so many officers waiting for allotment why was the house No. 28-C allotted to Shri Kidarnath and not to anyone else? There is no evidence before the Commission that any other officer was entitled to priority over Shri Kidarnath or was placed in a worse position than Shri Kidarnath was in. The Commission has no material before it, except the *ipse dixit* of the Memorialists based on what appears to be merely prejudice against S. Partap Singh Kairon, to hold that any influence was exercised in the matter of allotment of a house to Shri Kidarnath or any person as alleged or at all.

(v) *Irregularities and exercise of influence in the matter of permission to construct the Cinema building.*

Several irregularities have been pointed out by learned Counsel for the Memorialists. It was said that the permission to build the Cinema had been given in violation of law. What law was violated or in what way it was violated was not mentioned. All that was said in paragraph 25 of Annexure 'J' to M-6 and of M-15 was this—

“That this cinema House has been constructed in violation of the provisions of Cinematograph Act and rules made thereunder. There is a Nursing Training Hostel, Lady Dufferin Hospital, B. N. Khalsa High School and a Gurdwara in close vicinity of the Cinema.”

There is nothing to show that any of the above institutions was a recognised educational institution or within a radius of one furlong. Shri Sunder Singh, District Magistrate of Patiala says in paragraph 18 of his affidavit (CM-47) :—

“That in reply to para 25 of the aforesaid affidavit, I say that the facts are that the then District Magistrate made a reference to the Executive Engineer, P.W.D., Provincial Division, Patiala, who after inspection of the site certified that the proposed Cinema Building fulfilled the requirement of rule 19 of the Punjab Cinemas (Regulation) Rules, 1952.”

S. Jaswant Singh in his affidavit (P-3) paragraph 33 said:

“That even the rules were amended to enable sanction of the licence of the cinema. The matter needs further probe.”

This was replied to by Shri J. D. Khanna in his affidavit annexed to the affidavit of S. Partap Singh Kairon (CP-202) as follows :

“That in reply to para 33 of the aforesaid affidavit I deny that the rules were amended to enable sanction of the licence to Capital Cinema, Patiala. I say that on receipt of a representation dated 23rd May, 1960 from various office bearers of the East Punjab Motion Pictures Association and owners of different cinemas of different places for elucidating the word 'radius' occurring in rule 19(a) (v) of the Punjab Cinemas (Regulation) Rules, 1952 a note below sub-rule 19(a) (v) was accordingly added,—*vide* notification No. 7871-H-60/20238, dated the 4th June, 1960. Copy of the said notification is added as Annexure 'I'.”

The relevant portion of Annexure I referred to above was as follows—

“AMENDMENT

Below sub-rule 19(a) (v) of the said rules, the following note shall be added, namely :

NOTE.—*The radius of one furlong shall be measured from the exist of the auditorium of the Cinema building*

*to the entrance of anyone of such Public Place/
Institution."*

Learned Council was thrown back to a forlorn position where all he could say was to repeat what S. Jaswant Singh had said—namely that the only purpose of the amendment was to enable this cinema building to be constructed. The Commission is not prepared to accept such a sweeping statement without good and sufficient cause which it does not find on the record.

The next irregularity relied on was that although S. Gurdip Singh was the lessee of Kothi I on the site of which this cinema has been built the application for permission to build was made by S. Harbhajan Singh on July 23, 1960 and it was processed in extraordinarily quick time. The Tehsildar certified on the same day that the financial condition of S. Harbhajan Singh was sound. The Municipal authorities certified simultaneously that Kothi I had not been declared as unbuilt area as defined by Section 3(13) (b) of the Punjab Municipal Act and two days later, i.e., on July 25, 1960 the Executive Engineer reported to the District Magistrate that the distance between the Hospital entrance and the cinema entrance was 1956 feet and on that very date the District Magistrate forwarded the application to the Home Secretary recommending that sanction be given. On September 5, 1960 the Executive Engineer made another report that the plans were in conformity with the Rules. On the same day S. Harbhajan Singh got the licence. While learned Counsel for the Memorialists emphasised this extreme expedition with which the matter had been processed learned Counsel for S. Partap Singh Kairon pointed out that though S. Harbhajan Singh's application was filed on July 23, 1960 it was dated July 15, 1960 and it was filed after securing the certificates of the Tehsildar and the Municipal authorities. This, in the opinion of the Commission, enhances the irregularity with which the matter was pushed through. How could the Tehsildar or the Municipal Administration issue their respective certificates at the behest or request of S. Harbhajan Singh without any directive from the District Magistrate? It only shows the readiness of the authorities concerned to please and oblige whoever was the person interested in getting the licence.

The matter does not rest there. After the cinema building had been constructed S. Surinder Singh Kairon on January 7, 1961 wrote to the District Magistrate stating that the building had been completed and requesting that it might be inspected and licence be issued on January 12, 1961 the licence was issued in the name of the Movie Exhibitors. Learned Counsel for the Memorialists strongly criticised the conduct of the District Magistrate both in connection with the granting of permission to construct the cinema building to S. Harbhajan Singh and with the issuing of the licence in favour of S. Surinder Singh's concern, the Movie Exhibitors. It will be recalled that the lease was in the name of S. Gurdip Singh and yet when S. Harbhajan Singh applied for permission to construct the cinema building the District Magistrate made no inquiry as to his title to the land. The fact that he was the real brother of S. Gurdip Singh does not seem to the Commission to be a cogent reason for

waiving the inquiry. Nor was the fact that S. Gurdip Singh is the cousin of S. Surinder Singh's wife any ground for issuing the licence without any investigation into his title to the land on which the cinema was built. S. Surinder Singh Kairon says that he had nothing to do with the granting of the lease of Kothi I, the derequisitioning of that house or the permission for the construction of the building. He came in only as a sub-lessee from S. Gurdip Singh when he applied for the licence. When did he take the sub-lease? He does not give the date. On what rent did he take the sub-lease? For what period was the sub-demise made to him? He does not give any answer nor does he mention the rent that he has to pay to S. Gurdip Singh or any other term of the sub-demise. There does not appear to be any registered deed of transfer by way of sub-lease or otherwise from S. Gurdip Singh to S. Harbhajan Singh or S. Surinder Singh. On what right, title or authority did S. Harbhajan Singh apply for permission to build or S. Surinder Singh Kairon apply for licence to run the cinema? The District Magistrate made no inquiries into the matter before giving sanction for the construction of the cinema to S. Harbhajan Singh or before issuing the licence to Movie Exhibitors which was S. Surinder Singh Kairon's concern. Learned Counsel for the Memorialists were undoubtedly right in contending that these irregularities were committed by the District authorities presumably because they knew that it was the Chief Minister's son who was the person really interested in the cinema. In the Chapter dealing with the National Motors, the Commission has had to examine the financial position of S. Mahinder Singh and his two sons, S. Gurdip Singh and S. Harbhajan Singh. The Commission is rather sceptical in accepting the story that S. Gurdip Singh, who was ostensibly the lessee or S. Harbhajan Singh who obtained the sanction to build the cinema had the money to meet the cost of the land or the building. In the financial statement annexed to the affidavit of S. Surinder Singh Kairon (CM-46) the cost of Capital Cinema, Patiala has been shown at Rs. 3,00,000/- approximately and he has attempted to show how he got the money to acquire his assets. Indeed a sum of Rs. 40,000 was shown as liability still due in respect of this cinema. There is nothing on the record before the Commission to show that S. Gurdip Singh or S. Harbhajan Singh spent a farthing on the land or the cinema building. If the criterion for the determination of true ownership lies at the source from where came the money spent for acquiring the property there can be no doubt, on the material now before the Commission, that S. Surinder Singh Kairon was and is the true owner of the Capital Cinema *ab initio* and S. Gurdip Singh or S. Harbhajan Singh were mere benamidars for him. Indeed it appears from the Punjab Vidhan Sabha Debate of March 10, 1961 No. 15 Vol. I. p. 87 that the Government in answer to a question said at first that S. Harbhajan Singh was the owner of this cinema but that then the Government's attention was drawn to the East Punjab Motion Pictures declaration form showing that S. Surinder Singh Kairon was the sole proprietor of the Capital Cinema, Patiala. In his affidavit (CM-46) S. Surinder Singh Kairon has definitely claimed to be the sole proprietor of the Capital Cinema, Patiala. The unusual expedition with which the application for sanction to construct the

building was processed and the licence was granted and the irregular manner in which it was done can only be explained on the hypothesis that the Government officers knew that it was S. Surinder Singh Kairon, the son of the Chief Minister of the Punjab who was the real person interested in the cinema. Neither S. Gurdip Singh nor S. Harbhajan Singh could, in the opinion of the Commission, command the prompt attention that was bestowed on the matter by the Government officers.

Certain subsidiary matters were referred to in the supporting affidavits filed on behalf of the Memorialists, namely that the Capital Cinema had built an underground drain from the Cinema upto the Lahori Gate without the sanction of the Municipal Committee and without payment of any fee, that the cinema did not pay show tax until only recently, that the cinema did not pay full octroi duty and the officials who claimed it were assaulted by S. Surinder Singh's men and that the manager of the State Bank of Patiala which granted a loan of Rs. 2,00,000/- to the National Motors was influenced by the fact that S. Partap Singh Kairon had exonerated from the payment of the entertainment tax that had been imposed on the manager's wife, Smt. Indira Puri, and had also directed the withdrawal of a motor accident case against her. All these allegations were repudiated in the counter-affidavits filed on behalf of S. Pratap Singh Kairon and have not been seriously pressed by learned Counsel before the Commission and nothing further need be said about them.

(vi) *Findings on the facts*

On an analysis of the facts appearing on the affidavits and the Government files referred to by both sides and in the light of the foregoing discussions on the arguments *adduced* before it the Commission holds—

- (a) that the evidence available at present indicates that S. Surinder Singh Kairon was *ab initio* and is the true owner of the leasehold rights in Kothi I and the land appertaining thereto and the cinema building constructed thereon;
- (b) that in the matter of the granting of the lease of Kothi I there was no irregularity or exercise of pressure or influence either by S. Partap Singh Kairon or by S. Surinder Singh Kairon on S. Bharpur Singh or S. Babu Singh or S. Ranbir Singh or any other person;
- (c) that there was no irregularity or exercise of pressure or influence either by S. Partap Singh Kairon or S. Surinder Singh Kairon in getting Kothi I vacated by Shri Kidarnath, the Deputy Superintendent of Police, who was in occupation thereof;
- (d) that in the matter of the granting of the sanction for the construction of the cinema and in the issue of the licence, there was unusual haste and even some irregularities were committed *in that* officers, *e.g.* Tehsildar, Executive Engineer and Municipal Engineer issued certificates

without any direction from the District Magistrate and in that the District Magistrate himself did not inquire into the title of either of the applicants;

- (e) that such unusual haste and irregularity may well have been referable to the instinctive desire of the Government officials to please and oblige the son of the Chief Minister;
 - (f) that although there is no positive evidence of S. Surinder Singh Kairon actively exerting any pressure or influence on the Government employees there is, in the circumstances that happened, some reason to think that S. Surinder Singh Kairon had received unusual attention and favour from the Government officers who knew that he was the Chief Minister's son; and
 - (g) that there is no reliable evidence that in the matter of the acquisition of the Capital Cinema, Patiala S. Partap Singh Kairon had, at any stage, exercised any pressure or influence on any person in the interest of his son.
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CHAPTER XIV
TEG COLD STORAGE, PATIALA

(i) Charge

In the memorandum item 29 under Charge 1 is "Cold Storage in Patiala—Rs. 2,00,000/-." It is set out as an item of property acquired by the misuse of power of the Chief Minister. The next item 30 refers to a "Farm at Patiala". Possibly these two items are correlated to each other. No details, however, are mentioned in the memorandum.

(ii) Case as made out in the supporting affidavits

In support of the charge three affidavits have been filed on behalf of the Memorialists affirmed by Maulvi Abdul Ghani Dar (M-6), by Shri Devi Lal and five others, (M-7) and by Master Tara Singh (M-25) which are practically carbon copies except that the annexures to the affidavit of Maulvi Abdul Ghani Dar are missing from the other two affidavits. In item xvii under paragraph 6 of each of those affidavits is set out "Teg Cold Storage at Patiala valued at nearly Rs. 6,00,000/-." By what process the value of Rs. 2,00,000/- given in the memorandum went up to "nearly Rs. 6,00,000/-" is not stated anywhere. Annexure 'K' to the affidavit of Maulvi Abdul Ghani Dar (M-6) seeks to elaborate the charge by adding details which may now be summarised:

- (i) That the Cold Storage is owned mainly by the family of S. Partap Singh Kairon, his brother S. Jaswant Singh having the major share;
- (ii) that the P.W.D. has built a culvert on the rain water drain for the benefit of the Kairon family and which serves no other useful purpose;
- (iii) that adjoining the culvert is a room belonging to P.W.D. which has been taken possession of and is being used for the Cold Storage for its own purpose;
- (iv) that adjoining the Cold Storage there was a piece of land held in trust by Mahant Charan Das of village Chaura. Kairon family wanted this land but Mahant Charan Das was not willing to let it out. Eventually pressure was put on him by S. Partap Singh Kairon and the Mahant leased it out at a throw away price on June 8, 1960;
- (v) that in order to enhance the price of the land the Chief Minister got the Punjabi University located just in front of this land;
- (vi) that a very large loan was raised on the security of this land from the Punjab Finance Corporation; and

- (vii) that permits for cement, corrugated sheets, iron and bricks were granted on a liberal scale in preference to other people's needs and building materials were used in excess of the sanctioned quantity.

(iii) Case refuted

Each of the allegations has been demonstrably shown to be fabricated.

Regarding (i): The Cold Storage is not owned by the family of S. Partap Singh Kairon at all. It is a partnership concern in which there are six partners, namely (i) S. Jaswant Singh, (ii) his son-in-law (S. Harcharan Singh Brar), (iii) his son (S. Jasvinder Singh), (iv) his wife (Shrimati Nirman Kaur), (v) his daughter (Shrimati Gur Birender Kaur, the wife of S. Harcharan Singh Brar) and (vi) his grandson (S. Kanwaljit Singh, son of S. Harcharan Singh Brar), each having an equal share as appears from the deed of partnership produced before the Commission.

Regarding (ii): This is altogether baseless. The Executive Engineer, Shri Jaipal Gupta (CM-52) and Shri C. P. Sabharwal, S.D.O. (CM-53) deny that any culvert was constructed by the P.W.D. or the Irrigation Department at all. It has not been pressed.

Regarding (iii): Maulvi Abdul Ghani Dar evidently wanted give an impression that the room had been wrongfully taken possession of by the Storage without paying any rent. But the fact is that it is a Gang hut which, according to Shri Jaipal Gupta, the Executive Engineer (CM-52), was let out to S. Jaswant Singh on a provisional rental of Rs. 15/- per month and the rent has been paid upto date.

Regarding (iv): Mahant Charan Das himself gives the lie direct to this allegation. He says in his affidavit (CM-54) that the land was not yielding any income as it had not been under cultivation. He admits that the rent was a fair rent according to prevailing market rates and no favour was shown to any one. He repudiates that S. Partap Singh had threatened him or in any way influenced him. S. Partap Singh Kairon (CM-89) denies the charge. S. Jaswant Singh Kairon (CM-88) says that the plot comprised 150 bighas of barani land and his son S. Jasvinder Singh took it on lease from Mahant Charan Das who was not at all unwilling to lease it out. The lease was for 99 years and the lease money Rs. 26,150/- was paid in advance.

Regarding (v): It is an equally reckless charge. The site of the Punjabi University, according to Shri R. S. Bhatnagar, the Additional Deputy Commissioner (CM-50) was chosen by a Committee consisting of the Vice-Chancellor of the University, the Deputy Commissioner of Patiala, the three Chief Engineers, the Senior Town Planner and the Senior Architect. Two sites were considered and the present site was cheaper and was chosen. The University site is at a distance of over one mile from the Storage. The Chief Minister had nothing to do with it.

Regarding (vi): Shri S. R. Verma, the retired Managing Director of the Punjab Finance Corporation (CM-34) has given a detailed statement showing the constitution of the Corporation which is governed by a Board of Directors through an Executive Committee both consisting of independent members who are in a majority and the procedure for granting loans. A loan of Rs. 1,30,000/- against an application for a loan of Rs. 1,50,000/- was granted following the normal procedure. The loan was fully availed of. Principal and interest upto December 15, 1963 have been fully paid leaving Rs. 1,04,000/- plus interest from that date as due. No favour was shown at all. It appears that the loan was drawn in three instalments as the security by way of machinery went on increasing.

Regarding (vii): It was not pressed at all.

In course of argument learned Counsel for the Memorialists sought to raise a fresh point, namely, that S. Jaswant Singh and others had no means for establishing the Cold Storage. The point not having been raised in the supporting affidavits there was no occasion for S. Partap Singh Kairon to put in suitable replies. When the Punjab Finance Corporation granted a loan of Rs. 1,30,000/- they stipulated that the owners must raise capital to the extent of Rs. 1,90,000/- and they must have been satisfied as to the sufficiency of their security. In these very proceedings the name of S. Harcharan Singh Brar has cropped up several times as a big landlord and agriculturist and it could not have been difficult for him, his wife and son to put in the sum over and above the loan which was necessary to put up the Store complete with machinery.

(iv) Findings

The Commission has no hesitation in holding—

- (a) that this charge is wholly baseless and devoid of substance; and
 - (b) that S. Partap Singh Kairon had nothing to do with the matter at all.
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CHAPTER XV

LUDHIANA CO-OPERATIVE COLD STORAGE

(i) Charge as framed

Item 19 of Charge 1 in the memorandum is described as "Cold Storage, Ludhiana—Rs. 2,00,000". Like item 5 under Charge 1, namely Cold Storage at Amritsar, this item also gives the impression that it is an item of immoveable property acquired by the Kairon family. In Shri Prabodh Chandra's second charge-sheet of 1960 (Annexure I to the memorandum) charge 11 relates to the acquisitions of the Kairon family. Item 10 is described simply as "Cold Storage under construction at Ludhiana." There also the impression one gets is that it is an item of immoveable property. It is this charge of acquisition of a Cold Storage at Ludhiana as an item of immoveable property by his family with his help that S. Partap Singh Kairon is to meet.

(ii) Affidavits in relation to this Charge

In support of this charge the Memorialists have filed three affidavits affirmed respectively by Maulvi Abdul Ghani Dar (M-6), Shri Devi Lal and five other Memorialists jointly (M-7) and Master Tara Singh (M-25). In opposition to these affidavits four counter-affidavits have been filed on behalf of S. Partap Singh Kairon affirmed respectively by Shri V. P. Johar, Registrar, Cooperative Societies, Punjab (CM-11), S. Amar Singh, Chairman, Punjab State Cooperative Bank Ltd., Chandigarh (CM-12), S. Amar Singh Sohi, Manager, The Central Co-operative Bank Ltd., Ludhiana (CM-25) and Shri V. P. Joshi, Municipal Engineer, Ludhiana (CM-26). An affidavit in reply has been filed by Maulvi Abdul Ghani Dar (R-39). One Shri Devki Nandan Khar has filed an affidavit (P-35) as a member of the public which has been countered by the affidavit of S. Gurinder Singh (CP-2).

(iii) Case made by the Memorialists in their supporting affidavits

In paragraph 6 of the three supporting affidavits item x refers to "Cold Storage at Bypass, Ludhiana, valued at about Rs. 2,00,000." This is elaborated in Annexures 'F' to M-6. These annexures are not, however, attached to the other two supporting affidavits M-7 and M-25. The allegations in Annexure 'F' are—(i) that the Ludhiana Cooperative Cold Storage has been granted a large loan by the State Cooperative Bank, Jullundur and the Central Cooperative Bank, Ludhiana; (ii) that after the establishment of this Storage the vegetable market Ludhiana was proposed to be shifted to close vicinity of this Storage to benefit the Kairon family; and (iii) that cement, iron and bricks used in the construction of this Cold Storage have been utilised in quantities more than sanctioned and were obtained in grave violation of rules and regulations. The defective verification in these affidavits regarding the relevant paragraphs and Annexure 'F' are similar

to those with regard to the allegations relating to the Amritsar Cooperative Cold Storage which has already been stated in an earlier chapter and need not be repeated here. In his affidavit, Shri Devki Nandan Khar (P-35) only says that in order to promote the interests of the Cold Storage established by the Kairon family at Ludhiana the Ludhiana Municipality has decided to shift the vegetable market to a close vicinity of the aforesaid Cold Storage. It may be noted here that learned Counsel appearing for the Memorialists have given up points (ii) and (iii) of Maulvi Abdul Ghani Dar's affidavit (M-6) which also cover the point made in the affidavit of Shri Devki Nandan Khar (P-35). The Memorialists are, therefore, left only with the first point, namely that the Storage has been granted a large loan by the two Banks named above. That is the case, if it is a case at all, which S. Partap Singh Kairon has to meet.

(iv) Facts appearing from the affidavits and the record

The scheme for the organisation of Cooperative Cold Stores was issued by the Registrar, Cooperative Societies in March 1954 to all Assistant Registrars for providing storage facilities to the growers of potatoes, onions and other vegetables. On June 6, 1960 the Ludhiana Cooperative Cold Storage Ltd. was registered under the Cooperative Societies Act, 1954. On the same day the maximum credit limit of this Society was fixed at Rs. 3 lacs. This monetary credit limit was conveyed to the Punjab State Cooperative Bank Ltd. on or about October 21, 1960. The constitution of the Bank is explained in detail in the affidavit of S. Amar Singh, Chairman of the Bank (CM-12) and has been summarised in an earlier chapter of this Report. There can be no question that the Bank is managed by a Board of Directors, through an Executive Committee consisting of persons most of whom are not likely to be under any influence of the State Government. Within the aforesaid limit of Rs. 3 lacs the Bank advanced various loans to this Society on diverse dates, namely Rs. 1,00,000/- on October 23, 1960, Rs. 1,50,000/- (against its application for Rs. 2,00,000/-) on February 5, 1961. Shri Amar Singh says in his affidavit (CM-12) that these loans were granted in a normal manner without any favour to any body or under the influence, direct or indirect, of S. Partap Singh Kairon or his son S. Gurinder Singh or any one else. The Society has repaid portions of the aforesaid loan of Rs. 2,50,000/- leaving a balance of Rs. 1,36,907 as outstanding as principal as on November 25, 1963. S. Amar Singh Sohi, Manager of the Central Cooperative Bank Ltd., Ludhiana in his affidavit (CM-25) gives in detail the constitution of the Bank, membership of which comprises 132 individuals and 1443 Societies subscribing Rs. 59,500/- and Rs. 13,79,900/- respectively. It is governed by a Board of Directors composed of 14 Directors 12 of whom are elected by members and only two of whom are nominated by the State Government. The procedures for sanctioning loans are briefly referred to in paragraphs 5 to 8. Suffice it to say that this Bank also is managed by persons not expected to be amenable to any outside influence and having the confidence of the members who elect them. This Bank advanced to the Society a loan of Rs. 40,000/- on about May 19, 1961 on the Society's application dated February 20, 1961 on the security of its tangible assets, namely building and machinery. This loan, according to Shri Amar Singh Sohi, was sanctioned in the normal way without anybody's influence. The

Society has made some payments leaving a balance of Rs. 15,961.70 outstanding at the date of his affidavit (CM-25).

(v) Arguments advanced

Seeing that no serious objection could be maintained against the legality or regularity of the manner in which the credit limit of this Society had been made or the loans were given by the Banks, learned Counsel appearing for the Memorialists sought to make out several points, namely:—

- (i) that S. Gurinder Singh was not a grower in that area and, therefore, not entitled to be a member of this Society;
- (ii) that he was deriving directly or indirectly profits from a commercial cold storage (Punjab Cold Storage) and, therefore, he was not entitled to be a member;
- (iii) that if he subsequently derived benefits from a commercial cold storage, his membership was liable to be terminated; and
- (iv) that funds from Ludhiana Cold Storage had gone to Nandan Cinema.

During the course of the argument, however, he at first abandoned points (ii) and (iii) but later on withdrew the concession. It may be recalled that even in the supporting affidavits (M-6, M-7 and M-25) none of these points was even mentioned. These points raise questions of fact which have not been investigated into. Further, there is a good deal of substance in the objection taken by learned Counsel for S. Partap Singh Kairon that the above objections do not come within the scope of this inquiry. With much of these objections the Commission is inclined to agree. S. Gurinder Singh does belong to a Jat agriculturist family. They have ancestral lands and may well be regarded as grower. The Punjab Co-operative Act itself does not require that in order to be eligible for membership one must be a grower of that very locality where the cold store is located. The Act describes the persons who may become members. There are four categories of such persons. S. Gurinder Singh may easily come under category (a) or (d). Bye Law 5(b) does speak of individual growers "within the area of operation of the cold store". But in those early days when it was difficult to induce people to become members of a Co-operative Society as has been seen in connection with the Amritsar Co-operative Cold Store Ltd., supposing a person who does not fall within Bye Law 5(b) applies for membership and the Managing Committee in the interest of the Society admits into the fold, how is such member to be blamed for it. Bye law 7(iii) speaks of termination of membership by reason of deriving any profit from a commercial cold store such as Punjab Cold Store of S. Gurinder Singh. But apparently the Managing Committee has condoned it. No objection has at any time been taken by any auditor in any of the audit reports. Further, what bearing have these alleged breaches of bye laws got to do with the Chief Minister at all? As regards the alleged irregularity in the matter of the granting of the loans there is not an iota of evidence in support of it. The Banks which are managed by persons who are *prima facie* not expected to be amenable to governmental influence granted the loans in the usual way after making the necessary inquiries and there is nothing to

indicate that they acted irregularly. Far less is there any reason to hold that S. Partap Singh Kairon had any hand in the matter, directly or indirectly. The only point having a semblance of substance is that a part of the loan was diverted, by way of loan to S. Gurinder Singh, to be utilised for a purpose other than the legitimate purpose of the Society. S. Gurinder Singh in his affidavit (CP-2) admits having borrowed the total sum of Rs. 63,000/- on different dates from this Society. It should be borne in mind that S. Gurinder Singh does not hold any post of a fiduciary nature in this Society as he did in the Amritsar Co-operative Cold Store Ltd. as its Managing Director. The loan he took from the Ludhiana Society had not been taken secretly. The Managing Committee knew and did not object to the loan. The Audit Report took no exception nor did the Reserve Bank, as they did in the case of the loan from the Amritsar Society. He was paying 7 per cent interest on the amount while the Society was paying 5 per cent to the Banks. It has not been shown that the Society was or is under the control of the members who are members of the Kairon family. It should be remembered that under the Act each member has a vote irrespective of his holdings and shares above the value of Rs. 10,000/- bring no additional benefit to the members. There is not a tittle of evidence that S. Partap Singh Kairon directly or indirectly exercised his influence in favour of the members of his family in their relation with this Ludhiana Society.

(vi) Findings summarised

On the evidence before it the Commission holds—

- (a) that there is no mandatory provision in the Punjab Co-operative Societies Act of 1954 or 1961 requiring that in order to become a member of a Co-operative Society the applicant for membership must be a person who is a grower or a grower of the place where the Cold Store is located or that a member shall cease to be a member if he derives any profit from a commercial cold store;
- (b) that points urged about the eligibility of S. Gurinder Singh to be or to continue to be a member raises questions of fact which have not been investigated into and which S. Partap Singh Kairon has not had an opportunity to meet;
- (c) that at best there has been a breach of bye law which the Managing Committee, the General Meeting, the Registrar and the Auditors have condoned;
- (d) that there is no evidence that there was any irregularity or illegality in the matter of the granting of the loans by either of the Banks to the Society;
- (e) that there was nothing illegal or improper in the Society advancing a loan to S. Gurinder Singh, who was a member, on proper interest and it was entirely a matter between the Society and the member; and
- (f) that nothing has been shown to suggest that S. Partap Singh Kairon, directly or indirectly, exercised any influence over the Society or anybody else in the interest of his son or other relatives in relation to any of the affairs of this Society.

CHAPTER XVI

Elite Cinema, Hissar

(i) Charge as enunciated

Item 24 under Charge 1 of the memorandum refers to "Elite Cinema at Hissar—Rs. 4,00,000/". It is simply mentioned as an item of property belonging to the Kairon family. No details are given in the memorandum as to when and how it was acquired.

On behalf of the Memorialists four affidavits have been filed in support of this charge, affirmed respectively by Maulvi Abdul Ghani Dar (M-6), Shri Devi Lal and five other Memorialists (M-7), Master Tara Singh (M-25) and Shri Jagannath (M-23). As already stated the body of all the three first mentioned affidavits is, to all intents and purposes, a carbon copy of each other except that the annexures attached to the affidavit of Maulvi Abdul Ghani Dar (M-6) are not so attached to the other two affidavits (M-7 and M-25). Item (xiii) of paragraph 6 of each of these three affidavits refer to "Elite Cinema, Hissar, valued at about Rs. 4,00,000/-." So the charge remains as vague as it was in the memorandum. Annexure 'H' to the affidavit of Maulvi Abdul Ghani Dar (M-6) which is reproduced word for word in the affidavit of Shri Jagannath (M-23), however, elucidates the charge with some details. Shortly put the charge is thus enunciated: Elite cinema is owned by the members of the Kairon family but stands in the benami of S. Gurdip Singh, who is a relative of S. Surinder Singh Kairon and a man of very ordinary means who is occasionally associated with the business enterprises of the Kairon family. The members of the Kairon family have indulged in misuse of power in the purchase, registration and construction of the building which was commenced before plans, were sanctioned by the Municipal authorities but was subsequently regularised by payment of a nominal fine. The construction was in violation of Municipal bye-laws and of the provisions of the Punjab Cinema (Regulation) Act, 1952 and the Rules framed thereunder. Some part of the Municipal land and drain were encroached upon and such encroachment still continues. Building materials such as cement, iron bricks, etc. have been used in excess of quantities sanctioned. Due octroi has not been paid Cement and iron has been brought from outside Hissar in breach of Municipal tax laws. Normally it takes more than a year for anybody to obtain sanction for the construction of a cinema after obtaining reports from the District authorities, P.W.D., Health, Electricity and other allied departments but in this case the whole thing was rushed through because S. Surinder Singh Kairon had financial interest in this cinema. S. Surinder Singh Kairon obtained heavy loans on the security of this cinema from Banks, by misusing the name of his father. S. Partap Singh Kairon gave false answers in the Vidhan Sabha in regard to the ownership of this cinema and thus gave protection to his family's interests.

It will be noted that in these supporting affidavits there is no suggestion of misuse of power by S. Partap Singh Kairon and the only allegation against him is that he gave false answers in the Vidhan Sabha. The gravamen of the charge is against S. Surinder Singh Kairon for having exploited the name of his father. It will also be noticed that no particulars are given of the provisions of the Cinematograph Act or the Rules which are supposed to have been violated.

In support of this charge three members of the public have put in three separate affidavits affirmed by each of them, namely by Shri Mukh Ram (P-22), by Shri Prakash Chander (P-24) and by Shri Ram Kissen Rakesh (P-25). They all support the case of benami but go further and fill up the lacunae in the supporting affidavits. Thus Shri Mukh Ram alleges that S. Surinder Singh went to the house of the Chairman of the Municipal Committee, Hissar and prevailed upon him to compound the illegal commencement of the construction work by charging a nominal fine of Rs. 100/-. Shri Ram Kissen Rakesh (P-25) supports the case of benami ownership of this property and adds that the cinema building was constructed under the immediate supervision of S. Surinder Singh Kairon. Shri Prakash Chander for the first time brings in the name of the Chief Minister by elaborating the story of bringing materials from outside in the names of S. Partap Singh Kairon and S. Surinder Singh Kairon in whose names octroi receipts were granted. A long list of such receipts is annexed to his affidavit (P-24). He specifically mentions violation of Rules 19(ii), 19(v), 19(b), 19(c) and 20 of the Cinema (Regulation) Rules. He also refers to the low valuation of the House Tax made by the Deputy Commissioner overruling the higher valuation of the Municipal authorities.

(ii) Defence put forward

In opposition to the Memorialists' affidavit, five counter-affidavits were filed on behalf of S. Partap Singh Kairon affirmed respectively by S. Iqbal Singh, I.A.S., District Magistrate, Hissar (CM-31), S. Gurdip Singh (CM-44), Shri Kundan Lal (CM-45), S. Surinder Singh Kairon (CM-46) and S. Partap Singh Kairon (CM-89). S. Gurdip Singh badly asserts his sole and exclusive ownership of the Elite Cinema and relies on the affidavit of his ex-manager Shri Kundan Lal (CM-45). S. Surinder Singh Kairon in paragraphs 70—73 of his affidavit (CM-46) laconically denies having any interest in the Elite Cinema while admitting that Elite Cinema was mortgaged as security for a joint loan raised by Cineramas and S. Gurdip Singh. S. Partap Singh Kairon in his affidavit (CM-89) takes exception to the validity of the verification of the supporting affidavits and denies the allegations in those affidavits in so far as they relate to him and in particular denies that he or his wife have any interest in this cinema or that he gave any false answer to the question put by Shri Devi Lal on the floor of the Legislature. He says that the answers given were correct and based on information received from the Administrative Department.

Suitable replies were given to the affidavits of the members of the public by seven counter-affidavits affirmed respectively by

S. Surinder Singh Kairon (CP-10), Shri Ram Kanwar (CP-11), Shri Kundan Lal (CP-12), S. Partap Singh Kairon (CP-28), S. Partap Singh Kairon (CP-207), S. Iqbal Singh (Annexure to CP-207), Shri Harbans Lal Parti (Annexure to CP-28). S. Surinder Singh Kairon (CP-10) denies the allegations of Ram Kissen Rakesh (P-25) about the supervision of the building operations by him and of Mukh Ram (P-22) about his visit to the house of the Chairman, Municipal Committee. Shri Ram Kanwar (CP-11) who supplied bricks to the Nandesh Exhibitors for the Elite Cinema denies the allegations of Shri Parkash Chander (P-24) that bricks were brought from outside and explains that the driver of his truck perhaps gave the names of the Chief Minister and S. Surinder Singh Kairon at the Octroi barrier to avoid inconvenience and delay. S. Partap Singh Kairon in his affidavit (CP-28) relies on the affidavit of the Secretary to the Municipality in repelling the allegations of Shri Mukh Ram (P-22) and explains that the latter had been expelled from membership of the Municipality for misconduct. Shri Kundan Lal, the ex-manager in his affidavit (CP-12) refutes the allegations of Shri Mukh Ram (P-22) and Shri Parkash Chander (P-24). S. Partap Singh Kairon (CP-207) denies having sent 2000 bricks from Chandigarh. S. Iqbal Singh explains how the rental value of the cinema was reduced from Rs. 20,000/- fixed by the Municipality to Rs. 10,000/- by him in appeal. Shri Harbans Rai Parti (Annexure to CP-28) states that Shri Kundan Lal for Nandesh Exhibitors on March 21, 1961 applied for composition of the unauthorised construction and the President of the Committee compounded it for Rs. 100/- under Section 35 of the Municipal Act as is done in many similar cases.

Maulvi Abdul Ghani Dar has filed an affidavit in reply (R-29) in which he has adopted the allegations made in the public affidavits and added to them by way of embellishment. There is substance in the submission of learned counsel for S. Partap Singh Kairon that the latter has had no opportunity to meet these additional charges. In the circumstances it will not be fair to go into them unless they are supported by files and records produced by or on behalf of S. Partap Singh Kairon.

(iii) Facts as they emerge from the affidavits and files

On February 24, 1961 by two registered sale deeds one executed by Shri Pawan Kumar and the other by Smt. Ashrafi Devi the Nandesh Exhibitors through S. Gurdip Singh, son of S. Mahinder Singh, purchased the land in Hissar on which the Elite Cinema has been erected. It appears from the deeds that an agreement for sale had been made on February 10, 1961 when earnest money of Rs. 9,000/- and Rs. 11,000/- in respect of the two deeds were paid and the balance of the purchase money was paid at the time of Registration on February 24, 1961. According to the Note marked S-23 submitted by learned Counsel for S. Partap Singh Kairon, the sum of Rs. 34,000/- required for the purchase of the land including the cost of stamp came from the National Motors in February 1961.

For the purpose of building a cinema permission has to be obtained from the District Magistrate under the Cinema (Regulation) Act, 1952 and also from the Municipal Committee under the

Municipal Act. Shri Kundan Lal, the ex-manager of Nandesh Exhibitors in his affidavit (CM-45) states that he duly submitted both applications with necessary plans. He, however, does not mention the exact date of the presentation of the said applications. It appears that on February 24, 1961, i.e. on the very day the sale deeds were registered an application dated February 15, 1961 in the name of Nandesh Exhibitors through S. Gurdip Singh was presented in the office of the District Magistrate along with a certificate from the Town Planner that the land was not affected by any Town Planning Scheme. Learned Counsel for S. Partap Singh Kairon stated before the Commission that this application had been actually presented in the office of the District Magistrate on February 15, 1961 but had been taken back to get the certificate of the Town Planner whose office was at Patiala so that there would be no delay in getting the permission to build the cinema. This statement is likely to have been based on a misapprehension for it is not intelligible how Nandesh Exhibitors could have made a formal application on February 15, 1961 for permission to build a cinema on land which had not been legally conveyed to it until February 24, 1961. Be that as it may, after the presentation of the application before the District Magistrate on February 24, 1961 the usual reports were called for from the Superintendent of Police as to the political antecedents of the applicant, from the Tehsildar as to the solvency of the applicant and from the Executive Engineer, P.W.D. as to the compliance of the plans with the requirements of the Cinema (Regulation) Act and the Rules framed thereunder. On February 25/26, 1961 the requisite reports having been received from the Superintendent of Police and the Tehsildar, the District Magistrate on February 27, 1961 sent a letter to the Home Secretary recommending that permission may be sanctioned. On March 6, 1961 the District Magistrate's office sent four sets of plans to the Executive Engineer, P.W.D. for his scrutiny and report. On March 16, 1961 a letter dated March 14, 1961 was received by the District Magistrate from the Home Secretary conveying the Government's sanction. This was communicated to Nandesh Exhibitors on that very day. On March 20, 1961 the District Magistrate received the report of the Executive Engineer dated March 16, 1961 approving the plans and certifying that they complied with the requirements of the Cinema (Regulation) Act and the Rules. On March 21, 1961 the District Magistrate wrote a letter to the Nandesh Exhibitors according sanction and saying that the building work could be started. On March 21, 1961 one Lala Kesho Nath Thakur wrote a letter to the Governor of the Punjab objecting to the erection of the cinema which was referred by the Governor to the District Magistrate who eventually on April 28, 1961 submitted his report to the Secretary to the Governor.

The sanction of the plans by the Municipal Committee under the Municipal Act was also necessary. It is said that plans had been submitted to the Municipal Committee for sanction on some day prior to March 21, 1961. Seeing that there was delay in issuing the sanction Shri Kundan Lal on March 21, 1961 wrote a reminder to the President of the Committee and personally went with the letter to the Municipal office. This letter passed from hand to hand on

one and the same day as is evidenced by the respective notes of approval of the Overseer, the Building Inspector and the Secretary and on that very day, March, 21, 1961, the President compounded the case of unauthorised construction on payment of a fine of Rs. 100/- which was duly paid and sanctioned the plans. After plans were sanctioned by the Municipal Committee the construction of the building was completed and the licence for running the cinema was issued on June 6, 1961 and the Elite Cinema, Hissar was opened on June 23, 1961. Two more dates will complete this recital of facts. On October 26, 1961 this Elite Cinema was charged by way of collateral security in favour of the New Bank of India Ltd., Chandigarh to secure a loan of Rs. 3,50,000/- for Cineramas of which concern S. Surinder Singh Kairon is one of the partners and in which S. Gurdip Singh claims no interest. On January 18, 1963 S. Surinder Singh Kairon wrote a letter to the Oriental Bank of Commerce Ltd., New Delhi asking for a loan of Rs. 1,50,000/- from the Bank's Faridabad office. In that letter he set out some of his assets, the last item being "One Cinema at Hissar known as Elite valued at Rs. 6 lacs in the joint names of myself, my wife and Gurdip Singh who is relation and whose share is only 1/6th."

(iv) Discussion on the arguments

On the arguments presented before the Commission the following questions have to be considered, and decided—

- (a) Who is the true owner of the Elite Cinema—S. Surinder Singh Kairon or S. Gurdip Singh;
- (b) was any irregularity or illegality committed by any official in connection with the sanction of the cinema building and its construction;
- (c) was such irregularity or illegality committed at the behest, direct or indirect, of S. Partap Singh Kairon; and
- (d) if the answer to question (c) is in the negative, was such irregularity or illegality committed as a result of the exploitation by S. Surinder Singh Kairon of the influence and power of his father S. Partap Singh Kairon or *suo moto* by the officials for accommodating the Chief Minister's son and thereby pleasing the Chief Minister himself?

Re (a): As in the case of National Motors the question of the ownership of the Elite Cinema has been canvassed in great detail before the Commission. Learned Counsel for S. Partap Singh Kairon submitted that if no illegality or irregularity can be shown to have been committed by or at the direction of S. Partap Singh Kairon then the question of the true ownership of the Elite Cinema will be of no consequence. On the other hand if it can be established then the illegality or irregularity will be equally heinous whether it was done for his son or his relatives and so this issue need not be gone into in detail. As explained in the chapter on National Motors the answer to the question of benami is of the utmost importance in evaluating the evidence. So the Commission has heard arguments on this question of benami and proposes to deal with it before discussing the question of the alleged illegality or irregularity in the construction of this cinema building.

Learned Counsel for S. Partap Singh Kairon relies on the various counter-affidavits filed on behalf of the latter and urges that the sale deeds, the Municipal records and the Government records concerning the sanction given by the District Magistrate and the President of the Municipal Committee and the fact that moneys for the purchase of the land and for the construction of the building of Elite Cinema came from National Motors of which S. Gurdip Singh is a partner amply establishes that S. Gurdip Singh was the real owner of the Elite Cinema. If the land had been purchased in the benami name of Nandesh Exhibitors then to keep up the benami fiction all subsequent dealings with the land must be in the name of Nandesh Exhibitors. Therefore the records relied on by learned Counsel do not carry him anywhere.

Learned Counsel for the Memorialists, on the other hand, rely upon several points, including those which were advanced in determining the true ownership of National Motors. Those points are summarised below:—

- (a) That S. Gurdip Singh was a man of no means and could not invest any money in any business;
- (b) that S. Gurdip Singh did odd jobs for S. Surinder Singh Kairon in connection with the latter's business ventures without having any share or interest therein;
- (c) that the two sale deeds of February 24, 1961 relating to the lands on which Elite Cinema has been built were executed in the name of Nandesh Exhibitors through S. Gurdip Singh son of S. Mahinder Singh without saying that he was the sole proprietor;
- (d) that the District Magistrate in his letter to the Home Secretary dated February 26, 1961 had referred to S. Gurdip Singh "and his partners" as not having taken any part in activities prejudicial to the State;
- (e) that Shri Keshav Nath Thakur in his letter to the Governor objecting to the building of the cinema stated that S. Surinder Singh Kairon was being seen to supervise the building construction;
- (f) that the lorry drivers had mentioned at the octroi barrier the names of S. Partap Singh Kairon and S. Surinder Singh Kairon as the persons for whom they were carrying the goods;
- (g) that S. Surinder Singh Kairon in his letter to the Oriental Bank of Commerce, New Delhi had shown that Elite Cinema belonged to him, his wife and S. Gurdip Singh who had only 1/16th share therein; and
- (h) that the Elite Cinema had been charged to secure the loan of Rs. 3,50,000 raised from the New Bank of India Ltd. for the purposes of Cineramas which is a concern of S. Surinder Singh Kairon and two other persons not including S. Gurdip Singh.

Such of the points as were canvassed before the Commission in connection with the true ownership of National Motors need not be recapitulated here. For reasons stated in chapter XI the Commission has held that the three persons S. Mahinder Singh and his two sons S. Harbhajan Singh and S. Gurdip Singh were mere benamidars for S. Surinder Singh Kairon in respect of the National Motors. That finding has the effect of taking away the main plank of the argument advanced by learned Counsel for S. Partap Singh Kairon on the ownership of the Elite Cinema. His contention has been that the whole of Rs. 34,000 required for the price of the land including the cost of stamp as well as the entire amount required for the construction of the Elite Cinema building came from the funds of the National Motors in which S. Gurdip Singh was one of the three partners. It is well understood that in determining the question whether a particular property has been acquired in benami the source from where came the money with which the property has been acquired is a very strong, if not a decisive, factor. So if the National Motors provided the money required for the purchase of the Elite Cinema site and for the construction of the building thereon then in determining the true ownership of the Elite Cinema the ownership of the National Motors will be almost a decisive factor. It follows, therefore, that in view of the finding of the Commission that the National Motors really and truly belongs to S. Surinder Singh Kairon and the three persons, namely S. Mahinder Singh and his two sons who were ostensibly put forward as partners thereof were his benamidars and the other circumstances relied on by learned Counsel for the Memorialists it must be concluded that S. Surinder Singh has a share in the Elite Cinema, if he is not the sole proprietor thereof. And so the Commission holds.

Re (b):

(i) The first attack under this head is that the work of construction was started before the Municipal Committee had on March 21, 1961 sanctioned the plan. There is no dispute that the work of construction was taken in hand before the formal sanction was granted by the Municipal Committee. It was wrong for the applicant to start the work without actually getting the sanction of the Municipal Committee; but it is not entirely unknown that people do sometime start the work in anticipation of the formal sanction. Further in this case the District Magistrate who was dealing with the matter under the Punjab Cinema (Regulation) Act, 1952 wrote a letter to Nandesh Exhibitors that work could be started. In such a situation it was not unreasonable for the applicant to expect that the Municipal sanction would be soon forthcoming which it actually did on March 21, 1961. Section 35 of the Municipal Act itself provides for such a contingency. An application was made for compounding the unauthorised action and in exercise of powers vested in him the President of the Committee acceded to the application and imposed a fine of Rs. 100 which, according to Shri Harbans Rai Parti, the Secretary of the Municipal Committee, was quite adequate. In any event, this Commission cannot be expected to discuss the reasonableness or otherwise of the quantum of fine imposed by the President who normally deals with such matters. An element of drama was sought to be introduced by one Shri Mukh Ram who at the material time was a member of the

Hissar Municipal Committee but is said to have been removed from the membership thereof. He has stated in his affidavit (P-22) that one fine morning when he was sitting with the President in his house S. Surinder Singh Kairon came in with an application for compounding the case. He prevailed upon the President to accompany him to the Municipal office in his car taking Shri Mukh Ram also. All the three went to the Municipal office where the President and Mukh Ram got out of the car and entered the office leaving S. Surinder Singh Kairon waiting on the road in his car. The President then made the order and came out with Shri Mukh Ram and said to S. Surinder Singh Kairon that the case had been compounded as ordered by him (S. Surinder Singh Kairon). That S. Surinder Singh Kairon may, in his anxiety to get on with the construction of the cinema, call on the President to make a little "suparish" is understandable and may well have happened but the rest of the story seems to be fantastic and hard to believe. The Commission has no hesitation in rejecting this story and accepting the testimony of the Secretary that the application had been filed in the Municipal office. There is no substance in the grievance advanced under this head.

(ii) Complaint was made about the hurry with which the matter of sanction under the Cinema (Regulation) Act, 1952 and the sanction by the Municipal Committee was rushed through without making the normal inquiries. That the matter was pushed through with remarkable speed cannot be gain said. The application under the Cinema (Regulation) Act was presented to the District Magistrate on February 24, 1961, i.e. on the very day that the sale deeds were registered. On presentation of such an application the normal procedure is for the District Magistrate to call for reports from departments or officer concerned. In this case no certificate had been called for by the District Magistrate from the Town Planner at all but the latter, without being asked by the District Magistrate, obliged the applicant by giving his certificate on February 21, 1961 which was attached to the application. On February 24, 1961 the District Magistrate called for reports from the Superintendent of Police as to the political activities of the applicant and from the Tehsildar as to the applicant's solvency. Both of them sent in their respective reports by February 26, 1961. It will be remembered that the ostensible owner of Nandesh Exhibitors was S. Gurdip Singh and he was not a resident of Hissar. Neither the Superintendent of Police nor the Tehsildar thought it fit to contact the corresponding authorities of the place where S. Gurdip Singh ordinarily resided but sent in favourable reports without any inquiry in those places. This seems to be, in some measure, indicative of the fact that both of them knew that S. Surinder Singh Kairon was the owner of or interested in Nandesh Exhibitors. S. Gurdip Singh is not a person of such eminence as will induce the Commission to accept the suggestion, made on no evidence, that he might have been known to both the officers. Whether S. Gurdip Singh was known or unknown, the fact remains that normal inquiries were not made by either of the officers. On February 27, 1961 the District Magistrate wrote to the Home Secretary recommending that sanction might be given. It is curious, however, that before this date no plans had been sent to the Executive Engineer and no report had been called for or received

from the Executive Engineer, P.W.D. (B&R) as to whether the plans complied with the requirements of the Rules framed under the Punjab Cinema (Regulation) Act, 1952. Four sets of plans were sent to the Executive Engineer, P.W.D. (B&R) as late as on March 6, 1961. On March 14, 1961 came the reply from the Home Secretary to the District Magistrate conveying the Government's sanction. The District Magistrate on March 16, 1961 communicated that fact to the applicant, although he had not uptill then received the report of the Executive Engineer. The favourable report of that officer dated March 16, 1961 was actually sent to the District Magistrate on March 20, 1961 and on the very next day, i.e. March 21, 1961 he wrote a letter to the applicant granting formal sanction. It is as clear as anything could be that in this extraordinary hurry normal inquiries were not made.

Things were moving in still more breakneck speed in the Hissar Municipal office. On March 21, 1961 Shri Kundan Lal, the ex-Manager of Nandesh Exhibitors went to the Municipal office with a letter of reminder to hurry up the matter. That letter went from hand to hand while he waited in the office, namely from the Surveyor to the Building Inspector and thence to the Secretary and finally to the President who there and then compounded the case of unauthorised construction by imposing a fine of Rs. 100/- and finally sanctioned the building plan. All these took place during the office hours on March 21, 1961.

The construction of the building was completed quickly and the licence to run the cinema was granted on June 6, 1961, i.e. within less than four months after the site was purchased and within three months after the plans were sanctioned by the Municipal Committee. The cinema was ceremonially opened by S. Iqbal Singh who was and still is the District Magistrate of Hissar and has filed two affidavits before the Commission. If this remarkable speed is normal in disposal of all similar cases then it must, indeed, be commendable. Experience, however, tells a different story which is that expedition of this supersonic type may be possible when powerful force, personal or otherwise, is at work and it is not necessary or expedient to go deeper into it.

(iii) It has been alleged that the sanction for constructing the Elite Cinema was given in violation of the Rules made under the Punjab Cinema (Regulation) Act, 1952. It will be recalled that in the supporting affidavits filed by the Memorialists they have vaguely alleged breach of the rules but did not specify any particular rule. This was introduced for the first time by Shri Parkash Chander in paragraph 8(a) (i) to (v) of his affidavit (P-24) which was taken up and further developed by Maulvi Abdul Ghani Dar in his affidavit in reply (R-29). S. Partap Singh Kairon had an opportunity to deal with the allegations of Shri Parkash Chander but none to rebut the additional details to be found in Maulvi Abdul Ghani Dar's affidavit in reply (R-29). In discussing these objections this disadvantage suffered by S. Partap Singh Kairon has to be constantly borne in mind.

The first objection under this head is that Rule 19(ii) of the Punjab Cinema (Regulation) Rules, 1952 has been violated in that there is a girls school situate within a radius of one furlong of this Cinema. Rule 19(ii) prescribes that a Cinema shall not be built within a radius of one furlong from, *inter alia*, a "recognised" educational institution. Shri Kundan Lal in his counter-affidavit (CP-12) filed on December 26, 1963 stated that there was "no recognised educational institution within one furlong from the Cinema." And yet in the reply affidavit filed by Maulvi Abdul Ghani Dar (R-29) on February 14, 1964 he did not say that the girls school referred to by Shri Parkash Chander was a "recognised" school. It has to be remembered that while granting the licence the authorities must have satisfied themselves that the requirements of the Act and the Rules were fully satisfied. In the circumstances the Commission can pay no heed to this objection.

Rule 19(v) is alleged to have been violated because the Elite Cinema has been constructed in a thickly populated residential area. The file shows that a reference precisely on this point had been made by the District Magistrate to the Executive Engineer who in his report stated that the site was a suitable one. The Tehsildar also expressed the same view. The Town Planner took no objection to the site. In this situation the Commission is not persuaded to accept a suggestion which runs counter to the views expressed by officers who are qualified to do so. Nor does the Commission find any substance in the objections founded on Rules 19(b) and (c). There has been no breach of Rule 20 in that the Cinema has been built with burnt bricks and materials approved by the Executive Engineer. Before the licence for running the Cinema was given on June 6, 1961 the building was inspected and certified by competent officers as testified by S. Iqbal Singh, the District Magistrate of Hissar in his counter-affidavit (CM-31) and annexure to (CP-207).

Arguments have been advanced to the effect that there were irregularities in the matter of construction of the building. Some of these, namely the compounding of the case of unauthorised construction, the perfunctory nature of the reports of the Superintendent of Police and the Tehsildar, have already been considered. Some new objections call for decision. It is said that the House Tax assessed by the Municipal Committee at Rs. 20,000/- was, on appeal, reduced to Rs. 10,000/-. S. Iqbal Singh, the Deputy Commissioner, dealt with the matter in a judicial capacity. The reasons for his decision are recorded in his order passed on April 22, 1963 a copy of which has been annexed to his counter-affidavit which is annexed to S. Partap Singh Kairon's counter-affidavit (CP-207). He took Rs. 1,70,000/- as the cost of the construction and Rs. 30,000 as cost of the land aggregating to Rs. 2,00,000 and calculating at 5% he arrived at Rs. 10,000. It may be that the total cost is now shown at a figure higher than Rs. 2,00,000/- but the Commission does not find anything in the order itself to justify that the Deputy Commissioner was remiss in the exercise of his function. At any rate, this Commission is not called upon to sit in appeal over the assessment arrived at by the Deputy Commissioner. All that has been put against him is that he presided over the ceremonial opening of the Cinema.

It has been urged that there has been some encroachment by the cinema building on a portion of the Government land. The matter was raised in the Municipal Committee and the Overseer was deputed to make an on the spot inquiry. The Overseer after inspection made a report saying "There does not seem to be any encroachment." Some emphasis was laid on the use of the word "seem". The criticism appears to be hypercritical.

Another objection is that huge quantity of building materials required for the Cinema was given to the owner of the Cinema which could only be referable to rank favouritism. No material has been put on record in support of this charge. Even Shri Mukh Rain does not say anything on the subject. Octroi duty is ordinarily payable by the suppliers of materials. The documents produced before the Commission clearly show that Octroi duty has been paid. The last grievance is that a Municipal water pipe had been shifted. If the pipe passed through the land of the owner then it was the Municipal Committee which was encroaching on the land of the owner. Seeing that the pipe had been removed three feet away from its original position by the Sub-Divisional Officer, Public Health Department, under orders of the Municipal Committee, the matter needs no further discussion.

Re (c): There is not an iota of evidence to support the objection that any irregularity or illegality was committed by any of the Government or Municipal employees at the behest, direct or indirect, of S. Partap Singh Kairon.

Re (d): There is ample evidence to show that S. Surinder Singh Kairon was anxious to complete the cinema as quickly as possible and with that end in view he is likely to have contacted, by himself or through his agent, the Government as well as Municipal officials to expedite matters. The speed with which those officers moved was unusual and remarkable. It is true that there can be no objection to expedition if the thing done is not, in itself, objectionable. But where, as here, the hurry led to non-observance of normal rules and procedure and was patently responsible for most perfunctory inquiry, it cannot be overlooked merely as an innocent expedition resulting from a natural desire on the part of the officials to please an applicant who is known as the son of the Chief Minister. Such breakneck speed in the disposal of a serious matter for which elaborate rules have been framed to be observed and performed is not at all normal and can be attributable only to some powerful force regulating the speed.

(v) Findings of the Commission in relation to Elite Cinema, Hissar

On a consideration of the evidence placed before the Commission and in the light of the foregoing discussion the Commission finds—

- (a) that S. Surinder Singh Kairon has an interest in the Elite Cinema, if he is not the sole proprietor thereof;

- (b) that there was some irregularity bordering on illegality in the matter of the granting of sanction by the District Magistrate under the Punjab Cinema (Regulation) Act, 1952 in that, amongst other things, the normal inquiries were not properly made and the sanction was given even before the report of the Executive Engineer, P.W.D. (B.&R.) had been received;
 - (c) that the hurry with which the sanctioning of the plan was put through in the Municipal office indicates that no inquiry or only perfunctory inquiry was made before the plans were sanctioned;
 - (d) that there is no evidence, whatever, that the irregularity or illegality committed by the Government or Municipal officials was done at the behest, direct or indirect, of S. Partap Singh Kairon; and
 - (e) that there is cogent reason for holding that such irregularity or illegality was committed by the Government or Municipal officials as a result of the exploitation by S. Surinder Singh Kairon of the influence and power of his father S. Partap Singh Kairon, the Chief Minister of the Punjab.
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CHAPTER XVII
NANDAN CINEMA AND PUNJAB COLD STORAGE

(i) Charge as formulated

In the memorandum under Charge 1 the fourth item of property said to have been acquired by the Kairon family as a result of the misdeeds, and blatant act of corruption and gross misrule of the Chief Minister is described simply as "Nandan Rs. 4,00,000 at Amritsar." There was no mention of Punjab Cold Store. In the affidavits of Maulvi Abdul Ghani Dar (M-6), of Shri Devi Lal and five other Memorialists (M-7) and of Master Tara Singh (M-25) the second item of properties set out in paragraph 6 is thus described:

"(ii) Nandan Cinema and (a) attached properties outside Ram Bagh, Amritsar, valued at nearly Rs. 9,00,000, (b) Punjab Cold Storage Hide Market outside Ram Bagh, Amritsar worth Rs. 10,00,000".

Against this item there is the following note: "These properties stand in the name of Gurinder Singh." As will be seen hereafter, S. Gurinder Singh had bought one plot of land measuring about 11.7 kanals which is roughly $1\frac{1}{2}$ acres and built the Punjab Cold Store on a portion of this land and the Nandan Cinema on the remaining portion thereof. S. Partap Singh Kairon in his counter-affidavit (CM-100) did not take any objection to the Commission going into the question of the Punjab Cold Store, though S. Gurinder Singh in his affidavit (CM-1) took the objection. Learned Counsel for S. Partap Singh Kairon did refer to the circumstance that the Punjab Cold Store had not been specifically mentioned in Charge 1 item (4) but did not press that the Commission should not entertain the allegations concerning the Punjab Cold Store as included in this charge, presumably because Nandan and the Punjab Cold Store have been erected on two portions of the same plot of land. As Shri Balramji Dass Tandon said in his affidavit in reply (R-4), Nandan Cinema and the Punjab Cold Store formed a "composite property."

(ii) Affidavits filed relating to this charge

The affidavits bearing on this charge are numerous. In support of this charge there is paragraph 6 in each of the affidavits of Maulvi Abdul Ghani Dar (M-6), of Shri Devi Lal and five other Memorialists (M-7) and of Master Tara Singh (M-25). The charge has been elaborated in two affidavits, namely one affirmed by Maulvi Abdul Ghani Dar (M-2) and the other by Shri Balramji Das Tandon (M-14) which are practically verbatim copies of each other. In opposition to this, nine counter-affidavits have been filed on behalf of S. Partap Singh Kairon affirmed respectively by S. Gurinder Singh (CM-1), Shri S. R. Verma I.A.S. (Retd.), Managing Director, Punjab Finance Corporation (CM-34), Mrs. Serla Grewal, Secretary, Local Government Department (CM-60), Shri D. D. Bhatia, President, Municipal Committee, Amritsar (CM-61), Shri V. S. Mittal Chief Electrical Engineer, Municipal Electrical Department, Amritsar

(CM-62), Shri K. J. Kavasji, Municipal Engineer, Amritsar (C.M.-63) and by S. Partap Singh Kairon (CM-100). Two affidavits have been put in on behalf of the Memorialists, affirmed by Shri Balramji Dass Tandon (R-4) and the other by Maulvi Abdul Ghani Dar (R-5). Four members of the public have also filed affidavits and their names are S. Inder Singh (P-5), Shri Bhagwandas (P-8), S. Harbhajan Singh (P-20) and S. Joginder Singh (P-21) and these were answered by four counter-affidavits by S. Gurinder Singh (CP-1, CP-2, CP-3 and CP-4), four affidavits by S. Partap Singh Kairon (CP-34, CP-210, CP-213 and CP-52) and by Shri Jai Inder Singh (CP-8).

(iii) Facts appearing from affidavits and files

In the outskirts of the town of Amritsar outside Ram Bagh Gate, Civil Lines, there was a piece of land measuring 11.7 kanals which will be roughly about 1½ acres. The land was in a depression which was indicative of its being in the past a tank. Indeed the land was known as Saunder's Tank. It appears from resolution No. 75 of the Municipal Committee, Amritsar dated April 11, 1940 and referred to in the supporting affidavits of Maulvi Abdul Ghani Dar (M-2) and of Shri Balramji Dass Tandon (M-14) that Messrs Daulta Ram Balkrishan Dass asked for permission for constructing a building in that area but the Executive Engineer had rejected it. By that resolution the Municipal Committee approved of the decision of the Executive Engineer and also resolved that the area be declared as "unbuilt area" under the Punjab Municipal Act, 1911 and a Town Planning Scheme be prepared for that area. This Resolution No. 75 was confirmed by the Governor of the Punjab and the area was declared as "unbuilt area" by his order dated January 5, 1943. Later on the Municipal Committee after observing due formalities prepared a scheme which was sanctioned by the Governor of the Punjab by his order No. 5-ASR, dated February 22, 1951. According to this scheme only residential houses could be permitted to be built. In the affidavit of Shri K. J. Kavasji, the Municipal Engineer (CM-63) it is said that this scheme was framed on the application of the then owner. This scheme remained in force for about ten years in course of which only one person had asked for permission to build a residential house but eventually failed to build although permission had been granted to him to do so. It appears that towards the end of December, 1960 this Saunder's Tank area attracted the attention of S. Gurinder Singh. By registered sale deeds, four of them dated November 25, 1960 and the other dated December 29, 1960 S. Gurinder Singh and his wife Smt. Balbir Kaur purchased the entire 11.7 kanals of land. According to learned Counsel for S. Partap Singh Kairon the consideration for the sale deeds was distributed as follows:—

	Rs.
25th November, 1960.	12,000
25th November, 1960.	10,000
25th November, 1960.	8,000
25th November, 1960.	10,000
	<hr/>
	40,000
29th December, 1960.	35,000
	<hr/>
	75,000
	<hr/>

The 11·7 kanals of land, therefore, cost S. Gurinder Singh and Smt. Balbir Kaur Rs. 75,000/- plus cost of stamp and registration fee aggregating to say Rs. 80,000/-. Admittedly S. Gurinder Singh and his wife raised this amount as loan from Mrs. Harcharan Singh Barar who was the daughter of S. Jaswant Singh, the younger brother of S. Partap Singh Kairon. The loan came by two cheques and the Bank pass books produced by learned Counsel show that the amounts were credited in the account and that on the day of registration the sum of Rs. 80,000/- was debited therein. On January 13, 1961 S. Gurinder Singh submitted plans for building a Cold Store on a portion of the Saunder's Tank. The Municipal Engineer K. J. Kavasji inspected the site on January 18, 1961 according to him but on January 17, 1961 according to S. Gurinder Singh. According to Maulvi Abdul Ghani Dar (M-2) and Shri Balramji Dass Tandon (M-14) the Municipal Engineer did not inspect the site at all but wrote his not sitting in the office—a suggestion which the Commission finds it difficult to accept in view of the nature of the verification of the paragraphs containing those suggestions. In his note which is annexure to his affidavit (CM-63) the Municipal Engineer thus recorded his views:

“The proposal is in a scheme which was prepared by M.C. on the request of the then owner and sanctioned by the Government in 1951 for a residential area. The same has not materialised for now nearly ten years as the buildings surrounding the area are either shops or factories. The present owner has submitted a plan for a Cold Storage on half the plot, and the other half is reserved for a Cinema. As the entire plot is only 11 Kanals and as there are shops and factories in the neighbourhood, these two buildings are ideally suited to the area. The area will develop immediately. The proposal complies with bye-laws. Government has been requested to modify the scheme and the case is submitted to the Committee for the purpose.”

The recommendation of the Municipal Engineer was submitted to the officiating Executive Officer S. Waryam Singh who on January 20 1961 passed an order sanctioning the plan subject to the Government's approval to rescind the scheme. On January 21, 1961 S. Gurinder Singh who had already got a temporary water tap connection and electricity connection started the construction of the Cold Storage and went on borrowing moneys from time to time from different sources for meeting the cost of construction. On February 14, 1961 there was a meeting of the Municipal Committee. S. Gurinder Singh's application for sanction was not in the agenda. It is said that the matter was brought up before the meeting as a non-agenda item under bye-law 9. The Municipal Committee is said to have unanimously passed a resolution sanctioning the proposed building and directing that the matter be referred to the Government for rescinding the scheme. On March 16, 1961 the Deputy Commissioner sent a memorandum to the Government enclosing a copy of the resolution of the Municipal Committee and moved the Government to rescind the scheme. The Storage building (except the deep-freeze unit) was completed by the end of 1961 and the storage started

functioning from about the middle of April 1961. On April 20, 1961 the Office Assistant put up a note that the scheme be dropped as S. Gurinder Singh had bought the entire land (11.7 kanals). On May 23, 1961 Dr. Baldev Parkash, M.L.A. and Shri Balramji Dass Tandon, M.L.A. sent telegrams to the Secretary, Local Self Government and the Chief Minister protesting against the resolution and insisting that the offending building should be demolished; presumably they had in mind the provisions of Section 192A of the Punjab Municipal Act. There is an office note made by an O.S.D. on May 25, 1961 which refers to the telegram and suggests that the opinion of the Legal Remembrancer be obtained. The Legal Remembrancer gave the opinion—

“That being the position S. 19 of the Punjab General Clauses Act, 1898, can be made use of for rescinding the sanction. It will of course be necessary to follow the same procedure for rescinding the sanction which had to be observed prior to the according of the sanction.

“Regarding Section 192A of the Punjab Municipal Act, it may be mentioned that it has no application as no building was used for a prohibited purpose.”

Evidently the Legal Remembrancer was under a misapprehension when he said that “no building was used for a prohibited purpose.” On June 1, 1961 Shri Ahuja, Secretary, Local Self Government queried as to what would be the position if buildings had already been constructed and were being used for purposes other than originally specified. Prompt came the reply from the Legal Remembrancer on June 2, 1961—

“In case a building was erected in a specified area for a purpose which was prohibited under the scheme and was used for that prohibited purpose then S.192A will apply including its penal provisions.”

It appears that on the same day (June 2, 1961) the telegram of Shri Balramji Dass Tandon had reached the Chief Minister and there is a note on it to the effect—

“CM will like to have a draft reply.”

On June 3, 1961 Shri Ahuja noted—

“I.Ms’ attention is also invited to P.U.C. III and subsequent advice of L.R. Action as suggested by L.R. at ‘B’ on p.6 is for f/o approval.”

“I.M.” stands for the Industries Minister who was then Shri Mohan Lal. The portion marked “B” referred to the advice of the Legal Remembrancer about the application of Section 19 of the Punjab General Clauses Act after following the same procedure as had been followed when the scheme was sanctioned. On June 4, 1961 Shri Mohan Lal, the Industries Minister, recorded the following note—

“No difficulty in accepting the request of the M.C. to drop the scheme of 1951. May be on a/c of smallness of the area

and its surroundings in Mills, factories etc. the area was unsuitable for residential building.

The present vendee seems to be a bona fide purchaser. In a portion of the land he is already reported to have completed building of the Cold Storage. The fact that the vendee is a bona fide purchaser for consideration and he has in good faith constructed a Cold Storage lends support to the Government according sanction as asked for by the M.C."

On June 7, 1961 the Assistant Secretary expressed the view that the procedure followed by the Committee when the scheme had been sanctioned need not be followed and suggested that if the Legal Remembrancer agreed with his suggestion then the scheme could be rescinded without further formalities. The Legal Remembrancer returned the file with his note dated June 9, 1961 maintaining his old view that the same procedure should be followed. On June 13, 1961 Shri Ahuja noted that the Legal Remembrancer's advice being against the specific order of the Minister, it might be shown to him. Evidently there was a discussion between the Minister (Shri Mohan Lal) and the Legal Remembrancer and the result of that discussion is recorded in a note dated June 15, 1961. In the beginning of the note the Legal Remembrancer still maintained that "the legal position stated in my note dated 9th June 1961 is correct" and went on to add—

"It may, however, be stated that this scheme was sanctioned by the State Government under Section 192 of the PM Act. For passing order Government had not to follow any procedure. Evidently this sanction could be given after considering the scheme and plans. For rescinding the order of sanction also so far as the Government is concerned no procedure need to be followed except that the order should be made after due consideration of the resolution of the Committee."

On the same day the Minister ordered that "we should straight off proceed to convey to the M.C. our approval of the resolution." The Government's approval of the Municipal resolution was conveyed to the Municipal Committee on June 20, 1961. On June 27, 1961 a draft reply to the telegram of Shri Balramji Dass Tandon which the Chief Minister had asked for on June 2, 1961 was put up for the approval of the Chief Minister. The draft purported to state that approval of resolution No. 1301-H passed by the Municipal Committee, Amritsar on February 14, 1961 had been conveyed rescinding the Town Planning Scheme. There is a note under date July 3, 1961 by the Minister, Shri Mohan Lal, doubting if it would be appropriate to send a reply from the Chief Minister and suggesting that it might go from the department. On July 14, 1961 there is a cryptic note—"CM agrees." A letter accordingly was sent to Shri Balramji Dass Tandon by Shri J. L. Jain, Assistant Secretary to the effect that the resolution of the Municipal Committee had been approved and the scheme had been rescinded. It seems that Shri Balramji Dass Tandon had also approached the Governor of the Punjab (Shri N. V.

Gadgil) asking him to take appropriate action. Apparently the deputy Commissioner, Amritsar, was contacted and on September 15, 1961 the latter put up some sort of explanation. On September 20, 1961 the Secretary wrote to the Deputy Commissioner, Amritsar stating that the Governor was completely dissatisfied with the explanation concerning the departure from normal practice and legal procedure in this case and inquiring whether this kind of haste was normally shown. Reference was made to the resolution being passed although the matter was not in the agenda. The Governor wanted to know all law and procedure indicating whether it was necessary to invite objections from the public and called for explanation why irregularities and illegalities had been committed and also how often applications had been made for the development of the area. On December 12, 1961 the Deputy Commissioner sent a reply which was still incomplete. So on January 8, 1962 the Governor's Secretary again wrote to the Deputy Commissioner pointing out that his reply was incomplete. The letter concluded with a request for the requisite information and also copies of bye-laws (buildings), Rules of Business. The Deputy Commissioner replied that only one person had applied for sanction for building but he did not build although sanction had been given. Shortly after this, certain M.L.As sent complaints to the Governor regarding the construction of the Cold storage. A note was sent to the Secretary, Local Government on May 7, 1962 and a report was called for indicating how far the Executive Officer or the Municipal Committee was responsible for committing irregularities and illegalities and also for showing special favour. Shri Jagadish Lal Malhotra of the Local Government Department on May 24, 1962 prepared a report and sent the file to the Legal Remembrancer with a request to forward it to the Governor's Secretary with his advice. On June 23, 1962 the Legal Remembrancer gave an opinion which is to be found at page 16 of File 9(2)—Cancellation of Town Planning Scheme—and which is quoted in part in the affidavit in reply of Shri Balramji Dass Tandon (R-4). The opinion was—

“The sanction granted by the Executive Officer on 20th January, 1961, for erection of a Cold Storage was, therefore not in conformity with the scheme. Section 193 makes it incumbent on the Committee or the Executive Officer, as the case may be, to refuse sanction to the erection or re-erection of any building in contravention of the sanctioned scheme.

“The sanction granted by the Executive Officer even though subject to the approval of the Government was not strictly legal. There is no provision in law enabling grant of such a conditional sanction.

“.....Section 19 of the Punjab General Clauses Act could, therefore, be made use of for rescinding the sanction, of course, after following the same procedure as had been observed prior to the according of the sanction....”

He also stated that the matter was not in the agenda but pointed out that under bye-law 9 any matter not included in the agenda could be

brought up with the consent of the majority and that there was nothing to show that any member objected. The papers having been placed before the Governor on July 25, 1962 he made a note on July 26, 1962—

“I would like to have the views of the Chief Minister in the matter.”

On September 23, 1962 the Chief Minister noted—

“In view of the orders of the Minister incharge and the opinion of L.R. I have nothing else to say.”

There the matter stands.

(iv) Arguments discussed

Learned Counsel for the Memorialists contended that S. Gurinder Singh purchased the Saunder's Tank area at a very cheap price and would not have risked even that price amounting to Rs. 80,000 unless he knew that his father would be sure to come to his aid and rescind the Town Planning Scheme. With that assurance in hand he could impose upon the Municipal employees to show him undue favour at one end and get the scheme rescinded illegally at the Secretariat end. According to him the illegalities and irregularities were committed so crudely that it even attracted the attention of the Governor of the Punjab but he was a helpless spectator and could do nothing. Learned Counsel for S. Partap Singh Kairon, however, argued that by buying this property at Rs. 80,000/- S. Gurinder Singh took no risk whatever, for if the scheme was not rescinded he could easily sell off the land at least at the price at which he purchased it. He said that the Municipal employees showed him no special favour and his father did not exert his influence in any way over them. He maintained that the scheme was framed at the instance of its owner and now that the land had again come under a single ownership there would be no objection on the part of anyone to the scheme being revoked. According to him the scheme was rescinded following the correct procedure under legal provisions and the decision was taken by the Industries Minister (Shri Mohan Lal) who was also in charge of Local Government and the Chief Minister had no hand in the matter. He said that the Governor himself looked into the matter and when the true position was explained to him he was satisfied about the matter. The rival arguments require careful examination before the Commission can come to a correct conclusion.

Saunder's Tank was land with a depression surrounded by shops, ice factory and hide godowns. It had been declared an unbuilt area and was subjected to a Town Planning Scheme framed as far back as 1951. For ten long years nobody came forward to build any residential house except one person who asked for and obtained permission to build and yet failed to build. In these circumstances there is good reason to think that the price of this land had depreciated considerably and was available at a cheap price. Judging by the fact that the surroundings were full of factories, godowns and the

like, that nobody except one person ever thought of building residential houses on the land it may be safely held that it would not be a practical proposition to attempt to develop the land by raising residential houses on it. It was not the idea of S. Gurinder Singh to raise residential houses. He wanted to set up commercial buildings, a Cold Store and a Cinema. This he could do only if the scheme was rescinded. Therefore, if he made any mental calculation as a reasonable and prudent businessman would do, he would have clearly foreseen considerable risk in investing Rs. 80,000/- in this tied up land. Ordinarily any one, in such a situation, would hesitate twice before undertaking a venture of this uncertain nature. Surely it would have occurred to him that if he, the son of the Chief Minister, could not get the scheme superseded, his money would be in some jeopardy, for it would not be easy to find a willing buyer to take over the land from him at anything like the price paid by him. Therefore, he did take a risk. A man flush with money may, as a speculative venture, take the risk and invest Rs. 80,000 but S. Gurinder Singh had no money of his own. He had to borrow Rs. 80,000/- from his cousin sister, the wife of S. Harcharan Singh Brar. No prudent person would have borrowed money and sink it in such risky venture unless he was more or less sure of getting the scheme out of his way and build his Cold Store. Further even a reckless man, who had invested borrowed money to the extent of Rs. 80,000/- would go slow and get the scheme rescinded first and then go further ahead. Not so S. Gurinder Singh. He plunged headlong into the troubled water and started his Cold Store building by borrowing large sums from Banks and other sources and actually completed it at an enormous cost. All this conduct which in any lesser person would be viewed as sheer recklessness assumed in the case of S. Gurinder Singh an aspect of self confidence which could only be indicative of some firm assurance that things would turn up in a way conducive to his interests. The borrowing of moneys for buying the depressed low land in that surrounding, the borrowing of money for meeting the cost of construction of commercial buildings on land reserved for residential houses could only be explained on the footing of an assured certainty that all obstacles in the way of S. Gurinder Singh would be removed and his money would be safe. No other explanation fits in.

On January 13, 1961 S. Gurinder Singh submitted building plans. Shri K. J. Kavasji in his affidavit (CM-63) says that he went and inspected the site on January 18, 1961 and made out his report on that very date. S. Gurinder Singh, however, states in his affidavit (CM-1) that Shri K. J. Kavasji, to his (S. Gurinder Singh's) knowledge, wrote his report on January 17, 1961. It is a minor discrepancy which may be of no moment. The fact that there was a Town Planning Scheme affecting the land might well have dissuaded the Engineering from taking the trouble of a local inspection. Granting that he did inspect the land and make a report, what is significant is that in his report he says, "Government has been requested to modify the scheme". Who wrote to the Government? At that stage there was no question of the Municipal Committee having moved the Government. Who gave him that information? The plausible explanation is that it was only S. Gurinder Singh who could have told him and it is understandable

that Shri K. J. Kavasji was well impressed with the fact that Government had been moved. The papers went to S. Waryam Singh who was officiating as the Executive Officer and was the then President of the Committee. It has been said by learned Council for S. Pratap Singh Kairon that under the provisions of the Punjab Executive Officers Act, 1931, S. Waryam Singh was competent to exercise the powers of the Municipal Committee in respect of sanctioning of plans. In normal cases he may well be; but here the land in question was affected by a scheme and no commercial building could be sanctioned even by the Municipal Committee, not to speak of the Executive Officer. S. Waryam Singh could only have referred the matter to the Municipal Committee with a recommendation that if thought fit the Committee might take steps to revoke the scheme. That he did not do but on January 20, 1961 took upon himself the responsibility of sanctioning the plans though the sanction was expressed to be subject to the rescission of the scheme by the Government. The Legal Remembrancer on June 23, 1962 clearly stated in his opinion that this sanction was not in conformity with the scheme and that according to Section 193 it was incumbent on the Committee as well as S. Waryam Singh to refuse sanction to the erection of any building in contravention of the sanctioned scheme. He went on to say that even though the sanction was subject to the approval of the Government it was not strictly legal, for there is no provision in law for granting such a conditional sanction. Why was such ready solicitude shown by these two Municipal employees for S. Gurinder Singh? That the relationship of the applicant with the Chief Minister was a powerful inducement can hardly be denied. Human nature being what it is, the sons of V.I.Ps. do get some advantage over lesser persons and as long as the favour shown to them does not injure any other person the same may be innocuous and tolerated as concession to human weakness. But where the accommodation transgresses the bounds of law, as it has done in the instant case, it cannot but be condemned.

To pursue the discussion. Post haste S. Gurinder Singh started the building operations on and from January 21, 1961, i.e., from the very next day after S. Waryam Singh sanctioned the plan. He did not even wait for the decision of the Municipal Committee. What was this hurry for? Obviously to present the authorities with a *fait accompli*. It is extremely naive for a person, who has inspired others to violate the law and show him unusual favour, to assume the attitude of injured innocence and say that he was misled, that he thought that the sanction having been accorded by the President he could get on with his construction work. There was a meeting of the Municipal Committee on February 14, 1961. The question of sanctioning S. Gurinder Singh's plans or revoking the scheme was not on the agenda. It is true that under bye-law 9 an item outside the agenda could be allowed by the President with the consent of the members present to be discussed at the meeting. But what was the hurry about it? Why could it not wait until the next meeting when the matter could be properly placed on the agenda duly circulated and discussed on its merits. The answer is obvious, namely that it would meet with heavy weather. It is said that all members present unanimously agreed to the matter being taken up

and the resolution sanctioning the plans and recommending the rescission of the scheme being adopted. It is a matter of common knowledge that by this time two charge-sheets had been submitted by Shri Prabodh Chandra against S. Partap Singh Kairon, that there had formed a hard core of opposition members belonging to Jan Sangh, Praja Socialist Party and the Communist Parties. In the Municipal Committee, Amritsar there was a strong opposition block consisting of Shri Balramji Dass Tandon and others. It is very difficult to accept that all these members would meekly agree to such an out of agenda business to be taken up without protest. Further, if Shri Balramji Dass Tandon and members of his way of thinking were present and accepted the resolution with such good grace why should they go back on this and on May 23, 1961 take up such a hostile attitude and send telegrams of protest to all and sundry? Their enmity with S. Partap Singh Kairon was of long standing and had not come into being after the meeting of February 14, 1961. It seems curious that such determined enemies would let the resolution be adopted without protest and without a division. It is equally incomprehensible that having been a party to it on February 14, 1961 as alleged, they would turn round on May 23, 1961. Such *volte-face* does not appear to be sensible. There has been a suggestion that either when the meeting had just broken up and the members were dispersing somebody might have mentioned the matter and some others might have said, "all, all" or, worse still, the whole thing was interpolated later on. The file of the Amritsar Municipal Committee has been produced before the Commission. It is a scrappy bundle of some loose papers stitched on the top left hand corner. There are two page marks showing that the file has been re-arranged. It is surprising that the Municipal Committee of one of the leading cities of the Punjab has not even a regular Minute Book. There is no record who proposed or who seconded the resolution under discussion. The papers have a look of being a rough draft. The circumstances do raise considerable suspicion but, nevertheless suspicion is not proof and cannot be founded upon for an acceptable argument and so the Commission leaves the matter there.

The Deputy Commissioner with his memorandum dated March 16, 1961 sent the resolution to the Government. The construction of the Cold Store was completed on March 31, 1961 and the Cold Store started functioning on and from April 1, 1961.—

The matter then had an exciting time in the headquarters. The notings on the files which have already been summarised in detail throw a lurid light on the whole affair. The Legal Remembrancer gave his opinion on several occasions. He said that the scheme could be rescinded under Section 19 of the Punjab General Clauses Act, that is to say, by following the same procedure as had been followed for sanctioning the scheme. A reference to Section 192 will clearly show the procedure that had to be followed and had in fact been followed when the scheme had been sanctioned. It requires public advertisement inviting objections, if any, to the scheme and lays down other requirements. After going through the gamut of all those requirements the Committee has to pass a resolution adopting the schemes and to recommend it to the Government for sanction.

and then the Government considers the matter and sanctions or rejects it. The sanctioning of a scheme is thus one single continuous process beginning at the Committee level and ending at the Government level. To follow the advice of the Legal Remembrancer given upto June 9, 1961 when he adhered to his earlier view would necessitate starting the work at the lower level by issuing advertisement inviting objection, if any, to the rescission of the scheme and going through the entire gamut of procedure and then sending up the Committee's resolution to the Government for consideration. This did not certainly suit the son of the Chief Minister, for if the matter had to start over again at the lower end there would be bound to be trouble. The Chief Minister had already received the telegram of Shri Balramji Dass Tandon and on June 2, 1961 ordered a draft reply to be put up for his approval. Then the Minister (Shri Mohan Lal) on June 4, 1961 took up the cudgel and there can be no manner of doubt that S. Partap Singh Kairon was privy to it, he did not actually inspire the move. The notings disclose a great solicitude for the unnamed vendee who was a *bona fide* purchaser for value, who had completed the Cold Store. He saw no difficulty in accepting the request of the Municipal Committee to drop the scheme of 1951. The Legal Remembrancer stuck to his guns and on June 9, 1961 insisted that the same procedure should be followed. A discussion took place between the Minister and the Legal Remembrancer. One can mentally visualise the tussle and the process through which the Legal Remembrancer passed. A novel way out was discovered. Records do not show from whom it emanated. The Legal Remembrancer's note dated June 15, 1961 records the result of the discussion. It reiterates that his original view was correct but hastens to add that when the Government had originally sanctioned the scheme it did so after considering the scheme and plans and so in rescinding the scheme it can do so on a consideration of the resolution of the Municipal Committee for rescinding it. In other words, the one single continuous process of sanctioning a Town Planning Scheme was spilt up into two watertight compartments and the Government was to adopt the same procedure that it had followed when the scheme was sanctioned, namely only consider the Committee's resolution and it was no concern of the Government to see whether in arriving at its rescission resolution the Committee had adopted the same procedure of advertisement as it had followed when it had passed the resolution for sanctioning the scheme. In other words, it was the headache of the Committee whether it would follow the old procedure before passing the resolution for rescinding the scheme. In short, the Government proceeded on the footing that Section 19 of the Punjab General Clauses Act did not need to apply at both ends. This solution of the problem saved the face of the Legal Remembrancer and at the same time served the purpose of the Chief Minister's son. There is nothing inherently wrong in rescinding a Town Planning Scheme if it is properly done. But when a scheme is rescinded in the obvious interest of the Chief Minister's son and when the entire thing is viewed in that context then the procedure adopted by the Municipal Committee and then by the Government, the indecent haste, the throwing to the winds the advice of the Law Officer of the State and other defects hereinbefore pointed out become apparently corrupt and completely insupportable. The device that was invented may

have had the merit of novelty but was apparently not well founded on sound principles—legal or moral—and certainly brought no credit to anybody concerned. The Minister did not let grass grow under his feet but on the same day, June 15, 1961 passed his order that the Government's approval be sent direct to the Municipal Committee. The Minister's next anxiety was to keep his Chief Minister out of the picture and suggested that the answer to Shri Balramji Dass Tandon be sent from the Department and on July 14, 1961 came the note "CM agrees". It is the same kind of technique that had been seen in the case of Neelam, Chandigarh. The attempt of the Governor to investigate into the matter was frustrated on more than one occasion by withholding information and files and it is unnecessary to refer to the notings. When in utter exasperation the Governor turned to the Chief Minister and asked for his views all that the Chief Minister could say was—"In view of the orders of the Minister in-charge and the opinion of L.R. I have nothing else to say." In the events that had happened and noted above the Chief Minister had really and truly nothing else to say.

Arguments were also advanced on the minor heads, e.g. irregularity in sanctioning electric connection for 150 H.P. for all day and night, cash purchase of materials, theft of electrical energy, encroachment of Municipal land by erecting gates and so forth. The allegations on which these arguments have been founded have been denied in the counter-affidavits. The evidence before the Commission is not sufficient to establish this part of the charge, although it creates an impression of favouritism and anxiety on the part of the officials to please the Chief Minister's son. There is certainly no evidence to connect the Chief Minister with it.

Comments have been made about the propriety of S. Gurinder Singh borrowing moneys from the Amritsar Cooperative Cold Store Ltd. and from the Ludhiana Cooperative Cold Store Ltd. Those questions have been discussed when the charges concerning those Societies were taken up. There is no doubt that fullest advantage was taken by S. Gurinder Singh of his membership of those Societies.

Stress was laid on the impropriety of the diversion of the loan from the Punjab Finance Corporation to the construction of the Nandan Cinema and great pains have been taken by learned Counsel for S. Partap Singh Kairon to explain the financial statement filed by S. Gurinder Singh in his affidavit (CP-2). In the view the Commission has taken on the main head of argument on this charge it is not necessary to go into these matters.

Four persons, S. Inder Singh, Shri Bhagwan Das, S. Harbhajan Singh and S. Joginder Singh have filed separate affidavits (P-5, P-8, P-20 and P-21 respectively). Each of these gentlemen has a personal claim against S. Gurinder Singh, e.g. for price of sand wrongfully removed from his dump, price of furniture, remuneration for decoration and the like, mostly of a civil nature. There is complaint of rough handling and assault. Their grievances do not come within any of the charges and cannot be gone into. They should seek redress in the ordinary courts.

(v) Findings of the Commission

On a careful scrutiny of the evidence before it the Commission finds—

- (a) that the sanction given by S. Waryam Singh and the Municipal Committee, Amritsar, while the Town Planning Scheme was in force, to the plans submitted by S. Gurinder Singh for the construction of a Cold Store, which was prohibited by that Scheme, was improper, irregular and even illegal;
 - (b) that the fact that the sanction was expressed to be subject to the rescission of the scheme did not cure the invalidity thereof;
 - (c) that it was improper and irregular for the Municipal Committee to permit S. Gurinder Singh to start and complete the prohibited building until the scheme had been rescinded;
 - (d) that the rescission of the scheme by the Government in the way it was done was irregular and illegal;
 - (e) that the irregularities and/or illegalities committed by the Municipal Committee and the Government in the matter of sanctioning the plans for prohibited buildings during the continuance of the scheme were so committed in furtherance of the interests of the Chief Minister's son and being irregular and illegal cannot be condoned as mere innocent mistakes;
 - (f) that S. Partap Singh Kairon, if he did not himself commit the irregularities/or illegalities was certainly privy to their commission;
 - (g) that in the light of the events that subsequently happened there is reason to hold that S. Gurinder Singh was assured of Governmental support in getting the scheme rescinded before he entered upon this venture of a Cold Store and Cinema; and
 - (h) that the attempt to induce the Legal Remembrancer to modify his opinion to save the interests of S. Gurinder Singh and to conceal the Chief Minister's part in the rescission of the scheme was, to say the least highly improper.
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CHAPTER XVIII

NEELAM CINEMA, FARIDABAD

(i) Charge as framed in Memorandum

In the memorandum of charges presented to the President of India, item 25 under Charge I refers to a "Cinema at Faridabad, District Gurgaon— Rs. 8,40,000." This cinema is, therefore, one of the acquisitions of properties said to have been made within a short period of 5-7 years after S. Partap Singh Kairon became the Chief Minister of the Punjab. Charge 19 adds a further charge in relation to this very cinema in the following terms:—

"The Cinema House set up by Shri Surinder Singh Kairon and family at New Township, Faridabad, has been further favoured by the Notified Area Committee of the town, through his influence on the members of the Committee and the administration. He got a sum of Rs. 40,000 sanctioned by the committee to cover up the Nallah which was cutting the Cinema Plot from both the sides. Culverts have been made by the Committee for the benefit of the cinema owner. A look at the frontage of the cinema will show how much work has been done by the Committee in the name of covering this Nallah for the benefit of cinema goers which is now a part of the cinema property. This has not only added additional area belonging to the committee, to the Cinema but even the Municipal mali and sweepers are being used to keep that area cleaned."

It will be noticed that there is no allegation in Charge 19 that anything was done by misusing the influence or power of S. Partap Singh Kairon. What has been alleged is that S. Surinder Singh Kairon "through his influence on the members of the Committee and the administration" obtained some favour from the Notified Area Committee, Faridabad.

(ii) Affidavits relating to this charge

In support of these charges four affidavits were filed by the Memorialists in the first instance; first one affirmed by Maulvi Abdul Ghani Dar (M-6), the second by Shri Devi Lal and five others (M-7), the third by Master Tara Singh (M-25) and the fourth by S. Kulbir Singh (M-16). The whole of the affidavit consisting of 13 paragraphs of S. Kulbir Singh (M-16) is a *verbatim* reproduction of the 13 paragraphs of Annexure 'I' to the affidavit of Maulvi Abdul Ghani Dar (M-6). In these two affidavits allegations have been made about the exercise of influence by S. Partap Singh Kairon and the exploitation of the latter's influence by his S. Surinder Singh Kairon. It should be noted that in these two affidavits, the charge

was against the grant of a large loan by the Punjab Finance Corporation to S. Surinder Singh Kairon for a deep freezing plant but not to the diversion of that loan as now urged in the argument. The learned Counsel for S. Partap Singh Kairon pointed out that even the verifications at the foot of the two supporting affidavits (M-6 and M-16) were identical in language and that neither of the deponents had any personal knowledge of any of the allegations purported to be deposed to by them respectively. It was also pointed out that the material paragraph 5 had not been verified at all—a circumstance which cannot be brushed aside unceremoniously.

On behalf of S. Partap Singh Kairon six affidavits in opposition have been filed affirmed respectively by S. Partap Singh Kairon (CM-89), S. Surinder Singh Kairon (CM-46), S. Kuldip Singh Virk, District Magistrate and Deputy Commissioner, Gurgaon, and President of Notified Area Committee of Faridabad (CM-22), S. Balbir Singh, Director, Town and Country Planning Department, Punjab (CM-33), Shri S. R. Verma, I.A.S. (Retd.), Managing Director, Punjab Financial Corporation (CM-34) and Shri Bansi Lal, Manager, Neelam Cinema, Faridabad (CM-39). Maulvi Abdul Ghani Dar has filed an affidavit in reply (R-36). Two members of the public, Shri Deokinandan Khar and Shri Ram Krishen Rakesh have filed two affidavits (P-35) and (P-25) against which S. Partap Singh Kairon has filed an affidavit (CP-203) in which he has annexed an affidavit by S. Kuldip Singh Virk. Reference will be made to all these affidavits in detail hereafter.

(iii) Facts appearing on the affidavits and the official files

On September 29, 1961, the plot of land in Faridabad on which Neelam Cinema has since been built was auctioned by the Government of India, Rehabilitation Department, expressly as a cinema site and was knocked down to the highest bidder Messrs Movie Private Ltd., through Shri Y. D. Puri at and for Rs. 2,53,000. In terms of the conditions of sale a sum of Rs. 25,300 being the 10 per cent of the purchase price was paid down in cash. There is no dispute that Movie Private Ltd. was the benamidar for S. Surinder Singh Kairon who provided the sum of Rs. 25,300 that was paid down in cash on the date of the auction. On April 10, 1962, Movie Private Ltd. by and through Shri Y. D. Puri executed a Deed of Disclaimer in favour of Fine Films represented by S. Surinder Singh Kairon. It appears from that Deed of Disclaimer that the balance of the price amounting to Rs. 2,27,700 was paid by S. Surinder Singh Kairon by verified claim bonds. On July 23, 1962 an application was made by Fine Films, through S. Gurdip Singh, a cousin of Kusum Lata, the wife of S. Surinder Singh, asking for permission to construct the cinema building. Three sets of plans and the Deed of Disclaimer showing the title of Fine Films to the plot of land was submitted along with the application. On July 24, 1962 reports were, according to Government instructions contained in Memo. No. 10937 (C)/11509(S)-H-57/22582, dated September 30, 1957, called for from Tehsildar as to the financial position of the applicant, from the Executive Engineer as to the suitability of the site and the conformity of the plans with

the requirements of the Act and the Rules and from the Superintendent of Police as to the political activities of the applicant. Same day the Tehsildar and the Superintendent of Police made favourable reports. On July 25, 1962, the Executive Engineer sent in a report that the site was suitable but stated that the plans were being checked and that he would make a further report. Two reminders were sent by the District Magistrate to the Executive Engineer on July 28, 1962 and August 4, 1962. The Executive Engineer on August 14, 1962 sent in a further report approving the building plans. On August 21, 1962, the office note suggested that the matter should then be sent to the Government for the necessary sanction. It appears, however, that in Civil Writ Petition No. 1100 of 1959 (Har-krishen Sharma Vs The State of Punjab) the High Court of the Punjab had held that the District Magistrate being the licensing authority under Section 4 of the Act, no approval of the State Government was necessary for the construction of a cinema building. On the basis of this judgment instructions had been issued by the Home Secretary, Punjab, on August 12, 1961, to all District Magistrates not to refer any case to the Government for permission to construct cinema building but to decide the cases themselves according to law. On August 29, 1962, the General Assistant who was aware of the new instructions put up a note that according to recent instructions of the Government, the District Magistrate was empowered to grant the sanction without referring the matter to the Government. After discussion the District Magistrate, on September 3, 1962, sanctioned the plans.

Having completed the building according to the sanctioned plan and specifications, Fine Films, on March 6, 1963, applied to the District Magistrate stating that they had completed the building and had deposited Rs. 50 as inspection fee and praying that the building might be inspected and the licence issued. The Chief Electrical Inspector and the Executive Engineer, P.W.D., were asked to inspect and report. On the same day, i.e. March 6, 1963 a letter was received in the office of the District Magistrate announcing that the Neelam Cinema, Faridabad, would be inaugurated on March 8, 1963 with the film "Professor". The office promptly informed Fine Films by letter and telegram on that date that no screening could be allowed before the licence was issued. On March 6, 1963 the Executive Engineer reported that the building conformed to the rules and the Chief Electrical Inspector reported that the building was found to be in general compliance with the rules. The licence was issued on March 8, 1963 for three years and the inauguration took place on that date as had been arranged.

(iv) Points of objection formulated in arguments

On the facts narrated above learned Counsel for the Memorialists formulated four points which may now be considered. The first point urged before the Commission was that in the grant of the permission to construct the cinema and in the grant of the licence for exhibition of films the authorities acted with indecent haste and in disregard of the provisions of the law. There can be no doubt that the matter had been dealt with very expeditiously but it should be

remembered that the Government of India, Rehabilitation Department had auctioned the plot of land as a cinema site and, therefore, at the stage of granting sanction for constructing the building there was not much of inquiry to be made at all. S. Surinder Singh Kairon being the elder son of the Chief Minister was naturally a person well known to the Government officers and, therefore, it did not require any serious inquiry to enable the Superintendent of Police to say that he was not engaged in any activity prejudicial to the State. What facts had the Tehsildar before him? Fine Films of which S. Surinder Singh was a partner had purchased the land itself for Rs. 2,53,000 and surely without much inquiry he could say, as he did, that the financial position of the applicant was very sound. The Executive Engineer knew that the site had been sold by the Government of India as a cinema site and he promptly made his report as to the suitability of the site. As regards the question whether the plans conformed to the rules he said he would have the plans examined and make a report later on which he did on August 14, 1962. The fact that the Executive Engineer took about three weeks to examine the plans and that the District Magistrate took about 1½ months, i.e. from July 24, 1962 to September 10, 1962 to grant the sanction clearly negative the suggestion of undue haste at least on their part. There was no impropriety on the part of the General Assistant to suggest that the District Magistrate himself could give the sanction and on the part of the latter to give the sanction because that was in conformity with recent instructions issued by the Home Secretary to all District Magistrates as herein-before mentioned. In this case seeing that the applicant was S. Surinder Singh Kairon, the son of the Chief Minister and that his firm had already paid Rs. 2,53,000 for buying the land the inquiries by the Tehsildar and the Superintendent of Police were for all practical purposes mere formalities. The only important thing was for the Executive Engineer to be satisfied that the plans were in conformity with the rules. For this purpose he took about three weeks and there was no undue haste.

The next line of attack under this head was that the licence was issued within two days. It will be recalled that on March 6, 1963 application was made on behalf of Fine Films stating that the building had been completed and the inspection fee had been paid and praying that the same be inspected and the licence be issued. What remained to be done? The Executive Engineer had to walk over the premises with the plans in hand and be satisfied that the building had been constructed in accordance with the plan and the Chief Electrical Inspector had to scrutinise the fire fighting apparatus and to be satisfied that the safety of the people visiting the cinema had been ensured. This did not require a long time and the two officers found no difficulty in sending in their reports. It should be remembered that this very Executive Engineer had held over the plans in the earlier stages for about three weeks as herein-before stated and there is no reason to think that he would not have done so if he thought it necessary so to do at this later stage.

A suggestion was made that the licence was issued before the Films Division at Lucknow had given its certificate, but this was based on a misapprehension. In point of fact the Film Division had

issued its certificate on March 5, 1963 but it did not actually reach the office of the District Magistrate by March 8, 1963. That was the reason why the licence was issued subject to the condition that the Film Division's Certificate must reach the office by March 12, 1963 which it did. This accommodation may have been the outcome of a sense of courtesy but ought not to be stigmatised as a gross irregularity seeing that the Film Division had in fact given its sanction on March 5, 1963.

It was urged that by its second letter of March 6, 1963 Fine Films had practically dictated that the licence must be issued by March 8, 1963 because it had already arranged for inaugurating the cinema with the Film "Professor" on that date and the District Magistrate like a meek lamb issued the licence on the appointed day. Whether March 8, 1963 had been pronounced by the astrologers to be an auspicious date for the inauguration of the new venture does not appear on the record but is not unlikely. In any event the anxiety to start on that particular day is otherwise understandable. It is well known that in order to run a cinema the person running it has to arrange with distributors for supply of films. The terms and charges of the distributors are known to be stiff and high. Fine Films had obviously made arrangements for the supply of a copy of the film "Professor" on and from March 8, 1963. Whether the film was exhibited on that date or not, Fine Films would in all probability have to pay the hire money in any case which was high and the period for which the film had been hired would be computed from that date and the film would have to be returned on the expiry of the period of hire so computed. In these circumstances, it was not unreasonable for Fine Films to be anxious to start the shows from March 8, 1963, and to write politely that the licence might please be issued.

It was also urged, as an example of undue and illegal favouritism, that the licence was issued for three years and not for one year as provided in Rule 3(1) of the Punjab Cinema (Regulation) Rules, 1952. This again is a misapprehension and has been characterised by learned Counsel for S. Partap Singh Kairon as indicative of the mental attitude of the Memorialists as always ready and anxious on the slightest pretence to jump to an adverse conclusion against S. Partap Singh Kairon. It appears that the rule was amended in 1961 so as to enlarge the period of licence from one year to three years in every case. There is no substance in this argument.

It has already been pointed out that at both stages, the matter was rushed through with considerable haste and an inference of the exercise of undue influence was sought to be drawn from it. There can be no doubt that great expedition was shown in this case. In the case of a person lesser than the Chief Minister's son perhaps the matter would have taken a longer time. There is, however, no getting away from the fact that sons of V.I.Ps. do get greater attention not only in our country but everywhere in the world. What the Commission has to be sure about is whether anything has been done in violation of any rule or law. If the act complained of is not intrinsically wrong and if it does not violate any provision

of law then the mere fact that it was done expeditiously cannot alter its character or quality or vitiate it in any way. To hold that the officials should have taken as long time over the matter as they do in other cases may amount to putting a premium on procrastination.

The second line of attack was that there was gross misapplication and misutilisation of loans obtained from the Punjab Finance Corporation in as much as the loan obtained by Messrs Fine Films for setting up a deep freezing plant was illegally diverted towards the construction of the Neelam Cinema, Faridabad, and that the Punjab Finance Corporation obviously under the fear of the Chief Minister acted only as a helpless spectator in the face of such misutilisation. This is certainly a departure from pleadings because in Annexure 'I' to the affidavit of Maulvi Abdul Ghani Dar (M-6) and in the carbon copy affidavit of S. Kulbir Singh (M-16) the charge was directed against the grant of the loan by the Punjab Finance Corporation and not against its subsequent diversion to an unauthorised purpose which is a new case made in argument. The Commission, however, did not consider it right, in the present case, to hold the Memorialists strictly to the four corners of their initial supporting affidavits.

In order to appreciate the point raised a few facts have to be stated. Fine Films had purchased a plot of land in village Ajronda at and for Rs. 24,000 situated close to the plot of land which it had purchased for setting up Neelam Cinema, Faridabad. It was the intention of S. Surinder Singh Kairon to set up a deep freezing plant on that plot of land at Ajronda. In order to secure finance for that project, Fine Films on April 12, 1962 applied for a loan of Rs. 5,00,000 on the prescribed form for setting up a deep freezing unit. The procedure prescribed for granting loans by the Punjab Finance Corporation has been elaborately stated by Shri S. R. Varma, the Managing Director of the Corporation, in his affidavit (CM-34) and need not be repeated here. Suffice it to say that that procedure was followed every detail in dealing with the application of Fine Films for a loan of Rs. 5,00,000. Shri B. L. Sawami, an Accountant of the Corporation was directed to examine the proposal. Shri B. L. Sawami made his report recommending the sanction of a loan of Rs. 3,50,000 only. The report was sent to the Advisory Committee as well as to the Executive Committee as required by the rules of procedure. The Advisory Committee, at its meeting held on May 22, 1962, and the Executive Committee, in their meeting held on May 23, 1962, approved of the granting of a loan of Rs. 3,50,000/- to Fine Films. The matter then went to the Board of Directors which, at its meeting held on June 14, 1962, accepted the recommendation and sanctioned a loan of Rs. 3,50,000/-. Out of this sanctioned limit a sum of Rs. 2,76,900 was advanced to Fine Films. Counsel at the bar informed the Commission that the sum of Rs. 2,76,900/- was the aggregate amount of loans advanced on three occasions on the basis of the assets in the shape of building materials and equipments collected at site. Apparently Fine Films abandoned the idea of setting up a deep freezing unit, for it appears that on April 8, 1963 Fine Films informed the Corporation that it would not avail itself of the balance portion

of the sanctioned loan. On May 2, 1963 the Board of Directors cancelled the unavailed portion of the sanctioned loan. It appears from Shri S. R. Varma's affidavit (CM-34) that Fine Films had repaid Rs. 2,00,000/- by the end of September 1963 and learned Counsel for S. Partap Singh Kairon informed the Commission that the balance had since been paid up in full.

Learned Counsel for the Memorialists began by saying that under Section 25 of the State Finance Corporation Act, 1951, the Corporation could grant loan only to industrial concerns as defined in section 2(c). It acted illegally in granting the loan to Fine Films, for a cinema business did not fall within the definition of industrial concern and this illegal favour was done due to its desire to please the Chief Minister. This argument is founded on a misapprehension of facts, for the loan was not given on the security of the cinema site on which Neelam Cinema had been built but it was granted on the security of the other plot in village Ajronda on which a deep freezing unit was intended to be constructed. The same misapprehension also led away learned Counsel to impute impropriety to S. Surinder Singh Kairon for having mortgaged Neelam, Faridabad, twice, first to the Corporation and then to the Oriental Bank of Commerce. When it was pointed out that the loan was given for the deep freezing plant to be set up on the Ajronda site learned Counsel directed his argument to the unlawful diversion of the loan and its utilisation for the building of Neelam Cinema, Faridabad, and it was contended that the Corporation knowing about this diversion did not demand immediate repayment of the loan or take any steps to enforce the terms of the loan. Taking the earlier part of this line of argument first, the situation that arose on the abandonment of the idea of setting up a deep freezing plant should be borne in mind. Fine Films had taken part of the sanctioned loan by three instalments and collected building materials and some machinery and equipments on the site at Ajronda on the security of which the loans had been granted from time to time. When it abandoned the project it immediately by its letter dated April 8, 1963 informed the Corporation that it would not avail itself of the balance of the sanctioned loan and the Corporation cancelled the unavailed balance of the loan. The machineries and equipments could be returned. What was to be done with the building materials? The Neelam Cinema was under construction and the building materials were used there. Technically and strictly speaking there was a diversion of a part of the loan but, in the circumstances, it was understandable. By so diverting the building materials acquired with the loan Fine Films certainly lay itself open to attack by the Corporation. But what was the Corporation to do? To file a suit for enforcing the mortgage was the only remedy. How many years would it take to realise the money by that process? What should a prudent business man do in such a situation? He would try to recover the money by the gentle process of persuasion and that is exactly what the Corporation did. By adopting such inoffensive method the Corporation recovered Rs. 2,00,000/- by the end of September 1963 and the entire balance since then. How can it be said that the Corporation did anything unlawful or wrong. The Punjab Finance Corporation is an independent corporate body. The

constitution of the Corporation and its Board of Directors and Executive Committee set out in Shri S. R. Varma's affidavit (CM-34) clearly shows its independent character. It is governed by a Board of 11 Directors of which only two are nominated by the Punjab Government and the rest are nominated by bodies over whom the Punjab Government has no control whatever. The Executive Committee is, thus, equally independent. The Corporation acted prudently and in its best interests and there was no scope for the exercise of any influence on such an independent body by S. Surinder Singh Kairon. In any case, there is not the slightest evidence of S. Partap Singh Kairon having any hand in this matter. This remark also applies to the loan of Rs. 1,50,000/- from the Oriental Bank of Commerce which is a Scheduled Bank subject to the constant scrutiny of the Reserve Bank of India.

The third point urged by learned Counsel for the Memorialists was that the purchase of land could not be explained by any legitimate source of wealth of S. Surinder Singh Kairon and that the repayment of Rs. 2 lacs to the Punjab Finance Corporation could not also be explained by any legitimate source. Shri Bansi Lal, the Manager of Neelam Cinema, Faridabad, has in his affidavit (CM-39) given the following explanation:—

“That in reference to para No. 6 of Annexure 'I', I state that so far as money for construction of the cinema is concerned, the same was obtained from the following sources:—

	Rs.
(a) Loan from Oriental Bank of Commerce	1,50,000
(b) Loan from Finance Corporation	2,76,900
(c) The sums due in the market for the material purchased for the construction of cinema	42,000
(d) Amount taken from the earnings of Capital Cinema, Patiala, Neelam Cinema, Chandigarh, etc.	43,100
TOTAL	5,12,000"

The argument is that the Cinema site was purchased at the auction held on September 29, 1961 and the Movie Private Ltd. executed the Deed of Disclaimer on April 10, 1962. The price was Rs. 2,53,000/-. The loan from the Punjab Finance Corporation was sanctioned on June 14, 1962 and that from the Oriental Bank of Commerce on February 25, 1963. Where from did S. Surinder Singh Kairon get Rs. 25,300/- on September 29, 1961 when the auction was held and that amount was paid or the balance of Rs. 2,27,700/- on April 10, 1962 when the Deed of Disclaimer was executed in his favour? The Deed of Disclaimer itself shows that the consideration money for the cinema site was paid as to 10 per cent of it by Rs. 25,300/- in cash and as to the balance of Rs. 2,27,700/- by verified claim bonds particulars of which are set out in detail therein. But promptly the question is asked as to where did S. Surinder Singh Kairon get the

money with which he could buy the verified claim bonds. If S. Surinder Singh Kairon had said that he had the money in his bank it is apprehended that the next question would be as to where did he get the money to be put in his banking account and so the chain of questions would go on *ad infinitum* taking the Commission miles away from the subject matter of the inquiry, namely, the misdeeds and blatant acts of corruption and gross misrule of S. Partap Singh Kairon. The line of criticism is symptomatic of the warped attitude of the Memorialists towards the Chief Minister. The fact remains that S. Surinder Singh Kairon had verified claim bonds worth Rs. 2,27,700/- at his disposal and he used them for paying the balance of the consideration money for the purchase of the cinema site. The Commission leaves the matter there.

The fourth and the last point formulated by learned Counsel for the Memorialists related to the covering of the Nallah by the Notified Area Committee, the turfing of the area adjoining the cinema site and the use of the Municipal malis and sweepers which are the subject matter of Charge 19 but he deferred his arguments on the ground that the records of the Notified Area Committee had not been ordered by the Commission to be produced for inspection by the Memorialists. It is interesting to note that paragraphs 7, 8, 9, 10 and 11 of Annexure I to Maulvi Abdul Ghani Dar's affidavit (M-6) and of the affidavit of S. Kulbir Singh (M-16) which are material on this part of the charge were verified as true to information derived from the records of the Notified Area Committee, Faridabad which clearly implied that they had already seen those records. Therefore learned Counsel for S. Partap Singh Kairon was not far wrong when he suggested that discretion being the better part of valour, the Memorialists had staged a strategic retreat.

Regarding the construction of the culvert by the Notified Area Committee at a cost of Rs. 20,000/- the matter has been fully explained in paragraphs 7 to 9 of the affidavit of S. Kuldip Singh Virk (CM-32), paragraphs 4 to 6 of the affidavit of S. Balbir Singh (CM-33) and in the affidavit of the former gentleman annexed to the affidavit of S. Partap Singh Kairon (CP-203). The open storm water drain of about 20 feet in width and 5½ feet deep was a source of danger to the public and the Notified Area Committee, in the discharge of its public duty, undertook the construction of the culvert. The resolution No. 4 of January 24, 1963 shows that the Committee after full deliberations decided to cover up a portion of 175 feet of this drain near the front of this cinema for the safety of the public and for facility of movement and parking of cars. Estimates were properly prepared and approved by the Committee by its resolution No. 9 dated February 28, 1963. The work was executed by the Committee after inviting tenders and by accepting the lowest tender.

As regards the beautification of the area by turfing, the Committee had given Fine Films permission for turfing the area on "Teh Bazari" basis as it did to Bata Shoe Company and twenty-seven other concerns as per list attached to the affidavit of S. Kulbir Singh Virk. There is no evidence whatever of the use of the malis

and sweepers of the Committee by S. Surinder Singh Kairon for the purpose of Neelam Cinema, Faridabad.

(v) Findings on facts

On a consideration of the evidence appearing on the affidavits and the files produced before the Commission and inspected by the Memorialists and for reasons discussed above the Commission concludes:

- (a) that there was no irregularity or illegality on the part of S. Surinder Singh Kairon in the matter of the acquisition of the Cinema site at Faridabad;
- (b) that in the matter of sanctioning the plans for construction of the cinema building and of granting the licence for running the cinema the officials concerned were not guilty of violation of any law or rule of established procedure;
- (c) that the prompt disposal of the matter by the officials may, at the most, be said to be indicative of their desire to please and oblige S. Surinder Singh Kairon who, they knew, was the son of the Chief Minister;
- (d) that there was no irregularity or illegality in the matter of the granting of the loan to Fine Films by the Punjab Finance Corporation or the Oriental Bank of Commerce;
- (e) that the use of the building materials acquired with the loan taken from the Punjab Finance Corporation in the construction of the Neelam Cinema, Faridabad, by Fine Films technically amounted to the diversion of the loan but was, in the circumstances that had happened, unavoidable and that it was a matter entirely between Fine Films and the Punjab Finance Corporation;
- (f) that the Punjab Finance Corporation did not commit any wrong by not rushing to court to enforce the mortgage but acted prudently by taking steps to realise its dues by amicable means;
- (g) that no illegal or undue favour was received by Fine Films, from the Notified Area Committee, Faridabad; and
- (h) that assuming that S. Surinder Singh Kairon had prevailed upon the officials to expedite matters by the exercise of his own influence or by exploiting the name and influence of S. Partap Singh Kairon, or assuming that the officials had, *suo moto* expedited matters to please or oblige the son of the Chief Minister the latter has not been shown to have been in any way concerned or connected with the matter at any stage of it.

PART VI
OTHER CHARGES

CHAPTER XIX
UNKNOWN ASSETS SINCE DISCOVERED

A. Donation of Rs. 25,000 by Chaudhry Surja Ram

(i) The Charge

This charge is not specifically mentioned in the memorandum. It is said to be covered by Charge 2. Charge 2, however, speaks of the unknown assets of S. Surinder Singh Kairon. There is no reference to S. Partap Singh Kairon and so his learned Counsel objects to the Commission entertaining this charge. It has, however, been already explained that all the charges have to be read in the context of the opening paragraph of the memorandum and all acquisitions, known or unknown, are alleged to be the result of the misdeeds of S. Partap Singh Kairon. It will be extremely technical to shut out this charge from consideration.

(ii) Evidence relating to the charge

The only material in support of this charge is to be found in paragraph 13 of the affidavit of Maulvi Abdul Ghani Dar (M-6) which is repeated word for word in paragraph 13 of the affidavit of Shri Devi Lal and others (M-7) and of Master Tara Singh (M-25). That paragraph runs thus:

“13. That on 11th April, 1960 Mr. Partap Singh Kairon deposited a sum of Rs. 20,000 in his account in Allahabad Bank, Chandigarh. This sum has been received by him from an unexplained source and is no part of his legitimate assets and as such constitutes an act of corruption.”

The allegation in this paragraph is verified as true to information based on the records of the Allahabad Bank, Chandigarh. S. Partap Singh Kairon explains the matter in his counter-affidavit (CM-89) in this way—

“In reply to para 13, I state that the allegation made is false. I further state that Ch. Surja Ram, M.L.C., sent me an amount of Rs. 25,000 on the 17th February, 1960 for starting a newspaper. Later on he changed his mind and wanted to utilise Rs. 20,000 for the education of girls in his area. The amount of Rs. 20,000 was accordingly returned to him by cheque No. G-00251, dated the 25th March, 1960 and his receipt was obtained on the counter-foil. The Cheque was also got cashed by him on the 7th April, 1960. An affidavit from my Additional Principal Secretary, Shri Prithi Pal Singh filed separately explains the full position.”

S. Prithipal Singh, the Principal Private Secretary of the Chief Minister in paragraphs 4-6 of his affidavit (CM-2) gives fuller

details. Maulvi Abdul Ghani Dar has not filed an affidavit in reply himself but one has been filed by Babu Bachan Singh to which reference will be made hereafter.

(iii) Discussion on the evidence

The Bank pass book has been produced showing the credit of Rs. 25,000. When Ch. Surja Ram changed his mind and wanted Rs. 20,000 back a cheque on the Allahabad Bank Ltd., Chandigarh for that amount was given to him and the cheque counterfoil has been produced showing the acknowledgment of the receipt of the cheque on the back of the counterfoil. That the cheque was cashed is shown by the debit entry in the Bank pass book. Inspection has been given to the Memorialists of all these documents. Shri Prithipal Singh has also produced the account maintained by him. These authentic records of the Bank clearly show that each and every one of the allegations of Maulvi Abdul Ghani Dar and the other deponents are absolutely incorrect. He has no personal knowledge but yet he made these reckless allegations. Seeing that the charge as formulated could not properly be sustained such face saving arguments were trotted out as the ingenuity of learned Counsel could think of, namely, the original cheque has not been produced, the receipt of the cheque and encashment by Ch. Surja Ram has not been proved (although S. Partap Singh Kairon vouched for the signature of Ch. Surja Ram on the back of the counter-foil) and the accounts produced are said to be scrappy and so on. None of these points were even hinted in Maulvi Abdul Ghani Dar's affidavit and these specious arguments appear to be without any substance. And yet instead of dropping the untenable charge one Babu Bachan Singh, M.L.A. has been put up to swear on affidavit (R-20) reiterating that Rs. 25,000 was illegal acquisition, that it was false that Rs. 20,000 was returned and that the accounts shown to the Memorialists are a complete fabrication. And all these reckless allegations have been verified by him as "true according to the sources indicated in the verification of corresponding paragraphs of M-6", i.e. the affidavit of Maulvi Abdul Ghani Dar who, himself, has no personal knowledge. In short the allegation comes to this that this deponent states, on information based on the records of the Allahabad Bank Ltd., that the pass books issued by them are false. Recklessness could hardly go further.

(iv) Findings of the Commission

On the evidence before the Commission there is no escape from the conclusion that this charge is baseless and false.

B. Election Fund of Rupees One lac

(i) The Charge

In this instance also there was no specific charge but it is said to be covered by Charge 2 as an unknown asset since discovered. Similar objections as were taken regarding the donation of Rs. 25,000/- were taken by learned Counsel for S. Partap Singh Kairon as to the maintainability of this charge and are rejected for reasons already stated in connection with the other matter.

(ii) Evidence relating to this Charge

The entire charge hinges on paragraph 14 of the affidavit of Maulvi Abdul Ghani Dar (M-6) which is echoed verbatim by paragraph 14 of affidavits M-7 and M-25. That paragraph runs thus—

“14. That on the admission of Sardar Pratap Singh Kairon himself he has with him an amount of one lakh in cash lying with him. This collection was an act of corruption and to cover that it is being mentioned as a donation of election funds to him.”

This allegation is said to be based on information received from the Press reports of a speech of S. Pratap Singh Kairon and from five named persons. All of them are said to be inimical to the Chief Minister. Out of them one Shri Sajjan Singh Margindpuri has filed an affidavit but has not said a word about this charge and the other four have not filed any affidavit at all.

The position has been explained by S. Partap Singh Kairon in his counter-affidavit (CM-89) where he deals with paragraph 14 of the affidavit of Maulvi Abdul Ghani Dar (M-6). He says that he has been successfully standing as a candidate from this particular constituency ever since 1936, that the voters of that constituency have affection for him and wanted to help him financially. He felt that the money should not be refused, for refusal would offend the donors nor should it be used, for acceptance would make him feel indebted to the donors but that the money should be returned later on, as he did after the General Election of 1957, with a small addition of Rs. 1.25 or so in token of his appreciation and until returned it should be held by him as trust money. This was announced in the village meetings. Shri Ram Singh, P.C.S., now Magistrate, Karnal, who was Private Secretary to the Chief Minister at the time of the 1962 election fully supports the Chief Minister. He says that during the visits of the Chief Minister to his constituency the sum of about Rs. 75,000/- was presented to him in the form of garlands. At the direction of the Chief Minister Shri Ram Singh kept the notes in separate envelopes with the names and addresses of the donors written on each as the Chief Minister wanted to return the same subsequently with a little contribution of his own. Shri Ram Singh kept the sealed envelopes with him as long as he was the Private Secretary and then passed them on for safe custody to S. Prithipal Singh who succeeded him. Later on he received a message from the Chief Minister to reach Amritsar with the money so that the money could be returned to the donors. This was done with the addition of Rs. 1.25 in each case. Maulvi Abdul Ghani Dar evidently thought that it would be discreet not to proceed further and so Shri Deokinandan Khar and Babu Bachan Singh came forward with their affidavits P-47 and R-20 respectively which will be referred to later.

(iii) Discussion on the evidence

It is somewhat curious that what is now put forward as a charge of corruption had not been thought about or referred to in the memorandum, although a corrupt act of this kind could not possibly

have been kept a secret unknown to the Memorialists. It is equally surprising that S. Pratap Singh Kairon would in a public speech broadcast the matter if it were really a corrupt act. It is said that there is no evidence that S. Pratap Singh Kairon adopted the same procedure after the 1957 election, as if the statement of S. Pratap Singh Kairon is not evidence at all. It is next contended that the story of garland of notes is incredible, for how could Shri Ram Singh or anybody know which note out of the notes making up the garland was contributed by whom. This proceeds on the assumption that a garland of notes means a garland made up entirely of notes and ignores the simple fact that a person who wants to garland the candidate of his choice may put in a note or two as his resources permit in the garland of marigold carried by him. It is said that when Shri Ram Singh had made over the envelopes to his successor S. Prithipal Singh, why should S. Pratap Singh Kairon ask Shri Ram Singh to collect the envelopes and come to Amritsar. There is nothing surprising in S. Pratap Singh Kairon asking Shri Ram Singh to bring the sealed envelopes to Amritsar, because it was Shri Ram Singh who had received them at the time they were given and put them in the envelopes. It is surprising that the Memorialists could not find a single person who could say on oath that he contributed such and such amount but did not get his money back. None has said so. Comment has been made on the fact that the amount was not disclosed to the Congress Party or deposited in any Bank or entered in any account book. If the money was received for a temporary period and was to be returned then there was no pressing need for doing any of the things mentioned above.

Shri Deoki Nandan Khar who has filed a large number of affidavits, perhaps next only to Maulvi Abdul Ghani Dar in number, has also filed one (P-47) on the present subject, and Babu Bachan Singh has filed an affidavit in reply (R-20). Babu Bachan Singh whose affidavit on this point is verified in the amusing way in which his reply regarding the donation of Rs. 25,000/- was verified does not support or adopt any of the allegations made by Shri Deoki Nandan Khar. Babu Bachan Singh in his desperation has found a new point that it was improper for the Private Secretary to the Chief Minister to have been called upon to do the private work of the Chief Minister. Shri Deoki Nandan Khar only seeks to put in the mouth of the Chief Minister an admission that he had collected these moneys for his election and then to make the point that he was not entitled to spend so much money on his election. It is apparent that the points urged in these later affidavits are pure after thoughts and cannot be relied upon. |

(iv) Findings on facts

The foregoing discussion clearly demonstrates that this charge is entirely baseless and an after-thought and that there is no cogent reason for discarding the explanation given by S. Pratap Singh Kairon.)

C. CAPITAL CONSTRUCTION COMPANY

(i) How the charge has come up

It is not specifically mentioned in the memorandum. Nor is there any reference to it in any of the 25 affidavits ('M' Series) filed by the Memorialists in support of the various charges. Notification was issued inviting the public to come forward with affidavits supporting or refuting the charges contained in the memorandum. The redoubtable Shri Deoki Nandan Khar came up with an affidavit (P-35) in which a reference was made to two contracts, one for the Halwara Aerodrome (worth Rs. 66 lacs) and the other for the Avantipore Aerodrome (worth Rs. 180 lacs) which were alleged to have been secured in the name of S. Surinder Singh Kairon. Strictly speaking, it was a totally new charge and not in support of any charge in the memorandum and as such outside the scope of the Inquiry unless Charge 2 can be commissioned into service.

In support of this charge Shri Deoki Nandan Khar (P-35) has said this in paragraph 29:

"Shri Partap Singh Kairon by use of his influence with the Central Government, has obtained for his family members Government contracts worth Rs. 66 lacs for the expansion of Halwara Aerodrome and another contract worth Rs. 180 lakhs for Avantipore Aerodrome in Jammu and Kashmir. These contracts are in the name of M/s Surinder Singh, Kirpa Singh. These contracts are given by the Ministry of Defence."

One Shri Muni Lal Kalia, a Delhi advocate has also filed an affidavit (P-53) in paragraph 9(v) of which he said—

"That heavy and big contracts have been taken under the Harijan House Building Plan, Construction of Halwara Aerodrome under the name of different Firms seemingly started as 'Cooperatives in Amritsar, Ludhiana'."

Counter-affidavit has been filed by S. Surinder Singh Kairon replying to both the foregoing affidavits.

(ii) Discussion on the evidence

A perusal of the affidavits shows that all the allegations in the two supporting affidavits are untrue. It appears from the letter of Shri Y. B. Chavan the Union Defence Minister to Maulvi Abdul Ghani Dar and is now admitted that the Avantipore Aerodrome contract has been given to Messrs Uttam Singh Duggal & Co. as a result of competitive tenders and S. Surinder Singh Kairon is in no way connected with that firm. It also appears from that letter that the Halwara contract was given also on competitive tenders to a firm, Capital Construction Company, consisting of two partners, S. Kirpa Singh and S. Surinder Singh Kairon and not in the name of the partners. It is clear neither of the two contracts have been taken in the name of any Cooperative Society. According to S. Surinder Singh Kairon the value of Halwara contract is Rs. 61

lacs and not Rs. 66 lacs. It is also clear that the Halwara contract was given by the Defence Ministry, Government of India and the Punjab Government had nothing to do with it. The Chief Engineer, Irrigation Department under whom the Capital Construction Company was doing some job gave a certificate as to the capacity of that firm to complete the work within the specified time. The allegation that the work was done perfunctorily and is a defective work is as untrue as preposterous, for it is to be passed by the competent Engineers of the Union Defence Ministry.

(iii) Findings of the Commission

The Commission finds that the Capital Construction Company secured the Halwara Aerodrome contract on open competition from the Ministry of Defence, Government of India and there was no irregularity in the granting of it and the charge of misuse of influence by S. Partap Singh Kairon in relation to this contract is, on the evidence, entirely unfounded.

D. KAYCOS

(i) The charge

It is not to be found in the memorandum. It is not an asset but only a business of contractors recently started. It is not a concern of the Kairon family at all. It is, therefore, submitted by learned Counsel for S. Partap Singh Kairon that the Commission has no jurisdiction to entertain this charge.

(ii) Affidavits concerning Kaycos

The allegations in support of this charge are contained in paragraphs 20—22 of the affidavit of Maulvi Abdul Ghani Dar (M-2) which are reproduced word for word in paragraphs 20—22 of the affidavit of Shri Balramji Dass Tandon (M-14). The allegations have been refuted by S. Gurinder Singh Kairon (CM-1), Shri O. P. Malhotra, Superintending Engineer, Public Works Department (CM-64) and S. Shaspal Singh, Chairman, Improvement Trust (CM-102). Shri Balramji Dass Tandon has put in an affidavit in reply (R-8).

(iii) Discussion on facts

The case made out in the two supporting affidavits are that Kaycos is a partnership concern consisting of Shri Kamal Kapur, Shri Raj Kapur and S. Kartar Singh (a relative of S. Gurinder Singh), the last mentioned partner holding a 50 per cent share in the firm. S. Gurinder Singh is styled as manager with power to sign cheques along with a partner. It was started in 1962. Two points have been canvassed before the Commission during the arguments. In the first place criticism is directed towards the manner in which this firm was registered as a class 'A' contractor. It is said that this firm, without any record of any first class construction work to its credit, was immediately after its formation, classified as a first class contractor.

From the affidavit of the Chief Engineer, Shri O. P. Malhotra (CM-64), it appears that on April 17, 1962 Shri Kamal Kapur applied for enrolment of the firm as a first class contractor. It was mentioned that there were two partners S. Kartar Singh and Shri Kamal Kapur,

the latter being already registered as 'B' class contractor in the Amritsar Division, Roads and Buildings Branch as well as in Public Health Branch. It was also mentioned that Shri Kamal Kapur was currently doing sewage work of the Government College, Amritsar. On April 18, 1962 the Superintending Engineer informed the firm that they had been enlisted as class I contractors for one year. The procedure was said to be normal and no favour was shown. It is said that the application form had not been properly filled up and it did not disclose the real financial status of the firm. It appears that on the back of the covering letter there is a note by the Superintending Engineer referring to certain properties, obviously intended to show the sound financial position of the applicant. If there was any favouritism the enrolment would not have been for one year only. The fact that it was for one year shows that the firm was being tried as if on probation. If there was any bad motive there would not have been any defect in filling up the forms. Reference is made to the cases of Sibal Construction Co. and S. Ajit Singh Virldhi whose applications had been routed through the Executive Engineer but in the case of Kaycos, it is pointed out, the application was not sent down to the Executive Engineer to come up again with his comments. The Commission does not agree that this circumstance vitiates the enrolment or shows any favouritism. If the Superintending Engineer could be influenced by S. Gurinder Singh, there would have been no difficulty in his influencing his subordinate, the Executive Engineer.

The next point urged was that the manner in which the Amritsar Improvement Trust had given the contract to Kaycos was illegal. S. Shaspal Singh, the Chairman of the Amritsar Improvement Trust has in his affidavit (CM-102) fully explained the position. Tenders were invited for the Harijan Colony. Three tenders were received and the particulars thereof are set out in paragraph 3 of his affidavit. The tender of Kaycos was the lowest and the contract was given to them. It is said that tenders should not have been called on dual basis, i.e. at rates where materials would be supplied by the Trust and at rates where materials would not be supplied, for that was not the practice. If the Trust wanted not to be responsible for the supply of material they can hardly be blamed. There was no standing order that private contractors doing work for the Trust were not entitled to draw cement, steel etc. on their own. According to the Chairman there was nothing unusual in the procedure adopted by the Trust. In despair learned Counsel urged that there should have been a re-advertisement.

(iv) Findings on facts

The commission finds—

- (a) that there was no impropriety in enrolling Kaycos as a Class I Contractors for one year;
 - (b) that there was no irregularity in the manner in which tenders for the Harijan colony work were invited by the Amritsar Improvement Trust; and
 - (c) that there is absolutely no evidence of any influence being exercised on anybody by S. Partap Singh Kairon or anybody else.
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CHAPTER XX
SANGRUR ESTATE

(i) The charge as formulated in the Memorandum

“(3) *Sangrur Court of Wards Case.*—Shri Mukund Singh, a big Jagirdar of Sangrur was murdered in 1928, leaving behind two widows, i.e., Pavitar Kaur, mother-in-law of Surinder Singh Kairon and Pritam Kaur, the other widow. Pavitar Kaur had three daughters and with a view to appropriate the major portion of the estate under Court of Wards, Shri Partap Singh Kairon, through his wife and son put pressure on the then Commissioner of Patiala Division who was judicially seized of the matter in his revenue capacity. Shri Kairon wanted that the estate worth about Rs. 9½ lakhs be divided into five parts, so that Pritam Kaur would receive only one fifth instead of half the share of the estate. The Commissioner was prevented from pronouncing his order and was instead arrested on a false charge of a foisted criminal case, which, later, was keenly contested by Shri Partap Singh Kairon right up to the Supreme Court of India but the case was found false and witnesses got up by the State of Punjab were characterised as “liars.”

This charge was very briefly referred to in Shri Prabodh Chandra's first charge sheet submitted to the Congress President in May 1958. In the second charge sheet presented by Shri Prabodh Chandra in August 1960 Charge 2 which appertained to the Sangrur Court of Wards was framed thus:

**“CHARGE 2—PERTAINING TO THE SANGRUR COURTS OF
WARDS**

That as Chief Minister, Punjab, Shri Partap Singh Kairon has by illegal means or otherwise been abusing his official position with a view to obtain for his son, Surinder Singh Kairon and the relations of the said Surinder Singh Kairon valuable things or pecuniary advantages from the said Court of Wards,—*vide* section 5(1)(d) of the Prevention of Corruption Act and Section 5(c) of the Prevention of Corruption Act.”

(ii) Affidavits relating to the charge

The Memorialists' case rests on the affidavits of Shri Ghasi Ram (M-18) and of Shri Ram Singh (M-20). The affidavits in opposition are three in number affirmed respectively by Shri G. S. Kahlon, I.C.S., the Chief Secretary to Government (CM-9), S. Kapur Singh, Chairman, Punjab Legislative Council (CM-10) and S. Partap Singh Kairon (CM-97 and CM-99). After taking inspection of the Government files Shri Ghasi Ram has filed an affidavit in reply (R-11).

(iii) Facts called from affidavits and files

On April 11, 1928 S. Mukund Singh of Sangrur was killed. He left his mother since deceased and two widows Smt. Pritam Kaur, and Smt. Pavitar Kaur and three daughters Pushpinder Kaur, Kamal Lata and Kusum Lata by his last mentioned wife and large landed properties which, on his death, were mutated in the names of his two widows in equal shares. On July 5, 1928 by order of the Jind Durbar the Superintendence of the Estate was taken over by the Jind Court of Wards. By an order made on August 19, 1928 the Ijlas-i-Khas (Jind Durbar) fixed the allowances etc. for the members of the family, namely Rs. 90/- per month for the mother and each of the two widows and Rs. 50/- for Pushpinder Kaur and Rs. 40/- each for the two younger daughters. Events for the next 25 years are not of much importance for the purposes of the present inquiry except that on the formation of PEPSU the Jind Court of Wards came to be merged into the PEPSU Court of Wards and governed by the PEPSU Act.

In January 1953 the Court of Wards sanctioned out of the estate Rs. 4,000/- for the betrothal of the second daughter Kamal Lata and in February 1953 Rs. 39,000/- for her marriage. Immediately thereafter Smt. Pritam Kaur personally or by her advocate protested against the payments to the Revenue Secretary, Rajpramukh and the Chief Secretary. In May 1953 Smt. Pavitar Kaur applied for an additional sum of Rs. 6,500/- for the Muklawa ceremony of the second daughter and also a grant for the marriage expenses of the youngest daughter. Promptly Smt. Pritam Kaur registered her protest with the Revenue Secretary and the Rajpramukh. The Court of Wards sanctioned Rs. 5000/- for the Muklawa ceremony. On June 1, 1956 the PEPSU High Court declared sections 5(2)(d) and 16 the PEPSU Court of Wards Act *ultra vires* the Constitution in Benarsi Dass's case. The PEPSU Court of Wards took the view that as the Sangrur estate had not been taken over under section 5(2)(d) it could continue to remain in charge and management of it. On September 10, 1956, the Court of Wards sanctioned Rs. 39,000/- for the marriage of the youngest daughter Kusum Lata. On October 3, 1956 Smt. Pritam Kaur through her advocate lodged a protest with the Financial Commissioner against such payment. On October 3, 1956 Smt. Pritam Kaur filed a Writ Petition challenging the validity of section 5(2)(a) of the PEPSU Act. This was followed up by an application filed on the same day asking that two separate accounts be kept and that payments made to each widow be debited to her account. On October 20, 1956 the Financial Commissioner noted that the sum of Rs. 39,000/- that had been sanctioned should be paid and added that Smt. Pritam Kaur would be entitled to her share in the property which would not be affected by these withdrawals. It will appear, hereafter, that Smt. Pritam Kaur held fast to this order as a decision in her favour that the withdrawals by her co-widow not affect her own share. In February 1957 Smt. Pritam Kaur filed an application maintaining that the Court of Wards had no authority to pay any amount out of the estate to the daughters of Smt. Pavitar Kaur and claiming partition of the estate. On June 19, 1957 the Deputy Commissioner was asked to carry out partition and was told that after that was done and the necessary formalities were observed the notification for the release of the estate would be issued. On August 27,

1957 the Revenue Minister ordered that the estate should be released immediately and the Deputy Commissioner should be directed to complete proposals for the release of the estate. On September 9, 1957 the Deputy Commissioner asked the Financial Commissioner to arrange for the services of a Tehsildar to help in the formulation of proposal for partition. Shortly thereafter Bishen Narain J, on September 27, 1957 dismissed Smt. Pritam Kaur's writ application. On October 19, 1957 Smt. Pritam Kaur filed an application signifying that she had no objection to the release of the estate but maintaining that the estate must be partitioned before release and that the estate, moveable and immoveable, must be partitioned equally but after taking into account the amounts already withdrawn by Smt. Pavitar Kaur which should be debited to her share as, she alleged, had been recognised by the Revenue Department, obviously meaning thereby the note of the Financial Commissioner dated October 20, 1956. On October 25, the Court of Wards on the application of Shrimati Pavitar Kaur sanctioned a sum of Rs. 40,000/- for the purchase of a house in Patiala where, according to her application dated January 14, 1957, she wanted to live for the sake of the health of herself and her children. This evoked an immediate protest to the Financial Commissioner from Smt. Pritam Kaur. On October 28, 1957 Smt. Pavitar Kaur by her application signified her consent to the release of the estate after provision had been made for the expenses according to law and custom, and in particular expenses for the marriage of her third daughter. In December 1957 Smt. Pritam Kaur sent her protests against unequal withdrawals to the Financial Commissioner, Revenue Secretary, Chief Secretary, Revenue Minister, the Chief Minister, the Prime Minister and the President of India. About this time the youngest daughter Kusum Lata was engaged to S. Surinder Singh Kairon, the son of S. Partap Singh Kairon. On December 19, 1957 Smt. Pavitar Kaur applied for an additional grant of Rs. 20,000/- for the marriage expenses on the ground that prices had gone up since the marriage of the second daughter. On December 21, 1957 Smt. Pritam Kaur applied to the Financial Commissioner for Hill allowance for a change of air in winter. On December 26, 1957 the Revenue Minister sanctioned Rs. 15,000/- as additional expenses. The marriage was solemnised on December 28, 1957. Two days later Smt. Pritam Kaur applied for a sum of Rs. 45,000/- for buying a house for herself in the hills. On January 31, 1958 Smt. Pritam Kaur again sent her complaint to the Financial Commissioner with copies endorsed to the Revenue Minister and the Prime Minister. In this complaint she mentioned that on account of the influence of S. Surinder Singh Kairon the lands were being leased out to his own men. In April 1958 Smt. Pritam Kaur applied for Rs. 5,000/- for going on a pilgrimage. On April 12, 1958 Smt. Pritam Kaur again complained to Smt. Indira Gandhi, the Prime Minister and the President of India and asked for payment of the difference in withdrawals and added that the estate was in danger and she was in fear of her life. On May 11, 1958 the Revenue Minister sanctioned Rs. 5,000/- for Smt. Pritam Kaur's pilgrimage and on May 24, 1958 another Rs. 1000/- was sanctioned for hill allowance. Later on Smt. Pavitar Kaur retaliated by objecting to payment of money to an issueless widow to go on a pilgrimage. The Government passed orders for the release of the estate after partition of the immoveable property. It was suggested that Shri Tikka Ram, Tehsildar of Patiala be deputed to assist the Deputy Commissioner in framing a scheme of partition. While steps

were being taken to partition the estate Smt. Pritam Kaur filed another writ petition for declaring the PEPSU Court of Wards Act *ultra vires* and for partition after adjusting accounts and on August 1, 1958 she obtained an order from the High Court (Bhandari C. J. and Chopra J.) staying payment of any money out of the estate except the monthly allowances. After discussing the matter with the Advocate General it was decided that in view of the stay order made in Smt. Pritam Kaur's Writ Petition it would be desirable to defer the steps to release the estate till after the disposal of the petition. On January 10, 1959 Smt. Pritam Kaur applied to the Court of Wards that before releasing the estate she should be paid an amount equal to what had been withdrawn by her co-widow, that she should be paid Rs. 40,000/- for a house just as had been sanctioned for Smt. Pavitar Kaur. In January 1959 Tikka Ram's report on partition was received and the papers regarding release of the estate had been completed. So the High Court was moved for clarification of the stay order and Dua J. made an order explaining that partition and release of the estate could go on. In February 1959 Smt. Pritam Kaur again applied to the Deputy Commissioner insisting on her contention that the estate should not be released before partition was effected after adjustment of accounts. On the same day the Governor of Punjab and the Prime Minister of India were moved to the same effect. On March 3, 1959 copy of the last mentioned order of the High Court was sent to the Deputy Commissioner and he was asked to send his detailed proposals complete in all respects as required by the rules through the Commissioner, Patiala Division. On March 6, 1959 the Deputy Commissioner informed the Commissioner that "no objection letters" to the release of the estate received from both the wards had been sent to the Financial Commissioner suggesting that the partition should be made between the two widows in equal shares. Then the file and correspondence were going backwards and forwards until April 1959 when the Financial Commissioner endorsed an elaborate note made by the Additional Secretary, Revenue explaining that the Court of Wards was bound to defray all legitimate expenses including the expenses incurred for the daughters to the Revenue Minister and the latter passed it on to the Chief Minister who in his turn endorsed it to the Governor who also signed the file signifying his approval. On April 29, 1959 Smt. Pritam Kaur applied for expediting the release proceedings. On May 6, 1959 the Financial Commissioner wrote that the Deputy Commissioner should be asked to complete his proposals for release of the estate and send the same up quickly. On May 27, 1959 Chopra J. dismissed Smt. Pritam Kaur's writ petition saying that it was for the Court of Wards to decide what were the legitimate requirements of the ward and what amounts of money should be allowed for the same that the Government had already decided to release the estate and proceedings were going on and that the impugned sections of the PEPSU Court of Wards Act were *intra vires*. On May 28, 1959 Shri R. P. Kapur, the Commissioner of Patiala Division wrote to the Under Secretary Revenue that the process of partitioning the property was in progress. In June 1959 the Additional Secretary, Revenue made a note mentioning that the Court of Wards as such had no legal power to partition the estate before it was released but that if both the wards agreed to a partition then possession could be given to them accord-

ingly as on a private partition. On June 11, 1959 Smt. Pritam Kaur through her Mukhtiar again asked for adjustment of accounts claiming that she was entitled to get the same amount as had been paid to Smt. Pavitar Kaur. Similar applications were sent to the Financial Commissioner, the Chief Secretary and Prime Minister requesting payment of amount due to her before the Court of Wards released the properties. It appears that Smt. Pritam Kaur filed a Letters Patent Appeal (bearing No. 186 of 1959) and on June 29, 1959 obtained an interim order for stay of further payment except the monthly allowances. On July 7, 1959 the Deputy Commissioner sent the scheme of partition made by Shri Tikka Ram to the Commissioner for being forwarded to the Financial Commissioner. It appears that on the file there are three drafts, one handwritten by Shri R. P. Kapur and two type written drafts. On July 18, 1959 Shri R. P. Kapur was arrested on a charge brought against him. It was sought to make a capital out of the arrest of Shri R. P. Kapur based on the coincidence of the dates. On October 9, 1959 Smt. Pavitar Kaur applied for money to buy a motor car. On November 15, 1959 the Under Secretary put up a note saying that under the Court of Wards Act the Commissioner was not empowered to make any proposal for partition, that the Financial Commissioner was the Court of Wards and that the Deputy Commissioner was his representative, that the Commissioner had been asked only to send his special comments, that instead of doing so he started partition proceedings himself, that there was no provision in the Act that the property should be released after partitioning it and that at best partition could be effected if both parties agreed to it. As there was no chance of agreement he suggested that the previous decision be revised and the property be released without partition. On December 29, 1959 the Court of Wards sanctioned Rs. 11,500/- for purchase of a Motor Car for Smt. Pavitar Kaur. Protests went from Smt. Pritam Kaur to Smt. Indira Gandhi, Pandit Govind Ballabh Pant, the Prime Minister and the President of India. On January 22, 1960 the Assistant Secretary, Revenue put up a long note suggesting that both parties should be asked to come and say whether they accept the proposed partition and that if they did then the property could be released after partition, but that if they did not then the Financial Commissioner would have no power to partition the property. His view was that notices should be served on the two wards to be present and take possession of the property jointly and that if one failed to appear the possession would be given to the other who appeared and they would then be left to get the property partitioned in a court of competent jurisdiction. It was suggested that the wards be summoned to appear on February 5, 1960. On January 21, 1960 the Legal Remembrancer gave the opinion that the partitioning of the property of the wards was not the function of the Court of Wards. Attempts were made to get the two wards together to ascertain if they would mutually agree to the scheme of partition. It was not possible to get them together for one reason or another and there occurred a stalemate. Eventually on October 30, 1961 the Financial Commissioner came to the conclusion that no partition was possible and that the estate should be released without waiting for agreement between the parties. The opinion of the Advocate General was that there was no order of release of the estate was retarded as a result of this uncompromising

court which debarred the Government from releasing the estate. Notification for the release of the estate on February 15, 1962 was endorsed by the Financial Commissioner for publication in the Official Gazette and copies thereof were sent to both the wards and on February 7, 1962 direction was given for personal service of the notice on them. As the general election was going on the date of release was postponed from February 15 to March 15, 1962 and the official Notification was endorsed by the Financial Commissioner and copies thereof were sent to the two widows. On March 6, 1962 notice fixing the date of delivery of possession on March 15, 1962 was sent to Smt. Pritam Kaur. In her petition to the Financial Commissioner Smt. Pritam Kaur suggested a mode of partition, laid stress on adjustment of accounts on the basis of re-imbursing her for the difference in the withdrawals. She admitted having received the notice. On March 15, 1962 Smt. Pritam Kaur did not appear in person or through an agent and the Court of Wards delivered possession of the estate to Smt. Pavitar Kaur as representing both the wards on a release bond executed by her. On June 1, 1962 the full Bench delivered judgment in Smt. Pritam Kaur's Letter Patent Appeal holding, by a majority, that the PEPSU Act was *ultra vires* and directed delivery of possession of the property. The Court of Wards had already delivered possession of the property on March 15, 1962 and that as it could not retake possession it could not comply with the order of the High Court to deliver possession. There was, therefore, no other alternative for the Government than to file an application to the Supreme Court as advised by the Advocate General which was filed on August 27, 1962. That it was prudent to file the special leave petition is evident from the fact that on September 18, 1962 Smt. Pritam Kaur through her advocate called upon the Financial Commissioner to deliver possession of her property. On February 15, 1963 the cash balance in hand was directed to be paid to the two widows in equal shares.

(iv) Discussion on arguments

In considering this charge it has to be borne in mind that Smt. Kusum Lata's marriage with S. Surinder Singh Kairon took place on December 28, 1957 and, therefore, he or his father could not be blamed for any thing that might have happened before that date. The previous history, however, throws a considerable light on the matter. On a perusal of the facts appearing on the record it will be evident that Smt. Pritam Kaur was not half as helpless as she had been sought to be made out in the affidavits and in the argument advanced before the Commission. The records reveal that she was a vigilant litigant ably protected by her advocate and Mukhtiar. At every stage she took care to ventilate her grievance for what she considered to be a wrong done to her. She approached all higher officers and even the highest dignitaries of the State Government as well as the Government of India. It is also to be noticed that in her blind jealousy the lady could not reconcile herself to the thought that the expenses of maintenance, education and marriage of the maiden daughters were the first charge on the entire estate of their father in the hands of his heirs. Sections 23 and 25 of the Act are also quite clear on the point. It is apparent that the process of

attitude on her part and by the stay orders obtained by her from time to time from the High Court in the writ petitions or the Letters Patent Appeal filed by her. Considerable stress was laid on the fact that large sums of moneys had been withdrawn by co-widow out of the estate. It will be recalled that all those withdrawals except two were for purposes of the daughters which had to be paid out of the whole estate. Further all those withdrawals took place before the marriage of Smt. Kusum Lata with S. Surinder Singh. Of the two big withdrawals for her own personal use Rs. 40,000/- had been sanctioned by Mr. A. L. Fletcher, I.C.S. who was then the Financial Commissioner against whom no aspersion has been cast. Further, this sanction was given before the marriage. The only big amount that was sanctioned after the marriage was Rs. 11,500/- for the purchase of a motor car. Capital was sought to be made of the arrest of Shri R. P. Kapur on July 18, 1959. Under the PEPSU Court of Wards Act the Financial Commissioner is the Court of Wards and the Deputy Commissioner is the representative of the Financial Commissioner. The Commissioner had no jurisdiction, power or authority to deal with the affairs of an estate placed under the superintendence of the Court of Wards. It is only the Financial Commissioner who can deal with such matters, subject to the orders of the State Government. In this case the Deputy Commissioner was asked to make complete proposals and Shri Tikka Ram Tehsildar had been deputed to assist him. No power was delegated even to the Deputy Commissioner to finalise any partition. He was asked to send the proposals through the Commissioner. The Commissioner had not been asked to do anything at all and certainly not to hold partition meetings as he purported to do. He was intended to be a mere official channel for passing on the proposals. It should be also remembered that the partitioning of the property was not the function of the Court of Wards under the Act. As pointed out in several notings summarised above there could be a partition only if both parties agreed and in that situation the estate could be released in terms of such scheme of partition as on a private agreement. The principle of partition into two equal shares had already been adopted long ago and Shri R. P. Kapur did not introduce any new idea. If Shri R. P. Kapur made any new proposal for partition then the simplest thing would have been to make Smt. Pavitar Kaur to refuse to agree to the same and without her consent there could be no partition at all. Why, then, should S. Partap Singh Kairon adopt such a crude method as getting Shri R. P. Kapur to be arrested on a criminal charge? In this connection reference may be made to the observations of the Supreme Court of India in *R. P. Kapur v. S. Partap Singh Kairon* which are set out in Annexure R-5 to the affidavit of Shri G. S. Kahlon. The following relevant portion of those observations will clinch the matter—

“The Sangrur estate was in charge of the Court of Wards, that is, the Financial Commissioner, Punjab. On June 19, 1958, the Court of Wards decided to release the estate after partitioning the immovable property between the two widows. At one time a question arose as to whether the immovable properties should be partitioned into five equal shares for the two widows and three daughters or in two shares only for the two widows. Some time before May

6, 1959, it was decided that the partition would be of two shares only and thereafter a detailed mode of partition was agreed to between the parties. This is clear from the note of petitioner No. 1, dated May 6, 1959. Thereafter there was no more dispute left, and the case of petitioner No. 1 that he was arrested on July 18, 1959, because he dictated an adverse order some days previously which had been typed but not yet signed does not *prima facie* appear to be correct apart altogether from the question whether petitioner No. 1 was acting merely as the channel between the Deputy Commissioner and the Financial Commissioner, the latter being the only authority competent to pass final orders in the matter."

It was also stated that the management of the Court of Wards was continued in bad faith. It should be recalled that it was Smt. Pritam Kaur's uncompromising claim for adjustment of accounts and the stay orders obtained by her that retarded the release of the estate. It should be borne in mind also that the Court of Wards can only implement the Act and has no power to pronounce on its validity. Read in the context of the facts hereinbefore culled from the record and in the light of the above discussion the petition of Smt. Pritam Kaur to S. Partap Singh Kairon set out in Shri Prabodh Chandra's charge sheets on which reliance has been placed during arguments loses most of its poignancy. The affidavit of S. Kapur Singh (CM-10) who is a relation of Smt. Pritam Kaur shows that S. Partap Singh Kairon had no part in the negotiation for settlement between the two widows. That Smt. Pritam Kaur accepted the legality of the release of the Court of Wards is evidenced by the fact that she joined with Smt. Pavitar Kaur in executing about 59 deeds of sale of parts of the estate. It is difficult to believe that after all that had happened Smt. Pritam Kaur who had her own relations and legal advisers would so readily sign the documents on the bare assurance of S. Surinder Singh Kairon as she says in the affidavit she has filed before the Commission.

(v) Findings of the Commission

For reasons appearing in the foregoing discussion the Commission concludes—

- (a) that it is wholly incorrect to say that Shri R. P. Kapur as the then Commissioner of Patiala Division had any jurisdiction, power or authority to deal with any of the affairs of the Sangrur Estate which was under the Court of Wards at the time;
- (b) that it is wholly incorrect to say that Shri R. P. Kapur was judicially in seisin of the matter of partition of the Sangrur Estate between the two widows of S. Mukund Singh or that any pressure was put upon him by S. Partap Singh Kairon through his wife or son to induce him to divide the estate into five parts as alleged or at all;
- (c) that there is ample evidence to the effect that the principle of division of the estate between the two widows in equal shares had already been adopted by the authorities long ago;

- (d) that there is no reason to hold that the arrest of Shri R. P. Kapur was engineered for the purpose of preventing him from pronouncing his alleged order or that such crude action was necessary at all;
- (e) that the major withdrawals of moneys by Smt. Pavitar Kaur took place before the marriage of Smt. Kusum Lata with S. Surinder Singh Kairon and cannot be attributed to any influence exercised by S. Surinder Singh Kairon or S. Partap Singh Kairon; and
- (f) that the uncompromising and untenable insistence of Smt. Pritam Kaur on being paid the difference between the moneys withdrawn by Smt. Pavitar Kaur and those withdrawn by herself and the stay orders obtained by her in Writ Petition or Letter Patent appeal filed by her were primarily responsible for the delay in the release of the estate from the superintendence of the Court of Wards.

CHAPTER XXI

LAND FOR SETTLEMENT OF HARIJANS

A. RAMGARH DHANI LAND

(i) The charge as formulated

Charge 4 of the memorandum runs thus:

“(4) Under the land legislation, surplus areas of many land owners had to be surrendered. The Sangrur estate of Surinder Singh Kairon's mother-in-law had vast extent of surplus land but with a view to save the estate, it was purchased for the “noble cause” of Harijan Welfare. All formalities were by passed and cash amounting to Rs. 2,65,528.75 nP was virtually placed in the hands of Chief Minister's son for this so-called sale of some 310 acres of land.”

(ii) Affidavits relating to this charge

The Memorialists rely on the affidavits of Shri Ram Piara (M-8) and of Shri Ram Singh (M-20) in support of their charge. The allegations in these two affidavits relating to this charge have been sought to be countered by two affidavits filed on behalf of S. Partap Singh Kairon. These two counter-affidavits have been affirmed by Shri H. S. Achreja, I.A.S., Secretary, Scheduled Castes and Backward Classes Department (CM-58) and by S. Partap Singh Kairon himself (CM-99). Shri Ram Piara has filed an affidavit in reply (R-23) annexing copies of many documents and entries in files produced by S. Partap Singh Kairon and inspected by the Memorialists. In view of the admittedly strained relation between S. Partap Singh Kairon and the Memorialists in general and Shri Ram Piara and Shri Ram Singh in particular the Commission considers that it will not be right or safe to go upon their testimony unless the same be substantially corroborated by dependable documentary evidence.

(iii) Facts which emerge from the affidavits and entries in files

The settlement of people belonging to the Scheduled Castes and Backward Classes hereinafter compendiously called Harijans was a subject matter of a scheme sponsored by the Union Government of India as a part of the Second Five Year Plan for which a provision of Rs. 42.10 lacs had been made. A further provision of Rs. 6.92 lacs had been made for 1961/62. The scheme is financed cent per cent by the Central Government. Broadly speaking, the scheme was that approximately a minimum area of five acres would be given to each beneficiary at a cost not exceeding Rs. 4500/-. A sum of Rs. 2000/- was to be given as subsidy and the balance of Rs. 2500/-

was to be contributed by the beneficiary out of his own funds or by raising a loan from the Punjab State Land Mortgage Bank Ltd. against hypothecation of the land to be given. In September 1957 the Home Secretary wrote to the Director, Harijans, formulating a programme for the purchase of agricultural land for the Harijans. Stress was laid in paragraph 5 of that programme to acquisition of land in compact blocks and in paragraph 6 direction was given to purchase surplus area not under cultivation of tenants. It was proposed that the relevant Acts would be amended. It is said that the Government had selected 2451 beneficiaries for settlement up to the end of 1961/62 but was able to settle only 1225 while 1226 still remained to be settled for whom 6,130 acres of land was required. In the beginning the Government did not confine its purchases to land other than surplus area under the Punjab Security of Land tenure Act, 1953 and the Pepsu Tenancy and Agricultural Lands Act, 1955 in the belief that purchase of surplus land by the Government would be excluded from the operation of those Acts. On July 1, 1960 a self contained note was prepared which included a query asked by the Director, Harijans, if his department could purchase surplus areas in erstwhile PEPSU. The Under Secretary, Revenue put up a note on October 11, 1960 stating that purchase of surplus area for Harijans was hit by Sections 10A(b) of the Punjab Act and Section 32FF of the PEPSU Act. Another self contained note was prepared underlining the importance of the scheme and suggesting amendment of the Acts. The matter was referred to the Legal Remembrancer who, on February 15, 1961, gave the opinion that if the Government were sure it would be possible to get the amendment with retrospective effect, there would be no objection to the purchases of land being made before the amendment. It appears that in February 1961 a meeting was held but the Chief Minister did not approve of the proposal to exempt the purchase of surplus area by the Harijan Department from the operation of the Act. Accordingly, purchases of surplus area had to be stopped in view of the aforesaid opinions of the Revenue as well as the Law Departments. This decision created a furore in the Harijan Department. Upto February 28, 1961 a total area of 6,600 acres of land had been purchased for this scheme out of which 4,500 acres comprised surplus area. Pressing requests came from the Harijan Department on which an office note was prepared pleading for the amendment of the Acts without which the scheme would have to be abandoned altogether and suggesting reconsideration of the matter by the Chief Minister. The Revenue Secretary opposed the proposal and on August 18, 1961 the Chief Minister agreed with the Revenue Secretary. Instructions were issued by the Home Secretary on August 23, 1961 to the Director Harijan not to make further purchases of surplus area. On October 4, 1961 the Director, Harijan wrote to the Deputy Secretary, Rehabilitation, giving lists of Harijans of different districts to be settled in those districts. That list showed that 575 acres were required for settlement of 115 Harijan families in Sangrur district. On October 20, 1961 the Director, Harijan wrote a letter to the Government to regularise the purchases that had been made from 1956/57 upto February 1961. In view of the foregoing decision not to purchase surplus area the Home Secretary wrote to the Government of India seeking approval to the State Government settling groups of

four instead of eight in one place. Again came the request from the Director, Harijan for permission to purchase surplus area which was, on January 15, 1962, turned down by the Home Secretary who advised the Director, Harijan to try and purchase reserve area. The matter stood there on the eve of the general election which took place in February 1962.

Two things happened. On March 15, 1962 the Sangrur estate belonging to the late S. Mukund Singh and inherited by his two widows Shrimati Pritam Kaur and Shrimati Pavitar Kaur, the mother-in-law of S. Surinder Singh Kairon, was released from the superintendence of the Court of Wards. The other thing that happened was that a new Ministry was formed by S. Partap Singh Kairon which included two Harijan Ministers, namely Shri Chand Ram who became the Minister of State, Harijans and Shri Harchand Singh who became the Deputy Minister, Harijans. Giani Kartar Singh became the Minister-in-charge of Planning and Harijans.

On April 20, 1962 Shri Harchand Singh, the new Deputy Minister, Harijans, put up a note recapitulating the difficulties in implementing the Harijan Welfare Scheme and recalling the requests of the Director, Harijan and recommended that "land on which neither the tenants have settled nor has been declared surplus" should be allowed to be purchased. He added in the note that he had already brought this to the notice of the Planning Minister as well. It so happens that on this very day (April 20, 1962) one Shri Ramesh Kumar, Mukhtiar for Smt. Pavitar Kaur, one of the widows of the late S. Mukund Singh and the mother-in-law of S. Surinder Singh Kairon submitted an application to the Director, Harijans offering to sell a compact piece of land measuring 500 acres in village Ramgarh Dhani for settlement of Harijans. The reason given by her was that she was a widow lady, unable to manage the agricultural operations and therefore, she was very keen to sell away these lands. On April 21, 1962 the Director, Harijans forwarded the application to the District Welfare Officer, Sangrur with directions to get the soil examined, the land inspected by the beneficiaries, fix a meeting of the District Land Selection Committee and "after observing all formalities finalise the case before 10th May so that after showing the land to Land Approval Committee the bargain may be struck in the month of May". The Deputy Minister had a discussion with the Chief Minister's Private Secretary who probably let fall a remark that if the Administrative Department contemplated the purchase of some land belonging to the relatives of the Chief Minister the latter would not approve of it. Apropos of that remark the Deputy Minister sent a note to the Private Secretary on April 23, 1962 stating—

"I may make it abundantly clear that the Director Harijan will not be allowed to purchase the land in question. It may further be added that instructions would be issued to the department not to purchase any land belonging to Ministers, Deputy Ministers, Chief Parliamentary Secretary, Parliamentary Secretary, Congress M.L.As. or their relatives. In case any departure from these instructions is to be made then the specific approval of the Chief Minister will be obtained."

On April 24, 1962 the Director, Harijans wrote to the District Welfare Officer, Rohtak that as there was no good land available in Rohtak District the beneficiaries in that district may be shown the Dhani lands. To the note of the Deputy Minister came the reply from Shri I. C. Puri, the Chief Minister's Secretary on April 26, 1962—

“CM has approved the note dated 20th April, 1962 on the above basis. The note has been sent to the Planning Minister separately. Instruction should be sent to DH to this effect at ‘A’ above.”

The Planning Minister also signed at the foot of the above note and directed that instruction be sent accordingly to the Director, Harijan. On the same day Smt. Pavitar Kaur executed a general power of attorney in favour of Smt. Pushpinder Kaur. Instruction was sent to the Director, Harijans on May 10-12, 1962. Copies of this were subsequently endorsed to all Deputy Commissioners on June 22, 1962 and the Government decision was communicated to the Revenue Department on July 20, 1962.

In the meantime pursuant to the directions of the Director, Harijans given on April 21, 1962 brisk activities went on in the district. The District Welfare Officer inspected the Dhani lands on May 1, 1962 and sent a report, the Chemist took samples of soil on May 4, 1962, the lands, were shown to and approved by six beneficiaries on May 9, 1962 and the District Land Selection and Purchase Committee approved of the site on May 17, 1962. The Committee recommended that offer be made to the Vendors at Rs. 900 for Nehri land, Rs. 750 for Barani land and Rs. 500 for Banjar lands, which according to them was much below market price. On the same day the District Welfare Officer made a formal offer to Shri Ramesh Kumar, the Mukhtiar of Smt. Pavitar Kaur on the above rates. A reminder was sent to him by the District Welfare Officer on June 11, 1962. The Planning Minister, Giani Kartar Singh, wrote a letter to Smt. Pavitar Kaur on June 13, 1962 pressing her for selling her lands in the interest of Harijan welfare. The Minister followed it up by writing a letter to the Governor on June 25, 1962 begging him to intercede and induce the Chief Minister not to press his objection to the purchase of the Dhani lands belonging to his relatives. The Governor, on June 26, 1962, wrote a letter to the Chief Minister to waive his objection. A telegram was sent to Shri Ramesh Kumar on June 28, 1962 asking him to send his consent to the price of the Dhani land. On June 29, 1962 the Private Secretary noted that the Chief Minister had seen the letter of the Governor and has no objection. On July 2, 1962 Shri Ramesh Kumar intimated that the price offered was acceptable to him. On July 3, 1962 the Planning Minister (Giani Kartar Singh) addressed a note to the Home Secretary stating that as the Chief Minister had recorded that he had no objection to the purchase of the land in question the Home Secretary might take necessary steps to purchase the land. The next day (July 4, 1962) the Deputy Secretary informed the Director, Harijans “you may now finalise the deal after getting approval of the District Land Selection Committee and the State Land Approval Committee.” The District Land Selection and Purchase Committee having already inspected the land and given its approval on May 17, 1962 it was not necessary to ask them

to inspect the land over again. July 12, 1962 was fixed for the inspection of the land by the State Land Approval Committee. The Committee met at site. The minutes show that Shri Pritam Singh and Shri Ram Singh the two Harijan members out of four non-official members and the Director, Harijans were present. Shri Ram Piara, the other member, did not turn up. The Committee approved of the land and the price. It may be mentioned that the two Harijan members were included amongst the beneficiaries for whom the property was being acquired. The Committee also persuaded the vendors to give about seven acres of land free of charge. The Tehsildar, Jind, on July 13, 1962 submitted his certificate that the land was free from encumbrance except for revenue liability of Rs. 1,455:39. The Director, Harijans on July 14, 1962 asked the Punjab State Land Mortgage Bank Ltd. to issue two cheques in favour of Sardarni Pavitar Kaur Pritam Kaur, one for Rs. 70,000 for the beneficiaries of the Sangrur District and the other for Rs. 48,000/- on behalf of the beneficiaries of the Rohtak District. The sum of Rs. 1,18,000/- was paid as earnest money by two cheques and stamped receipts were granted by Smt. Pushpinder Kaur and Smt. Pritam Kaur. On July 18, 1962 a formal agreement for sale was made. The balance was paid in September 1962. The Director, Harijans informed the Home Secretary accordingly. District Welfare Officer on the same day asked the Home Secretary to depute staff for delivery of possession of Dhani land to 59 beneficiaries. Thus 59 beneficiaries out of which 35 were of Sangrur for whom Rs. 70,000 was advanced as subsidy at Rs. 2,000 per beneficiary and 24 were of Rohtak for whom a subsidy of Rs. 48,000 @ Rs. 2,000 per beneficiary was advanced were settled on the Dhani land purchased from the relatives of the Chief Minister.

(iv) Discussion on the arguments

It has already been stated that when the Punjab Government started implementing the Central Government scheme for settlement of the Harijans it did not confine its purchases to lands other than those comprised in what has been called the surplus area. Indeed it was mentioned by the Director, Harijans in his letter to the Home Secretary that out of 6,600 acres of land purchased by his department upto February 28, 1961, as much as 4,500 acres of land were from surplus area. This practice of purchasing land from the surplus area came to the notice of the Revenue Department as far back as October 11, 1960 and the Under Secretary of that department said in a note of that date that such purchases were hit by Section 10A(b) of the Punjab Act and Section 32FF of the PEPSU Act. Law Department's opinion given on February 15, 1961 to which reference has already been made, clearly implied that such purchases would not be permissible unless the Acts were amended. The relevant portion of Section 10A of the Punjab Act runs as follows:

"10-A. (a) The State Government or any officer empowered by it in this behalf, shall be competent to utilize any surplus area for the resettlement of tenants ejected, or to be ejected, under clause (i) of sub-section (1) of section 9.

(b) Notwithstanding anything contained in any other law for the time being in force (and save in the case of land acquired by the State Government under any law for the time being in force or by an heir by inheritance

no transfer or other disposition of land which is comprised in surplus area at the commencement of this Act, shall affect the utilization thereof in clause (a).

Explanation.—Such utilization of any surplus area will not affect the right of the land-owner to receive rent from the tenant so settled.”

The relevant portion of Section 32FF of the PEPSU Act is expressed in terms following—

“Save as in the case of land acquired by the State Government under any law for the time being in force or by an heir by inheritance or.....no transfer or other disposition of land effected after the 21st August 1956, shall affect the right of the State Government under this Act to the Surplus area to which it would be entitled but for such transfer or disposition.”

It is quite clear that a transfer by private treaty of surplus area by a land-owner to the Government cannot be said to be acquisition of land by the State Government under any law for the time being in force and such transfer will not be covered by the saving clause in either of the sections quoted above. Both the Acts make provision for determining the surplus area and confer power on the State Government to deal with the surplus area for certain specific purposes. It is an elementary rule of law that when a Statute authorises an authority to exercise powers conferred on it for the benefit of some person or for some specific purpose it is an obligatory duty of the authority to exercise the power for the benefit of the specified person or purpose. In other words the power is coupled with a duty. In the instant case under the Punjab Act it is the duty of the State Government to take steps so that the landowners' reserved area is fixed and the surplus area is ascertained so as to enable the State Government to utilise the surplus area under section 10A, for the resettlement of tenants ejected or to be ejected under section 9(1) (i). Likewise it is the duty of the State Government under the PEPSU Act to get the surplus area determined, to take possession of such surplus area and to frame a scheme for the utilisation of the surplus area by allotment to tenants in the order of priority as mentioned in section 32J of that Act. If the State Government does not take steps to determine the surplus area but on the contrary purchases from the landowner lands which would have been surplus area available to it for resettlement of ejected tenants had the necessary steps been taken, then the State Government clearly acts in breach of its duties under the Acts and frustrates its objects. If the State Government utilises the lands purchased in such circumstances as aforesaid for the benefit of persons or for purpose other than the person or purpose mentioned in the Acts the State Government commits another grievous wrong. If on top of it the State Government pays more than what is fixed by section 32H of the PEPSU Act its conduct becomes yet more reprehensible. There is, therefore, good deal of force in the contention of the Memorialists that in not taking steps to ascertain the surplus area so as to make it available for resettlement of ejected tenants and in purchasing the lands which, but for its inaction, would have been surplus land so available for resettlement of evicted tenants and in utilising such land for the purpose

of settlement of Harijans who are not shown to be tenants ejected or to be ejected the State Government must be held to be guilty of conduct approximating to a fraud on the Statutes. As long as the Acts remain unamended the action of the State Government cannot be supported. In the present case the purchases were made in complete disregard of the legal advice and its action assumes the character of a conscious violation of the law.

It will be recalled that the Chief Minister had in February 1961 turned down the proposal for the amendment of the Acts by exempting purchases of surplus area from the operation thereof. Purchase of surplus area for Harijan scheme was completely stopped by February 28, 1961. It has also been mentioned above that on August 18, 1961 the Chief Minister agreed with the Revenue Secretary and declined to reconsider his decision and that that decision was communicated to the Director, Harijans on August 23, 1961. The matter does not rest there. When the Director, Harijans on December 21, 1961 again asked the Home Secretary for permission to purchase surplus land the Home Secretary on January 1, 1962 refused to grant such permission and advised him to try and purchase lands from reserve area. Then the Sangrur estate was released from the Court of Wards on March 15, 1962 and in March 1962 a new Ministry was formed. On April 20, 1962 the Deputy Minister, Harijans who was himself a Harijan took up the matter in a note of that date. The Private Secretary of the Chief Minister made a casual remark about his suspicion that it was contemplated to purchase the surplus land of a relative of the Chief Minister to which the latter would not agree and the Deputy Minister promptly in his note of April 23, 1962 categorically undertook that "the land in question" would not be acquired and further that surplus land belonging to Ministers and other persons named therein or their relatives would not be purchased except with the approval of the Chief Minister. What that "land in question" does not appear on the record. Be that as it may, on April 26, 1962 the Chief Minister agreed to the proposal "on the above basis". The Planning Minister endorsed the note of the Private Secretary.

It is a curious coincidence that on the day (April 20, 1962) the Deputy Minister put up his note recommending purchase of surplus land an application was made by Shri Ramesh Kumar on behalf of Smt. Pavitar Kaur offering to sell a compact block of 500 acres of land which was indisputably surplus area in village Ramgarh Dhani. It is again a coincidence that on the very day (April 26, 1961) when the Chief Minister agreed to the proposal of the Deputy Minister Smt. Pavitar Kaur executed a general power of attorney authorising Smt. Pushpinder Kaur to do all acts for her in relation to the sale of the Dhani land. It is also surprising that although the purchase of surplus land was stopped from the end of February 1961 and before the Chief Minister's decision of April 26, 1962 to resume such purchases had been communicated to the Director, Harijans on May 10/12, 1962 the Director, Harijans on April 21, 1962 directed the District Welfare Officer to take all steps to finalise this sale in the month of May. Reference has already been made to the breakneck speed with which the legal or administrative formalities were gone through as a mere matter of routine, namely, the District Welfare Officer inspecting the land on May 1, 1962, the Soil Chemist taking samples on May 4, 1962 and making his report on May 11, 1962 and the lands

being shown to the intending beneficiaries on May 9, 1962. It is curious that the decision of the Government for resuming the old practice of purchasing surplus area was not publicised in any notification or advertisement. Comment has been made that if any public notice had been issued many more people might have come forward to offer their lands. Be that as it may the extraordinary speed and the cool confidence with which the steps were taken, in spite of the fact that the Chief Minister had twice turned down the proposal for purchasing the surplus land, can hardly be explained on any hypothesis except on that of some tacit understanding that the necessary orders were about to come which did come to the Director, Harijans on May 10/12, 1962. The meeting of the District Land Selection and Purchase Committee on May 17, 1962 and their approval of the land and fixing of price on the same day followed.

It was when the stage was thus set for the last act that the Planning Minister on June 13, 1962 wrote the following letter to Smt. Pavitar Kaur:—

“Smt. Pavitar Kaur Ji,
Sat Sri Akal,

The Punjab Government is purchasing land for distribution among the Harijans. Due to non-availability of land, the amount of 50 lacs is lying with the Punjab Government for the last 2½ to 3 years and the said amount will be incurred on the purchase of 5200 acres of land. There is a good deal of difficulty in procuring the land. The Nehri-land is with you in village Dhani which has recently been released by the Court of Wards. The Deputy Minister, Shri Harchand Singh, has already seen the land and has suggested that the land is useful.

2. If the land and the house is sold at the same time, the Punjab Government would be able to rehabilitate 80 families of Harijans in one compact village. The Government will not be able to spend more than nine hundred rupees per acre. If the said land is sold to our department for the rehabilitation of Harijans, I shall be very thankful.
3. I know that you are related to the Chief Minister. There are certain persons who oppose the Chief Minister without any reasonable grounds. In order to minimise the chances of criticism by the opposition, the Chief Minister has issued instructions that no land should be purchased from his relatives but this act of Chief Minister is wrong on principle. I shall talk over the matter with the Chief Minister on the receipt of a reply from your side that he (C.M.) should not put any hindrance in the matter. I shall also talk over the matter with Governor, so that if any person raised any objection, the objection may be set aside. I hope that you will kindly agree to my proposal and will sell the land to our department. The other allied things will be discussed with you by the Director of the Department.

Yours sincerely,

Sd. (KARTAR SINGH GIANI).”

It will be recalled that this Minister had expressly endorsed the decision of the Chief Minister dated April 26, 1962 that the land of his relatives would not be purchased. What happened since then which compelled him to make a proposal which ran counter to his previous promise? He has not filed any affidavit in this Inquiry explaining the position and has invited comments and conjectures. Turning now to the text of the letter one can understand the Minister impressing upon the lady that her land was required for the laudable object of distribution amongst the Harijans but it is difficult to see why it was so very necessary to apprise her with the exact amount lying unspent with the Government or the exact figure of the total area to be purchased and the difficulty in procuring land. If anything, such difficulties would only induce the lady to ask for a high price. Nor is it seen how she was interested in knowing how many families of Harijans would be settled on her lands after it was bought by the Government. The statement that the Government, which had in hand Rs. 50 lacs, would not be able to pay more than Rs. 900 per acre and to beg of her to sell her land at that price was obviously meant not to convince the lady but to impress on the critics of the Chief Minister that the lady was persuaded, with some difficulty, to accept the low figure of Rs. 900 per acre as price of her land. But the last paragraph of the letter seems to be the limit of laying it thick. It is nothing but a special pleading. It is quite clear that they were meant to prepare grounds to meet the criticisms which were known to be inevitable. There is nothing on record to show what discussion Giani Kartar Singh had with the Chief Minister. Further comments are unnecessary, for the underlying purpose of the letter is obvious on the face of it. The statements in the letter were quite clearly meant to create on paper some sort of justification for the unholy deal.

Giani Kartar Singh followed it up by writing the following letter to the Governor on June 25, 1962:

“D. O. No. OLM-1237

Minister
Planning Department, Punjab,
Chandigarh,
25-6-1962.

Dear Shri N. V. Gadgil,

The Department concerned with the welfare of Scheduled Castes and other Backward Classes is implementing a Land Purchase Scheme to ensure betterment of the economic conditions of landless Harijans who are engaged in the profession of agriculture. This scheme is in addition to the various measures approved by the State Government for giving lands to the Harijans. Each beneficiary selected under the Scheme is given a subsidy of Rs. 2,000 and he is also helped to raise a loan of Rs. 2,500 from the State Land Mortgage Bank on the surety furnished by the State Government. With this sum of Rs. 4,500, the Department purchases for him about 5

acres of good quality land. The beneficiaries are settled on a compact block sufficient for about 4 or 8 families so that they develop a spirit of co-operative farming. During the Second Five-Year Plan this scheme was included in the Centrally Sponsored Programme and we received cent per cent aid from the Government of India. In the Third Plan period it is included in the State Sector and we got 50 per cent aid from the Centre.

2. For the last 2 or 3 years, the Department has been experiencing considerable difficulty in procuring sufficient land to settle all the beneficiaries selected under the scheme. Mainly it is due to the fact that most of the available land has been declared surplus. With a view to give an idea of the problem facing the department, it may be mentioned that it has yet to settle about nine hundred beneficiaries approved in the Second Plan period and to this number have been added 339 beneficiaries selected during 1961-62. The amount of subsidy sanctioned to these beneficiaries, viz., Rs. 24.52 lacs is lying at present in their names in the State Land Mortgage Bank. It is apprehended that if land is not purchased very early, the State shall have to surrender almost the whole of this amount to the Central Government.

3. With a view to avoid this contingency, we are taking all possible steps to get hold of sufficient land for the beneficiaries. We are trying to secure the reserve area as much as possible. We have allowed individual beneficiaries to select lands in their own villages without complying with the condition of settling in a group of families or a compact block. We also propose to participate in the auction of the evacuee lands. Still the problem is a colossal one. It is in this background that the Department contemplates to buy about 400 acres of good irrigated land at 2 villages near Jind which belongs to certain relatives of the Chief Minister. Shri Harchand Singh, the Deputy Minister Harijan Welfare has personally seen this land and satisfied himself as to its good quality. In fact its current market price is so high that in case it is not declared surplus, it can never be purchased at the rate of Rs. 900 per acre. It is true that once it is declared surplus, the Government will take it at Rs. 200 per acre. But the process of declaring it surplus, obtaining its physical possession, ultimate settlement of persons entitled to it etc. is clearly going to take a period of over 2 years and in the meantime it is obvious that landlords will be deriving huge incomes from this land and ultimately will also be entitled to compensation. Looked at from all points of view, the bargain is profitable for the Welfare Department and we can settle about 80 Harijan beneficiaries on this piece of land.

4. The Chief Minister is naturally very much reluctant to permit the department to purchase this land for the reason that it belongs to his relatives. While I appreciate his personal feelings in this regard, I think that his reluctance is not based on any sound principle. The land is really valuable and we need it in the interests of the Scheduled Castes. Therefore the Chief Minister should not be merely guided by his personal scruples and need have no

objection to the sale of this land. I earnestly seek your help in asking the Chief Minister not to press his objection and permit the Department to purchase this land for the benefit of Harijans or leave this matter to me.

With regards,

Yours sincerely,

(Sd.) (GANI KARTAR SINGH).

Shri N. V. Gadgil,
Governor of Punjab,
Raj Bhavan, Simla."

Paragraph 1 of the letter briefly explains the scheme and may be passed over. In the second paragraph the writer refers to the difficulty in procuring land which is attributed to the fact that most of the land has been declared surplus. This is an implied acknowledgement that the Harijans cannot be settled on lands declared surplus. The attention of the Governor was not drawn to the opinion of the Legal Remembrancer or to the provisions of the two Acts and the legal implications of a conscious omission to get the surplus area determined and purchasing what would have been surplus area but for such omission. As regards the money lying unspent, there is nothing on record to show that the Government of India had threatened to call back the moneys advanced. Great emphasis is laid on the tedious and long process of declaring the land as surplus presumably to impress upon the Governor that it will take a very long time to do so and the money may have to be surrendered and the purchase of this bloc of land will be speedier and help the noble cause. Here the writer has overlooked the fact that a few lines earlier he had himself stated by implication that Harijans cannot be settled on land declared as surplus area and that being so he need not have dilated upon the delay involved in the process of declaring the land as surplus land unless it were for creating a wrong impression in the mind of the Governor. The last paragraph is on the same lines as the last paragraph of the letter to Smt. Pavitar Kaur. True to his expectation the Governor, in good faith, wrote a letter to the Chief Minister on June 26, 1962 which concluded with the observation that it might be a good gesture if the latter would persuade his relatives or issue instructions to the Planning Minister to purchase the land. At the request of the Governor the Chief Minister agreed on June 29, 1962. Then it took no time to finalise the deal. There is no satisfactory evidence before the Commission showing that suitable evacuee lands were not available for settling the Harijans. Further, there is evidence that a large area declared as surplus was available.

Apart from the question of legality of the conduct of the Government in purchasing what was bound to become surplus area but for the inaction of the Government and the utilisation of the land so purchased for the benefit of the Harijans to the detriment of the tenants evicted or to be evicted from the reserve area,

there was no legal or moral bar to the land of the relatives of the Chief Minister being purchased by the State after the Chief Minister's interests were disclosed. Nevertheless the melodramatic manner in which such purchase was put through does leave an impression that there was more in it than met the eyes. I now transpires that Smt. Pritam Kaur only got Rs. 50,000 and out of the balance S. Surinder Singh Kairon, as admitted in his affidavits (CM-46 and CP-10) got from his monther-in-law Rs. 75,000 by way of gift and Rs. 90,000 by way of loan. This shows that he was the person who derived the largest benefit out of this deal. S. Surinder Singh Kairon employed this money in acquiring his assets and businesses. It is not unlikely that the pressing needs of S. Surinder Singh Kairon intervened and caused a change in the attitude of the Chief Minister and the Planning Minister and the Harijan Deputy Minister readily provided the necessary help in the final act of the drama. The conclusion that this deal was put through insidiously mainly for the benefit of the Chief Minister's son becomes irresistible.

A point was taken that this purchase of Dhani lands was illegal as the State Land Approval Committee had not approved of it. It is said that no meeting of that Committee had been convened but only two of the members were taken to the nearby Rest House and shown the lands and that according to rules no meeting of the Committee could be held at any place other than Chandigarh. The Commission cannot accept the correctness of these contentions. The State Land Approval Committee File L/20 has been produced before the Commission. It appears from that file that at the first meeting of the Committee the quorum was fixed at two. It was decided that the Committee would give its opinion after inspection of the land recommended for purchase by the Deputy Commissioner. This was reiterated in the amendment adopted on January 18, 1962. The Committee was reconstituted on May 2, 1962. On May 8, 1962 notice was given of "a meeting" to be held on May 12, 1962 at the P.W.D. Rest House Sangrur. There is nothing in the Rules which requires that the meetings must be held at Chandigarh. That Shri Ram Piara did get the notice is borne out by the fact that in his own letter he did not deny the receipt of it.

In Shri Ram Piara's affidavit (M-8) a suggestion was made in paragraph 25 that as the Dhani land could not be purchased if there were tenants on it, all the tenants were forcibly ejected with the help of Government machinery with the direct connivance and approval of S. Partap Singh Kairon. The allegation is that this alleged illegal eviction took place in 1959. To say that in 1959 when the lands were under the management of the Court of Wards the tenants were forcibly ejected in order that those lands might be purchased by the Government in 1962 for settlement of Harijans thereon is, on the face of it, an absurd proposition and only indicates the length to which personal venom can go.

B. MADHAR KALAN LAND

(v) Charge as formulated

"Similarly, Sardar Harcharan Singh Brar, M.L.A., son-in-law of Sardar Partap Singh Kairon's younger brother and

Shri Brar's son, Manjit Singh were helped in the same manner. Lands of the father and the son, measuring 46 and 19 acres were acquired for a Government seed farm at an expense of Rs. 60,000."

Evidently this charge has wrongly referred to acquisition of land for seed farm. This land was acquired really for resettlement of Harijans.

(vi) Affidavits relating to the charge

In support of this charge the Memorialists rely on the affidavit of Shri Jagannath (M-22) which is countered by the affidavits of Shri H. S. Achereja (CM-58) and S. Partap Singh Kairon (CM-92). Shri Jagannath has filed an affidavit in reply (R-12).

(vii) Discussion of arguments

S. Harcharan Singh Brar is the son-in-law of S. Jaswant Singh, the brother of S. Partap Singh Kairon. It was this gentleman who lent Rs. 20,000 to enable S. Surinder Singh Kairon and his mother to purchase shares in the Amritsar Cooperative Cold Store Ltd. It has also been seen that the wife of this gentleman lent to S. Gurinder Singh Kairon a sum of about Rs. 80,000 or so for purchasing the Saunder's Tank on which Nandan Cinema and Punjab Cold Storage were built. It is said that this purchase of his surplus land was a *quid pro quo* for the services rendered, apart from the natural solicitude for a close relative.

The main points involved in this purchase, namely the legality of the purchase, the propriety of the manner in which the Chief Minister went back on his previous decisions are the same as have already been discussed and as are sufficient to cover this case. Some additional points were urged in this case, namely that the District Land Selection and Purchase Committee did not approve of this purchase, but the Deputy Director, Harijans brushed aside such objection and passed the order himself, that the District Welfare Officer in his letter indicated that the whole of this land was under tenants and that the land was a flood stricken area. There were unprecedented floods in 1956 and a brick kiln licence was granted to S. Harcharan Singh Brar himself but the fact that in that year the lands were flooded does not lead to the conclusion that the land can be called a perpetually flood-stricken area. Likewise if the land was under tenants Harijans could not be settled on it and it is not suggested that Harijans have not in fact been settled on that land. However, it is not necessary to go more minutely into these points.

(viii) Findings of the Commission on both Ramgarh Dhani land and Madhar Kalan land

In the light of the foregoing discussion on the arguments advanced under both the above-named heads the Commission records the following findings—

- (a) That the purchases of the Ramgarh Dhani land and Madhar Kalan land were in violation of the spirit and purport

of the Punjab Security of Land Tenure Act, 1953 and the PEPSU Tenancy and Agricultural Lands Act, 1955 whichever be applicable to such land;

- (b) that the purchases of such lands in disregard of legal opinion and without any amendment of the Acts amounted to a conscious violation of the spirit and purport of those Acts;
 - (c) that the fact that the lands so purchased belonged to close relatives of S. Partap Singh Kairon adds to the gravity of the misdeed;
 - (d) that the manner in which the ban on the purchase of surplus lands of relatives was removed or got over leaves a disagreeable impression of an insidious design carefully prepared and carried out;
 - (e) that the fact that S. Surinder Singh Kairon derived, direct and substantial benefit out of the purchase of the Ramgarh Dhani land indicates that the entire deal was put through for his pressing needs and benefits and heightens the enormity of the misdeed; and
 - (f) that the aforesaid purchases of such lands were effected with the full knowledge and consent of S. Partap Singh Kairon, if not directly at his behest.
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CHAPTER XXII

SEED FARMS

(i) The Charges as framed in the Memorandum

- "(5) Similarly, the other son-in-law of Pavittar Kaur, Sardar Ranjit Singh, S.S.P., was also helped at the expense of the State Exchequer. 50 acres of land were thus purchased and Rs. 50,000 was paid for the deal."
- "(7) Similarly, Narinder Singh, Kirpal Singh and Surat Singh, of village Kulla and near relations of Shri Kairon, were paid Rs. 50,000 at the expense of the State Exchequer for taking over their lands which they would have lost in any case."
- (10) Similarly, Dr. Parkash Kaur, a Deputy Minister was relieved of some 50 acres of land at Rs. 915 per acre, with a view to save her from the rigours of land legislation. Rao Birinder Singh, another Minister of Punjab was similarly helped."

These charges have been picked out of charges 8 and 19(e) of Shri Prabodh Chandra's second charge sheet submitted to the Congress President in August 1960.

(ii) Affidavits relating to these charges

The Memorialists, in the first instance, relied on the affidavit of Shri Jagannath (M-22). In opposition to this affidavit S. Partap Singh Kairon has filed the affidavit of Dr. Amrik Singh Cheema, Director of Agriculture (CM-75). Shri Jagannath has affirmed an affidavit in reply (R-10). Bakshi Jagdev Singh and Bakshi Jagdeep Singh both sons of S. Basakha Singh have, as members of the public, put in two separate affidavits which have been marked P-27 and P-28. These have been dealt with by the counter-affidavit of S. Partap Singh Kairon (CP-46) enclosing an affidavit of Dr. Amrik Singh Cheema.

(iii) Arguments discussed

It will be seen that in the memorandum or in the affidavit of Shri Jagannath there was no allegation of any complicity of S. Partap Singh Kairon with the purchase of lands for the seed farms. It was only in the affidavits of the two Bakshi brothers (P-27 and P-28) that the allegation was made that S. Partap Singh Kairon was prevailed upon to sanction the purchase of the land of S. Ranjeet Singh. It must also be borne in mind that these matters of purchase of seed farms were dealt with at the district level and the papers never came to the Ministers at all.

The scheme of setting up seed farms was a scheme sponsored by the Government of India. It was financed by the Government of

India in this way—that 20 per cent of the expense was given by it to the State Government as loan and the balance of 80 per cent was given to the State Government entirely as a subsidy. The ceiling price of the land to be purchased was fixed by the Government of India which was progressively increased as the market prices of land increased. First the ceiling was Rs. 500/- per acre which was raised first to Rs. 1000/- per acre and then in May 1958 to Rs. 1500/- per acre. The State was required to reach to target of farms to be set up during the year and the allocation for that year would lapse on the expiry of the financial year. The scheme which was introduced long before the date of the impugned purchases also provided that if any land was not available in a particular Block, farms could, in suitable cases, be established in an adjoining Block. In August 1956 and again in October 1957 circulars had been issued to all District Agricultural Officers and Block Development Officers for finding out suitable land for seed farms. There was shortage of suitable land and so what has been called surplus area had to be purchased. This did not displace the tenants, for the scheme was that after purchase the farms would be given to the same tenants who were already on the land on the basis that the State will take 1/3 of the produce as its share and will take the remaining 2/3rd on payment of the price. On October 28, 1957 a circular was issued dispensing with the report of the Chemical Analyst and providing that if on a visual inspection of the officers concerned considered the land to be suitable they did not need to call or to wait for the report of the analyst.

The Commission has been taken through the sections of both the Punjab Security of Land Tenures Act, 1953 and the PEPSU Tenancy and Agricultural Lands Act, 1955 by learned Counsel on both sides. It is not necessary to discuss those provisions in detail. The general view of the Commission as to the propriety or legality of purchase of surplus area has already been expressed in the last preceding chapter XXI dealing with Ramgarh Dhani Land and Madhar Kalan Land. It has, however, to be mentioned that originally under the PEPSU Act there was no restriction on sale of surplus area. There was a large scale sale between October 30, 1956 to July 30, 1958 and consequently on the last mentioned date an Ordinance had to be passed introducing Section 32FF with retrospective effect. The Ordinance was replaced by the amending Act III of 1959. Thus under the PEPSU Act there was no bar to a transfer by a landowner of surplus area before July 30, 1958. It is true that the amendment was made retrospective in its effect but upto July 30, 1958 there was nothing in the Act prohibiting transfer of surplus area.

The first point urged generally was that there was really no shortage of land and the only reason for the apparent shortage was that no proper publicity was given inviting offers for sale. This is wholly untenable in view of the circulars issued in August 1956 and October 1957 to all District Agricultural Officers and Block Development Officers. The Commission sees no reason to doubt the statement of Dr. Cheema that wide publicity had in fact been given.

The second point urged was that the prices paid were exorbitant. The prices paid were generally lower than the price assessed on the usual basis of five years' average. They were certainly within the ceiling fixed by the Government of India.

Reference was made to the haste with which the sales were completed. It was sought to be made out that the sale of the land of S. Ranjeet Singh had been finalised in one day, namely March 31, 1958. That is not so. The offer for sale was made by him in February 1958 and it was completed on March 31, 1958. All the routine procedure had been gone through. On March 27, 1958 the District Agricultural Officer referred the case to the Deputy Director Nabha who made his recommendation to the Director of Agriculture, Chandigarh who on the same day approved of the purchase. It is true that the deed of sale was executed and the price was paid on that very day. It has, however, to be remembered that a target of farms had been fixed and if there was a failure in setting up a farm the money sanctioned by the Government would lapse. In such circumstances the haste is understandable.

It is next asked that in Sangrur Block one seed farm of 26 acres having already been purchased from S. Gurbux Singh why was another farm of 50 acres set up in that Block. The answer is that the scheme permitted that if suitable lands were not available in any particular Block the seed farm that was to have been set up in that Block could be set up in a neighbouring Block. The land bought from S. Ranjeet Singh in Sangrur Block which was on a metalled road served the Blocks of Langwara and Sonam, which bordered on Sangrur Block.

It was said that these lands were included in the surplus area of the respective landowners. So far as S. Ranjeet Singh's lands were concerned they were sold on March 31, 1958, i.e. before Section 32FF was enacted. There is also the contention that S. Ranjeet Singh's land was out of the reserve land of his own and his father. Besides, it has to be borne in mind that in their anxiety to provide good seeds to the cultivators and to avoid the subsidy granted by the Government of India lapsing the Punjab Government had to take prompt steps for setting up seed farms. In fact out of 222 farms not less than 45 seed farms were purchased out of surplus area. When it is remembered that according to the scheme no tenant was to be evicted from the lands so purchased but were to continue, the technical violation of the provisions of the Act need not be emphasised. The ban on the purchase of lands belonging to the Ministers' relatives had not come in before April 1962 and that was in relation to purchases for the settlement of Harijans.

In the case of the land of S. Bahl Singh it was said that the report of the Chemical Examiner was dispensed with. That argument is amply met by the circular of October 28, 1957 already referred to.

Finally, with regard to the lands of Dr. Upkar Singh husband of Dr. Parkash Kaur reference was made to the reports of the District Agricultural Office dated March 18, 1958 and of the Soil Chemist dated March 26, 1958. It is clear from both the reports that the lands were suitable for rice seeds. The Commission is not sitting in appeal from the judgment of the State Government based on the reports available to it .

(iv) The findings

After considering the several arguments canvassed before it the Commission concludes—

- (a) that none of the purchases was vitiated by any personal consideration or bias;
 - (b) that the technical violation, if any, of the Punjab Security of Land Tenures Act 1953 involved in the purchase of surplus area is considerably mitigated by the fact that no tenant has been evicted from any of these lands;
 - (c) that the purchase of the lands of S. Ranjeet Singh having taken place before Section 32FF had been enacted cannot, therefore, be said to be a conscious violation of the PEPSU Act;
 - (d) that there is a contention that the land of S. Ranjeet Singh appertained to reserve area of his family; and
 - (e) that there is no evidence whatever that S. Partap Singh Kairon had in any way exercised any influence on any person in relation to the purchase of these lands.
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CHAPTER XXIII

PURCHASE OF WHEAT SEED

(i) The charge in the Memorandum

“(8) Another act of corrupt dealing was when 3,000 mds. out of a total requirement of 5,429 mds. of wheat seed was purchased from the aforesaid Harcharan Singh Brar at an inflated price for inferior stuff.”

(ii) Affidavits bearing on this charge

The Memorialists' case on this head of their charges rests on the following short paragraph in the affidavit of Shri Jagan Nath (M-22):

“In re: Charge No. 8

That in the year 1956-57 the Government purchased 5,429 maunds of wheat for seed purposes. Out of this total amount 3,000 maunds alone were purchased from Shri Harcharan Singh Brar a close relative of Mr. Partap Singh Kairon, whereas the rest of the requirement of 2,429 maunds was purchased from 19 other parties. It was only after the matter came to public notice and was raised in the Punjab Vidhan Sabha that the Government did not make further purchases from Mr. Harcharan Singh Brar.”

(iii) Discussion on arguments

A perusal of Dr. Amrik Singh Cheema's affidavit (CM-75) will at once show that the major premise on which Shri Jagannath's affidavit (M-22) is founded is incorrect. The total requirement of the State was over 25,000 maunds and not merely 5,429 maunds. With the best of efforts the State could purchase only 11,843 maunds out of which 3,000 maunds were purchased from S. Harcharan Singh Brar. S. Harcharan Singh Brar is undoubtedly related to S. Partap Singh Kairon being the son-in-law of his brother S. Jaswant Singh, but he is also well known as one of the biggest and most progressive farmers in the State. Particulars of quantities of wheat seeds purchased from different persons, firms or societies and the rates of such purchases are set out in detail in paragraph 27 of the affidavit of Dr. Amrik Singh Cheema. The bulk purchases ranged from 660 maunds to 1,425 maunds and the prices from Rs. 14.50 per maund to Rs. 17.8 per maund. The 3,000 maunds of wheat seed purchased from S. Harcharan Singh Brar was so purchased at Rs. 16.4 per maund. In all cases the prices were fixed on the basis of certificates of market rates obtained from the Market Committees concerned. There was no exercise of influence by S. Partap Singh

Kairon. After all what was the profit made by S. Harcharan Singh Brar over the sale of 3,000 maunds of wheat seed? It is absurd to suggest that S. Partap Singh Kairon would waste his influence to secure this paltry profit for his brother's son-in-law. This kind of unsubstantial charge is only indicative of the loss of sense of proportions on the part of those who make such charges.

(iv) Findings of the Commission

The Commission has no hesitation in holding—

- (a) that no favour of any kind was shown to S. Harcharan Singh Brar in the matter of purchase of 3,000 maunds of wheat seed at Rs. 16·25 per maund;
 - (b) that the price so paid was fixed on the basis of the certificates of rates obtained from the Market Committee concerned and compared favourably with the prices paid to other dealers;
 - (c) that the matter was dealt with at the district level and the papers do not appear to have gone to the Secretariat at all; and
 - (d) that there is absolutely no reason to think that S. Partap Singh Kairon exercised any influence on any body in the matter of this purchase.
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CHAPTER XXIV

SARAI NAGA BRICK KILN LICENCE

(i) The charge in the memorandum

“(9) To help Shri Harcharan Singh Brar, further, a brick-kiln licence with extra coal and yielding approximately Rs. 25,000 to Rs. 30,000 was issued.”

This is Charge 19(c) (iii) of Shri Prabodh Chandra's second charge-sheet. There it was stated that the average income of one Brick Kiln ranges from Rs. 500 to Rs. 1,000 per month. In the present memorandum the income has been estimated at Rs. 25,000 to Rs. 30,000 presumably to aggravate the enormity of the charge.

(ii) Affidavits filed on either side

The only evidence by which the charge was sought to be supported in the first instance was the following brief paragraph in the affidavit of Shri Jagan Nath (M-22):

“In re: Charge No. 9—

“That to help Shri Harcharan Singh Brar further, a brick kiln licence with extra coal was issued to him by lottery. The system of granting licence for brick kiln by lottery does not exist anywhere in the country.”

The point of the charge apparently was that the unusual method of allotting a brick kiln was adopted in this case. The charge was based on information derived from official debates of the Punjab Legislature. S. Partap Singh Kairon in his affidavit (CM-99) relies on the affidavit of Shri L. R. Dawar (CM-14). Basing himself on information alleged to have been derived from inspection of the files produced by the Government Shri Jagan Nath has filed an affidavit in reply (R-16) which can by no means be said to be strictly in reply to the affidavit in opposition. It has introduced new matters and made new insinuations which S. Partap Singh Kairon has had no chance to meet. The case has gone through a metamorphosis beyond recognition.

(iii) Arguments advanced

It should be remembered that at the material time S. Partap Singh Kairon was not the Chief Minister. He was the Development Minister but granting of brick kiln licence was not within his portfolio but was with the Civil Supplies Minister. Shri L. R. Dawar says in his affidavit that in December 1955 a circular was issued by the Government to all District Industries Officers on the subject of grant of Emergency Licences of brick kilns for flood affected areas. A copy of that circular is annexed to his affidavit. In clause 2 of that circular it was stated that so far the grant of brick kiln licence was restricted as the quota of slack coal available to the State was inadequate and that as in view of the recent floods additional quota of coal had been

allotted. It was decided to issue additional "Emergency Licences" on a temporary basis. The Government had decided to issue 21 brick kiln licences for the Ferozepur District with a quota of 20 wagons of slack coal per licence. Applications having been invited S. Harcharan Singh Brar applied for a licence for village Sarai Naga which had been affected by flood. A licence was given to him by the District authorities on January 24, 1956 for one year. The point is raised by learned Counsel for the Memorialists that S. Harcharan Singh Brar who held a permanent licence was not eligible for the grant of a temporary licence according to paragraph 6 (ii) of the very circular mentioned above. This is true enough but who says that he already had a permanent licence which will disentitle him from getting a temporary licence? Reference is made by learned Counsel to a letter written by S. Harcharan Singh Brar. That letter, however, refers obviously to the temporary licence he had got and which he wanted to be renewed on a permanent basis and not to any other permanent licence previously held. In fact that temporary Emergency licence was, on the recommendation of the District Food and Civil Supplies Controller, along with three other persons made a permanent licence. As the renewal was by the Government no sanction of the District Magistrate was necessary. So this point is based on a misapprehension and misreading of that letter.

Shri L. R. Dawar has set out in paragraph 21 of his affidavit the details of coal quota allotted to S. Harcharan Singh Brar. It appears from the particulars that between September 1960 to August 1961 eight wagons were supplied to him. Learned Counsel for the Memorialists refers to the application of Shri Harcharan Singh Brar for renewal of the licence made on March 20, 1962 wherein he stated that he had consumed 24 wagons of coal from November 14, 1960 to April 3, 1961. This point was not alleged anywhere, not even in the rejoinder affidavit of Shri Jagan Nath (R-16). Here again the point is the outcome of another misapprehension. In that application Shri Harcharan Singh Brar had said that during the period mentioned he had consumed 24 wagons which does not mean 24 wagons had been supplied to him during that period. The consumption during that period may well have been out of his accumulated stock. Consumption during a particular period need not be out of the quota for that period. Thus both the points are without any substance.

(iv) Findings arrived at

The facts are clear enough and do not support any of the criticisms advanced during argument which jettisoned the original complaint of lottery as unsustainable. The two newly discovered points are not at all well founded. The findings of the Commission are—

- (a) that there was no impropriety in allotting to S. Harcharan Singh Brar an emergency licence for a brick kiln at Sarai Naga which had been badly affected by flood;
 - (b) that there was no impropriety for converting this temporary licence into a permanent one to meet the pressing needs of the locality; and
 - (c) that there is not an iota of evidence that S. Partap Singh Kairon had exercised any influence on anybody in the matter of this brick kiln licence.
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CHAPTER XXV

NEPOTISM AND FAVOURITISM

(i) The charge

In the memorandum there is no charge of nepotism or favouritism. Learned Counsel appearing for the Memorialists, however, contended, rather feebly, that the opening sentence of the memorandum relating to "misdeeds and blatant acts of corruption and gross misrule of the present Chief Minister" will cover a multitude of sins. Finding that the stand may be rather shaky learned Counsel switched on to Charge 11 of the memorandum and contended, as he was entitled to do, that the charge-sheet of Shri Prabodh Chandra in 1960 that had been annexed to the memorandum became by reference a part of it and he was entitled to rely on it as making the charge of nepotism and favouritism admissible as an item for investigation by the Commission. He referred to Charges 13 to 17 of that annexure which grouped together various cases under different captions therein mentioned. In actual argument, however, he confined himself to two cases, namely, that of S. Harbans Singh Doabia and of S. Kartar Singh Chaddah under Charge 13 (Nepotism and Favouritism) and added two more cases of S. Dilbagh Singh and S. Mohinder Singh Pannu as further instances of nepotism and favouritism.

(ii) Affidavits bearing on this charge

In support of this charge the principal affidavit filed on behalf of the Memorialists is that of S. Kartar Singh (M-19). A large number of affidavits were filed by members of the public—about 25 in number but as the argument was confined only to the four cases referred to in the affidavit of S. Kartar Singh (M-19) it will not be necessary to refer to the other affidavits. On behalf of S. Partap Singh Kairon many counter-affidavits have been filed and it will be sufficient to consider those affirmed by him and Shri A. N. Kashyap, I.A.S., Home Secretary (CM-66), S. Hardev Singh Chhina, I.A.S., Secretary Labour (CM-72), S. Jagjit Singh, Legal Remembrancer (CM-73) and Shri Balmukund, Deputy Secretary, Rehabilitation Department (CM-81). A rejoinder was filed by S. Kartar Singh (R-3).

(iii) Discussion on the evidence and arguments

It will be convenient to take up the individual cases separately and deal with the evidence and arguments relating to each.

A. RE: S. HARBANS SINGH DOABIA

In Annexure I under Charge 13 the charge relating to S. Harbans Singh Doabia has been thus formulated:

“Harbans Singh Doabia who conducted election petition and private work of Partap Singh has been rewarded with the appointment of Additional Advocate General unknown even to the Constitution. It is not known whether Government of India approved of this appointment and it would be of interest to know the circumstances in which the Finance Department sanctioned or did not sanction the appointment.”

In argument, however, fresh objections were introduced to lend colour to the charge. The first ground was, of course, that the appointment of S. Harbans Singh Doabia was not on merit but was made as a reward for services rendered by him as advocate to the Chief Minister. It is clear on the affidavits that S. Harbans Singh Doabia was, at the date of his appointment, an advocate of about 30 years' standing and a reputed author on Election Laws. One of the Assistant Advocates General was due to retire on January 24, 1959 and so to cope with the work, the Advocate General recommended S. Harbans Singh Doabia by name for appointment as Deputy Advocate General on pay and other terms contained in his letter No. 633/E/A.G. dated January 17, 1959. S. Harbans Singh Doabia was not agreeable to the designation of Deputy Advocate General and so the then Legal Remembrancer suggested that the designation be altered to Additional Advocate General, the pay and other terms remaining the same. A reference was made to the Public Service Commission for exclusion of the post of Additional Advocate General from their purview as were the posts of Senior Deputy Advocate General and Assistant Advocate General. The Public Service Commission having agreed to such exclusion the question of creation of a post of Additional Advocate General was considered and approved by the Cabinet and thereafter S. Harbans Singh Doabia was appointed to that post. No Cabinet sanction to the actual appointment was necessary under the Rules of Business. The Constitution of India provides for the appointment of an Advocate General for each State. S. Harbans Singh Doabia has not been appointed Advocate General and cannot and does not exercise any right or perform any duty, constitutional or statutory, conferred or imposed on an Advocate General. There is no bar anywhere in the Constitution to the appointment of a Deputy or Assistant Advocate General. An Additional Advocate General was nothing more than an additional State Law Officer attached to the office of the Advocate General. A new point was raised that the claims of Shri Lachhman Dass Kaushal were overlooked. In the first place a direct recruitment from outside to a newly created senior post cannot be said to be a supercession of any officer holding a junior post. Further Shri Kaushal who had been appointed for a definite term was then anxious to go back to private practice and in fact did so and stayed out for about a year, though later on he came back on a higher remuneration than he was getting previously and he did so knowing that S. Harbans Singh Doabia had been appointed as the Additional Advocate General. The

fact that S. Harbans Singh Doabia was engaged as a counsel in an election case of S. Partap Singh Kairon cannot possibly be a disqualification for S. Harbans Singh Doabia for appointment. On the contrary the work he did as advocate for the Chief Minister may well have impressed the latter with his merit as advocate and so when the proposal came from the Advocate General who is now adorning the Supreme Court Bench for appointing S. Harbans Singh Doabia it was quite natural for the Chief Minister to readily agree with the Advocate General.

B. RE: S. KARTAR SINGH CHADHA

Shri Balmukund says that the State Government at first proposed to appoint Shri Pritam Singh Jain, a sub-Judge, as the State Competent Officer. Shri Jain was then engaged in the Bhakra Nangal Inquiry and could not be immediately available. So the High Court was requested to spare the services of S. Ram Singh Bindra, a senior sub-judge. The High Court did not agree. The work of the Department was suffering. The State Government approached the Government of India to permit Shri S. N. Vasudeva, I.A.S., Additional Custodian, Punjab to act as the State Competent Officer until a regular appointment was made. The Government of India having given the permission Shri Vasudeva was on August 20, 1958 appointed to act as State Competent Authority in addition to his duties. In the meantime the High Court intimated that Shri Jain was no longer interested for appointment to the post and recommended S. Kartar Singh Chadha, District and Sessions Judge, Hissar for appointment to the post. The State Government thereupon appointed him to the post from October 17, 1958. The State Government did not ask for the appointment of S. Kartar Singh Chadha but suggested the name of S. Ram Singh Bindra and, therefore, there can be no question of giving any reward for any services rendered by him to the Chief Minister. Later on it was found that the work of the department had decreased and so the Government of India suggested in November 1959 that the post need not continue any longer. Accordingly a month's notice was served on S. Kartar Singh Chadha on January 11, 1960. The notice expired on February 10, 1960. The original term of his appointment was due to expire on or about February 20, 1960. Instead of disturbing the arrangement S. Kartar Singh Chadha was allowed to continue until February 20, 1960 and not for six weeks as stated by S. Kartar Singh in his rejoinder affidavit (R-3). The order of the Chief Minister was obviously reasonable and no special favour was shown to S. Kartar Singh Chadha. Nor can any exception be taken to his appointment as Presiding Officer, Labour Court, Jullundur. The position has been fully explained by S. Hardev Singh Chhina in his counter-affidavit (CM-72). It is clear from that affidavit that before that appointment had been made the names of Sarvshri Amrit Lal Rai, Kartar Singh Chadha and S. Manohar Singh were considered on the basis of their service record.

C. RE: S. DILBAGH SINGH

Learned Counsel for the Memorialists contended that in this case also it was decided that S. Dilbagh Singh would be appointed as a reward for services rendered in the election case of Chaudhury

Amar Singh and then a post of Additional Public Prosecutor was created and then he was actually appointed on a fat salary. The submissions are made on wrong premises. S. Dilbagh Singh was the senior-most advocate in the list of approved advocates maintained by the State. On September 8, 1956 S. Dilbagh Singh was appointed the Public Prosecutor on probation on a retainer of Rs. 400/- per month. It was a routine appointment. S. Sardul Singh who was then the Public Prosecutor of Hoshiarpur did not like to shift and so between September 25, 1956 to November 11, 1956 there were two Public Prosecutors at Hoshiarpur. To regularise the position an additional post of Public Prosecutor had to be created and on November 19, 1956 S. Dilbagh Singh was shifted to District Kangra. So this creation of the post of Additional Public Prosecutor was really to accommodate S. Sardul Singh and not S. Dilbagh Singh. Some comment was made as to the identity of this gentleman for the name appearing in his Matriculation Certificate was shown as 'Kartar Singh Muztar'. File No.1(19)PP of the Law & Legislative Department on the basis of which S. Kartar Singh in his Rejoinder affidavit (R-3) has for the first time raised this question of identity will itself reveal that there are documents showing that the gentleman had actually changed his name.

D. RE: S. MOHINDER SINGH PANNU

Except the bare fact that S. Mohinder Singh Pannu had been a member of the Election Tribunal trying the Election petition of Chaudhury Amar Singh, learned Counsel did not suggest anything wrong in his conduct as a member of that Tribunal. The objections taken by him appear to have been founded on complete misapprehension as to facts. According to the usual procedure the Government may make an appointment for three months without consulting the Public Service Commission but has to get the sanction of that Commission if the appointment is to go beyond that period. In this case reference was made to the Public Service Commission within the three months and the approval was duly accorded. It is equally wrong to say that in the matter of this appointment the Advocate General and the legal Remembrancer had been bye-passed. The demi-official letter dated November 27, 1957 written to the Accountant General, Simla, by the then Legal Remembrancer (Shri Shamsheer Bahadur) who is now a Puisne Judge of the Punjab High Court, a copy of which has been produced by learned Counsel for S. Partap Singh Kairon shows that the appointment had been made with the approval of himself and the Advocate General. Shri Har Parshad was one of the Assistant Advocates General. He was due to retire in early January 1955 but was given an extension for two years. If that extension had not been given then S. Mahinder Singh Pannu would surely have been considered for the post then. It is entirely wrong to say that S. Mahinder Singh Pannu has been given a big jump in salary from Rs. 400/- to Rs. 1500/-. The fact is that before his appointment to the Anti-Corruption Department S. Mahinder Singh Pannu was a Public Prosecutor with a retainer of Rs. 900/- and Rs. 100/- as D.A. besides the income he made from civil practice which was not inconsiderable. Therefore, the appointment did not mean a big lift in his income at all. At one time the decision was taken that Shri Raghu Nath Singh would be appointed to

the post of Public Prosecutor, but before the actual appointment had been made the Cabinet decided in May 1956 that the services of a really good advocate should be secured on a salary of Rs. 1500|- per month with the status of Adviser-cum-Assistant Advocate General. The post was offered to Shri Har Parshad but he declined to accept it on a salary of Rs. 1500|- per month. There was a proposal also to offer him more liberal terms, as noted by Shri N. K. Mukherji but Shri R. P. Kapur the then Home Secretary did not favour the idea which was accordingly dropped. The Secretary, Anti-Corruption Department (Shri N. K. Mukherjee) suggested that S. Mahinder Singh Pannu be appointed on a consolidated salary of Rs. 1500|- per month. To this the Chief Minister agreed on June 30, 1956, and the Finance Department concurred on July 10, 1956 and suggested that the existing post of Public Prosecutor should be kept in abeyance and a post of Adviser-cum-Assistant Advocate General with a fixed salary of Rs. 1500|- should be created. All these facts appear on File No. 18VB II of which the Memorialists have had inspection. Thus it is clear that when the decision to create this post was taken S. Mahinder Singh Pannu was not in the picture and Shri Har Parshad was intended to be persuaded to take it up.

(i) Findings of the Commission

It will follow from the foregoing discussions that the arguments advanced by learned Counsel for the Memorialists on this charge must be rejected as purely speculative and it must be held that on the evidence none of these four cases of appointment has been shown to be tainted with nepotism or favouritism.

CHAPTER XXVI

SANDHU BUS SERVICE

(i) Formulation of the Charge

The charge pertaining to Sandhu Bus Service is not one of the charges specifically made by the Memorialists in their memorandum presented to the President of India. Charge No. 11 of that memorandum, however, refers to what has been described as Annexure I thereto. This Annexure I is the second charge-sheet presented by Shri Prabodh Chandra to the Congress High Command in August 1960. In that charge-sheet, the charge is thus formulated:

"Sandhu Bus Service, Amritsar, is a concern of the close relatives of S. Partap Singh Kairon. In view of the patronage and protection it enjoys from Shri Partap Singh Kairon, it has defrauded the public exchequer to the extent of several thousands, and for the last three years this transport company is the solitary transport company which affixes no excise stamps on the bus tickets, does so in broad day light and is able to get away with it. There are about seventy excise cases against it, but the hand of law has been helpless."

(ii) Facts that emerge out of the affidavits and official files

In support of the charge two affidavits were filed in the first instance, namely one by Shri Dharnam Singh Rathi (M-10) and the other by Shri Gurcharan Singh, M.L.A. (M-11). These two affidavits are word for word the same. Paragraphs 1-4 of these affidavits are set out below:

- "1. That Sandhu Bus Service of Amritsar is a concern owned by the close relatives of Kairon Family.
- "2. This concern enjoys the patronage and protection of the Chief Minister. The concern has been running its Buses without affixing Excise Stamps on the Bus Tickets issued by it and thus has defrauded the public exchequer of huge sum of money.
3. That Master Waryam Singh, village Sultan Wind, Amritsar, who was then M.L.A. raised the question of Sandhu Bus Service on the floor of the Punjab Vidhan Sabha and as a result thereby the Government was compelled to prosecute this concern. The concern, however, was let off with nominal punishment.
4. In contrast another Transport Co. named the Moga Bus Transport Co., was similarly prosecuted in only a few challans and was awarded heavy punishment so much so

that the permits granted to the concern were altogether cancelled and its entire business ruined. This concern as a result thereby suffered losses running into lakhs."

In paragraph 5 reference is made to certain records where, it is alleged, materials in support of the allegations in the earlier paragraphs would be found. Learned Counsel for S. Partap Singh Kairon has, with considerable justification, severely criticised the verification in both the affidavits which are identical in language. Shortly put all the foregoing allegations in paragraphs 1 to 4 are said to be based on information received by both deponents from Shri Waryam Singh, Ex-M.L.A., Punjab, and the very records mentioned by both of them in paragraph 5 of their respective affidavits. In other words, the verification by both the deponents implies that they had seen those records but neither of them set out or refer to any particular fact which, according to them, is to be found in any of those records. Shri Waryam Singh, Ex-M.L.A., has not made any affidavit on this topic of Sandhu Bus Service. Neither of the deponents claims any personal knowledge of those allegations.

Affidavits in opposition to these supporting affidavits affirmed by S. Partap Singh (CM-91), S. Daljeet Singh, I.A.S., Excise and Taxation Commissioner (CM-15) and Shri S. C. Chhabra, I.A.S., Provincial Transport Controller (CM-59) have been filed on behalf of S. Partap Singh Kairon. An affidavit in reply affirmed by Shri Gurcharan Singh (R-6) has been filed on behalf of the Memorialists. Reference will be made to these affidavits as and when necessary.

At the hearing learned Counsel for the Memorialists began his address by saying that the Sandhu Bus Service had been doing its business in a normal way but as soon as a matrimonial relationship was established between the family of S. Partap Singh Kairon and the proprietors of Sandhu Bus Service, the latter immediately developed a complete disregard for law and adopted a policy of systematically defrauding the public exchequer. Its conduct, it was urged, showed that it behaved in that way because it was sure that the arms of law could not reach them and it could, with impunity, violate the law of the land. The attention of the Commission was drawn to the order made on June 17, 1961 by Shri P. N. Sahni, the then State Transport Commissioner, Punjab, which is set out in the affidavit in reply of S. Gurcharan Singh (R-6). The order is so emphatic and so explicit that it will bear a reproduction of it in full:

"ORDER

No. 10952/T, dated Chandigarh, the 17th June, 1961.

For sometime past there have been repeated and persistent complaints against the management of the Sandhu Bus Service for:—

- (i) Irregular operation of services.
- (ii) Operation of vehicles not equipped with route permits contrary to provisions of section 42/59 of the Motor Vehicles Act.

- (iii) Non-payment of tax and non-display of tax token.
- (iv) Habitual and continued realisation of passenger tax from the passengers and its non-payment to the Government through evasion to put adhesive stamps on the tickets, thereby resorting to embezzlement of legitimate resources of the State and thus excess charging.
- (v) Discourtesy towards passengers.

Several of these complaints having been referred to the Regional Transport Authority from time to time for action were yet under consideration when the Regional Transport Authorities were superseded. The latest reports from the Mobile Traffic Staff confirm persistent contravention of Motor Vehicles Act and Rules in so far as:—

- (i) 296 tickets were collected during the course of a single day where passenger tax had been charged but no adhesive stamps were affixed. Besides offending against the passenger and Goods Taxation Act it also tentamounts to over charging and mis-appropriation of Government funds.
- (ii) Fourteen out of their fleet of 20 buses were found to be operating without any documents like Registration Certificate, Route Permit, Fitness Certificate etc. Likewise, 15 drivers and conductors were not equipped with their licences.
- (iii) Contrary to legal requirements as provided in section 48 of the Act, no time tables were displayed in 14 out of their fleet of 20 vehicles.
- (iv) 11 of the buses were found to be operating without the tax having been paid or token displayed thereon.
- (v) In utter violation of section 42/59, unauthorised buses were found operating on Amritsar-Hariker route.

All this denotes a very sad state of affairs. The management, it seems, is acting with complete impunity with no respect for law and regulations. They are not only depriving the Government of its lawful revenues, they are also undermining authority and denying requisite trouble free smooth standard of service to the public, the trade and the industry through a deterioration in the road system. Such a state of affairs cannot be allowed to continue for the interest of the travelling public and the public exchequer allowed to suffer, or violations of Act and Rules allowed to go unchecked.

As, apart from any offences under the Passenger and Goods Taxation Act or the Indian Penal Code, these also involve violations of the Indian Motor Vehicles Act, I, P. N.

Sahni, State Transport Commissioner, Punjab in exercise of the powers conferred on me,—*vide* Punjab Government notification No. 3227-HT-61, dated 7th June, 1961, hereby suspend with immediate effect all the stage carriage permits held by the Sandhu Bus Service or its successors, i.e., Sandhu Roadways (P) Ltd., and Sandhu Transport Co (P) Ltd., under section 60 of the Motor Vehicles Act for breach of conditions specified in sub-section 3 of section 59 and for allowing their vehicles to be utilised in a manner not authorised by the permit.

A notice is issued to Sandhu Bus Service or its successors, namely, Sandhu Roadways (P) Ltd., and Sandhu Transport Co. (P) Ltd., to show cause in writing within a period of 3 weeks from the date of this order as to why for these various irregularities and illegalities their permits should not be cancelled. In addition, if they so desire, they should appear before the State Transport Commissioner, Punjab, on 20th July, 1961, to represent their case personally or through an authorised agent.

As required under rules 4.32 of the Punjab Motor Vehicles Rules, 1940, the Company shall surrender all its permits to the Secretary, Regional Transport Authority, Jullundur.

(Sd.) P. N. SAHNI,

State Transport Commissioner, Punjab.

Copies of the order were forwarded to all other concerned authorities. Reference was also made by learned Counsel for the Memorialists to the two assessment orders for 1959-60 and 1960-61 made by Shri Madan Lal on September 8, 1961. On the basis of his inquiries and under section 6(4) of the Punjab Passengers and Goods Taxation Act, 1952, Shri Madan Lal assessed the Sandhu Bus Service to Rs. 84,008.59 nP. and Rs. 77,037.45 nP. for the said two years respectively. Very hard words were used by Shri Madan Lal against the Sandhu Bus Service regarding its unlawful activities and systematic evasion of payment of tax and so forth. Learned Counsel submitted that all these misdeeds were committed by Sandhu Bus Service because of the close relationship of its proprietors with S. Partap Singh Kairon who had full knowledge thereof and encouraged the same. The position has to be examined a little more closely.

In the two supporting affidavits (M-10 and M-11) it was simply stated by the deponents that "Sandhu Bus Service of Amritsar is a concern owned by the close relatives of Kairon family". What that relationship was and when it started was not mentioned. In paragraph 9 of the affidavit (CM-15) Shri Daljeet Singh, the Excise and Taxation Commissioner has given the names of the Directors and shareholders of Sandhu Bus Service as registered under the Punjab Passenger Taxation Act, 1952:

"(1) Shri Hazara Singh, son of Shri Tara Singh, Chak Karori,
—Managing Director.

- (2) Shri Basant Singh, son of Shri Tara Singh—Cashier and Director.
- (3) Shri Sarvdeep Singh, son of Shri Hazara Singh—Secretary.
- (4) Shri Hardeep Singh.
- (5) Shri Tahal Singh, son of Shri Sunder Singh, Tarn Taran.
- (6) Shri Sunder Singh.
- (7) Shri Sant Singh, Amritsar.”

In Paragraph 10 he says that he is not aware that any of the persons mentioned in para 9 above is in any way related to S. Pratap Singh Kairon. The deponents of the two initial affidavits (M-10 and M-11) in support of the charge did not say what the relationship was. Indeed they have no personal knowledge about it at all. In his affidavit (CM-91), S. Pratap Singh Kairon after giving some particulars showing that both the deponents were inimically disposed towards him said that “about 2 years ago my nephew (younger brother's son) was engaged to the daughter of one of the shareholders of the Company”. This shareholder, the Commission was told during the argument, was S. Basant Singh. When did the engagement take place? This affidavit was affirmed by S. Pratap Singh Kairon in December 1963 and, therefore, the relationship, according to him, began about December 1961. Learned Counsel for the Memorialists, however, said, in course of arguments, that it was in 1959/60. It is not clear where he got the date from. If the relationship started in 1959/60 then it is obvious that it had no effect whatever on the Government servants—Shri P. N. Sahni or Shri Madan Lal—who had to deal with the affairs of Sandhu Bus Service. The severe language used by both those officers in their orders dated June 17, 1961 and September 8, 1961 referred to above clearly negative the suggestion of influence or misuse of power put forward by learned Counsel for the Memorialists. If the relationship began in December 1961, the Memorialists have placed before the Commission no evidence of any misconduct on the part of Sandhu Bus Service after that date. All allegations of misconduct relied on by him are gathered from the orders of Shri P. N. Sahni and Shri Madan Lal and the entries in files made before December 1961. Further, it is highly improbable and almost incredible that because of the engagement of his nephew with the daughter of one of the seven shareholders of the Sandhu Bus Service S. Pratap Singh Kairon would exert his influence on the Government servants in the way he is alleged by learned Counsel for the Memorialists to have done. It has been said that S. Basant Singh is the real brother of S. Hazara Singh and the other shareholders are closely related to them. Nothing is said about it in the affidavits at all. The Commission is not at all satisfied, on the evidence before it, that any of the Government servants and particularly S. Daljeet Singh or Shri S. C. Chhabra who had to deal with the Sandhu Bus Service showed any favour to it or connived at its misdeeds or that S. Pratap Singh Kairon had extended any patronage to it.

An attempt was made to establish a link between S. Pratap Singh Kairon and Shri P. N. Sahni in relation to the Sandhu Bus Service. It will be recalled that Shri P. N. Sahni by his order dated June 17,

1961 ordered that a notice be issued to Sandhu Bus Service or its successors to show cause in writing within 3 weeks from that date as to why, for their various irregularities and illegalities, their permits should not be cancelled and that they, should they so desire, should appear before him on July 20, 1961 to represent their case personally or through an authorised agent and that in the meantime, with immediate effect, all the stage carriage permits held by Sandhu Bus Service or its successors should remain suspended for breach of conditions specified in sub-section (3) of Section 59 of the Motor Vehicles Act. There is no illegality or impropriety in the passing of an interim order of suspension pending the final determination of the proceedings for cancellation. On July 15, 1961, i.e., five days before the returnable date, the Managing Directors of the successors of the Sandhu Bus Service appeared before Shri P. N. Sahni and filed a petition admitting that they had committed irregularities and praying for being excused and for permission to resume their work. On July 17, 1961 Shri P. N. Sahni taking the view that the punishment already suffered by reason of the interim suspension of permits was sufficient cancelled the notice that had been issued and dropped the proceedings and directed that the company's conduct should be closely watched so that if any future irregularity was found action should be taken against them. Copy of that order was forwarded to the Secretary, Regional Transport Authority, Jullundur and the Assistant Inspector General of Police, Traffic Branch. That application of the company for forgiveness is to be found at page 13 of File No. 1177/73/63 of which, along with other relevant files, the learned Counsel for the Memorialists had inspection. It appears that the paper containing that application was torn to bits but was reassembled and pasted on another sheet and is now in that reconstructed condition. This aroused the suspicion of the Memorialists and in the affidavit in reply (R-6) affirmed by Shri Gurcharan Singh, the deponent has put forward an explanation which had better be stated in his own language.—

“I say that the only plausible explanation for this reconstructed document found as P.13 of the aforesaid file is that the Managing Directors of the Sandhu Roadways and the Sandhu Transport called on the P.T.C. on or about the 15th July 1961, and there was a row between them and the P.T.C. when the said officer refused to accept the written assurance of their future good behaviour submitted by the said two Managing Directors. The aforesaid two Managing Directors seemed to have been piqued and snatched their written assurance, tore it to bits and threw it definitely on the face of the Provincial Transport Controller, Punjab, to show their contempt for his person and authority. I say that the Managing Directors thereupon went straight to S. Partap Singh Kairon, the Chief Minister, who directed the P.T.C. to reconstitute the torn bits back into the document that it was and further directed the P.T.C. to pass orders on the same after he had reconstituted it as directed by the Chief Minister. I say that all the bits could not be recovered by the P.T.C. and he had to suffer to pass orders on the reconstructed document which, as it is now found as P.13 on the file is not even properly addressed to him.”

It is needless to say that the foregoing allegations being in an affidavit in reply, S. Partap Singh Kairon had no opportunity to explain or deal with them. The allegations appear to the Commission to be grotesque and not worthy of serious consideration. It proceeds on the assumption that the table or floor or the waste paper basket in the office room of Shri P. N. Sahni are not dusted, swept or cleared and that the torn bits of papers were lying there and he picked them up when two days later he received the alleged instruction from S. Partap Singh Kairon. Shri P. N. Sahni could easily have made his order without collecting the torn bits and stating simply that the Managing Director had come and applied for forgiveness and he was dropping the proceedings. If S. Partap Singh Kairon was actually interfering in the way he is alleged to have done he could easily cause a fresh application or a copy of the old application being sent to Shri P. N. Sahni. The allegations do not appear to the Commission to have even the merit of plausibility and must be rejected as wholly unworthy of credence.

Another point urged by learned Counsel for the Memorialists was that Shri P. N. Sahni had no jurisdiction to make the order of July 17, 1961 because an appeal from his order dated June 17, 1961 was pending before the Financial Commissioner who might not have been amenable to the influence of S. Partap Singh Kairon. This argument is based on a misconception of the legal position. Under Section 64 of the Motor Vehicles Act an appeal lay to the prescribed authority and Rule 4.37 prescribed the State Government as the appellate authority. The appeal was against the interim order of suspension and Shri P. N. Sahni had seisin of the matter relating to the show cause proceedings for cancellation. A perusal of Section 60(3) will show that it had no application as the stage contemplated by that section had not arrived.

The last point argued by learned Counsel for the Memorialists was that Sandhu Bus Service had been leniently dealt with as compared to the very harsh treatment meted out to Moga Transport Company. It has been said that this discrimination was due to the interest taken by S. Partap Singh Kairon in Sandhu Bus Service because of the alleged relationship. As the Commission does not accept the case of the alleged patronage extended by S. Partap Singh Kairon to Sandhu Bus Service because of the alleged relationship, this question merits no further consideration. Further there is nothing to show that Moga Transport Company was treated differently in any way. When different officers deal with different cases, there is bound to be some difference in their respective approaches. The affidavit of Shri S. C. Chhabra (CM-59) shows the serious nature of the complaints that had been received against Moga Transport Company.

It was faintly suggested that the authorities woke up after editorials had been issued in the vernacular newspaper "Prabhat" in its issues of June 24 and 25, 1961. This argument is not well founded on facts for it will be noticed that the order of Shri Sahni suspending the permits of Sandhu Bus Service had already been passed on June 17, 1961. It was also hinted that favouritism was shown to Sandhu Bus Service in that prompt steps were not taken

for realising the assessed taxes from them. This argument is equally untenable for the affidavit of S. Daljeet Singh shows that although many cases numbering about one thousand had been started against Sandhu Bus Service and that various additional demands were made on it after assessment, the assessed taxes could not be promptly realised and the delay in the realisation of the assessed taxes was due to the prohibitory orders issued by the High Court.

(iii) Findings on facts

In the light of the discussion in the preceding section, the Commission has no hesitation in holding—

- (a) that Sandhu Bus Service or its successors in business have not been shown to have been treated leniently in respect of its delinquencies;
 - (b) that the orders of Shri P. N. Sahni and Shri Madan Lal strongly condemning the conduct of the Sandhu Bus Service or their successors clearly militate against any theory of favouritism shown to them;
 - (c) that the engagement of S. Partap Singh Kairon's nephew with the daughter of one of the seven shareholders or Directors of the Sandhu Bus Service was not such a relationship as would warrant any inference of favouritism in favour of that concern or its successors;
 - (d) that no lenient treatment has been shown to have been meted out to Sandhu Bus Service due to the relationship referred to above;
 - (e) that no evidence has been led to show that any irregularity or illegality had been committed by Sandhu Bus Service after December 1961 when the aforesaid engagement took place accordingly to S. Partap Singh Kairon;
 - (f) that the story set up by the Memorialists for establishing a connection between S. Partap Singh Kairon and the dropping of the proceedings for cancellation of the permits of Sandhu Bus Service and its successors founded on the reconstruction of the torn pieces of their application is a clumsy fabrication invented with an ulterior purpose and is entirely misconceived;
 - (g) that there is no evidence to show that the Moga Transport Company was dealt with harshly or otherwise than in due course of law; and
 - (h) that S. Partap Singh Kairon has not been shown to have taken any interest in the matter of Sandhu Bus Service at any stage.
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CHAPTER XXVII

ALLEGED ABUSE OF NATIONAL EMERGENCY

A. APPOINTMENT OF ADDITIONAL COMMISSIONERS AND DEPUTY COMMISSIONERS

(i) The charge in the Memorandum

“(12) In the guise of National Emergency, Sardar Partap Singh Kairon has taken advantage and exploited the present situation for creation of certain high ranking posts as also to practically double the number of Commissioners and Deputy Commissioners in the State merely to accommodate his personal favourites and henchmen. Rather than serving the National cause by economising to the maximum possible extent and when emphasis are rightly laid on economy on all fronts, Sardar Partap Singh Kairon, has, however done the reverse and improperly utilised public funds.”

(ii) Affidavits filed on this charge

In support of this charge the Memorialists rely on the affidavit of Shri Ajit Kumar (M-17) which runs thus:

“In Re: Charge No. 12 of Memorandum—

That immediately after the declaration of emergency Sardar Partap Singh Kairon reduced the number of Ministers in Punjab as a stunt to win public acclaim. But the farcical nature of the whole thing became evident when the number of Commissioners and Deputy Commissioners was doubled. Mr. Partap Singh Kairon also appointed about a dozen personal advisers who were entitled to various allowances thus putting an unnecessary burden on the State exchequer. These steps were designed to accommodate and benefit personal friends and favourites. Against these steps there was a great hue and cry in press and in public as well as on floor of national and state legislatures. Mr. Kairon had therefore to reduce the number of Deputy Commissioners and disband his personal advisers who were in existence without any constitutional justification.”

This is countered by Shri G. S. Kahlon, I.C.S., Chief Secretary (CM-65) and by S. Partap Singh Kairon (CM-94). No rejoinder has been filed by anybody on this charge.

(iii) Discussion on affidavits

It will be observed that the charge as formulated was extremely vague and devoid of particulars. The affidavit of Shri Ajit Kumar (M-17) is equally vague and unsatisfactory both regarding its contents and its verification. Not a single name of any personal friend of the Chief Minister who is alleged to have been favoured has been vouchsafed. Shri G. S. Kahlon has explained the matter fully. The 16 posts of Additional Deputy Commissioners and one post of Additional Commissioner were created to relieve the regular permanent Deputy Commissioners of their routine work so that they could concentrate on defence work. These were created before reduction of the number of Ministers. The number of Additional Deputy Commissioners was in August 1963 reduced from 16 to 8. Eleven Personal Advisers were appointed for undertaking intensive propaganda for defence efforts. These were all honorary appointments and did not impose any burden on the State. As later on some of them wanted to be relieved, all the 11 posts were cancelled. In the circumstances it is no wonder that no rejoinder was filed by the Memorialists and the matter has not been pressed in argument.

Charge 13 having been abandoned the Commission takes up Charge 14.

B. WEIGHMENT OF THE PRIME MINISTER IN GOLD**(iv) The charge in the Memorandum**

“(14) The recent weighment of Prime Minister Nehru in gold was only a rush to help him keep and maintain his cheap popularity and to show off that he is instrumental in contributing enormously to the emergency whereas it is smuggled gold converted to ‘white’.”

(v) Affidavits relating to the charge

The charge hangs on the affidavit of Shri Ajit Kumar (M-17) who says—

“Charge No. 14 of the Memorandum—

That after the declaration of emergency Mr. Partap Singh Kairon arranged the weighing of the Prime Minister Nehru in gold. This step was designed to win cheap popularity and to show that Mr. Kairon was instrumental in contributing enormously to the Emergency. Pandit Nehru was visibly convinced as shown by his note of recommendation to the President of India for the appointment of the Commission wherein he has given *ex parte* verdict in favour of Mr. Kairon. Mr. Kairon, however, has never rendered any public account in spite of insistent public demands of the collection of funds and gold sources of their contribution. It is well

known that at Amritsar there is lot of smuggled gold with smugglers who were provided with golden opportunity to turn the smuggled gold into 'white'."

The following affidavits in opposition are relevant, namely, that of Shri P. N. Bhalla (CM-67), Shri G. S. Kahlon (CM-68) and S. Par-tap Singh Kairon (CM-94). An affidavit in reply has been filed not by Shri Ajit Kumar but by Shri Jagan Nath (R-37).

(vi) Discussion on the evidence

The Memorialists case is that the Prime Minister was weighed in smuggled gold. The fact is that there was no actual weighment but gold of the weight of the Prime Minister's known weight was presented to him and he made over the same to the authorities to be deposited in the State Bank to the credit of the State. There were two such notional weighments on the Prime Minister's birthday on November 14, 1962, one at Amritsar and the other at Chandigarh. In Amritsar 64,227.760 grams of gold was contributed by the public in the shape of ornaments and according to Shri P. N. Bhalla, the Deputy Commissioner, Amritsar a list of donors was maintained. He says that no pressure was put on any one but contributions in kind came in by driblets. It is said that the list is not correct. Why it is not correct is not disclosed. It is said that not a single receipt was given to the donors for their contribution of gold. But who says that? Neither of the two deponents does in their respective affidavits (M-17 or R-37). It is said they bought the gold from smugglers. The donors presented gold in the shape of petty ornaments. To accept the learned Counsel's argument will mean that the donors purchased the gold from the smugglers, got ornaments prepared and then donated the same. It would have been easier for the donors to donate their mite in cash. If they purchased smuggled gold long ago the Chief Minister cannot be blamed. As regards the Chandigarh weighment on December 14, 1962, Shri G. S. Kahlon says in his affidavit (CM-68) that on that date 64,676.5 grams were presented to the Prime Minister out of which 61,938 grams were purchased from the Patiala Treasury and 420.5 grams were purchased from the Sangrur Treasury and the balance of 2318 grams was contributed by the public. The file flag 'P' shows that 61,938 grams came from Chandigarh out of which 49,088 grams consisted of old coins and 2063 came from the public contribution in kind. It also shows that 420.5 grams came from the Sangrur Treasury. In answer to Question No. 2678 put by S. Piara Singh the answer given was that upto February 18, 1963, 1,72,921 grams were contributed but the list of donors was not ready. The question was circulated to all Deputy Commissioners to furnish particulars of the donors. File BF 3(48)-63 contains the list of names of donors and in most cases addresses and weight in grams will be found. It was argued that there is no rule under which gold could be taken from one Treasury and payment made in another Treasury, as the challan produced shows that moneys were deposited in the Chandigarh Treasury but the gold was taken out from the Patiala and Sangrur Treasury. The argument is that because there is no rule, therefore, no payment was made and, therefore, no gold was purchased from either of the two Treasuries. The argument

would possibly have some force if there was a positive rule prohibiting such a procedure. Seeing that there is none it cannot be concluded that all the entries in all the three Treasuries must be fudged and faked. And yet Shri Jagan Nath with worked up emphasis asserts that the weighments were in smuggled gold and insists on S. Partap Singh Kairon disproving it and disproving it to the satisfaction of the Memorialists. The Commission passes on.

C. NATIONAL DEFENCE FUND

(vii) The charge as formulated in the Memorandum

- (15) In these grave times, when the support and good wishes of all are necessary for a united front in the defence effort, S. Partap Singh Kairon has gone against the best traditions of a democratic set up has helped in alienating the sympathy of the Zila Parishads, Gram Panchayats, Marketing Committee, Co-operative Societies and Banks, Block Samities and other local bodies whose funds he has irregularly and through undue pressure converted to the National Fund, thereby depicting a wrong picture. This amount constitutes about 70 per cent. of the sum shown as Punjab's contribution to the N.D.F. and has been done only to show that he has set an example in the crisis and that other States are lacking far behind in the case of the National Emergency which is, in fact, far from the truth."

Learned Counsel for S. Partap Singh Kairon submitted that the allegations did not amount to a charge of misdeed or corruption or misrule. The contention is not wholly unfounded but this item is a part of the allegations contained in the memorandum which this Commission is called upon to inquire into. It is most unfortunate that even the efforts of inspiring the people to come forward and meet the national emergency has been made the subject matter of a charge to be publicly canvassed. The anxiety of the Memorialists to discredit their political opponent seems to have gained ascendancy over their regard for the prestige and dignity of their State.

(viii) Affidavits concerning this charge

The sheet anchor of the Memorialists in this matter are the following allegations to be found in the affidavit of Shri Ajit Kumar in his affidavit (M-17)—

"In re: Charge No. 15 of the Memorandum—

That the total collections in the Punjab for the National Defence Fund were about Rs. 6 crores. Out of this about Rs. 4½ crores was contributed by various Zila Parishads, Block Samities, Gram Panchayats, Marketing Committees, Co-operative Societies and Co-operative Banks and other like local authorities and bodies. The funds of these bodies were illegally and

under pressure from Shri Partap Singh Kairon diverted to the National Defence Fund with the *mala fide* intent of enhancing his own personal prestige and currying favour with the Prime Minister. Thus an entirely bogus and wrong picture was deliberately created regarding the National Defence Fund by transferring funds from one account to another and a situation of grave national crisis was exploited to bolster up personal and private ends, thus causing great demoralisation in the country by misrepresenting as if the other States and their peoples had no interests in the promotion of national war effort. The question regarding this manipulation of the National Defence Fund was raised on the floor of the Punjab Legislature and Shri Darbara Singh, the then Development Minister, gave information regarding the true state of affairs which was not to the liking of the Chief Minister. Shri Darbara Singh was, therefore, deprived of his development portfolio."

For meeting this charge S. Partap Singh Kairon relies on the affidavit of Shri K. K. Mukherjee, Deputy Secretary, Organisation and Methods Department (CM-69). Shri Jagan Nath has come to the rescue of the Memorialists by filing an affidavit in reply (R-37) in the place of Shri Ajit Kumar.

(ix) Discussion on facts and arguments

The Chinese invasion began in October 1962. On October 22, 1962 a state emergency was declared by the President of India. On October 26, 1962 the late Prime Minister of India opened the National Defence Fund and invited the public to contribute to the Fund. On the same day there was a meeting of the Punjab Cabinet at which it was decided to organise a National Defence Fund with a target of Rs. 2 crores. On November 10, 1962 a circular letter was issued from the office of the Chief Secretary to all Heads of Departments, Commissioners, Deputy Commissioners and many other persons and institutions named therein referring to the unhealthy competition by unauthorised persons making collections for the National Defence Fund and requesting the Deputy Commissioners and Sub-Divisional Officers to ensure proper co-ordination and to see that collection is made only by authorised persons. It was pointedly stated—"It may also be made clear to those authorised to make collection that no coercion in any form is exercised." In the circular issued on November 29, 1963 to all Deputy Commissioners and Sub-Divisional Officers they were enjoined to see "that in the matter of raising contributions towards National Defence Fund, official pressure should be avoided and efforts be concentrated on raising these donations voluntarily." This caution was repeated in another circular issued on December 5, 1963 over the signature of the Chief Secretary and it was emphasised that—"Any contributions for the National Defence Fund, in whatever form they may be, must be made or organised on a purely voluntary basis and there must be no element or appearance of coercion in the process." It is significant that not a single affidavit has been filed by the Memorialists affirmed by any member of the public stating that he had been coerced by anybody to make his contribution.

At the Punjab Cabinet meeting held on October 26, 1962 it was decided that Municipal Committees, Marketing Committees and other bodies should also be enabled to make contributions to the Fund. Indeed some of the Local Bodies passed resolutions asking for permission to contribute from their own funds. The relevant Acts were amended in 1962 apparently without any objection by any body. Reference has been made by learned Counsel appearing for the Memorialists to several circulars to establish that undue coercion was exerted on the Local Bodies. The first document referred to was the letter written on October 28, 1962 by Shri K. D. Basudeva (Deputy Secretary) to the Secretary Agriculture asking, *inter alia*, to take necessary steps to enable the Marketing Committees to contribute. The Secretary, Agriculture in his turn advised the Marketing Committees that they might contribute 25 per cent of their net profits of the year 1961/1962. There is in File 3(144)-63 CF a letter dated November 5, 1962 bearing No. 7742-46-GA/RCS from the Registrar, Co-operative Societies to all Joint Registrars, Deputy Registrars, Assistant Registrars and all Central Cooperative Banks, indicating five several mode of collection for the Fund. The suggestion in the second mode was that the whole of the Common Good Fund of the Societies and 25 per cent of the net profits of the year 1961/62 might be deposited into the National Defence Fund. There is another letter of the same date numbered 7748-GA/RCS from the Registrar Cooperative Societies to all Assistant Registrars saying that 25 per cent of the profits of 1961/62 and the whole of the Common Good Fund might be contributed by the Primary Societies, Central Institutions and Apex Institutions. On November 5, 1962 the Secretary, Local Self Government conveyed the sanction of the Governor to all Deputy Commissioners to enable the Municipalities to make contributions to the National Defence Fund. On the same day the Registrar Co-operative Societies wrote to Managers of all Central Institutions authorising loans for contributions to the Fund. It is said that loan was permitted even to defaulting societies. All these circular letters are relied upon as evidence of coercion. In a matter of the magnitude of a national emergency it may not be objectionable to suggest to the Local Bodies that they may contribute in a particular way. Contribution to war funds by local bodies, not prohibited by its constitution, to contribute to the National Defence Fund is not unknown. Further Shri K. K. Mukherjee in his affidavit (CM-69) has said that "no pressure was put on the Local Bodies to compulsorily contribute to the Fund." He added that "there had, by and large, been no complaints of any form of coercion and a few that came to the notice of the Government were duly looked into and were found to be without substance." It is significant that not even a single non-official member of any local body has been found to say that the body of which he is or was at the time a member was coerced into making contributions to the National Defence Fund. In such circumstances the Commission cannot accept the contention airily made in course of argument not based on any substantial and dependable evidence.

In Annexure VI to the affidavit of Shri K. K. Mukherjee has been set out a list of collections made from different local bodies amounting, upto the date of his affidavit, to Rs. 2,12,23,869/-. According to 74 M. of H.A.—16.

him the total collections from all sources came up to Rs. 5,64,76,417/- upto that date. The contribution by the public was, therefore, quite substantial, being over 50 per cent of the total collections. It is said that although some sort of list has been produced but no counterfoils of receipts have been produced. Suppose no receipts were issued what follows from that? That the money was raised—receipt or no receipt—cannot be gainsaid. The non-production of receipt counterfoils might have been founded upon for a charge that more money had been raised and misappropriated but that is not the charge and has not even been suggested in course of arguments. It has been said that the total figures of collections from each categories have been given but the break up figures are not available. This is not quite accurate, for in Shri K. K. Mukerjee's affidavit itself some of the break up figures are mentioned and in File No. 6(7)/63 the break up figures of the contributions received from the public included in Rs. 2,31,23,110/- received from the Block Samities and Zilla Parishads are to be found even according to learned Counsel for the Memorialists. Further non-availability of the break up figures cannot vitiate the collections in any way.

(x) Findings of the Commission

On a consideration of the evidence on the several heads of charges the Commission has arrived at the following conclusions—

- (a) that there is no cogent reason for the suggestion that S. Partap Singh Kairon created 16 posts of Additional Deputy Commissioners, one post of Additional Commissioner and 11 posts of Personal Advisers for the benefit of his personal friends or that by the creation of such posts unnecessary expense had been occasioned to the State;
- (b) that there is no evidence whatever, beyond the bald assertion of Shri Ajit Kumar and Shri Jagan Nath, that the late Prime Minister had been weighed in smuggled gold;
- (c) that there is no evidence whatever, beyond the bald assertions of the aforesaid two deponents, that any pressure was put upon any local body to compulsorily contribute to the National Defence Fund;
- (d) that there is no reason to hold that there was any substantial irregularity in the collection of moneys from the public or the local bodies for the National Defence Fund; and
- (e) that there is no substance in the suggestion that S. Partap Singh Kairon raised funds for the National Defence Fund or collected gold for the weightment of the late Prime Minister only as a stunt or to earn cheap popularity.

CHAPTER XXVIII

DR. HARCHARAN SINGH DHILLON

(i) Charge as formulated in Memorandum

The professional attendance bestowed by Dr. Harcharan Singh Dhillon on S. Partap Singh Kairon for a period of 45 days is the subject matter of Charge 16 which runs thus:

"(16) In 1956, Shri Kairon, ordered out by Dr. H. S. Dhillon, P.C.M.S., from his post of official duty and took him away as his personal attendant for a period of 45 days, to which he was not at all authorised under the Rules. He thus showed moral delinquency in gaining pecuniary advantage at the expense of the State. Further, he pros- tituted the State machinery to cover up his illegitimate gain."

It is curious that although this charge is founded on an event that took place in 1956/57 it did not find a place in either of the two charge-sheets submitted by Shri Prabodh Chandra in 1958 and 1960.

(ii) Relevant affidavits and files placed before the Commission

In support of this charge three affidavits have been filed on behalf of the Memorialists affirmed respectively by Maulvi Abdul Ghani Dar (M-6), Shri Devi Lal and five others jointly (M-7) and Master Tara Singh (M-25). As already stated the two last mentioned affidavits are verbatim reproduction of M-6 leaving out its annexures. In opposition to the supporting affidavits four counter-affidavits have been put in on behalf of S. Partap Singh Kairon, namely, CM-4 (Dr. D. Bhatia, Director of Health Services), CM-5 (Smt. Serla Grewal, Secretary, Medical and Health Department), CM-6 (S. Gyan Singh Kahlon, I.C.S., Chief Secretary) and CM-89 (S. Partap Singh Kairon). The Memorialists rely on five affidavits in reply, namely, three by Maulvi Abdul Ghani Dar (R-17, R-21 and R-27) and two by Shri Yagya Dutt Sharma (R-13 and R-34). One Shri Devki Nandan Khar as a member of the public has presented an affidavit (P-39) in support of the charge. Against the last mentioned affidavit, S. Partap Singh Kairon has filed a counter-affidavit marked CP-20. Reliance has also been placed on certain Punjab Government files. Reference will be made to the foregoing affidavits and Government files as and when necessary.

(iii) Facts which emerge from the affidavits and files

This charge hinges upon the terms of the East Punjab Ministers' Salaries Act, 1947 which makes no provision for free medical treatment or attendance for Ministers. It appears from File No. B.F. 64 (57) that in or about February 1956, Ch. Lehri Singh, who was then a Minister, met with a motor accident while he was proceeding

on official duty, and was laid up in Hospital for some time. On February 14, 1956, Ch. Lehri Singh wrote a letter to S. Partap Singh Kairon suggesting that the necessary medical expenses for his treatment should be borne by the State. On February 18, 1956 S. Partap Singh Kairon sent the letter down to the office with his note—"Please examine." An office note was put up before the Chief Secretary stating, as was the fact, that there was no provision in the East Punjab Ministers' Salary Act, 1947 sanctioning such expense. This appeared to the then Chief Secretary to be somewhat incomprehensible and by his note dated February 21, 1956 he asked the office to examine the case afresh. Apparently the opinion of the Legal Remembrancer was taken and on March 3, 1956 a note was put up by the Chief Secretary to the Chief Minister. On the same day, the Chief Secretary discussed the matter with S. Partap Singh Kairon and in a note of that date recorded the opinion of the Chief Minister:

"Discussed the matter with C.M. He is of opinion that any special concession given in this case will have serious repercussions."

Thereupon, on March 3/5, 1956, the Chief Secretary wrote to Ch. Lehri Singh that a Minister was not entitled to free medical treatment until the Act was amended. It is against this historical background that the Memorialists ask the Commission to consider this charge against S. Partap Singh Kairon.

There is no dispute that towards the end of 1956 and in the beginning of 1957 S. Partap Singh Kairon had to undertake an extensive tour of his own Assembly constituency and the rest of the State of the Punjab in connection with the impending second general election. The fact that this tour was not on State business but had been undertaken entirely on his own account and in the interest of the Congress Party to which he belonged has been strongly emphasised by learned Counsel for the Memorialists, as he was entitled to do. S. Partap Singh Kairon was not well and thought it necessary to have a Doctor in attendance on him during his hectic election tour.

It appears that in November 1956, Dr. Harcharan Singh Dhillon was selected as Assistant Surgeon (Class I) and was posted on general duty at General Hospital, Chandigarh, where he joined on November 14, 1956. Dr. Dhillon is said to be related to S. Partap Singh Kairon and there is no dispute that he wanted Dr. Dhillon to accompany him. On December 7, 1956, Dr. D. D. Sharma, the then Deputy Director of Health Services sent a telephonic message to Dr. Bhatia, the then Chief Medical Officer, Chandigarh, to depute Dr. Dhillon, who was working on general duty at the General Hospital, Chandigarh, for duty with the Chief Minister. On December 8, 1956 Dr. Dhillon left Chandigarh along with S. Partap Singh Kairon. By his letter dated December 18, 1956, Dr. Bhatia asked the Director, Health Services to accord sanction to Dr. Dhillon to undertake journey outside his jurisdiction from December 8, 1956 to December 24, 1956. While Dr. Dhillon was going about with the Chief Minister, an order was made by the Director, Health Services, transferring Dr. Dhillon to the Civil Hospital, Jullundur (*vide* his letter No. 8802/MG dated December 12, 1956). He was asked to shorten his joining time. It appears from the Gazette Notification published

subsequently on March 11, 1957 that Dr. Dhillon was to relinquish charge at Chandigarh on December 24, 1956 and report for duty at Jullundur on December 31, 1956. Dr. Dhillon in his letter dated January 21, 1957 states that he submitted his departure report from Chandigarh on December 24, 1956 but could not report for duty at Jullundur immediately as he was on tour with the Chief Minister. However, on December 31, 1956 Dr. Dhillon went to Jullundur to report for duty but on an urgent telephonic message from the Chief Minister, through the Chief Medical Officer, he had to return to Chandigarh without filling in the papers. He was away from Jullundur from December 31, 1956 to January 21, 1957. Thus Dr. Dhillon attended on S. Partap Singh Kairon during his election tour during the period from December 8, 1956 to December 29, 1956 and again from December 31, 1956 to January 21, 1957.

On January 5, 1957, when he was still in attendance on S. Partap Singh Kairon, Dr. Dhillon applied for his T.A. and D.A. for 21 days (8-12-1956 to 29-12-1956). The Director, Health Services, must have inquired of the Chief Medical Officer (Dr. Bhatia) as to the reason for Dr. Dhillon being away from duty at Chandigarh for, it is stated in Dr. Bhatia's letter dated January 5, 1957, which is on the file, that the purpose why Dr. Dhillon accompanied the Chief Minister was obvious and that for details the Director might refer to the Deputy Director who had sent the message to Dr. Bhatia on the telephone to depute Dr. Dhillon. Be that as it may, on January 15, 1957, the Director, Health Services, forwarded the application to the Chief Medical Officer for his comments. On January 17, 1957, the Chief Medical Officer sent it back stating that he had no comments to make. By his letter dated January 30/31, 1957, the Director, Health Services, sought the Government's permission to grant T.A., etc. on tour rates to Dr. Dhillon, while on general duty at General Hospital Chandigarh, for the journeys performed by him from December 8, 1956 to December 29, 1956 in company with the Chief Minister as his medical attendant. There is an office note by one Shri Ram Saran Das, dated March 8, 1957 to the following effect:—

“In view of the circumstances explained by DHS (M) we may agree to the grant of T.A. etc. at tour rates to Dr. Dhillon, PCMS, in respect of journeys performed by him in company with the Chief Minister, Punjab as his Medical attendant. As there is no provision in the Medical Attendance Rules for the free medical attendance/treatment of Ministers, concurrence of F.D. may be obtained before according necessary sanctions.”

On April 4, 1957 the Finance Department concurred in the proposal but suggested that it was advisable to make a provision in the Ministers' Salary Act for free medical attendance so as to cover such cases in future. On April 26, 1957, the Punjab Government sanctioned the grant of T.A. etc. to Dr. Dhillon and on May 16, 1957 the formal order was issued in the following terms:—

“Sanction of the Governor of Punjab is hereby accorded to the grant of T.A. at tour rates to Dr. Harcharan Singh Dhillon, P.C.M.S., Assistant Surgeon, Class I (Gazetted) while on general duty at General Hospital, Chandigarh, for the journeys, detailed in the enclosed list, performed

by him during the period 7th December, 1956 to the 29th December, 1956, in company with the Chief Minister, Punjab, as his Medical Attendant. The expenditure involved should be met within the current year's budget allotment of the Punjab Health Department under the appropriate head of account."

As the Finance Department had suggested an amendment of the Act, the matter was put up before the Chief Minister who, it is said, came to know for the first time that T.A. etc. had been sanctioned to Dr. Dhillon. On June 14, 1957 S. Partap Singh Kairon recorded the following order:—

"As already decided by me, I am not in favour of the provision of free medical facilities to the Ministers and their families. F.D. should not have accorded sanction to the drawal of T.A. by Dr. Harcharan Singh Dhillon, who accompanied me as my medical attendant. This being private duty, I should like to meet the expenses of his T.A. myself. In future, I would advise that no special sanctions in this behalf should be accorded."

The previous decision mentioned in this note obviously refers to his decision in Ch. Lehri Singh's case. This note was followed up by the Chief Minister's Secretary's note inquiring about the amount of T.A. etc. so that the Chief Minister could reimburse the same. As Dr. Dhillon had not, actually drawn any T.A. etc., on question of reimbursement arose. The matter had also gone to the Accountant General, Punjab, Simla. As was to be expected the Accountant General, Punjab, objected to this sanction of T.A. etc. to Dr. Dhillon and by his letter dated June 18/19, 1957, communicated his objection to the Secretary, Finance Department. As Dr. Dhillon had not actually drawn any T.A. etc. it was not thought necessary to issue any formal order cancelling the sanction. In September 1961, the Accountant General, Punjab, took up the matter with the Secretary, Health Department and eventually on December 1, 1961 a formal order was issued (Government Memo. No. 10239-3 HB 1-61/52022) and the Director, Health Services was asked to inform the Accountant General accordingly.

In the meantime, while Dr. Dhillon's application for T.A. etc. was being processed in the manner hereinbefore stated, his work with the Chief Minister came to an end on January 21, 1957. On that very day Dr. Dhillon wrote a letter to the Director, Health Services, stating:

"On A.N. of 31-12-1956 I reported in the office of Civil Surgeon, but due to the telephonic message from C.M. to Civil Surgeon and verbal order, I had to leave for Chandigarh without actually filling in the charge report."

There is a note recorded by the Director, Health Services, on the said letter on the same day, i.e. January 21, 1957 to the following effect:—

"It may be added that while attached to the Civil Hospital, Jullundur, as on general duty Dr. Harcharan Singh Dhillon is performing some special duty with the C.M.

but this fact is not to be mentioned in the charge report or in any communication to the A.G. Punjab, Simla."

It seems that it was arranged that the Director, Health Services, would write a letter to the Civil Surgeon, Jullundur, on the lines of his aforesaid note and a letter was actually drafted to that effect. Dr. Dhillon then went and joined his post at Jullundur. The expected letter not having reached Jullundur even on the expiry of a week, Dr. Dhillon appears to have become rather worried and it appears on page 377 of File H/15 HG that on January 29, 1957 he put through a telephone call to the Director, Health Services informing him that the expected letter had not reached the Civil Surgeon, Jullundur so far and as a consequence he (Dr. Dhillon) could not draw his pay. It seems the letter on the lines of the note of the Director, Health Services, was actually sent to the Civil Surgeon, Jullundur, on that very day. It is not quite apparent on the affidavits or the files whether the Civil Surgeon, Jullundur, who was none other than Dr. Pratap Singh was reluctant to follow the dubious suggestion of the Director Health Services as too hazardous. Be that as it may, Dr. Dhillon on January 31, 1957 applied for leave for 45 days from December 8, 1956 to January 21, 1957, i.e. for the entire period he was in attendance on the Chief Minister. The Civil Surgeon, Jullundur, on February 17, 1957, forwarded Dr. Dhillon's application to the Director, Health Services, who, in his turn, sent it to the Accountant General, Punjab, for verification on Dr. Dhillon's title to leave (*vide* No. 2376-MG) and it was received in the office of the Accountant General, Punjab (*vide* No. G 3-M-2942). On April 30, 1957, a note was made on the above application for leave by an officer of the Accountant General's office calling for Dr. Dhillon's Service Book and leave account. On February 24, 1958, the Accountant General, Punjab, certified that 45 days earned leave was due to Dr. Dhillon. On April 22, 1958 the Director, Health Services, formally granted leave for 45 days (8-12-1956 to 21-1-1957). As learned Counsel for S. Partap Singh Kairon summed up, the net result was that Dr. Dhillon not having drawn any T.A. etc., the public exchequer suffered no loss by way of T.A. etc., that the State did not lose any money by paying Dr. Dhillon his pay for the 45 days as earned leave with full pay was due to him and that the Chief Minister got the services of a doctor of his choice during his leave period.

(iv) Discussion on the arguments

Learned Counsel for the Memorialists suggested that it was Sardarni Partap Singh Kairon who had on or about December 31, 1956 instructed the Civil Surgeon, Jullundur, to send back Dr. Dhillon to Chandigarh. S. Partap Singh Kairon in his affidavit (CM-89) admits that he had sent a message to the Civil Surgeon, Jullundur, on the telephone, to send back Dr. Dhillon to Chandigarh. In paragraph 32 of his supporting affidavit (M-6), Maulvi Abdul Ghani Dar also refers to the letter of Dr. Dhillon of January 21, 1957 wherein he stated that due to telephonic message from the Chief Minister to the Civil Surgeon and verbal orders to him he (Dr. Dhillon) left for Chandigarh without actually filling in the charge reports. It is only Shri Devki Nandan Khar who in his affidavit (P-39) says in paragraph 5 that on

or about December 30, 1956, the Chief Minister through his wife had sent a telephonic message to Dr. Partap Singh, the Civil Surgeon, Jullundur, to the effect that Dr. Dhillon was to be allowed to leave the station immediately after he reported for duty and that Dr. Dhillon's stay with the Chief Minister was somehow to be shown as on duty at the hospital for that period. This allegation of Shri Devki Nandan Khar is verified as based on information received from Dr. Partap Singh. The source of information of Maulvi Abdul Ghani Dar is also verified to be the same Dr. Partap Singh. Why the same source should give different names of the person who sent the telephonic message is not intelligible. Dr. Partap Singh who is alive and whose strained relationship with S. Partap Singh Kairon is now common knowledge in the Punjab has not made any affidavit. Further, the suggestion that Dr. Dhillon should be shown as on duty while attending on the Chief Minister was made by the Director Health Services, but has now been falsely put in the mouth of Sardarni Partap Singh Kairon by Shri Devki Nandan Khar who has ostensibly come in as a member of the public.

A suggestion was made that Dr. Dhillon's application for leave had not been made on January 31, 1957. This was based on a statement made by Dr. Dhillon in his letter dated November 19, 1957 wherein he gave the date of his application as "21-1-1957". This statement was made about ten months later when perhaps Dr. Dhillon had not all his papers with him. Further, it has not been suggested what advantage Dr. Dhillon expected to gain by changing the date of his application for leave from January 31, 1957 to January 21, 1957. On the original application the date does not appear to have been changed at all. Further, this application dated January 31, 1957 had passed from hand to hand in the course of processing which has already been noticed and it bears notings of different officers of different departments in Chandigarh and Simla. The Commission sees no cogent reason to disbelieve its genuineness.

Another point canvassed before the Commission was that the order of the Chief Minister now appearing to have been made on June 14, 1957 was actually made after he came to know that the Accountant General, Punjab, had turned down the sanction for the T.A. etc. and he characterised it as an attempt to make a virtue of necessity. It was suggested that the letter of the Accountant General, Punjab, objecting to the sanction of T.A. etc. was dated June 13, 1957. Where from learned Counsel got the date "13th June 1957" is not at all clear. The letter bears the date of June 18, 1957 and was despatched from Simla on the following day. It has got the stamp of the Accountant General on it. This letter was received in the Chandigarh Secretariat on June 21, 1957 and bears a seal of that date. A subsequent letter dated September 8, 1961 sent from Simla refers to this letter of June 18/19, 1957 which clearly establishes the authenticity of this letter of the Accountant General, Punjab, dated June 18/19, 1957 and there is no escape from the conclusion that S. Partap Singh Kairon had made his order of June 14, 1957 before he knew about the objection of the Accountant General.

Pointed reference was made to the simultaneous processing of the two applications of Dr. Dhillon, namely, one dated January 5, 1957 for T.A. etc. and the other dated January 31, 1957 for leave for 45

days. It was urged that the idea was to keep the leave application as a reserve in case the application for T.A. failed. The Commission is not persuaded to agree to the suggestion. If the motive was as alleged, Dr. Dhillon would have applied for T.A. for the second period also (31-12-1956 to 21-1-1957) which he did not do whereas he included the second period in his leave application. The truth of the matter seems to be that Dr. Dhillon had applied for T.A. upto the end of the month of December 1956 on January 5, 1957 but on January 31, 1957 changed his mind and applied for 45 days leave but did not withdraw his earlier application for T.A. with the result that both the applications went through the usual process some times in two branches of the same department, one branch not knowing what was happening in the other—a situation not wholly unknown. If Dr. Dhillon's intention was as is now alleged he would have drawn the T.A. as soon as it was sanctioned by the Governor in April/May 1957.

Even after rejecting the aforesaid arguments as untenable the main argument advanced by learned Counsel for the Memorialists still remains, namely, that it was improper, even unlawful for the Chief Minister to avail himself of free medical attendance from an employee of the Government. For the purpose of this argument the following dates and facts are relevant: Dr. Dhillon was posted at Chandigarh on November 14, 1956. On December 8, 1956, S. Partap Singh Kairon went out on his election tour and took Dr. Dhillon to attend on him during the tour. Dr. Dhillon was on December 12, 1956 ordered to relinquish his charge at Chandigarh on December 24, 1956, and report for duty at Jullundur on December 31, 1956. Dr. Dhillon on December 31, 1956 went to Jullundur but returned to Chandigarh the same day without filling in the charge report. On January 5, 1957, Dr. Dhillon applied for T.A. etc. from December 8, 1956 to December 29, 1956. He remained with S. Partap Singh Kairon again from December 31, 1956 to January 21, 1957. On January 31, 1957 Dr. Dhillon applied for leave for 45 days being the entire period he attended on S. Pratap Singh Kairon. Reference was made to two statements made by the Chief Minister on the floor of the Punjab Vidhan Sabha. On March 14, 1961 after all facts had come to the knowledge of the Chief Minister he said what translated into English reads as follows:—

“Yesterday Mr. Prabodh Chandra said much about my family.

I do not want to bring all what he said in my personal explanation. But one thing which he said, namely, that Dr. Harcharan Singh stayed with me for 45 days and just for fear that Accountant General may not raise an objection, the charge report of the Doctor was wrongly got filled by me. In this regard I wish to say that Dr. Harcharan Singh stayed with me while he was on casual leave during my illness. I relied on that Doctor and I asked him to stay with me when I fell ill on 8-12-1956. He stayed with me from 8-12-1956 to 13-12-1956. As I could not recover during this period, I requested him to continue his stay with me. Then the doctor lived with me from 14-12-1956 for about 8 to 9 days. During these days, he was transferred from Chandigarh to Jullundur for which he got joining time from 24-12-1956 to 31-12-1956. Thus he stayed with me for 21 days. I know he did not

charge a single pie from the State Exchequer. Mr. Prabhodh Chandra contended that, when the Chief Minister was not entitled to, how did the doctor attend on the Chief Minister. I wish to say to Shri Chandra that the Doctor is one of my relatives and he stayed with me by availing casual leave, and on its termination, the doctor had to take Privilege Leave.

I requested the doctor to accept pay for 1½ months from me but he did not agree to it, and said that during these days he was on casual leave. Sir, Speaker, I may say that if any body, while on leave, works for me, what can I say?"

Again on March 20, 1961 S. Partap Singh Kairon said by way of a personal explanation:

"Mr. Speaker, I make it clear, that when I had called him, I had promised with him that he should take leave and if the leave was not due then I would pay to him whatever he was entitled to by way of salary etc. Thus he went with me and in December, when the elections were over, he received reply from Accountant General, Punjab, and he then immediately left."

In the above statements correctly represented the arrangement then the leave application would have been made before Dr. Dhillon left Chandigarh, on December 8, 1956. There is good deal of force in the contention of learned Counsel for the Memorialists—and the Commission agrees with him—that if the arrangement was that Dr. Dhillon would take leave, casual or otherwise, then Dr. Dhillon would not have made his application for T.A. etc. on January 5, 1957. The application for T.A. etc militates against the alleged arrangement that Dr. Dhillon would take leave and render love's labour to the Chief Minister. The Commission cannot accept that suggestion.

(v) Findings on facts

In the light of the foregoing discussion, the Commission holds—

- (a) that on or about December 8, 1956 Dr. Harcharan Singh Dhillon was directed to leave his post of duty at Chandigarh to accompany S. Partap Singh Kairon and to attend on him during his election tour and there was no arrangement or understanding that he would take leave for the period of his absence from his post of normal duty;
- (b) that the fact that Dr. Dhillon had on January 5, 1957 applied for T.A. etc. for the period December 8, 1956 to December 29, 1956 clearly falsifies the existence of such alleged agreement or understanding for taking leave;
- (c) that S. Partap Singh Kairon having himself decided in the case of Ch. Lehri Singh that a Minister was not entitled to free medical service under the Ministers' Salaries Act, 1947, he was clearly wrong in availing himself of the free services for 45 days of Dr. Dhillon who was a Government Doctor;

- (d) that the conduct of S. Pratap Singh Kairon in so availing himself of the services of Dr. Dhillon was still more reprehensible because he was out on tour not on State business but for the purposes of his own election campaign and that of the Congress Party to which he belonged;
- (e) that the subsequent regularisation of the position by Dr. Dhillon applying for leave on January 31, 1957 does not fully absolve S. Pratap Singh Kairon, for, strictly speaking, for a Chief Minister to avail himself of the free services of a Government Doctor by inducing him to take leave on full pay appears to be a device to circumvent the spirit, if not the letter, of the Ministers' Salaries Act, 1947; and
- (f) that the conduct of S. Pratap Singh Kairon in availing himself of the free services of Dr. Dhillon for 45 days during his election tour was, in view of his own interpretation of the 1947 Act, unbecoming of a Chief Minister who is expected to set a salutary example for his colleagues and subordinates to follow.

CHAPTER XXIX

SUPPLY OF MEDICINES TO SARDARNI PARTAP SINGH KAIRON

(i) The charge as framed in the Memorandum

“(17) Mrs. Partap Singh Kairon had been inciting Dr. Partap Singh, Ex-Civil Surgeon, Jullundur to misappropriate Government property for the ends of Kairon’s family.”

The charge as formulated is really no charge against S. Partap Singh Kairon. But it is one of the allegations in the memorandum which has to be inquired into.

(ii) Affidavits bearing on this charge

Paragraphs 46 to 51 of Maulvi Abdul Ghani Dar’s affidavit (M-6) which is also reproduced in identical language in the affidavits of Shri Devi Lal and five others (M-7) and of Master Tara Singh (M-25) seek to support this charge. These allegations are sought to be rebutted by a counter-affidavit affirmed by S. Partap Singh Kairon (CM-89). Maulvi Abdul Ghani Dar has filed an affidavit in reply (R-17). Shri Devki Nandan Khar and Shri Ram Kissen Rakesh have, as members of the public, filed two affidavits (P-36 and P-25) which have been replied to by S. Partap Singh Kairon by his affidavit (CP-29).

(iii) Discussion on the facts and arguments

At the outset it has to be pointed out that there has been a significant metamorphosis of the charge. The charge as framed in the memorandum quoted above consisted in Sardarni Kairon inciting Dr. Partap Singh to misappropriate Government property for the ends of the Kairon family. In other words the doctor was prevailed upon to supply the family with medicines out of Government stores kept in the hospital. The charge sought to be made out in the supporting affidavits is that Dr. Partap Singh used to purchase medicines in Jullundur shops at his own expense and supply them free to the Kairon family. Such a departure between pleading and proof is not permissible and in any event does damage the case of the Memorialists.

It is significant that none of the three deponents, Maulvi Abdul Ghani Dar or Shri Devki Nandan Khar or Shri Ram Kishen Rakesh, has any personal knowledge of the facts they purport to depose to. In fact the two last mentioned gentlemen have filed several affidavits on different topics to fill in the lacunae found in the supporting affidavits filed initially by the Memorialists. In the present case

Shri Ram Kishen Rakesh does not add anything to the allegations made by Maulvi Abdul Ghani Dar. Shri Devki Nandan Khar has added some embellishments to make the story appear to be more plausible.

In his argument before the Commission learned Counsel for the Memorialists commented on the fact that although the charge was against the wife of S. Partap Singh Kairon yet that lady had not filed any affidavit. If she did, then possibly the Memorialists would have asked for an opportunity to cross-examine the lady. In the none too clean atmosphere of a war of political vendetta the women-folk might have been spared. S. Partap Singh Kairon has filed two affidavits in defence to this charge and he will stand or fall on the strength of those affidavits.

Reference was made to the answers given by S. Partap Singh Kairon on the floor of the Punjab Vidhan Sabha in which he admitted that he received medicines from Jullundur shops for various amounts sometimes Rs. 250, sometimes Rs. 300 and sometimes Rs. 50 and stated that he had checked the cheques by which the price of those medicines had been paid. Learned Counsel then drew the attention of the Commission to the list annexed to S. Partap Singh Kairon's affidavit (CP-29) and pointed out that in that long list there was only one item of medicines worth only Rs. 2.08 from Krishna & Sons, a Chemist in Jullundur City and the Commission is pressed to hold that the answer given in the Vidhan Sabha by S. Partap Singh Kairon was false and, therefore, the charge must be taken to have been proved. This argument overlooks the allegations in the affidavit of S. Partap Singh Kairon (CP-29). What he said there was that payments for the medicines purchased from different places named therein were duly made and that although all receipts were not preserved some were available and a list showing payments made for the purchase of medicines was annexed to his affidavit. Turning to the list it will be observed that it sets out a number of cash memos with dates for purchases made across the counter. There is only one item of cash purchase of Rs. 2.08 from a Chemist at Jullundur. This is in no way inconsistent or incompatible with the Chief Minister having an account with some Chemist at Jullundur for medicines supplied to him on credit and paid for periodically in a lump by cheque. It is significant that Dr. Partap Singh has not ventured to file any affidavit in this Inquiry supporting the charge. It is notorious that no love is lost between S. Partap Singh Kairon and Dr. Partap Singh. The doctor is said to have supplied some information on the basis of which some of the deponents on the side of the Memorialists have affirmed affidavits. It is Dr. Partap Singh who obliged the Memorialists by handing over chits or copies containing messages from S. Surinder Singh Kairon whereon the latter signed as Surinder P. Singh. Therefore quite obviously he is hand in gloves with the Memorialists. Why, then, does he not file an affidavit in this Inquiry? The conclusion is irresistible that he cannot support the charge.

Strong reliance was placed by learned Counsel on the Judgment of our Supreme Court reported in A.I.R. (1964) S.C. 72. That was a writ petition filed by Dr. Partap Singh against the State of the

Punjab. S. Partap Singh Kairon was not individually made a party to that petition. In that petition Dr. Partap Singh complained that the departmental inquiry against him had not been ordered by the Government in good faith but had been made to wreak vengeance on him. One of the reasons given by him for having incurred the ill will of the Government was that he ceased to comply with the unreasonable requests for supply of medicines for the Chief Minister's family. As the Chief Minister was not a party to the petition he was advised, rightly or wrongly, not to file any affidavit refuting the allegations against him. Dr. Partap Singh made an application to the High Court to amend the petition by adding S. Partap Singh Kairon as a party respondent but the High Court rejected that application. The High Court after hearing the petition dismissed it. On appeal, the Supreme Court, by a majority of 3 to 2 reversed the decision of the High Court. The majority of the judges took the view that as S. Partap Singh Kairon and his wife had not filed any affidavit refuting the allegations made against them personally and as Dr. Partap Singh produced some postal receipts and some tapes recording telephone talks, the charge had been established. The minority of judges, on the other hand, held that not being a party to the proceedings S. Partap Singh Kairon was not legally obliged to file any affidavit and that no inference could be drawn against him on that score and that the allegations made by Dr. Partap Singh were vague and indefinite and the materials were not sufficient to sustain the charge. Far be it from this Commission to question or doubt the validity of the majority decision. Two facts, however, namely, that S. Partap Singh Kairon was not a party to those proceedings and the judgment of the Court went against him because he had not filed any affidavit denying the charges against him. In the present case the boot is on the other leg as the colloquial saying goes. Here the charge made in the memorandum has been completely jettisoned and the case sought to be made out at the hearing is not supported by legally verified affidavits and what is more Dr. Partap Singh who is helping the Memorialists in diverse ways has not ventured to substantiate the charge by legal evidence. The judgment of the Supreme Court is neither a judgment in rem nor a judgment inter parties and hence its probative value cannot be much even if it be admissible in evidence as against S. Partap Singh Kairon.

(iv) Findings of the Commission

For the several reasons mentioned in the foregoing discussion the Commission rejects this charge as not proven.

CHAPTER XXX.

NEW INDIA SPINNING AND WEAVING MILLS

(i) Charge as framed

New India Spinning and Weaving Mills form the subject matter of charge 18 in the memorandum submitted to the President of India on July 13, 1963. It is couched in the terms following:—

“A plot of 22 acres of land has been acquired on Delhi-Mathura Road for setting up Spinning Mills styled as New India Spinning Mills. The proprietor of the Mill, Shri Surinder Singh Kairon, although has barbed wire the whole area, but has not paid any compensation either for the land or for the crop which was standing on this land when the acquisition was completed. A legal case is still pending in the Court and the helpless complainant is no less than a person of the lambardar of the village.”

The point to be marked is that in this charge as framed there is no allegation or complaint against S. Partap Singh Kairon. As will be seen hereafter the charge was enlarged at the stage of evidence so as to rope in the Chief Minister.

(ii) Relevant affidavits bearing on the charge.

In support of this charge the Memorialists have filed four affidavits namely one affirmed by Maulvi Abdul Ghani Dar (M-6), the second by Shri Devi Lal and five other Memorialists (M-7), the third by Master Tara Singh (M-25) and the fourth by S. Tarlok Singh (M-4). In opposition to those affidavits four counter-affidavits have been filed on behalf of S. Partap Singh Kairon affirmed respectively by Shri R. S. Talwar (CM-7), S. Kuldip Singh Virk (CM-8), S. Surinder Singh Kairon (CM-46) and S. Partap Singh Kairon (CM-89 and CM-92). In reply two affidavits affirmed respectively by Shri Devi Lal (R-1) and Maulvi Abdul Ghani Dar (R-22) have been presented on behalf of the Memorialists. Two members of the public have filed two affidavits, namely, one affirmed by Shri Devki Nandan Khar (P-35) and the other by Shri Ram Kissen Rakesh (P-25). As against these two affidavits S. Partap Singh Kairon relies on four affidavits, first by S. Surinder Singh Kairon (CP-10), second by S. Kalyan Singh (CP-16), the third by himself (CP-203) and the fourth by Shri A. C. Kohli which is annexed to the last mentioned affidavit of S. Partap Singh Kairon. Reliance has been placed by learned Counsel on both sides on Punjab Government files having a bearing on the subject.

(iii) Facts that emerge from the affidavits and the Government files.

On July 23, 1961 an application was made to the Registrar, Joint Stock Companies, for the registration of a company in the name of

the New India Spinning and Weaving Mills Ltd. On August 25, 1961 an application was made to the Government of India by one S. Kirpa Singh, on behalf of the New India Spinning and Weaving Mills then in the process of registration, for a licence for setting up a textile mill at Muktsar. In that application there was a proforma in column (6) whereof it was said that the Company was under registration and that the promoters were S. Kirpa Singh, S. Harcharan Singh Brar, S. Harbhajan Singh Grewal, S. Surinder P. Dhillon and S. Gurinder P. Dhillon, obviously meaning the two sons of S. Partap Singh Kairon. This application for licence was made through the Punjab Government. On some date not apparent on the record before the Commission the site for the location of the Mills was changed from Muktsar to Bhatinda. On April 12, 1962 the Government of India granted industrial licence No. L (23) (1)-320-Tax(E)-62 under the Industries (Development and Regulation) Act, 1951 for setting up a Mill at Bhatinda in the Punjab. On May 10, 1962 S. Kirpa Singh on behalf of the proposed Company applied to the Government of India for changing the site from Bhatinda to Ballavgarh. That application was on May 15/19, 1962 forwarded by Shri P. N. Sahny, the then Director of Industries, to the Secretary, Industries Department with his recommendation for the change. As the change was from the Punjabi region to the Hindi region and so involved a question of policy the matter was put up before S. Partap Singh Kairon. The file came back from Shri I. C. Puri, Principal Secretary to the Chief Minister, with a note dated June, 4, 1962 reading—"CM approved." A letter was then written on June 6, 1962 to the Government of India recommending the change which was acceded to by the Government of India on July 5, 1962. In the meantime on June 14, 1962 an application was made on behalf of the proposed Company by S. Gurdip Singh, a cousin of S. Surinder Singh Kairon's wife, to the Punjab Government for acquisition of land for the proposed mills. On June 16, 1962 Shri P. N. Sahny, the Director of Industries, wrote to the Deputy Commissioner to work out a proposal on the usual pattern for acquisition. On June 19, 1962 the Deputy Commissioner sent the matter to the Tehsildar and asked for a report with (1) farz Jema Bandi and oks Shajra, (2) certificate whether land can or cannot be acquired by private negotiations, (3) certificate that no religious buildings, graveyards etc., exist on the land, (4) five years' average rate certificate, (5) current market rate. The same day the Tehsildar collected information and documents and on the next day, June 20, 1962, sent them back to the Deputy Commissioner and attached a certificate of his own that land could not be obtained by private negotiations. On July 4, 1962 the Deputy Commissioner wrote a letter (No. 7939/DRA) to the Company to send the necessary documents. On July 5, 1962 the Government of India sanctioned the change of location of the Mills from Bhatinda to Ballavgarh. The Deputy Commissioner sent two reminders to the Company on July 18 and 24, 1962 to submit the necessary papers. On July 26, 1962 the Company filed with the Deputy Commissioner the necessary documents including lay-out plans, the licence granted by the Government of India and the affidavit of S. Surinder Singh Kairon undertaking the responsibility for the payment of the compensation. The Deputy Commissioner on July 27, 1962, forwarded those documents together with a draft Notification under Sections

4, 6 and 17 of the Land Acquisition Act to Shri P. N. Sahny, the Director of Industries who in his turn on July 30, 1962, forwarded the same to the Secretary, Industries Department with the recommendation that the Notification be issued. On August 9, 1962 the matter was placed before S. Partap Singh Kairon which is evidenced by the note of that date reading—"CM has seen". The Finance Department was requested on August 11, 1962 to concur in the proposal. On August 13, 1962 the Finance Department agreed provided Administration Department would realise the sum of Rs. 100/- fixed Company during the current financial year. On August 14, Registrar, Joint Stock Company issued the Registration application for registration made on July 23, 1962. Unless suitable the Notification under Sections 4, 6 and 17 of the Act was issued. On October 29, 1962 the Tehsildar session had been delivered to the Company. materials or prudent business or abrupt and

(iv) Arguments on facts

On the facts noted in the last preceding section, learned Counsel for the Memorialists advanced arguments under 10 heads. The first head of argument was thus formulated by him: Land measuring about 22 acres was acquired for the New India Spinning and Weaving Mills (Pvt) Ltd. without making any inquiry as to the financial position of the Company or as to whether the Company did require this huge piece of land or as to the person applying being authorised to do so or that the statement made in the application was correct. It will be recalled that the acquisition proceedings started on June 14, 1962 when S. Gurdip Singh applied to the Director of Industries, Shri P. N. Sahny, for acquisition of land. In that application S. Gurdip Singh described himself as a Director of the contemplated Company which was then going through the process of registration. It was urged that Shri P. N. Sahny made no enquiry into the truth or otherwise of the allegations made in that application. It was contended that had Shri P. N. Sahny made any investigation he would have found that the Company on whose behalf the application had been made had not come into being at the date of the application, that S. Gurdip Singh was not a Director of the Company and, indeed, his name did not figure even as a promoter of the Company in the proforma annexed to the application dated July 23, 1961 of S. Kirpa Singh for the registration of the Company, that no plans or preparations had been made for setting up the Mills, that such a big area, about 22 acres was far in excess of the needs of a textile mill, that on a modest computation the value of such a plot of land would come up to Rs. 2,10,583/- whereas the subscribed capital of the Company at that time was only Rs. 3700/-. Although superficially these criticisms seem to have some points the Commission is not satisfied that they are well founded. In the application for acquisition of land it was quite clearly stated that the Company was then under registration. According to Maulvi Abdul Ghani Dar's affidavit (M-6) the authorised capital of the Company was fixed at Rs. 1 crore. The Company not having yet been registered there was no question of ascertaining whether S. Gurdip Singh was or was not a Director. That question would arise only on the incorporation of the Company. As to the area sought to be

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acquired being in excess of the needs of a textile Mill there is nothing in support of it except the opinion of Maulvi Abdul Ghani Dar who does not in his affidavit claim to be an expert in the line. All relevant inquiries are to be made locally and that is why Shri P. N. Sahny sent the application to the Deputy Commissioner to deal with the same. It is to be remembered that under the Land Acquisition Act on acquisition the land first vests in the State Government. The question of the capacity of the Company to pay the compensation money would arise when after its incorporation the State Government would make over possession to the ^{ford} ~~ford~~. All that was necessary was that somebody of substantial means would, by an affidavit, undertake the responsibility of the Government compensation money at the appropriate time. T-320-Tax(E)- filed by S. Surinder Singh Kairon on July 11, 1951, to the Deputy Commissioner. The question whether ^{the} ~~the~~ dimension was available in a compact block ^{obviously} ~~obviously~~ to be inquired into locally and the Deputy Commissioner did make that inquiry through the Tehsildar who gave his certificate as hereinbefore mentioned. The Commission does not find any material irregularity in the process adopted by the Government officers concerned except perhaps the great expedition with which the matter was put through which will be discussed later.

The second ground of attack was that possession of the land was taken immediately under the urgency provisions of the Land Acquisition Act Sec. 17(1) and Sec. 17(2) (c) although there was in fact no urgency. It is pointed out that the only ground of urgency now relied on by the Company is that the Government of India had fixed one year for the setting up of the Mills. This was not mentioned in S. Gurdip Singh's application dated June 14, 1962 but had not been done. Why did not S. Surinder Singh Kairon in his affidavit filed on July 26, 1962 make out any case of urgency? Why did the Assistant Superintendent, Revenue in his note under date July 26, 1962 go out of his way to say that land was urgently required? If the matter was so urgent then when the one year period mentioned in the licence expired why did not S. Surinder Singh Kairon apply for the renewal of the licence? The letter dated January 7, 1964 from Shri A. V. Venkateshwaram to Maulvi Abdul Ghani Dar clearly states that no such application had been made. This line of argument overlooks two things, namely, that in the application of S. Gurdip Singh it was stated that the Government of India had granted a licence for setting up a textile Mill and that on July 26, 1962 the licence itself was submitted to the Deputy Commissioner along with the affidavit of S. Surinder Singh Kairon. In his affidavit (CM-7) Shri R. S. Talwar, then Industrial Commissioner and Secretary, Industries Department stated that the Punjab Government had then been acquiring lands for industrial undertakings as promotional aid and that prior to the receipt of the application of S. Gurdip Singh on behalf of this Company land had been similarly acquired in several cases and named six other companies. Learned Counsel for S. Partap Singh Kairon had handed up to the Commission a complete list of such companies but it is not necessary to refer to them. Suffice it to say that in all the six cases mentioned by Shri R. S. Talwar considerable areas of land were acquired and

the emergency provisions of the Act were utilised. The Commission was referred to Section 12 of the Industries (Development and Regulation) Act, 1951 which clearly provides that there will be no revocation of the licence if effective steps be taken within the fixed time. There is also provision for submission of returns in form G every six months showing the progress made by the licensee. It is thus clear that no application for extension of time is necessary at all and that all that is essential is that effective steps should be taken within the time fixed in the licence. For setting up of the Mills the first essential is to secure the land where the factory buildings would be erected. Unless suitable land is secured the question of collecting building materials or actual construction of the buildings cannot arise. No prudent businessman will place orders for heavy machinery either locally or abroad before taking the preliminary steps for acquiring the land and construction of the factory wherein the machinery would be installed. So the acquisition of land was the first concern and care of the Company and that step had to be taken within the time fixed in the licence and hence the reason for invoking the urgency provisions of the Land Acquisition Act. It is, however, pointed out that in the Act "Effective Step" has been clearly defined and the acquisition of land does not come within that definition. Whether it does or not by implication is one moot question and again, whether the definition of the expression "Effective Step" in the Act will govern the expression as used in the licence is another. It appears from the affidavit of Shri R. S. Talwar (CM-7) that in the case of the other six industrial undertakings the same promotional aid had been extended by the Punjab Government. In the opinion of the Commission not much weight can be attached to this line of attack.

The third head of argument that Part VII of the Land Acquisition Act providing for acquisition of land for companies was dispensed with fraudulently need not detain the Commission for long. In the first place learned Counsel conceded during the arguments advanced by learned Counsel for S. Partap Singh Kairon that he (learned Counsel for the Memorialists) had not contended that Part VII could not be dispensed with. He did urge was that if the acquisition of land was for a public purpose, as here, then Part VII should have been complied with the provisions of Section 40 (Previous Inquiry), Section 41 (Notice to the Appropriate Government) and Section 42 (Publication of the Agreement) should have been complied with if it was not done. Learned Counsel conceded that if the acquisition was for a public purpose out of public revenue either wholly or in part then Part VII need not be complied with but his contention was that here the Government were ostensibly pretending to acquire this land out of public revenue and thereby by-passing acquire this land out of public revenue and thereby by passing for a company. Learned Counsel for S. Partap Singh Kairon cited before the Commission the decision of our Supreme Court in Pandit Jhandal v. The State of Punjab (1961) 2 S.C.R. 459—A.I.R. (1961) S.C. 343 in support of the proposition that acquisition for public purpose through a company but to be paid partly or wholly out of the public fund may be made without applying Part VII of

the Act. Whether the money—here the sum of Rs. 100/- is subsequently taken back is immaterial according to a ruling of the Madras High Court in Secretary of State v. M. Gopala Aiyar and others A.I.R. (1930) Mad 798 at p. 800 which was approved by the Supreme Court in Somavanti's case A.I.R. (1963) S. C. 151. In the light of these authorities the Commission cannot uphold this objection. In other cases cited by Shri R. S. Talwar in his affidavit precisely the same procedure had been followed and no objection was taken thereto by any one. Indeed S. Tarlok Singh who is one of the owners whose lands have been acquired challenged this very acquisition in Civil Writ No. 1480 of 1962 but it was dismissed by the High Court. Even in his Writ Petition S. Tarlok Singh did not allege any *mala fide* on the part of S. Partap Singh Kairon.

The fourth objection was formulated by learned Counsel in two parts, namely—

- (a) that possession of the land was taken forcibly by S. Surinder Singh Kairon by show of arms and threat to the lives of the landowners;
- (b) law does not justify the manner in which possession was taken.

It appears from a Government file produced by S. Partap Singh Kairon and relied on by the Memorialists that on September 3, 1962 landowners appeared before the Collector, Gurgaon. The Collector issued directions to the Tehsildar to deliver possession of the notified land to the representative of the Industries Department for New Textile Mills. Hearing was adjourned till October 1, 1962. On September 5, 1962 Shri Ghasita and others being some of the landowners presented two similarly worded applications before the Collector complaining that on September 4, 1962, a multitude of armed persons numbering 60 to 70 came with a tractor and started ploughing the land, that S. Surinder Singh Kairon told these landowners not to interfere, that when the landowners protested S. Surinder Singh Kairon ordered that they be mowed down saying that "the Government is ours". The landowners went to the Police Station but the police regretted their inability to do anything. They went to the Tehsildar but no action was taken. On the back of the petition there is an order of the Collector to the Tehsildar "File". It also appears from the Government file that at the first hearing before the Collector on October 1, the Land Acquisition Compensation case was transferred to the S.D.O. Palwal where the landowners were asked to appear there on October 29, 1962. On that date an Order was made in Urdu which, it was said, seemed to indicate that no previous order for delivery of possession had been given to the Tehsildar and that direction was then given to the Tehsildar to take over possession and to hand it over to the new Textile Mills and to submit a report. On October 30, 1962 the S.D.O. Palwal wrote to the Tehsildar Ballavgarh to take immediate possession and deliver the same to the Mills. On November 12, 1962 Tehsildar reported that possession had already been taken and delivered. On November 14, 1962 the S.D.O. sent back the file to the Tehsildar with a request to intimate the date of taking possession. On November 20, 1962 the Tehsildar returned

the file with the note that possession had been taken on November 4, 1962. There was some smudge in that note and it was vehemently urged that the file had been tampered with. The suggestion was that as forcible possession had been taken on September 4, 1962 an attempt was made to shift the date of possession to a later date to evade the charge of forcible possession. The S.D.O. Palwal came in seisin of the case on October 29, 1962 and he was obviously not familiar with the order that had been made by the Collector on September 3, 1962. Tehsildar may well have made a mistake in stating the month on the 4th day of which he had taken possession. Learned Counsel for S. Partap Singh Kairon says that it is also his case that possession had been taken on September 4, 1962 but it was not taken forcibly as alleged. In the first place it should be remembered that Shri Prabodh Chandra had submitted two charge-sheets in May 1958 and August 1960 against S. Partap Singh Kairon on account of the alleged wrongful conduct of his son S. Surinder Singh Kairon. Shri Shriman Narayan in his report had held S. Partap Singh Kairon to be deemed to be "constructively responsible" for the acts of his sons. It is difficult to accept that in such circumstances when some determined opponents were out to find fault with S. Partap Singh Kairon and the members of his family, S. Surinder Singh Kairon would behave in the way he is alleged by the landowners to have done on September 4, 1962. What appears to the Commission to clinch the matter is the fact that although the deponent S. Tarlok Singh is one of the owners who had been dispossessed on that day, he did not in his letter written after September 4, 1962 make any allegation about forcible dispossession by S. Surinder Singh Kairon with armed men and tractor. His only complaint in that letter was that though possession had been taken on September 4, 1962 no compensation had been paid.

It was also contended that no notice under Section 9(1) had been issued and therefore no possession could be taken under Section 17 of the Act. This argument also seems to be based on a misapprehension of facts. In S. Tarlok Singh's writ petition it was admitted in paragraph 6 that by the Notification No. 5658—2CB-62/18317 dated August 14, 1962 it was specifically notified, *inter alia*, that in exercise of powers under Section 17(2)(c) the Governor had been pleased to proceed to take possession of the land in question. This publication may well be taken as notice under Section 9(1).

There does not appear to be any substance in the fifth head of the argument that deliberate attempt was being made to see that the award was made at a value much lower than the market value and official pressure was being exercised to attain that object. The proceedings for fixing the compensation have been going on and nobody can foretell what award will be made. The Act makes elaborate provision for safeguarding the interests of the owner whose land is acquired for going up in appeal if the award appears to him to be unreasonable.

It is next urged that even after the Company had been registered no step had been taken to ensure that the Company would be bound by the award and pay the compensation. S. Surinder Singh

Kairon had, by his affidavit, undertaken responsibility for payment of the compensation. It was not an acquisition for a Company under Part VII of the Act and, therefore, no question of agreement between the Company and the appropriate authority under Section 41 could arise. It should also be remembered that under the Act the ownership remains with the State until the land is conveyed to the Company on payment of the full compensation as finally awarded.

Same observations apply to the seventh objection that vast official patronage had been bestowed on a Company whose share capital was only Rs. 3700 or Rs. 3070. The authorised capital of the Company was, according to Maulvi Abdul Ghani Dar, Rs. 1 crore. Capital may be issued and subscribed as and when necessity arises. In furtherance of their policy of promoting speedy industrialisation the Punjab Government does give promotional aid to industrial undertakings.

As regards the eighth head of argument the Commission agrees with the learned Counsel for the Memorialists that the entire proceedings for the acquisition of land were put through with extraordinary haste. It will be recalled that the application for acquisition was made by S. Gurdip Singh on June 14, 1962. The dates of the different acts done thereafter have already been noted in a preceding paragraph of this chapter and need not be recapitulated here. Suffice it to say that the local inquiries were completed with astonishing speed in about six days' time ending on June 20, 1962. The Company took the month of July 1962 to submit its documents. The file went to Chandigarh in the beginning of August 1962 and the Notification under the Land Acquisition Act had been issued on August 14, 1962, after the Chief Minister had seen the file and possession was taken on September 4, 1962. The question is what follows from this? If the acts done were not improper, irregular or illegal, then the mere fact that they have been done expeditiously cannot change the nature or character of those acts. Haste cannot, by itself and without more, turn a valid act into an invalid one. At the highest it may show that the officials had been influenced by S. Partap Singh Kairon or by S. Surinder Singh Kairon to expedite matters which was not necessarily irregular or illegal or have done so *suo motu* out of an instinctive desire to please and oblige the Chief Minister's son and possibly through him the Chief Minister himself which is undedstandable.

Learned Counsel for the Memorialists have urged that the officials have acted in the way they have done only because the Chief Minister was deeply interested in the matter as is evidenced by the fact that the file went up to him several times. It is true that when a letter came from the Union Minister, Shri N. Kanungo to the Chief Minister on August 24, 1961, laying down the principles on which spindles should be distributed, the Chief Minister sent it down to the office for being examined urgently. Again, when the question of change of location came up for consideration in the beginning of June 1962, the file did go to the Chief Minister and on June 4, 1962, he approved of the change. The file had to go to him for a question of policy, namely, change of location from one region to another

region had to be considered. Finally on August 9, 1962, when the question of issuing notification under the Land Acquisition Act arose the file had been seen by him. The foregoing facts show that the Chief Minister saw the files on three occasions and knew that land was being acquired for a company the promoters of which included his two sons and S. Kirpa Singh, his old friend, and that the thing was being pushed through at a speed which was not quite normal. The Chief Minister cannot, in such circumstances, say that he had no knowledge of what was happening in connection with the New India Spinning and Weaving Mills Ltd.

A point was raised about the 35 wagons of slack coal referred to in the affidavit of Shri Deoki Nandan Khar which has been amply refuted in the counter-affidavit filed on behalf of S. Partap Singh Kairon and was not pressed before the Commission.

Lastly it is said that S. Surinder Singh Kairon claims to have advanced a loan of Rs. 2,36,000 to this Company but he has not shown how he came by that money. S. Surinder Singh Kairon has given a Statement of his assets and liabilities. His manager Shri Bansilal has also explained the position. It is to be remembered that this Commission's function is not that of an official referee for taking an account of S. Surinder Singh Kairon's assets. Its business is to inquire into and report on "the misdeeds and blatant acts of corruption and gross misrule" of S. Partap Singh Kairon. In this inquiry the assets and liabilities of S. Surinder Singh Kairon can be looked into only for the purpose of assessing the conduct of S. Partap Singh Kairon and no more.

(v) Findings on facts

On the evidence before it and for reasons stated above the Commission holds—

- (a) that there was no illegality or irregularity on the part of the Government officers in the matter of the acquisition of the land in question;
- (b) that there was nothing wrong in applying the urgency provisions of the Land Acquisition Act;
- (c) that dispensing with the procedure laid down in Part VII of the Land Acquisition Act was not fraudulent;
- (d) that there is no reliable evidence to show that possession had been taken forcibly or in a manner not authorised by law;
- (e) that the compensation proceedings being pending it is premature to say that a low compensation will be awarded;
- (f) that there is nothing to require the Company to enter into any agreement with the appropriate authority as Part VII was dispensed with;
- (g) that there is nothing to show that any special favour has been shown to this Company in the matter of acquisition

of land which was refused to other industrial undertakings;

- (h) that there is evidence that the Government officers have acted with extraordinary expedition bordering on indecent haste in putting through the acquisition proceedings;
- (i) that the fact that the official files had been placed before the Chief Minister on three occasions does lend support to the suggestion that the Chief Minister had knowledge of the fact that lands were being acquired by the Government for the New India Spinning and Weaving Mills Ltd. and that the proceedings were being rushed through by the officers of the Government;
- (j) that there is no direct evidence that S. Partap Singh Kairon himself had directly exercised any influence or pressure on any of the Government servants in connection with the Land Acquisition proceedings and benefit of doubt must be given to him; and
- (k) that such extraordinary expedition may well have been induced by S. Surinder Singh Kairon by the exercise of his own influence as the son of the Chief Minister or by the exploitation of his father's influence or by the natural instinct and desire of the officials to please and oblige the Chief Minister's son and through him the Chief Minister himself.

CHAPTER XXXI
NAPCO INDUSTRIES

(i) The Charge as formulated in the Memorandum

“(20) Licence for import of Napco Industries was obtained by personal influence and a plant of Napco Industries of U.S.A. has been purchased at the cost of Rs. 133 lakhs against the original price of approximately Rs. 43 lakhs. Napco Industries are being set up at Meerut and again in the industrial belt of Faridabad and the proprietary rights in this case also belong to Shri Surinder Singh Kairon, and others.”

Roughly analysed this charge is founded on four allegations:—

- (1) that the licence for import of Napco Industries was obtained by personal influence, the source of influence not being mentioned;
- (2) that the plant has been purchased at Rs. 133 lakhs against the original price of about Rs. 43 lakhs;
- (3) that the Napco Industries are being set up at Meerut and again in Faridabad; and
- (4) that the proprietary right in this case also belongs to S. Surinder Singh Kairon, and others who are not named.

The name of S. Partap Singh Kairon has not been referred to at all.

(ii) The charge as made out in the supporting affidavit

This charge depends only upon the affidavit of Maulvi Abdul Ghani Dar (M-1) the substance of which may be summarised thus:

- (1) that Mr. Max. E. Rappapart and some other directors of Napco Industries Inc. of Minnesota, U.S.A. made an offer to the Government of India for sale of machinery at and for Rs. 50 lakhs but the Government of India turned it down;
- (2) that some representatives of Napco visited the Punjab and were entertained by S. Partap Singh Kairon;
- (3) that thereafter in 1960-61 Shri P. N. Sahni was sent ostensibly for getting training with Greyhounds Works but really for establishing contact with the Directors of Napco who visited the Punjab and got the machinery over-valued and again went to U.S.A. in 1962-63 to finalise the deal;

- (4) that the machinery which had been offered to the Government of India for Rs. 50 lakhs was valued by Messrs Ebasco Service Inc., in October 1960. Consequent on Shri P. N. Sahni's visit the machinery was valued again by Mr. Lundgren who was deputed by A.I.D. (Agency for International Development). It is not explained why a second valuation was necessary;
- (5) that a New Delhi firm licensed under the Industries (Development and Regulations) Act, 1951 entered into a collaboration agreement with Napco Industries Inc., and a new company Napco Bevel Gear of India Ltd. was floated;
- (6) that against the appraised value of over 4 million dollars the foreign concern agreed to accept only 2.8 million dollars for the entire plant;
- (7) that the U.S.A. Government through A.I.D. granted to the Company a loan of \$2,300,000 for payment of the price for the machinery and the agreement was executed on July 27, 1962;
- (8) that the Punjab National Bank Ltd., gave the guarantee to A.I.D. on the mortgage of the Company's land, machinery to be imported and the buildings etc., to be built on the land and the Punjab Government gave a guarantee to the Bank for Rs. 1,09,25,000 on the security of the land only;
- (9) that on May 6, 1963 the Company acquired 98 kanals and 15 marlas of land on Delhi Mathura Road at the inflated price of Rs. 4,50,000 from one Shri P. L. Kapur who was a Director of the Company;
- (10) that under clause 10 of the Indenture dated May 9, 1963 the Company would bear $\frac{1}{4}$ of the stamp duty and the Government would bear $\frac{3}{4}$ thereof. Stamp paper of Rs. 40,769 was purchased by S. Jasvinder Singh a nephew of S. Partap Singh Kairon;
- (11) that the machinery is old and unserviceable and will be exported from U.S.A. after being reconditioned. They were manufactured before 1920 and their value does not exceed Rs. 43 lakhs; and
- (12) that while the friends and relatives of the Chief Minister will share the excess over the original valuation of Rs. 50 lakhs, the Punjab Government has taken the risk involved in the project and the Company and its Directors' risk is limited to the extent of Rs. 4,50,000/- being the price of land.

And all the allegations summarised above are based on information derived from Debates in the Punjab Assembly and Parliament, records of Napco Bevel Gear of India Ltd., and of the Registration office at Ballabhgarh. Nothing is based on his personal knowledge.

(iii) Summary of the counter-affidavits

The allegations in the supporting affidavit of Maulvi Abdul Ghani Dar (M-1) have been refuted by the affidavits affirmed by S. Partap Singh Kairon (CM-93), Mr. M. J. MacCarty, Executive Vice President of Napco Industries Inc. and Director of Napco Bevel Gear of India Ltd., (CM-55), Shri P. L. Kapur, Director, Napco Bevel Gear of India Ltd., (CM-56) and Shri P. N. Sahni, Director of Industries (CM-57). These counter-affidavits may be shortly summarised thus :

- (1) that Napco Industries Inc. never made any offer to the Government of India and so the question of the latter turning it down did not arise;
- (2) that Napco representatives never met S. Partap Singh Kairon or Shri P. N. Sahni before August 1962 when they came to Chandigarh and were entertained to lunch;
- (3) that Shri P. N. Sahni did not contact Napco in 1960-61;
- (4) that neither the Punjab Government nor Shri P.N. Sahni had anything to do with the valuation of the machinery;
- (5) that on July 2, 1959 Napco entered into an agreement with Shri P. L. Kapur for sale of the machinery at 2.8 million dollars (Rs. 1,33,00,000/- and not Rs. 50,00,000/-). Agreement is annexed;
- (6) that in October 1960 Ebasco Services Inc. valued the machine tools at \$ 11,27,000 and took the cost of new jigs, tools, dies, etc., at \$ 37,24,000 but said that not being expert for valuing old jigs, tools, dies, etc. at market rates they recommended that some expert in that line be engaged;
- (7) that on the recommendation of the Indian Embassy in Washington, the American Government, A.I.D. and Indian Supply Mission Mr. Rolic Lungoran was appointed valuer only of market value of the existing jigs, tools, dies, etc., in June 1961. He valued them at Rs. 28,07,077/- which was found correct by the India Supply Mission and U.S.A. Government;
- (8) that on June 16, 1962 the Government of India allowed the collaboration agreement and granted a licence under the Industries (Development and Registration) Act, 1961;
- (9) that the A.I.D. advanced the price to the suppliers on the guarantee of the Punjab National Bank Ltd., the Punjab Government gave a guarantee to that Bank for Rs. 109 lacs and Shri P. L. Kapur and other Directors gave a guarantee to the Punjab Government;
- (10) that at the request of Mr. KcCarty the Punjab Government agreed to reduce the stamp duty to 1/4 on the sale of land;
- (11) that promotional aid is given by the Punjab Government and names of parties are given;

- (12) that the price of Rs. 4,50,000/- was a fair price;
- (13) that the name of the man who bought the stamp is S. Jasvinder Singh who is a junior assistant but his relationship to Kairon is not known;
- (14) that no Harbans Singh related to S. Partap Singh Kairon is a director of the new Company;
- (15) that the Punjab Government has taken no risk but is fully secured;
- (16) that the machinery were manufactured between 1940-1951 and none before 1920 and have been fully reconditioned and certified as as good as new;
- (17) that Napco Bevel Gear of India Ltd. has been registered with an authorised capital of Rs. 5 crores of which Rs. 1,26,70,000 was issued and subscribed in a week's time; and
- (18) that the name of Napco has been maligned by a false affidavit.

(iv) Discussion on the facts

On the basis of the evidence furnished by these properly verified counter-affidavits the relevant portions of which have been summarised above and which the Commission accepts as true it will be seen that all the major premises of Maulvi Abdul Ghani Dar's affidavit were incorrect. On December 19, 1963, Maulvi Abdul Ghani Dar asked questions in Parliament and Shri C. Subramanian, the Minister for Steel, Mines and Heavy Engineering told him in answer that no offer was made by Napco to the Government of India to set up a gear making plant in 1959 or to sell any machinery, that the machinery was purchased in 1940 and 1958 and have been reconditioned and guaranteed as for new machine, that the evaluation of 1960 made at the instance of the Indian Embassy related to fair market value of the machinery as well as the replacement cost of tools, jigs, fixtures etc. and that the assessed value was put at \$4,743,190 and that the evaluation made in 1961 at the instance of A.I.D. was confined to only the tools, jigs, fixtures etc. and was put at \$2,807,077. One would have thought that after all these facts came to their knowledge the Memorialists would quietly drop this charge. Indeed, this charge was not urged by learned Counsel when the arguments for the Memorialists were going on. On May 6, 1964, i.e. long after learned Counsel for the Memorialists had closed their case a written note was presented to the Commission on this topic. The Commission has gone through the note with the attention that his respect for learned Counsel demands, but it finds nothing in it to support this charge. The Punjab Government had nothing to do with the matter at any time before it was approached to give a guarantee and to reduce the stamp duty and that it is all that it did. The decision was taken at a meeting of the Cabinet. The Commission is satisfied that the insistence even on this flagrantly untenable charge is indicative only of the strained relation that exists between the Memorialists and S. Partap Singh Kairon and which has warped their vision and vitiated their mind and faculty of reasoning. Their

mental state is well explained by the following observations of Baron Alderson in *Reg vs. Hodge* (1838) 2 Lew. 227:

“The mind was apt to take a pleasure in adapting circumstances to one another, and even in straining them a little, if need be, to force them to form parts of one connected whole; and the more ingenious the mind of the individual, the more likely was it, considering such matters, to overreach and mislead itself, to supply some little link that is wanting, to take for granted some fact consistent with its previous theories and necessary to render them complete.”

(v) Findings of the Commission

On a close scrutiny of the evidence placed before it the Commission has no hesitation in rejecting this charge as, on the evidence, wholly untenable and false.

CHAPTER XXXII

ALLEGED MALICIOUS PROSECUTION OF OFFICIALS

(i) The charge in the Memorandum

“(21) Earlier the Karnal Murder case had attracted nationwide notoriety. In that case, D. S. Grewal, and the police officials were implicated by Partap Singh Kairon but the case of the Punjab State was thrown out in Court. Subsequently due to the happening of the Karnal Murder case and due to the other reasons of public knowledge, Shri R. P. Kapur, I.C.S., his wife; his mother-in-law and even their farm servants were implicated in a number of criminal cases and lakhs of rupees from the State exchequer were spent in prosecuting Shri Kapur and his relatives. All the 10 cases filed by the State of Punjab were thrown out and it is significant that all the cases, barring one, ended in discharge, which in legal language meant that taking the prosecution evidence, at its face value, the case was considered groundless. Some of the cases were fought by Shri Kairon right up to the Supreme Court but the Court verdict was that the cases were “hopeless”, “groundless”, “incredible”, “concocted”, “fabricated”, etc., etc. In the one case mentioned above again the accused offered no evidence and that case also was thrown out. Arising out of Shri Kairon’s personal motivation there has been tremendous waste of public funds and in view of successive court verdicts, Shri Kairon’s position within the State is ridiculous, and there is deep disillusionment and frustration that such a person is being allowed to retain his position by the Centre while, in U.K. and other democracies Ministers have been made to resign for lesser acts of misdemeanour.”

This charge is taken in a modified form from Charge 12 of Shri Prabodh Chandra’s second charge-sheet of August 1960 where it is thus formulated:

“CHARGE 12—INTERFERENCE IN ADMINISTRATION AND DEMORALISATION OF THE ADMINISTRATIVE SET-UP

That S. Partap Singh Kairon with a view to subvert the administrative machinery of the State and in order to convert it into an instrument of personal despotism has committed the following abuses of power:”

Then follows a reference to the cases of (A) Shri D. S. Grewal, and (B) Shri R. P. Kapur.

A. PROSECUTION OF SHRI D. S. GREWAL

(ii) Affidavits filed in this connection

In the first instance two affidavits were filed on behalf of the Memorialists, one affirmed by Shri Tek Ram (M-12) and the other by S. Gobinder Singh (M-13). The following of the public have filed affidavits in support of this charge in so far as it relates to the official witnesses against whom strictures were passed by the trial court, namely, affidavits affirmed by Sarvashri Parkash Chander (P-23), S. C. Malik (P-13 and P-14), Devki Nandan Khar (P-42), Parma Nand (P-10), Mahase Jagdish Mitter (P-16). As against these affidavits the following affidavits have been filed on behalf of S. Partap Singh Kairon affirmed respectively by himself (CM-89, CM-101, CP-31, CP-35, CP-38, CP-39, CP-40 and CP-201), Sarvashri G. S. Kahlon (3 affidavits annexed respectively to CP-203, CP-35 and CP-38), J. S. Bawa (2 affidavits annexed respectively to CP-35 and CP-201) and Bahal Singh (annexed to CP-39).

(iii) Discussion on the evidence and arguments

It will be evident from the affidavits in support of the charge that none of the deponents have any personal knowledge in the matter. Learned Counsel for the Memorialists contended that out of personal vindictiveness S. Partap Singh Kairon used the entire machinery of the State to give vent to his personal motivation and has referred the Commission to the judgments of the trial judge and the High Court and relied on passages here and there occurring in those judgments to establish the charge. It is significant that neither Shri D. S. Grewal the only person who could throw a flood of light on this charge nor Dr. Partap Singh who is said to have supplied some information to Shri Tek Ram on the basis whereof the latter affirmed his affidavit has been prevailed upon to file any affidavit in this Inquiry. The Commission is, therefore, thrown back on the judgments. It has to be remembered that in this Inquiry those judgments are admissible only for a very limited purpose, namely, to prove the fact that Shri D. S. Grewal was prosecuted and that he was acquitted by the trial court, and that that order of acquittal was upheld by the High Court. Under Sections 41 to 43 of the Evidence Act that is as far as learned Counsel for the Memorialists may press the judgments. The observations and reasonings in those judgments cannot clearly be decisive on the question under consideration before the Commission. Learned Counsel for the Memorialists have, however, advanced some arguments which, according to him, find some support from the judgments. The Commission will now proceed to consider them very briefly.

The occurrence took place on July 15, 1957 and the First Information Report filed showed that in an encounter with the Police three men Hazara Singh, his brother Piara Singh and one Gian Singh had been shot dead by the Police. As is usual in such cases of casualty a magisterial inquiry was ordered. Shri M. R. Vaid who conducted the inquiry submitted his report in March 1958 holding that it was not a case of encounter at all but was a case of murder. Accordingly on April 8, 1958 a case for murder was registered and ten persons headed by Shri D. S. Grewal were sent up for trial on

a charge of murder. On the application of Shri D. S. Grewal the case was transferred from Karnal to Delhi to be tried by a Special Judge drafted from the Uttar Pradesh. Shri S. D. Singh who was the Special Judge who tried the case as the Sessions Court acquitted all the accused persons on November 12, 1959. As advised by its Law Department the State of Punjab went up on appeal to the High Court. On May 20, 1960 a Bench of three judges dismissed the appeal.

A statement has been made by the deponent Shri Tek Ram in paragraph 12 of his affidavit (M-12) that S. Partap Singh Kairon in the presence of Maulvi Abdul Ghani Dar, Shri Ram Piara and Shri R. P. Kapur stated that he would get Shri D. S. Grewal hanged. Maulvi Abdul Ghani Dar and Shri Ram Piara have filed more than one affidavit in these proceedings but neither of them has said a word about the alleged threat held out by S. Partap Singh Kairon. Shri R. P. Kapur has not filed any affidavit. S. Partap Singh Kairon has denied having made any such statement. The whole statement is so improbable that it must be rejected as a crude attempt to put an admission into the mouth of S. Partap Singh Kairon. Another similar crude attempt was made by Shri Parma Nand in his affidavit (P-10) that in the presence of Chaudhri Sahib Ram, Lala Kidar Nath Sehgal (since deceased) and of the deponent S. Partap Singh Kairon said that he had told the mother of Hazara Singh and Piara Singh that he could not bring her sons back to life but would see that Shri D. S. Grewal was sent to the same world where her sons had gone.

Shri Tek Ram referred to certain affidavits filed in the Supreme Court in connection with the transfer application and actually reproduced some of them in paragraphs 3 and 4 of his affidavit. The fact that the Supreme Court transferred the case to Delhi cannot be founded upon as establishing the truth of those allegations. Orders of transfer are always made on a consideration whether the petitioner for transfer has a reasonable ground for apprehending that he will not get justice in the court where the case against him is pending. It is a far cry from the actual proof of the facts alleged.

Learned Counsel also relied on certain strictures passed by the trial court on some of the witnesses and contends that S. Partap Singh Kairon must be held to have instigated those witnesses to give false evidence. Learned Counsel for S. Partap Singh Kairon has referred the Commission to certain passages in that very judgment where the court held that there was no evidence that S. Partap Singh Kairon gave any direction to the officers investigating the case that the case should be thoroughly investigated and further that there was "no evidence to connect him, directly or indirectly, with the concoction of false and fabricated evidence which was done in this case."

Reference was made to a letter dated August 26, 1957 written by S. Waryam Singh, Inspector General of Police to the Governor's Private Secretary stating that Shri D. S. Grewal was not present at the encounter and it is asked whether it was not the duty of S. Bahal Singh who conducted the inquiry before the magistrate to

consult his superior officer. S. Bahal Singh in his affidavit (annexure to CP-39) says that the letter was written when the inquiry was going on. As a result of the magisterial inquiry the case of encounter was found to be untrue.

The material allegations in paragraphs 4 and 5 of the affidavit of S. Gobinder Singh (M-13) are verified to have been based on information alleged to have been supplied by Shri D. S. Grewal who, however, has not filed any affidavit in support of the charge.

Some point was just touched upon very briefly as to the expenses incurred by the State in carrying on these proceedings. When no less than three persons had been shot dead and when on a magisterial inquiry it is found that it was a case of murder and not a case of encounter, a case had to be started after necessary police investigation. That is the normal course and to deviate from such course would surely be castigated as a dereliction of duty on the part of the Prosecuting Agency and the Legal Remembrancer. Seeing that the case was an important one in that a Superintendent of Police was involved in it steps had to be taken for the proper conduct of the prosecution. In any event the Chief Minister is hardly likely to be consulted about the engagement of counsel and other details. Costs incurred in such prosecutions cannot, therefore, be considered as waste of public fund. To make inadequate provision for conducting the prosecution might well have laid the authorities to a charge that they had let a high official go scott free.

It was said that on October 18, 1960 in answer to a question in the Punjab Vidhan Sabha names of 30 officers were mentioned against whom serious strictures were passed by the court and S. Partap Singh Kairon should be called and asked to explain how these officers came to prejure themselves. In the affidavits some allegations had been made that not only had no step been taken against them but some of them have been even promoted. In the counter-affidavits these allegations have been refuted. In the arguments before the Commission these subsidiary points which are not quite germane to the topic under discussion were not pressed and require no further comment.

Seeing that the materials on record carried this charge of the Memorialists nowhere, learned Counsel contended that the Chief Minister and other witnesses should be called and cross-examined before the Commission. The plea, if granted, will mean that this Commission will have to try the Grewal case over again, a procedure which the Commission hesitates to adopt. The Commission of Inquiry Act authorises this Commission to take evidence on affidavits and the Commission has decided to adopt this course. It has issued notice to the parties and also invited the public to submit affidavits. Affidavits have been filed. When those affidavits do not establish the charge, the Memorialists cannot be permitted to claim that they should be given a fresh opportunity to cross-examine on the off chance that some fresh evidence may be elicited. The Commission is not prepared to countenance such proposal at this stage.

(iv) Findings of the Commission on this charge arising out of the prosecution of Shri D. S. Grewal

For reasons given in the foregoing discussion the Commission finds—

- (a) that there is no evidence on the present record that Shri D. S. Grewal was falsely implicated;
- (b) that there is no evidence that he was implicated by the Chief Minister to give vent to his alleged personal motivation; and
- (c) that there is no reason to hold that moneys spent on this prosecution were so spent otherwise than in the ordinary course of events.

B. CASES AGAINST SHRI R. P. KAPUR

(i) Affidavits filed concerning this topic

The case of the Memorialists rests on paragraphs 61 to 71 of the affidavits of Maulvi Abdul Ghani Dar (M-6) which corresponds with paragraphs 61 to 71 of the affidavits of Shri Devi Lal and five others (M-7) and of Master Tara Singh (M-25) and on the affidavit of S. Gobinder Singh (M-13). The allegations are dealt with by S. Partap Singh Kairon in his counter-affidavit (CM-89). No rejoinder appears to have been filed.

(ii) Discussion on facts and arguments

As in the case of Shri D. S. Grewal, so in the case of Shri R. P. Kapur, none of the deponents who had filed affidavits has any personal knowledge of the matter at all. Shri R. P. Kapur has not filed any affidavit in support of this part of the charge which concerns him and on which he alone could throw a flood of light, if the case were true. He has not thought fit to come forward. The result is that the position that has arisen in this Inquiry is exactly opposite to what had obtained before the Supreme Court of India. In the proceedings before the Supreme Court S. Partap Singh Kairon, rightly or wrongly, did not file any affidavit refuting the allegations of Shri R. P. Kapur and now Shri R. P. Kapur has not filed any affidavit in support of the allegations of those who have taken up the cudgels for him or in denial of the allegations made by S. Partap Singh Kairon in his counter-affidavit. Learned Counsel for the Memorialists has had, therefore, to fall back on the judgments of the courts and to buttress his case by picking out sentences from here and there in those judgments. As already explained those judgments are admissible for a very limited purpose, namely, to prove the existence of those judgments, as distinguished from their truth. In other words, those judgments help only to establish that Shri R. P. Kapur was prosecuted and he was acquitted. The process of reasoning leading to the findings on issues are clearly inadmissible against S. Partap Singh Kairon. Subject to this observation the commission proceeds to deal with a few points raised in the argument by learned Counsel for the Memorialists.

In his petition filed before the Supreme Court Shri R. P. Kapur made a definite case that false criminal cases had been filed against him because he had incurred the wrath of the Chief Minister. The

reason assigned for his having so incurred the displeasure of the Chief Minister was—

- (a) that he declined to give evidence in the Karnal triple murder case, against Shri D. S. Grewal and others; and
- (b) that he had, as Commissioner of Patiala Division, dictated an order for partitioning the Sangrur estate into two equal parts to be allotted to the two widows of the late S. Mukund Singh contrary to the request of S. Partap Singh Kairon, his wife and his son who had married the youngest daughter of S. Mukund Singh that the estate should be divided into five parts, one to be allotted to each of the two widows and one to each of the three daughters of the deceased owner and that he was got arrested in order to prevent him from signing that order.

The Supreme Court rejected both these grounds as entirely baseless and false. Learned Counsel for the Memorialists tried to retrieve his position by saying that the Supreme Court might have been misled by the affidavit of the Chief Secretary into the belief that no order had been dictated by Shri R. P. Kapur but now that it is known that there was such an order on the file the whole case assumes a different complexion and the Supreme Court judgment cannot have that binding force. The matter has been dealt with at some length when dealing with the charge relating to the Sangrur Court of Wards and it has been shown that quite apart from the question of the want of his jurisdiction in the matter Shri R. P. Kapur's arrest could not have been due to his draft order partitioning the estate because the principle of equal partition had been decided long before his arrest.

Shri M. L. Sethi's case is very intimately connected with a petition filed by Shri R. P. Kapur in the Allahabad High Court and a Rule *nisi* has been issued on S. Partap Singh Kairon to show cause why he should not be prosecuted for having instigated that case. Under the Commissions of Inquiry Act this Commission has been enjoined to inquire into, amongst other things, this very topic which is now sub-judice before the Allahabad High Court and as such it may be that this Commission is an authority of co-ordinate jurisdiction and bound to go into the question whether S. Partap Singh Kairon instigated the proceedings initiated by Shri M. L. Sethi. On the principle of the comity of courts, however, it is of the utmost importance that as far as possible a conflict of decisions should be avoided and this Commission is, therefore, prepared to give way to the Allahabad High Court and express no opinion which may possibly hamper or obstruct the course of justice in that august tribunal.

Reference has been made to Dhingra's case, Ayurvedic case, Cold Storage case, cases against Sunder Das and others including Smt. Sheila Kapur and the case against Smt. Kausalya Devi. As already indicated there is no dependable evidence linking the Chief Minister with any of those cases and the judgments or orders do not help to establish it. The comment remains un rebutted that Shri R. P. Kapur has not made any affidavit in this Inquiry. The other observations made by the Commission in Shri D. S. Grewal's case apply *mutatis*

mutandis to the case of Shri R. P. Kapur and need not be repeated here.

(iii) Finding of the Commission on this charge in so far as it relates to the cases filed against Shri R. P. Kapur

On a consideration of the evidence placed before the Commission and for reasons stated above the Commission holds—

- (a) that the allegations of enmity between S. Partap Singh Kairon and Shri R. P. Kapur for the two reasons mentioned by him are entirely baseless;
- (b) that, on the available evidence, Shri R. P. Kapur was not arrested as a result of the enmity so alleged; and
- (c) that there is no dependable evidence to hold that Shri R. P. Kapur was falsely implicated by S. Partap Singh Kairon in any of the cases, namely M. L. Sethi's case, Dhingra's case, Ayurvedic case, Cold Storage case and the other cases.

PART VII
FINDINGS
and
THE CONCLUSION.

CHAPTER XXXIII

FINDINGS

I. Summary of the Findings

The discussions in the two preceding Parts of this Report on the facts relating to the specific charges led the Commission to arrive at the findings recorded at the foot of each of the several chapters in those Parts. Those findings may be classified under four heads, namely—

- (1) Case where the Chief Minister himself abused his influence and power for his own benefit:
 - (i) Dr. H. S. Dhillon
- (2) Cases where the Chief Minister abused his influence and powers, personally and/or by or through his colleagues or subordinates, to help his sons or relatives to acquire or dispose of properties or businesses in violation of law or rules of established procedure:
 - (i) Neelam Cinema, Chandigarh,
 - (ii) Nandan Cinema and Punjab Cold Store, Amritsar, and
 - (iii) Sale of surplus lands in villages Ramgarh Dhani and Madhar Kalan.
- (3) Cases where the sons or relatives of the Chief Minister exploited his influence and powers in getting undue favours or advantages from Government officials for acquiring properties or businesses in violation of law or rules of established procedure and or where his colleagues or subordinate officials *suo moto* out of fear or in the hope of future reward, bestowed favours or advantages on his sons or relatives for acquiring properties or businesses in violation of law or established rules of procedure:
 - (i) National Motors,
 - (ii) Capital Cinema, Patiala,
 - (iii) Elite Cinema, Hissar,
 - (iv) Neelam Cinema, Faridabad, and
 - (v) New India Spinning & Weaving Mills Ltd.
- (4) Cases where the charges have been held not to have been proved or have been found to be untenable:
 - (i) Amritsar Cooperative Cold Store Ltd.,
 - (ii) Kairon Brick Kiln Society,
 - (iii) Parkash Cinema, Amritsar,

- (iv) Mukut House,
- (v) Teg Cold Storage,
- (vi) Ludhiana Cooperative Cold Storage,
- (vii) Unknown assets since discovered,
- (viii) Sangrur Court of Wards Estab.
- (ix) Sandhu Bus Service,
- (x) Favouritism and Nepotism,
- (xi) Wheat Seeds,
- (xii) Sarai Naga Brick Kiln,
- (xiii) Creation of new posts of Assistant Commissioners and appointment of favourites,
- (xiv) Weighment of Prime Minister in Gold,
- (xv) National Defence Fund,
- (xvi) Medicines,
- (xvii) Napco, and
- (xviii) Malicious Prosecution of two officials.

II. The Chief Minister's Liability

As discussed in Chapter VI in Part IV of this Report the responsibility of the Chief Minister depends on the answers to be given to the three questions formulated therein. In view of the findings relating to the several charges grouped under heads (1) and (2) above the first two questions (a) and (b) must, in relation to those charges, be answered in the affirmative. It is not for this Commission to say what the consequence of this finding will be, for that is entirely a matter of policy to be decided by the Central Government. All that this Commission can say, for the consideration of the authorities, is that those several charges thus brought home to the Chief Minister cannot but be regarded as unbecoming of a person holding the high and responsible office of Chief Minister of a State.

The real difficulty arises in determining the effect of the affirmative findings in respect of those charges which are classified under head (3) above. Learned Counsel for S. Pratap Singh Kairon repeatedly contended that assuming, but not admitting, that the sons or relatives of S. Pratap Singh Kairon had exploited the influence and powers of the Chief Minister in getting favours and help from officials in amassing wealth or the Government officials *suo moto* showed them favours enabling them to amass wealth the Chief Minister could not, on any intelligible principle of law, be held responsible for their misconduct. That squarely raises the controversy which centres around question (c) referred to in Chapter VI of the Part IV of this Report which must now be discussed in some detail.

That S. Pratap Singh Kairon quite clearly realised the situation envisaged in the third question and anticipated it in advance is evident from the fact that he has in his counter-affidavit (CM-89) laid grounds on which he would rely in refutation of it. In that counter-affidavit he maintains that his two sons, S. Surinder Singh Kairon (aged 31) and S. Gurinder Singh Kairon (aged 29) and his brother

S. Jaswant Singh Kairon carry on their businesses on their own and independently and that he (S. Pratap Singh Kairon) has no concern whatsoever with their earnings, assets or liabilities or the conduct of their businesses. According to him, he is so busy with the administration of the State and other political matters that he has no time whatsoever to look after his family and that days and sometimes months pass without his talking to his sons. He reiterates that his sons are energetic and hardworking persons and like many other young persons in business they seem to have done fairly well. Towards the end of this counter-affidavit (CM-89), where he formulates the points which, according to him, this Commission has to consider, he repeats that his sons and brother live separately, do their own business, earn for themselves and keep the same with themselves, that no part of it is given to him, that he is too busy and does not know anything about their business. He says that if anything wrong had been brought to his notice he would have reprimanded them, although he cannot say what effect it would have had on them. He disclaims all responsibility, direct or indirect, if any government servant had done anything to oblige or to help his sons or relatives, for it was not done under his orders, knowledge or connivance. He concludes by saying that he has no power either morally or legally to prevent his sons from doing business and reiterates that if he had been informed that they had done anything illegally which brought them with the purview of law, he would certainly have ordered that the law should have its normal course in their case in the same manner as in the case of any other individual. He denies having passed any illegal or wrong or corrupt orders to favour his sons or any other persons.

While the Commission is not prepared to say that under no circumstances can a father plead ignorance of the activities of his sons, it will have to examine the facts and circumstances appearing on the record with care and ascertain whether in this case the plea of ignorance is legitimately available to S. Partap Singh Kairon as claimed by him.

The Memorialists seek to fix S. Pratap Singh Kairon with the knowledge of the allegations or insinuations, right or wrong, that his sons or relatives were exploiting his influence and power and that the Government servants were dishonestly helping his sons and relatives in amassing fabulous wealth in violation of law or rule of established procedure and to make him liable for connivance in several ways, namely, by bringing home to him knowledge of allegations or insinuations, right or wrong, that emerged out of (i) Sardar Harbhajan Singh's trial, (ii) Shri Prabodh Chandra's charge sheets of 1958 and 1960 and the report of Shri Shriman Narayan, (iii) agitation in the Press, (iv) Assembly questions and (v) direct personal knowledge in some cases.

Re: (i): It is common knowledge that a few years back smuggling in gold and other commodities was rampant in the Punjab and there was a good deal of agitation even in a section of the Press insinuating that the sons of S. Pratap Singh Kairon were mixed up with such smuggling. Rumours became so insistent that the Punjab Government had to issue a notification to the following effect:—

"Certain Urdu dailies from Jullundur are indulging in a deliberately mischievous and false propaganda alleging complicity of a Minister's son in smuggling on the border. This is evidently done with a view to malign Government and cause suspicion in the mind of the public. The Punjab Government categorically deny the allegation. These papers should have the courage to come out openly with the name of the son of the Minister instead of repeatedly publishing things in a vague and indirect manner. They should not take shelter behind anonymity and should not be afraid of the consequences of the publication of these allegations.

The Punjab Government have already taken steps to curb smuggling and they are determined to put it down with a firm hand."

S. Harbhajan Singh, the Chairman of the Punjab Praja Socialist Party took up the challenge and issued the following press statement:—

"My attention has been drawn to a Punjab Government Press Note categorically denying the complicity of a Minister's son in smuggling. That Press Note also throws a challenge to some Urdu Dailies 'to come out openly with the name of the son of the Minister and then face the consequences.' I don't know whether the newspapers concerned will take up this challenge of the Punjab Government or not, but as one of those who have been naming that son of the Minister as one of the leaders of the smugglers from Public Platform, I hereby name that son as S. Surinder Singh Kairon son of S. Pratap Singh Kairon, Chief Minister. And I do so determined to face the consequences of the charge being openly levelled by me. I further allege that the son of our Chief Minister is not only a leader of smugglers but is responsible for a large number of crimes being committed in the Punjab. But because the culprit happens to be Chief Minister's son the cases are always shelved up.

"If the Punjab Government accepts this challenge, it should do so by appointing an independent committee of impartial Judges from outside the Punjab and then let us see who has to face the consequences. If the Punjab Government dare not do so, I would not mind serving a term in Jail for having had the courage to come out with the truth. May I bring it to the notice of Punjab Government that Chief Minister's son is being discussed in almost every Punjabi house, but people are afraid of talking about him in public lest they be punished for that."

S. Surinder Singh Kairon promptly prosecuted S. Harbhajan Singh for criminal libel and the latter was convicted by the trial court. The High Court dismissed S. Harbhajan Singh's appeal and upheld the conviction and sentence. The case is now pending in

appeal before the Supreme Court of India. The judgment of the High Court in the appeal filed by S. Harbhajan Singh against his conviction is not in any way binding on S. Partap Singh Kairon and, indeed, is not even admissible in evidence in this Inquiry as a proof of the correctness of the findings of fact therein arrived at. The Commission, however, allowed learned Counsel for the Memorialists to refer to that judgment for the very limited purpose of showing its bearing on the question of knowledge of S. Partap Singh Kairon as to the allegations or insinuations made about the activities of his son S. Surinder Singh Kairon and the undue favour he was receiving from the Government employees. Those allegations are also collected in the affidavits of S. Harbhajan Singh (P-19). S. Surinder Singh Kairon did not, quite rightly, in his counter-affidavit (CP-10), deal in detail with the allegations in the affidavit of S. Harbhajan Singh (P-19) as the matter was sub judice before the Supreme Court of India. He has, however, denied the allegations in the affidavit of S. Hazara Singh Gill. The Commission's view is that the trial of S. Harbhajan Singh does serve, in a very limited way, to show that S. Partap Singh Kairon knew that serious allegations or insinuations, right or wrong, were being made against the conduct of S. Surinder Singh Kairon and the employees of the Government.

Re: (ii): The next thing that has a similar bearing on the question of the knowledge of S. Partap Singh Kairon about his son's conduct and that of some of the Government servants is the fact of presentation of the charge-sheets against him before the Congress High Command. On or about May 1958 Shri Prabodh Chandra and several other persons who at that time were Congress men submitted to the then Congress President a charge sheet complaining of various misdeeds and acts of corruption on the part of S. Partap Singh Kairon. Out of the seven heads of charges included in that document the very first one, namely, 'A' related to misuse of his position by S. Partap Singh Kairon for the benefit of himself and the members of his family. The assets alleged to have been acquired by the family upto the date of this charge sheet were as follows:—

- (1) Two brick kilns, one in village Kairon and the other in village Jaora in the Amritsar District; and
- (2) Amritsar Co-operative Cold Store Ltd. which was in reality a family concern.

The charges were forwarded by the Congress High Command to S. Partap Singh Kairon with a request for his explanation. Therefore, S. Partap Singh Kairon knew exactly what allegations and insinuations were being made against him. After making what appears to be some *ex parte* inquiry the Congress High Command came to certain conclusions recorded by Shri Shriman Narayan in a note dated May 19, 1958. The concluding paragraph of that note runs as follows:—

“As a result of our investigation, we have come to the conclusion that there is no basis at all for any corruption; that in some of the charges relating to his family members or others associated with him, certain improprieties

were committed while Sardar Partap Singh, might not have been personally aware of these, a person in his position must be deemed to be constructively responsible; and that there were certain procedural irregularities in administrative matters."

Undaunted and undeterred by the adverse findings of the Congress-High Command, the acquisition of fresh properties and businesses by the sons of S. Partap Singh Kairon are alleged to have continued apace. Eventually in August 1960 Shri Prabodh Chandra and certain other persons submitted another charge sheet against S. Partap Singh Kairon setting out a large number of charges including one relating to the acquisition of properties said to have been made by S. Partap Singh Kairon and his family by the abuse of his influence and power as the Chief Minister of the Punjab. This last mentioned charge sheet is Annexure I to the present memorandum. Indeed, the charges in the present memorandum are on the same lines and are in fact based on the earlier charge sheets. It will be interesting to note that after Shri Shriman Narayan's note dated May 19, 1958 the following further properties or businesses were alleged to have been acquired by S. Surinder Singh Kairon:—

- (1) Mukut House, Amritsar—August 1958,
- (2) Share in Parkash Cinema, Amritsar by wife of S. Surinder Singh Kairon to the extent of Rs. 1,30,000/-,
- (3) National Motors and Petrol Pump,
- (4) Capital Cinema, Patiala,
- (5) Cold Storage, Ludhiana,
- (6) Teg Cold Storage at Patiala, and
- (7) Neelam Cinema, Chandigarh.

Acquisitions after the charge-sheet of 1960 were—

- (1) Elite Cinema, Hissar, Nandesh Exhibitors and Movie-Exhibitors, Hissar,
- (2) New India Spinning & Weaving Mills,
- (3) Nandan Cinema, and Punjab Cold Storage, Amritsar,
- (4) Neelam Cinema, Faridabad, Fine Films and Faridabad Theatres, and
- (5) Capital Construction Co., Amritsar and Chandigarh.

There is, therefore, no escape from the position that S. Partap Singh Kairon knew exactly what allegations or insinuations, right or wrong, were being made against him, his sons and the Government servants in the two charge sheets.

Re: (iii): Immediately after the aforesaid decision of the Congress High Command was published there followed a series of editorials or articles in the leading newspapers. Reference has been made, among others, to the issues of the Statesman and The Hindustan Times of May 20, 1958, of The Times of India, The Tribune and The Bombay Chronicle of May 21, 1958, and the Shanker's Weekly

of June 8, 1958. Learned Counsel for the Memorialists was permitted by the Commission to refer to these newspaper articles not to establish the correctness of the facts or views recorded therein but because they have a bearing on one of the questions in issue, namely the question of knowledge of S. Partap Singh Kairon. These articles quite forcefully represent the anxieties that were then exercising the public mind.

Re: (iv): The Memorialists also raised their voices of protest in the very citadel of S. Partap Singh Kairon's power by asking questions in the Punjab Legislature. Reference has been made in this Report to several questions asked on different dates and it is not necessary to recapitulate them here. These questions could have left no doubt in the mind of S. Partap Singh Kairon as to their direction and purport.

Re: (v): Finally reference has been made to orders actually made by S. Partap Singh Kairon by himself or by his Private Secretary on official files which contained the previous notings of other Ministers or Deputy Ministers or Government employees and in particular to those relating, *inter alia*, to Punjab Cold Storage, Neelam Cinema, Chandigarh, Ramgarh Dhani land and Dr. Har-charan Singh Dhillon. These notings, it is contended, clearly indicated how the Government machinery was being misused and how S. Partap Singh Kairon and/or his colleagues or the subordinate employees were functioning in giving undue favours to the sons and relatives of S. Partap Singh Kairon and fixed him with knowledge of what was happening.

The cumulative effect of what transpired at the trial of S. Harbajan Singh, the allegations made in the charge sheets of 1958 and 1960 and the findings of the Congress High Command on that of 1958, the articles in the Press, the Assembly questions and S. Partap Singh Kairon's own orders on files containing the notings by other Ministers, Deputy Ministers or the Government officials is undoubtedly significant and cannot be easily ignored. They should certainly have informed the mind of S. Partap Singh Kairon about what was being thought and said about his own conduct and that of his over-zealous colleagues or subordinates. He should have realised that the allegations and insinuations thus made openly and persistently not only reflected on his own character and probity but were also bringing the Government of which he was the head into hatred, ridicule and contempt. Therefore, these allegations, irrespective of their correctness or truth should have put him on guard and should have induced him to make discreet inquiry as to the truth or falsity of those allegations and whatever might have been the result of such inquiry he should have warned his sons, his colleagues and subordinate officials against the repetition of such misconduct. He failed to give any warning to anybody, for in his affidavit (CM-89) he says that if any misdeed of his sons had been brought to his notice he would have warned his sons which statement clearly means and implies that nothing had been brought to his notice and he had given no warning. The Commission is free to concede that a father cannot legally or morally prevent his sons from carrying on business but the exploitation of the influence of the father who happens to

be the Chief Minister of the State cannot be permitted to be made a business of. Such exploitation cannot possibly be a legitimate business and the father's influence and powers cannot be permitted to be traded in. In the delicate situation in which S. Partap Singh Kairon, holding such exalted high office, was placed as a result of the activities of his sons and relatives and Government officials, even assuming he personally had not lent a helping hand in relation to them, the least he could do was to give a stern warning, in private and if necessary publicly, to his sons, relatives, colleagues and subordinate officers against their alleged conduct even if such conduct had not been proved to be true. There is no getting away from the fact that S. Partap Singh Kairon knew or had more than ample reason to think or suspect that his sons and relatives were allegedly exploiting his influence and powers. But, as his own affidavit shows, he made no inquiry, gave no warning to anybody and took no step whatever to prevent its recurrence but let things drift in the way they had been going, assuming he had no hand in it. In the premises he cannot now be heard to say that he had no knowledge of any wrongful conduct on the part of his sons, or relatives, or the officers under him. The allegations stared him in the face; he paid no heed to them. He cannot now plead ignorance of facts. In view of his inaction in the face of the circumstances hereinbefore alluded to he must be held to have connived at the doings of his sons and relatives, his colleagues and the Government officers. This is the true position, as the Commission apprehends it. It will be for the authorities to consider and decide what consequences follow from such connivance.

CHAPTER XXXIV THE CONCLUSION

An inquiry into the conduct of a Chief Minister of a State under the Commissions of Inquiry Act, 1952 is perhaps an unprecedented event and has undoubtedly thrown an extremely burdensome responsibility on the Commission. When the Chief Minister, whose conduct forms the subject matter of the inquiry, happens to enjoy, as S. Partap Singh Kairon undoubtedly does, the confidence of the overwhelming majority of the members of the Legislature of which he is the leader, the task of the Commission is rendered still more onerous. The events of the past six or seven years summarised in Part III of this Report have unmistakably given rise to political antagonism, personal rancour and ill-will resulting in grave tension between S. Partap Singh Kairon and a small but very determined group of opponents ever anxious to find fault with him and ever ready to strike grievous blows to destroy his reputation and shatter his career. The Commission has been pressed, on one side, with forceful arguments of learned Counsel appearing for S. Pratap Singh Kairon founded on what has been claimed as the singularly meritorious services rendered by him as the Chief Minister of the Punjab at a critical period of the history of the State and his burning patriotism and sincere solicitude for the well-being of the toiling millions of his countrymen placed under his stewardship and care and, on the other hand, with equally forceful arguments based on what has been called the utterly disgraceful conduct of a public man who, finding himself placed on the elevated pedestal of high office of the Chief Minister of the State, has stooped so low as to abuse his influence and powers in amassing a fortune of ill-gotten wealth in an amazingly short period of time. In this state of affairs the Commission has had to proceed warily and to approach its task of assessing the intrinsic value of the evidence placed before it in as objective a manner as it could and to arrive at conclusions appearing to it to be well founded on the proved facts or the irresistible probabilities of the case, unhampered by any extraneous considerations. The Commission has not, for a moment, permitted itself to forget or overlook its supreme duty to render justice to the individual arraigned before it but, nevertheless, it has not shrunk its duty to formulate its conclusions drawn from dependable evidence and the compelling circumstances of the case, undeterred by any consideration of the probable effect of its findings on the fortunes of individuals or parties. The Commission has, throughout this Inquiry, constantly borne in mind the two cardinal principles which have made our laws and administration of justice noble and which bar the way to tyranny and arbitrary Government. These principles are—

- (i) that an individual must be presumed to be innocent until the contrary is proved beyond reasonable doubt by depen-

dable evidence freely given and publicly ascertained or by the irresistible probabilities of the case; and

- (ii) that no individual shall be condemned on suspicion, however strong.

In arriving at its conclusions the Commission has, therefore, demanded the high standard of proof, which our laws enjoin before it has accepted any allegation, however emphatically asserted, as evidence on which it could safely rely and confidently act. In evaluating the evidence laid before it and in regulating its proceedings the Commission has adhered to the time honoured principles embodied in our Evidence Act and the Codes or Procedure, not because they are binding on it but, because they enshrine in themselves the sound and salutary good sense gathered through centuries of experience and wisdom. In the arduous and trying task of holding the scale of justice even as between the contending parties the Commission has spared no pains to ensure that justice is not only done but also appears to have been so done.

The bitter and acrimonious controversy between the Chief Minister and a section of the Punjab legislators has overflowed the precincts of the Punjab Vidhan Sabha and has permeated into and poisoned the public life of the State. It is not only loudly and widely proclaimed from public platforms and openly ventilated in the Press but has also become the subject mater of heated discussion in the parlours of many households, hostels or clubs. This controversy has excited public passion, fomented foul recriminations, distrust and hatred between erstwhile comrades, aroused animosity between rival individuals or groups and has even divided a section of the Press into two distinct warring camps. In short, public opinion in the State is surcharged with rancour and ill-will. It is no wonder, therefore, that this Commission has attracted the anxious and even the critical attention of the public and the Press.

The Commission has received numerous petitions and letters—many of them signed and others anonymous. Some of them have freely animadverted upon its constitution and even doubted its independence and impartiality and the inadequacy of its terms of reference. Some have thought fit to press upon the Commission its duty to save the State of the Punjab from the imminent ruin slowly but surely brought about by what they call “the misdeeds, the blatant acts of corruption and the gross misrule” of the present Chief Minister and to serve that end to discard all legalistic approach to the problem which, according to them, is not a legal but a political one calling for a drastic remedy. These writers have also ominously hinted that the Commission will be answerable, in case it did not act up to their advice, for the bloody revolution that must inevitably follow. The rest of the correspondents have sought to impress upon the Commission the absolute indispensibility of the continued leadership of the present Chief Minister for the urgent and imperative need for protecting and furthering the best interests of all sections of the people and particularly the long

suffering and toiling masses and its imperative duty to resist and defeat, by all available legal devices, what they describe as the unholy conspiracy of a handful of selfish, frustrated, disgruntled and unprincipled politicians. This section of the writers have not, disguised their view that if the Commission fails to uphold the position and prestige of the Government established by law it will necessarily be held responsible for the dire consequences of anarchy and chaos that are bound to follow. The Commission passes over these petitions and correspondence without comment except affirming that these writers have chosen an absolutely improper and futile way to influence the mind of the Commission, for they should have known that by training and temperament the Commission is utterly impervious alike to threats or cajoleries such as are contained in those communications and that it must do its duty undaunted by veiled threats and uninfluenced by plausible persuasion. While the Commission must necessarily accept the responsibility for the correctness of its findings on the evidence laid before it and for the probity of its Report it must stoutly and emphatically disclaim all responsibility for the consequences that may ensue in the wake of this Inquiry. The Commission has been charged only with the duty of finding the true facts as they emerge from the evidence admitted and assessed according to well established principles of law, and to make its report to the Central Government setting forth its findings and conclusions. Our Constitution has, on the other hand, trusted the Legislature and the Government with all matters of policy and reasons of State in relation to the governance of the country. The Commission has no doubt that those authorities will be readily willing to derive assistance from this Report in informing their minds about the true state of affairs as they appear from the evidence laid before the Commission. But what action they will take, in the discharge of their own responsibilities, is no concern of the Commission. The Commission cannot permit its own findings and conclusions to be, in any manner, influenced or shaped by an anticipation of the probable decision that the authorities may eventually take. Nor can the Commission be deflected from its straight path of duty by any extraneous consideration of expediency founded on its own notions of policy or reasons of state.

The Commission is aware that its Report may not satisfy all the passion and partisan spirit which a relentless campaign of calumny and vicious mutual recriminations have let loose in the Punjab—in the Legislature and outside—and, in a lesser degree in the rest of the country. The Commission, has, therefore, endeavoured to scrupulously avoid the pitfall of the common human weakness for popular approbation and to preserve the perfect poise and the serene composure of its mind. It has constantly reminded itself of the noble sentiments expressed and the solemn words of prudence and high resolution uttered nearly two centuries ago by an eminent and illustrious Lord Chief Justice of England who said—

“I wish popularity; but it is that popularity which follows, not that which is run after; it is that popularity which,

sooner or later, never fails to do justice to the pursuit of noble ends by noble means I will not do that which my conscience tells me is wrong upon this occasion, to gain the huzzas of thousands, or the daily praise of all the papers which come from the press. I will not avoid doing what I think is right, though it should draw on me the whole artillery of libels; all that falsehood and malice can invent, or the credulity of a deluded people can swallow."

Per Lord Mansfield in John Wilkes' case 4 Burrow 2527 at p. 2562; 98 Eng. Rep. 327 at p. 347; 19 St. Tr. 1075 at Col. 1112-3.

S. R. DAS,
11-6-64

ANNEXURE

List of Affidavits filed by the Memorialists on December 7, 1963.
(M-Series)

1. Shri Abdul Ghani Dar, M.P.
2. Shri Abdul Ghani Dar, M.P.
3. Shri Jagat Narain.
4. Shri Tarlok Singh.
5. Shri Ajit Kumar, M.L.A.
6. Shri Abdul Ghani Dar, M.P.
7. Ch. Devi Lal, M.L.A.
Lala Jagat Narain,
Vir Yagya Dutt,
Prof. Sher Singh, M.L.C.
Ch. Lahori Ram Bali,
Babu Bachan Singh, M.L.A.
8. Shri Ram Piara, M.L.A.
9. Shri Ram Piara, M.L.A.
10. Shri Dharam Singh Rathi,
Ex-M.L.A.
11. Shri Gurcharan Singh, M.L.A.
12. Shri Tek Ram, M.L.A.
13. Shri Gobinder Singh.
14. Shri Balramji Das Tandon, M.L.A.
15. Shri Kulbir Singh.
16. Shri Kulbir Singh, M.L.A.
17. Shri Ajit Kumar, M.L.A.
18. Shri Ghasi Ram, Ex-M.L.A.
19. Shri Kartar Singh, M.L.C.
20. Ch. Ram Singh, M.L.A.
21. Shri Rup Lal Sathi.
22. Shri Jagan Nath, M.L.A.
23. Shri Jagan Nath, M.L.A.
24. Shri Jagjit Singh, M.L.A.
25. Master Tara Singh.

List of Affidavits filed by the Public on or before December 18, 1963.
(P-Series)

1. Shri Sajjan Singh Margindpur.
2. Bakshi Lochan Singh.
3. Shri Jaswant Singh.
4. Smt. Satwant Kaur.
5. Shri Indar Singh.
6. Shri Surjan Singh.
7. Shri Mohan Singh, Akali.
8. Shri Bhagwan Das.
9. Shri Sadhu Ram.
10. Shri Parma Nand, Ex-M.L.A.
11. Shri Ajaib Singh Tung.
12. Dr. Baldev Parkash, M.L.A.
13. Shri Subhash Chandra Malik.
14. Shri Subhash Chandra Malik.
15. Shri Atma Ram.
16. Mahase Jagdish Mitter.
17. Shri Kirpal Singh.
18. Shri Rati Ram.
19. Shri Harbhajan Singh.
20. Sardar Harbhajan Singh.
21. Shri Joginder Singh.
22. Shri Mukhram Aggarwal.
23. Shri Parkash Chander.
24. Shri Parkash Chander.
25. Shri Ram Krishan Rakesh.
26. Shri M. L. Malhotra.
27. Bakshi Jagdev Singh.
28. Bakshi Jagdev Singh.
29. Shri Nasib Singh Sarpanch.
30. Shri Nasib Singh Sarpanch.
31. Shri Nasib Singh Sarpanch.
32. Shri Ram Piara, M.L.A.

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| 33. Shri Ram Piara, M.L.A. | 49. Giani Ajmer Singh. |
| 34. Shri Ram Piara, M.L.A. | 50. Giani Ajmer Singh. |
| 35. Shri Devki Nandan Khar. | 51. Sardar Dalip Singh. |
| 36. -do- | 52. Shri Hazara Singh Gill. |
| 37. -do- | 53. Shri Muni Lal Kalia. |
| 38. -do- | 54. Shri Niranjan Singh Talib, M.L.A. |
| 39. -do- | 55. Shri Hazara Singh Pannu. |
| 40. -do- | 56. Shri Sohan Singh. |
| 41. -do- | 57. Shri Jawahar Singh. |
| 42. -do- | 58. Shri Bajra Sain Sawhney. |
| 43. -do- | 59. Shri Krishan Gopal Kayasth. |
| 44. Jathedar Harbans Singh. | 60. Giani Bhagat Singh. |
| 45. -do- | 61. Shri Mangat Ram Vij. |
| 46. -do- | 62. Shri Amar Das Sagar. |
| 47. -do- | 63. Khalsa Rup Singh. |
| 48. Jathedar-Jaswant Singh. | 64. Shri Hazara Singh. |

List of Affidavits filed by or on behalf of Sardar Partap Singh Kairon on December 21, 1963, (CM-Series)

- | | |
|-----------------------------------|---------------------------------------|
| 1. Shri Gurinder Singh. | 22. Shri P. N. Bhalla, I.A.S. |
| 2. Shri Prithipal Singh. | 23. Shri Sham Lal Varma. |
| 3. Shri Ram Singh, P.C.S. | 24. Shri Balwant Singh, I.A.S. |
| 4. Dr. D. Bhatia. | 25. Shri Amar Singh Sohi |
| 5. Smt. Serla Grewal. | 26. Shri V. P. Joshi. |
| 6. Shri Kyan Singh Kahlon, I.C.S. | 27. Shri Prem Kumar, I.A.S. |
| 7. Shri R. S. Talwar, I.A.S. | 28. Shri R. D. Gupta. |
| 8. Shri Kuldeep Singh Virk. | 29. Shri B. B. Vohra, I.A.S. |
| 9. Shri Kyan Singh Kahlon, I.C.S. | 30. Shri R. S. Randhawa, I.A.S. |
| 10. Shri Kapoor Singh. | 31. Shri Iqbal Singh, I.A.S. |
| 11. Shri V. P. Johar. | 32. Shri Kuldeep Singh Virk. |
| 12. Shri Amar Singh. | 33. Shri Balbir Singh. |
| 13. Shri Prem Kumar. | 34. Shri S. R. Varma, I.A.S. (Retd.). |
| 14. Shri L. R. Dawar. | 35. Shri Hardev Singh Chhina, I.A.S. |
| 15. Shri Daljeet Singh, I.A.S. | 36. Shri Gurdial Singh. |
| 16. Shri S. C. Chhabra, I.A.S. | 37. Shri P. N. Bhalla, I.A.S. |
| 17. Shri C. R. Kamath. | 38. Shri Harbhajan Singh. |
| 18. Shri Jagmohan Singh. | 39. Shri Bansi Lal. |
| 19. Shri Bishan Bihari Lal. | 40. Shri Harbans Singh. |
| 20. Shri Hari Krishan Das. | 41. Shri Surjit Singh. |
| 21. Shri P. N. Sahni, I.A.S. | 42. Shri Surinder Singh. |

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|------------------------------------|--------------------------------------|
| 43. Shri Ramesh Narain Pandey. | 73. Shri Jagjit Singh. |
| 44. Shri Gurdip Singh. | 74. Dr. Amrik Singh Cheema. |
| 45. Shri Kundan Lal. | 75. Dr. Amrik Singh Cheema. |
| 46. Shri Surinder Singh Kairon. | 76. Shri Sushil Kumar Jain. |
| 47. Shri Sunder Singh. | 77. Bakhshi Jaswant Singh, I.P.S. |
| 48. Shri J. S. Bawa, I.P.S. | 78. Shri M. K. Luthra, I.P.S. |
| 49. Col. Sultan Singh. | 79. Shri Ujagar Singh, I.P.S. |
| 50. Shri R. S. Bhatnagar. | 80. Shri Hardev Singh Chhina, I.A.S. |
| 51. Shri Jaipal Singh Gupta. | 81. Shri Balmukand. |
| 52. Shri Jaipal Singh Gupta. | 82. Shri R. S. Talwar, I.A.S. |
| 53. Shri C. P. Sabharwal. | 83. Shri Autar Singh Brar, I.A.S. |
| 54. Shri Charan Das Mahant. | 84. Shri Satya Paul. |
| 55. Shri M. J. McCarty. | 85. Dr. Anup Singh, Ex-M.P. |
| 56. Shri P. L. Kapoor. | 86. Shri Mohan Lal. |
| 57. Shri P. N. Sahni. | 87. Shri Kyan Singh Kahlon, I.C.S. |
| 58. Shri H. S. Achreja, I.A.S. | 88. Shri Jaswant Singh Kairon. |
| 59. Shri S. C. Chhabra, I.A.S. | 89. Sardar Partap Singh Kairon. |
| 60. Smt. Serla Grewal. | 90. -do- |
| 61. Shri D. D. Bhatia. | 91. -do- |
| 62. Shri V. S. Mittal. | 92. -do- |
| 63. Shri K. J. Kavasji. | 93. -do- |
| 64. Shri O. P. Malhotra. | 94. -do- |
| 65. Shri Kyan Singh Kahlon, I.C.S. | 95. -do- |
| 66. Shri A. N. Kashyap, I.A.S. | 96. -do- |
| 67. Shri P. N. Bhalla. | 97. -do- |
| 68. Shri Gyan Singh Kahlon, I.C.S. | 98. -do- |
| 69. Shri K. K. Mookerjee. | 99. -do- |
| 70. Shri A. N. Kashyap, I.A.S. | 100. -do- |
| 71. Shri Manmohan Singh, I.P.S. | 101. -do- |
| 72. Shri Hardev Singh Chhina. | 102. Shri Shashpal Singh. |

List of Affidavits filed by or on behalf of Sardar Partap Singh Kairon on December 26, 1963 and on February 24, 1964. (CP-Series).

- | | |
|-------------------------|---------------------------------|
| 1. Shri Gurinder Singh. | 8. Shri Jai Inder Singh, M.L.A. |
| 2. -do- | 9. Shri Jai Inder Singh, M.L.A. |
| 3. -do- | 10. Shri Surinder Singh. |
| 4. -do- | 11. Shri Ram Kanwar. |
| 5. -do- | 12. Shri Kundan Lal. |
| 6. -do- | 13. Shri Amar Singh. |
| 7. -do- | 14. Shri Bharpur Singh, |

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| 15. Shri Ramesh Narain Pandey. | 56. Shri Hazara Singh Gill. |
| 16. Shri Kalyan Singh. | 57. Shri Inder Singh Kang. |
| 17. Shri Bishan Singh. | 58. Shri Joginder Singh. |
| 18. Shri Prem Singh. | 59. Shri Jagat Ram, M.L.A. |
| 19. Sardar Pratap Singh Kairon. | 60. Shri Thakur Singh. |
| 20. -do- | 61. Shri Ujagar Singh. |
| 21. -do- | 62. Shri Amar Nath. |
| 22. -do- | 63. Shri Mohinder Singh. |
| 23. -do- | 64. Shri Dilbagh Singh. |
| 24. -do- | 65. Shri Kishan Dayal. |
| 25. -do- | 66. Shri Charan Singh. |
| 26. -do- | 67. Shri Jagat Singh. |
| 27. -do- | 68. Shri Jagan Nath. |
| 28. -do- | 69. Shri Naranjan Dass. |
| 29. -do- | 70. Shri Sohan Singh. |
| 30. -do- | 71. Shri Daya Singh. |
| 31. -do- | 72. Shri Makhan Singh. |
| 32. -do- | 73. Mrs. Sheila Emile. |
| 33. -do- | 74. Shri Hans Raj Suri. |
| 34. -do- | 75. Shri Maharaj Singh. |
| 35. -do- | 76. Shri Albert George Emile. |
| 36. -do- | 77. Shri Abdul Gaffar Khan, M.L.A. |
| 37. -do- | 78. Shri Shankar Lal. |
| 38. -do- | 79. Shri Kashmira Singh. |
| 39. -do- | 80. Shri Ram Nath, Mpl. Commr. |
| 40. -do- | 81. Shri Gurmukh Singh. |
| 41. -do- | 82. Shri Puran Chand. |
| 42. -do- | 83. Shri Dharam Singh Virk. |
| 43. -do- | 84. Shri Mehan Singh. |
| 44. -do- | 85. Shri Hazura Singh Virk. |
| 45. -do- | 86. Shri Janardhan Dass Avasti. |
| 46. -do- | 87. Shri Moti Ram. |
| 47. -do- | 88. Shri Harbans Lal. |
| 48. -do- | 89. Shri Ram Prakash, M.L.A. |
| 49. -do- | 90. Shri Amar Singh. |
| 50. -do- | 91. Shri Lehna Singh. |
| 51. -do- | 92. Shri Abdul Rashid Khan. |
| 52. -do- | 93. Shri Bhajan Lal Vohra. |
| 53. -do- | 94. Shri Jaswant Singh Kochhar. |
| 54. Smt. Maya Devi. | 95. Dr. Hans Raj. |
| 55. Shri Avtar Manmohan Jit Singh. | 96. Kanwar Jagmal Singh. |

97. Dr. Ratan Dev Sharma. 139. Shri Bhag Singh.
 98. Shri Jahangiri Lal Wadhawan. 140. Shri Harkishan Singh.
 99. Shri Bhikhu Ram. 141. Shri Kundan Lal Ahuja.
 100. Shri Raj Singh. 142. Shri Attar Singh.
 101. Shri Inder Singh. 143. Shri Munshi Ram Gallotra.
 102. Shri Bakhtavar Singh. 144. Shri Madan Lal Chug.
 103. Shri Sardari Lal. 145. Shri Lakshmi Narain.
 104. Shri Sadhu Singh. 146. Shri Mohinder Singh Sidhwan.
 105. Shri Surjan Singh. 147. Shri Jang Singh.
 106. Shri Kura Ram. 148. Shri Niranjan Singh.
 107. Shri Ramsaran Singh. 149. Shri Kuldip Singh.
 108. Shri Shadi Ram Sood. 150. Shri Mohan Lal.
 109. Shri Santokh Singh. 151. Shri Harbachan Singh.
 110. Shri Gurcharan Dass. 152. Shri Karam Singh.
 111. Shri Daulat Ram Chopra. 153. Shri Jaswant Singh.
 112. Shri Labh Singh. 154. Shri Purna Nand.
 113. Shri Bua Singh. 155. Shri Amar Chand.
 114. Shri Roop Singh. 156. Shri Ramjidass.
 115. Shri Prithvi Raj Kapoor. 157. Shri Devinder Singh.
 116. Shri Pritam Singh. 158. Shri Harwant Singh.
 117. Shri Mool Chand. 159. Shri Suchet Singh.
 118. Shri Dewan Chand Bali. 160. Shri Gobindram.
 119. Shri Madan Lal. 161. Shri Gopal Chand.
 120. Shri Lajja Ram Kashayap. 162. Shri Kulwantraï Aggarwal.
 121. Shri Om Parkash Garg. 163. Shri Des Raj.
 122. Shri Amar Singh. 164. Shri Mohinder Singh.
 123. Shri Ratti Ram. 165. Shri Gurdev Singh.
 124. Shri Sadhu Ram. 166. Shri Mangal Singh, Ex-MLA.
 125. Shri Raj Kumar Sufi. 167. Shri Sardari Lal Kapur.
 126. Shri Tirlochan Singh Sidhu. 168. Shri Mohinder Singh Sidhwan.
 127. Shri Bishan Lal. 169. Dr. Randhir Singh.
 128. Shri Ajmer Singh. 170. Dr. Pran Nath Bawa.
 129. Shri Sadhu Ram. 171. Shri Mool Raj Jain.
 130. Shri Kirpal Singh. 172. Shri Surjan Singh Sohi.
 131. Shri Khem Chand. 173. Dr. Rajinder Singh Satija.
 132. Shri Ram Kishan Azad. 174. Shri E. Scott.
 133. Shri Harnam Singh Baghi. 175. Shri Suraj Parkash.
 134. Shri Munshi Ram. 176. Shri Arjan Singh.
 135. Shri Girdhara Singh. 177. Shri Santokh Singh.
 136. Shri Panna Lal. 178. Shri Sarwan Singh.
 137. Shri Munshi Ram. 179. Dr. Bachan Singh.
 138. Shri Gurdial Singh. 180. Shri Jai Inder Singh, M.L.A.

181. Shri Gian Chand Kharbanda. 222. Bhagat Guran Das Hans, M.L.A.
 182. Shri Durga Dass Bhatia. 223. Shri Jagdish Chand.
 183. Shri Avtar Singh. 224. Dr. Amir Singh.
 184. Shri Radha Kishen Seth. 225. Shri Jacob Narru.
 185. Shri Gopal Singh. 226. Shri Shiv Singh Bedi.
 186. Shri Swarup Narain Khanna. 227. Dr. Balkrishan, M.L.A.
 187. Shri G. S. Bedi. 228. Shri Madan Mohan Sood.
 188. Shri Banwari Lal Seth. 229. Shri Rattan Chand.
 189. Pt. Ram Labhaya Sharma. 230. Shri Pargat Singh.
 190. Shri Dharam Singh. 231. Shri Dogar Mal.
 191. Shri Inder Singh. 232. Shri Lakhmir Singh.
 192. Dr. Kidar Nath. 233. Shri Bishan Singh.
 193. Capt. Hans Raj. 234. Shri Charan Dass.
 194. Shri Bipan Chand Mehta, M.C. 235. Shri Dilbagh Singh.
 195. Shri Gian Chand Joshi. 236. Shri Ram Parkash.
 196. Shri Gurcharan Singh. 237. Shri Bakshish Singh.
 197. Shri S. G. Thakar Singh. 238. Shri Hardev Singh.
 198. Sardar Partap Singh Kairon. 239. Shri Gurdit Singh.
 199. -do- 240. Shri Dwarka Dass Sehgal.
 200. -do- 241. Shri Prem Nath Mayor.
 201. -do- 242. Shri Shadi Singh.
 202. -do- 243. Shri Baljit Singh.
 203. -do- 244. Shri Kartar Singh Manor.
 204. -do- 245. Smt. Padma Thakur.
 205. -do- 246. Shri Net Ram.
 206. -do- 247. Shri Shamasuddin.
 207. -do- 248. Shri Chhote Khan.
 208. -do- 249. Shri Roshan Lal.
 209. -do- 250. Shri Deo Datta.
 210. -do- 251. Shri Kalyan Singh.
 211. -do- 252. Shri Manohar Singh Azad.
 212. -do- 253. Capt. Tek Chand.
 213. -do- 254. Shri Amar Singh.
 214. -do- 255. Shri Uddam Singh Jain.
 215. -do- 256. Capt. Siri Chand.
 216. -do- 257. Shri Bhur Singh.
 217. -do- 258. Shri Suraj Bhan.
 218. -do- 259. Shri Rajinder Singh.
 219. Shri Hari Singh. 260. Shri Mani Ram.
 220. Pt. Ralla Ram. 261. Shri Hari Singh.
 221. Shri Balbir Singh Ohri. 262. Subhedar Chatar Singh.

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|-------------------------------------|--------------------------------------|
| 263. Shri Jamna Singh. | 302. Major L. M. Harvetaker. |
| 264. Shri Jugal Kishore. | 303. Shri Kharaiti Ram Sarin. |
| 265. Shri Sarup Singh. | 304. Shri Satnam Singh Bajwa. |
| 266. Shri Fateh Singh. | 305. Shri Narinder Singh Bhuller. |
| 267. Shri Mohabatpal Singh. | 306. Shri Jaswant Singh. |
| 268. Shri Suraj Bhan. | 307. Shri Pritam Singh. |
| 269. Shri Balraj Singh. | 308. Shri Paramhans Nath. |
| 270. Shri Karam Singh Uppal. | 309. Shri Barkat Ram. |
| 271. Shri Balwant Singh. | 310. Shri Swaran Singh. |
| 272. Shri Kundan Lal Lamba. | 311. Shri Lalit Chand. |
| 273. Shri Baldev Raj Bhatia. | 312. Shri Santokh Singh. |
| 274. Shri Karanti Kumar. | 313. Shri Hans Raj. |
| 275. Shri Mangat Rai. | 314. Shri Mahant Amar Darshan Anand. |
| 276. Shri Chaman Lal. | 315. Shri Bihari Lal. |
| 277. Shri Teja Singh. | 316. Shri Sat Parkash Kapoor. |
| 278. Shri Sant Ram. | 317. Shri L. R. Dawar. |
| 279. Shri Mulk Raj. | 318. Shri Iqbal Singh. |
| 280. Shri Chuni Lal. | 319. Shri Rup Chand. |
| 281. Shri Lal Chand. | 320. Shri Kulwant Singh. |
| 282. Shri Rabinder Singh. | 321. Shri Gurbhagat Singh Gill. |
| 283. Shri Jiwan Das. | 322. Dr. Amrik Singh Cheema. |
| 284. Shri Kailash Chander. | 323. Shri L. R. Dawar. |
| 285. Shri Dewan Chand Takkar. | 324. Shri Harbhagwan Modgil. |
| 286. Shri Dewan Chand Bhatia. | 325. Shri Charanjit Singh. |
| 287. Shri Hakumat Rai. | 326. Shri Amar Nath Sharma, M.L.A. |
| 288. Dr. Ramjilal. | 327. Shri Hari Singh. |
| 289. Shri Chander Bhan Aggarwal. | 328. Shri Salig Ram. |
| 290. Shri Kaku Ram Gupta. | 329. Sardar Partap Singh Kairon. |
| 291. Shri Dal Singh. | 330. -do- |
| 292. Shri Balak Ram. | 331. -do- |
| 293. Shri Hans Raj Malik. | 332. -do- |
| 294. Shri Baldev Saran Dass. | 333. -do- |
| 295. Shri R. P. Barman. | 334. -do- |
| 296. Shri M. S. Dhupia. | 335. -do- |
| 297. Lt. Col. Ch. Raghvendra Singh. | 336. -do- |
| 298. Shri Katar Singh. | 337. -do- |
| 299. Col. Naunihal Singh Mann. | 338. -do- |
| 300. Lt. Col. M. R. Budhwar. | 339. -do- |
| 301. Bhai Mohan Singh. | |

List of Affidavits filed by the Memorialists on February 14, 1964.
(R-Series).

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|-------------------------------------|----------------------------------|
| 1. Shri Devi Lal, M.L.A. | 23. Shri Ram Piara, M.L.A. |
| 2. Shri Abdul Ghani Dar, M.P. | 24. Shri Jagat Narain. |
| 3. Shri Kartar Singh, M.L.C. | 25. Shri Abdul Ghani Dar, M.P. |
| 4. Shri Balramji Das Tandon, M.L.A. | 26. Shri Abdul Ghani Dar, M.P. |
| 5. Shri Abdul Ghani Dar, M.P. | 27. Shri Abdul Ghani Dar, M.P. |
| 6. Shri Gurcharan Singh, M.L.A. | 28. Shri Jagat Narain. |
| 7. Shri Jagan Nath, M.L.A. | 29. Shri Abdul Ghani Dar, M.P. |
| 8. Shri Balramji Das Tandon, M.L.A. | 30. Shri Abdul Ghani Dar, M.P. |
| 9. Shri Abdul Ghani Dar, M.P. | 31. Shri Kulbir Singh. |
| 10. Shri Jagan Nath, M.L.A. | 32. Shri Abdul Ghani Dar, M.P. |
| 11. Shri Ghasi Ram, Ex-M.L.A. | 33. Shri Gurcharan Singh, M.L.A. |
| 12. Shri Jagan Nath, M.L.A. | 34. Vir Yagya Dutt. |
| 13. Vir Yagya Datt Sharma. | 35. Shri Abdul Ghani Dar, M.P. |
| 14. Shri Abdul Ghani Dar, M.P. | 36. Shri Abdul Ghani Dar, M.P. |
| 15. Shri Kulbir Singh, M.L.A. | 37. Shri Jagan Nath, M.L.A. |
| 16. Shri Jagan Nath, M.L.A. | 38. Shri Ram Piara, M.L.A. |
| 17. Shri Abdul Ghani Dar, M.P. | 39. Shri Abdul Ghani Dar, M.P. |
| 18. Shri Abdul Ghani Dar, M.P. | 40. Shri Ajit Kumar, M.L.A. |
| 19. Shri Tek Ram, M.L.A. | 41. Shri Abdul Ghani Dar, M.P. |
| 20. Babu Bachan Singh, M.L.A. | Shri Devi Lal, M.L.A. |
| 21. Shri Abdul Ghani Dar, M.P. | Shri Jagat Narain. |
| 22. Shri Abdul Ghani Dar, M.P. | Shri Sher Singh, M.L.C. |
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