

SARKARIA COMMISSION OF INQUIRY

(Appointed under Act No. 60 of 1952 to inquire into the
Allegations against the erstwhile Chief Minister
and other Ministers of Tamil Nadu)

FINAL REPORT

VOLUME 2

[On Serial Nos. 14 and 17 **referred to the Commission**
via ~~the~~ Cabinet Secretariat (Department of Personnel and
Administrative Reforms) Gazette Notification
No. S.O. 74 (E), dated 3rd February 1976.]

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VOLUME 2

Vol. II—A

ALLEGATION NO. 14

(DISPOSAL OF SAMAYANALLUR POWER STATION)

AGAINST

Shri O. P. Raman, former Minister for Electricity

AND

Shri M. Karunanidhi, former Chief Minister

This Allegation as adumbrated in the Memorandum of Shri M. G. Ramachandran, reads as follows:—

“ SAMAYANALLUR POWER STATION

Worth Rs. 110·00 lakhs—Sold for Rs. 58·00 lakhs—By O. P. Raman, Minister of Electricity, under instructions by Chief Minister—In spite of acute shortage affecting the Tamil Nadu and the Industries, a dark game of corrupt bargain was made behind the screen without correct procedure. The entire Samayanallur Power Station was dismantled and sold for Rs. 58·00 lakhs. The purchaser is believed to have realised so far Rs. 80·00 lakhs and still he has got stocks worth Rs. 25·00 lakhs. Selling public property for filling the pockets of Ministers will be fully evidenced on an enquiry.”

The full facts of the case as they emerge from the records, are as follows:—

There was a Thermal Power Station at Samayanallur in Madurai District. It was constructed between the years, 1947 and 1954. A four MW electricity set was installed there. It was commissioned on 12-1-1951. A second unit of 10 MW on this Station was commissioned in the year 1954, increasing the total installed capacity of the Thermal Station to 14 MW. The cost of the whole plant and machinery was Rs. 106 lakhs.

In 1965, the Madras State Electricity Board (hereinafter referred to as the ‘ Board ’) set up a High Power Committee known as the Economy and Efficiency Committee to examine and report on the measures to be adopted to reorganise and streamline the various generating units vesting in the Board.

The Secretary of the Board in his D.O. letter No. 1737/C/68-1, dated 8-4-1968, addressed to the Chief Engineer, Electricity Board, intimated that the Technical Member of the Board had suggested reduction in the cost price of the power by shutting down uneconomical generating sets to the extent possible, and that this suggestion might be placed before the Economy and Efficiency Committee. The Secretary further requested the Chief Engineer to submit a note by 11-4-1968.

Accordingly, the Chief Engineer forwarded a note to the Secretary of the Board. The main points brought out in this note were:—

- (a) The cost per unit sent out from Samayanallur was more than 12 paise due to the high cost of coal delivered at Samayanallur and the low efficiency of the Turbo-alternator sets. Power was available at much cheaper rate from Neyveli and Kerala.
- (b) The 14 MW installed capacity of Samayanallur Thermal Station formed only 1% of the installed capacity of the grid and as such, the disposal of the set would have negligible effect on the grid capacity.
- (c) With Madurai tied in with a super-Thermal Station at Neyveli and Kerala grid, the need to form up the Papanasam and Periyar generation with Samayanallur set, was no longer there.

The Economy and Efficiency Committee at its meeting held on 16-7-1968, discussed the proposal for closing down the Samayanallur Thermal Station and decided that further coal supply to the Station should be stopped and the Station closed down as soon as the coal stock was exhausted. The Board accepted this recommendation at its meeting on 25-10-1968, and asked the Chief Engineer to submit a note on the disposal of the plant and machinery of Samayanallur Thermal Station. The Chief Engineer in his letter dated 8-1-1968 addressed to the Board, made these recommendations:—

- (a) That the Thermal Station be closed down and the plant and machinery available there (excepting the transformers, station battery, H.T. Switch Gear, Cables, static machine tools and railway siding), disposed of by inviting open tenders.
- (b) That the land and the building of the Station be retained, pending further examination of their continued use.

The reasons stated in the note in support of the above recommendations, were:—

- (i) The cost per unit sent out from Samayanallur worked out to 12.32 paise in 1967-68 as against 8.8 paise at Basin Bridge.
- (ii) The low efficiency of the turbo alternator sets at Samayanallur in view of their smaller size compared with the sets in Basin Bridge.
- (iii) The Station was running during summer months, only as a thermal back-up, when the irrigation discharge at Papanasam was low, that is, from October to June.
- (iv) The contribution of the Station to the grid was just 1% compared to 26% of Neyveli Thermal Station.

The recommendations made by the Chief Engineer were approved by the Technical Member and the Chairman of the Board on 30-7-1969 and 3-8-1969 respectively, and open tenders were invited by publication of tender notice in newspapers. The plant and machinery offered for sale were classified into nine specifications numbered as E. 1171 to E. 1179.

Tenders were opened on 15-10-1969. It was found that the total of the highest individual offers for all these specifications was Rs. 34,66,786. In view of this disparity between the depreciated book value and the offers, no tender was accepted. An instructed by the then Chairman of the Board (Shri K. R. Radhakrishnan), a telegram was sent on 3-12-1969 to the Director, Central Water and Power Commission, New Delhi, enquiring whether the boilers and T.A. sets available at Samayanallur were required by other States or Union Territories.

On receiving a reference from the Central Water and Power Commission, New Delhi, the Chief Engineer, in his letter, dated 16-1-1970, addressed to the Chief Engineer for Electricity, Punjab State Electricity Board, sent a statement showing the details of the various equipments, spares, etc., available for disposal at Samayanallur and enquired whether the Punjab State Electricity Board was interested in purchasing the Power Station.

The officials of the Punjab Board visited Samayanallur and inspected the plant and machinery. Thereafter, the Chairman of the Punjab Board in his letter dated 6/9-2-1970 addressed to the Chairman, Tamil Nadu Board, intimated that the Punjab Board proposed to purchase the 10 MW and 4 MW thermal sets subject to certain conditions. Subsequently, the representatives of the Punjab Board on 9-3-1970 met the Members of the Tamil Nadu Board. The Punjab Board offered Rs. 42 lakhs, excluding two diesel locos and the 40 tonne weigh bridge, for the plant and machinery of the Power Station, and further agreed to pay sales-tax if the transaction was eligible to sales-tax. The negotiations with the Punjab Board fell through because that Board finally decided not to purchase this plant and machinery. The efforts made by the Chairman of the Tamil Nadu Board to persuade the Punjab Board to purchase this plant and machinery on deferred-payment terms, also proved abortive.

At this stage, the Chairman of the Tamil Nadu Board passed on a note, dated 6-12-1970, to the Chief Engineer, directing the latter to examine the feasibility of keeping the Thermal Station running till it was disposed of. In that note it was pointed out that an expenditure of about Rs. 1.60 lakhs was being incurred every month towards the pay and allowances of the staff, interest

and depreciation at Samayanallur Power House which remained closed. The Chairman suggested that if the Power House were to be generating power it would fetch net revenue of about Rs. 2 lakhs after meeting all the expenditure, even though the cost of generation might be high. He therefore, felt that it was desirable to keep the Thermal Station running to avoid recurring loss to the Board, deterioration of plant and machinery etc., and also to keep the equipment in good condition which would possibly attract better offers.

In reply, the Chief Engineer (Shri A. Subramaniam) in his letter, dated 11-1-1971, expressed the opinion that it was neither economical nor desirable to run the Thermal Power Station continuously till its disposal for the following reasons:—

- (a) The cost of generating at Samayanallur Thermal Station with a continuous economical load of 11 MW was 11.31 paise per unit, the incremental cost being 9.07 paise per unit. The Tamil Nadu Electricity Board was purchasing power at Papanasam point from Kerala State at 5.25 paise per unit for the first 150 million units in a year and 5 paise per unit for the next 150 million units, which was much less than the incremental cost of power generated at Samayanallur.
- (b) Even taking into consideration the fixed charges of Rs. 1.63 lakhs per month incurred at Samayanallur power Station, it would still be cheaper to purchase power from Kerala.
- (c) When compared with the other Thermal Stations, also, the incremental cost of generation at Samayanallur was uneconomical.
- (d) Running of Samayanallur Power Station could be thought of only when the power available from other sources was not adequate and such a situation did not exist.
- (e) For running the Station continuously some major over-hauling and replacements of parts had to be carried out.

On 18-8-1971, the Superintending Engineer, Technical (Electrical) sent a note to the Chairman (Shri C. G. Rangabashyam) of the Board recommending disposal of the plant and machinery of the Station. The Chairman, on 21-9-1971, agreed to the proposal to dispose of the plant and machinery by inviting tenders through publication in newspapers. Accordingly, tender notices were published on 5-10-1971, and such notices were also despatched to 53 firms. The due date for receipt of tenders was 6-11-1971, and the last date for submission of tenders was extended from 6-11-1971 to 23-11-1971. The plant and equipments intended to be sold were classified into nine specifications, which were as follows:—

- E. 1502: 3 Nos. Babcock and Wilcox Boilers with auxiliaries and spares.
- E. 1503: 2 Nos. Steinmuller Boilers with auxiliaries and spares.
- E. 1504: 1 No. 4 MW Parsons turbo alternator with auxiliaries and spares.
- E. 1505: 1 No. 10 MW Hitachi turbo alternator set 11 KV with auxiliaries and spares.
- E. 1506: Coal handling plant capacity 60 tonnes/hour.
- E. 1507: Base exchange water softening plant capacity 20,000 G.P.H.
- E. 1508: Avery 40 tonne railway wagon weigh bridge.
- E. 1509: 2 Nos. Metre Gauge 30 H.P. Diesel Locos.
- E. 1510: 2 Nos. Coal Crushers.

Intending purchasers were required to give their offers for each specification, separately. They were also required to submit their income-tax clearance certificates in the prescribed form along with the tenders.

In the conditions of tenders attached to each specification, the paragraph captioned: "Limits of Contract", stipulated as under:—

"The schedule of equipments included in the offer and the particulars are detailed in the Annexure.

NOTE:—*The spare part list is only tentative.*
(emphasis supplied)

The spares are offered for sale along with the plants concerned. No deductions from the tendered amount for items of spares used up, if any, for keeping the plants in service, can be given.

- (i) The scope of this sale is limited to the equipments detailed in the annexure.
- (ii) The buildings or foundations connected with the equipments are not included in the sale."

In the paragraph, captioned: "General Conditions of Sale", it was stipulated:

"The tenderer should quote a firm price for the plant as detailed in the following schedule. The tendered price of the plant together with the sales-tax and other taxes thereon, must be paid in full within 15 days after the intimation of the acceptance of tender. No extension of time for payment will be granted under any circumstances. Failure to remit the amount within this period will result in the forfeiture of the earnest money paid by the tenderer and the cancellation of the sale."

It was further laid down that the plant should be dismantled by the purchaser at his own cost, that the purchaser should commence the work to remove the plant within one month from the date of the issue of final instructions for dismantling, after remittance of the full value of the tender, and that the whole plant should be removed within a period of three months from the date of commencement of the dismantling. It was further specifically stated that failure to complete the dismantling and removal of the plant from the site within the specified period might result in forfeiture of all claims to the balance of equipments at site.

After issue of the tender notice, the Chief Operation Engineer addressed a Memo, dated 13-10-1971 to the Superintending Engineer, Generation, Erode, with a copy to Divisional Engineer, Samayanallur, forwarding two copies of specifications, E. 1502 to E. 1510, for verifying the correctness of the list of materials and spares against each specification.

In reply, the Divisional Engineer (Mechanical) Madurai, Thermal Station, Samayanallur, as per his letter dated 2-11-1971, submitted a statement, after due verification, showing the discrepancies in the specifications already issued, covering the plant and machinery and spares available for disposal at Samayanallur. On the basis of the report of the Divisional Engineer, Samayanallur, a statement showing the discrepancies in and additions to the original specifications was sent to all the firms, who had purchased the tender documents.

The tenders were opened on 24-11-1971. In the note of tender analysis submitted to the Chairman/Accounts Member, orders were solicited on the following points:—

- (i) Whether the highest offer against each of the specifications issued might be accepted.
- (ii) Whether the offer made by some tenderers for the plant and machinery as a whole should be considered, and if so, whether negotiations should be carried on with them to increase the amount quoted by them to Rs. 46.61 lakhs which was the total amount of the highest offer received for individual specifications.
- (iii) Whether negotiations be conducted with Messrs. Orient Textiles, Bombay (who alone had produced the Income-Tax Clearance Certificate with the tender) in order to persuade them to raise their offer to Rs. 46.61 lakhs which was the overall total of the highest offers for individual specifications.

The tender analysis was prepared on 14-12-1971 and submitted to the Chairman/Accounts Member of the Board. Four firms gave the highest offers in respect of the specifications E. 1502, E. 1503 and E. 1506. Another firm gave the highest offers in respect of specifications E. 1504

and E. 1505; while the fifth firm, namely, Messrs. Swamy Engineering Works gave the highest offer in respect of specifications E. 1507 to E. 1510. The total of these highest offers in respect of the nine specifications came to Rs. 46161 lakhs only. Apart from these offers, one firm Messrs. Joseph & Co. of Bombay gave an offer of Rs. 42,21,501 for the entire plant and machinery, taken as a whole. This tenderer however paid the E.M.D. (Earnest Money Deposit) by cheque instead of Demand Draft as required by the stipulation in the tender notice. Its tender was, therefore, not recommended for consideration. The next highest offer for all the plant and machinery was given by Shri Nachimuthu Chettiar (C.W. 41), a scrap iron dealer of Madras. He had offered a sum of Rs. 41,55,555.56. Nachimuthu Chettiar, however, in his letter of offer, dated November 23, 1971, had stipulated that the amount offered by him would be paid in part against part deliveries. He did not submit any income-tax clearance certificate along with his tender. He filed such a certificate subsequently on 7-12-1971. In his letter of offer he did not say anything about the time required for payment or for dismantling and removing the plant and machinery.

Messrs. Abid and Co., Bombay, who had originally offered Rs. 30 lakhs and odd raised their offer to Rs. 43,01,000. This revised offer of Messrs. Abid & Co. was not recommended for consideration, on the ground that it had been received after the opening of the tenders. Messrs. Orient Textiles, Bombay, had quoted Rs. 35,00,051.

It was further pointed out in the note that as per the ruling of the Government of Tamil Nadu based on a judgment of the Madras High Court, intimated in letter dated 22-6-1968, no sales-tax was leviable on the sale of surplus and unserviceable stores by the Electricity Board. On these premises it was suggested that this sale may be classified as sale of surplus/unserviceable equipments in which case the purchaser would not be required to pay sales-tax. Further, it was added, as a matter of caution, that the purchaser might be asked to pay sales-tax at 3½% with the stipulation that the amount would be refunded to him if at a later date it was found that the sales-tax was not leviable on this sale.

The Accounts Officer in his note, dated 17-12-1971, recommended that the highest offers against individual specifications might be accepted as it was more advantageous to the Board. He agreed with the proposal that it was desirable to collect sales-tax on these transactions.

The Chief Controller of Accounts in his note, dated 18-2-1971, agreed with the suggestions of the Accounts Officer.

In early January 1972, the Chairman (C. G. Rangabashyam) called a meeting which was attended by the Chief Engineer, Accounts Member, Chief Controller of Accounts, and Superintending Engineer, Technical (Electrical). The Chairman discussed the tenders with the Members. The consensus in the meeting was that the offers received were generally on the low side when compared with the depreciated book value of about Rs. 55 lakhs. The Chief Engineer was, therefore, directed to write to all the tenderers requesting them to submit revised higher offers.

Accordingly, on 24-1-1972, the Chief Engineer wrote to the 24 firms who had already submitted the tenders, asking them to submit revised tenders for the purchase of "the plant and machinery as a whole (Specifications E. 1502 to E. 1510 all inclusive in total)". These offers were to reach the Superintending Engineer, Technical (Electrical) Madras, not later than 12 Noon on 7-2-1972. In the letter it was expressly stipulated:

- (a) That the tenderer should be agreeable to provide bank guarantee for the value offered for a period of three months commencing from the date of confirmation of sale.
- (b) That the entire sale price confirmed together with sales-tax should be paid within 30 days from the date of despatch of confirmatory communication. The bank guarantee could be revoked on such payment.
- (c) That all the equipments sold should be removed within 90 days from the date of despatch of the communication confirming the sale.
- (d) That all other conditions specified in the original specifications would be applicable.

The revised offers were received on 7-2-1972 from 9 firms. The highest offer was of T. K. Nachimuthu Chettiar of Madras, who in his letter dated 7-2-1972, offered a consolidated price of Rs. 59,16,555.59 for "Specification Nos. E. 1502 to E. 1510 (all inclusive in total)". He did

not mention whether the amount being offered by him was inclusive of sales-tax, if any, payable on the same. Nor did he state in this letter, whether or not he had accepted all the conditions stipulated in the original tender notice and the Chief Engineer's letter, dated 24-1-1972. The second highest tender was of Messrs. Orient Textiles Bombay, who per their letter, dated 5-2-1972, offered a consolidated sum of Rs. 51,75,011. They expressed their agreement to provide the bank guarantee for a period of three months or more commencing from the date of confirmation of the sale. They further intimated their agreement to pay the entire amount within 30 days. They were, however, not agreeable to the payment of sales-tax, demurring that it was not leviable on such sales. They further asked for, at least, six months' time and further extensions, if necessary, for dismantling and removing the equipments. They generally signified their consent to the other conditions stipulated in the original specifications.

The next highest offer was of Shri Mahalakshmi Metal Corporation, Madras, who quoted an amount of Rs. 51,30,000. They conveyed their intention to pay the whole amount along with sales-tax within 30 days from the date of the despatch of confirmatory communication.

Messrs. Abid & Co., Bombay, quoted Rs. 44 lakhs inclusive of sales-tax. The Superintending Engineer, Technical (Electrical) again prepared a note giving the tender analysis on 11-2-1972 and marked it to the Chairman/Accounts Member of the Board. In this note the Superintending Engineer recommended that the offer of Nachimuthu Chettiar was the most advantageous from the Board's point of view, provided he was agreeable to the following three conditions stipulated in the Chief Engineer's letter dated 24-1-1972:

- (a) Furnishing of the bank guarantee.
- (b) Payment of the entire amount within 30 days; and
- (c) Removal of all the equipments within 90 days.

He recommended for tentative acceptance of Nachimuthu Chettiar's offer subject to these three conditions.

On 1-3-1972, Nachimuthu Chettiar was called to the office of the Board for discussion, which was held in the office room of the Chairman (C. G. Rangabashyam). Besides the Chairman, the other Members present were: the Accounts Member (Shri Nagarajan), the Chief Engineer (N. Kothandapani), the Superintending Engineer, Technical (Electrical) (N. S. S. Arokyaswami), Chief Controller of Accounts (G. Francis) and the Executive Engineer (N. Thiagarajan). Nachimuthu attended the meeting along with A. V. Malayalam, partner of Messrs. Meenakshi Enterprises. Meenakshi Enterprises was a contractual partnership which was subsequently formed for resale of the plant and machinery after its purchase by Nachimuthu Chettiar. At the meeting, Nachimuthu Chettiar was asked to accept specifically the aforesaid three conditions stipulated in the Chief Engineer's letter dated 24-1-1972. He expressed his inability to furnish a bank guarantee but agreed to abide by the other two conditions, viz., payment of the entire price within 30 days, and dismantling and removal of all the purchased equipments within 90 days. The Chairman therefore insisted on the payment of Rs. 10 lakhs within 15 days as additional E.M.D. before confirming the sale in favour of Nachimuthu. Nachimuthu Chettiar agreed to these conditions and he was asked to send a letter accepting these conditions, accordingly, to the Chief Engineer.

By his letter dated March 3, 1972, Nachimuthu Chettiar conveyed to the Chief Engineer his acceptance of the aforesaid three conditions. Consequently, the Chief Engineer, as per his letter dated 7-3-1972, conveyed to Nachimuthu Chettiar the tentative acceptance of his offer for the purchase of the plant and machinery, Samayanallur Thermal Power Station, as covered by specifications E. 1502 to E. 1510, and directed him to pay a sum of Rs. 10 lakhs within 15 days from the date of the receipt of the letter, either in cash or by Demand Draft as additional EMD. In this letter, the Chief Engineer further stated that the sale would be confirmed on receipt of the additional EMD of Rs. 10 lakhs and the balance amount should be paid within 30 days from the date of the receipt of the confirmatory order failing which the amount of Rs. 10.45 lakhs paid as EMD, would be forfeited to the Board. It was further set down that the equipment should be dismantled and removed within 90 days after the payment of the entire amount.

On the 11th March 1972 Nachimuthu Chettiar executed a partnership deed (Ex. CW 42/13) whereby he constituted a firm under the name and style of Shri Meenakshi Enterprises with its Head Office at Madras. The business of this partnership was confined to the purchase and resale of the plant and machinery of Samayanallur Power House. Originally, he intended to have ten partners but ultimately under the aforesaid deed, presumably to raise more finance, he entered into this partnership agreement under which there were 20 partners. The names of those partners and their respective contributions to the capital were as under:

	Rs.
1. A. Vadivelu Chettiar	95,000
2. A. V. Malayalam	85,000
3. A. V. Krishnan	75,000
4. J. N. Kumar	95,000
5. T. K. Nachimuthu Chettiar	86,500
6. N. T. Arumugam	1,16,000
7. N. T. Seetharaman	65,000
8. A. T. Palaniswamy	60,000
9. T. Narayanaswamy	43,000
10. P. Govindaswamy	12,500
11. T. Natarajan	40,000
12. N. Thirumurthy Chettiar	50,000
13. K. Kuppuswamy	42,000
14. S. V. Marimuthu	40,000
15. N. Srirangam Chettiar	50,000
16. K. Gopal	20,000
17. R. Marimuthu	20,000
18. N. G. Arumugam	20,000
19. N. Shanmugham	20,000
20. M. Chandrasekara Mudaliar	10,000
	Rs. 10,45,000

Under the Partnership Deed, Ex. 42/13, Vadivelu was designated as Managing Partner. A. V. Malayalam and T. K. Nachimuthu Chettiar were authorised to carry on the day-to-day transactions relating to the business of the firm. They were also authorised to sign vouchers, letters, documents, etc., jointly, in connection with the borrowing money for the purpose of the business.

Out of the subscribed capital of Meenakshi Enterprises, Rs. 10 lakhs were deposited in Dena Bank, Mount Road, Madras. Two drafts for Rs. 5 lakhs each were drawn up and remitted to the Accounts Officer, Madras Electricity System, on 21-3-1972 towards the additional E.M.D. demanded by the Board.

On payment of this additional E.M.D. the Chief Engineer wrote a letter, dated 5-4-1972, to the Board for issuing Board's approval for confirmatory order of sale in favour of Nachimuthu Chettiar. The Board in its proceedings M.S. No. 736, dated 7-4-1972, accepted the offer of Nachimuthu to purchase the entire plant and machinery of this Power House for Rs. 59,16,555.59, subject to the three stipulations mentioned earlier. Accordingly, the Chief Engineer as per his letter, dated 11-4-1972, conveyed to Nachimuthu Chettiar the acceptance of the latter's offer by the Board. In this letter through some accidental error he directed the purchaser, Nachimuthu Chettiar, to deposit the balance consideration of Rs. 48,71,555.59 before 21-4-1972, i.e., within a period of thirty days from the date of the payment of additional E.M.D. of Rs. 10 lakhs. On receiving a protest letter from Nachimuthu Chettiar, the Chief Engineer rectified this error and directed the purchaser to pay the balance of the sale consideration by the 17th of May 1972, i.e., within 30 days of the receipt of the letter confirming the sale.

Soon after the payment of the additional E.M.D. Meenakshi Enterprises inserted advertisements in newspapers offering all the plant and machinery of Samayanallur Power House Station for sale. Several offers/enquiries from the reputed firms were received by them. Some of the prospective buyers came over to Madras and conducted negotiations with Meenakshi Enterprises.

Since the balance of the sale consideration had to be paid on or before 17-5-1972, T. K. Nachimuthu Chettiar and his partner, A. V. Malayalam, approached the National and Grindlays Bank, Madras, on behalf of Meenakshi Enterprises for financial accommodation. M. Chandrasekhar Mudaliar who was a partner, also exercised his influence to persuade the Grindlays Bank to give the financial accommodation.

By his letter dated 17-4-1972, Nachimuthu Chettiar requested the Chief Engineer that he might be given 60 days' extension of time beyond 17-5-1972 for paying the balance amount on his furnishing a bank guarantee. He also requested that all the spares—new as well as used—available at Samayanallur be handed over to him.

Messrs. Orient Textiles Bombay also wrote a letter, dated 18-4-1972, to the Chairman of the Board alleging that departures had been made from the original conditions mentioned in the tender notice, to favour Nachimuthu Chettiar in as much as the latter had been allowed to pay the sale consideration in instalments and also sufficient time and opportunity to negotiate for the resale of the plant and machinery at lucrative prices. Orient Textiles, therefore, wanted the sale in the name of Nachimuthu Chettiar to be cancelled, and instead confirmed in their own favour. Nachimuthu Chettiar's request for extension of time for deposit of the balance price was agreed to by the Chairman and the Accounts Member of the Board, and the last date of the payment of the balance was extended from 17-5-1972 to 30-6-1972 subject to furnishing the necessary bank guarantee by Nachimuthu Chettiar. Before the balance of the price was paid, Nachimuthu Chettiar was able to resell a part of the machinery, worth Rs. 40 lakhs. He deposited these resale proceedings in the National & Grindlays Bank. Thereupon, the Bank paid the balance price of Rs. 48,71,555.59 on behalf of Nachimuthu on 30-5-1972 to the Board: Thus, the entire sale price was paid by Nachimuthu Chettiar one month before the expiry of the extended time.

Messrs. Orient Textiles Bombay followed up their complaint by another letter dated 30-4-1972 addressed to the Chairman of the Board. Among other things, they alleged the following irregularities in favouring Nachimuthu Chettiar:

- (i) The Board had failed to take bank guarantee from Shri Nachimuthu Chettiar for a period of 3 months in the first instance and had also failed to collect full value within the stipulated period.
- (ii) Though it was stipulated that full payment should be made within 30 days, the Board had collected the amount in instalments and had also extended time for payment.
- (iii) Nachimuthu Chettiar had failed to submit the Income-tax Clearance Certificate either with the original tender or along with the revised tender.
- (iv) Even before the sale was confirmed in his favour, Nachimuthu Chettiar had inserted advertisements in newspapers for resale of the machinery and had in fact negotiated resale with various parties and raised funds from them to pay the Board.

The Chairman of the Board, as per his letter dated 4-5-1972, informed Messrs. Orient Textile Bombay, that the difference between the highest offer given by Nachimuthu Chettiar and the one given by Orient Textiles was over Rs. 7 lakhs, and that the Board stood to gain in accepting the highest offer of Nachimuthu Chettiar even with the relaxation of the original terms and conditions. He also informed them that Nachimuthu Chettiar had submitted his Income-tax Clearance Certificate.

On payment of the balance of Rs. 48,17,555.59 through the National & Grindlays Bank, Nachimuthu, as per his letter dated 31-5-1972, informed the Chief Engineer that he had resold the main items of the Thermal Station to the various parties, and requested his permission to remove the equipments from the site. Nachimuthu Chettiar also informed the Chief Engineer

that he had joined a Partnership of the name of Meenakshi Enterprises, and that the transaction of the entire work relating to the removal and resale of the Samayanallur Plant and machinery would be undertaken by this firm.

The Chief Engineer informed the purchaser that there was no objection to the removal by him or by his authorised agents of all the equipments *i.e.*, "solely and strictly covered by the specifications."

On 7-6-1972, Nachimuthu Chettiar wrote a letter to the Chief Engineer stating that his representatives at Samayanallur had informed him that certain rails and spare parts had been removed from the Power House by the Site Officers. He requested the Chief Engineer to issue necessary instructions to the Site Officers to stop dismantling the rails etc. He followed by writing another letter dated 15-6-1972, informing the Chief Engineer that the purchasers' representative at Site was told by the Board's officials that the *tubes and pipe-lines* connecting the boilers with turbines, or the *other spares* were not covered by the specifications E. 1502 to E. 1510, and could not be removed by the purchaser or his agent. The purchaser also mentioned that some of the spares of the *Babcock and Wilcox Boilers, Steinmuller Boiler and turbines* were not included in the specifications according to the site officers. Nachimuthu Chettiar contended that these boilers were imported ones and the prospective buyers would find it difficult to manage without these spares. He further argued that these *boilers, tubes and pipe-lines* were of no use to the Electricity Board, and therefore should be included in the spares to be delivered to him. He also claimed other auxiliary items such as *supporting structures* of pipeline-turbines, etc. and the *rails* of the 2 Diesel Locos purchased by him, notwithstanding the fact that the last mentioned item had been expressly excluded from the sale. The Chief Engineer thereupon issued a Memo. dated 16-6-1972, to the Superintending Engineer, Generation, Tirunelveli with copy to the Divisional Engineer, Samayanallur, stating that in as much as the plant and machinery covered by the Specifications E. 1502 to E. 1510 available at Samayanallur Thermal Station had been sold to Nachimuthu Chettiar and as these equipments were meant for re-erection and use elsewhere, *all the available spares, tools, tackles, connecting pipes, supporting structures etc. connected with the boilers, turbines, auxiliaries*, etc. had to be given to the purchaser. He, further instructed that no items connected with the plant and machinery should be removed from the site. The site officers were directed to refer doubtful matters to the Chief Engineer's office for orders.

This letter was followed by Delivery Order, dated 26-6-1972. Para 1(a) of the Delivery Order under the caption, "Limits of Contract" runs as under:

"(a) *The spare parts list furnished along with the specifications is only tentative. All the available spares intended for the equipments covered under were offered for sale along with the plant concerned. Hence all the available spares intended for the equipments offered would be given along with the main and auxiliary equipments, subject to the condition that no claim for shortage or excess in spares or auxiliary equipments covered in the specification could be made on either side.*"

(emphasis added)

When the draft of this Delivery Order was submitted to the Chief Controller of Accounts he added clause (c) just after clause (a) in the aforesaid para:

"(c) *The items intended to be sold have been mentioned in the specifications and only these items can now be taken by you as the sale has been concluded.*"

He, however, did not suggest deletion or amendment of the clause (a) in Para 1. Regarding handing over of all the spares to the purchaser, it was further stipulated in the Delivery Order that the whole plant should be dismantled and removed from the site within three months from the date of the receipt of the Delivery Order, failing which all the balance equipments at site would result in forfeiture.

Sometime in June-July 1972, Nachimuthu and his partner A. V. Malayalam met Shri O. P. Raman, the then Minister for Electricity, when the latter was on a visit at Madurai. They pleaded before the Minister that the time of three months granted to them for dismantling and removing the sold plant and machinery was not sufficient, and requested the Minister to instruct the Chief

Engineer to extend the time by another six months. They further complained to the Minister that some of the spares and accessories were not being handed over to them even though as per Delivery Order, the whole plant and machinery along with all the available spares and accessories, had been sold to them. The Minister promised to look into the matter.

The story (as narrated by Shri N. Kothandapani, the then Chief Engineer) further proceeds that sometime after the issue of the Delivery Order dated 26-6-1972, the Chief Engineer was summoned by the Minister for Electricity, Shri O. P. Raman, for discussion regarding the progress of the rural electrification scheme. After the discussion, the Minister told the Chief Engineer that during his visit to Madurai, the purchaser of the Samayanallur Thermal Station had complained to him that spare parts and materials of the Thermal Station were not being delivered to the Purchaser. The Minister instructed the Chief Engineer to hand over to the purchaser all those spares. Thereupon, the Chief Engineer telegraphically directed the Divisional Engineer, Samayanallur, to hand over all the spares to the purchaser.

On 6-7-1972, Nachimuthu wrote another letter to the Chief Engineer, requesting that the time of three months given for dismantling and removing the plant and equipments being inadequate, should be extended by another six months. He further contended that it was only through oversight that some of these spares were not included in the original Specifications, and that the lists of such items had already been despatched from Samayanallur to the Chief Engineer. He demanded delivery of all the spares available in the Samayanallur Thermal Station although some of them were not covered by the Specifications. He further contended that the two locos purchased by him needed rails for running them and therefore the rails should also be delivered to him, though they were not included in the specifications by oversight.

A copy of Nachimuthu Chettiar's letter was forwarded to the Superintending Engineer (Generation), Tirunelveli, and Divisional Engineer, Samayanallur, for comments, under endorsement dated 10-7-1972 by the Superintending Engineer (Technical) (Electrical), Madras.

The purchaser, Nachimuthu Chettiar, sent another letter, dated 23-9-1972, addressed to the Chief Engineer requesting for six months' extension beyond 26-9-1972, which was the date on which the original period of three months for removal of equipment, was due to expire.

The Superintending Engineer, Technical (Electrical) submitted a note to the Chief Engineer, on 25-9-1972, recommending that the request of Nachimuthu Chettiar for extension of time by six months for dismantling and removing the machinery, might be agreed to subject to these conditions:—

- (a) The purchaser should make good the loss, if any, due to delay in usage of the premises consequent on the extension of time for dismantlement.
- (b) He should pay the rent for the space yet to be vacated in the power house premises.
- (c) He should pay the establishment charges of the Departmental staff, supervising the dismantling.
- (d) Pay the crane charges for the duration of its use.
- (e) Pay the current consumption charges for any electricity used exclusively for dismantling.

The Chief Engineer referred the matter to the Board under cover of his letter, dated 25-9-1972, recommending extension of time for a further period of six months commencing from 26-9-1972. Soon after the making of this reference, the Chief Engineer (N. Kothandapani) was summoned by Shri O. P. Raman, Minister for Electricity and asked about the progress of the dismantling work at Samayanallur Power Station. The Chief Engineer informed the Minister that the purchaser had not completed the dismantling work within the period of three months originally granted to him and had requested for six months' extension of that period. The Chief Engineer had added that he had recommended such extension to the Board. Thereupon, the Minister asked the Chief Engineer to direct Nachimuthu to meet him (Minister) forthwith. On the same or the following day, Nachimuthu and Malayalam both met the Chief Engineer in his office and enquired about their written request for extension of time. The Chief Engineer advised them to meet the Minister for Electricity without delay and make a personal report.

As advised by the Chief Engineer, Nachimuthu and A. V. Malayalam met the Minister, Shri O. P. Raman, on the following day, which was a Wednesday, at the latter's residence in Madras, sometime after 1.30 P.M. to avoid the "Rahu Kalam". They were informed by the P.A. to the Minister that the latter was sleeping after lunch as he was unwell. They told the P.A. that they were partners of Meenakshi Enterprises and had been directed by the Chief Engineer to meet the Minister. The P.A. asked them to wait. A. V. Malayalam gave the visiting card of Meenakshi Enterprises to the Peon who was there. The Peon placed that card on the Minister's table in his office. Some other persons were also there waiting to see the Minister.

At about 4 P.M., the Minister came down-stairs in his office. The other visitors were called in and disposed of quickly. Nachimuthu and his companion were called last. They introduced themselves to the Minister who asked them about the progress of dismantling and removal of the Samayanallur plant and machinery. They pleaded that three months' time granted to them for the purpose was inadequate because, despite efforts, they could not complete the dismantling work. The Minister then told the visitors that they had made huge profits in this transaction and unless they were prepared to pay him a sum of Rs. one lakh in cash, further extension of the time granted for dismantling, would be refused. As they did not have so much cash, Malayalam offered to pay the Minister a sum of Rs. 25,000. The Minister did not agree to accept this greatly reduced offer. After a good deal of pleading by the purchasers, the Minister scaled down his demand and agreed to accept a sum of Rs. 50,000 which he said should be paid to him, immediately. A. V. Malayalam submitted that they had no ready cash with them and requested for time. Finally, it was agreed that the purchasers should meet the Minister a day or two later, and hand over the sum of Rs. 50,000 to him. After this agreement, A. V. Malayalam requested the Minister to instruct the Chief Engineer to issue orders, extending the time originally granted for dismantling and removal of the machinery, since that time had already expired. Malayalam further requested the Minister to issue suitable instructions to the Chief Engineer to deliver all the spares and accessories to them. In the very presence of the visitors, the Minister telephoned to the Chief Engineer, and instructed him to issue the necessary orders granting extension of the time. The visitors took leave of the Minister, and while they were in the process of coming out, the Minister called back A. V. Malayalam and asked him to bring a 'James Bond' brief-case, also.

On the following day, Malayalam purchased a James Bond brief-case from the Burma Bazar, Madras for Rs. 160. He also raised Rs. 50,000 in currency notes by diverting a sum of Rs. 20,000 from the common funds of the partnership and the rest by contribution from the partners. All this amount was in 100-rupee currency notes. He placed it in the 'James Bond' brief-case.

In the evening at about 8.00 P.M., Nachimuthu Chettiar and Malayalam both carried it to the Minister's residence in Madras. The Minister was then sitting in his room on the first floor. They met the Minister in that room. A. V. Malayalam handed over the brief-case containing the amount of Rs. 50,000 to the Minister.

On the same day on which the Minister received the payment, he telephoned Shri N. Kothandapani, Chief Engineer, and instructed the latter to give four months' extension of time for the removal of the equipments, to the purchaser. The Minister further asked the Chief Engineer to inform the Chairman of the Board about it and get the necessary orders issued. Accordingly, the Chief Engineer conveyed the instructions of the Minister to the Chairman (Shri C. G. Rangabashyam).

On the following day in the morning, the Chief Engineer received another call from the Minister requiring him to meet the Minister at his residence. Accordingly, the Chief Engineer met the Minister at about 11 A.M. The Minister asked the Chief Engineer about the sale of Samayanallur Thermal Station. He further told the Chief Engineer that the purchaser had complained that the spare parts and accessories covered by sale, were not being delivered to him. The Minister directed the Chief Engineer to issue orders for the delivery of all the spare parts and accessories to the purchaser. The Minister instructed the Chief Engineer not to grant further extension of time for dismantling and removing the equipment, to the purchaser, without consulting him (Minister).

The Minister, O. P. Raman, visited Madurai on 16-6-1972 and again on 2-7-1972. During these visits, the Minister verbally instructed T. V. Ramadas, the Divisional Engineer, Samayanallur, to hand over additional spares and accessories to Nachimuthu Chettiar.

On 27-7-1972, N. Kothandapani, Chief Engineer also visited Madurai. The Chief Engineer indicated to the Divisional Engineer (Ramadas) that the spares and accessories which were not included in the original Specifications, should also be handed over to the purchaser. Ramadas replied that he would submit a report in this connection for specific orders. The Chief Engineer also made an endorsement to the Divisional Engineer on Nachimuthu's letter for delivery of spare parts etc., to the purchaser. Thereafter, the Divisional Engineer, T. V. Ramadas, prepared seven statements, listing the spares and accessories available in the Departmental Stores at Samayanallur which, according to him, were not included in the original Specifications. T. V. Ramadas sent these seven Statements along with his letter, dated 16-9-1972 to the Superintending Engineer (Technical) (Electrical) Madras, with these recommendations:

“The spares listed in statements I to VI may not be useful for this Department in any of the Power Stations like Basin Bridge Ennore etc. The spares formed part and parcel of the main equipments at Madurai Thermal Power Station and hence may be approved to be delivered to the contractor even though these had not been included in the specifications. Regarding statement No. VII, the motors are designed for the original equipments at Madurai Thermal Station and cannot be used elsewhere without major modifications. The motors are old and it is desirable that these are also approved to be given to the contractor as they form part and parcel of spares. Regarding rails in the power station premises, about 6,300 R/ft. of 14 lb rails and about 20 Nos. turn tables and 20 Nos. tip trucks are available. These materials can be utilised to mechanise the casting and handling of the pre-stressed pole casting yard in the power station premises. It is for consideration, if the same can be disposed of to the contractor (at a nominal price if need be) as the contractor pleads that he is unable to sell the locomotive without these rails.”

First extension of time .

In the meanwhile, the Board as per its proceedings No. 630, dated 13-10-1972, granted extension of time by four months from 26-9-1972 to Nachimuthu Chettiar for dismantling and removing the plant and machinery from the site, subject to certain conditions regarding payment of rent for the Power House building, crane-charges etc.

The Divisional Engineer, Ramadas, in pursuance of the instructions of the Chief Engineer, collected the details of the spares not included in the original specifications and forwarded the same to the Superintending Engineer, Madurai, as per his D. O. Letter dated 19-11-1972 for onward transmission to the Chief Engineer. According to this statement submitted by the Divisional Engineer, the total value of the spares and the accessories, including supporting structures for firing floor, rails, checker plates and MS Pipes claimed by the purchaser, was Rs. 5,11,046.85.

Request for the second extension of time

The first extension of 4 months' period for removing the Plant and Machinery granted to the purchaser, was about to expire on 26-1-1973. However, dismantling and removal work could not be completed within this period. Consequently, the purchaser in his letters, dated 14-11-72, 2-12-1972 and 10-1-1973, repeatedly requested for another extension of time for a further period of six months beyond 26-1-1973.

When these requests received from the purchaser were being processed, Malayalam met the Chief Engineer and made a personal representation for extension of time. The Chief Engineer told him that further extension would be given only on the orders of the Minister (Shri O. P. Raman) and advised him to meet the Minister.

As advised, Nachimuthu Chettiar and his partner, Malayalam, met the Minister at the latter's residence at Madras at about 8 P.M., the same evening. The Minister enquired about the progress of the work. Malayalam informed him that at least six months more would be required to complete the dismantling work. The Minister thereupon told them that he would give instructions for grant of 3 months' extension of time provided they paid him a sum of Rs. 25,000. Malayalam and his companion agreed to pay the amount on the following day.

The next day in the evening at about 8-30 P.M., Malayalam and Nachimuthu Chettiar again met the Minister at his residence and handed over a sum of Rs. 25,000 in 100-Rupee currency notes wrapped in a sheet of newspaper. While handing over the money, Malayalam again requested the Minister to direct the Chief Engineer for the delivery of all the spares and accessories and like materials such as supporting girders, pipe-line, spare motors etc. The Minister assured them that he would look into the matter and issue necessary instructions.

The Minister, Shri Raman, accordingly gave verbal instructions to the Chief Engineer (Kothandapani) and the Chairman, Electricity Board (Rangabashyam) that they should grant one more extension of time to Nachimuthu Chettiar. Consequently, the Chief Engineer in his letter dated 19-1-1973, addressed to the Secretary of the Board, recommended further extension of time by six months beyond 26-1-1973. In the meantime, the Superintending Engineer, Madurai in his letter 16-1-1973 reported that it would be possible for the purchaser to dismantle and remove the remaining items of the machinery within the next three months, *i.e.*, before 25-4-1973. In view of this, the Chief Engineer, in modification of his earlier proposal, wrote a letter dated 24-1-1973 to the Secretary of the Board, recommending extension of time for removal of the equipments by 4 months from 25-1-1973, subject to the conditions indicated at the time of granting the earlier extensions.

Second extension of time

The Board accepted this recommendation and granted further extension accordingly. The Board however set it down that no request for further extension of time would be entertained and that all the materials and machinery not removed by the purchaser within the extended period would become the property of the Board. These orders of the Board were communicated to the purchaser by the Chief Engineer in his letter, dated 26-1-1973.

Nachimuthu Chettiar in his letter, dated 31-1-1973, reiterated his complaint and request with regard to the delivery of all the spares and accessories including girders, supporting channels, pipes etc., even if they were not expressly covered by the original Specifications.

The Superintending Engineer, Madurai in his letter, dated 16-1-1973, objected to the delivery of checker-plates, the total cost of which was estimated to be Rs. 26,250 and also the Pipe-line connecting the water softening plant and the cooling pond, costing about Rs. 12,960 at the market rate. On receiving this letter dated 16-1-1973, the Superintending Engineer, Technical (Electrical) in his Note, dated 7-4-1973, to the Chief Engineer, pointed out that checker-plates and 6" pipe-lines were not covered by the sale. He pointed out that only such of the items of spares and accessories which were covered by the Specifications E. 1502 to E. 1510, were included in the sales and only those could be delivered to the purchaser.

Kothandapani, Chief Engineer, however, disagreed with the view taken by the Superintending Engineer, Technical (Electrical) and expressed that since the Checker-plates and 6" pipes were also covered by the sale order, they should be given to the purchaser. With reference to the additional spares and accessories, the Chief Engineer stated that the Plant as a whole had been sold out as per the letter of negotiations. He thus indicated that all the additional spares and accessories should also be delivered to the purchaser. The Chief Engineer issued these orders on 3-5-1973 in pursuance of the oral instructions received by him earlier from the Minister, Shri O. P. Raman.

A copy of the U.O. Note, dated 7-4-1973, of the Superintending Engineer, Technical (Electrical) Madras together with the orders of the Chief Engineer thereon, was communicated to the Superintending Engineer, Madurai, and Divisional Engineer, Samayanallur, on 5-5-1973, for necessary action. The Divisional Engineer Samayanallur, however, did not hand over the additional spares to the purchaser even on receiving these orders of the Chief Engineer which, according to him, were not clear on the particular point.

Request for 3rd extension of time

Despite the second extension of time granted to him, the purchaser could not complete the dismantling work. He therefore, by his letters dated 22-3-1973 and 31-3-1973, requested for further extension of the period for the third time.

Under the instructions of the Chief Engineer, his office prepared a draft letter addressed to the Secretary of the Board for granting further extension of time by 3 months beyond 26-5-1973 and for directing the delivery of the spares, tools etc., to the purchaser. This draft letter was approved and signed by the Chief Engineer, Kothandapani, on 3-5-1973. The Minister was then away on tour. Another change took place, *viz.*, A. Padmanabhan on 25-4-1973 took over as Chairman of the Board from Rangabashyam. Chief Engineer (Kothandapani) felt that the new Chairman might not agree to the proposal to hand over the additional spares to the purchaser as it was a controversial issue. He therefore, in supersession of his earlier letter, wrote another letter, dated 7-5-1973, to the Secretary of the Board, wherein he limited the proposal in his letter, dated 7-5-1973, to the grant of 3 months' further extension of time to the purchaser for dismantling the items of machinery purchased by him. He deleted the suggestion relating to the handing over of additional spares to the purchaser.

Third extension of time

The Board granted 3 months' further extension of time from 26-5-1973 to 26-8-1973 in its proceedings dated 11-5-1973, and reiterated that no request for further extension of time would be entertained. This decision of the Board was communicated to the purchaser by the Chief Engineer in his letter, dated 11-5-1973.

Before the issue of this letter by Chief Engineer, on the same day, *i.e.*, 11-5-1973, the Minister (Shri O. P. Raman) who was then on tour in Madurai District, told the Chief Engineer, Kothandapani, on telephone, that he (Minister) would be camping in Samayanallur Inspection Bungalow on 13-5-1973 and that he (Chief Engineer) should bring Malayalam of Meenakshi Enterprises to Samayanallur on that date with money, as he was in urgent need of funds. Sometime after this conversation of the Chief Engineer with the Minister, Malayalam appeared in the office of the Chief Engineer on 11-5-1973 to receive the communication with regard to the extension of time. The Chief Engineer then conveyed to Malayalam that the latter must meet the Minister, with money, at Samayanallur Inspection Bungalow on 13-5-1973.

Malayalam therefore arranged currency notes to the tune of Rs. 30,000 and, along with Kothandapani, proceeded from Madras on 13-5-1973 by plane to Madurai by the morning flight from Madras. Immediately before boarding the plane, at Madras, the Chief Engineer asked Malayalam whether he had brought the money. Malayalam replied that he had a sum of Rs. 30,000 with him.

The Chief Engineer and Malayalam reached Madurai at 7-30 A.M. on the same date. From the airport, the Chief Engineer proceeded to Samayanallur in a departmental vehicle, while Malayalam proceeded separately to Samayanallur in a vehicle that had been arranged by his representative, at Samayanallur.

On reaching the Inspection Bungalow in the Thermal Station campus, the Chief Engineer met the Minister who was staying there and informed him that Malayalam had come. In the meanwhile, the P.A. to the Minister inquired from the Divisional Engineer, Shri T. V. Ramadas who was there, whether Malayalam had arrived from Madras. Ramadas sent a man to inquire about Malayalam's arrival to the quarters allotted to Meenakshi Enterprises in the premises of the Thermal Station. In the meantime, Malayalam had arrived there and he was having a wash when he was informed about the Minister's query. Thereupon, Malayalam took out 3 bundles of 100-rupee currency notes which he had kept in the pockets of underwear. He covered those bundles with the small turkish towel, which he was carrying, and hurried to Inspection bungalow. At that time, the Chief Engineer was still closeted with the Minister, while Ramadas, Divisional Engineer, B. Muthuvelu, Assistant Engineer (Mechanical) and A. M. Arumugam, Assistant Engineer (Civil) were waiting outside in the verandah. On seeing Malayalam proceeding to the room of the Minister, Ramadas asked him to wait, adding that the Chief Engineer was with the Minister. Just at the same time, the Chief Engineer came out of the Minister's room and went into the adjoining room while Malayalam with bundles of currency notes wrapped in his towel, went into the Minister's room. Ramadas, Muthuvelu, Arumugam, all the three, saw him going into the Minister's room with a bundle wrapped in a small towel. Muthuvelu however noticed currency notes protruding out of the towel.

Inside the room, the Minister asked Malayalam as to why they could not complete the dismantling work within the time granted to them. Malayalam submitted that they were strenuously doing all that was possible to do but the work was such that it was impossible to complete it within that time. The Minister then asked Malayalam if he had brought the money. Thereupon, Malayalam paid the sum of Rs. 30,000 to the Minister. On receiving the amount, the Minister exclaimed: "Is it all"? He added that he wanted a far bigger amount. Malayalam replied that that was all they could manage with great difficulty. On receiving the money, the Minister wrapped it in his long upper cloth and then tucked the same under his left arm-pit. Then, saying 'O.K.', the Minister immediately went out. Outside, the Police Guard saluted. The Minister nodded, instantly got into his car and sped away. Thereafter Malayalam went into the Chief Engineer's room. The Divisional Engineer, Ramadas, was also there. On inquiry, Malayalam told the Chief Engineer that he had paid the money to the Minister.

A few days after his return to Madras from Samayanallur the Chief Engineer, Kothandapani, was summoned by the Minister (Shri Raman) and was questioned about the progress of the dismantling work. The Chief Engineer informed the Minister that the purchaser would be able to clear the site by August 1973. The Minister then told the Chief Engineer that Malayalam had again complained to him that all the spares and accessories had not been handed over to him. The Minister wanted to know why this was not done despite his personal instructions. The Chief Engineer explained that there was a difference of opinion between the Engineers on this matter. The Minister then expressed a desire to have a detailed discussion with the Engineers for settling this issue.

As desired by the Minister, the Chief Engineer telephonically summoned Ramadas, Divisional Engineer and on 13-6-1973, the Chief Engineer accompanied by Ramadas and Thiagarajan (Executive Engineer), again met the Minister at his residence. After a discussion, the Minister gave verbal orders to the Chief Engineer that all the spares and accessories claimed by the purchaser should be handed over to him. No decision was taken at this meeting with regard to the delivery of supporting structures, rails, checker-plates, pipe-lines etc., claimed by the purchaser. The Minister, however, directed the Chief Engineer to examine the purchaser's claim with regard thereto, further, and pass suitable orders.

In pursuance of the decision taken at the aforesaid meeting with the Minister, Kothandapani, Chief Engineer, on 14-6-1973 issued a Memo directing the Divisional Engineer, Samayanallur to hand over all the tools, spares and accessories, listed in Annexure 'A' appended to his Memo, to the purchaser, forthwith. In Annexure 'A' were catalogued those spares and accessories which were not included in the original Specifications. Annexure 'B' to this Memo covered the spare motors, trackline materials, checker-plates, MS Pipes, supporting structures etc., claimed by the purchaser.

In compliance with the Memo issued by the Chief Engineer, spares and accessories (estimated to cost about 3½ lakhs) were handed over to the purchaser, Nachimuthu Chettiar, by the Divisional Engineer, Samayanallur, between 27-6-1973 and 21-7-1973. Since Nachimuthu's claim with regard to the spares and accessories was only partly satisfied, he, in his letters, dated 6-7-1973 and 18-7-1973, again complained to the Chief Engineer about the non-delivery of the supporting structures, checker-plates, track line materials, etc.

In the meantime, Chief Engineer Kothandapani retired on 10-7-1973. Thereupon his acting successor, Shri J. S. Perupettan wrote a letter, dated 27-7-1973, to Nachimuthu Chettiar and endorsed a copy thereof to the Divisional Engineer with the direction that the checker-plate, supporting structures, listed in Annexure 'B' to the Chief Engineer's Memo, dated 14-6-1973, be handed over to the purchaser as those materials were either spares or structures of the main and auxiliary equipments and formed part of the Plant. On receiving this letter, the Divisional Engineer, Ramadas, talked to the Chief Engineer Perupettan on telephone and explained to him the background of the case, contending that the items ordered to be delivered to the purchaser were not part of the machinery covered by the sale. The Chief Engineer, Perupettan thereupon in his letter, dated 6-8-1973, directed the Superintending Engineer, Madurai to await further orders in the matter. The Superintending Engineer, Technical (Electrical), Rama Rao, visited Samayanallur Power Station on 15-9-1973 and inspected the items mentioned in Annexure 'B'.

He noted that out of the 20 Motors mentioned in Annexure 'B' claimed by the purchaser, 5 should be handed over to him, but the track-line materials checker-plates, M.S. Pipes and supporting structures claimed by the purchaser were not covered by the Specifications. On receiving this recommendatory note of the Superintending Engineer, Technical, the Chief Engineer by his letter, dated 3-10-1973, requested the Secretary of the Board to obtain the orders of the Board in accordance with the recommendation made by the Superintending Engineer. The Board approved that recommendation. Thereupon, the Chief Engineer (General) in his letter, dated 27-5-1974, informed Nachimuthu Chettiar that 5 items of spare motors, 12 metres of 6 inch pipe, 4 Nos. bends, 2 Nos. tees and 6 Nos. couplings connecting the water softening plant with the feed water tank only would be handed over to him. But according to the purchaser even these items have not so far been delivered to him as they are said to have been set-off against the arrears of rent due to the Board which the purchaser was liable to pay under the conditions on which extensions of time were granted to him.

Request for 4th extension of time

The 3rd extension of time was due to expire on 25-8-1973. The purchaser could not complete the entire work before that date. He therefore by his letter, dated 2-8-1973, requested the Chief Engineer for grant of further extension of 3 months' time. The reason given by him for seeking this extension, was, that he was awaiting orders of the Board to dismantle and remove the supporting structures, pipes, etc., claimed by him. He also contended that the delay in completing the dismantling was due to the non-delivery of several items of spare tools, track-line materials, etc., which were claimed by him. At this stage, the purchaser had removed all the items of the machinery excepting two coal-bunkers and the water softening plant of the estimated value of 1.87 lakhs. The officers were not disposed to grant further extension of time and wanted to see the unremoved items forfeited to the Board.

The purchaser came to know from the site Officers that the Divisional Engineer had not recommended his request for further extension of time. The Chief Engineer, Kothandapani, who had always been sympathetic towards the request of the purchaser had since retired. The purchaser found himself in a desperate situation. He therefore decided to meet the Minister (Shri Raman) again for seeking further extension of time.

Sometimes in the 2nd week of August 1973, Nachimuthu Chettiar and Malayalam met the Minister at his residence in Madras at about 8 or 8-30 P.M. in the evening and represented their difficulties. The Minister told them that on the previous occasion when their request for extension of time was considered, a decision had been taken not to grant further extension. The Minister further impressed upon them that he had learnt from the Chief Engineer that the delay in removing the plant and machinery from the Site on the part of the purchaser was causing loss and inconvenience to the Electricity Board. Malayalam pleaded with the Minister that a last extension of two months or 6 weeks for dismantling the remaining items be granted to them. The Minister thereupon told Malayalam that he would consider his request, only if they were prepared to pay him another sum of Rs. 50,000. Ultimately Malayalam and Nachimuthu Chettiar agreed to pay Rs. 25,000. Accordingly, two days later, Malayalam and Nachimuthu Chettiar met the Minister again at his residence at about 8 P.M. and handed over to him a sum of Rs. 25,000 in currency notes. This payment was made near about the 10/11th August 1973.

Fourth extension of time

Soon after this payment, the Minister called J. S. Perupettan, Chief Engineer, to his chambers in the Secretariat and asked him about the progress of dismantling work. After a discussion, the Minister directed the Chief Engineer to obtain the Board's order, granting one more extension of time to the purchaser for removing the remaining items of machinery. In compliance with those verbal directions, Perupettan submitted a U.O. Note dated 20-8-1973, wherein he recommended that as a special case, the request of the purchaser for further extension of time might be considered. The Technical Member, Arumugam, was not in favour of a further extension. He discussed the matter with the Chief Engineer, Perupettan. The latter made a strong plea in favour of further extension. The Technical Member felt that six weeks further extension of time would be sufficient, and recommended accordingly. The Chairman of the Board, Shri A. Padmanabhan

agreed with the Technical Member and the Chief Engineer. As a result, the purchaser was given further extension for a period of 42 days from 26-8-1973. The plant and machinery were however dismantled and completely removed from the site by the purchaser before the expiry of this extended period.

According to the material on record a total sum of Rs. 1,30,000 is alleged to have been received by the Minister (Shri O. P. Raman) in four instalments of Rs. 50,000, Rs. 25,000, Rs. 30,000 and Rs. 25,000 from the purchaser and his partner, Malayalam, as a consideration to help them in securing extensions of time for dismantling and removing the purchased machinery from the site, and also for getting some spare parts and accessories claimed by him.

According to the Income-tax Returns filed by Meenakshi Enterprises, the total gross amount realised by the resale of this plant and machinery by Meenakshi Enterprises was Rs. 91,13,852.

Affidavit of Shri Kalyanasundaram, Memorialist

In response to the notice issued by the Commission under Rule 5 (2), the Memorialist, Shri M. Kalyanasundaram filed an affidavit. The points alleged in his affidavit may be set out as under:

- “Samayanallur Power Station was installed at a cost of about Rs. 120 lakhs. There was no necessity to sell the entire apparatus.
- . . . Thiru V. P. Appadurai, the erstwhile Chairman of the Electricity Board opposed the sale but O. P. Raman over-ruled and opted for the sale of the apparatus.
- . . . It was done with an intention to make the best out of a bad bargain.
- . . . Sale was effected in favour of Nachimuthu Chettiar out of the personal interest taken by O. P. Raman.
- . . . In the acceptance of tender the official position was abused for personal benefits, besides violation of Rules and Regulations.
- . . . Nachimuthu Chettiar was a dealer in scrap-iron and he had no wherewithal to embark upon a relatively huge venture.
- . . . The tenders have been so contrived as to make it appear that it was a normal transaction and the tender of Nachimuthu Chettiar was accepted at a low price.
- . . . The records were manipulated at the instance of Thiru O. P. Raman.
- . . . When the value of the plant was Rs. 150 lakhs it was sold at a lesser price with the object of making profit illegally.
- . . . “Purchaser was allowed to remove the property part by part . . . and permitted to remit the sale price by selling parts of the apparatus.”
- . . . Properties which were not part of the contract, to the value of about Rs. 5 lakhs, had been delivered to the Purchaser.
- . . . “The fact that immediately after the sale, the Purchaser had realised an abnormal profit of 200 per cent,” is proof enough “that the whole transaction was tainted with illegality.”

Affidavit of Shri M. G. Ramachandran

The other Memorialist, Shri M. G. Ramachandran, also, filed an affidavit setting out facts, which, according to him, had been derived from one P. Kannan. To his affidavit, the Memorialist annexed an affidavit of P. Kannan.

In P. Kannan's affidavit—which is to be treated as a part and parcel of Shri M. G. Ramachandran's affidavit—the thrust of the charge is directed against Shri O. P. Raman, the then Minister for Electricity, who is alleged to have permitted the sale and thereafter the dismantling and removal of the machinery and equipment by the purchaser against payment in instalments. It is specifically alleged that “this deal of disposal of machinery and equipment was shady, and the auction and arrangement were pretences; in reality it was a profit corruption arrangement.”

Counter-Affidavit of Shri O. P. Raman, the former Minister

In reply to these allegations, Shri O. P. Raman filed two counter-affidavits, one, dated 23-7-1976, and the other, dated 8-9-1976. Shri M. Karunanidhi, the former Chief Minister in his affidavit, dated 9-9-1976, has adopted the stand taken by Shri O. P. Raman and stated that the latter's affidavits should be treated "as part and parcel of my affidavit."

In his affidavits, Shri O. P. Raman has emphatically denied the imputations against him and the Chief Minister. The material points set out in his affidavits are as under:

- " . . . The Tamil Nadu Electricity Board is an autonomous, statutory body constituted under S. 5 of the Electricity Supply Act of 1948, and the " sale of the Samayanallur Station was entirely within the purview of the Board as required under the Act."
- . . . " The allegation made against me also against the entire Board is highly defamatory and totally false. It is a calumnious attack on the Board."
- " . . . The Samayanallur Power Station is a small station with about 14 MW capacity. In the year 1965, the State Government had constituted a High Power Committee to consider the economy in administration and the administrative reorganisation and requested the Board to constitute a similar committee. Accordingly a Committee known as the Economy and Efficiency Committee was constituted under the chairmanship of the Board to examine and report on various economy measures . . . One of the subjects considered by the Committee was with regard to the continuity of the Samayanallur Power Station."
- . . . The said Committee in its proceedings, dated 16-7-1968, found that the running of this Thermal Station was uneconomic and recommended that it should be closed and " the possibility of utilising the equipment and buildings after the closure should be examined."
- . . . Continued operation of the Thermal Station would have resulted in a loss of Rs. 50 lakhs per annum.
- . . . The Board therefore accepted these recommendations of the Committee on 25-10-1968 and closed the Samayanallur Thermal Station.
- " In order to mitigate the heavy loss and in order to fetch a good price for the sale of the Station, open tenders were called for" by the Board. " I had never interfered in the statutory duties of the Board which consisted of experts and experienced civil servants. It is baseless . . . to suggest that I was responsible for manipulating the records with respect to sale of the Samayanallur Power Station."
- . . . In response to the tenders invited by the Board, the highest offer was Rs. 38 lakhs as against the Station's depreciated value of Rs. 55 lakhs. So, the Board rightly decided not to accept that tender. Instead, the Board requested the Central Water and Power Commission to examine if the equipment could be sold to any other State in India.
- ' . . . When this attempt failed, it was decided by the Board to call for open tenders again.
- . . . Again, the maximum offer was Rs. 46 lakhs. As this again was below the depreciated value, the tenderers were asked by the Board to submit revised upward offers. Since Nachimuthu Chettiar gave the highest revised offer of Rs. 59,16,555.59, it was accepted.
- . . . The entire price offered by Nachimuthu Chettiar was paid by him and then the No-Objection Certificate to dismantling was given to him.
- . . . There was a term of the contract, that if a dispute arose, it would be referred to the Chief Engineer for arbitration.
- . . . The Board had followed the correct procedure and law and had not shown any favour or preference to any person in its decision."

The Investigating Officers whose services were utilised by the Commission under Section 5-A, originally, examined and recorded the statements of these 32 witnesses. Subsequently, on notice issued by the Commission those witnesses filed affidavits in which they substantially reiterated what they had stated before the investigating officers under Section 5-A. The particulars of the witnesses whose evidence was thus obtained on affidavits under Section 4 (c), are as under:

1. Shri A. M. Sundararaj, Secretary, T.N. Electricity Board from August 1971 to September 1973.
2. Shri R. Ramachandra Pillai, Technical Member, T.N. Electricity Board from 1968 to 1969.
3. Shri N. Kothandapani, Chief Engineer, T.N. Electricity Board from May 1971 to July 1973.
4. Shri N. Thigarajan, Executive Engineer (Electrical), Madras, from March 1970 to April 1971.
5. Shri T. V. Ramadas, Divisional Engineer, Samayanallur, from May 1972.
6. Shri B. Muthuvelu, Assistant Engineer (Mechanical), Madurai Thermal Station, Samayanallur, from 8-8-1972.
7. Shri A. M. Armugham, Assistant Engineer (Civil), Samanayallur Thermal Station, from May 1970 to April 1975.
8. Shri P. A. Ramamurthy, Personal Assistant to the Minister for Electricity (Shri O. P. Raman), from November 1969 to January 1976.
9. Shri M. Amarjothi, Accountant in Office of the Pay & Accounts Office (North), Madras.
10. Shri M. Arumugam, Technical Member, T.N. Electricity Board, July 1973 to October 1974.
11. Shri J. S. Perupettan, Chief Engineer, Electricity Board from 19-7-1973 to 5-5-1974.
12. Shri G. Francis, Chief Controller of Accounts, T.N. Electricity Board from 1960 to March 1976.
13. Shri I. Abdul Razak, Officer on Special Duty in Public Works Department 16-6-1971 to 15-6-1973.
14. Shri A. Padmanabhan, Secretary to Government Public Works Department, from 26-5-1972 to 24-4-1973 and Chairman, T.N. Electricity Board from 25-4-1973 to 5-4-1974.
15. Shri C. G. Rangabashyam, Chairman, T.N. Electricity Board from April 1971 to May 1973.
16. Shri A. V. Malayalam, Partner of Meenakshi Enterprises, along with Nachimuthu Chettiar, the real purchaser of the plant of the Thermal Station.
17. T. K. Nachimuthu Chettiar, Ostensible purchaser of the plant and machinery of Samayanallur Thermal Station.
18. Shri A. Vadivelu Chettiar, one of the partners of Meenakshi Enterprises.
19. Shri T. Seetharaman, a partner of Meenakshi Enterprises.
20. Shri N. T. Arumugam, a partner of Meenakshi Enterprises.
21. Shri N. Shanmugham, a partner of Meenakshi Enterprises.
22. Shri T. Natarajan, a partner of Meenakshi Enterprises.
23. Shri M. G. Shanmugham of Meenakshi Enterprises.
24. Shri A. T. Palaniswamy of Meenakshi Enterprises.
25. Shri A. V. Krishnan, a partner of Meenakshi Enterprises.
26. Shri M. Chandrasekara Mudaliar, a Banker, a partner of Meenakshi Enterprises.

27. Dr. K. Gopalan, a partner of Meenakshi Enterprises.
28. Shri J. H. Kumar, a finance broker and banker, and partner of Meenakshi Enterprises.
29. Shri K. Kuppuswamy, a partner of Meenakshi Enterprises.
30. Shri N. Srirangam Chettiar, a partner of Meenakshi Enterprises.
31. Shri C. T. Devaraj, Director and Chairman of Messrs Paramount Group Pvt. Ltd. and some other concerns.
32. Shri R. Varadarajan, Third Income-tax Officer, City Circle VI, Madras.

Copy of the order by which the 32 witnesses had been called upon to file affidavits was also sent to the Respondents, through their Counsel, Shri Ganapathi, and they were clearly informed that they could, if they so desired, file their affidavits and those of their witnesses in rebuttal of what was stated in the affidavits of the aforesaid 32 witnesses. This opportunity also was not availed of by the Respondents.

I also called for oral examination three crucial witnesses, namely, (1) N. Kothandapani who was at the relevant time, the Chief Engineer of the Board, (2) T. K. Nachimuthu Chettiar (Ostensible purchaser), and his partner, (3) A. V. Malayalam. Unfortunately N. Kothandapani died a few days prior to the date fixed for his examination before the Commission. The remaining two—T. K. Nachimuthu Chettiar and A. V. Malayalam—were examined on 20-5-1977 and 23-5-1977 as C.W. 41 and C.W. 42, respectively.

I also directed Shri K. A. Rajagopalan, Superintendent of Police, who was Incharge of the Investigating team, appointed under S. 5A, to file an affidavit. From his affidavit I am satisfied about the correctness of the record prepared by the Investigating Officers under Section 5-A.

The Investigating Officers appointed under Section 5-A to assist the Commission, have collected all relevant records including 80 official files relating to the disposal of the plant of Samayanallur Thermal Station, Government Orders, T.A. Bills, Statement of Accounts of Meenakshi Enterprises and other material documents. The entire material collected by them has been marshalled and summed up and submitted to the Commission in the Investigating Report which is in two volumes. The record of the statements of witnesses is in Volume II. One copy of this Report was sent to the Respondent, Shri O. P. Raman, through his counsel, Shri Ganapathi, Advocate to enable him to meet the allegations as particularised in the statements of witnesses recorded under S. 5-A. But he did not file any affidavit or statement, in rebuttal.

The Commission in its notice calling upon the 32 witnesses aforesaid, to file affidavits, had also addressed a query to each of the witnesses as to whether he had been examined by the Investigating Officer under Section 5-A, and if so, whether his statement made to that Officer was truly and voluntarily made. All of them, without exception, not only reiterated the same statements which they had made to the Investigating Officers under Section 5-A, but also categorically vouched with regard to the correctness and voluntarily nature of their previous statements.

The Allegation as adumbrated in the Memorandum of Shri M. G. Ramachandran, has been extracted at Serial No. 14 in the Central Government Notification, dated 3-2-1976. On an analysis, this Allegation can be conveniently broken up into these imputatory facts:—

- (a) It was neither prudent, nor necessary to dismantle and sell the Power House Samayanallur because there was acute power shortage in Tamil Nadu.
- (b) That the sale has been made under instructions from the Chief Minister, Shri M. Karunanidhi, and the Minister for Electricity, Shri O. P. Raman.
- (c) That this public property, worth Rs. 110 lakhs, has been sold at a gross under-value, for Rs. 58 lakhs only. The purchaser is believed to have realised "so far Rs. 80 lakhs and still he has got stocks worth Rs. 25 lakhs."
- (d) That this sale was the subject of "a dark game of corrupt bargain . . . made behind the screen without correct procedure." . . . This sale was "for filling the pockets of Ministers will be fully evidenced on an inquiry."

So far as imputations (a), (b) and (c) are concerned, I may say at the outset, that they have not been substantiated. It is manifest from the official record that the running of the Samayanallur Power Station was uneconomic. A high-power Committee of experienced experts and civil servants was set up by the Board as far back as 1965, when the D.M.K. Government was not in power. That Committee was known as Economy and Efficiency Committee. Its function was to examine and report on the measures to be adopted to reorganise and streamline the various power units run by the Board. The Chief Engineer of the Electricity Board, in agreement with the Technical Member of the Board, put up a proposal for consideration of the Economy and Efficiency Committee for disposal of the Samayanallur Thermal Station. The Committee at its meeting held on 16-7-1968, duly considered those proposals and recommended for closure of the Thermal Station. Those recommendations were accepted by the Tamil Nadu Electricity Board in its proceedings on 25-10-1968. The reasons set out by the Chief Engineer in his note, dated 8-1-1969, in favour of the proposal for closing Samayanallur Thermal Station, have been extracted earlier, and need not be repeated. Prima facie those reasons appear to be sound. The running of the Samayanallur Thermal Station was uneconomic and was indirectly causing loss to the Electricity Board. The decision to dispose of the same was taken by the Board after a thorough consideration.

There is not a shred of evidence on record to show that the decision of the Board to sell this Thermal Station was taken at the instance or suggestion of the then Minister for Electricity or the Chief Minister.

The imputation that it was sold at a grossly inadequate price, in violation of the norms of prudence and procedure, has also not been proved. It would be worthwhile to extract here that Shri C. G. Rangabashyam, a Senior I.A.S. Officer, who was then Secretary to the Government of Tamil Nadu and ex-officio Chairman of the Board from April 1971 to May 1973, has said on the point:

“ The highest offer of Rs. 59,16,555.59 for the purchase of plant and machinery was received from Thiru T. K. Nachimuthu of Madras. As this tenderer had not specifically accepted the three important conditions stipulated in the letter, dated 24-1-1972, of the Chief Engineer, Electricity, inviting revised upward offers of the tenderers he was called to my office on 1-3-1972 for discussion. Further, I also wanted to assess the financial status of the tenderer by meeting him personally. The Accounts Member and the Chief Engineer were also present at this meeting. I asked Thiru Nachimuthu Chettiar whether he was agreeable to the three conditions namely (1) furnishing of Bank guarantee, (2) payment of entire sale price within 30 days and (3) removal of all the equipments within 90 days. He expressed his inability to furnish the bank guarantee but offered to pay a sum of Rs. 10 lakhs within 15 days as further EMD and pay the balance amount within a period of 30 days from the date of receipt of confirmation of sale. These terms were accepted by us because the amount offered by T. K. Nachimuthu Chettiar was very advantageous considering the poor response to the Board's earlier attempts to dispose of the plant and machinery. Further the difference between the highest bidder and the next highest was approximately Rs. 8 lakhs and there was no reason to believe that the second highest bidder would be willing to purchase the plant and machinery at the amount offered by the highest bidder. It is true that the original conditions of tender had slightly been modified to accommodate Thiru T. K. Nachimuthu Chettiar, but, this was done in good faith to protect the interests of the Board.” (Vide his Affidavit, dated 11-2-1977.)

I find no good reason to disbelieve even a word of what this high official has stated. There is evidence on the record that initially, serious efforts were made by the Board through the Central Water and Power Commission to sell this plant and machinery to some State Government. As a result of that effort, a tentative offer was received from the Punjab Electricity Board to purchase this plant and machinery for a sum of Rs. 42 lakhs only. The officers of the Punjab Electricity Board, inspected the plant and machinery of the Samayanallur Thermal Station at the site. Thereafter, the Punjab Electricity Board backed out of their offer. Even so, the Tamil Nadu Electricity Board made all efforts to bring round the Punjab Electricity Board, but without success.

It was after these abortive efforts that tender notices for disposal of the machinery of this Station, were published in newspapers and offers were invited with regard to different parts of this plant and machinery indicated in the nine Specifications, E. 1502 to E. 1510. This course was adopted because the Board thought that such sale of the machinery and plant, in parts, would in the aggregate, fetch higher value than its sale as a whole. But this hope was belied when the tenders were opened on 15-2-1969 and it was found that the aggregate of the highest individual offers for each Specification (including the revised offers) did not exceed Rs. 34,66,786 which was about 12 lakhs less than the depreciated book value. The original cost of this plant and machinery was no doubt over a crore of rupees, but its depreciated book value, calculated according to the *straight-line* method, was Rs. 55.00 lakhs only. The Board was, therefore, in a predicament. Very rightly, it did not accept those offers, and reinvited tenders for the Specifications.

The reinvited tenders for all the Specifications were opened on 24-11-1971. The tender analysis was prepared on 14-12-1971. It shows that the highest offers received against each of the specifications were as follows:—

S. No.	Specification No.	Description of equipments	Names of the firms quoting the highest rate	Highest amount quoted
				Rs.
1.	E-1502	3 Nos. B and W Boilers ..	Messrs. Agarwal Engg. Co., New Delhi ..	8,10,000
2.	E-1503	2 Nos. Steinnmuller Boilers ..	Messrs. D. C. M. Chemical Works, Delhi	20,51,000
3.	E-1504	1 No. 4 MW TA Set and 1 No. 10 MW TA Set. }	Messrs Parvathy Traders, Madras }	15,50,000
4.	E-1505	1 No 10 MW TA Set	Messrs. Parvathy Traders, Madras	
5.	E-1506	Coal handling plant ..	Messrs. Suprabha Syndicate, Madras, and Messrs. Swamy Engg. Works, Bhavani.	50,000
6.	E-1507	Water Softening plant ..	Messrs. Swamy Engg. Works, Bhavani ..	50,000
7.	E-1508	1 No. 40 Ton Weigh Bridge ..	Messrs. Swamy Engg. Works, Bhavani ..	50,000
8.	E-1509	2 Nos. Diesel Locos ..	Messrs. Swamy Engg. Works, Bhavani ..	50,000
9.	E-1510	2 Nos. Coal Crushers ..	Messrs. Swamy Engg. Works, Bhavani ..	50,000
			Total ..	46,61,000

Thus the total of all the highest individual offers for the nine Specifications was Rs. 46.61 lakhs only. The highest offer for *all* the plant and machinery was that of Messrs. Joseph & Co. It was to the tune of Rs. 42,21,501 only. The next highest offer was of Nachimuthu Chettiar. It was in the sum of Rs. 41,55,555.56 for the *entire* plant and machinery. Even the revised offer of Messrs. Abid & Co. made after the opening of the tenders, did not exceed Rs. 43,01,000. Messrs. Orient Textiles, Bombay, offered Rs. 35,00,051 only.

The Board being of the opinion that the offers received were still on the low side, did not accept any of these offers, but wrote to all the 24 firms who had submitted tenders to submit revised enhanced offers. It was on this occasion, that T. K. Nachimuthu Chettiar offered a consolidated amount of Rs. 59,16,555.59 for the entire plant and machinery covering all the nine specifications *i.e.* E. 1502 to E. 1510. He, however, did not say in his offer that he had accepted all the conditions stipulated in the original tender.

The revised upward offer of Messrs. Orient Textiles Bombay was Rs. 51,75,011. This was the second highest offer but still it was about Rs. 7,41,545 less than what Nachimuthu Chettiar had offered. The Board therefore, had good reason to believe that the second highest bidder, namely, Orient Textiles, would not be willing to purchase the plant and machinery at the amount offered by Nachimuthu Chettiar. They did not want to lose this revised offer made by Nachimuthu Chettiar. It was not only the highest but also substantially more than the depreciated book value of the plant and machinery. It is true that the Board relaxed and modified the original conditions in the tender notice particularly those with regard to time for payment of the balance of the sale consideration. This relaxation was evidently made in the interests of the Board. A rigid adherence to the original condition might have involved a risk of losing this highest offer. There is therefore, no ground to suspect that in making this modification, any Member of the Board was actuated by bad faith. It is further true that the time for depositing the balance of the sale

consideration, Rs. 48,71,555.59, also was extended upto the 30th May 1972; but keeping in view the magnitude of the sum the extension granted could not be said to be unreasonable.

It is further correct that under the original stipulation the purchaser had to dismantle and remove the entire machinery from the site within three months of the Delivery Order passed by the Chief Engineer and given to him. The Delivery Order was issued to him on 26-6-1972. The period of three months originally stipulated for dismantling and removal of the sold equipment from the site, was going to expire on 26-9-1972. But it was extended no less than four times. The last extension was to expire on 26-8-1973. But the entire plant and equipment was removed by the purchaser before this date.

Whether all these extensions of the time granted for dismantling and removal of the equipment were justified and at whose instance, they were granted, is a question which is linked with imputation (d), and will be discussed in that context. Here it will be sufficient to say that there is no evidence on the record to show that the sale of the plant and machinery of Samayanallur Thermal Station, itself, was tainted by bad faith or actuated by corrupt motives. Nor is there anything on the record to show that this sale was effected at the instance of the then Minister, Shri O. P. Raman, or the then Chief Minister, Shri M. Karunanidhi.

In fact, the decision to close and sell off this thermal plant and machinery was taken by the Board in exercise of its own powers. Nothing has been brought to my notice to show that the Board, albeit an autonomous body, was not by itself competent to take a decision with regard to the disposal of this Thermal Station. However, mention was made of G.O. Ms. 2/70—PWD dated 2-1-1970, according to which, all tenders valued Rs. 5 lakhs and above, are required to be submitted to Government for approval. But according to the sworn word of Shri C. G. Rangabashyam, then Chairman of the Board, this G.O. is not applicable to the Electricity Board. The Board is a statutory body corporate constituted under the Indian Electricity Supply Act, and is governed by the rules and bye-laws applicable to it (Vide Para 13 of Rangabashyam's affidavit). It cannot therefore, be said that in making this sale, the Board exceeded its powers or contravened any mandatory provision of law and procedure.

Imputations (a), (b) and (c), therefore are unsustainable.

Imputation (d)

This imputation, as laid, is not happily worded. It has to be liberally construed and read along with the affidavits filed by the Memorialists in which they have given some elaboration of the imputation. Thus read, the imputation amounts to this: 'A dark game of corruption, behind the screen has been played in connection with this sale, without correct procedure, to fill the pockets of the Ministers'. In the affidavits of the Memorialists and P. Kannan, it is particularised that the Minister who abused his official position and played the dominant role in this dark game of corruption or was concerned in this "profit-corruption arrangement" was Shri O. P. Raman, then Minister for Electricity in Tamil Nadu State. In that context, it is further alleged that Shri O. P. Raman with the motive to make profit illegally, allowed the purchaser to remove the property part by part and also caused unauthorised delivery of spares and properties worth Rs. 5 lakhs, which were not covered by the sale contract, to the purchaser.

Thus read, it will be seen that Imputation (d), conveys a charge which is distinct from Imputations (a), (b) and (c).

Further particulars of this charge as revealed in the statements of the witnesses recorded by the Investigating Agency under S.5-A, and reiterated in the affidavits of those witnesses, are: that Shri O. P. Raman the then Minister for Electricity extracted illegal gratifications of Rs. 50,000, Rs. 25,000, Rs. 30,000 and Rs. 25,000, totalling Rs. 1,30,000, from Nachimuthu Chettiar and his partner, A. V. Malayalam, as a consideration for assisting these purchasers, by the exercise of his influence with the Members of the Electricity Board, to get extensions of the time granted to the purchasers for dismantling and removing the plant and machinery and to secure the delivery of some spares, accessories and other items which, some officials of the Board were reluctant to deliver to the purchasers on the ground that those items were not covered by the sale.

This is the *main charge* that falls to be considered against the former Minister, Shri O. P. Raman. There is also an ancillary accusation against the Respondent, viz., that some spares and accessories, the delivery of which to the purchaser was caused by Shri O. P. Raman, were not covered by the contract of sale, and as such, the delivery thereof to the purchasers was itself, illegal.

The points that fall for consideration under the main charge, are:

Whether Shri O. P. Raman, abusing his position as Minister for Electricity, Tamil Nadu, received the illegal gratifications detailed below:

- (a) Rs. 50,000 from Nachimuthu Chettiar and Malayalam a few days after 25-9-1972, at his residence in Madras.
- (b) Rs. 25,000 on or about 10-1-1973, from Nachimuthu Chettiar and Malayalam, at his residence in Madras.
- (c) Rs. 30,000 on 13-5-1973, from Malayalam, in the Inspection Bungalow, on the premises of the Power House Samayanallur.
- (d) Rs. 25,000 from Nachimuthu Chettiar and Malayalam on or about 10/11-8-1973, at Madras.

Evidence

Now I will take up the evidence relating to the main charge.

Witnesses will be referred to by the Serial Nos. assigned to them in this dissertation, which incidentally conform to their serial nos. in the Investigation Report, Volume II. Witnesses who were examined before the Commission will be referred to by the C.W. Nos. assigned to them at the time of their examination.

The principal witnesses with regard to the demand and payment of these illegal gratifications are:

- (1) T. K. Nachimuthu Chettiar, CW 41 (Witness No. 17).
- (2) A. V. Malayalam, C.W. 42 (Witness No. 16).

They are self-confessed bribe-givers and as such, accomplices. The preliminary question therefore, to be considered is whether the rule of corroboration is applicable to their evidence? If so, to what extent? Answer to this question, depends on the degree and nature of their complicity. I have already found that the sale, itself, of the plant and machinery of Samayanallur Thermal Station was made by the Board in the exercise of its own powers and not at the instance of the Minister, and that it was not tainted by bad faith, nor actuated by corrupt motive. There is not an iota of evidence to show that Nachimuthu Chettiar or his partners induced the Board to sell this plant and machinery to them for Rs. 59,16,555.59, by any promise or offer of illegal gratification or the use of corrupt means. Nachimuthu and Malayalam therefore, do not belong to the category of top grade, unscrupulous bribe-givers who get an undue advantage, favour or contract through deliberate "Pay-offs" or "kick backs" or other corrupt means. The first and foremost question which was troubling the purchasers was to seek extension of the time granted for dismantling and removing the equipments from the site. The second question confronting the purchasers related to the non-delivery of certain spares and accessories, which were claimed by them as a part and parcel of the property sold.

The relief claimed by the purchaser with regard to both these matters could not, by any reckoning, be called extravagant or manifestly undue. The condition under which a period of three months for dismantling and removal of the equipments was specified, was not the essence of the contract and its relaxation could not—and in fact did not—involve any pecuniary loss to the Board. Nevertheless, the Minister and others took advantage of the ambiguous language of the Delivery Order and the other documents constituting the contract, and held out the threat to forfeit the E.M.D. and the equipments that had not been removed from the site within the time

originally granted. Nachimuthu, C.W. 41, and Malayalam, C.W. 42, were scrap-merchants, who wanted to remove and dispose of the equipments purchased by them as soon as possible. Even for settlement of their just claims they could not afford the luxury of long drawn out legal battles in courts. There was therefore, nothing unnatural if they succumbed to the threat of forfeiture, and submitted to pay the gratification to stave off that threat. It is not as if they paid the bribes at the initial stage to obtain the order to dismantle and remove the equipments. After the deal was through and when they were actually engaged in the process of dismantling, they found themselves trapped in a situation in which they felt that 20 families (of the partners of Meenakshi Enterprises) would go to rack and ruin if they did not comply with the illegal demands of the Minister. They had not purchased this plant and machinery for their own domestic use but for resale; consequently, they could remove the machinery only as and when others with whom they had negotiated resales thereof, came forward to take delivery. They did not have godowns or other places to where they could transfer the machinery or stock it. It would have involved avoidable, prohibitive expenditure. Moreover, dismantling of such a huge plant was no easy job. Cranes and like machine tools had to be pressed into service, and such heavy machinery for transport required special arrangements. Thus, there were inherent, insuperable difficulties in dismantling and removing the purchased equipments, within the stipulated time. In their first meeting with the Minister, the latter, presumably, sensed their difficulties and exploited them for extorting the bribe. Thus, these witnesses belong to the category of technical accomplices who are forced to offer bribe under threat of pecuniary loss or harm. The rule of corroboration, therefore, would not apply with all its rigour to the evidence of these witnesses. A relatively slight corroboration in some particulars would be sufficient to establish their credit.

It will be presently seen that the evidence of Nachimuthu and Malayalam satisfies the double test. That is to say, there is nothing intrinsically incredible or inherently improbable in the story propounded by these witnesses. Further, their evidence receives corroboration in some material particulars from independent evidence.

With these prefatory remarks I would now embark on an examination of their evidence.

Both Nachimuthu Chettiar and A. V. Malayalam have made three statements, each. Their statements were first recorded during investigation under Section 5-A. Next, the filed affidavits, dated 14-2-1977, in response to the notices issued by the Commission. Thereafter, their statements were recorded before the Commission on *viva voce* examination. In all the three statements, they have substantially given the same story which has been set out at the commencement of this dissertation. There are no material discrepancies or contradictions in their statements.

It will be convenient first to deal with the evidence of Malayalam because he was the more active partner of Meenakshi Enterprises than Nachimuthu Chettiar.

A. V. Malayalam C.W. 42/W 16

He is the star witness in this case. It will be useful to reproduce his own words, in extenso, from his deposition:

“ 3. . . . I am a dealer in old motor parts. I belong to Palani in Madurai District and came over to Madras about 25 years ago and joined my father Thiru A. Vadivelu Chettiar who was already doing business in Madras as scrap iron and old motor parts dealer . . .

“ 4. . . . In October–November 1971; Thiru T. K. Nachimuthu Chettiar residing at No. 12, Begum Sahib Street, Mount Road, Madras who is a scrap iron merchant and who is known to me for several years met me in the A.V.C. Lodge and showed me an advertisement inserted by the Tamil Nadu Electricity Board offering the plant and machinery of Samayanallur Power Station for sale. Thiru Nachimuthu Chettiar suggested that some of us could join together and submit a tender for the purchase of the plant and machinery.

“ 6. . . . after inspecting the Thermal Station we came to the conclusion that even by selling the machinery as scrap we could get at least Rs. 50 lakhs. Therefore the

following ten persons, namely Thiruvalargal (1) A. Vadivelu Chettiar, (2) A. V. Malayalam, (3) A. V. Krishnan, (4) J. H. Kumar, (5) T. K. Nachimuthu Chettiar, (6) N. T. Arumugam, (7) T. Seetharaman, (8) P. Narayanaswamy, (9) P. Govindaswamy and (10) A. Kuppaswamy joined together and decided to submit a tender offering a sum of Rs. 41,55,555.56. As Thiru T. K. Nachimuthu Chettiar was the only person, who, from among us, was hopeful of getting income-tax clearance certificate without much delay, it was decided by us to submit the tender in his name.

- “ 7. . . . Though there were 9 specifications Thiru T. K. Nachimuthu Chettiar had not quoted his rate for the individual specifications, but had offered a consolidated amount of Rs. 41,55,555.56. . . . In the letter of offer it was also mentioned that Income-tax Clearance Certificate will be submitted shortly. The E.M.D. of Rs. 45,000 required to be paid along with the tender was contributed by the above mentioned ten partners in a certain proportion.
- “ 8. . . . the tenders were opened on 24-11-1971 in the Conference Room of the office of the Chief Engineer, Electricity Board. About 2 months later a letter was received by Thiru T. K. Nachimuthu Chettiar from the Chief Engineer, Electricity Board, asking him to submit a revised higher offer, since, the book value of the plant and machinery offered for sale was about Rs. 55 lakhs. We discussed the matter and decided to submit a revised offer of Rs. 59,16,555.59.
- “ 9. . . . as the tender value was very high we decided to take in more partners. We formed a partnership (Ex. CW 42/2, dated 13-3-1972) concern under the name and style “ Meenakashi Enterprises ” with 20 partners, each contributing a certain amount towards the capital. The total capital of the firm was Rs. 10,45,000. My contribution was Rs. 85,000. . . . The letter dated 7th February 1972 (Ex. CW 41/2) signed by Thiru T. K. Nachimuthu Chettiar which is at page 445 of file MTS/ Disposal, Volume VI is the revised tender submitted by Thiru T. K. Nachimuthu Chettiar.
- “ 10. . . . the tenders were opened on 7-2-1972. Thiru T. K. Nachimuthu Chettiar and myself were present at the time the tenders were opened in the Office of the Chief Engineer. The tender submitted by Thiru T. K. Nachimuthu Chettiar was the highest.
- “ 11. . . . about three weeks after the opening of the tenders a telephone call was received in my Lodge (AVC Lodge) from the Office of the Chief Engineer. I attended the telephone and I was told that the Chief Engineer wanted to meet Thiru T. K. Nachimuthu Chettiar urgently. Immediately I sent for Thiru Nachimuthu Chettiar and conveyed this information to him. Thiru T. K. Nachimuthu Chettiar, myself and two or three of the other partners went to the Chief Engineer's Office and met him. The Chief Engineer told us that the Chairman, Electricity Board, wanted to discuss the matter with Thiru Nachimuthu Chettiar. Thiru Nachimuthu Chettiar told the Chief Engineer that though the tender was submitted in his name, actually it was submitted on behalf of a partnership and therefore he wanted other partners who had come along with him also to be present at the meeting.
- “ 12. . . . The meeting commenced at about 11 A.M. in the Chairman's room. On our side myself, Thiru T. K. Nachimuthu Chettiar, my father Thiru A. Vadivelu Chettiar and two other partners were present. On the other side the Chairman (Thiru Rangabashyam) the Chief Engineer (Thiru Kothandapani), the Accounts Member (Thiru Nagarajan) the Controller of Accounts and some other officials were present. The Chairman told Thiru Nachimuthu Chettiar that he was not satisfied with his financial status. We told the Chairman that we had deposited this tender fully realising our responsibility and after fully satisfying ourselves about our capacity to pay the full value. The “ discussion started at 11 A.M. in the morning and continued till 3 P.M. Finally we were asked to sit outside and the Board Members

continued the discussion in our absence. After sometime we were called in. The Chairman then proposed the following 3 conditions, namely:—

- (1) furnishing of Bank Guarantee for the payment of the sale value,
- (2) payment of the entire sale price within 30 days from the date of receipt of confirmation of sale, and
- (3) dismantling and removal of the equipment within 90 days after the payment of the entire amount.”

- “ 13. Thiru T. K. Nachimuthu Chettiar expressed his inability to furnish the Bank Guarantee. The Chairman thereupon demanded the payment of a sum of Rs. 10 lakhs within 15 days as additional E.M.D. before confirming the sale in the name of Thiru Nachimuthu Chettiar. We objected to this condition also. But the Chairman and the Accounts Member were every adamant and therefore we decided to agree to the payment of a sum of Rs. 10 lakhs as additional E.M.D. The Chairman wanted us to send a letter offering to pay a sum of Rs. 10 lakhs as additional E.M.D. and also incorporating the other two conditions, namely, payment of the balance amount within 30 days and dismantling and removal of equipments within 90 days. Since the proposal had come from the Chairman we requested him to send a letter to that effect to Thiru T. K. Nachimuthu Chettiar, but, he did not agree. Finally, we agreed to send a letter as directed by the Chairman. Accordingly Thiru T. K. Nachimuthu Chettiar sent a letter (Ex. CW 41/3) to the Chief Engineer, Electricity Board on 3rd March 1972 agreeing to the above mentioned conditions. This letter is at Pages 525 to 527 of File MTS/Disposal Volume VI.
- “ 14. . . in the first week of March 1972, a letter was received from the Chief Engineer Electricity Board addressed to Thiru T. K. Nachimuthu Chettiar (tentatively) accepting the tender for the purchase of the plant and machinery covered by specifications E. 1502 to E. 1510. Thiru Nachimuthu Chettiar was asked to pay a sum of Rs. 10 lakhs within 15 days from the date of receipt of the letter, to the Accounts Officer, Electricity Board, either in cash or in the form of Demand Draft as additional E.M.D. It was also mentioned in this letter that the sale would be confirmed on production of the receipt from the Accounts Officer for the payment of the Additional E.M.D. of Rs. 10 lakhs. It was further mentioned that the balance amount should be paid within 30 days from the date of receipt of the confirmatory order failing which the amount Rs. 10.45 lakhs paid as E.M.D. would be forfeited to the Board. This letter was received by Thiru T. K. Nachimuthu Chettiar on 7-3-1972 as seen from his acknowledgement in the copy of the letter available at page 529 of file MTS/Disposal Volume VI shown to me now.
- “ 15. . . on receipt of the above letter from the Chief Engineer, Electricity Board, we deposited a sum of Rs. 10 lakhs in Dena Bank, Mount Road, Madras and obtained two drafts for Rs. 5 lakhs each and remitted them to the Accounts Officer, Electricity Board towards payment of the additional E.M.D. of Rs. 10 lakhs. The amount of Rs. 10 lakhs deposited in the Dena Bank was paid out of the share capital of the partnership concern formed by the earlier under the name and style Messrs. Meenakshi Enterprises.
- “ 16. . . soon after the payment of the additional E.M.D. we inserted advertisements in the local dailies as well as newspapers published outside the State like Bombay, Calcutta and Delhi offering to sell the plant and machinery of Samayanallur Power Station. We received several offers/Enquiries from reputed firms by letters and telegrams. Some of the parties also came over to Madras and made enquiries in person.
- “ 17. As the balance amount of about Rs. 49 lakhs had to be paid to the Electricity Board, within a period of 30 days from the date of receipt of the letter of sale, we approached the National and Grindlays Bank, N.S.C. Bose Road, Madras, for financial accommodation. We also requested Thiru M. Chandrasekara Mudaliar

who was a banker and also one of the partners of Shri Meenakshi Enterprises to use his good offices to persuade the Bank to give us financial accommodation.

- “ 18. As the last date for the payment of the balance amount was drawing near it was decided by us to make a representation to the Electricity Board for extension of time for the payment of the balance amount. Accordingly, Thiru T. K. Nachimuthu Chettiar wrote to the Chairman of the Electricity Board requesting 60 days time for making the payment. We also followed it up with a personal interview with the Chairman and made a personal representation for extension of time. The Chairman called the Accounts Member and the Chief Engineer and after some discussion he agreed to give us time upto 30-6-1972 on furnishing a Bank Guarantee before 17-5-1972 which was the date stipulated earlier for the payment of the balance amount. A letter was accordingly received from the Chief Engineer, granting extension of time till 30-6-1972.
- “ 19. . . . The Bank advised us to open an account in the name of Shri Meenakshi Enterprises and deposit a sum of Rs. 10 lakhs in cash in that account. For this purpose we borrowed a sum of Rs. 10 lakhs from various *marvadi* money lenders of Madras on behalf of the partnership firm and deposited the amount in the National and Grindlays Bank. In the meantime we were able to sell two small boilers to Modi Rubber Factory, Modinagar, for Rs. 13 lakhs and one big boiler to Hindustan Aluminium Company near Varanasi for Rs. 16 lakhs. Another small Boiler was sold to the Bengal Paper Mills for about Rs. 7 lakhs. These amounts were paid into our firm's account with the National and Grindlays Bank and the Bank paid the balance amount of Rs. 49 lakhs to the Electricity Board on 30-5-1972, i.e., one month ahead of the last date stipulated for making the payment.
- “ 20. . . . soon after the payment of the entire value of the plant and machinery to the Electricity Board a letter was received from the Chief Engineer permitting us to commence the dismantling and removal of the equipments. Copy of this letter is at page 184 of file MTS/DISPOSAL, Volume VII. I have acknowledged receipt of this letter.
- “ 21. . . . according to the partnership deed of Shri Meenakshi Enterprises, Thiru A Vadivelu Chettiar was designated as the Managing Partner of the firm. Thiru T. K. Nachimuthu Chettiar and myself were authorised to
- (1) carry on the day-to-day transactions of the firm,
 - (2) sign vouchers, letters, documents, etc., jointly in connection with borrowing of money for the purpose of business, and
 - (3) represent the firm in Income-tax, Sales-tax matter, etc.

Thiru T. K. Nachimuthu Chettiar was further authorised to sign documents in connection with the purchase and to take delivery of the articles mentioned in the specifications. The Headquarters of the firm was at No. 96, General Patters Road, Mount Road, Madras. A camp office was opened at Samayanallur Thermal Station with Thiru N. Shanmugham as the site representative of the firm. Thiru T. K. Nachimuthu Chettiar and myself used to visit Samayanallur frequently and supervise the dismantling and removal of the equipments. The dismantling work commenced in June 1972. It was reported to us by our Site Representative at Samayanallur that certain rails and spare parts had been removed from the Samayanallur Power Station by the Officers of the Power Station and therefore Thiru T. K. Nachimuthu Chettiar wrote a letter to the Chief Engineer requesting him to give proper instructions to Board's Officers at Samayanallur. It was again reported from Samayanallur by our Site representative that some of the spares and Equipments which were not mentioned in the tentative list annexed to the original specifications but covered by the sale as per the delivery order No. EPC/A2/MTS/Disposal/385, dated 26-6-1972 were not being handed over by the site officers. Since we had purchased the whole plant and machinery of Samayanallur Thermal Station along

with all the spares and accessories we were entitled to get all the equipments, spares and accessories. Therefore Thiru T. K. Nachimuthu Chettiar again wrote to the Chief Engineer requesting him to instruct his Officers at site to deliver all the equipments accessories and spares to us even though some of them were not mentioned in the specifications.

- “ 22. . . on our representation the Chief Engineer issued a delivery order (Ex. CW 41/18) addressed to Thiru T. K. Nachimuthu Chettiar informing him that the spare parts list furnished alongwith the specifications was only tentative and all the available spares intended for the equipments were included in the sale and would be delivered to us. Even then the site officers refused to hand over the spares and the accessories to us.
- “ 23. . . sometime in June-July 1972 the then Minister for Electricity (Thiru O. P. Raman) had visited Madurai. Thiru T. K. Nachimuthu Chettiar and I met him at Madurai and represented our difficulties. We told the Minister that the time of 3 months given to us for dismantling and removing the plant and machinery was not sufficient and requested him to instruct the Chief Engineer to give us an extension by 6 months. We also told the Minister that some of the spare parts and accessories had not been handed over to us on the ground that they were not mentioned in the original specifications even though as per the delivery order No. EPC/A2/MTS/Disposal/385, dated 26-6-1972, the whole plant and machinery alongwith all the available spares and accessories had been sold to us. The Minister promised to look into this. We also made repeated representations in this regard to the Chairman and the Chief Engineer, Electricity Board.
- “ 24. I state that according to the Delivery Order (Ex. CW 41/18) issued by the Chief Engineer, Electricity Board, the time given to us for dismantling and removing the plant and machinery was 90 days which was expiring on 26-9-1972. As it was impossible to complete the dismantling work within 3 months we requested the Chief Engineer to grant us 6 months extension of time from 26-9-1972. The letter, dated 23rd September 1972 by Thiru T. K. Nachimuthu Chettiar to the Chief Engineer, Electricity Board, in this connection is at pages 328-329 of file MTS/Disposal/Volume VII.
- “ 25. . . as the three months time originally given for dismantling and removing the plant and machinery was to expire on 26-9-1972 myself and Thiru T. K. Nachimuthu Chettiar during this period used to meet the Chief Engineer for Electricity almost daily and request him to expedite the issue of orders extending the time. On one such occasion the Chief Engineer (Thiru Kothandapani) advised us to meet the Minister for Electricity (Thiru O. P. Raman) at his residence and make a personal request for extension of time. I told the Chief Engineer that I had met the Minister only once before at Madurai and expressed my diffidence to meet the Minister at his residence without an appointment. The Chief Engineer, said that the Minister desired to meet us and, therefore, there was nothing to worry. Thereupon, we requested the Chief Engineer to accompany us to the Minister's residence, but, he said that it was not necessary. He advised us to meet the Minister during the day time preferably after 1 P.M. when he would be back at his residence for lunch.
- “ 26. . . as advised by the Chief Engineer, the next day myself and Thiru T. K. Nachimuthu Chettiar went to the Minister's residence after 1-30 P.M. That day, I remember, was a Wednesday because, we wanted to avoid the Rahukalam which was from 12 Noon to 1-30 P.M. At the Minister's residence we met his P.A. who informed us that the Minister was unwell and was sleeping after his lunch. We told the P.A. that we would call again the next day. He wanted to know the purpose of our visit. We told him that we were partners of Shri Meenakshi Enterprises and that the Chief Engineer had asked us to meet the Minister. The P.A. asked us to wait. I gave the visiting Card of Meenakshi Enterprises to the peon who placed it on the table of the Minister in his office room. There were some others also waiting to see the Minister.

- “ 27. At about 4 P.M. the Minister came down and sat in his office. The other visitors who were waiting for him were called in one by one and they were disposed of within 15 minutes. We were called last. We introduced ourselves and we were asked to sit. The Minister asked us about the progress made in the dismantling of the Plant and machinery. We told him that we were given only 3 months' time which was quite insufficient. The Minister thereupon remarked that he had been told that we had made a huge profit in this transaction and unless we were prepared to pay him a sum of Rs. 1 lakh in cash further extension will not be given. This demand of the Minister shocked us because a major portion of the plant and machinery was yet to be removed and without getting sufficient time we would not be able to dismantle and remove them. Further, we did not have that much money in cash with us. Therefore we offered to pay a sum of Rs. 25,000. He did not agree. After much pleading he agreed to a sum of Rs. 50,000, which he said should be paid immediately. But, I told him that it was not possible to make up so much money at short notice. I requested time and it was agreed that we would meet him again the next day or a day later and hand over the money. I requested the Minister to give instructions to the Chief Engineer to issue urgent orders as the time given to us for removing the plant and machinery had already expired. We also requested him to issue suitable instructions for giving us all the spares and accessories covered by the sale as per delivery Order No. EPC/A2/MTS/Disposal/385, dated 26-6-1972. In our presence the Minister telephoned to the Chief Engineer for Electricity and instructed him to issue necessary orders extending the time. While we were coming out of the Minister's room, he called me back and said that he wanted a ' James Bond ' Brief Case and asked me to get him one.
- “ 28. . . . The next day I purchased a James Bond Brief Case from the Burmah Bazaar near the Beach Railway Station for Rs. 160. The amount of Rs. 50,000 was made up by diverting some funds from our business. This amount which was in hundred rupee currency notes was placed into the Brief Case and the same evening at about 8-30 P.M. Thiru T. K. Nachimuthu Chettiar and myself went to the Minister's residence. The Minister, was at that time sitting in the room on the first floor of the house. We were directed to his room. We went up and met him. He asked me whether I had brought the money. I was having the brief case in my hand and I handed over the brief case containing the sum of Rs. 50,000 to the Minister. He opened the brief case and closed it immediately. He told us that he would give necessary instructions. We came away.
- “ 29. We were given 4 months extension of time from 26-9-1972. The extended time was to expire on 26-1-1973. We were also informed by the Chief Engineer that further extension of time will not be granted. We were not able to complete the dismantling work before the expiry of the extended period, i.e., 26-1-1973. Therefore, T. K. Nachimuthu Chettiar again addressed the Chief Engineer requesting further extension by 6 months. We also met the Chief Engineer and made a personal request for extension of time. He again asked us to meet the Minister for Electricity.
- “ 30. . . . we met the Minister at his residence at about 8-30 P.M. the same evening. He asked us about the progress of work and we told him that the dismantling would take at least 6 months more. He said that he would give instructions for granting us 3 months time and for that he wanted a sum of Rs. 25,000. which I promised to give him the next day. Accordingly, the next day evening at about 8-30 P.M. myself and Thiru T. K. Nachimuthu Chettiar met the Minister for Electricity at his residence and handed over the sum of Rs. 25,000 (Rs. 25,000/-) all in hundred rupee currency notes. This time the bundles of currency were wrapped in a sheet of newspaper. During this meeting we again requested the Minister to instruct the Electricity Board to issue orders for delivering all the spares and accessories and materials like supporting girders, pipeline, spare motors, etc. The Minister assured us that he would look into this and issue necessary instructions.
- “ 31. . . . we were given a further extension of time by 4 months till 26-5-1973. It was again stipulated in the letter received from the Chief Engineer that further extension

of time beyond 26-5-1973 will not be given on any account and that all materials and machineries not removed before the expiry of the extended period would become the property of the Board. However, in spite of our best efforts we were not able to complete the dismantling work before 26-5-1973 and therefore Thiru T. K. Nachimuthu Chettiar again addressed the Chief Engineer requesting extension time. The extended period was to expire on 26-5-1973. During this time myself and Thiru T. K. Nachimuthu Chettiar used to meet the Chief Engineer in his Office almost daily. The Chief Engineer used to tell us that he had recommended extension of time. In letter dated 11-5-1973 of Chief Engineer addressed to Thiru T. K. Nachimuthu Chettiar extension of time by 3 months from 26-5-1973 was granted. This letter is seen acknowledged by me on 11-5-1973 (*vide* page 165 of file MTS/Disposal/Volume VIII). That day when I visited the Office of the Chief Engineer he told me that the Minister (Thiru O. P. Raman) had trunk-called him from Dindigul and has instructed him to bring me to Samayanallur with money. The Chief Engineer told me that he would be leaving for Samayanallur on 13-5-1973 by air and wanted me to accompany him. I had no idea about the money required by the Minister. However, I agreed to go to Samayanallur with the Chief Engineer.

“ 32. We were able to make up only a sum of Rs. 30,000. With this money I left for Madurai on 13-5-1973 by Air. I am able to mention the date because the extension order was received by me on 11-5-1973 and I left for Madurai 2 days later, *i.e.*, 13-5-1973. The Chief Engineer Thiru Kothandapani also accompanied me. I had brought the money in three bundles of hundred rupee currency notes and during my journey I had kept these bundles in the pockets of my underwear. At the Madrs Airport the Chief Engineer asked me whether I had got money and I told him that I had a sum of Rs. 30,000. We landed at Madurai at about 7-30 A.M. The Chief Engineer proceeded to Samayanallur in a Departmental Jeep. My office at Samayanallur had sent a car to meet me at the Airport and I proceeded to the Quarters allotted to Meenakshi Enterprises near the Inspection Bungalow in the Samayanallur Power Station premises. About five minutes after I reached the Quarter, while I was washing my hands and face, one of the Employee of the Power Station came to the Quarters and informed me that I was wanted by the Minister. Immediately, I went to the Inspection Bungalow taking the three bundles of hundred rupee notes wrapped up in a small turkish towel which I always used to carry with me. When I reached the Inspection Bungalow I saw Thiru Ramdas, Divisional Engineer and Thiru Muthuvelu Assistant Engineer standing on the verandah of the Inspection Bungalow. The Divisional Engineer told me that the Chief Engineer was in the Minister's room. A minute or two later, the Chief Engineer came out of the Minister's room. The Divisional Engineer asked me to go and meet the Minister and went in. As soon as he saw me, the Minister enquired whether I had completed the dismantling work. I told him that he could see the progress of the work and saying this I took out the three bundles of hundred rupee currency notes (Rs. 30,000) and gave them to the Minister. He received the three bundles of currency notes from me, wrapped them with one and of the cotton shawl draped over his shoulders and keeping the currency note bundles under his left arm-pit hastily went out of the room and proceeded towards the car parked in front of the Inspection Bungalow. He returned the salute of police man posted in front of the Inspection Bungalow by bowing his head and got into the car. I was a little amazed by the sudden departure of the Minister without even taking leave of the officials present in the Inspection Bungalow. I came out of the room and went to the adjacent room where the Chief Engineer was staying. The Divisional Engineer (Thiru Ramdas) also was present in the Chief Engineer's room at that time. I told the Chief Engineer that I had paid the money to the Minister and that the Minister had already left. I then went back to my quarters.

“ 33. . . the third extension of 3 months time given to us was due to expire on 26-8-1973. However, we were not able to complete this work on account of the non-cooperation of the Officers of the Electricity Board at site and also their refusal to hand over part of the spares, tools, tacklets, etc. Therefore, T. K. Nachimuthu Chettiar

again addressed the Chief Engineer, Electricity Board representing his difficulties and requesting his intervention. By then, the Chief Engineer Thiru Kothandapani had retired. Thiru Nachimuthu Chettiar was informed by the new Chief Engineer (who succeeded Thiru Kothandapani) in his letter, dated 27-7-1973, that only the materials covered by sale would be given and no extension of time beyond 25-8-1973 for dismantling and removing the equipments would be granted. Copy of this letter is at Page 5 of file MTS/Disposal, Volume VIII. The receipt of this letter is seen acknowledged by my brother Thiru A. V. Krishnan on behalf of Thiru T. K. Nachimuthu Chettiar.

- “ 34. . . it was not possible to complete the dismantling work before 25-8-1973. Therefore Thiru T. K. Nachimuthu Chettiar again wrote to the Chief Engineer requesting extension of time by 3 months. We were informed by the Board's Officers at Samayanallur that further extension will not be given and that the Divisional Engineer had recommended that no extension beyond 25-8-1973 should be given. According to the conditions stipulated in the Chief Engineer's letter granting extension of time, all the materials not dismantled and removed from the site before the date of expiry of the time would be forfeited to the Board.
- “ 35. . . Chief Engineer Thiru N. Kothandapani had already retired, that we were not acquainted with the new Chief Engineer. Therefore, we decided to meet the Minister for Electricity (Thiru O. P. Raman) again and request for further extension of time. Therefore, sometime in the second week of August myself and Thiru Nachimuthu Chettiar met the Minister for Electricity at his residence at about 8 or 8.30 P.M. in the evening. We represented our difficulties to him. The Minister told us that on the last occasion a decision had been taken not to give further extension and therefore it would be difficult to grant further extension of time. Moreover, it was reported by the Chief Engineer that due to the delay in the removal of the plant and machinery from the site some departmental work was being held up causing loss and inconvenience to the electricity Board. We pleaded with the Minister for granting us at least a short extension of two months or 6 weeks. He said he would consider provided we were prepared to pay him a sum of Rs. 50,000. We agreed to give him a sum of Rs. 25,000. Two days later Thiru T. K. Nachimuthu Chettiar and I went to the residence of the Minister at about 8 P.M. in the evening. The Minister was away at that time. We were asked to wait. The Minister came back to his house after about 1 hour. When he saw us waiting he asked us to follow him to the room on the first floor. There I handed over to the Minister the sum of Rs. 25,000 which was in hundred rupee currency notes. After handing over the money we took leave and came away. Subsequently, we were given extension of time by 42 days. Within this time we completed the dismantling work and removed all the equipments from the site.
- “ 36. . . we had paid a total amount of Rs. 1,30,000 to Thiru O. P. Raman, the then Minister for Electricity on 4 occasions. This money was paid only to get the time for dismantling and removal of the equipments, extended from time to time. We also requested the Minister to instruct the Chief Engineer to deliver us all the spares which were covered by the sale and which we were entitled to as per the delivery Order No. EPC/A2/Mts/Disposal/385, dated 26-6-1972. However, we were given only part of the spares and accessories, items like checker plates, pipes, supporting structures, tracklines materials, spare motors etc., had not been delivered to us so far despite repeated requests.
- “ 37. . . the total amount realised by the resale of the plant and machinery and spares and accessories of Samayanallur Power Station was approximately Rs. 91 lakhs. During the year 1972 (account year ending Sept. 1972) we had disposed of machinery worth about Rs. 61 lakhs. During the year 1973 we realised about Rs. 25 lakhs by way of sale. During 1974 (upto September) we disposed of materials worth about Rs. 4 lakhs. Some materials are still to be disposed of and they are lying in our godown at Dindigul. The approximate value of the undisposed materials

would be about Rs. 30,000. We have filed income-tax Returns of behalf of our firm for the years 1972, 1973 and 1974.

“ 38. . . . the amount of Rs. 1,30,000 paid to Thiru O. P. Raman, Minister for Electricity, had not been shown in the Accounts of Meenakshi Enterprises. This expenditure was set off against some other items of expenditure like payment of commission, repair charges etc. which we had not incurred, but, had shown in our accounts. The total amount so claimed by us without actually incurring it during the years 1972 to 1974 was approximately Rs. 3 lakhs. Thiru Devaraj of Paramount Group Companies, Kodambakkam, had given us accommodation to the extent of Rs. 3 lakhs on bogus bills for payment of repair charges and commission. Actually no such expenditure had been incurred. Devaraj was paid about Rs. 40,000 for this accommodation. We had also paid substantial amounts to the representatives of various parties who had purchased machineries and materials from us to expedite payments of our bills. These amounts also were set off against unincurred expenditure on repairs and commission as stated above.”

In the witness-box, Malayalam not only reaffirmed the truth and correctness of his statement in his affidavit, but narrated the same story with some elaboration.

The direct evidence of Nachimuthu Chettiar with regard to the demand and payments of these gratifications (excepting of course the payment of Rs. 30,000 made on 13-5-1973 by Malayalam alone), is consistent in all material particulars with that of Malayalam.

I. Regarding the payment of Rs. 50,000

For proper perspective, it may be recalled that Grindlays Bank paid the balance of the price viz., Rs. 48,71,555.59, on behalf of Nachimuthu Chettiar on 30-6-1972. Thereafter the Delivery Order, dated 26-6-1972 (Ex. CW 41/18) was issued to the purchaser who was required to complete the dismantling and removal of the equipment from the site within the period of 90 days from the receipt of that Order. This period was due to expire on 26-9-1972. Anticipating that he would not be able to dismantle and remove the entire equipment from the site within this period, Nachimuthu Chettiar on 6-7-1972 wrote to the Chief Engineer requesting for extension of the time by another six months. It is further evident from the authentic record of the Electricity Board that the Superintending Engineer Technical (Electrical) in his note, dated 25-9-1972, submitted to the Chief Engineer, recommended that the extension prayed for by Nachimuthu Chettiar be granted subject to certain conditions (which have been extracted here earlier). When the original period of three months for removal of the machinery was going to expire on 27-9-1972 this period of three months, that is, the date on which the original period of three months granted for removal of the equipment was expiring, A. V. Malayalam and Nachimuthu went to the office of the Chief Engineer to personally receive the orders extending the time. Instead of delivering them such an order, the Chief Engineer (Kothandapani) told them that they should see the Minister in this connection. According to A. V. Malayalam, thereafter, they met the Minister on the same day or the day following in the evening, which was a Wednesday. The calendar tells us that on this Wednesday the date was 27-9-1972. It was at this meeting that the Minister demanded a bribe. The bribe demanded was Rs. 1 lakh as a consideration for securing to the purchasers extension of the time for dismantling and removing the equipment, and also delivery of the spare-parts claimed by them. Ultimately, on the pleading by A.V. Malayalam and Nachimuthu, the Minister scaled down his demand to Rs. 50,000, which they agreed to pay, and in fact, paid on the following day, i.e., 28th of September 1972. Thus the dates of the demand and payment of the first bribe can be fixed as 27-9-1972 and 28-9-1972, respectively.

Corroboration by Kothandapani

The evidence of Malayalam and Nachimuthu Chettiar with regard to the fact that they had seen the Minister as advised by the Chief Engineer and sought the Minister's intervention for getting the extension of the time and the delivery of the spare parts claimed by them, has been corroborated by Kothandapani, the then Chief Engineer in his statement, dated 20-8-1976, recorded by Shri Unnikrishnan, Dy. Superintendent of Police, an officer whose services are being utilised

under Sec. 5-A by the Commission. Substantially the same has been repeated on solemn affirmation by Shri Kothandapani in his affidavit, dated 12-2-1977. Kothandapani has deposed that soon after the issue of the above-cited letter, dated 25-9-1972, recommending extension of time addressed to the Secretary, Tamil Nadu Electricity Board, he met the Minister, Shri O. P. Raman. The account of the meeting, as given by the witness, may be extracted:

“ I had occasion to meet the Minister for Electricity. He asked me about the progress of the dismantling of the Samayanallur Power Station. I told him that the purchaser was given three months' time to remove the materials, but he had not done so, and had asked for extension of time by six months. I also informed him that I had addressed the Board recommending extension. The Minister, thereupon, asked me to direct Thiru Nachimuthu Chettiar to meet him immediately. During this period Thiru Nachimuthu and Thiru Malayalam used to meet me frequently and enquire whether orders had been issued giving extension of time for dismantling. The same day or day next to my meeting the Minister for Electricity as stated above Thiru Nachimuthu Chettiar and Thiru Malayalam had met me in my office and I told them that if they wanted extension of time, they should meet the Minister for Electricity immediately and make a representation. The very next day, the Minister for Electricity instructed me over telephone that an extension of four months may be given to Thiru Nachimuthu Chettiar. He further asked me to inform the Chairman about this and get the orders issued. I met the Chairman the same day and conveyed the instructions of the Minister to him. The next day morning, the Minister Thiru O. P. Raman again called me over phone and asked me to meet him at his residence. I met the Minister at about 11:00 A.M. at his residence. He asked me the details of the sale of Samayanallur Thermal Station. He told me that the purchaser had complained that spare parts and accessories covered by the sale were not being handed over to him. He asked me to issue orders for delivering all the spare parts and accessories. He also instructed me not to give further extension without consulting him. ”

At this stage, it is necessary to ascertain the status of Shri Kothandapani as a witness. The question is: whether his evidence is of an accomplice character? If so, can it be safely relied upon? Is he competent to furnish the requisite corroboration of the testimony of CW-41, Nachimuthu and Malayalam (CW 42) who have been held to be technical accomplices? In this connection it may be noted that as deposed to by Malayalam, CW 42, they had made three payments of Rs. 5,000, Rs. 7,000 and Rs. 3,000—aggregating Rs. 15,000 to the Chief Engineer, Kothandapani. Questioned why these payments were made, Malayalam stated:

“ First he did not ask for any money. But when he came to know about the payment to the Minister, he also developed interest or desire for money. I gave it to him for he was dealing with the correspondence and passing the orders. I wanted his blessings also for extension of time. What I paid to the Chief Engineer cannot be said to be towards spares, which were due to me anyway. ”

It is curious that in his supplementary statement, dated 20-9-1976, (recorded by Shri P. Unnikrishnan) Shri Kothandapani admitted the receipt of these payments, as follows:

“ It is true that Shri A. V. Malayalam, partner of Messrs. Meenakshi Enterprises had paid me a total amount of Rs. 15,000. The first occasion was when he along with Shri T. K. Nachimuthu Chettiar, buyer of the plant and equipments of Samayanallur Thermal Station met me in my office and paid me Rs. 5,000 sometime in January 1973 when the request of Shri Nachimuthu Chettiar for extension of time for dismantling and removing the equipments was being considered by my office. Subsequently on two occasions he had paid me Rs. 7,000 and Rs. 3,000, respectively. I had not demanded any money from Shri Malayalam or Shri Nachimuthu Chettiar. ”

This statement purports to bear the signature of Shri Kothandapani. It also bears the certificate of the Officer who recorded it, that this statement was read over to the deponent and admitted by him to be correct. There is no reason to doubt the correctness of this Certificate. Even so, Shri Kothandapani did not repeat or specifically reaffirm his statement dated 20-9-1976, in his

affidavit, dated 12-2-1977. That was why, I had summoned him for *viva voce* examination before the Commission. Unfortunately, Shri Kothandapani died before the date fixed for his examination/evidence.

Be that as it may, there is no good reason to doubt Malayalam's sworn word or the genuineness of the confessional statement, dated 20-9-1976, made by Kothandapani.

Even if these facts as appearing in the confessional statement of Kothandapani and the testimony of Malayalam are assumed to be correct, the question remains whether he (Kothandapani) could be deemed an accomplice of Shri O. P. Raman with regard to the receipt of the first gratification of Rs. 50,000 by the latter? This question further resolves into the issue: Could Kothandapani be jointly indicted with Shri O. P. Raman in regard to the acceptance of the illegal gratification of Rs. 50,000 by the latter? It appears to me that the answer to this question must be in the negative. There is no evidence that the Chief Engineer, Shri Kothandapani and the Minister, Shri O. P. Raman were acting in furtherance of their common intention or were engaged in a conspiracy to extort this bribe from the purchasers. Nor is there anything on the record to show that Kothandapani knew that by communicating the message of the Minister to Malayalam and Nachimuthu he was helping the Minister in extorting or receiving an illegal gratification. The mere fact that Kothandapani told the purchasers that they should see the Minister in connection with the extension of time, does not bring his act within the mischief of 'abetment', intention being the gist of the offence of 'abetment by aid'

I therefore think that Kothandapani could not be dubbed as an 'accomplice' in relation to the receipt of the first illegal gratification of Rs. 50,000 by the Minister. It was only at a later stage, probably in early 1973, when he came to know that the Minister wanted to see Malayalam for receiving some gratification that he also thought of receiving some pecuniary benefit from the purchasers. Even then, he did not take up the initiative. In his confessional statement he says that he never demanded any gratification: It was paid by the purchasers of their own. Malayalam also partly supports this version in as much as he says that initially, Kothandapani never asked for any gratification. It is thus clear that Kothandapani never demanded or insisted on payment of any gratification as a condition precedent for helping the purchasers or doing any official act. The latter paid the gratification only by way of what may euphemistically be called, as "speed money". Moreover, Kothandapani had retired from service on July 10, 1973. Even thereafter, Nachimuthu Chettiar's request for further extension of time was granted. This shows that it was the Minister who was making a show of extending favours and Kothandapani himself was not in a position to do any such favour to the purchasers. The ultimate decision was in the hands of the Board which was comprised of high officials of unimpeachable integrity. Even if it is assumed that Kothandapani had facilitated the receipt of subsequent illegal gratifications by the Minister, then also the degree and the nature of his complicity was not such as to justify his branding as an accomplice of the first grade. Relatively slight assurance from the other evidence, circumstantial and direct, would be sufficient to dispel all suspicion from his credit. Such assurance and corroboration is coming forth in adequate measure.

There is nothing on the record to show that the witnesses, Nachimuthu Chettiar, Malayalam and Kothandapani had concerted among themselves to propound the same story against the Respondent, Shri O. P. Raman. None of them had any ill-will or motive to depose falsely against the Respondents. Kothandapani's evidence, therefore, which in turn has been corroborated by the official records and the other evidence, can be used to corroborate Malayalam and Nachimuthu on the principle that where the probability of previous concert among the other accomplices is excluded, the accounts independently given by various accomplices may be used to corroborate each other. This principle applies with greater force where the complicity of the accomplices is minimal or of the lowest grade. This principle is recognised by illustration (b) to s. 114, Evidence Act.

This apart, Kothandapani's conduct so far as it can be ascertained from the facts on record was not that of an official who habitually receives gratifications by abusing his official position. He appears to have succumbed to temptation in some weaker moments without making any reciprocal promise of doing any official act or omission to favour or disfavour the purchasers.

Then Chairman of the Board, Rangabashyam, in his affidavit, dated 11-2-1977, has corroborated Kothandapani in regard to the instructions given by the Minister for extension of the time for removing the equipment from the site. Rangabashyam has deposed:

“ during my time as Chairman, Tamil Nadu Electricity Board two extensions of 4 months each were granted to the purchaser for dismantling and removing the plant and machinery. The time originally given for dismantling was 90 days. I very clearly remember that before each of these extensions the then Minister for Electricity (Thiru O. P. Raman) had telephonically instructed me to consider the request of the purchaser for extension of time sympathetically. I distinctly remember, when the request of the purchaser for the first extension in September/October 1972 was being considered, the Chief Engineer telling me that he had been instructed by the Minister (Thiru O. P. Raman) that the representation of Thiru T. K. Nachimuthu Chettiar for extension of time should be favourably considered and that he should be given extension of time by four months. I can say that the Minister for Electricity had shown undue interest in the purchaser Thiru T. K. Nachimuthu Chettiar.”

Rangabashyam was Secretary to the Government, a Senior I.A.S. Officer. There is no reason, whatsoever, why his evidence which receives due support from the circumstances borne out by the authentic official records, should not be accepted.

Kothandapani has stated that he had approved the proposal of the Superintending Engineer (Technical) and in his letter dated 25-9-1972 (vide pages 339-340) of File, Vol. VII, the Secretary, T.N.E. Board, was addressed for obtaining the Board's order for granting extension of time for a further period of six months for dismantling and removing the plant and equipment. Thereafter Kothandapani has stated how he was asked by the Minister to send Nachimuthu Chettiar and Malayalam to him immediately. That part of his statement has already been extracted. The events which immediately followed the payment of the first gratification to the Minister by the purchasers, have been narrated by Kothandapani in these words:

“ . . . The very next day, the Minister for Electricity instructed me over telephone that an extension of four months may be given to Thiru Nachimuthu Chettiar. He further asked me to inform the Chairman about this and get the orders issued. I met the Chairman the same day and conveyed the instructions of the Minister to him. The next day morning, the Minister Thiru O. P. Raman, again called me over phone and asked me to meet him at his residence. I met the Minister at about 11.00 A.M. at his residence. He asked me the details of the sale of Samayanallur Thermal Station. He told me that the purchaser had complained that spare parts and accessories covered by the sale were not being handed over to him. He asked me to issue orders for delivering all the spare parts and accessories. He also instructed me not to give further extension without consulting him . ”

This version of Kothandapani that the Minister had asked him to grant only four months' extension and that no further extension should be granted without consulting him (Minister), is corroborated by the circumstances appearing from the official records. I have already noted that as per his letter dated 25-9-1972, the Chief Engineer Kothandapani had recommended six months' extension of time. But the Electricity Board in its proceedings No. 630 dated 13-10-1972, granted only four months' extension from 26-9-1972. This curtailment of the proposed extension of six months to four months was obviously made under the instructions of the Minister. These supervening instructions were conveyed by Kothandapani immediately to the Board. That was why the Board did not grant extension for full six months as prayed for by the purchasers and as recommended by the Chief Engineer in his letter, dated 25-9-1972.

The evidence of Nachimuthu Chettiar, Malayalam and Kothandapani regarding the intervention of the Minister receives strong support from the unimpeachable evidence of Rangabashyam, the Chairman of the Board. Rangabashyam in his affidavit, dated 11-2-1977, has corroborated Kothandapani in regard to the instructions given by the Minister for grant of extension of time for removing the equipment from the site.

Another circumstance of a definite tendency which corroborates the evidence of Malayalam, is that there are entries in the accounts books of the firm Meenakshi Enterprises, which show a

cash balance of Rs. 20,000 on or about the date of the payment of this gratification. Another circumstance which lends strength to the inference that the gratification was paid under compulsion, is that although a request for extension of the original period of three months was made before the expiry of that period by the purchasers, no orders thereon were passed till 13-10-1972, well after the expiry of the original period. This circumstance lends strength to the story of Malayalam and Nachimuthu Chettiar that they had paid the gratification under compulsion.

There is another circumstance which lends general assurance to the evidence of Malayalam regarding the receipt of the four gratifications by the Minister, is the manner in which these payments were concealed in the accounts of the Meenakshi Enterprises. I will deal with it later.

It is noteworthy that the Chief Engineer moved for extension of time *only after* Nachimuthu Chettiar and Malayalam had met the Minister and paid the gratification and the latter had given necessary instructions for extension of time. The recital in the Chief Engineer's letter, dated 19-1-1973, to the effect that no further extension of time should be given to the purchaser, was in accord with the Minister's instructions that only one more extension should be given to the purchaser.

II. Regarding demand and payment of Rs. 25,000 on or about 10-1-1973:

It is in evidence that the four months' extension of time granted to the purchasers was to expire on 26-1-1973. At the instance of the Minister, the purchasers were also told that no further extension of time would be granted to them. In spite of their best efforts they could not complete the dismantling work before the 26th January, 1973. Nachimuthu Chettiar therefore, again wrote to the Chief Engineer requesting for further extension by six months. Malayalam and Nachimuthu Chettiar also met the Chief Engineer, Kothandapani, and pressed for extension of time. But he again asked them to meet the Minister. It is further in evidence that thereupon they met the Minister, who demanded Rs. 25,000 as a consideration for giving instructions for grant of three months' extension of time. Nachimuthu Chettiar and Malayalam have testified that thereupon they paid that amount to the Minister on the following day.

Kothandapani has corroborated that version of Nachimuthu Chettiar in these terms and to the extent indicated below:—

“ 52. . . . the purchaser in his letters dated 14th November, 1972, 2nd December, 1972 and 10th January, 1973 (vide pages 679-709 and 711 of file C.No. 2232. C/68, Vol. III of Tamil Nadu Electricity Board) again requested extension of time for a period of 6 months beyond 26-1-1973. When these requests received from the purchaser were being processed in my office, Thiru A. V. Malayalam met me and requested issue of early orders. I told him that further extension could be given only on the orders of the Minister for Electricity and I advised him to meet the Minister. 2 or 3 days later, Minister for Electricity (Thiru O. P. Raman) instructed me over telephone to grant one more extension to Thiru Nachimuthu Chettiar. Accordingly, in my letter dated 19-1-1973, addressed to the Secretary, Tamil Nadu Electricity Board, I recommended further extension by 6 months from 26-1-1973. In the meantime, the Superintending Engineer, Madurai, in his letter dated 16-1-73 reported that it would be possible for the contractor to dismantle and remove the remaining items of equipments within the next 3 months (i.e.) before 25-4-1973 and therefore I again addressed the Secretary, Tamil Nadu Electricity Board, Madras, in my letter dated 24-1-1973 recommending extension of time by 4 months from 25-1-1973 subject to the conditions stipulated in Board's proceedings B. P. Rt. No. 630, dated 13-10-1972. I had also stated in my letter that no further extension of time should be given to the purchaser (vide page 717 to 721 of File No. 2232-C/68, Vol. III of T.N.E.B.). Accordingly, in B.P.Rt. No. 157, dated 24-1-1973, the Tamil Nadu Electricity Board granted further extension of time by 4 months from 25-1-1973 to the purchaser for dismantling and removing the equipments. (vide page 723 of the Board's file referred to above). It was again stipulated in the Board's proceedings that no request for further extension would be entertained on any account and that all materials and machineries not removed by the purchaser within the period sanctioned would become the property of the Board. Accordingly, in my letter dated 26-1-1973 (vide pages 248 and 249 of File, Volume VIII),

I conveyed the above decisions of the Electricity Board to Thiru Nachimuthu Chettiar.”

Kothandapani's evidence to the effect that he had informed Malayalam that further extension would not be granted without the permission of the Minister and that he had received a message from the Minister for the information of the Chairman of the Board for grant of the extension, is corroborated by C. G. Rangabashyam, the then Chairman of the Board. C. G. Rangabashyam as already noticed, has clearly stated that Minister (Thiru O. P. Raman) had telephonically informed him to consider the request of the purchaser for grant of further extension of time. Kothandapani has also, as already quoted, stated that he was instructed by the Minister to favourably consider the request of Nachimuthu Chettiar for extension of time. The circumstance that the extension of time was granted immediately thereafter, lends assurance to the testimony of Kothandapani in particular and the evidence of Malayalam and Nachimuthu Chettiar in general, with regard to the demand and payment of this gratification of Rs. 25,000 on or about 10-1-1973.

Regarding the payment of Rs. 30,000 on 13-5-1973 in the Inspection Bungalow, Samayanallur.

The account with regard to this demand and payment of the gratification given by Malayalam has already been extracted. It will be sufficient to note here that this aspect of the case has been fully corroborated by other evidence, some of which is entirely unimpeachable. Firstly, there is the evidence of Kothandapani Chief Engineer. This is what he has stated on the point:

“ 55. . . . Thiru T. K. Nachimuthu did not complete the dismantling work within the extended period i.e., before 26-5-1973. In his letters dated 22-3-1973 and 31-3-1973, he requested further extension of time. On my instructions, my office put up a draft letter to the Secretary, T.N.E.B. for obtaining the Board's approval for granting further extension of 3 months beyond 26-5-1973 and to hand over the spares, tools, etc. to the purchaser. This letter is at pages 184-186 of File Vol. VIII. This letter was signed by me on 3-5-1973, but after signing the letter I felt that the new Chairman of the Board (Thiru A. Padmanabhan) had just then taken over as Chairman, TNEB, succeeding (Thiru C. G. Rangabashyam,) may not agree to the proposal to hand over the additional spares to the purchaser as it was a controversial issue. I, therefore, decided not to send this letter to the Board. Therefore, another letter dated 7-5-1973 (vide pages 191-192) of file Vol. VIII) was sent to the Secretary to the TNEB deleting the portion relating to the handing over of the additional spares and accessories to the purchaser. The Board, in its proceedings No. 1225 dated 11th May, 1973, granted 3 months further extension of time from 26-5-1973. It was again stipulated in the Board's proceedings that further request for extension of time would not be entertained (vide page 164 of File, Vol. VIII). The Board's decision was communicated to Thiru Nachimuthu Chettiar in my letter dated 11-5-1973 (vide pages 175-176 of File, Vol. VIII).

“ 56. . . . On 11th or 12th May, 1973, the Minister Thiru O. P. Raman trunk-called me from Dindigul. He told me that he would be camping in the Samayanallur inspection bungalow on 13-5-1973 and asked me to bring Thiru Malayalam of Meenakshi Enterprises to Samayanallur on 13-5-1973 with money as he was in urgent need of funds. He did not specify the amount he wanted. Accordingly, I informed Thiru Malayalam and on 13-5-1973, myself and Thiru Malayalam went to Madurai by the morning flight. (I am mentioning the date by referring to my TA Bill of May, 1973. During this visit, I had also visited Kodaikanal and returned to Madras by train as I missed the evening flight consequent on the breakdown of my car). At the Madras Airport, while going to Madurai I asked Thiru Malayalam whether he had got the money and he told me that he had Rs. 30,000 with him. By 7-30 A.M., we reached Madurai and I went in the departmental vehicle to the inspection bungalow of Samayanallur power station where the minister for electricity was also staying. I met the Minister in his room and told him that Thiru Malayalam had come. After discussing some departmental matters, I came out of the Minister's room and went to the adjacent room. At that time, I saw, Thiru Malayalam standing on the verandah of the Inspection Bungalow. Thiru Ramadoss (Divisional Engineer) who was then present in the Inspection Bungalow

also accompanied me to my room. After about 3 or 4 minutes Thiru Malayalam came to my room and told me that he had paid the money to the Minister and that the Minister was leaving. When I came out, the Minister had already got into the car. ”

The evidence of Malayalam and the Chief Engineer Kothandapani receives valuable corroboration from Ramadoss (W-5), Divisional Engineer, Muthuvelu (W-6), Assistant Engineer (Mechanical), and Arumugam (W-7), Assistant Engineer (Civil).

Ramadoss, Divisional Engineer (W-5)

The Divisional Engineer, Ramadoss has deposed in his affidavit that his signed statement, dated 12-8-1976, recorded by Unnikrishnan, Dy. S.P., may be treated as part and parcel of his affidavit. He annexed a copy of that statement to his affidavit and further swore that the aforesaid statement, dated 12-8-1976, was made by him voluntarily and it contained all the facts relating to this Allegation within his knowledge. In short, the witness has confirmed the correctness and voluntary nature of his statement recorded on 12-8-1976 under Section 5-A by the Investigating Officer assisting the Commission. That statement has become a part of his affidavit. Therein, he has corroborated Kothandapani and Malayalam with regard to the fact of Malayalam's meeting the Minister in the Samayanallur Inspection Bungalow on 13-5-1973. He has stated:

“ On 13-5-1973, the Minister for Electricity (Shri O.P. Raman) was staying in the Inspection Bungalow of the Thermal Power Station at Samayanallur. The same day morning the Chief Engineer Electricity (Shri N. Kothandapani) arrived from Madras by air. At about 8-30 A.M. the Chief Engineer came to the Inspection Bungalow. He went to the room adjacent to the Minister's room and after keeping his brief case in the room, came out and went to the Minister's room. While the Chief Engineer was closeted with the Minister, the Minister's P.A. told me that the Minister had enquired whether Shri Malayalam (Partner of Messrs. Shri Meenakshi Enterprises) had arrived. I sent a man to the quarters allotted to Shri Meenakshi Enterprises inside the campus. Soon after, Shri Malayalam came to the Inspection Bungalow. He had a small bundle wrapped up in a turkish bath towel in his left hand. I told him that the Chief Engineer was with the Minister and asked him to wait. By that time the Chief Engineer came out of the Minister's room and went to the adjoining room. I told Shri Malayalam to go in and meet the Minister. He went inside the Minister's room. I accompanied the Chief Engineer to the adjoining room. Three or four minutes later Shri Malayalam came inside the Chief Engineer's room and informed the Chief Engineer that he had paid the money to the Minister and that the Minister had already left. We came out and saw that the Minister had already got into his car and was leaving the Inspection Bungalow. ”

The witness has further deposed with regard to the Chief Engineer's meeting with the Minister at Madras on 13-6-1973, along with the witness and the Executive Engineer, Thiagarajan. According to him, at this meeting it was decided by the Minister that spares and accessories which were not covered by the original Specifications, but were claimed by the purchasers, be handed over to them.

Muthuvelu, Assistant Engineer, even saw currency notes protruding out of the packet which Malayalam was seen carrying into the room of the Minister. Says he:

“ While the Chief Engineer was inside the Minister's room, A. V. Malayalam came to the Inspection Bungalow from the quarters allotted to the Meenakshi Enterprises in the campus. I saw an air ticket sticking out of his shirt pocket. He had a bundle in his left hand covered with a small turkish towel. As the Chief Engineer was closeted with the Minister, A. V. Malayalam came and stood on the verandah about 10 feet away from where I was standing. As the bundle in his hand was only loosely wrapped with the towel, part of the contents was visible and I was able to see that the towel contained bundles of hundred-rupee currency notes. Judging from the size of the bundle I could see that there were atleast two or three bundles of hundred-rupee currency notes inside the towel.

As soon as the Chief Engineer came out, A. V. Malayalam went inside the Minister's room. He was with the Minister for about 3 or 4 minutes after which the Minister came out of the room, got into his car parked in front of the Inspection Bungalow and left. A. V. Malayalam also came out of the room and he had no bundle in his hand. The small turkish towel with which he had earlier covered the bundles of currency notes was seen on his left shoulder. A. V. Malayalam went to the Chief Engineer's room. At that time T. V. Ramadoss, Divisional Engineer was also with the Chief Engineer.

“While we were going home after the Chief Engineer's departure, A. M. Arumugam, Assistant Engineer (Civil) and I remarked about the visit of A. V. Malayalam and his meeting with the Minister. I told Arumugam that the bundle seen in the hand of A. V. Malayalam, contained hundred rupees currency notes and that he had paid money to the Minister.”

(Vide Para 22 of his affidavit)

Arumugham, Assistant Engineer (W-10) also, in his affidavit (Paragraphs 5 and 6) has given substantially the same account. He has sworn that he had seen the bundle in the left hand of Malayalam wrapped in a coloured turkish napkin. According to him he further noticed, when Malayalam came out of the Minister's room that he had no bundle in his hand. Turkish napkin which he had used to cover the bundle, was then seen over his left shoulder. He does not say that he saw the currency notes protruding out of the bundle which Malayalam carried into the room of the Minister. But he has stated that after the Chief Engineer's departure, Muthuvelu had told him that the bundle carried by Malayalam contained 100-rupee currency notes and that he had paid that money to the Minister.

It may be noted that Ramadoss and Muthuvelu were examined long before Malayalam and Nachimuthu. Ramadoss was examined on 12-8-1976, while Muthuvelu was examined on 5-8-1976. Malayalam was examined on 26-8-1976 and Nachimuthu Chettiar on 31-8-1976. Thus, it cannot be said by any stretch of imagination that their statements were the result of any preconcert among them. This circumstance enhances the value of their testimony.

The evidence of Malayalam with regard to this event bears the natural impress of truth. For instance, his version that the Minister had after receiving the bundle of currency notes, wrapped up the same in his upper cloth and tucked up the same under his arm-pit, and hurried out of the room to his car, and when the sentry standing outside the room saluted, the Minister acknowledged it only by a nod. How very graphic, natural and truthful is this account. Because of the constraint imposed by the situation, the Minister could not acknowledge the salute of the sentry in the normal manner. This account is something which has the imprimatur of unalloyed truth.

The evidence of Ramadoss, Muthuvelu and Arumugham appears to be entirely independent and trustworthy. They had no motive to tell a lie. They corroborate not only Kothandapani but also the account given by Malayalam with regard to the payment of Rs. 30,000 to the Minister on 13-5-1973. The circumstance that the Minister told Kothandapani, and Ramadoss after this payment, that they must deliver all the spares and accessories claimed by the purchasers even though they were not covered by the original Specifications, goes a long way to establish the credibility of Malayalam's evidence. The reliability of his evidence is further re-inforced by the circumstance that after this payment, another extension of the time was granted.

There is documentary evidence also which confirms the evidence of Malayalam and Kothandapani. Malayalam and Kothandapani both travelled by plane from Madras to Madurai on 13-5-1973 when they went to meet the Minister who was then camping at Madurai on the premises of Samayanallur Thermal Station. Both charged T. A. from the establishments to which they belonged. Malayalam debited these travelling expenses to the account of Meenakshi Enterprises, while Kothandapani Chief Engineer, charged T.A. on the basis of a T.A. Bill for his air journey from Madras to Madurai from the Electricity Board. The entry in the account books of Meenakshi Enterprises, and the T.A. Bill submitted by the Chief Engineer, Kothandapani to the Board, corroborates their evidence with regard to this journey by air on 13-5-1973, from Madras to Madurai

(Vide Document No. 68, page 118 of the list of Documents collected during investigation under Section 5A, Vol. II of Investigation Report.)

IV. Regarding the payment of Rs. 25,000 on or about 10/11-8-1973

All the circumstances and evidence on record put together, reasonably fix the date of this payment on or about the 10th/11th of August, 1973.

The Chief Engineer, Kothandapani, retired from service on 10-7-1973 and J. S. Perupettan took over as Chief Engineer.

The period of the third extension granted to the purchaser was due to expire on 25-8-1973, and still, a part of the dismantling work remained to be done. It may be recalled that since Malayalam and Nachimuthu Chettiar did not know the new Chief Engineer, Perupettan, they decided to approach the Minister, Shri O. P. Raman, again, for getting further extension of three months and also for securing the spares and accessories which still remained undelivered. Malayalam has stated that on hearing this request, the Minister showed his anger and said that the other works of the Board had been held up owing to the failure of the purchasers to dismantle and remove the equipments. Malayalam explained that for all the periods of extension granted to them, they had paid rent to the tune of Rs. 51,000 to the Board. He reminded the Minister that the extensions were not granted gratis and contended that by the grant of the extensions, the Board had not suffered any loss, but had earned rent. After some haggling and pleading between the parties, the Minister said that if a sum of Rs. 50,000 was paid to him, he would consider their request. The witness did not agree to pay that much. The Minister scaled down his demand and ultimately he agreed to accept Rs. 25,000. Two days later, the witness and his partner, Nachimuthu Chettiar, again met the Minister in his house and paid Rs. 25,000 in currency notes wrapped in a paper, to the Minister. As a result of this payment, the Board again granted them an extension of 42 days beyond 25-8-1973. The witness further stated that no further extension was asked for because they were able to dismantle and remove the entire equipment from the site before the expiry of this extended time.

The evidence of Malayalam and Nachimuthu Chettiar with regard to this payment, receives assurance from the circumstance that soon after the receipt of this payment, the Minister, Shri O. P. Raman, verbally instructed Perupettan to issue orders of extension. Perupettan has deposed:

“ Four or five days prior to 18-8-1973 I had met the then Minister for Electricity (Thiru O. P. Raman) in his chamber in the Secretariat as desired by him. The Minister enquired about the progress of the dismantling work at Samayanallur Power Station. I apprised the Minister of the progress of the work and also informed him that the Divisional Engineer Samayanallur was of the opinion that the dismantling and removing work could be completed within the stipulated date i.e. 25-8-1973 and he had also suggested that further extension need not be granted to the purchaser for this purpose. I also told the Minister about the representation received from the purchaser in this regard. The Minister then told me that the purchaser had also made a representation to him requesting extension of time as according to him it would not be possible to complete the dismantling work before the stipulated time. The Minister therefore wanted me to get the Board's orders for granting him further extension. I agreed and accordingly I instructed my office to put up a note recommending further extension of time as requested by the purchaser. The note dated 18-8-1973 was put up by my office as per my personal instructions. ”

(Vide Para 12 of his affidavit)

There is not even an oblique hint that Perupettan was in any way sympathetically disposed, towards the purchasers or had received any gratification or pecuniary advantage from them. His evidence therefore is unblemished and no suspicion such as that may attach to the statement of Kothandapani, besmirches his evidence. He had no animus or motive to falsely implicate anybody. His evidence is unimpeachable and fully creditworthy.

The evidence of J. S. Perupettan establishes that soon after this payment on or about 10th or 11th August, 1973, Perupettan was called by the Minister and directed to obtain the Board's

order granting one more extension to the purchasers for removing the remaining equipment from the site. The office note, dated 18-8-1973, in which Perupettan recommended for the extension, lends assurance to the evidence of Perupettan. It appears from the office files, that this time the members of the Board were not disposed to grant further extension of time. But after Perupettan and the Chairman had received the instructions of the Minister, the Board relented. Perupettan in his discussion with the Technical Member, Arumugam who was opposing further extensions, made a strong plea in favour of further extension. Ultimately, the Chairman agreed with the recommendation of the Chief Engineer, Perupettan, on 21-8-1973 and granted further extension of 42 days from 26-8-1973. It may be recalled that it was peremptorily set out in the orders of preceding extensions that no further extension of the time for removal of the equipment, from the site, would be granted. The very fact that in spite of this repeated stipulations, the Board had granted extensions, shows, that they acted pursuant to some paramount intervention. That such intervention came from the then Minister for Electricity, is clear enough from the evidence of Perupettan, Rangabhasyam, Kothandapani, Nachimuthu Chettiar and Malayalam.

There is yet another circumstance which furnishes general corroboration of the facts in issue. It is in evidence that the purchasers formed a partnership under the name and style of Meenakshi Enterprises. All of them were Income-tax assesseees. Therefore, they had to maintain accounts of their income and expenditure. A. V. Malayalam was in-charge of the day-to-day business of the firm and was accountable for all expenditure incurred by him in connection with that business to the other partners. All expenditure, therefore, had to be shown in the books of partnership. If he had shown the true nature of the expenditure incurred towards the payment of these bribes, it might have landed them in trouble. In order to conceal the true nature of the expenditure incurred towards these illegal gratifications paid to the Minister and Kothandapani etc., he approached one C. T. Devaraj of Paramount Group (P) Ltd., Madras, with a proposal to help him conceal this illegal expenditure under an arrangement which he euphemistically called "some financial accommodation". Devaraj agreed to the proposed arrangement under which Devaraj received a sum of Rs. 40,000 in consideration of which, Devaraj sent bills for sham repair charges, commission etc. to Meenakshi Enterprises, who showed them as expenditure incurred for that purpose. The total expenditure, the true nature of which was thus concealed by Meenakshi Enterprises, comes to Rs. 3 lakhs. Both Malayalam and C. T. Devaraj have frankly disclosed all about the arrangement between them, under which the nature of the expenditure incurred towards the illegal gratifications paid to S/Shri O. P. Raman and Kothandapani, and towards some payments to certain Engineers, were concealed.

C. T. Devaraj was examined by the Investigating Officer under Sec. 5-A. That statement can be found recorded at Serial No. 31, pages 406-408 of the Investigation Report, Vol. II. Thereafter, the Commission issued notice requiring him to file an affidavit stating therein all the facts within his knowledge concerning this matter. He filed his affidavit, dated 12-2-1977, before the Commission, in which he affirmed the correctness and voluntary character of his statement, dated 16-9-1976 recorded under Sec. 5-A. He had received a copy of that statement which he filed along with his affidavit in which he averred that that statement may be treated as part and parcel of his affidavit. His statement being important, it would be worthwhile to extract it, in extenso:

"I am the Director and Chairman of Messrs. Paramount Group (P) Ltd. and Messrs. Tamil Nadu Plantation (P) Ltd. My wife Smt. Ganga Bai is the sole Proprietrix of Messrs. Jayalakshmi Industries. Another firm by name 'Sales Craft' are dealers in wooden furniture in which my minor children are partners. Messrs. Paramount Group (P) Ltd. are engaged in the manufacture of tin containers, drums etc. and also undertake light engineering works. Messrs. Woodshine (P) Ltd. are boat builders and manufacturers of wooden furniture. Messrs. Jayalakshmi Industries are manufacturers of air-conditioning equipments and steel furniture.

From 1972 onwards I have been incurring heavy financial loss in my business. I have been borrowing heavily from Multani bankers and also from regular banks. It was known in financial circle in Madras that I was in financial difficulties.

Some time in the middle of 1972, one day, Shri Malayalam, partner of Messrs. Meenakshi Enterprises telephoned to me and expressed a desire to see me in person. I agreed to

meet him and the next day Shri Malayalam met me in my office at "Paramount Garden." He told me that Messrs. Meenakshi Enterprises had purchased the Samayanallur Station from the Electricity Board and that he wanted some financial accommodation. I asked him how he happened to pitch upon me and he told me that a broker by name Ramchand of George Town had told him that I was in financial difficulties and that I would be able to help him by giving financial accommodation. Shri Malayalam told me that he wanted accommodation to the extent of Rs. 3 lakhs and that I should give him bills for repairs supposed to have been undertaken by my firm in the Samayanallur Thermal Station purchased by Shri Meenakshi Enterprises and also for commission paid to me. As stated earlier I was at that time in dire financial straits and I readily agreed to the proposal of Shri Malayalam. He agreed to pay me 15% commission.

I gave bills in the name of Messrs. Paramount Group (P) Ltd. for Rs. 1,98,300 towards repair of Babcock and Wilcox boilers of Samayanallur Thermal Station and for commission of Rs. 50,000. Another bill for commission of Rs. 51,700 was issued by Messrs. Sales Craft. Some letters were also exchanged to make it appear that these transactions were genuine.

Crossed cheques were issued by Messrs. Meenakshi Enterprises in favour of Messrs. Paramount Group (P) Ltd. and Messrs. Sales Craft (P) Ltd. These cheques were deposited in the accounts of the respective firms in the Canara Bank, Vadapalani Branch. After the proceeds of the cheques were credited to the respective accounts, cash was withdrawn by cheques and paid to Shri Malayalam of Messrs. Meenakshi Enterprises. I might have got about Rs. 40,000 as my commission from Messrs. Meenakshi Enterprises for this financial accommodation. All these transactions are reflected in my books. I had not undertaken any work for Messrs. Meenakshi Enterprises nor rendered them any service. The whole transaction was only a book adjustment.

My house and office were searched by the Officers of the Income-tax Department on 3-8-1976 and the account books and connected documents like bills, vouchers etc. were taken away by the Income-tax Officers. As my firms have been incurring heavy loss from 1972 onwards these book adjustments would not in any way affect my tax liability. Payments made to Multani Bankers after the receipt of the cheques from Messrs. Meenakshi Enterprises are reflected in my account books which are under the custody of Income-tax Department."

Devaraj could show these fictitious receipts by his Company to the tune of three lakhs of rupees in a year, without any risk of attracting income-tax thereon because his Company had already suffered heavy losses, and these fictitious receipts even to the tune of Rs. 3 lakhs could be easily absorbed against a part of those losses which, under the law, could be carried over to the next year.

Malayalam has also given the same version on this point. He has testified that this sum of Rs. 3 lakhs shown in their account books as paid to C.T. Devaraj of Paramount Group of Companies, in reality, represented the sum of Rs. 1,30,000 paid as gratifications to the Minister, Shri O. P. Raman, and Rs. 15,000 paid as gratifications to the Chief Engineer, Shri Kothandapani, and Rs. 40,000 paid to C. T. Devaraj of Paramount Group of Companies "for financial accommodation" of Meenakshi Enterprises under this 'arrangement'. The balance, Rs. 1,15,000, according to Malayalam, covered payments to some private engineers, mechanics and others who helped them in dismantling and removing the plant and machinery from the site. Those engineers and workers who contributed their labour and work, according to Malayalam, did not belong to the Electricity Board, but to some other Companies or firms to whom they had resold items of the plant and machinery.

The last circumstance which strengthens the inference of guilt against the Respondent, Shri O. P. Raman, is his conduct in influencing and instructing the Chief Engineer and others to hand over to the purchasers spares, accessories and like materials claimed by them, notwithstanding the fact that they were not specifically mentioned in the Specifications. This aspect of the case needs further elaboration as it will incidentally cover the second point, also, which falls to be determined.

Regarding delivery of Spares and other items not specifically mentioned in the Specifications.

This matter raises two distinct but inter-connected issues. First, whether the delivery of some spares, accessories and other items, not specifically enumerated in the Specifications, to the purchasers, was itself wrong, being contrary to the terms of the Contract of Sale? Second, whether such delivery was induced by the then Minister, Shri O. P. Raman?

The first question turns on a construction of the terms of the contract of sale.

I have already extracted these terms and specifications earlier, but for facility of reference, a part of the same will bear repetition.

In the first four of the nine Specifications, there is a reference to "auxiliaries and spares". These are:

- E. 1502 3 Nos. Babcock and Wilcox Boilers *with auxiliaries and spares.*
- E. 1503 2 Nos. Steinmuller Boilers *with auxiliaries and spares.*
- E. 1504 1 No. 4 MW Parsons Turbo-alternator *with auxiliaries and spares.*
- E. 1505 1 No. 10 MW Hitachi turbo-alternator set 11 KV *with auxiliaries and spares.*

In the Conditions of Tenders attached to each Specification, under the caption "Limits of Contract," it was stipulated:

"The schedule of equipments included in the offer and the particulars are detailed in the Annexure.

Note: The spare part list is only tentative.

(emphasis supplied)

It is then followed by the writing:

"The spares are offered for sale along with the plants concerned. No deductions from the tendered amount for items of spares used up, if any, for keeping the plants in service, can be given"

Then there are two sub-clauses:

- "(i) The scope of this sale is limited to the equipments detailed in the annexure.
- (ii) The buildings or foundations connected with the equipments are not included in the sale."

Para 1(a) under the caption "Limits of Contract" of the Delivery Order dated 26-6-1972 (Ex. CW 41/18) reads:—

"(a) *The spare parts list furnished along with the specifications is only tentative. All the available spares intended for the equipments covered under were offered for sale along with the plant concerned. Hence all the available spares intended for the equipments offered would be given along with the main and auxiliary equipments, subject to the condition that no claim for shortage or excess in spares or auxiliary equipments covered in the specification could be made on either side.*"

When the draft of this Delivery Order was submitted to the Chief Controller of Accounts, he added this clause (c) in the aforesaid paragraph:

"The items intended to be sold have been mentioned in the specifications and only these items can now be taken by you as the sale has been concluded."

It will be seen that the terms of the contract of sale extracted above from the concerned documents, were couched in unhappy and ambiguous language which was capable of two interpretations. If the intention of the Chief Controller of Accounts in adding the above-extracted clause in the Delivery Order was to remove that ambiguity, he had failed in that purpose. The words

which have been underlined in the extracts above, left enough ground to the Purchasers to found a claim for those spares and auxiliaries which were not specifically enumerated in the "tentative" list of spare parts annexed to the Specifications. While this ambiguous language of the Conditions and Limits of Contract could give rise to an honest difference of opinion with regard to their interpretation and implementation, it could equally be capitalised upon and subverted into an instrument for extraction of illegal gratification.

The indefinite and somewhat inconsistent language of the aforesaid Conditions and Limits of Contract, did give rise to a controversy among the senior officials of the Board relating to the spares and other items claimed by the purchasers. The Superintending Engineer Technical (Electrical), Madras, in his note dated 7-4-1973, expressed the view that the checker plates and 6" pipe-lines claimed by the purchasers, were not covered by the sale-contract; and therefore, those spares, accessories or items which were not expressly covered by the Conditions of the Tender, could not be given to the purchasers. The Chief Engineer (Kothandapani) disagreed with the Superintending Engineer's view. He expressed the opinion that the list of spares and accessories mentioned in the list referred to in clause (c) of the Delivery Order and the Conditions of the Tender, was only "tentative". He reiterated his earlier stand in his Memo. dated 16-6-1972, which he had addressed to the Superintending Engineer, Tirunelveli. He reasoned that since the sold plant and machinery covered by Specifications E 1502 to E 1510 was meant for re-erection and use elsewhere, all the available spares, tools, tackles, connecting pipes, supporting structures, etc. connected with that plant and machinery were covered by the Sale. He emphasised that the plant as a whole had been sold out and therefore all its additional spares and accessories available at Samayanallur Power House, should be handed over to the purchasers. On 3-5-1973, he recorded a specific order to this effect. These orders were communicated to the Superintending Engineer, alongwith U.O. Note dated 7-4-1973 and to the Divisional Engineer Samayanallur on 5-5-1973. It seems that the Chief Engineer did not, because of a different opinion expressed by the Superintending Engineer and the Divisional Engineer, insist on implementation of his proposal contained in his U.O. Note dated 7-4-1973. But something happened on or after 13-5-1973 which obligated the Chief Engineer to see that the additional spares and accessories claimed by the purchasers were delivered to them forthwith. What this paramount event was, may be described in Kothandapani's own words:

" . . . a few days after my return to Madras from Samayanallur, I was called by Thiru O. P. Raman, Minister for Electricity. He asked me about the progress of the dismantling work and I told him that probably the purchaser would be able to complete the work within the extended period i.e. before August 1973. The Minister then said that Thiru Malayalam had again represented to him that all the spares and accessories had not been handed over to the purchaser. The Minister wanted to know why this was not done inspite of his personal instructions. I explained to the Minister that there was some difference of opinion on this matter. He wanted me to discuss the matter further with him. I asked Thiru T. V. Ramadass, Divisional Engineer, Samayanallur telephonically to come over to Madras for discussion. I met the Minister for Electricity at his residence along with Thiru Ramadass, Divisional Engineer and Thiru Thiagarajan, Executive Engineer attached to my office. After discussions, it was decided by the Minister that the spares and accessories not covered by the original specifications also should be handed over to the purchaser as the plant and machinery as a whole with spares and accessories had been sold to Thiru Nachimuthu Chettiar. As regards the supporting structures, rails, checker plates, pipe-line, etc., which had also been claimed by the purchaser, it was pointed out to the Minister that these materials were not part of the plant and machinery as such, but were part of the power house building. The Minister therefore instructed me to examine further and issue suitable orders."

(Vide para 57 of the affidavit).

After receiving these peremptory oral orders from the Minister, the Chief Engineer, Kothandapani, and the Divisional Engineer, T. V. Ramadoss, appear to have acted swiftly in complying with the same. This is described by Kothandapani as follows:

" . . . as per the decision taken at the meeting with the Minister for Electricity, I issued a memo No. E(PC)/82/MTS/Disposal/27, dated 14-6-1973 directing the Divisional

Engineer, Samayanallur to hand over all the tools, spares and accessories listed in Annexure 'A' appended to my memo. to the purchaser forthwith (vide pages 118 to 146 of File MTS/Disposal. Annexure 'A' was in respect of the spares and accessories which were not included in the original specifications. Annexure B covered the spare motors track line materials, MS Pipes, supporting structures, etc. claimed by the purchaser. Accordingly all the spares and accessories claimed by the purchaser were handed over to him by the Divisional Engineer, Samayanallur as reported by him in his letter dated 20/21-6-1973 (vide page 67-69 of File No. MTS/Disposal Vol. VIII).

(vide paragraph 58 of the affidavit)

T. V. Ramadass has corroborated the Chief Engineer, Kothandapani. He has stated that at the discussion held with the Minister on 13-6-1973, the Minister decided that the spares and accessories which were not covered by the original Specifications and which were claimed by the purchaser, should also be handed over to him. After meeting the the Minister, the witness was informed by the Chief Engineer that he would issue specific orders, immediately. On 18-6-1973, the witness received a letter, dated 14-6-1973, from the Chief Engineer ordering him to deliver to the purchaser all the tools and accessories listed in Annexure 'A' to the Chief Engineer's memo (vide pages 46-70 of File F-172 Vol. III of Divisional Engineer, Samayanallur and pp. 118-146 of File MTS/Disposal Vol. VIII of Chief Engineer, Electricity). Accordingly, all the spares and accessories mentioned in Annexure 'A' to the Chief Engineer's letter were handed over by the witness to the purchaser. He reported about this fact to the Chief Engineer by a letter dated 20/21-6-1973. (Vide pp. 67-69 of File MTS/Disposal Vol. III Chief Engineer's office).

N. Thiagarajan, then Divisional Engineer (Electrical) (Operation and Maintenance), Madras, has corroborated Kothandapani and Ramadass on all material points relating to this aspect of the matter. He confirms that the Chief Engineer issued his order, dated 14-6-1973, for the delivery of the spare parts mentioned in Annexure 'A' to his letter, to the purchaser, while decision with regard to the delivery of spares e.g., track-line material, checker-plates, M.S. Pipes and supporting structures mentioned in Annexure 'B' of the Chief Engineer's letter was deferred.

In view of the unimpeachable evidence of Ramadass and Thiagarajan read with that of Kothandapani, the conclusion is irresistible that the Chief Engineer, Kothandapani, delivered these spares and accessories to the purchaser in *de facto* compliance with the oral orders of the Minister. In other words, the motive force which impelled the Chief Engineer, Kothandapani, to direct the delivery of these spares and accessories, even though they were not covered specifically by the tentative list of spare parts attached to the Specifications, was the oral instructions of Shri O. P. Raman, emanating from behind the scene.

In the light of the above discussion I would refrain from giving any categorical finding as to whether the claim of purchasers to get these additional spares and accessories, worth Rs. 3,50,040-85 was or was not covered by the terms and conditions of the contract of sale. All that I would say, is, that the relevant terms of the contract were couched in ambiguous language and as such, the claim of the purchasers was a debatable matter. However, it came in handy as an instrument for extraction of gratification and Shri O. P. Raman operated this instrument by giving peremptory oral instructions from behind the scene.

The second issue posed is therefore found in the affirmative, and this finding of fact further strengthens the inference of guilt against Shri O. P. Raman arising from the evidence on record. To be more precise, it has been proved with a preponderance of probability, from the evidence on record, that Shri O. P. Raman, being the Minister for Electricity, Tamil Nadu, by abusing his official position, obtained the following illegal gratifications from the purchasers of the plant and machinery of Samayanallur Thermal Station:

- (a) Rs. 50,000 from Nachimuthu Chettiar, a few days after 25-9-1972 at his residence in Madras;
- (b) Rs. 25,000 on or about 10-1-1973 from Nachimuthu Chettiar and Malayalam at his residence at Madras.

- (c) Rs. 30,000 on 13-5-1973 from Malayalam in the Inspection Bungalow, in the premises of Samayanallur Thermal Station.
- (d) Rs. 25,000 from Nachimuthu Chettiar and Malayalam in the second week of August, 1973.

There is not a scintilla of evidence on record to show that in receiving these gratifications, Shri O. P. Raman was acting in concert with Shri M. Karunanidhi, the former Chief Minister of Tamil Nadu.

Before parting with this case it may be mentioned that the Investigating Officers appointed to assist the Commission under Section 5-A, were directed to investigate and collect possible evidence relating to the utilisation of the illegal gratifications said to have been received by Shri O. P. Raman, the then Minister for Electricity. Accordingly, the Investigating Agency has submitted a Supplementary Investigation Report. It is to the following effect:

Shri O. P. Raman acquired lands in Pudupatti village, Dindigul Taluk, Madurai District, during the period 1972-75, and also constructed a house thereon, costing Rs. one lakh, approximately. He has also carried out substantial developmental works in his agricultural lands at considerable expenditure. The sources of these items of expenditure do not appear to have been satisfactorily explained by him either in his Income-tax return or in the Property Statements submitted by him to the Assembly.

Further particulars of the facts found by the Investigating Agency are, that in February 1974, Shri Raman purchased 0.96 acres of land in Pudupatti village for Rs. 4,000 by a registered sale deed, dated 1-2-1974, from one Chinna Karuppan. In his Income-tax return for 1976-77, he has shown this amount as paid by him out of his agricultural income derived from his ancestral lands.

On this land Shri Raman commenced the construction of a house in the name of his wife in January 1975 and completed it May 1976. In his Income-tax return for 1976-77, he has declared the value of this house at Rs. 76,571.01 and has explained the sources as under:

	Rs.
1. Loan from Bank of Madura, Madras	40,000.00
2. Loan from a friend, Shri M. Subramania Rao	30,000.00
3. Sale proceeds of silver articles	5,886.28
4. Personal savings of wife	684.73
Total ..	76,571.01

It has been further pointed out in the supplementary investigation report, that there is some doubt about the amount said to have been borrowed from Shri M. Subramania Rao, a practising lawyer of Madras. Shri Subramania Rao has admitted, in his statement, that he did advance Rs. 20,000 to Shri Raman's wife in five instalments by cheques drawn on his account with the Central Bank of India, T. Nagar, Madras, during the period from April 1975 to January 1976. Almost immediately prior to the issue of these cheques, deposits had been made by Shri Raman in his account. The balance of his account was always below the amount of the cheques, but the cheques were honoured because of these mysterious cash deposits which appear to have been made without any apparent reasons. Shri Rao's explanation is that he always used to keep with him large amounts and was not in the habit of regularly depositing all his earnings in his Bank account. The verification of his bank account has, however, revealed that on no occasion other than those on which these five cheques were issued in favour of Mrs. Raman, Shri Rao had issued a cheque without there being already sufficient funds in his account to cover the cheque amount. There is room for suspicion that the so-called loan loaned by Shri Subramania Rao to Mrs. Raman, was only in the nature of "accommodation" intended to create documentary evidence to support Shri Raman's claim regarding the source of expenditure as given in his Income-tax return.

According to the estimate made by the Agriculture Department, the value of development works undertaken on the lands of Shri Raman and his brother, Shri Lakshmanan, during 1974-75, comes to Rs. 10,622.92 only.

Further expenditure of Rs. 16,000, approximately, has been incurred by Shri Raman and his brother, Shri Lakshmanan, for putting a barbed-wire fencing around their lands. Shri Lakshmanan borrowed a sum of Rs. 5,500 from the Land Development Bank, Dindigul for this purpose. Wherefrom the balance of Rs. 10,500 was raised, has not been explained.

In sum, according to the Investigation Report, the total investment towards the purchase of land, construction of the house thereon, and carrying out the improvements on the agricultural lands by Shri O. P. Raman during the period when he was functioning as Minister in the erstwhile D.M.K. Government, works out to Rs. 90,000 approximately. It is certainly curious that Shri Subramania Rao issued cheques in favour of Mrs. Raman without having sufficient funds in the Bank, but later he deposited moneys to cover up the amounts of the cheques when they came up for encashment. While this haze of suspicion around these "loans" to Mrs. Raman lingers and persists, no definite link between these investments said to have been made by Shri O. P. Raman between February 1974 and March 1976, with the illegal gratifications in question received by him from Nachimuthu Chettiar and Malayalam during the period September 1972 to August 1973, has been established. Suspicions, however strong, cannot be allowed to take the place of positive proof.

ALLEGATION NO. 17

SUGAR SCANDAL

ALLEGATION NO. 17

SUGAR SCANDAL

AGAINST

Shri M. Karunanidhi

AND

Shri P. U. Shanmugham

This Allegation as extracted from the memoranda of the Memorialists, in the Government Notification, dated 3-2-1976, runs as follows:

MEMORANDUM OF SHRI M. G. RAMACHANDRAN

Sugar Scandal

“ The Chief Minister got the rights for releasing of sugar bags from private sugar mills. The Chief Minister and Food Minister, P. U. Shanmugham, demanded Rs. 2 to Rs. 3 per bag of sugar released and collected a sum estimated at over Rs. 50.00 lakhs, through a leading Flour Mill Industrialist of Madras. Much to the dislike of the Chief Minister, Messrs. Parry & Co. Ltd., under the Chairmanship of Mr. H. V. R. Iyengar, Ex-Governor of Reserve Bank of India, resisted initially the payment of Rs. 2 to Rs. 3 per bag and the ensuing struggle resulted in the exit of an able Chairman, since about Rs. 100 lakhs worth of sugar bags got accumulated in godowns, for want of release orders for which hush money was not forthcoming from them.

MEMORANDUM OF SHRI M. KALYANASUNDARAM

In the matter of allocation of sugar release for sugar factories, there were several complaints of discrimination and favouritism. It is also alleged that sugar factories had to pay money to the Ministers for the issue of release orders for sugar. Similarly in the matter of fixing prices for sugarcane a low price was fixed for the cane growers to the advantage of sugar factory owners. Both the fixation of sugarcane price and the issue of release orders for sugar bags were the bargaining counters for the Ministers to reach a deal with the Sugar Factory Owners at the cost of the peasants who produce the sugarcane and the public who consume the sugar. This episode warrants an investigation. ”

The Allegation as it emerges with full particulars, from the record, including the affidavits received in response to the notices/notification under rule 5(2), may be stated as below:

The sale and distribution of sugar was controlled by various Orders issued from time to time by the Government under the Essential Commodities Act. The Government of India in consultation with the Chief Ministers of States evolved a policy, according to which, the entire manufacture of sugar by the various factories in India had to form a Central Pool. From October, 1969, 70% of the sugar from this Pool was earmarked for distribution by the Central Government to the various States. This was called ‘ levy sugar ’. The Mills were permitted to sell the remaining 30% from this Pool in the free market, subject to regulation of its release by the Government of India. This was known as “ free sugar ”. Out of the Pool, every month, the Central Government used to allot monthly quotas of levy sugar to the various States. The Commissioner of Civil Supplies in a State used to appoint wholesalers in that State for sale of the levy sugar thus allotted by the Central Government. On the reports of the Collectors, the Commissioner of Civil Supplies used to further allot quotas of such sugar to each District and the wholesalers appointed for the District used to take delivery of the same from the Mills indicated in the order and sell the same at the fixed price through the Public Distribution System,

From August 1969, the off-take of levy sugar started falling resulting in accumulation of unlifted stocks of levy sugar with the States in general and Tamil Nadu in particular. The main cause of this unprecedented accumulation of stocks was that in 1969-70 the manufacture of sugar in India had reached the highest record of 42 lakh tonnes. The margin between the fixed rate of levy sugar and the market rate of free sugar considerably dwindled. The Manufacturing Mills were faced with an acute shortage of storage facilities. Moreover, sugar being a perishable commodity, could not be kept stored for a prolonged period, without deterioration or loss of its marketable quality. The other alternative, namely, stoppage of production by the Mills was equally, if not more, hazardous. Premature closure of the sugar factories would have caused undue hardship to the canegrowers, and the workers alike. This apart, the Sugar Mills were being pressurised to keep on crushing at optimum capacity .

As a result of this unprecedented glut of sugar in the market and accumulation of stocks with the Mills, the sugar industry in the State of Tamil Nadu was faced with a financial crisis. Unlifted stocks with the Mills meant shortage of liquid cash with the Mills and their consequent inability to meet their financial commitments. The Mills could not promptly pay the canegrowers, while the locked-up capital incurred recurring heavy interest payable to the banks. Apart from the Mills in the Cooperative Sector, there were nine Sugar Mills in the State of Tamil Nadu at the relevant time:

1. Kothari Sugars and Chemicals (P) Ltd., Kattoor.
2. Thiru Arooran Sugars Ltd., Tiruvaaroor.
3. South India Steel & Sugars Mills Ltd., Mundiampakkam.
4. E.I.D. Parrys Ltd.
5. Deccan Sugars Ltd.
6. Cauvery Sugar Mills Ltd., Pennadam.
7. Aruna Sugars (P) Ltd., Pennadam.
8. Madurai Sugars Ltd.
9. Sakthi Sugar Mills (P) Ltd.

These Mills will hereafter be referred to by their abridged names, such as, Kothari Sugars etc., Mills 4, 5 & 6 were allied concerns of E.I.D. Parry Group.

Shri Maruthai Pillai, at the material time, was the President of the Madras Branch of the South India Sugar Mills Association (to be hereinafter referred to as SISMA), of which these nine Mills were members.

Shri Maruthai Pillai, Chairman of the Madras Branch of SISMA and one Shri Kailasa Gounder, the then Commercial Director of Sakthi Sugars together met Shri P. U. Shanmugham, the then Food Minister, Tamil Nadu several times between the 1st and 15th December, 1969 and placed their difficulties before him. They requested the Minister to allow them to sell the unlifted levy sugar directly to the wholesalers. The Minister said that he would discuss the matter with the Chief Minister and let them know the solution.

On January 5, 1970, Shri Maruthai Pillai accompanied by Shri Devarajan, the General Manager of Arooran Sugar Mills went to Trichy and stayed at Ashby Hotel. Shri Kailasa Gounder also joined them. On the following day, the 6th January, 1970, all the three of them met Shri Shanmugham who was then in the Circuit House, Trichy. They again explained their difficulties to the Minister and urged the latter to take immediate steps to see that the sugar stocks were liquidated. They suggested to the Minister that the Mills be allowed to sell the stocks directly at the ex-Mill factory price to the wholesalers. They assured the Minister that they would see that the distribution was made equitably without any adverse effect on the consumers. The Minister again told them that he would discuss the matter with the Chief Minister and try to find some solution for the problem.

On 2-1-1970 a meeting of SISMA was held to consider the grave situation resulting from non-lifting of stocks of levy sugar by the State Government. It was decided to make a representation to the Food Minister of the State of Tamil Nadu, suggesting that in order to relieve the grave situation, the Mills should be permitted to sell unlifted levy sugar directly to the wholesale dealers at the levy price plus any administrative charges which may be mutually agreed upon between the Government and the Mills. Shri Pillai informed the members that he would meet the Minister, Shri Shanmugham, again on or after 8th January, 1970 and would thereafter report to the Members the result.

Some time later, Kailasa Gounder told Maruthai Pillai that he had met Shri Vaithialingam in Erode when the Chief Minister was there on tour and that he had requested Vaithialingam to explain the difficulties of the sugar Industry to the Chief Minister. Kailasa Gounder further informed Maruthai Pillai between the 20th and 24th January, 1970 that he had also met Shri Shanmugham and urged for relief to the sugar Industry and that Shri Shanmugham demanded cash payment off-the-record as a consideration for giving the relief sought by the sugar Mills for disposing of their accumulated stocks.

A day or two later, Maruthai Pillai and Kailasa Gounder both met Shri Shanmugham in the State Guest House, Chepauk, Madras. The Chief Minister was also there. Shri Shanmugham again demanded cash payment off-the-record per bag of released levy sugar. Maruthai Pillai showed his reluctance to the proposal. Shri Shanmugham retorted that presently they would be meeting the Chief Minister and then they would have to agree to the proposal. Immediately thereafter, Maruthai Pillai and Gounder were ushered in the presence of the Chief Minister, Shri M. Karunanidhi, in the Guest House. A discussion ensued. Shri Shanmugham who had earlier posted the Chief Minister with the talks he had had with them, also joined in the discussion. The Chief Minister firmly told Maruthai Pillai:

“ If you really want immediate relief and get rid of your problem, you will have to agree to the proposal to pay some money off the account for all the releases that you will get in the coming months from the levy sugar that remains unlifted with you. ”

The Chief Minister further demanded payment of Rs. 3 for every bag of sugar released to the Mills for sale.

Maruthai Pillai pleaded that this was not practicable. The Chief Minister firmly cut him short with the remark that unless they agreed to the proposal, they would have to put up with the situation as it was. The Chief Minister further suggested that they need not make this extra payment from their own pockets but collect the same from the persons to whom they would sell the released sugar. The Chief Minister further stipulated that he would grant the relief asked for, only if *all* the sugar Mills in the Private Sector in Tamil Nadu agreed, without exception to pay at the rate of Rs. 3 per bag for the levy sugar released to them for sale.

On the same day, in the afternoon, Maruthai Pillai informally called the members of the Association to his house. S/Shri Kothari, S. N. Lal, V. S. Thyagaraja Mudaliar, Subbarayan and Kailash Gounder attended that meeting. Maruthai Pillai and Gounder explained to the members present, the demand of the Chief Minister. The initial reaction of the members was one of annoyance. After a protracted discussion, under the compulsion of the situation in which they found themselves placed, helpless and without any alternative, all the members, excepting Shri S. N. Lal representative of the E.I.D. Parry Group agreed to comply with the demand of the Minister/Chief Minister. Shri S. N. Lal demurred that he had no authority to come to any decision of this nature without the prior approval of Shri H. V. R. Iyengar, the Chairman of E.I.D. Parry. After about two days, S. N. Lal informed Maruthai Pillai that Shri Iyengar had refused to make any payment “ Off-the-account ” to the Ministers. This created some embarrassment for the other members of the Association. On the following day, Maruthai Pillai, along with S/Shri Kothari, V. S. Thyagaraja Mudaliar and Kailasa Gounder, went to S. N. Lal in E.I.D. Parry Building. Shri Prabhu, Joint Managing Director of E.I.D. Parry, also joined them. After a discussion, Lal and Prabhu promised to persuade Shri Iyengar to reconsider the proposal. A few days thereafter, S. N. Lal, informed Maruthai Pillai that Shri H. V. R. Iyengar had very reluctantly agreed to the proposal of collecting Rs. 3 extra per bag from the purchasers and then passing that collection on to the Minister/Chief Minister.

Thereafter, Maruthai Pillai and Kailasa Gounder again met Shri P. U. Shanmugham, Food Minister, and informed him that all the Mills in the Private Sector in Tamil Nadu, who were members of SISMA, had agreed to collect and pay Rs. 3 per bag as demanded by them viz., (the Minister and the Chief Minister). Shri Shanmugham then asked Maruthai Pillai to bring applications from the Mills asking for release of the levy sugar. A draft application was prepared in the office of Shri Pillai and copies of that draft were sent to all the member Mills for making applications in the same form to the Minister. One bunch of such applications from those Mills viz., Aruna Sugars, Sakthi Sugars and S.I. Steel and Sugars are said to have been collected and personally handed over by Maruthai Pillai to the Minister, Shri P. U. Shanmugham, on the 7th February, 1970. Then an undated such application from Arooran Sugars was received by the Minister sometime on or after 8-2-1970. Still later on or about 14th February, 1970, an application dated 11-2-1970 from Kothari Sugars appears to have been handed over by Maruthai Pillai to the Minister. The Minister, however, did not pass any orders on these five applications till 16-2-1970, i.e., after similar applications dated 13-2-1970 from two mills in the Parry Group had also been received by him on 14-2-1970.

On 16-2-1970, the Minister (Shri P. U. Shanmugham) passed under his signature, this order on the application (Ex. CW 14/4), of Kothari Sugars and Chemicals Private Ltd.:

“ Declare this factory as wholesalers. Take an undertaking from them that they will not sell more than the levy sugar rate to the consumers. Re. 1 may be charged as administrative charges. ”

On the identical petition (Ex. CW 14/2) of Sakthi Sugars, he minuted:

“ Please see the orders passed on Kothari Sugars. ”

On the same date, the Minister sent a note to the Secretary, Food. The note reads as under:

“ Please declare the following Sugar Mills as wholesale-cum-retailers after taking an undertaking from them that they will see sugar reaches the consumer not more than the levy rate fixed by the Government. Also allot the entire sugar that is likely to lapse on 21st February, 1970 to the factories concerned:

1. South India Sugar Mills, Mundiampakkam.
2. Aruna Sugars, Pennadam.
3. Thiru Shakthi Sugars Ltd.
4. Thiru Arooran Sugars Ltd., Tiruvarur.
5. Kothari Sugars, Kattoor.

2. Re. 1 may be collected from them as administrative surcharges. ”

On 16-2-1970, at about 4 P.M., the Minister called Shri A. M. Swaminathan, Deputy Secretary to Government-cum-Deputy Commissioner of Civil Supplies and handed over to him the applications of the first five Mills, bearing the Minister's orders, for implementation, since at that time, Shri Ramchander, Secretary-cum-Commissioner of Civil Supplies was not available, the Minister directed Shri Swaminathan to issue release orders in accordance with the Minister's directions, immediately. The Minister also gave the Deputy Commissioner a note addressed to the Food Secretary and directed that appropriate orders in accordance therewith be issued on the same date. The Minister gave other instructions also. Accordingly, Shri Swaminathan issued Release Order RC 4956/70, F2 dated 16-2-1970, (Ex. CW 18/4) in favour of the five Mills, which were appointed as wholesaler-cum-retailers. On 18-2-1970, Shri Swaminathan apprised the Commissioner, Shri Ramchander, about the Minister's orders, including the one dated 18-2-1970 passed in favour of the three Mills in E.I.D. Parry Group. On 19-2-1970, Shri Swaminathan received the Minister's order as per Government Memo. No 6342/OP/70, dated 19-2-1970, appointing Madura Sugars Ltd. also, as wholesalers. Shri Swaminathan implemented this order, also, on the same day, i.e. on 19-2-1970. Shri Swaminathan also received the Minister's order, as per Memo. No. 6070/OP/7044, dated 25-2-1970 for release of levy sugar in favour of the Mills along with their applications. In implementation of the Minister's orders, dated 16-2-1970, 19-2-1970 and 25-2-1970, the office of the Commissioner of Civil Supplies, Tamil Nadu, released in

favour of the Mills, for sale, 74,290 bags under two orders dated 16-2-1970 and 19-2-1970 pertaining to the revalidated lapsed quota of August—November, 1969; while under the third order R.C. 6114/70/F2, dated 25-2-1970, (Ex. CW. 15/6) 80,240 bags of levy sugar were released for sale by the Mills as whole-salers. The total number of bags thus released under the three orders of the Government, was 1,54,530.

The orders passed by Shri P. U. Shanmugham on 16-2-1970, on the applications of the aforesaid five Mills, were verbally communicated by him directly to Shri Swaminathan, Deputy Commissioner of Civil Supplies, Tamil Nadu, for immediate compliance, even before the written orders of the Minister reached him subsequently, through the Deputy Secretary, Food. Subject to the conditions specified therein, Shri Swaminathan himself passed orders on 16-2-1970, allotting and releasing for sale the lapsed quota lying with the undermentioned Mills:

1. South India Steel & Sugars.
2. Shakthi Sugars.
3. Kothari Sugars.
4. Arooran Sugars.
5. Aruna Sugars.

From the record, it appears that the applications, dated 13-2-1970, from the three Factories in the E.I.D. Parry Group addressed to the Minister, Shri P. U. Shanmugham, were received by him on 14-2-1970. On these applications Shri P. U. Shanmugham passed this order, dated 18-2-1970:

“ Secretary, Food. The three petitioners will be declared wholesalers-cum-retailers. They may be permitted to take delivery of the levy sugar allotted to them and they may be allowed to sell the same with usual condition. Now the sugar quota which is likely to lapse on the 21st February may be allotted. ”

Shri P. U. Shanmugham also sent a note, dated 17-2-1970, to the Food Secretary, in which he passed a general order approving the proposal to appoint the Sugar Factories as wholesalers in respect of levy sugar. He also directed that applications from the other factories, if received, for appointment of such wholesalers, may also be accepted so that the stocks may be lifted from the factories before the lapse of any of the allotments.

The representatives of the Sugar Mills took delivery of the release orders from the Office of the Commissioner of Civil Supplies on the very dates on which they were passed in their favour. Out of the quantity thus released, the Mills sold out 1,25,892 bags of sugar before the 8th March, 1970, and collected Rs. 3,77,676 at the rate of Rs. 3 per bag thereon from the purchasers.

I. The collections and contributions made by the individual Mills on this occasion were as follows:—

	Rs.
E.I.D. Parry	8,415.00
Deccan Sugars	86,565.00
Cauvery Sugars	30,777.00
Sakthi Sugars	71,589.00
Kothari Sugars	63,963.00
Aruna Sugars	48,918.00
Thiru Arooran Sugars	28,611.00
Madurai Sugars	27,204.00
South India Steel & Sugars	11,634.00
Total ..	3,77,676.00

The Mills sent their collections to the SISMA President, Shri Maruthai Pillai under whose directions, Ganesan, the Sales Manager of Messrs. Aruna Sugars prepared a consolidated statement, in duplicate, (hereinafter referred to as the Master List)—showing the bags sold, the collections and contributions made by the individual Mills. After checking the amounts of the collections with the figures in the Master List, the consolidated amount, in currency notes, was made into two parcels. The parcels were then carried by Maruthai Pillai and Kailasa Gounder, and handed over by them to the Chief Minister, Shri Karunanidhi, personally, at the latter's residence at about 8.30 A.M. on the 8th or 9th March, 1970. While handing over this money, Maruthai Pillai and his companion submitted to the Chief Minister that it would be difficult for them to make further collections at the rate of Rs. 3 per bag as the purchasing dealers were complaining that they would not be able to realise the extra amount at this rate from the retailers. The Chief Minister promised to discuss the matter with Shri P. U. Shanmugham, and to give his final decision, thereafter.

On the following day, S/Shri Maruthai Pillai and Kailasa Gounder met the Minister, Shri Shanmugham. The latter informed them that he had discussed the matter with the Chief Minister who had suggested that the rate could be reduced to Rs. 2 per bag. On further pleading by Maruthai Pillai and Kailasa Gounder, the Minister relented and finally said:

“ Nothing less than Rs. 1.50 per bag must be paid. ”

Maruthai Pillai, as a representative of the Member Mills, submitted to this reduced demand, and requested the Minister to release the next monthly quota of the levy sugar.

II. The next orders releasing 64,997 bags for sale in respect of the quota of February—March 1970, were issued by the Secretary to the Government-cum-Commissioner of Civil Supplies, Tamil Nadu, on 12-3-1970, *vide* Release Order No. RC 8223/F-2/70/CS, dated 12-3-1970. Adding the 28,638 bags which remained unsold under the earlier release, the total number available for sale with all the nine Mills was 93,635. The Mills sold out of this stock 64,713 bags, while 28,922 bags remained unsold. On the sale of 64,713 bags, the Mills collected at the rate of Rs. 1.50 per bag, the following sums:

	Rs.
E.I.D. Parry	2,230.50
Deccan Sugars	10,440.00
Cauvery Sugars	9,585.00
Sakthi Sugars	16,860.00
Kothari Sugars	13,635.00
Aruna Sugars	23,452.50
Thiru Arooran Sugars	14,175.00
Madura Sugars	4,768.50
S.I. Steel & Sugars	1,923.00
Total ..	97,069.50

These amounts were collected by the Mills from the purchasers (who were mostly, if not entirely, dealers) through their Sales Managers or Salesmen and were remitted to Maruthai Pillai. The latter handed over the consolidated collected amount, totalling Rs. 97,069.50, to the Chief Minister, Shri Karunanidhi, some time towards the end of March, 1970 on behalf of all the Mills.

III. Under two Release Orders—R. C. 12297/F.2/70/CS, dated 13-4-1970 and R. C. 10889/F. 2/70/CS, dated 30-4-1970, the Government released the levy sugar quota of March—April, 1970.

The release order dated 13-4-1970 covered 51,302 bags. Adding 28,922 bags left unsold out of the earlier releases, the total number available for sale was 80,224, out of which the Mills sold

61,212 bags, leaving a balance of 19,012 unsold bags. On the sale of 61,212 bags, the Mills collected Rs. 1.50 per bag from the purchasers, the following amounts:—

							Rs.
E.I.D. Parry	..	..	..	..	..	..	23,865.00
Deccan Sugars	..	..	..	..	..	..	11,766.00
Cauvery Sugars	..	..	..	..	..	..	9,315.00
Sakthi Sugars	..	..	..	..	..	..	16,050.00
Kothari Sugars	..	..	..	..	..	..	112.50
Aruna Sugars	..	..	..	..	..	..	4,215.00
Thiru Arooran Sugars	..	..	..	..	..	..	4,386.00
Madurai Sugars	..	..	..	..	..	..	987.00
S.I. Steel & Sugars	..	..	..	..	..	..	21,121.50
						Total ..	91,818.00

These collections, totalling Rs. 91,818, were sent by the Mills to Maruthai Pillai who paid the same on behalf of the Mills to the Chief Minister, Shri Karunanidhi, towards the end of April, 1970.

IV. Before the quota of levy sugar for April-May, 1970 was released, the Mills already had in stock 19,012 bags left over from the earlier releases, plus 17,100 bags released under the release order, dated 30-4-1970, for the March—April 1970 quota, making a total of 36,112. The April—May quota was released under two Release Orders—R.C. 13905/F. 2/70-CS, dated 30-4-1970, and R. C. 13905/F. 2./70-CS, dated 6-6-1970. The first release order, dated 30-4-1970, covered 52,695 bags. Adding 36,112, which they had already in stock, the total number available for sale was 88,807 out of which, the Mills sold 54,344, leaving a balance of 34,463 bags. On the sale of 54,344 bags, the Mills collected at the rate of Rs. 1.50 per bag from the purchasers the following sums:

							Rs.
E.I.D. Parry	..	..	..	..	..	..	17,356.50
Deccan Sugars	..	..	..	..	..	..	13,704.00
Cauvery Sugars	..	..	..	..	..	..	7,560.00
Sakthi Sugars	..	..	..	..	..	..	11,790.00
Aruna Sugars	..	..	..	..	..	..	7,005.00
Kothari Sugars	..	..	..	..	..	..	18,834.00
S.I. Steel & Sugars	..	..	..	..	..	..	—
Thiru Arooran Sugars	..	..	..	..	..	..	3,271.50
Madurai Sugars	..	..	..	..	..	..	1,995.00
						Total ..	81,516.00

This amount, Rs. 81,516 was carried in parcels by Shri Maruthai Pillai to the residence of the Chief Minister, Shri Karunanidhi, and handed over to the latter in the first week of May 1970.

V. Before the quota for May-June 1970 was released, the Mills had in stock 34,463 bags which remained unsold out of the earlier releases, plus 17,565 bags released under Order dated 6-6-1970, relating to the quota for April-May, 1970, making a total of 52,028 bags. The first release Order relating to quota of May-June 1970 was issued by the Government under R.C. No. 16609/70-F2, dated 5-6-1970 covering a quantity of 59,542 bags. Adding 52,028 bags already in stock, the total number available to the Mills for sale was 1,11,570, out of which, the Mills sold 67,115, leaving a

balance of 44,455 bags. On the sale of 67,115 bags, the Mills collected the following sums at the rate of Rs. 1.50 per bag.

							Rs.
E.I.D. Parry	..	..	..	..	..	..	4,500.00
Deccan Sugars	..	..	..	..	..	..	7,725.00
Cauvery Sugars	..	..	..	..	..	..	5,595.00
Sakthi Sugars	..	..	..	..	..	..	39,919.50
Kothari Sugars	..	..	..	..	..	..	4,275.00
Aruna Sugars	..	..	..	..	..	..	8,482.50
Arooran Sugars	..	..	..	..	..	..	6,637.50
S.I. Steel & Sugars	..	..	..	..	..	..	22,993.50
Madurai Sugars	..	..	..	..	..	..	544.50
						Total ..	1,00,672.50

Since the Chief Minister, Shri Karunanidhi was not available when Maruthai Pillai went to make over this amount to him, he (Pillai) contacted Shri Vaithialingam, Private Secretary to the Chief Minister and enquired whether he could receive a parcel containing currency notes for onward delivery to the Chief Minister. Vaithialingam replied that he would let him know after checking up with the Chief Minister. After sometime, Vaithialingam informed Maruthai Pillai, on telephone, that he could hand over the parcel to him at his residence in the evening. Accordingly, a parcel containing Rs. 1,00,672.50, in currency notes, was handed over by Maruthai Pillai to Vaithialingam at the latter's residence sometime in the middle of June, 1970. Shri Vaithialingam opened the bundle and looked into its contents, but did not count the money, which was mainly in hundred-rupee currency notes. Shri Vaithialingam handed over that bundle, containing the money, to the Chief Minister at his house on the same day.

VI. Before the quota for June-July, 1970 was released, the Mills had with them 44,455 unsold bags out of the earlier releases, plus 19,847 bags relating to May-June, 1970 quota released under R.C. No. 2037/70,F2, dated 21-6-1970, making a total of 64,302 bags. The first release relating to June-July 1970 quota was of 44,357 bags. It was made on 2-7-1970 under Release Order RC. No. 20452/70/E. 3/CS, dated 2-7-1970. Adding to this, 64,302 bags already in stock with the Mills out of the earlier releases, the total number available for sale by the Mills, after this release, was 1,08,659 bags. Out of this, the Mills sold 59,035 bags and collected on the sale thereof, at the rate of Rs. 1.50 per bag, the following sums for passing on to the Chief Minister:

							Rs.
E.I.D. Parry	..	..	..	..	..	..	11,806.50
Deccan Sugars	..	..	..	..	..	..	19,702.50
Cauvery Sugars	..	..	..	..	..	..	8,145.00
Sakthi Sugars	..	..	..	..	..	..	23,998.50
Kothari Sugars	..	..	..	..	..	..	4,530.00
Aruna Sugars	..	..	..	..	..	..	6,910.50
Thiru Arooran Sugars	..	..	..	..	..	..	7,599.00
S. I. Steel & Sugars	..	..	..	..	..	..	2,920.50
Madurai Sugars	..	..	..	..	..	..	2,940.00
						Total ..	88,552.50

These collections, totalling Rs. 88,552.50, were handed over by Maruthai Pillai, to the Chief Minister, Shri Karunanidhi, at his residence in the morning before 8 30 A.M. sometime towards the end of July, 1970.

VII. The second release order relating to the June-July 1970 quota was issued under RC No. 20452/70/E.3/CS, dated 27-7-1970. This covered a quantity of 14,785 bags. Adding to this, 49,624 bags which remained unsold out of the earlier releases, the total number available for sale, in stock with the Mills, was 64,409 bags. The quota for July-August 1970 was released under Release Order No. RC. 23937/70/E.3/CS, dated 29-7-1970. This covered a total quantity of 59,298 bags. In addition to this, 64,409 bags, as already indicated, were in stock. The total number available for sale with the Mills was 1,23,707, out of which, 55,950 bags were sold by the Mills, leaving a balance of 67,757 bags, unsold. The Mills collected on the sale of these 55,950 bags, at the rate of Rs. 1.50 per bag, the following amounts:

							Rs.
E.I.D. Parry	..	..	..	..	..	..	27,108.00
Deccan Sugars	..	..	..	..	..	..	11,992.50
Cauvery Sugars	..	..	..	..	..	..	1,492.50
Sakthi Sugars	..	..	..	..	..	..	6,127.50
Kothari Sugars	..	..	..	..	..	..	12,945.00
Aruna Sugars	..	..	..	..	..	..	4,245.00
Thiru Arooran Sugars	..	..	..	..	..	..	18,862.50
S.I. Steel & Sugars	..	..	..	..	..	..	1,152.00
Madura Sugars	..	..	..	..	..	..	..
						Total	83,925.00

This amount of Rs. 83,925 was paid by Shri Maruthai Pillai to the Chief Minister, at his residence towards the end of August, 1970.

VIII. The first release order for the August-September, 1970 quota was issued under R.C. No. 27836/70/E.3/CS on 7-9-1970, covering a quantity of 62,601 bags. Adding to this 67,757 bags which remained unsold out of the earlier releases, the total number available with the Mills for sale was 1,30,358 bags. Out of this the Mills sold 78,836 bags, leaving a balance of 51,522 bags. On the sale of these 78,836 bags the Mills collected at the rate of Rs. 1.50 per bag the following sums, over and above the due charges:

							Rs.
E.I.D. Parry	..	..	..	..	..	..	17,070.00
Deccan Sugars	..	..	..	..	..	..	11,805.00
Cauvery Sugars	..	..	..	..	..	..	6,105.00
Sakthi Sugars	..	..	..	..	..	..	43,686.00
Kothari Sugars	..	..	..	..	..	..	11,205.00
Aruna Sugars	..	..	..	..	..	..	11,505.00
Thiru Arooran	..	..	..	..	..	..	9,003.00
S.I. Steel & Sugars	..	..	..	..	..	..	5,520.00
Madurai Sugars	..	..	..	..	..	..	2,355.00
						Total	1,18,254.00

This collected sum, amounting to Rs. 1,18,254.00 was paid to the Chief Minister, Shri Karunanidhi, by Maruthai Pillai, who, on this occasion, was accompanied by Kailasa Gounder. Both of them entreated the Chief Minister to give up the demand for further payments. The Chief Minister told them that he would discuss the matter with the Minister, Shri P.U. Shanmugham. Thereafter, on the same day, both of them met Shri Shanmugham and tried to persuade him to give up the demand for further payments. They explained to the Minister that the dealers were finding it difficult to collect and pay this amount 'off-the-record'. Shri Shanmugham said that he would discuss the matter with the Chief Minister and thereafter let them know the result.

These collections, aggregating Rs. 37,537.50 were handed over to the Chief Minister, Shri Karunanidhi, by Maruthai Pillai at the former's residence in the first week of December 1970.

XI. The November-December 1970 quota was released under R.C. No. 37398/70/E.3/CS, dated 8-12-1970, covering a quantity of 69,769 bags. Adding to this, 84,173 bags which remained unsold out of the earlier releases, the total number available to the Mills for sale was 1,53,942, out of which, the Mills sold 66,085 bags; and the Mills collected at the rate of 50 paise per bag from the purchasers, the following sums for passing on to the Chief Minister:

								Rs.
E.I.D. Parry	..	..	..	..	..	..	..	7,895.00
Deccan Sugars	..	..	..	..	..	..	..	6,236.00
Cauvery Sugars	..	..	..	..	..	..	..	1,589.00
Sakthi Sugars	..	..	..	..	..	..	..	5,012.50
Kothari Sugars	..	..	..	..	..	..	..	2,737.50
Aruna Sugars	..	..	..	..	..	..	..	2,865.50
Thiru Arooran	..	..	..	..	..	..	..	2,957.00
S.I. Steel & Sugars	..	..	..	..	..	..	..	3,485.00
Madura Sugars	..	..	..	..	..	..	..	265.00
							Total ..	33,042.50

These collections, aggregating Rs. 33,042.50, were handed over by Maruthai Pillai to the Chief Minister, Shri Karunanidhi at his residence in the first week of January 1971.

XII. The first release order pertaining to December 1970-January 1971 quota was issued under R.C. No. 42081/70/E.3/CS, dated 5-1-1971, covering a quantity of 59,926 bags. Adding 87,857 bags which remained unsold out of the earlier releases, the total number available for sale was 1,47,783 bags, out of which, the Mills sold 64,384, leaving a balance of 83,399 bags. On the sale of 64,384 bags, the Mills collected at the rate of 50 paise per bag from the bulk purchasers, the following sums:

								Rs.
E.I.D. Parry	..	..	..	..	..	..	..	4,767.00
Deccan Sugars	..	..	..	..	..	..	..	6,905.00
Cauvery Sugars	..	..	..	..	..	..	..	3,740.00
Sakthi Sugars	..	..	..	..	..	..	..	5,972.50
Kothari Sugars	..	..	..	..	..	..	..	2,000.00
Aruna Sugars	..	..	..	..	..	..	..	2,415.00
Arooran Sugars	..	..	..	..	..	..	..	1,935.00
S.I. Steel & Sugars	..	..	..	..	..	..	..	3,477.50
Madura Sugars	..	..	..	..	..	..	..	980.00
							Total ..	32,192.00

These collections, aggregating Rs. 32,192.00 were handed over by Maruthai Pillai on behalf of the Mills to Shri Karunanidhi, then Chief Minister, at the latter's residence towards the end of January, 1971.

XIII. The Second release order relating to December, 1970-January 1971 quota was issued under R.C. No. 42081/70/E.3/CS, dated 21-1-1971 covering a quantity of 6,658 bags. Adding 83,399 bags, the unsold balance out of the earlier releases, the total stock with the Mills was 90,057 bags.

The first release order for the January–February 1971 quota was issued under RC No. 4763/71/E. 3/CS, dated 29–1–1971, covering a quantity of 46,862 bags. Adding to this, 90,057 bags already in stock, the total number available for sale with all the Mills was 1,36,919 bags. Out of this, the Mills sold 55,982 and collected thereon from the purchasers at the rate of 50 paise per bag, from the purchasers, the following sums:

	Rs.
E.I.D. Parry	6,785·00
Deccan Sugars	3,714·50
Cauvery Sugars	2,315·00
Sakthi Sugars	6,060·00
Kothari Sugars	1,360·00
Aruna Sugars	2,960·00
Thiru Arooran Sugars	2,240·00
S.I. Steel & Sugars	1,546·50
Madura Sugars	1,010·00
Total ..	27,991·00

These collections, aggregating Rs. 27,991 were handed over by Maruthai Pillai on behalf of the Mills to the Chief Minister, Shri Karunanidhi, towards the end of February, 1971.

XIV. The second release order relating to the January–February 1971 quota was issued under R.C. No. 4763/71/E. 3/CS, dated 22–2–1971 covering a quantity of 15,620 bags. Adding the 80,937 bags which remained unsold out of the earlier releases, the total stock with the Mills was 96,557 bags. The first release order relating to February–March 1971 quota was issued under R.C. No. 12032/71/E. 3/CS, dated 26–2–1971 covering a quantity of 47,322 bags. Adding to this, 96,557 bags already in stock, the total number of bags available with the Mills for sale was 1,43,879. Out of this, the Mills sold 62,491 bags and collected at the rate of 50 paise per bag on the sale thereof, the following sums from the purchasers for passing on to the Chief Minister:

	Rs.
E.I.D. Parry	6,295·00
Deccan Sugars	1,918·00
Cauvery Sugars .. .. .	..
Sakthi Sugars	8,605·00
Kothari Sugars	2,780·00
Aruna Sugars	3,465·00
Thiru Arooran Sugars	2,517·00
S.I. Steel & Sugars	4,550·00
Madura Sugars	1,115·00
Total ..	31,245·50

These collections, aggregating Rs. 31,245·50 were paid by Shri Maruthai Pillai to the Chief Minister Shri Karunanidhi, on behalf of the Mills in the first week of April, 1971.

The second release order relating to the February–March 1971 quota was issued under R.C. No. 12032/71/E. 3/CS, dated 11–3–1971 covering a quantity of 15,774 bags. Adding to this, 81,388 bags which remained unsold out of the earlier releases the total stock in hand with all the 9 Mills was 97,162 bags. The release order relating to March–April 1971 quota was issued under R.C. No. 21417/71/E. 3/CS, dated 5–4–1971, covering a quantity of 62,707 bags. Adding 97,162 bags already in stock, the total number available for sale was 1,59,869, out of which, the Mills

sold 59,917 and collected thereon at the rate of 50 paise per bag from the purchasers the following amounts:

	Rs.
E.I.D. Parry	6,622.50
Deccan Sugars	849.50
Cauvery Sugars	805.00
Sakthi Sugars	4,993.00
Kothari Sugars	4,333.50
Aruna Sugars	3,770.00
Thiru Arooran Sugars	2,770.00
S.I. Steel & Sugars	4,545.00
Madura Sugars	1,270.00
Total ..	29,958.50

These collections, aggregating Rs. 29,958.50 were delivered by Shri Maruthai Pillai to the Chief Minister Shri Karunanidhi, at his residence towards the end of April 1971.

XVI. The first release order relating to the April-May 1971 quota was issued under R.C. No. 27947/71/E. 3/CS, dated 30-4-1971, covering a quantity of 63,131 bags. Adding to this 99,952 bags which remained unsold out of the earlier releases, the total number available for sale was 1,63,083, out of which, the Mills sold 62,428 and collected on the sale thereof from the purchasers at the rate of 50 paise per bag the following sums for passing on collectively to the Chief Minister:

	Rs.
E.I.D. Parry	8,873.50
Deccan Sugars	5,849.50
Cauvery Sugars	1,850.00
Sakthi Sugars	5,718.00
Kothari Sugars	2,665.50
Aruna Sugars	2,722.50
Thiru Arooran Sugars .. .. .	..
S.I. Steel & Sugars	2,892.50
Madura Sugars	642.50
Total ..	31,214.00

These collections amounting to Rs. 31,214.00 were handed over by Maruthai Pillai on behalf of the Mills to the Chief Minister at his residence on or about the 25th May 1971. While making this payment on behalf of the Mills, Maruthai Pillai told the Chief Minister that since sugar had been decontrolled, the State Government would have thenceforth no control over it.

The second release order relating to April-May 1971 quota was issued under R.C. No. 27947/71/E. 3/CS, dated 3-5-1971, covering a quantity of 21,043 bags. Adding to this, 1,00,655 bags which remained unsold out of the earlier releases, a total of 1,21,698 bags was in stock with all the Mills at the time the sugar was decontrolled.

In all, 16 collective payments were made by the aforesaid nine Mills in the private sector, who were members of SISMA, Madras Branch, through their Chairman, Shri Maruthai Pillai to the Chief Minister, Shri Karunanidhi, in the year 1970-71. The aggregate of these collective

payments comes to Rs. 13,21,296-00. The total contributions made by each of the nine Mills towards these payments, were as follows:

	Rs.
E.I.D. Parry	1,76,365-00
Deccan Sugars	2,09,267-50
Cauvery Sugars	96,100-00
Sakthi Sugars	2,79,161-50
Kothari Sugars	1,61,164-00
Aruna Sugars	1,41,736-50
Thiru Arooran Sugars	1,12,610-00
S.I. Steel & Sugars	85,464-50
Madurai Sugars	49,427-00
Total ..	13,21,296-00

The Investigating Officers whose services were utilised under s. 5/A of the Commissions of Inquiry Act, have examined 129 witnesses in respect of this Allegation. Of these, 96 persons had filed their affidavits in response to the notification published by the Commission under r.5(2)(b) of the 1972 Rules. Copies of these affidavits were handed over to the Counsel for the respondents, S/Shri Karunanidhi and P. U. Shanmugham, as and when the same were ready.

S/Shri M. G. Ramachandran and M. Kalyanasundaram also filed their affidavits in respect of this Allegation.

The respondents in their first counter-affidavits, dated 23-7-1976, which were filed after the receipt of the aforesaid 96 affidavits received in response to the notification under r.5(2)(b), did not plead and reply to the particulars of the Allegation appearing in the affidavits of the aforesaid persons. They were therefore directed to file better and further counter-affidavits with regard to the allegations as particularised in the affidavits of the 96 persons and also to the facts appearing in the investigation report with regard to this Allegation, which was submitted to the Commission by the Investigating Officers under Sec. 5A on 21-8-1976. Notice of the receipt of the investigation report was immediately issued to the respondents who were invited to inspect the same before filing their further counter affidavits. The respondents not only inspected the report but prepared verbatim copies of the same by the 4th September, 1976. After obtaining extensions of time, the respondents S/Shri M. Karunanidhi and P.U. Shanmugham, filed their detailed counter-affidavits with regard to this Allegation on September 20, 1976, at Madras. The counter-affidavit filed on behalf of Shri P. U. Shanmugham, is dated, September 19, 1976. Shri Karunanidhi's statement drawn in the form of an affidavit, has not been attested by any competent authority.

Shri Karunanidhi's stand in his counters

The substance of the affidavit, dated 23-7-1976, submitted by Shri Karunanidhi, is as under:

As Chief Minister, he had nothing to do with the release of levy sugar to the Sugar Mills. The Central Government allotted levy sugar to each State and the Commissioner of Civil Supplies, in turn, allotted the same to the Districts through the Collectors.

The allegation regarding the demand of Rs. 2 to Rs. 3 for every bag to be released, is false.

The files relating to sugar were never circulated to him. It may be true that huge stocks of unlifted levy sugar had accumulated with the Mills; but that had nothing to do with the hush money or release orders.

There was no appointment of DMK men for lifting levy sugar. The wholesalers were appointed by the Commissioner of Civil Supplies.

There was glut of sugar in the market due to its over-production by the Factories.

It is false that sugar Factories had to pay any money or gratification to the Ministers.

The price of sugar was fixed by the Central Government. It is conceded that Maruthai Pillai met him and represented the difficulties of the Mills arising out of the accumulation of stocks of Sugar, but he was asked to go to the Food Minister, Shri Shanmugham, as it was his portfolio.

In his subsequent counter filed on 20-9-1976, also, he has denied, with elaboration, the charges of demand or receipt of the alleged gratifications.

Shri Shanmugham's stand

The sum and substance of the stand taken by Shri P. U. Shanmugham in his affidavit, dated 23-7-1976, is as follows:

The prices of sugar and sugar-cane were fixed by the Government; the distribution of sugar was controlled by the Government of India. In 1969, there was excessive production of sugar; the wholesalers did not lift the levy sugar, with the result, that the allotments of levy sugar to the State lapsed to the Central Pool. The levy sugar allotted from Tamil Nadu Factories to the other States was also not lifted. Reports were received from the Collectors of various districts that the wholesalers and the retailers were not lifting levy sugar from the Mills because free sugar was available in the market at a cheaper price. The levy sugar quotas allotted for October and November, 1969 were about to lapse by 22-1-1970. The quotas for November-December 1969 and December 1969-January 1970 had already been surrendered as the same were not being lifted by the wholesalers/retailers. Representations were made by SISMA asking for solution of their financial and storage problems. The SISMA made a request that the Millers may be nominated as wholesalers. They undertook to allow a margin of Rs. 3 to the retailers in addition to the value of the gunny bags. He (P. U. Shanmugham) as Food Minister acceded to their request and appointed the Mills as wholesalers of levy sugar. The Chief Minister had no role to play as the matter related to the Food Portfolio.

The allegation that any gratification per bag was demanded from the Mills for granting them this relief, is false.

The allegation as to payment of any money or gratification by the Mills to the Ministers, is also false.

Shri Maruthai Pillai might have represented to the respondent (P. U. Shanmugham) on behalf of the Mills in this connection.

Orders were passed by the respondent (P. U. Shanmugham) only on the written representations received from the Mills "in a common form". No personal favour to anybody in granting the relief was involved.

In his detailed counter-affidavit dated September 19, 1976, Shri Shanmugham reiterated his earlier stand with elaboration. The same may be summed up as under:

(After explaining the system with regard to control and distribution of sugar, he (P. U. Shanmugham) referred to the 18 affidavits filed on behalf of the Sugar Mills and 78 affidavits filed by whole-sale dealers of sugar who allegedly purchased the released levy sugar from the Mills. Maruthai Pillai met the respondent (P. U. Shanmugham) and made a representation on behalf of Mills seeking relief to alleviate their problem.)

It is not admitted that Kailasa Gounder was also in the company of Maruthai Pillai when the latter met the Respondent and represented the difficulties of the Mills, resulting from the heavy accumulation of stocks of unlifted levy sugar.

It is denied that any gratification at the rate of Rs. 3 per bag, or at any other rate, was demanded from the Mills for granting the relief sought by them.

It is admitted by the Respondent (Shri P. U. Shanmugham) that orders appointing the Mills as wholesalers were passed on 16-2-1970 by him in his note addressed to the Food Secretary. A policy decision was taken as there was no other way to help the Mills "to dispose of accumulated stock and thereby enable them to pay to cane-growers."

It is admitted that the first release order was passed on 16-2-1970 by the respondent whereby 66,855 bags of levy sugar were released and that the second order was passed by him on 25-2-1970, releasing 58,956 bags, for sale by the Mills as wholesalers. It is however added:

"It (was) physically impossible for the wholesale dealers to lift this huge stock before the first week of March, 1970."

Within such a short time it was not possible for the Mills to dispose of this released stock and collect from the purchasing dealers, apart from the price, a sum of Rs. 3,77,433 to pay the same to Maruthai Pillai before the first week of March, 1970.

Shri P. U. Shanmugham has further pointed out, what according to him are inherent improbabilities, material discrepancies and contradictions, exposing the falsity of the story of the alleged payments for obtaining release orders in respect of the levy sugar from the Government. Says he:

"The fact that all the wholesale dealers have not supported the story about the alleged payment of extra money is another factor which exposes the falsity of the allegation. Even the investigating agency was not able to get statements from all the wholesale dealers. I understand that several wholesale dealers have refused to subscribe to the false story about the payment of extra money inspite of threats."

Shri Shanmugham has further pleaded:—

Pillai's version is "that he met the Food Minister and the Chief Minister and it was the Chief Minister who demanded the extra money of Rs. 3 per bag for issuing the release orders and this was communicated by him to the members of the SISMA, including E.I.D. Parry Ltd. . . . H. V. R. Iyengar must have (therefore) been made aware of the fact by Maruthai Pillai that the alleged payment was to be made to the Chief Minister. But Thiru H. V. R. Iyengar does not at all refer to the Chief Minister in his affidavit."

Thiru H. V. R. Iyengar is not a reliable witness since on a previous occasion also, before the Inquiry Commission inquiring into Mundhra affairs, his evidence was not believed.

The story propounded by 78 wholesalers and by officers/servants of the Mills that the released stocks of levy sugar were sold immediately after their release and the Mills collected at the stipulated rate of Rs. 3 per bag or so from the purchasers and then passed on that money to Maruthai Pillai for the Chief Minister, was inherently incredible because sugar was freely available at a cheaper rate in the market which, in consequence, "was buyers' market at that time".

These 78 wholesale dealers who have filed affidavits in support of the Allegation, "have dealt which black money running into several lakhs by paying them to Mill authorities for lifting the levy sugar and they, in turn, received the same from retailers as black money". No retailer has come forward to support the story propounded by 78 wholesale dealers with regard to the collection of extra money from them.

According to their own statements they are "self-condemned black-marketers and tax-evaders and accomplices in the transaction of the alleged payment of money to the Ministers. The Commission cannot rely on such statements without any independent corroboration by way of documentary evidence."

"The affidavits of 29 wholesalers show that they were informed by the Mill authorities that the amount had already been paid to the Government authorities or the Ministers to obtain release orders and that the wholesalers should pay the amount demanded by the Mills to enable them to recoup that amount." This story stands in contradiction to that expounded by Maruthai Pillai.

In his affidavit Thiru T. K. Durai Arasu of T. M. M. Kandasamy Nadar & Sons says that " he has lifted not even a single bag in the month of February, 1970 from the Cauvery Sugar Mills. But the monthly sale statement sent by the said Mill to the Commissioner of Civil Supplies shows that the said T. M. M. Kandasamy Nadar & Sons has purchased in the month of February, 1970, 2,500 bags."

In his affidavit Thiru T. Vaithyalingam of Messrs. A. S. R. M. Subbiah Pillai of Tirichirapalli says that " he has lifted in the month of February 1970, 2,930 bags from Messrs. Aruna Sugars. But the monthly sale statement sent by the said Aruna Sugar Mills to the Commissioner of Civil Supplies shows that the said Messrs. A. S. R. M. Subbiah Pillai have purchased only 2,970 bags from their Mill in the month of February 1970."

The wholesale dealers of Madurai in their affidavits have said that " money paid to the Millers was paid out of their personal drawings that does not explain why they paid from their personal drawings.

There is no corroboration of the wholesalers' version about the payment of money to Millers.

The affidavits of various witnesses are stereotyped and mostly attested by the same Advocate. There is a striking similarity in the statements, arrangement of paragraphs and language, etc., of these 78 affidavits. " A Central Agency must have been at work to collect them and give them a set pattern ". The allegations in the affidavits are not voluntary. All the 98 persons, including Maruthai Pillai, who have sworn to the affidavits, are " self-condemned bribe-givers ".

It may be recalled that after filing their counters on September 20, 1976, when the evidence of the witnesses summoned for oral examination in respect of Allegation 11 (b) (Aerial Spraying) and 17 (Sugar Scandal) was to commence, the Respondents decided not to participate in the further proceedings before the Commission, on the excuse that their two-fold demand—viz., (i) that all the witnesses examined or to be examined by the investigating officers under s. 5-A, (whose number now exceeds 860) be summoned for oral examination/cross-examination before the Commission and (ii) that the Investigation Reports be removed off the record—had not been acceded to forthwith and in full. The detailed reasons for not acceding to these demands are to be found in my orders dated 14-10-1976 and 20-11-1976 which form Appendices VI and VII respectively to Part I of my First Report. In spite of this withdrawal by the Respondents, informations about the further orders of the Commission with regard to the taking of evidence of witnesses, on affidavit or otherwise, have been sent to the Respondents and they have been afforded opportunity to file affidavits in opposition or in rebuttal of the same. They have not availed of that opportunity.

By my order, dated 6-10-1976, I directed that notices be issued to 34 witnesses, enumerated below, who had been examined by the Investigating Officers under s. 5-A, to file affidavits swearing to the facts relevant to this Allegation:—

1. Shri K. Diraviam, I.A.S., Food Secretary, Government of Tamil Nadu, Madras.
2. Shri A. M. Swaminathan, I.A.S., Dy. Commissioner of Civil Supplies (Headquarters), Government of Tamil Nadu.
3. Shri C. Thangaraju, the then Dy. Secretary, Food Department, Government of Tamil Nadu.
4. Shri K. Kamachiraja, Additional Assistant Secretary, Office of the Commissioner of Civil Supplies, Madras.
5. Shri A. Balraj, the then Under Secretary, Food Department, Government of Tamil Nadu,
6. Shri P. K. Rajagopalan, Assistant, Food Department, Government of Tamil Nadu, Secretariat, Madras.
7. Shri S. Damodaran, Manager, Tamil Nadu Warehousing Corporation, Madras.
8. Shri K. Ugrapandian, Cane Accounts Clerk, Madura Sugars Limited.
9. Shri V. Ganapathy, the then Cashier and now Accounts Clerk, Madura Sugars Limited.
10. Shri S. Ramaiah, Cane Supply Officer Clerk, Madura Sugars Limited, Pandiarajapuram.

11. Shri R. Soundararajan, Partner, Messrs. T. V. R. Ramalingam Pillai & Sons, Vijayapuram, Tiruvarur, Thanjavur District, Tamil Nadu.
12. Shri P. A. R. Ayyamperumal, Partner of P. A. Ramachandra Nadar & Sons, Madurai.
13. Shri V. Govindaswamy, Accountant, Thiru V. P. K. Kayaroganam Pillai, Nanayakara Street, at Nagapattinam.
14. Shri C. D. Mani, Dealer in Pharmaceuticals, 40, Hunters Road, Madras-7.
15. Shri D. Narasimhan, Wholesaler in Sugar, No. 864, Tanjore East Gate, Tanjore.
16. Shri S. K. Ariappa Chettiar, S/o. Karuppa Chettiar, 129, Athur Road, Rasipuram, Salem Dist.
17. Shri Muthuswamy Chettiar, No. 3, Kangaianman Koil Street, Erode, Coimbatore Dist. (Partner of Messrs. S. P. Muthusamy Chettiar & Sons.)
18. Shri V. P. Venkatachalam, Proprietor, Messrs. V. P. Venkatachalam & Co., 20, Market Street, Erode, Coimbatore District.
19. Shri Sankaranarayanan, 39, Mariamman Koil Street, Bhavani, Coimbatore Dist.
20. Shri G. Rajan, No. 5, Sengalani Street, Namakkal, Salem Dist. (Partner of Messrs. S. T. V. Govindarajulu Chettiar & Sons, Salem.)
21. Shri R. Kuppusamy Konar, Proprietor of Messrs. R. Kuppusamy Konar, 126-A1, Salem Road, Namakkal, Salem District.
22. Shri A. R. Palanisamy, 89, Mahatma Gandhi Road, Villupuram, South Arcot Dist. (Partner of Messrs. Rathinaswamy Nadar & Sons, Villupuram, S.A. District, Tamil Nadu.)
23. Shri M. K. M. S. Abdul Lathif Rowther, 19, Mahatma Gandhi Road, Villupuram, South Arcot Dist. (Proprietor of Messrs. Sheikh Mohideen Rowther, Villupuram S.A. Dist., Tamil Nadu.)
24. Shri B. Mohanan, 40, Agathikrishnappa Chetty Street, Vellcre, North Arcot District, Tamil Nadu. (Proprietor of Messrs. Duraikannu Trading Company.)
25. Shri K. Narayanasamy, No. 37, Vanikar Street, Conjeevuram, Chengleput Dist., Tamil Nadu. (Partner of Messrs. K. Narayanasamy Mudaliar & Co., Conjeevuram.)
26. Shri N. Radhakrishnan, No. 17, Big Conjeevuram, Chengleput District. (Partner of Messrs. S. K. Devaraja Mudaliar & Co., Conjeevuram, Tamil Nadu.)
27. Shri Thanikaimalai, 22, Kamaraj Street, Conjeevuram, Chengleput Dist. (Partner of Messrs. V. N. Thanikasala Mudaliar & Co., Conjeevuram, Tamil Nadu.)
28. Shri Kesava Chettiar, Proprietor of Messrs. S. S. B. Padmanatha Chettiar, 58, Gandhi Road, Panroti, South Arcot Dist. (T.N.).
29. Shri Palamalai Chettiar, Partner of Messrs. S. D. Shanmugham Chettiar, 621, 622, Bazaar Street, Panroti, South Arcot District (T.N.).
30. Shri Sakthivelu, Partner of Messrs. Saravana Stores. 28-29, Gandhi Road, Panroti (Tamil Nadu).
31. Shri Ganesan, Clerk, Salem Co-operative Sugar Mills Ltd., Mohanur, Salem District (Tamil Nadu).
32. Shri Govindarajan, Sales Section Incharge, National Co-operative Sugar Mills Ltd., Allaganallur, Madurai District (Tamil Nadu).
33. Shri Ramchander, I.A.S., Secretary, Food, Government of Tamil Nadu.
34. Shri M. Ponnuswamy, No. B-1, Argus Residential Colony, Peelamedu, Coimbatore-641 004. (Purchase/Sales Officer of Messrs. Sakthi Sugars Ltd., Coimbatore.)

In response to the notices issued by the Commission all the above-mentioned witnesses, excepting three, namely, Shri K. Narayanasamy (Sl. 25), Shri N. Radhakrishnan (Sl. 26), and Shri Thanikaimalai (Sl. 27), duly filed their affidavits before the Commission. Copies of these 31 affidavits were also sent to the Respondents, and they were given adequate opportunity to rebut or reply to the averments therein by filing their affidavits in opposition and those of their witnesses. The Respondents, have, however, not chosen to avail of that opportunity.

Subsequently, in pursuance of my order, dated 27-12-1976, interrogatories on the basis of the criticism levelled by the Respondents in their counters, were formulated and sent to these six witnesses (wholesalers) who had earlier submitted their affidavits. These witnesses replied to those interrogatories on affidavits. Their names are as under:—

1. Shri S. Natarajan.
2. Shri P. Stalin.
3. Shri T. K. Durai Arasu.
4. Shri S. Sundaram Pillai.
5. Shri B. Manavalan.
6. Shri Babulal Amarchand.

Thirteen persons, whose names are noted below, were summoned and their evidence was recorded on viva voce examination before the Commission:—

- (1) Shri Maruthai Pillai, C.W. 14.
- (2) Shri S. Jayaraman, C.W. 15.
- (3) Shri S. N. Lal, C.W. 16.
- (4) Shri L. Muthiah, C.W. 17.
- (5) Shri T. L. Raghavan, C.W. 18.
- (6) Shri R. Ramakrishnan, C.W. 19.
- (7) Shri Chokalingam, C.W. 20.
- (8) Shri K. Swaminath, C.W. 21.
- (9) Shri T. V. Krishnamurthy, C.W. 22.
- (10) Shri M. Ganesan, C.W. 23.
- (11) Shri M. Vaithialingam, C.W. 24.
- (12) Shri P. Natarajan, C.W. 26.
- (13) Shri K. A. Rajagopalan, C.W. 32.

These thirteen witnesses whose evidence was taken on viva voce examination, and the 31 other witnesses whose evidence was taken on affidavits, were specifically asked as to whether their statements were recorded by the Investigating Agency nominated under Section 5-A, and if so, were those statements made by them truly and voluntarily. The witnesses who were examined before the Commission, were also asked whether the affidavits filed by them in response to the notices/notification under rule 5(2) or the statements made by them before the Investigating Officers, were the result of any coercion, threat, tutoring, etc. All of them, *without exception*, categorically replied that they had made their earlier statements voluntarily and correctly; and not under any pressure or threat, etc. I also examined Shri K. A. Rajagopalan, Superintendent of Police, who was In-charge of the Investigating Team under Section 5-A. He has sworn that no unfair means, such as coercion, threat, tutoring, etc. were used in procuring statements of the witnesses, and that the record prepared under Section 5-A by the Investigating Officers, is true and correct.

From this enquiry under sub-section (5) of Section 5-A, I am satisfied that the statements incorporated in the Investigation Report, contain a faithful and correct record of what was stated by the witnesses before the Investigating Officers whose services are being utilised by the Commission. I am further satisfied that the other facts stated in the Investigation Report (excluding the opinion of the Investigating Officer, if any, expressed therein) are also correct. However, as a matter of caution I will proceed—apart from the documentary evidence—almost wholly

on the basis of the evidence consisting of the 133 affidavits of witnesses and the depositions of 13 witnesses recorded on oral examination before the Commission. Copies of the depositions of these 13 witnesses were also sent to the Respondents, through their Counsel, to enable them, if they so desired, to file affidavits in rebuttal of the same. They, however, did not avail of this opportunity.

By my order, dated 1-3-1977, I issued interrogatories to Shri M. Somasundaram; Inspector of Police, Control Room, Vellore (Tamil Nadu), and Shri P. Meenakshisundaram, B.A., Deputy Superintendent of Police, Food-Cell, C.I.D., Vellore (Tamil Nadu), who were, at the relevant time, posted as Security Officers on the staff of Shri M. Karunanidhi, the then Chief Minister. In the interrogatories, they were asked about the facts, if any, within their knowledge regarding the association of S/Shri Maruthai Pillai and Kailasa Gounder with S/Shri M. Karunanidhi and Shri P. U. Shanmugham, his cabinet colleague.

I have heard the arguments of the learned counsel, viz., Shri V. P. Raman, Additional Solicitor-General for the Central Government, Shri Vanamamalai, for the State, Shri Raghavachari and Shri Palpandian for the Memorialists. I have also considered carefully the criticism levelled by the Respondents, S/Shri Karunanidhi and P. U. Shanmugham in their counters against the evidence of Shri Maruthai Pillai and other witnesses. I have further closely examined and weighed all the evidential material on the record.

The testimony rendered by Maruthai Pillai is the linch pin of this Allegation as particularised in the affidavits filed before the Commission. He is the only witness who has given direct evidence both with regard to the demand and receipt of the gratifications. After Kailasa Gounder, it was through him, the then Food Minister, Shri P. U. Shanmugham, and the Chief Minister, Shri M. Karunanidhi, had demanded the gratification from the Mills as a consideration for releasing the stocks of levy sugar to be sold by the Mills as wholesalers. It was through him the Mills are said to have paid the gratification in 16 instalments to the then Chief Minister, Shri Karunanidhi. The whole case therefore hinges on the question: whether Maruthai Pillai's evidence can be safely accepted and relied upon.

In his counter-affidavit, Shri P. U. Shanmugham has set out a number of arguments to show that the story of Maruthai Pillai is not worthy of credence. One of those arguments is that Maruthai Pillai and all the witnesses who have given evidence as representatives of the Mills, are self-confessed "bribe-givers and accomplices". It will therefore, be appropriate to examine, at the outset, whether Maruthai Pillai and his associate witnesses stand in the category of 'accomplices'?

I had an occasion to deal with a similar question in relation to witnesses who had allegedly paid gratifications in the shape of "commission" to the Respondents as a consideration for getting aerial spraying contracts (vide Allegation 11(b)). I have explained there in detail the concept of 'accomplice' and the grades of accomplicehood, and the quantum and nature of corroboration required to establish the credit of an accomplice of a particular grade. It is not necessary to repeat all that I had said there. I would be enough to say here that while all persons who actually pay bribe or co-operate or act as intermediaries in such payment, or are instrumental in negotiating it, fall within the category of 'accomplices'; but "the degree of suspicion which will attach to their evidence must vary according to the extent and nature of their complicity." In other words, the kind and quantum of corroboration required to establish the credit of an 'accomplice', is directly proportional to the degree and nature of his complicity. If he is an accomplice of the deepest dye, fullest corroboration from independent evidence, in all material particulars, would be required before his evidence was acted upon. Conversely, if his complicity is involuntary or nominal, very little corroboration would be required to lend assurance to his testimony. In my First Report, I had further explained that those persons who pay bribes under the authoritarian dictates of the receiver of the bribe, or under a reasonable apprehension that if they did not so act, they would not get their due but suffer grave monetary loss or other irreparable harm, cannot be equated, for the purpose of appraising their evidence, with the unblushing bribe-givers who designedly offer bribes with the motive of improper or unfair gain to themselves with consequent misdirection, malfeasance or misfeasance in the doing of an official act.

The role of Maruthai Pillai and his associates, is to be appreciated in the light of these principles, against the peculiar background of the case. In December 1969 and January 1970, the sugar

industry in Tamil Nadu was—in the words of Shri H. V. R. Iyengar—“ In a perilous position ”. It was “ nearly prostrate ”. The situation was ‘ critical ’ and if the accumulated stock position was not immediately relieved, “ the industry must have come to a grinding halt ”, if not to a total collapse in the State. Later, I will deal with this aspect of the matter in detail. Suffice it to say here, that the circumstances of the case, in their totality, inescapably lead to the conclusion that the Mills did not offer or pay these illegal gratifications of their own free will and initiate. The ‘ sinking ’ sugar industry sent a veritable S.O.S., through their Chief Representative, Maruthai Pillai, seeking immediate relief. To their consternation—according to the witness—they were told that the relief could be given to them only for a price and that too, at the authoritarian rates laid down by the Minister and the Chief Minister. The Mills were confronted with a situation wherein the alternative to refusal to buy the relief at the terms dictated by the Minister-Chief Minister, was imminent disaster. Caught in such a helpless, unenviable and ‘ out-of-joint ’ situation, the Mills after initial resistance, submitted to the extortionate demand of gratification. Maruthai Pillai has testified that his initial reaction to the demand of gratification by Shri P. U. Shanmugham was one of annoyance. He refused. It was only when he heard the same demand being repeated in a more authoritarian, firm and forceful language by the Chief Minister, the witness yielded.

Shri H. V. R. Iyengar, Chairman of Parry Group of Companies, has deposed that when the demand of the Minister was initially mentioned to him by S. N. Lal, he firmly refused to be a party to such an arrangement. To quote his words: “ I put my foot down and said that Parrys had a long and unsullied reputation and I was not going to countenance any clandestine payment, however grim the situation in the Companies in the Group. Corruption is always bad, but to bleed an industry which was in the doldrum was, to my mind, most reprehensible.” Shri Iyengar added that it was under the compulsion of such circumstances, after it was conveyed to him that the “ extra amounts ” would be collected from the dealers to whom the sugar would be sold, he “ reluctantly yielded ”, although he found it “ very distasteful ”. As rightly pointed out by the learned Additional Solicitor-General, qualitatively, this was not very different, because it was still bribe. Yet, the hard-racked Mills could at least in this ‘ passing-on-the-buck ’ device, find a face-saving, albeit illusory, argument, that, after all, they were not directly giving the bribe.

In the totality of circumstances, it cannot be reasonably said that Maruthai Pillai and his associates, S. N. Lal, Iyengar, Kothari, Mudaliar, Raghavan, Subbarayyan etc., offered and paid these illegal gratifications *willingly* or *wilfully*. They did so under pressure and compulsion. Their evidence cannot therefore be equated with that of unscrupulous bribe-givers or full fledged accomplices, properly so-called. At the most, they are technical accomplices. Even this relatively innocuous label may not be a fair or correct description of all these witnesses, e.g., Shri H. V. R. Iyengar. To a self-respecting man of his stature, reputation and integrity, it was an anathema to be called upon to pay a bribe in order his Companies may survive.

To the evidence of these witnesses, the rule of corroboration will, if at all, apply with very slight force.

Be that as it may, the evidence of Maruthai Pillai, fully satisfies the *double test* by which the evidence of an accomplice is evaluated.

Firstly, Maruthai Pillai’s evidence is *prima facie* reliable. There is nothing intrinsically improbable or inherently incredible in the story narrated by him. He had no axe of his own to grind against the Respondents, S/Shri Karunanidhi and P. U. Shanmugham. He had no motive to spin out a false story. He holds a very eminent position in the industrial world, particularly the sugar industry in India. He is the President of SISMA, Madras Branch and, as such, is a person who inspires confidence and respect of the sugar manufacturers, in particular, and the public, in general. He is a man of international stature, in the sense, that he has been chosen to lead Indian Industrial Delegations to foreign countries.

Apart from his clarificatory affidavit dated 10-2-1977 and the Rejoinder-affidavit, dated 5-11-1976, Maruthai Pillai has made three statements. First, in *his* detailed statement on affidavit, dated 7-7-1976 which he filed in response to the public notification issued by the Commission under Rule 5(2). Next, is his statement recorded on 8-8-1976 by the investigating officer whose services are being utilised by the Commission under s.5A of the Act. The third is his deposition

recorded in the first week of November, 1976 on viva voce examination before the Commission. In all the three statements, he has given a substantially coherent, consistent and graphic account. Excepting a few minor variations and discrepancies in matters of detail and some arithmetical errors and mistakes,—which will be discussed later—the substratum of his evidence remains the same throughout. Further, his evidence, is, in accord with the other evidence and the natural probabilities and surrounding circumstances of the case. It is common ground that Maruthai Pillai, as President of SISMA, was representing to the Government, the difficulties of the Mills and requesting the Government to take immediate steps to relieve the critical situation arising from the unprecedented accumulation of stocks. This fact is admitted even by the Respondents, S/Shri Shanmugham and Karunanidhi.

It is true that Maruthai Pillai has deposed on some crucial points from memory. He did not preserve the accounts (Master-Lists) showing the collections and contributions made by the individual Mills towards these collective payments. These accounts/Master Lists were prepared, in duplicate, with the aid of the “slip accounts” received from the Mills along with their collections. One copy of such a Master List was temporarily retained by Maruthai Pillai and another was handed over along with the collective payment to the Chief Minister. These Master Lists were prepared only for a two-fold *ad hoc* purpose: (i) to enable the Chief Minister to know that the individual Mills were performing their part of the arrangement by contributing their shares towards the particular payment being made to him; (ii) to enable Maruthai Pillai and the contributing Mills to account to each other about the particular collections and their payment. As soon as this two-fold purpose was served, the copy of the Master List and the slip accounts were destroyed, there being no point in preserving this incriminating evidence any further. Maruthai Pillai has tendered in evidence statements showing the collections made by the individual Mills, and further paid through him in sixteen instalments on different occasions. The basic facts and figures in these statements—from which the figures of collections and payments have been worked out are taken from the books and records of the Member Mills relating to the periods concerned. Those records were prepared by the Mills regularly in the course of their business, and have been tendered in evidence. The only fact which, in these reconstructed “Master Lists”, has been supplied by Maruthai Pillai from memory, is the *rate* at which the tainted extra money was collected by the Mills on the sales of released levy sugar during a particular period relating to a particular quota. This fact being of extra-ordinary importance, could have remained indelibly etched in the memory of Maruthai Pillai and the other Millers who were concerned with the sales of the released sugar stocks and the collections of the extra money thereon.

Secondly, Maruthai Pillai’s evidence has been sufficiently corroborated by other reliable evidence on the record, including circumstantial evidence.

In short, the substance of his evidence satisfies both the broad tests which are generally applied to judge the credibility of a witness.

With these introductory remarks, I will now embark upon a detailed examination of Maruthai Pillai’s testimony with reference to the salient features of the case.

(i) Demand of the Gratification

(a) Whether there was an occasion for demand

This aspect of the case is to be considered against the background that, at the relevant time, the sugar industry in the State was faced with a grave crisis, threatening to bring about its collapse. The Mills sent distress calls to the State Government for immediate relief. This furnished an occasion which could be exploited by the Government for extracting gratification from the Mills.

It is common ground in the statements of S/Shri Maruthai Pillai and P. U. Shanmugham that towards the end of 1969 and the beginning of 1970, as a result of over-production of sugar, there was unprecedented accumulation of unlifted stocks of levy sugar with the Mills causing acute shortage of storage accommodation. The Mills could not convert their stocks into liquid cash and meet their financial commitments, and instead, they were incurring loss in the shape of recurring interest on their locked-up capital.

According to Maruthai Pillai, the closing stock in terms of bags (one bag being equal to a quintal), with the nine Mills at the end of December, 1969 was as follows:—

Kothari Sugars ..	∴	..	..	..	..	..	80,264
Thiru Arooran Sugars ..	..	..	..	..	..	..	53,756
South India Steel & Sugars	..	..	..	..	..	..	88,643
E.I.D. Parrys ..	..	..	..	..	..	..	1,73,721
Deccan Sugars ..	..	..	..	..	..	..	91,921
Cauvery Sugars ..	..	..	..	..	..	..	30,144
Aruna Sugars ..	..	..	..	..	..	..	47,905
Madura Sugars ..	..	..	..	..	..	..	17,676
Sakthi Sugars ..	..	..	..	..	..	..	1,30,676

Total stock: Approximately 7.15 lakh quintals=71,500 tonnes.

At the end of March, 1970, the stock position was as under:

Kothari Sugars ..	..	..	..	..	..	..	1,34,192
Thiru Arooran Sugars ..	..	..	..	..	..	..	99,720
South India Steel & Sugars	..	..	..	..	..	..	1,29,420
E.I.D. Parrys ..	..	..	..	..	..	..	1,22,559
Deccan Sugars ..	..	..	..	..	..	..	1,29,007
Cauvery Sugars	..	..	—	..	..	..	49,675
Aruna Sugars ..	..	..	..	..	..	..	18,168
Sakthi Sugars ..	..	..	..	..	..	..	1,83,849

Total stock: Approximately 18.36 lakh quintals=1.83 lakh tonnes.

At the end of May, 1971, the stock position was as under:—

Kothari Sugars ..	..	..	..	..	..	1.72 lakh quintals
Thiru Arooran Sugars ..	..	..	..	..	..	1.84 ,, ,,
S. I. Steel & Sugars	..	..	..	..	..	1.51 ,, ,,
E.I.D. Parrys ..	..	..	..	..	..	2.88 ,, ,,
Deccan Sugars ..	..	..	..	..	..	1.55 ,, ,,
Cauvery Sugars	..	..	..	..	..	1.38 ,, ,,
Aruna Sugars ..	..	..	..	..	..	1.45 ,, ,,
Madura Sugars ..	..	..	..	..	..	0.41 ,, ,,
Sakthi Sugars ..	..	..	..	..	..	2.37 ,, ,,

15.11 lakh quintals
or 1.51 lakh tonnes.

The total value of the stocks, calculated at the then prevailing rates, held by these nine Mills at the end of December, 1969, was of Rs. 11.16 crores; at the end of March 1970, Rs. 14.39 crores; and at the end of May 1971, Rs. 20.58 crores.

Maruthai Pillai has clarified that the situation with regard to the accumulation of stocks, albeit alleviated, continued to be abnormal even after these 17 releases of levy sugar by the then Government of Tamil Nadu. The witness has, however, emphasised that but for these releases, the position would have been much worse and the locked-up capital would have been almost double as the accumulation of stocks was progressively increasing every month.

The truth of what Maruthai Pillai has said on the point is manifest from the under-noted figures which have been taken from the earlier published reply of Shri Karunanidhi; (*vide* page 258 of the Printed Pink Book), showing the allotment of levy sugar and its releases for free sale at the sugar Factories in Tamil Nadu, from January 1970, till May 1971:—

<i>Period</i>	<i>(In Metric Tonnes)</i>	
	<i>Levy</i>	<i>Free</i>
January, 1970	9,825	7,122
February, 1970	9,825	7,458
March, 1970	9,824	7,249
April, 1970	10,452	5,174
May, 1970	10,657	12,164
June, 1970	9,824	5,813
July, 1970	9,823	7,705
August, 1970	11,670	10,254
September, 1970	11,061	7,705
October, 1970	13,070	10,254
November, 1970	11,322	13,719
December, 1970	11,322	9,863
January, 1971	11,322	8,006
February, 1971	11,322	9,973
March, 1971	11,322	9,716
April, 1971	19,999	9,388
May, 1971	5,001	12,644
	1,97,642	1,54,210

These figures show that the total allotment of levy sugar during the relevant period was 1,97,642 tonnes, while the total release for free sale from the Factories was 1,54,210 tonnes. During the same period, the approximate monthly production of sugar by the Factories in the State was 25,000 tonnes. The releases of the levy quota to the Mills for free sale thus did help to a large extent in relieving storage difficulty. But, the principal relief to the Factories was that they were able to convert levy sugar into liquid cash to tide over their financial difficulties and pay the arrears/wages due to the cane-growers/workers.

It is in the evidence of Maruthai Pillai that as far as his own Factory, Aruna Sugars, was concerned, the value of the closing stock, which on 30-9-1968 was of the value of Rs. 32.80 lakhs only, had within a year, shot up (on 30-9-1969) to Rs. 190 lakhs.

T. L. Raghavan, C.W. 18, has testified that as far as his Mill (Kothari Sugars) was concerned, the peak accumulation of stocks was reached in June, 1970 and it was to the tune of 1.75 lakh bags, valued at Rs. 2 crores. As a result of the appointment of Kothari Sugars as wholesalers of levy sugar on behalf of the Government, this Mill was able to dispose of 1.85 lakh bags of sugar, valued at Rs. 1.50 crores. The interest on this amount would, at the bank rate work out to Rs. 46 lakhs. The witness explained that but for this arrangement, 1.28 lakh bags of sugar, worth Rs. 1.5 crores would have remained locked up, with consequent recurring loss which on account of interest alone, would have been Rs. 46 lakhs approximately. As against this, the total amount alleged to have been collected and handed over by Kothari Sugars to Maruthai Pillai for being passed on to the Chief Minister/Minister was Rs. 1.61 lakh, approximately. T. L. Raghavan, C.W. 18, further testified:

“ Our Company had 800 workers on its pay roll and it being a question of the Company's survival, was their survival too. Thousands of cane-growers had to be paid for the cane supplied to us, when we had to settle their dues within 14 days as per the orders of the Government. The salaries of the workers were to be settled within a week

after the month was over. Everything was there, but there was not the wherewithal in the form of liquid money . . . we had to liquidate the accumulated stocks with a view to have a semblance of liquidity, so that we could pay our dues to the farmers, the suppliers of machinery, and the workers."

Shri P. U. Shanmugham in his counter affidavit, dated July 23, 1976, has described the situation, as follows:

"In 1969, there was a glut in the sugar market in Tamil Nadu on account of excessive production. Large quantities of free market sugar were available in the open market at prices lower than that of levy sugar . . . The result was that for some months, the wholesalers did not lift the quota allotted to them from the various factories and the allotment lapsed to the Central Pool. But, the Central Government in some cases revalidated the allotment on the request of the State Governments, but that did not improve matters, because even the revalidated quota would have to be allotted to some wholesalers in addition to the fresh allotments, which only made it more difficult for the wholesalers to lift them. This resulted in successive accumulation of stocks with the factories. In fact, sugar allotted in the month of October, 1969, to the tune of 11,000 tonnes was not lifted by the Government fully and there was a balance of about 6,700 tonnes. This was revalidated by the Government of India till 21-2-1970 . . . In fact, telegrams and letters poured from factories about their lot . . . The South India Sugar Manufacturers' Association also made representations. Then, ultimately, certain Sugar Mills like Kothari Sugar Mills, Aruna Sugar Mills, South India Sugar, Shakthi Sugars, Arooran Sugars, E.I.D. Parry, Deccan Sugars, Cauvery Sugars, have all made representations *in common form* to the effect that levy sugar for the allotment month of October, 1969 has been later revalidated till 22-2-1970 and there were about 30,000 tonnes unlifted levy quota lying at the sugar factories at present, and the sugar factories are faced with serious consequences by way of financial and storage conditions, not to mention the cost of finance and taking care of storage . . . They further represented if these circumstances were allowed to continue, the factories will be forced to stop production for want of finance to pay to the cane-growers, purchase and sales-tax, and also for want of storage accommodation, and it will badly reflect on the economy of the grower and the factories and the labour."

(emphasis added)

Shri Ramchander, the then Food Secretary to the Government of Tamil Nadu has, also, in his affidavit said that during the period from August 1969 onwards, the off-take of levy sugar started falling; the allotments which were roughly 9,700 tonnes per month during the period from May to August 1969, were increased to 12,000 tonnes per month during the period from September to November 1969, and this also contributed to the continued accumulation of stocks, which could not be lifted from the Mills, in full.

It is, thus, uncontroverted that if the mounting accumulation of unlifted levy sugar had not been immediately relieved, the sugar industry in the State would have suffered grievous if not a fatal injury. That was why the Mills through Maruthai Pillai, the Chairman of their Association, were repeatedly requesting the Minister, Shri P. U. Shanmugham, for being appointed as wholesalers-cum-retailers for the sale of levy sugar. There was, thus, not only an occasion for the demand of the gratification but also an opportunity for its extraction, with least resistance from the Mills. Indeed the Mills were caught in a helpless and hapless situation. The ever-accumulating and spiralling stocks of sugar were inexorably drawing and straining the industry to the bursting point. Relief of the situation brooked no delay. The question before the Mills was to pay or not to pay the gratification demanded. Refusal to pay meant denial of the relief and sure disaster. To pay was to purchase a life-saving shot for the failing industry. It was under these compelling circumstances that the Mills submitted to the demands of the gratification.

According to Maruthai Pillai, he and Kailasa Gounder, Director of Shakthi Sugars, met Shri P. U. Shanmugham, the then Food Minister, on several occasions towards the end of 1969, and again in January, 1970, and requested him to appoint the Mills as wholesalers, in respect

of the levy sugar allotted to the State because that appeared to be the only solution to relieve the accumulation of stocks with the Mills. At one of the earlier meetings, the Minister told the witness that until the existing stocks were exhausted the State would not lift any further allotments from the Centre and that the Government had written to the Directorate of Sugar and Vanaspati, New Delhi, not to allot any more sugar to Tamil Nadu until further advice. Maruthai Pillai reported, the result of this discussion with the Minister at a meeting of the Association held on 2-1-1970. There is a reference to this discussion with the Minister in the minutes of this Special Meeting held on 2-1-1970. These minutes bear the signature of the Chairman, Maruthai Pillai, and are to be found on pages 6-7 of the Minute Register (Ex. C.W. 16/1), of the Association. There is also a reference in these minutes, that the Chairman had promised to meet the Minister again, who was expected to return to Madras on 8-1-1970.

Since the Respondents have in their counter-affidavits confined their criticism of Maruthai Pillai's story in his affidavit, dated 7-7-1976, the scheme of the discussion that follows would generally be to first quote Maruthai Pillai's own words from his affidavit with regard to a particular event, and then notice Shri P. U. Shanmugham's criticism in respect thereof.

(b) Maruthai Pillai and Kailasa Gounder meet the Minister at Trichy on 6-1-1970

In paragraphs 9 to 11 of his affidavit, dated 7-7-1976, Maruthai Pillai gives this account of this meeting with the Minister, Shri P. U. Shanmugham, at Trichy:

"It was in December 1969 while I was camping at my factory at Pennadam, Thiru V. M. Kailasa Gounder contacted me over telephone from Erode and informed that Thiru P. U. Shanmugham was coming to Trichy on that day and it would be a good opportunity for us to meet him at Trichy and apprise our difficulties. On the same day evening, I reached Trichy by car along with late Thiru Devarajan, our Factory Manager. Thiru Devarajan was very well known to Thiru P. U. Shanmugham as Thiru P. U. Shanmugham was the Chairman of Kallakurichi Co-operative Sugar Mills."

"10. At Trichy, we stayed at Hotel Ashby. Thiru V. M. Kailasa Gounder met me at the Hotel on the next day—morning, and we had a formal discussion. Then we went and met Thiru P. U. Shanmugham at the Travellers' Bungalow (P.W.D. or Electricity) and explained our difficulties. We told him that due to poor off-take of levy sugar by the Government nominees, the Mills were facing financial embarrassment and the quotas which were being released by the Government of India had elapsed on a few occasions. We explained to him that in the free market, sugar was being sold at a price almost at par with the levy price, and, therefore, off-take of levy sugar by normal levy sugar consumers being very low, the Government nominees were not coming forward to lift the quota allotted to them. We also convinced him that inducting the levy sugar into the free market will not lead to rise in the price of sugar in the open market, and, therefore, requested Thiru P. U. Shanmugham to help the mills by arranging to lift the levy sugar by the Government nominees immediately. After hearing us, Thiru P. U. Shanmugham assured that he would consider the matter in consultation with the Chief Minister at Madras when he returned to headquarters. He also directed us to meet him at Madras after a week and to come forward with a specific solution.

11. When I returned to Madras, I conveyed details of our formal discussion with the Minister, to other members of the Association. I also met Thiru P. U. Shanmugham once or twice and requested him to help us to overcome the difficulties."

Respondent's Criticism of Maruthai Pillai's evidence on this point

In his further affidavit, dated 19-9-1976, Shri P. U. Shanmugham has characterised these allegations, as false. Says he:

"6. I do not admit the allegation in paragraph 9 of Maruthai Pillai's affidavit that Thiru Devarajan was very well known to me when I was the Chairman of the Kallakurichi

Co-operative Sugar Mills. *I deny the allegation in paragraph 10 that Thiru Maruthai Pillai and Thiru Kailasa Gounder met me at the Travellers' bungalow at Tiruchirapalli and explained to me the difficulties. To the best of my recollection I did not visit Tiruchirapalli during December 1969 or stay in Travellers' Bungalow in that place. Thiru P. Maruthai Pillai as President of the South Indian Sugar Mills Association might have met me along with other representatives of the South Indian Sugar Mills Association in my office and made representations about the same. But he never met me either in my residence or anywhere on personal level or had any personal or confidential talk about this matter.*

“As stated in paragraph 9 of my affidavit filed on 23-7-1976, representations were made to me by the South Indian Sugar Mills Association for the release of the levy sugar for distribution both in wholesale and retail at the price fixed by the Government. *It is not true that Thiru Kailasa Gounder, who is not known to me earlier was meeting me and trying to find out a solution for the problems faced by the Sugar Factories . . . At that time the industry was struggling for survival. The industrialists were seeking help. The price of open market sugar had come down to the level of levy price and this would have caused heavy loss to the miller because of the glut in the sugar market. Whether there could have been any occasion at that time to discuss or demand payment of money is a matter to be considered by this Hon'ble Commission.*”

(Emphasis added)

When in the witness-box on 1-11-1976, Maruthai Pillai (C.W. 14) was questioned:

“You have stated in your affidavit that you along with Mr. Kailasa Gounder met Mr. P. U. Shanmugham at Trichy. Is that correct?”

The witness replied:

“Sir, what I have stated in the affidavit suffers from typographical error or something. I had made a statement that I met Mr. P. U. Shanmugham, Minister, in Trichy, only in the first week of January 1970 along with Mr. Kailasa Gounder and Devarajan, and it was on the 6th of January evening when I came to know through Kailasa Gounder that the Minister was camping at Trichy and that we could discuss with him leisurely the problems we were facing in sugar industries. So *myself* and Mr. Devarajan went to Trichy on the 5th of January, 1970 and we stayed in Ashby Hotel and on 6th also, we stayed there. Kailasa Gounder also joined me and *all the three of us, went and met Mr. Shanmugham* at the Circuit House at Trichy, where the Minister was then staying.”

(Emphasis added)

The witness then stated about their meeting with Shri P. U. Shanmugham and the discussion which took place at that meeting. His account in regard thereto before the Commission is substantially the same as given in his affidavit, dated 7-7-1976. He has reiterated that after this discussion, the Minister had directed them to meet him at Madras and to come forward with a solution, while he would consult the Chief Minister and discuss the matter with him.

In his deposition before the Commission, Maruthai Pillai speaks of an *earlier meeting*, also, between him and Kailasa Gounder on one side and the Minister Shri P. U. Shanmugham on the other. According to him, in the earlier meeting, the Minister had suggested that they must make a formal representation to him about their problem. Thereupon, after the second meeting on 6-1-1970, SISMA addressed a letter, dated 8-1-1970, under the signature of its Vice-Chairman, to the Food Minister. The witness stated that Ex. CW. 14/13 was an office copy of that letter. In this letter, the Vice-Chairman of SISMA, suggested to the Food Minister ‘that the Factories may be permitted to sell the released levy sugar to licensed dealers or factories’ own depots with dealers licences like Amaravathi at the prices fixed by you.’ It is significant to note that this letter was not signed by the Chairman, Maruthai Pillai. Explanation to this, is to be found in Maruthai

Pillai's testimony that his mother died on 7-1-1970, and consequently he was not attending personally to this business during the mourning period.

The fact that Maruthai Pillai and Kailasa Gounder had met the then Food Minister in December, 1969, also, for representing the difficulties of the Sugar Mills, is borne out by the other evidence on record, (e.g. Affidavit dated 25-6-1976 of P. V. Viswanathan, the then General Manager of Sakthi Sugars Ltd., of which Kailasa Gounder was a Director).

Moreover, as already noticed, there is a reference to this earlier discussion with the Minister, in the minutes of the Special Meeting of SISMA held on 2-1-1970 under the Chairmanship of Maruthai Pillai. Thus, there is no doubt, that Maruthai Pillai and Kailasa Gounder had met the Minister, Shri P. U. Shanmugham in December 1969, also, to seek relief for the problem of the Sugar Mills.

Before the Commission, Maruthai Pillai was asked:

" You said that you had been to Trichy and met the Minister, there. Where did you stay at Trichy? The witness replied:

" I stayed at Ashby Hotel, Trichy. I have now seen the Register maintained by the Ashby Hotel, Trichirapalli (Register Ex. CW. 14/32 shown). This Register is captioned: ' Register Showing the Arrival and Departure of Persons Staying in the Hotel '. At page 10 of this Register there is an entry about my arrival, which is marked as Exhibit C.W. 14/32(a). It bears my signature. I signed the Register on my reaching this Hotel at 12:00 Noon on 5-1-1970. I stayed in the Hotel from 5-1-1970 to 7-1-1970, for two days. The succeeding entry on that page in this Register, which is marked as Exhibit C.W. 14/32(b), relates to the arrival of Mr. Kailasa Gounder. He had arrived at 6:00 p.m. on that date *i.e.* 5-1-1970. I can identify Mr. Kailasa Gounder's signature because I had often seen his hand-writing and signatures in the course of his correspondence with me."

With regard to the criticism levelled by Shri P. U. Shanmugham in his further affidavit, dated 19-9-1976, Maruthai Pillai filed a Further Affidavit by way of rejoinder (hereinafter called, the Rejoinder), the contents of which were re-affirmed by him while he was in the witness-box before the Commission on 6-11-1976. The Rejoinder therefore, is to be treated as a part of his examination before the Commission. In the Rejoinder Maruthai Pillai has replied to the above extracts from Para 6 of Shri P. U. Shanmugham's further affidavit, as under:

" 4.

The allegations in para 6 of the affidavit under reply are denied as incorrect. Sri Devarajan was in service of Aruna Sugars for a long time. Sri P. U. Shanmugham was the President of the Kallakurichi Co-operative Sugar Mills Limited during 1965 to 1969 and as such had come into contact with Sri Devarajan. Sri P. U. Shanmugham had also gone to Pennadam on a number of occasions for addressing political meetings during which period Devarajan used to be in close contact with him. It is again incorrect to allege that Sri Kailasa Gounder and myself did not meet Sri P. U. Shanmugham in December 1969. In fact, myself and Kailasa Gounder met Sri P. U. Shanmugham and explained to him the difficulties of sugar factories."

" 5. On 5-1-1970 when I was in my factory at Pennadam, Sri V. M. Kailasa Gounder telephoned to me and stated that Sri P. U. Shanmugham will be coming to Trichy and that would provide us with an opportunity to explain our problems and suggested that we both should go to Trichy. I left for Trichy and stayed in Hotel Ashby, where Sri Kailasa Gounder joined me. Sri P. U. Shanmugham was staying in a Government bungalow in Trichy. We met him on 6-1-1970 and explained to him the problems the industry was facing. We requested him to consider appointing the sugar mills as wholesalers to sell the unlifted levy sugar directly to the dealers. After hearing us, Sri P. U. Shanmugham assured us that he would discuss the problem with the Chief Minister, Sri M. Karunanidhi since he knew that even Co-operative Sugar Factories were facing the same problem and would inform us about

the decision of Sri Karunanidhi. In the circumstances, the allegation that myself and Sri Kailasa Gounder did not meet Sri P. U. Shanmugham at Trichy, is false. Our stay in Trichy on 6-1-1970 is borne out by the records maintained in the Hotel itself. In my statement before the nominated officer, I have clearly mentioned that myself and Sri Kailasa Gounder met Sri P. U. Shanmugham in Trichy after the meeting of our Association held on 2-1-1970. The further allegation that I did not meet Sri P. U. Shanmugham at his residence or anywhere, is denied as incorrect. *It is absolutely false and incorrect to allege that Sri Kailasa Gounder was a stranger to Sri P. U. Shanmugham. He was quite well known to Sri P. U. Shanmugham and was his friend.*

(emphasis added)

From a comparative study of the above extracts from the statements of Maruthai Pillai and Sri P. U. Shanmugham, it is easily discernable, that it was merely due to some lapse of memory or accidental slip that Maruthai Pillai had in his affidavit, dated 7-7-1976, stated that this meeting between him and Shri P. U. Shanmugham at Trichy, took place in December 1969. In all other statements including the one recorded during investigation under Section 5A, the witness had placed the date of this event at Trichy, in the first week of January, 1970. Evidently, when the witness, in his affidavit, dated 7-7-1976, stated that *this* meeting took place in December, 1969, he was confusing the date of this meeting, with that of an earlier meeting which he and Kailasa Gounder had with the Minister in December 1969. The witness has rectified and satisfactorily explained this mistake, in his subsequent statements.

Records of Ashby Hotel Trichy—Corroboration of Maruthai Pillai's version

His corrected version is that this meeting took place on 6-1-1970 in a Government bungalow at Trichy.

The truth of Maruthai Pillai's rectified version has been amply assured by the unimpeachable evidence furnished by the records of the Ashby Hotel, Trichy. The entires Ex. CW. 14/32(a) and Ex. CW 14/32(b) at page 10 in the Register Ex. CW 14/32, maintained by the Ashby Hotel, in which the arrivals and departures of the persons staying in the Hotel were noted in the course of business, show that Maruthai Pillai arrived there in the Hotel at 12 Noon on 5-1-1970 and stayed there for two days up to 7-1-1970. These entires further establish that Kailasa Gounder, also, arrived at Ashby Hotel on 5-1-1970 at 6 p.m. and thus joined Maruthai Pillai, and stayed there on the following day, also. The respective entries bear the signatures of Maruthai Pillai and Kailasa Gounder. Maruthai Pillai identified not only his own signature on the Entry concerning him but also that of Kailasa Gounder below the Entry Ex. CW. 14/32(b). The Register was taken from proper custody on 10-8-1976 by Dy. Superintendent of Police, R. K. Swamy who is one of the officers whose services are being utilised by the Commission under Section 5A. All the pages of this Register have printed Head captions and captions of columns. The Entry Ex. CW. 14/32(b) in the Register reads as follows:

ASHBY HOTEL, TIRUCHI

Room No.	ARRIVAL		Name and address in Block Letters	Where from	Signature	DEPARTURE		Where to	Signature	Receipt No.
	Date	Time				Date	Time			
5	5-1-1970	6 P.M.	Mr. V. M. Kailasa Sakthi Sugars, Erode	Erode	(Sd.) V. M. Kailasa G.	7-1-1970	6-30	Madras	(Sd.) V. M. Kailasa G.	Rt. 6218/7-1-1970

The signatures in the relevant columns relating to the Arrival and Departure have been identified by Maruthai Pillai as that of Kailasa Gounder. The entires in this Register appear

to have been made at the time of arrivals and departures of various visitors who stayed in the Hotel. There are numerous entries in the Register bearing the signatures of the persons who stayed in the Hotel. On page 10 of the Register there are nine other entries relating to the arrival and departure of other persons purporting to bear the signatures of those persons. Six of those other entries are above, and three below the entries, Ex. CW 14/32(a) and (b), since Kailasa Gounder whose signatures appear in the Entry, Ex. CW 14/32(b) died in February, 1976 before the commencement of the inquiry, there cannot be the slightest shadow of doubt about the genuineness of this entry. These entries, Ex. CW 14/32(a) and Ex. CW 14/32(b) are therefore, intrinsically reliable. They provide clinching evidence which taken in conjunction with the testimony of Maruthai Pillai, indubitably fixes the date of their meeting with the then Food Minister, at Trichy (or Tiruchi), as 6-1-1970.

(c) **'S/Shri Shanmugham and Karunanidhi spell out their demand in state Guest House, Madras last week, January, 1970.'**

In paragraph 18 of his affidavit, dated 7-7-1976, Maruthai Pillai has stated that a meeting of the Association was held under his chairmanship on 17-1-1970, to discuss the problem of the unlifted stocks of levy sugar, and in this meeting he told the Members present that Thiru P. U. Shanmugham would take up the matter with the Chief Minister. Witness has then deposed that at this meeting, SISMA passed a resolution (which is recorded in the minutes of that meeting, (Ex. CW 18/1), whereby the witness was asked by the members to pursue the matter further. This Resolution reads as follows:

" Non-Lifting of levy sugar

The Chairman informed that he met the Food Minister who appreciated our difficulties and that even Co-operative Sugar Factories have to face the same problem. The Minister said that he is meeting the Chief Minister on 19th January 1970 to decide on the action to be taken to move the unlifted stocks. The Chairman will pursue the matter and advise Members the progress."

In paragraph 19 of his affidavit Maruthai Pillai has stated about the demand of an unspecified payment made by the Minister and the Chief Minister through Kailasa Gounder. Further, in paragraph 20, of his affidavit, he has deposed about their meeting the Food Minister and the Chief Minister in the State Guest House, Chepauk, Madras (in the last week of January 1970). This is what he has stated, there:

" 19. Around this time, Sri Kailasa Gounder met me and expressed that he happened to meet Shri Vaithialingam, I.A.S., Private Secretary to the Chief Minister, at Erode, and also requested him to explain the problems which the Mills were facing, to the Chief Minister, Thiru Karunanidhi, so that Thiru Karunanidhi could understand our difficulties and solve the problems. He further stated that Thiru Vaithialingam some days later informed him (Thiru Kailasa Gounder) that he (Thiru Vaithialingam) had discussed with the Chief Minister who desired that the whole matter should be again put up to him through Thiru P. U. Shanmugham. Later, he (Thiru Kailasa Gounder) met Thiru P. U. Shanmugham who told him that the Chief Minister was inclined to help the sugar Mills but certain payments may have to be made to them and then only they would be in a position to come forward to help the sugar Mills in issuing the favourable orders. I was surprised, and when I enquired Thiru Kailasa Gounder for more particulars, he said that he was not informed about the details but was made to understand that some payment had to be made."

" 20. When I was informed about it, myself and Thiru Kailasa Gounder met the Chief Minister, Thiru Karunanidhi, and the Food Minister, Thiru Shanmugham, at the State Guest House, Madras, and represented the difficulties which were being faced by the sugar Mills. During this meeting again we insisted that the Mills should be permitted to dispose the unlifted levy sugar to the dealers directly as the Government nominees had failed to lift the same. After hearing us, *Thiru Karunanidhi said that he would issue favourable orders but demanded that certain amount, off the record, should be paid to him by the mills in private sector*

for this favour. He also told us *that Rs. 3 per bag should be paid for the allotment of the quotas.* On hearing it, I felt embarrassed and told the Chief Minister that it would be difficult for the Mill-owners to pay the amount unaccounted. The Chief Minister said that he would consider the matter only if the amount was paid: I could not resist him because *the Industry was in a perilous state and no sacrifice would be too great.* Earlier, Thiru Kailasa Gounder had also indicated to me that I should not be offensive if they again raised the demand of the payments. Therefore, after hearing Thiru Karunanidhi and Thiru Shanmugham, *we left promising to meet them after consulting other members. Before we left, the Chief Minister said that all the mills in the private sector should join together and come forward with the proposals.*"

(emphasis added)

Before the Commission on 1-11-1976, Maruthai Pillai's statement with regard to this meeting was recorded in question-and-answer form, as follows:

" Q. After 17-1-1970, did Kailasa Gounder tell you of his meeting anyone?

A. Mr. Kailasa Gounder when he met me, told me that he had met Mr. Vaithialingam, then Private Secretary to the Chief Minister, in Erode, when they were touring that area and discussed this problem with him and requested him to explain to the Chief Minister the problem the industry was facing and try to get some relief through the Chief Minister.

Q. Did Kailasa Gounder meet Mr. Shanmugham, subsequently?

A. Mr. Kailasa Gounder had met Mr. Shanmugham. After the 17th January, when he met again, he told me that he had another meeting with the Food Minister and discussed the sugar situation with him. Between the 20th and 24th January, 1970, he told me that he saw Mr. Shanmugham, and that the Minister had asked for some off-the-record payment in cash as a consideration for giving relief to the Factories in disposing of their accumulated levy sugar."

CQ. Cash to the Government or to whom?

A. Cash personally to him and the Chief Minister, for the Chief Minister agreeing to help the Sugar Industry in liquidating the accumulated stocks.

Q. What was your reaction?

A. I got very much annoyed and said this was not a favour the Government was giving to the industry. It was only trying to help the industry in the interest of the State and in the interest of the public; that this was a matter to which the factories would not agree. I told him this was out of question for any further discussion. I was very much embarrassed and thoroughly upset." . . . Then Mr. Kailasa Gounder and myself had a long discussion. In his own way, as he was a good friend of mine, he suggested that I could also go along with him and meet the Minister for Food, and the Chief Minister and get more details as to what sort of demand they were making. After a day or two, a meeting was fixed by Mr. Kailasa Gounder. It was at the Government Guest House in Chepauk, Madras. I and Kailasa Gounder went and met Mr. P.U. Shanmugham who was there, and the Chief Minister was also there. I and Mr. Kailasa Gounder first talked to Mr. P. U. Shanmugham and when we asked him what sort of payment he and the Chief Minister were expecting, then he explained it was some payment in cash, which should not be accounted anywhere and it must be passed on to the Chief Minister on the basis of the sugar that was to be released, by each Factory, per quintal or per bag basis, to which again, I reacted not liking the proposition. Then, the Food Minister insisted that it had to be agreed upon and added that we would have to agree when myself and Kailasa Gounder would meet the Chief Minister, himself in the Guest House, itself, within a few minutes, there and then. All our efforts to convince the Minister were unsuccessful. Myself and Kailasa Gounder tried our best to convince him that the Factories were not in a position to pay anything off-the-accounts. The Minister refused to listen

any further and said that the demanded payment was a must if we really wanted relief. He then asked us to go with him and meet the Chief Minister and discuss the matter with him. He pressed that we had to agree to the proposal. In the meanwhile, Mr. Kailasa Gounder personally, told me that the Chief Minister, also, was insisting on this payment, and that I should not argue with him too much, lest he (Mr. Kailasa Gounder) found himself in an unhappy situation. Mr. Kailasa Gounder cautioned that I should quietly listen to the Chief Minister, and thereafter go and discuss with the other members of the Association about the Chief Minister's insisting on payment for the release of the levy sugar. Immediately thereafter, myself and Kailasa Gounder met the Chief Minister in the Guest House . . . We went into the Chief Minister's room. Mr. Kailasa Gounder, Mr. Shanmugham, Food Minister, and myself went into the sitting room of the Chief Minister, Mr. Karunanidhi, and met him there . . . The Chief Minister's Private Secretary was not present in the room when the discussions took place. Immediately after all of us sat down, the Food Minister informed the Chief Minister that he (the Minister) had told us as to what he (Chief Minister) wanted us to do *i.e.*, to collect some money off-the-account as a consideration for the sugar release. The Minister also told the Chief Minister that we were objecting to the demand. Then, the Chief Minister himself told us: 'If you really want immediate relief and get rid of your problem, you have to agree to this proposal of paying some money off-the-account for all the releases that you will get in the coming months from the levy sugar that remains unlifted with you' "When we asked him what was the amount we had to pay, he said: 'Not less than Rs. 3 per bag of the sugar releases to the Private Sector in the State.' Again I tried to plead with him that this was not practicable and that he should not insist on this, but should only try to help us out of the difficult situation. He retorted: "Unless you agree to this proposal there will be no favourable consideration of releasing the sugar and you will have to put up with it." I submitted to the Chief Minister that even if the Sugar Companies tried, it would not be possible for them to find money to meet the demand. But there was no other way, either. Then, he suggested: 'You need not pay from your pocket, you can collect it from the wholesalers to whom you are selling the sugar and pass it on to us at this rate.' When I found he was insistent and almost bent upon compelling us to submit to his demand, I submitted that I would discuss the matter with all the Member Factories and then convey our decision about others to him (Chief Minister). The Chief Minister then agreed to this suggestion."

(emphasis added)

Shri Shanmugham's Denial

In his further affidavit, dated 19-9-1976, Shri P. U. Shanmugham has replied to the averments in paragraphs 19 and 20 of Maruthai Pillai's affidavit, in these terms:

"It is also not true as stated in paragraph 19 that Thiru Kailasa Gounder met me and that I told him that the Chief Minister was prepared to help the Mills if certain payments were made by them and only then we would be in a position to come forward to help the Mills with favourable orders. *It is strange and funny to note that I discussed this with a person who was a stranger to me.* Their highly mischievous story is built on the tomb of this dead man. On no occasion I had any conversation on the subject of release of sugar that had accumulated in the sugar factories with Thiru Kailasa Gounder."

"I deny the allegations in paragraph 20 that Thiru Maruthai Pillai and Thiru Kailasa Gounder met me and the Chief Minister at the State Guest House, Madras, and that a demand was made at that time, for the payment of Rs. 3 per bag off the record. This is the most unkindest cut inflicted by the President of SISMA when the Government had come forward to save the industry which was then facing a crisis. The Government nominees were not lifting the levy sugar allotted to the Mills because of poor off-take with the result that there was accumulation of stock and the sugar allotted to this State in October 1969, had to be revalidated and the revalidated period was

also due to expire on 21-2-1970. This was known to the Government. There was no need for Thiru Maruthai Pillai to impress upon the Government with all these facts. A solution had to be found to get over the difficulty. The Government also knew at that time in Andhra Pradesh when Thiru Brahmananda Reddy was the Chief Minister, there was a similar situation and the Government had passed orders releasing the levy sugar to be sold by the wholesalers in the open market. Some of the sugar factory owners had also moved the Uttar Pradesh High Court at Allahabad for a direction to be issued to the Government either to lift the levy sugar that had accumulated with them or permit them to sell the same in the free market. There was therefore, no need or occasion for the Government to bargain with Thiru P. Maruthai Pillai for the payment of any amount for passing the release orders. It is also not true as stated in paragraph 20, that the Chief Minister stated that all the Mills in the private sector should join together and come forward with the proposals. The same difficulties were experienced by the sugar factories in the Co-operative Section, and any order passed by the Government for the release of the levy sugar must apply equally to the Mills in the private sector as well as the Mills in Co-operative Sector managed by a Board appointed by Government."

In his Rejoinder (Further Affidavit) which was referred to and re-affirmed by him while in the witness-box, Maruthai Pillai commented:

- "9. . . . It is again false and incorrect to deny that Sri P. U. Shanmugham told Sri Kailasa Gounder that Sri Karunanidhi was prepared to help the Mills provided certain payments were made to them. Sri Karunanidhi did say so."
- "6. I respectfully state that it is only after I heard through Thiru Kailasa Gounder that Thiru Karunanidhi demanded some payments as condition precedent for giving a relief to the industry we met Sri Karunanidhi and Sri P. U. Shanmugham at the State Guest House, Madras, and represented to them the difficulties of the Mills. Thiru Vaithialingam was present in the Guest House. To allege, therefore, that we did not meet Sri P. U. Shanmugham and the Chief Minister at the State Guest House, is false.
7. I further respectfully state that the Government of Tamil Nadu has not followed any established procedure or precedent in passing the order appointing the sugar Factories as wholesalers. As already stated, the said order was purely that of Sri Karunanidhi and P. U. Shanmugham and the condition precedent stipulating a payment of Rs. 3 per bag was also their own. I state that *it is only with a view to keeping this stipulation as to payment of Rs. 3 per bag as a secret arrangement that Sri Karunanidhi has said that all the Mills in the Private Sector, without exception, should join together and come forward with the proposals.* It is significant to note that it is pursuant to this direction that the various sugar Factories in the Private Sector have submitted stereo-typed applications to the Government for appointing them as wholesalers, thereby indicating the concerted effort of the sugar Factories.
8. The allegation that the Mills in the Co-operative sector also were experiencing the same difficulty is neither here nor there . . ."

Shri Karunanidhi in his Counter-affidavit has stated that the date of this meeting in the Guest House has been purposely left vague by Maruthai Pillai because the allegation is false. I shall presently discuss that from the statement of Maruthai Pillai, read in the light of the documentary evidence furnished by the records of S.I.S.M.A. and the other evidence on the record, the date of this meeting of Maruthai Pillai and his companion, Kailasa Gounder, with the then Food Minister, Thiru P. U. Shanmugham, and the Chief Minister, Thiru M. Karunanidhi, can be spelled out and fixed about the 25th January, 1970. It will be seen further that the events that followed close on the heels of this meeting, also lend credibility to the version of Maruthai Pillai and discount that of the Respondents. There is also circumstantial evidence which corroborates Pillai's account with regard to this meeting and what transpired therein.

The first circumstance which emerges from the record is the *conduct of Maruthai Pillai in reporting* on the very day after the said meeting, about this demand of the gratification by the then

Food Minister and then Chief Minister to the representatives of the nine Mills at an informal get-together at Maruthai Pillai's house.

With these general observations, I shall now scrutinise Maruthai Pillai's evidence with regard to this event.

(d) Maruthai Pillai reports at informal meeting of SISMA about the demand on the Bribe on 25-1-1970

In regard to this reporting, Maruthai Pillai, in his affidavit, dated 7-7-1976, has deposed:

- " 21. Thereafter we called for an informal meeting of the members of the Association which was held at my residence. The meeting was attended by Thiruvalargal V. S. Thyagaraja Mudaliar of Thiru Arooran Sugars Ltd., S. N. Lal of E.I.D. Parry Ltd., D. C. Kothari of Kothari Sugars & Chemicals Ltd., V. N. Subbarayan of South India Steels & Sugars Ltd., V. M. Kailasa Gounder of Sakti Sugars Ltd., etc. *I informed the members that Thiru Karunanidhi and Thiru Shanmugham assured to appoint the Mills as wholesalers which would help the Mills to lift the stock of levy sugar at the levy price without any difficulties and the same could be sold to dealers directly by the Mills, but that Ministers would issue such orders only if they were paid Rs. 3 per bag, off-the-records. All the members present there thought over the matter and reluctantly agreed to make the payments to the Ministers to get the orders as there was no other alternative to over-come the grave situation. However, Shri Lal of E.I.D. Parry Ltd. was prepared to give concurrence only after discussion with Thiru H. V. R. Iengar, Chairman of E.I.D. Parry Ltd.*
22. Later on Thiru Lal informed me and Thiru Kailasa Gounder that he had discussed the matter with *Thiru H. V. R. Iengar* and Thiru Prabhu. Thiru Iengar *did not agree* to the suggestion of payments to the Ministers. In fact, he even decided to face the financial difficulties. However, we felt that E.I.D. Parry Ltd. being one of the members of the Association, should also get the same relief. *We did not want that the group of Mills controlled by E.I.D. Parry Ltd. should be singled out because it might lead to leakage of information regarding the proposed payments to the Ministers which would ultimately defeat our efforts. Moreover, Thiru M. Karunanidhi had told us earlier that all the Mills in the Private Sector should join together and come forward with proposals and then only he would consider it. Therefore, we did not want that any of the Mills in the Private Sector should be left out. We again discussed the problems and it was finally decided that the extra amount so demanded by the Ministers, could be collected from the dealers to whom the Mills proposed to sell the levy sugar. This suggestion was finally accepted by all the members of the sugar mills in the private sector, as it would not directly involve the Mills in this transaction.*
23. Thereafter, myself, Thiruvalargal Thyagaraja Mudaliar, D. C. Kothari and Kailasa Gounder met Thiru Prabhu, Joint Managing Director of E.I.D. Parry Ltd. at his office. *Thiru S. N. Lal* was also present. In the meeting, we informed him that they should also come forward and co-operate with other members and get the same relief from the Government of Tamil Nadu. *We told Thiru Prabhu and Thiru Lal that the Chief Minister was particular that all factories in the Private Sector should joint'y agree to the proposal. We also conveyed the decision that the extra amount so demanded by the Ministers could be collected from the dealers to whom the Mills would sell the sugar, which would not directly involve the Mills for payment to the Ministers.*
24. *After a few days, Thiru S. N. Lal informed me that Thiru H. V. R. Iengar had also reluctantly agreed to the payments to the Ministers. After this, I and Thiru Kailasa Gounder, as representatives of the mills in the private sector, conveyed the consent of all the Mills to the Ministers to make payments for the issue of such orders. Thereafter, I was asked by Thiru Shanmugham to send applications requesting the Government to appoint the Mills as wholesalers and to sell the levy sugar to the*

dealers directly. I remember that one set of such representations was given to Thiru P. U. Shanmugham sometime in the first week of February 1970. It was a stereo-type of representations given to Thiru Shanmugham. This matter was kept pending by Thiru Shanmugham himself at the Secretariat. After 3 or 4 days, myself and Thiru Kailasa Gounder again met the Chief Minister and Thiru Shanmugham at the Secretariat and requested them to expedite the issue of orders as released quota was about to be lapsed."

(Emphasis added)

In his examination before the Commission also, Maruthai Pillai, has substantially given the same version. Briefly, he has stated that after the meeting with the Food Minister and the Chief Minister in the Guest House, Chepauk, Madras, he called an informal meeting of the Association at his house, in the afternoon and explained to the members present (including V. S. Thyagaraja Mudaliar, S. N. Lal, Kothari and Subbarayyan), the demand of the Food Minister and the Chief Minister. To quote his words: "We explained that the Chief Minister was insisting on payment for any releases to be made. The immediate reaction of the Members was one of annoyance. Mr. Kailasa Gounder and I explained the situation, that there was no way out for us unless we agreed to his demand. I also told the Members that the Chief Minister had suggested that we could collect this money from the wholesalers and pass it on to him at the rate of Rs. 3 per bag." He has further testified that he and Kailasa Gounder further explained to the members that the Mills were placed in a helpless situation and had no alternative but to submit to the demand made by the Ministers. Thereupon all the members, excepting S. N. Lal, representative of the E.I.D. Parry Group agreed to meet the demand as proposed.

Maruthai Pillai has in his deposition, further narrated the same story, as in his earlier statements with regard to the initial refusal and subsequent reluctant consent of Shri H. V. R. Iyengar to the arrangement for payment of this extra amounts at Rs. 3 per bag, imposed by the Minister and the Chief Minister.

In his further affidavit, Shri P. U. Shanmugham has denied—coupling his denial with comments—the averments in the above-quoted paragraphs 21 to 24 of Maruthai Pillai's affidavit, dated 7-7-1976, in these words:

"I am not aware of the statement that Thiru Maruthai Pillai might have made to the other members of the South India Sugar Mills Association or any discussion that took place amongst them. But there could not have been any talk about the alleged demand for the payment of a sum of Rs. 3 per bag as no such demand was made at any time either by me or the Chief Minister. I deny this allegation as totally false.

I deny the allegation in paragraph 24 that Thiru Maruthai Pillai and Thiru Kailasa Gounder met me and the Chief Minister and agreed to make payments for the issue of the release orders. It is also not true that I asked Thiru Maruthai Pillai to send applications requesting the Government to appoint the mills as wholesalers and permit them to sell the levy sugar to the dealers directly. From the files now made available to me, it will be seen that orders were passed by me on 16-2-1970, as follows . . ."

(This order from File No. D.Dis. 6114/70 has been extracted earlier in this dissertation.)

"On the 17th February, I passed the following order File No. D.Dis. 6114/70, dated 12-8-1970."

(I have already extracted it earlier.)

Thiru P. U. Shanmugham then goes on to say:

"I deny the allegation made by Thiru Maruthai Pillai that he presented one set of applications in the first week of February 1970. There was no delay in passing the orders. I deny that the applications were kept pending and that Thiru P. Maruthai Pillai and Thiru Kailasa Gounder met me and the Chief Minister and requested us to expedite the issue of orders. There was no need for them to make any such representations for issuing the release orders as I was only following the precedent wherein

similar orders . . . I was personally aware of the difficulties experienced by the sugar Factories in Tamil Nadu, and elsewhere. The same difficulty appears to have been felt in Uttar Pradesh and the sugar-factory owners had obtained an order from Allahabad High Court, directing the Government to purchase the levy sugar within a particular time failing which the sugar factories were allowed to sell them to persons of their choice. A policy decision was therefore taken that there was no other way of avoiding the complications that may ensue, if the stocks held by the Mills continued to accumulate further except by appointing them as wholesale dealers and permit them to sell the accumulated levy sugar which was not lifted by the Government nominees at the price fixed by the Government."

In regard to these pleas of Thiru P. U. Shanmugham, Maruthai Pillai in his Rejoinder, dated 5-11-1976, has reiterated:

"The allegations in paragraph 8 of the affidavit under reply are denied as incorrect. I respectfully state that myself and Kailasa Gounder met Sri Karunanidhi and Sri P. U. Shanmugham and agreed to make the payment as suggested by them. *"In fact the applications for declaring the sugar Factories as wholesalers were collected by me from some of the sugar Factories and submitted by me to Thiru P. U. Shanmugham, in person, and the critical (typical) applications produced before this Hon'ble Commission would indicate that these stereotyped applications were received by Sri P. U. Shanmugham and orders were passed thereon by him only.* In the circumstances, it is absolutely incorrect to allege that Sri P. U. Shanmugham did not ask me to send the applications for appointing the Factories as wholesalers.

11. The allegations in para 9 of the affidavit under reply are denied as incorrect. *That I presented one set of applications in the first week of February is borne out by the very applications themselves which are before this Hon'ble Commission. The first batch of applications was given by me in person to Sri P. U. Shanmugham on 7-2-1970.* The quotas in respect of which these applications were made, related to the lapsed quotas which were revaluated upto 21-2-1970. There was anxiety on the part of the sugar Mills. Again, myself and Sri Kailasa Gounder had to meet Sri P. U. Shanmugham for getting early orders. It is only thereafter that Shri P. U. Shanmugham passed orders on 16-2-1970. The reference to the precedent of Andhra Pradesh, the orders obtained by some of factory owners from Allahabad High Court and the Policy decision to ease the situation are all *after-thoughts* intended to justify the stand taken by Sri P. U. Shanmugham."

(Emphasis added)

The crucial points and facts are those which are set out in the underlined (*in italics*) portions of Maruthai Pillai's evidence, extracted above. On these points, his evidence is invulnerable, and as against this, Shri Shanmugham's assertions and contentions are incorrect and devoid of substance. Men may lie but tell-tale circumstances do not. The very facts—that all the applications in the first batch made by the Mills, are stereotyped in form, bear the same date, 7-2-1970, were delivered together to the Minister directly, as per bearer, as distinguished from a postman, that they were not handed down to the Secretariat or other officials for examination, that no order was passed thereon till 16-2-1970, and that too, by the Minister himself, directly and originally at his level—are all clinching circumstances which unerringly proclaim the truth of what Maruthai Pillai has said with regard to this aspect of the case.

Maruthai Pillai's testimony with regard to the demand of the Chief Minister for some cash payment by the Mills, conveyed through Kailasa Gounder and the specific demand spelled out thereafter by the Minister and the Chief Minister to Maruthai Pillai and Kailasa Gounder in the State Guest House, Madras finds corroboration, to a significant extent, from the evidence of Vaithialingam, C.W. 24. It is proposed to notice here Vaithialingam's evidence in regard to these two aspects of the case.

Vaithialingam. C.W. 24

Vaithialingam, C.W. 24, who was, at the material time, Private Secretary to the then Chief Minister, has testified that towards the end of December 1969 or in the beginning of January 1970,

when the witness was with Shri M. Karunanidhi on tour in the Travellor's Bungalow, Erode, Kailasa Gounder met the witness and explained the difficulties which the Sugar industry in the State was facing. He wanted the witness to convey and explain the problem of the Sugar Mills to the Chief Minister. Kailasa Gounder suggested that the only solution of the problem was that the State Government should appoint the Mills, themselves, as wholesalers so that they could quickly dispose of their accumulated stocks in the open market. The witness promised to do so; and accordingly, communicated all that Kailasa Gounder wanted, to the Chief Minister when he was on his return journey to Madras.

Vaithialingam has further stated that sometime after Pongal, in 1970, when the Chief Minister, the Food Minister and the witness and some other staff members were in the State Guest House, Chepauk, Madras, Maruthai Pillai and Kailasa Gounder came together and met Shri P. U. Shanmugham in Room No. 2. Witness was then looking into some files while in the corridor of the State Guest House. The Chief Minister was then in Room No. 1. After 5 or 10 minutes, Shri P. U. Shanmugham, accompanied by Maruthai Pillai and Kailasa Gounder, came and met the Chief Minister in Room No. 1. Witness was then waiting outside that room. Maruthai Pillai and Kailasa Gounder and P. U. Shanmugham came out of the room after about 15 or 20 minutes. The Chief Minister then immediately sent for the witness for some other item of work.

It may be noted that Vaithialingam has given the evidence in a natural and candid manner. His memory appears to be sharp. He has placed the date of this event "sometime after Pongal in 1970". Pongal festival generally starts in the middle of January and goes on for 5 or 6 days. According to the calendar, Pongal in 1970 was over the 19th of January. Thus, according to Vaithialingam, this meeting of Maruthai Pillai and Kailasa Gounder with the Food Minister and Chief Minister took place sometime after the 19th January in 1970. This substantially fits with Maruthai Pillai's version that this meeting took place sometime between the 20th and 24th January, 1970, or as he in his further affidavit puts it, "towards the end of January, 1970 or in the last week of January 1970".

Vaithialingam's evidence with regard to this event and its approximate date, cannot be brushed aside merely on the ground that he could not be expected to remember these facts after a lapse of more than six years. As already observed, he appears to be a person who has wit and memory more sharp and trained than the ordinary. For such a witness, it was not improbable to recall from memory, particularly in association with Pongal, the factum of this meeting and its having taken place sometime after Pongal in 1970.

As regards the approach made by Kailasa Gounder also to the Chief Minister through him, his evidence is believable. Kailasa Gounder had very thick relations with the witness and also with the then Chief Minister. There is other evidence also on the record which establishes the closeness of Kailasa Gounder's relationship with the witness and his then Chief. The witness has put the date of Kailasa Gounder's approach through him to the Chief Minister, sometime in December 1969 or in January, 1970. Thus chronologically, and otherwise, Vaithialingam's evidence on this point fully supports the testimony of Maruthai Pillai. There is no good reason to disbelieve Vaithialingam's sworn word either with regard to the representation made through him to the Chief Minister on behalf of the Sugar Mills by Kailasa Gounder, or with regard to the meeting which Maruthai Pillai and Kailasa Gounder had with the Chief Minister, Shri Karunanidhi, towards the end of January 1970; and, as such, his evidence lends significant assurance to that of Maruthai Pillai on these points.

Now, I shall notice briefly the evidence of those persons who, according to Maruthai Pillai were present in the informal meeting held on or about 25-1-1970 in which he informed them about the demand of the bribe by the Food Minister and the Chief Minister. I shall deal with that aspect of their evidence which relates to the collection of the 'extra' money on sales, for payment to the Chief Minister, later. Here I will confine myself to those aspects, only, of their evidence, which concern what transpired at this meeting of SISMA, the initial reaction of the members, and their ultimate acceptance of the arrangement dictated by the Minister and the Chief Minister.

The witnesses in this set are those who were either present in this informal meeting, or were further consulted, directly or through others, by those who were present in the meeting, about

the demand of the gratification by the Minister and the Chief Minister and the acceptance of that arrangement by all the 9 Mills. The witnesses who fall in this set are;— S. N. Lal (CW 16), J. S. Prabhu. H. V. R. Iyengar of E. I. D. Parry Group, D. C. Kothari of Kothari Sugars, V. S. T. Mudaliar of Thiru Arooran Sugars and V. N. Subbarayan of South India Steel and Sugars Ltd. The evidence of P. V. Viswanathan and N. Mahalingam of Sakthi Sugars will also be noticed along with that of the witnesses of this set. I will first take up S. N. Lal (CW. 16).

S. N. LAL (C.W. 16)

The witness was an Executive Director of the Three Sugar Mills in the E.I.D. Parry Group, at the material time. He has made three statements. The first in point of time is to be found in his affidavit, Serial No. 76, dated 28-6-1976. Next is the statement recorded under s. 5A on 6-8-1976. The *third* is his deposition recorded before the Commission. In all the three statements, he has consistently given the same account with regard to the points under consideration. The material part of his affidavit relating to the aspects now under consideration, is contained in Paragraphs 11, 12, 13 and 14 which read as under:

- “ 11. Later on, Shri Maruthai Pillai convened an informal meeting of the important members of the Association; the meeting was attended by S/Shri V. M. Kailasa Gounder, V. S. Thiagaraja Mudaliar, D. C. Kothari, V. N. Subbarayan myself and others. In the meeting Shri Maruthai Pillai informed the members that he and Shri Kailasa Gounder had met Shri Karunanidhi, Chief Minister and Shri P. U. Shanmugam, the Food Minister and expressed the difficulties of the mills due to the failure on the part of the Government nominees to lift the sugar from the factories. He was also requested by Shri Maruthai Pillai and Kailasa Gounder to appoint the mills as wholesalers, so that the mills themselves can sell the levy sugar directly to the dealers by their own arrangements. After hearing them, the Ministers agreed to appoint the mills as wholesalers, provided the mills in the private sector agreed to pay Rs. 3 per bag off the record. When we were told about it we all felt embarrassed. At the same time we also realised the problems which we were facing for a long time, due to heavy stock in our godowns. We felt that unless stocks of the levy sugar were removed from the factories, the mills would face grave consequences. For my part I told Shri Maruthai Pillai and other members that I will have to discuss the matter with the Chairman, Mr. H. V. R. Iyengar before we could agree to any such arrangement.
12. Later on I met Shri H. V. R. Iyengar and Shri J. S. Prabhu and conveyed the proposal to them. Shri H. V. R. Iyengar refused to agree to any such off the record payments and this was conveyed to Shri Maruthai Pillai.
13. After 2 or 3 days Shri D. C. Kothari, Shri Kailasa Gounder Shri V. S. Thiagaraja Mudaliar and Shri Maruthai Pillai had a meeting with Shri J. S. Prabhu, Joint Managing Director of E.I.D. Parry Ltd., when I was also present. In the meeting it was suggested to Shri Prabhu that the group of Sugar Mills under the control of E.I.D. Parry should also come forward to co-operate with the other members and get the release from the Government. It was also suggested at this time that the amount demanded by the Minister could be collected from the wholesalers to whom the mills would sell the sugar, which would not in any way directly involve the mills in the clandestine transactions. Shri P. Maruthai Pillai also told us that the Chief Minister and the Food Minister insisted that *all the mills in the private sector should agree to this arrangement and only then, the request will be considered.*
14. After discussion on this matter, myself and Shri J. S. Prabhu informed Shri H. V. R. Iyengar about the mechanism in which the other mills had proposed to collect the amount for payment to the Minister. Thereafter, Shri H. V. R. Iyengar reluctantly agreed to the proposal of collecting the money from the sugar dealers for payment to the Minister.”

In the witness-box, also, the substance of his deposition is the same. But he has elaborated it and clarified it still further. He was asked to fix with greater precision the date of the informal

meeting held at the house of Maruthai Pillai. The substance of his answers to the searching questions put to the witness, on this point, is, that this meeting was held towards the end of January, 1970, on a date which was not a working day but a holiday. The Calendar tells us that 26-1-1970 was a Republic Day while 25-1-1970 was a Sunday. On a Republic Day, the Ministers and these big industrialists must have been busy in the National celebrations. In all probability, therefore, the date of this meeting in so far as it can be spelled out from a conjoint reading of the evidence of Maruthai Pillai, S. N. Lal, Vaithialingam and others, can be fixed on or about 25-1-1970. It will be worthwhile to notice the material part of the evidence of S. N. Lal rendered before the Commission. After referring to the demand of bribe by the Ministers as conveyed at the informal meeting by Maruthai Pillai, S. N. Lal testified:

“ . . . as far as my own reaction was concerned, I was completely taken aback by this demand which was put forward by the Minister and the Chief Minister.”

“ I said that as far as the three Factories in the E.I.D. Parry Group were concerned, we could not be a party to any such arrangement of payment of Rs. 3 per bag . . . ”

“ We had no unaccounted money or black money or secret funds from where we could pay off-the-record money.”

In reply to a further question, S. N. Lal said that he had reported about the Minister's demand of Rs. 3 per bag extra off-the-record, conveyed through Maruthai Pillai, to H. V. R. Iyengar, Chairman of the E.I.D. Parry, and that Shri Iyengar's reaction was a categorical 'No'. He further stated how three or four days later, Maruthai Pillai, Kailasa Gounder, Kothari and V. S. T. Mudaliar came to their office and discussed the matter with him and his colleague, J. S. Prabhu:

“ . . . They (Maruthai Pillai and companions) also indicated the *modus operandi* to be followed in meeting this demand. Briefly, they said that this amount could be collected from the dealers to whom we sold our sugar from wholesale depots and the collection was then to be handed over to Mr. Maruthai Pillai who would, in turn, pass it on to the Ministers.”

S. N. Lal and his colleague then communicated the same to their Chairman, Shri H. V. R. Iyengar. About the reaction of Shri Iyengar, S. N. Lal said:

“ Mr. Iyengar was unwilling even at that point of time to comply or to agree with this arrangement. Subsequently, when we explained to Mr. Iyengar that this payment would not be made by the Companies, but that they would merely be acting as collecting agents, he very reluctantly agreed to fall in line with the rest of the factories.”

S. N. Lal then informed Maruthai Pillai and his companions that Shri Iyengar had reluctantly agreed to the arrangement proposed.

I shall deal with the criticism levelled against the evidence of the witnesses in this set by the Respondents towards the end of this topic.

J. S. PRABHU

J. S. Prabhu was also a Director of E.I.D. Parry at the material time. He was not present in the informal meeting at which Maruthai Pillai informed the members present about the demand of the bribe by the Minister and the Chief Minister. But he was informed by S. N. Lal. Later his 'good-offices' were also solicited by Maruthai Pillai and his companions for persuading H. V. R. Iyengar, Chairman, E.I.D. Parry Ltd. to fall in line with the other Mills in meeting the demand of gratification, made by the Minister and the Chief Minister. He gave two statements. The first was in the affidavit, Serial No. 75, dated 28-6-1976, filed by him before the Commission. The second statement is that which was recorded on 6-8-1976 under s. 5A of the Act by the Investigating Officer appointed to assist the Commission. Both of his statements are consistent with each other on all material points.

Since Respondent P. U. Shanmugham has assailed his statement on affidavit on the ground of discrepancy, it is necessary to extract the material part thereof as below:

“ I state that in the latter half of January 1970, I was informed by Shri S. N. Lal that the Food Minister Shri P. U. Shanmugam and Chief Minister Shri M. Karunanidhi had

agreed to appoint the Mills as wholesalers to sell the levy sugar directly to the dealers, but they demanded an amount at the rate of Rs. 3 per bag to be handed over to them off the records. This demand of the Ministers was conveyed to Shri H. V. R. Iyengar, who was then Chairman of E.I.D. Parry Ltd., but he did not agree to the suggestion of payment to get the mills appointed as wholesalers. In fact, he was prepared to face any crisis than give a bribe.

- “ 8. Shri Lal conveyed the same to Shri Maruthai Pillai and other members of the Association. But, later on Shri Maruthai Pillai, Shri V. S. Thiagaraja Mudaliar, Shri D. G. Kothari and Shri Kailasa Gounder, met me at my office along with Shri S. N. Lal and said that the extra money to be paid to the Ministers was to be collected from the dealers and therefore, the Company would not have to pay anything. They further informed us that the Chief Minister and the Food Minister had insisted that all the Mills in the private sector, *i.e.*, including Mills of the E.I.D. Parry Group, should come together for appointment as wholesalers. In view of this and as we were facing financial crisis for reasons detailed earlier, the suggestion of the members of the Sugar Mills Association was conveyed to Shri H. V. R. Iyengar and he reluctantly agreed. His consent was then conveyed to Shri Maruthai Pillai and he was requested to take further steps to get the Mills appointed as wholesalers.”

H. V. R. IYENGAR

Shri H. V. R. Iyengar was the Chairman of the E.I.D. Parry Group of Companies. This group includes three sugar Mills, viz., E.I.D. Parry Ltd., Deccan Sugars and Cauvery Sugars. In response to the notification/notice issued by the Commission, the witness filed an affidavit, Serial No. 73, dated 28-6-1976, duly sworn before a competent authority.

The evidence of Shri H. V. R. Iyengar is crucial. It *inter alia*, throws light on the question whether these Mills had voluntarily co-operated in offering these gratifications, or had done so under compulsion. It would therefore be appropriate to notice his statement, in extenso. This witness is a retired member of the Indian Civil Service. He was at one time holding the office of the Governor of the Reserve Bank of India. He appears to be a respectable man of status. At the relevant time he was Chairman of E.I.D. Parry Ltd. He gave up the chairmanship in July 1971, following a massive heart-attack. In his affidavit, dated 28-6-1976, Shri H. V. R. Iyengar has deposed:—

- “ 5. During the latter half of 1969 and upto May 1971 the industry found itself in this intolerable situation. Because the off-take of levy sugar even at the controlled price was poor, free market sugar prices also tumbled and very soon there was only a marginal gap between the prices of levy and free market sugar.
6. Since the State Government was responsible for distributing levy sugar through their nominees *i.e.* wholesalers, retail co-operative stores and others and the nominees were not lifting the sugar, the industry was in a serious plight. There upon the South India Sugar Mills Association (SISMA) Tamil Nadu Branch after discussion among its members approached the State Government and proposed that the factories themselves be permitted to act as whole-salers and distribute the levy sugar to retailers and other consumer outlets. Mr. P. U. Shanmugham was the Food Minister in charge and Mr. M. Karunanidhi the Chief Minister. I understood later that the Government was willing to nominate the factories as wholesalers provided, to start with Rs. 3 per bag was paid privately to the Food Minister. When this was actually mentioned to me by Mr. Lal I put my foot down and said Parrys had a long and unsullied reputation and I was not going to counterance any clandestine payments, however grim the situation in the companies in the group. Corruption is always bad but to bleed an industry which was in the doldrums was, to my mind, most reprehensible. Thereafter, an alternative scheme was proposed by some members of SISMA. By this the Companies would collect Rs. 3 per bag from dealers to whom the sugar was sold and the money handed over to the Food Minister. Mr. Shanmugham with the knowledge of the Chief Minister, Mr. Karunanidhi. Even this was distasteful to me but the perilous position of the factories in the group

of Tamil Nadu—Nellikuppam, Pugalur and Cauvery—compelled me reluctantly to yield. I learnt from Mr. Prabhu and Mr. Lal that the collections made from the dealers were handed over to Mr. P. Maruthai Pillai, the President of the Tamil Nadu Branch of SISMA for payment to the Food Minister. I was particularly pained by this action on the part of the Minister as it not only amounted to a complete lack of conscience but also flogging an industry which was nearly prostrate. I may say here that never once did I meet either Mr. Karunanidhi or Mr. Shanmugham before or after the events described above.”

“7. E.I.D. Parry Ltd. has other manufacturing interests besides sugar. Even so, the levy sugar debacle hit this company badly. The position was worse by far in the other two companies of which I am Chairman, viz., The Deccan Sugar & Abkari Co. Ltd. and Cauvery Sugars and Chemicals Ltd. but *there was no option but to yield to the illegal demand of the Ministers.*”

“This *extortion* which began with Rs. 3 per bag was scaled down to Rs. 1.50 following reluctance on the part of the dealers whose margins were falling. It was further reduced to 50 paise per bag and this rate prevailed until May 1971 when sugar was decontrolled.”

(Emphasis supplied)

I will discuss Shri Iyengar's evidence further, later. At this place, it will be sufficient to say that his evidence furnishes very valuable corroboration of the evidence of Maruthai Pillai.

D. C. KOTHARI

This witness at the relevant time, was the Chairman of the Board of Directors of Kothari Sugars and Chemicals Ltd. He was one of those members who were present in the informal meeting convened by Maruthai Pillai, to post them about the demand of the bribe made by the Minister and the Chief Minister. His first statement is to be found in his affidavit, Sl. No. 47, dated 1-7-1976. More than one month thereafter, he was examined and his statement was recorded under s. 5A by the Investigating Officer assisting the Commission. Both these statements are in accord on all material points. The witness has fully corroborated Maruthai Pillai with regard to what transpired at the informal meeting at Maruthai Pillai's house towards the end of January, 1970. The material part of his affidavit is to this effect:

“12. . . . At this meeting Shri Maruthai Pillai informed us that he had met the Chief Minister and the Food Minister, Sri P.U. Shanmugham, and had explained to them the difficulties that the Mills were facing and requested the Government to appoint the Mills as “wholesalers” to help them liquidate the accumulated stocks. Sri Maruthai Pillai also informed the members that the Ministers were agreeable to the request of the Mills provided a sum of Rs. 3 (Rupees three) per bag was paid to them.

13. When we were told of this demand we all felt embarrassed as the Mills could not pay such amounts. A suggestion was made that such amounts could be collected from the dealers without the mills getting directly involved in such payments. . . .

At this meeting Sri Lal of Messrs. E.I.D. Parry Ltd., informed Sri Maruthai Pillai that he will give concurrence only after consulting Sri H. V. R. Iyengar, their Chairman. Later on, I was informed by Sri Maruthai Pillai that Mr. Lal had met Sri Iyengar and discussed the matter, but, he (Sri Iyengar) did not agree to the payment to the Ministers.

14. Sri Maruthai Pillai informed me and also I believe, the other members, that the Mills controlled by Messrs. E.I.D. Parry Ltd. should not be left out as the Chief Minister had earlier informed him that all the mills in the private sector should come forward together. In the light of this development, Sri Maruthai Pillai, Sri Thyagaraja Mudaliar and Sri Kailasa Gounder met Sri Prabhu of Messrs. E.I.D. Parry Ltd. at his Chamber . . . Subsequently, I was informed by Sri Maruthai Pillai that the E.I.D. Group also gave their consent to the arrangement.”

V. S. T. MUDALIAR

This witness was, at all material times, the Chairman and Managing Director of Thiru Arooran Sugars Ltd. He filed an affidavit, Sl. No. 50, dated 1-7-1976. Earlier on 9-6-1976, his statement was recorded by the Investigating Officer under s. 5-A also. Both of his statements are consistent with each other in regard to material particulars. This witness has also corroborated Maruthai Pillai with regard to what happened at the informal meeting held towards the end of January 1970 in the house of the latter. The material part of his deposition is to be found in paragraphs 9, 10, 11 and 12, which are extracted hereunder:

- “9. At a meeting of the members of the Association held on 17-1-1970 the President, Sri Maruthai Pillai informed the members that he had met the Food Minister who had assured him that he would take up the matter with the Chief Minister, Sri M. Karunanidhi. The members requested Sri Maruthai Pillai to pursue the matter.
10. After a few days, Sri P. Maruthai Pillai convened an informal meeting of the members of the Association in the private sector. The meeting was held at the residence of Sri Maruthai Pillai. I attended the meeting. I remember that Sri D. C. Kothari of Kothari Sugars, Sri S. N. Lal of E.I.D. Parry, Sri V. N. Subbarayan of South India Steel & Sugars and Sri V. Kailasa Gounder of Sakthi Sugars were present at the meeting besides others whom I do not remember. At the meeting, Sri Maruthai Pillai informed us that Sri M. Karunanidhi, Chief Minister and Sri P. U. Shanmugam, the Food Minister had indicated that they would be agreeable to appoint the sugar factories themselves as wholesalers to effect sales of the levy quota at levy price on condition that a sum of Rs. 3 per bag was paid off the records.
11. The said proposal and the demand was discussed amongst the members present. The piling up of stocks was a matter of grave concern. The falling prices of free market sugar aggravated the difficulties experienced by the Sugar factories. In the circumstances, it was felt that there was no alternative except to accede to the demand for the payment of the money off the records. Sri S. N. Lal of E.I.D. Parry however informed Sri P. Maruthai Pillai that he was in no position to give a decision until he discussed the matter with Shri H. V. R. Iyengar, Chairman of E.I.D. Parry.
12. Sometime later, Sri P. Maruthai Pillai informed me that Sri H. V. R. Iyengar, Chairman of E.I.D. Parry Ltd. was not agreeable to the proposal. He further informed me that Mr. Karunanidhi had made it clear to him that the proposal could be put through if only all the mills in the private section agreed for the payment of the extra money. Thereafter, Mr. Maruthai Pillai, D. C. Kothari, V. M. Kailasa Gounder and myself met Mr. Prabhu, Joint Managing Director and Mr. S. N. Lal Special Director of E.I.D. Parry in their office and “explained the above condition stipulated by Mr. Karunanidhi. Eventually, I was informed that Sri H. V. R. Iyengar had also reluctantly given his consent to the proposal.”

It may be noted that there is a discrepancy between the statements of Maruthai Pillai, S. N. Lal, V. N. Subbarayan and the witness on the one hand and that of D. C. Kothari on the other as to whether D. C. Kothari had also accompanied Maruthai Pillai and Kailasa Gounder to the office of the E.I.D. Parry when they met S. N. Lal and J. S. Prabhu and requested them to go and solicit H. V. R. Iyengar's consent to the arrangement proposed by the Ministers. This discrepancy may be due to a lapse of memory either on the part of Kothari or the other witnesses. In any case it is not on a material point. Such natural variations always creep in when witnesses with varying powers of perception and memorisation, depose to events which took place long ago. This discrepancy is no ground to reject the substratum of their evidence with regard to which there is general consensus among all these witnesses, including Kothari.

V. N. SUBBARAYAN

V. N. Subbarayan was, at all times material, a Director of South India Steel and Sugars Ltd. He filed an affidavit, Sl. No. 31, dated 28-6-1976. His statement was also recorded under s. 5A by the Investigating Officer, on 7-8-1976. The substance of both the statements is the same. The witness has given the same account with regard to the demand of the bribe by the Minister, as

communicated by Maruthai Pillai at the informal meeting held at the latter's house towards the end of January, 1970, as has been rendered by S/Shri Maruthai Pillai, S. N. Lal, D. C. Kothari and V. S. T. Mudaliar. This is what he has stated:

“ 9. . . . We were told that on their representation Sri M. Karunanidhi and Shri P. U. Shanmugham agreed to do the needful but they demanded that certain amounts should be paid to them off the records, i.e. at the rate of Rs. 3 per bag. Though the members felt embarrassed about the demand, there was no other go except to agree to the suggestions.

“ 10. Shri Maruthai Pillai was authorised to finalise the issue. The method of payment decided upon amongst ourselves was that the amount would be collected in cash from the dealers to whom the Mills proposed to sell the levy sugar. This would not involve the Mills in its financial transactions.

Now I will take up the evidence of N. Mahalingam and P. V. Viswanathan of Sakthi Sugars Ltd.

It may be remembered that according to the evidence on record, Kailasa Gounder, who played a dominant role in this affair, was the Commercial Director of Sakthi Sugars. He was representing, in concert with Maruthai Pillai on behalf of Sugar Mills, the difficulties of the Sugar industry in the State to the Food Minister and the Chief Minister. The demand for payment was first communicated by the Minister and the Chief Minister to him through Kailasa Gounder. Kailasa Gounder was also present at the informal meeting held towards the end of January, 1970, in which Maruthai Pillai informed the members about the demand of the gratification made by the Food Minister and the Chief Minister. Kailasa Gounder was also one of those persons who accompanied Maruthai Pillai to the office of the E.I.D. Parry to persuade H.V.R. Iyengar through the instrumentality of S. N. Lal and J. S. Prabhu, to fall in line with the rest of the Mills in accepting this arrangement proposed by the Ministers. Unfortunately, Kailasa Gounder died sometime in February 1976 before the commencement of any proceedings before this Commission. The date of his death has been spoken to by Chockalingam (CW 20). In these circumstances, Kailasa Gounder's statement could not be procured. Kailasa Gounder, however, is said to have kept N. Mahalingam, Chairman of Sakthi Sugar and P. V. Viswanathan, General Manager of that Company fully posted and informed about the efforts made by him and Maruthai Pillai to secure solution of their problems. The statement made by Kailasa Gounder to these witnesses at a time when no controversy had arisen, can be admitted in evidence on the principle underlying s. 32 of the Evidence Act. With these remarks I now proceed to notice the evidence of N. Mahalingam.

N. MAHALINGAM

The witness filed an affidavit, sl. No. 18, dated 22-6-1976, before the Commission. However he was not examined by the Investigating Officer under s. 5A. The witness has stated the introductory facts, among which he stated that the late Kailasa Gounder and Viswanathan, the then General Manager of Sakthi Sugars, used to attend all the SISMA meetings in the years 1969 and 1970 when Maruthai Pillai was the President of that Association. Paragraphs 6 and 7 of his affidavit are material. They read as under:

“ 6. I was informed by the aforesaid late Shri Kailasa Gounder as follows:—

(a) . . . Both Shri P. Maruthai Pillai and the late *Shri Kailasa Gounder who was very closely associated with him* made joint representations, in the first instance to the Food Minister and subsequently as per his directions to the Chief Minister also and that they had negotiated with the Food Minister and the Chief Minister and requested the Government of Tamil Nadu to declare all the sugar Mills as wholesalers.....

(b) That the Food Minister and the Chief Minister insisted upon payment of Rs. 3 per bag of sugar off the record to them and made it a condition precedent before appropriate directions and Release Orders could be issued.

7. During the aforesaid relevant period, the entire sugar industry in general and all the sugar Mills in the State of Tamil Nadu including Sakthi Sugars Ltd., in particular,

were confronted with a very critical situation and had to struggle desperately for their very survival and it was in this context that the Members of the South Indian Sugar Mills Association in the Private Sector were left with no other alternative but to accede to the demand made by the Food Minister and the Chief Minister in the manner aforesaid after deep deliberation, though reluctantly and much against their will. The Members of the South Indian Sugar Mills Association including Sakthi Sugars Ltd. met repeatedly and discussed the matter with a view to devise ways and means by which they would not themselves get personally involved in such payments. It was finally resolved by them that the demand made in the manner aforesaid should be met by actually collecting the amount from the Wholesalers/Retailers to whom the Sugar Mills sold the levy sugar and pass the same on to the President, Shri P. Maruthai Pillai with the definite understanding that he along with the late Shri Kailasa Gounder would effect such payments directly to the Food Minister and the Chief Minister and secure the Release Orders and appropriate directions. This arrangement would appear to have been agreed to unanimously by all the Members and the same was duly conveyed to the Food Minister and the Chief Minister. . . . ”

Although the statement in the affidavit of N. Mahalingam is mainly of a derivative nature, the same does not detract from its value because he was the Chairman and the Director of Sakthi Sugars and as such supposed to be fully informed of the activities of their Commercial Director, Kailasa Gounder.

P. V. VISWANATHAN

In the context I will now notice the evidence of P. V. Viswanathan. He filed an affidavit, Sl. No. 21, dated 25-6-1970. Thereafter his statement was recorded under s.5A on 11-8-1976 by the Investigating Officer. On all points of substance, both the statements are in accord with each other.

The witness has deposed that it was he who along with Kailasa Gounder, was attending most of the meetings of SISMA of which Sakthi Sugar was a Member. He was thus a confidant of Kailasa Gounder, Commercial Director of the Company.

In Paragraphs 9 and 10 of his affidavit, the witness has deposed to facts relating to Kailasa Gounder's meetings with the Food Minister and also the efforts made by Maruthai Pillai to seek relief for the Mills by representing their difficulties personally to the Food Minister. He also in these paragraphs states about the proceedings of the meetings of SISMA on 2-1-1970 and 17-1-1970 which were attended by the witness as a representative of Sakthi Sugars. The relevant part of paragraphs 9 and 10 may be extracted:

- “ 9. Sometime during the month of December, 1969 Late Shri Kailasa Gounder and Sri P. Maruthai Pillai, the President, met the Food Minister and apprised him of the grave situation and the serious predicament in which almost all the Sugar Mills in the State of Tamil Nadu were placed and requested him to solve the problems by issuing appropriate directions for the lifting of the levy sugar by the Government Nominees. Thereafter a Meeting of the South Indian Sugar Mills Association was held on 2-1-1970 at Madras. I attended the said Meeting along with Late Kailasa Gounder representing Messrs. Sakthi Sugars Limited and the other Members of the said Association were also present at the said Meeting. During the said Meeting Shri P. Maruthai Pillai, the President, informed the Members present that he had already met the Food Minister and apprised him of the serious situation. After protracted discussions and deep deliberation the Members present at the said Meeting finally resolved to suggest to the Food Minister that the Sugar Mills in the Private Sector in the State of Tamil Nadu should be permitted to sell as wholesalers the unlifted levy sugar by the Government Nominees to the dealers directly at the levy price. Further Sri P. Maruthai Pillai, the President, was authorised to represent to the Food Minister for and on behalf of the Association. The Minutes of the said Meeting were duly recorded.

“ 10. Thereafter on 17-1-1970, the Association held another Meeting and I attended the same representing Messrs. Sakthi Sugars Limited and other Members also were present. At the said Meeting Shri P. Maruthai Pillai, the President, informed the Members present that he met the Food Minister who also fully appreciated the grave and the serious situation confronting almost all the Sugar Mills in the Private Sector in the State of Tamil Nadu and gave an assurance that he would meet the Chief Minister on 19-1-1970 and take a final decision in the matter. Shri P. Maruthai Pillai, the President was authorised to further negotiate and finalise the matter. ”

In Paragraphs 11 and 12 of his affidavit, he has deposed to facts derived from late Kailasa Gounder with regard to his meeting with the Food Minister and the Chief Minister and the demand of bribe by the latter as a consideration for grant of the relief asked for by the Mills. His evidence in these paragraphs is crucial and may be extracted as under:—

“ 11. Thereafter *Late Kailasa Gounder who was very closely associated* with Shri P. Maruthai Pillai, the President, informed me that he along with Shri P. Maruthai Pillai made joint representations to the Food Minister and the Chief Minister and negotiated with them and requested the Government of Tamil Nadu to declare all the Sugar Mills as wholesalers so that the unlifted stock of levy sugar could be liquidated directly. ”

“ 12. After a few days, Late Shri Kailasa Gounder informed me that he along with Shri P. Maruthai Pillai, the President, met the Food Minister and the Chief Minister and requested them to declare all the Mills as wholesalers. However, the Food Minister and the Chief Minister insisted upon payment of Rs. 3 per bag of Sugar off-the-record to them and made it a condition precedent before appropriate directions and release orders could be issued. I was further informed by Late Kailasa Gounder that subsequent to the said demand made by the Food Minister and the Chief Minister, he along with several Members of the South Indian Sugar Mills Association met Shri P. Maruthai Pillai at his residence and held further discussions. ”

It will be seen that the evidence of this witness furnishes significant confirmation of the evidence of Maruthai Pillai on this point.

I shall again revert to the evidence of witnesses of this set to consider the contentions raised by Shri P. U. Shanmugham in his counter-affidavit in regard thereto. At this place it will be enough to say that the evidence of the witnesses of this set is *prima facie* trustworthy and provides ample corroboration of the testimony of Maruthai Pillai with regard to the demand of the gratification by the Food Minister and the Chief Minister and the arrangement proposed by them for raising the extra money to meet that demand.

(e) Kailasa Gounder—Whether A friend or stranger to respondent

The issue has arisen because, according to Maruthai Pillai, Kailasa Gounder was a close friend of S/Shri Karunanidhi and P. U. Shanmugham and enjoyed their full confidence, while Shri P. U. Shanmugham in his affidavit, extracted earlier, emphatically maintains that Kailasa Gounder was a “ total stranger ” to him. Shri Karunanidhi, in his counter-affidavit, has not gone to that extent. His position is that Kailasa Gounder was not his close-friend, but he does not deny his *acquaintance* with Kailasa Gounder.

The story deposed to by Maruthai Pillai, is that it was through their intimate friend, Kailasa Gounder, that the then Food Minister and the Chief Minister, first, put a feeler to him (Maruthai Pillai) indicating a demand of some cash payment to them as a condition precedent for the grant of the relief sought by the Mills; that it was Kailasa Gounder who had arranged the meeting of Maruthai Pillai with the Food Minister and the Chief Minister in the State Guest House, Madras and in that meeting, he also participated and assisted Maruthai Pillai in getting the demand of cash payment spelled out by the Food Minister and the Chief Minister, in more specific terms. Thus, Maruthai Pillai has attributed to Kailasa Gounder a key-role in bringing about this arrangement for extraction of the gratification by the said Minister and the Chief Minister.

If Shri Shanmugham’s contention, that Kailasa Gounder was a total stranger to him, is found to be correct, then it will cast a serious doubt on the truth of this part of the story propounded by

Maruthai Pillai, because normally, no one in the position of a Minister, would be so indiscreet or stupid as to talk about the extraction of an illegal gratification to an utter stranger. If on the other hand, it is found as a fact, from the other evidence on record, that Kailasa Gounder was well-known to Shri P.U. Shanmugham, and to his knowledge, was a bosom friend of his Chief, Shri Karunanidhi, then this circumstance, in effect, is bound to reinforce the credibility of Maruthai Pillai's testimony. With these remarks, keeping in view of the importance of the issue, I now proceed to examine the evidence relating thereto.

It has already been noticed that Maruthai Pillai, P. V. Viswanathan and N. Mahalingam all have stated that Kailasa Gounder was a "friend" or a "very close associate" of Shri M. Karunanidhi and Shri P. U. Shanmugham. Shri Vaithialingam's evidence also bears out the fact that Kailasa Gounder had very friendly relations with the witness and the then Chief Minister. I need not repeat their evidence.

I will notice here some other evidence which is of a more definitive character on this point. This evidence is furnished by P. Natarajan (CW 26), Chockalingam (CW 20), M. Somasundaram (20/1) and Meenakshisundaram (20/2). Chockalingam was examined before the Commission, also, as CW 20; while the other two were examined on interrogatories in answer to which they have filed affidavits, which for the sake of convenience have been marked as Ex. CW 20/1 and Ex. CW 20/2. Evidence of Sundaram Pillai and Jambulinga Mudaliar, also, has some bearing on this issue, but their evidence is not very positive. Similarly, P. Natarajan (CW 26), has stated that he had learnt in the first week of February 1970, from late Kailasa Gounder that he had met the Minister at Madras.

CHOCKALINGAM, C.W. 20.

Chockalingam, is a Film Distributor by profession. He belongs to Erode. He is a partner of the concern, Erode Pictures. Mrs. Maruthai Booshanam, wife of Kailasa Gounder is also a partner in this concern. The witness claims to know Shri Vaithialingam, Private Secretary to the former Chief Minister, Shri Karunanidhi. Vaithialingam's father-in-law also hails from Erode and he is an acquaintance of the witness. The evidence of Chockalingam is to the effect, that sometime in February 1970, Kailasa Gounder gave the witness two brief cases containing currency notes, together with the keys of the locks, with the direction that he should hand over those cases to Vaithialingam. Accordingly, the witness carried those brief cases, containing currency of lower denominations, and handed them over to Vaithialingam in the middle of February, 1970. In answer to a question, the witness replied that Vaithialingam while taking over the brief cases, just opened the brief cases, looked into their contents, but did not count the currency notes, therein. The witness could not say how much money was there in those brief-cases.

There is nothing on the record to show that the witness had any animus or motive to spin out a false story.

Sundaram Pillai and Jambulinga Mudaliar

Sundaram Pillai, partner of Ashoka Traders in his affidavit, states that he had paid money to Kailasa Gounder for securing wholesale dealership in sugar for the witness. Jambulinga Mudaliar, also, in his affidavit, speaks to the fact of Sundaram Pillai telling the witness about the arrangements for purchase of sugar bags and the demand of Rs. 30,000 made by Kailasa Gounder or passing on that money to the concerned Ministers for securing release orders.

The evidence of Chockalingam, Sundaram Pillai and Jambulinga Mudaliar does not directly relate to the specific charge under consideration. This alleged payment made by Kailasa Gounder through Chockalingam; to Vaithialingam is relevant only as a *collateral* fact relating to the charge under inquiry. That is to say, it is material only to show the intimate connections of Kailasa Gounder with the then Chief Minister, Shri Karunanidhi, and his Private Secretary, Vaithialingam.

Somasundaram and P. Meenakshisundaram are two police officers who, at the material time in 1969-1970, were on the security staff of Shri Karunanidhi, and as such, had special knowledge about the former Chief Minister's friends and acquaintances.

M. SOMASUNDARAM (W.20/1)

This witness was examined by the Investigating Officer whose services were being utilised by the Commission under Section 5-A, on 12-11-1976. At that time, the witness was an Inspector of Police posted in charge of the Control Room, Vellore. He was not under the administrative control of the Investigating Agency assisting the Commission. This statement was re-affirmed by him as true and voluntarily made in his affidavit, dated 31-7-1977, which he filed before the Commission in response to the interrogatories issued to him. It will be useful to extract the statement here in full:

"I was Security Officer to Thiru M. Karunanidhi, the then Chief Minister, from 12-8-1969 to 31-1-1976. There were two security officers in the rank of Inspector of Police to the former Chief Minister. I was one of the security officers doing duty on alternate days for 24 hours at a stretch. During the tours of the then Chief Minister, one of the two security officers would accompany him till the completion of the tour.

In as much as I was with him throughout I know the persons who called on him and moved with him and the place he visited.

I know Thiru N. Mahalingam, the industrialist visiting the then Chief Minister from 1969 onwards several times in his residence and conversing with him for long hours. The then Chief Minister has also visited the functions arranged by Thiru N. Mahalingam, one such function was at Pollachi in 1975. Thiru V. M. Kailasa Gounder has also participated in that function along with the then Chief Minister. Thiru N. Mahalingam, had come and garlanded the then Chief Minister every birth day of his and announced donations for the various schemes.

I have seen Thiru V. M. Kailasa Gounder meeting the then Chief Minister in his (then C. M.) residence from 1969. After some years then Chief Minister and Thiru V. M. Kailasa Gounder became very close. The then Chief Minister has visited many times. No. 10, Kasturi Iyengar Road, Madras where Mr. Kailasa Gounder was staying. I have accompanied the then Chief Minister several times to the above house standing within a big compound. There is an out house in that campus. There, in the upstairs of the out house the then Chief Minister used to play cards with Thiru Kailasa Gounder, his brother's sons Thiru Lakshmanaswamy Gounder and Thiru Muthukumarasamy Gounder, Thiru P. U. Shanmugham (then Minister), Thiru A. L. Srinivasan, Thiru Ramakrishnan (Indian Express) etc., in that house, with cash.

Thiru Kailasa Gounder used to meet the then Chief Minister often. The then Chief Minister and Thiru Kailasa Gounder used to exchange talks over the phone between themselves on various private as well as business matters."

Meenakshisundaram (W. 20/2)

This witness has, also, corroborated Somasundaram's account regarding the close association and friendly relations between Kailasa Gounder and the then Chief Minister. The evidence of Somasundaram and Meenakashisundaram cannot be brushed aside merely for the reason that they belong to the Police force. It is a matter of common knowledge that only those persons are posted on the security staff of a Chief Minister who are efficient and alert in their duties and can win the confidence of the Chief Minister. They have to follow closely the movements of the Chief Minister and to watch the activities of the persons who mix up or come in contact with him in official as well as in private life. The witnesses therefore were in a special position which gave them full occasion to know these facts. They were the best informed persons about the close and private relations of Kailsa Gounder and others with the Chief Minister and his cabinet colleagues, Shri Shanmugham.

The evidence of these witnesses to my mind is unblemished and entirely reliable. It unmistakably establishes that Kailsa Gounder was a close friend of the then Chief Minister, Shri Karunanidhi and the Food Minister, Shri P. U. Shanmugham. This being the case, Shri Shanmugham's stand erected on the false foundation, that Kailsa Gounder was a total stranger to him collapses.

(f) **Shri Shanmugham's statement to the Press on 4-2-1970**

In the issue of 'Hindu', Madras dated 5-2-1970, a new item was published wherein it was said that the then Food Minister had made a statement of policy which the Government was considering to adopt to deal with the problem of accumulated unlifted stocks of levy sugar with the Mills. The material part of this press statement may be extracted as under:

"The Union Government has agreed to revalidate the lapsed stocks of levy sugar allotted to Tamil Nadu, and the State Government has decided to lift the stocks in the sugar factories for distribution to the public.

Giving this information in an interview at Tiruvannamalai today, the Food Minister, Mr. P. U. Shanmugham said the Centre had agreed to revalidate about 9,000 tonnes of levy sugar that had accumulated in the factories. The State Government was constrained to lapse the quotas mainly because of the accumulation of stocks with it and the poor off-take consequent on the fall in the open market prices. The situation had slightly improved now, with the Government stocks dwindling from 12,000 to 3,000 tonnes. The Government had therefore decided now to lift the stocks not only to build a buffer but also for public distribution. The step was also intended to induce the sugar factories to commence the crushing which if postponed would have serious repercussions. The factories had also made *representations* to him in this connection.

The Minister said the Government was also *considering the question of allotting sugar quota to dealers other than authorised wholesalers, if they gave a guarantee to sell at Government price.....*"

There is reference to this news-item in the affidavit of Shri Diraviam. A clipping of this news-item from 'Hindu' was placed before Shri Diraviam, the then Food Secretary to the Government for official cognizance by his subordinate Officer. Shri Diraviam refused to take any action on it, on the ground that he was not aware of any such proposal under consideration of the Government. It cannot therefore be controverted that the statement extracted above, published in the 'Hindu' on 5-2-1970 was made by the then Food Minister on 4-2-1970 to the Press. It will be seen presently, that this statement constitutes an articulate link in the chain of events pertaining to the demand of the gratification under an arrangement proposed by the Minister and the Chief Minister and its acceptance by all the Mills.

A careful analysis of the evidence of Maruthai Pillai would show that this Press Statement was given by the Food Minister after he had come to know that all the 9 Mills who were members of SISMA were disposed to accept the arrangement dictated by the Minister and the Chief Minister regarding collection and payment of the gratification to them. It has already been seen that the informal meeting of the representatives of the Mills, in which Maruthai Pillai informed the Members about the demand of the gratification, was held on or about the 25th January, 1970. Maruthai Pillai has testified that "*two days thereafter*" i.e. on 27-1-1970, S. N. Lal telephoned to the witness that Mri H. V. R. Iyengar, Chairman of E.I.D. Parry Group did not agree to the proposal to pay the gratification. Therefore on the following day (which would work out to be 28-1-1970 approximately), Maruthai Pillai along with Kailasa Gounder and others went to the office of the E.I.D. Parry Ltd. and met S. N. Lal and J. S. Prabhu and requested them to persuade Shri H.V. R. Iyengar to fall in line with the other Mills in accepting the proposed arrangement for collecting extra amounts off-the-record from the purchasing dealers for passing on to the Ministers. What followed further may be described in Maruthai Pillai's own words:

"*After a few days, Mr. Lal told me on the telephone that with great reluctance, Mr. Iyengar, Chairman of E.I.D. Parry, had agreed to this proposal of collecting Rs. 3 per bag, from the wholesalers and passing it on to be paid to the Chief Minister. When Mr. Lal also conveyed their agreement, myself and Mr. Kailasa Gounder met the Food Minister and informed him that we were all agreeable to pay this amount of Rs. 3 per bag as demanded by him and the Chief Minister. Mr. Shanmugham told me to bring applications (from the Mills) for release of sugar.*"

(Vide page 16 of his deposition, dated 1-11-1976 as C.W. 14).

It may be noted that Maruthai Pillai has used the words 'after a few days'. This span of 'few days' cannot be understood as covering a period of more than a week. Obviously, it means

a period of some days less than a week. If he meant otherwise, he would have used the words "after a few weeks" or "after a week or so". This interpretation of the phrase "after a few days" receives confirmation from what S.N. Lal had broadly said about the chronicle of these events. According to S. N. Lal, he informed Shri H. V. R. Iyengar, on the day following the informal meeting at Maruthai Pillai's house and Shri H. V. R. Iyengar's refusal to join the other Mills in making clandestine payments off-the-record. S. N. Lal conveyed this refusal on telephone to Maruthai Pillai. "Three or 4 days thereafter"—according to his affidavit "2 or 3 days after" that—Maruthai Pillai accompanied by Kailasa Gounder, Mudaliar and D. C. Kothari came to his office and requested him and J. S. Prabhu to persuade and bring Shri Iyengar in line with them. Thus the date of this event—"two" "three" or "four" days "thereafter"—according to S. N. Lal would work out to be 28th or 29th or 30th of January, 1970. So far, this almost tallies with the date of this event spelled out from Maruthai Pillai's evidence. According to S. N. Lal, shortly after the visit of Maruthai Pillai to the office of E.I.D. Parry, he and J. S. Prabhu went to Shri H. V. R. Iyengar and explained to and discussed with him the entire arrangement proposed for collecting and raising the "extra money", "off-the-record", for payment to the Ministers. H. V. R. Iyengar then reluctantly agreed to the same. S. N. Lal has made it clear that Maruthai Pillai and his companions did not accompany him to Shri H. V. R. Iyengar or discuss the matter personally with him. S. N. Lal has stated that "thereafter" he informed Maruthai Pillai "that they were prepared to agree to the arrangements proposed" and requested him "to take further steps in the matter of declaring the Mills as wholesalers" (vide, page 12 of his deposition as CW 16 and paragraph 15 of his affidavit, dt. 28-6-1976).

The word "thereafter" used by S. N. Lal in the context of his preceding discussion with Shri Iyengar, clearly indicates that he had communicated the reluctantly given consent of Shri H.V.R. Iyengar to Maruthai Pillai on the 29th or 30th of January, itself. According to Maruthai Pillai, as already noticed, he did not delay thereafter to meet and inform the Minister that all the Mills had agreed to accept the arrangement to collect and pay at the rate of Rs. 3 per bag on the released levy sugar to be sold by the Mills.

It follows as a necessary corollary from the sequence and concatenation of events emerging from a conjoint reading of the evidence of Maruthai Pillai and S. N. Lal, that the Minister, Shri P. U. Shanmugham, gave this Press Statement on 4-2-1970, only when he was assured and informed by Maruthai Pillai that all the 9 Mills had agreed to collect the "extra" money, off-the-record, at the rate of Rs. 3 per bag on the released levy sugar to be sold by them as wholesalers. Thus, this *information* about the agreement of all the 9 Mills to the arrangement imposed by the Minister and the Chief Minister and the issue of the *Press Statement* dated 4-2-1970, were intimately connected, as *cause and effect* and as such this Press Statement constitutes a tell-tale link in the chain of circumstantial evidence which further strengthens the creditability of Maruthai Pillai's evidence. The motive force behind this statement was the promise extorted from the Mills for payment of gratification as a consideration for releasing the levy sugar in favour of the Mills to be sold by them as wholesalers in the open market.

It is further in the evidence of Maruthai Pillai that when he gave this information to the Minister, the latter told him that he should bring applications from the Mills for appointment as wholesalers of levy sugar. Maruthai Pillai, thereafter, appears to have asked the various Mills, sometime after the issue of the Press Statement by the Minister, to make over their applications to him in a set form for the purpose. On this point, Maruthai Pillai's evidence receives assurance from the circumstance, that on the very day this statement of the Minister was published in 'Hindu', SISMA circulated a clipping of that news-item to all the nine Mills for information, and a copy of that SISMA circular was sent by PARRY & CO. LTD. along with their letter, dated 5-2-1970, to the Commissioner of Civil Supplies, Madras, requesting, on the basis of that Statement, that the addressee should take delivery of January/February 1970, allotments without delay (see pages 25 and 26 of the official File (Ex. CW 32/22, D.Dis E3/3080/70(SS), Dated 10-8-1970).

It seems that even after receiving this information from Maruthai Pillai before or about the issue of Press Statement that all the Mills had agreed to the proposed arrangement, the Minister Shri P. U. Shanmugham, did not say that the Government had taken a *decision* to allot sugar quota to dealers other than authorised dealers. He simply said that the factories had made representations to him in this connection meaning thereby that they had represented for being appointed as wholesalers of levy sugar and that the Government was "*considering*" the same. He did not

categorically say that the Government had decided to accept the representations of the Mills for allotment of levy sugar to be sold by them as wholesalers. It seems that he deliberately remained non-committal in this Press Statement because by that time he was not, despite the information given to that effect by Maruthai Pillai, cent per cent sure about the attitude of E.I.D. Parry Group of Sugar Mills. That was why he directed Maruthai Pillai to get the applications from all the Mills for appointment as wholesalers. The first batch of applications by the 3 mills was handed over to the Minister personally by Maruthai Pillai on 7-2-1970.

I will discuss later the implications of not promptly passing orders on the first batch of these applications but keeping them with him, by the Minister till 16-2-1970. All that may be observed at this place, is, that he did not commit himself specifically or make any order appointing any Mill as wholesaler till 16-2-1970 because he wanted to be doubly sure about the attitude of the Mills in the E.I.D. Group. Such irrevocable assurance could be had only from the applications of the Sugar Mills in the E.I.D. Parry Group for appointment as wholesalers. This explains his non-committal attitude in his Press Statement and his deferment of the orders on the first batch of applications received by him personally from Maruthai Pillai.

Another point worthy of note in this Press Statement is, that it speaks of "representations" made by the Mills to the Minister. The word "representation" has been used in plural. The official records available in the Department of Commissioner of Civil Supplies, do not show that any written representation was made by the Mills to the Minister prior to the application-cum-representations handed over to the Minister, directly by Maruthai Pillai on 7-2-1970. Even the letter, dated 8-1-1970, which the Vice-President of SISMA wrote to the Food Minister, does not appear to have been received or dealt with in the Secretariat by the Departmental Officers. The presumption is that that was also not handed down by the Minister. This being the position what kind of 'representations' were those about which Shri P. U. Shanmugham had spoken in his Press Statement dated 4-2-1970? The only reasonable inference is that they must be the *verbal* representations having a proximate nexus with the Minister's Press Statement. This also lends inferential assurance to the testimony of Maruthai Pillai, that he had as President of SISMA, represented to the Minister and the Chief Minister, particularly at his meeting with them in the State Guest House, Chepauk, Madras, on or about 25-1-1970; and then thereafter, a day or two before the issue of the Press Statement.

(ii) Representations by the Mills—Extraordinary conduct of the Minister in regard thereto

(a) *Representations*: For a proper perspective, it may be recalled that in the SISMA meeting held on 2-1-1970, Maruthai Pillai informed the Members that he had met the Food Minister for seeking a solution to their problem. At this meeting, Maruthai Pillai was requested by the Members to meet the Food Minister concerned, again, to pursue the matter further. Thereafter, Maruthai Pillai and Gounder met the Food Minister on 6-1-1970 at Trichy. This was followed by the letter, dated 8-1-1970, of the Association addressed to the Minister. Then, at the SISMA meeting held on 17-1-1970, the first item on the agenda was "Non-lifting of levy sugar". At this meeting, Maruthai Pillai reported the result of his earlier meetings with the Food Minister who appeared to appreciate the difficulties of the Mills and said that he would be meeting the Chief Minister on the 19th January, 1970 to decide regarding the action to be taken for clearance of the accumulated stocks. The SISMA at this meeting authorised its President, Maruthai Pillai, to pursue the matter and advise the Members about the progress.

All these facts are borne out by the evidence of Maruthai Pillai and others, and also by SISMA Records.

The next meeting of SISMA was held on 5-2-1970. SISMA records concerning this meeting show that there was no item on the agenda relating to the non-lifting of levy sugar stocks. Although the minutes of the meeting held on 17-1-1970 were confirmed, there is no note that Maruthai Pillai had reported about the progress of his efforts with the Ministers with regard to the clearance of the accumulated stocks. The non-mention of these facts in the minutes of the meeting appears to be deliberate. These omissions from the minutes find their explanation in the fact that sometime before the 5th February, 1970 an agreement had been arrived at and finalised between Maruthai Pillai and the Minister in regard to the clearance of the unlifted stocks, and instead of bringing the same on record, Maruthai Pillai appears to have conveyed, what happened during the interval between the two meetings of SISMA, to the Members at some informal meeting.

As already discussed, it can be spelled out with sufficient probability from evidence of Maruthai Pillai read along with that of S. N. Lal, Vaithialingam and others that the demand of the gratification *in more specific terms* was conveyed by the Minister and the Food Minister to Maruthai Pillai and Kailasa Gounder in the State Guest House, Madras on or about the 25th of January, 1970, forenoon, and on the same day, in the afternoon, Maruthai Pillai communicated that information in the informal meeting held at his house.

It is further in evidence that at Maruthai Pillai's meeting with the Food Minister, towards the end of December 1969, the Minister had asked him to make a "report" (representation) about the problem of the Mills to him (Minister). Accordingly, SISMA under the signature of its Vice-Chairman sent the letter, dated 8-1-1970 (Ex. CW 14/13) to the Food Minister, Shri Shanmugham. This letter does not appear to have been sent by the Minister to the Secretariat for examination by the officials concerned. It will be not unreasonable, therefore, to presume that the Minister kept that letter also to himself. No other written representation appears to have been made by the Mills to the Minister or the Chief Minister till 7-2-1970.

Indeed, Shri Ramchander who took over as Food Secretary-cum-Commissioner of Civil Supplies, on 11-2-1970, has affirmed in his affidavit: "There are no papers indicating that any such representation had been made in writing earlier or relating to any discussions on the problems, referred to in the files made available now."

In the beginning of February, 1970 when Maruthai Pillai met the Minister and informed the latter that all the Mills had agreed to make payments to the Ministers for the issue of sugar release orders, the Minister asked Maruthai Pillai to bring applications from the Mills requesting the Government to appoint them as wholesalers for selling levy sugar to the dealers directly.

Maruthai Pillai has stated that accordingly, thereafter, the witness directed his Secretary to prepare a draft application-cum-representation, "explaining the problem that the Mills were facing owing to the non-lifting of levy sugar by the wholesale nominees of the State Government," and requesting the Government to appoint the Mills as wholesalers with permission to sell the allotted levy sugar directly to the dealers. The Secretary prepared the draft, accordingly. Maruthai Pillai approved the draft, got its copies typed in the Office of his Company (Aruna Sugars) and sent those copies to all the nine Mills for making identical applications in the same form, to the Minister. Maruthai Pillai has further stated that after receiving these applications, the Minister did not forthwith pass any orders thereon but—to quote his words—

" 24. . . . I and Thiru Kailasa Gounder. . . . conveyed the consent of all the Mills to the Minister to make the payments for the issue of such orders. Thereafter I was asked by Thiru Shanmugham to sent applications. . . I remember that one set of such representations was given to Thiru P.U. Shanmugham sometime in the first week of February 1970. It was a stereotype of representation given to Thiru Shanmugham. This matter was kept pending by Thiru Shanmugham himself at the Secretariat. After 3 or 4 days, myself and Thiru Kailasa Gounder again met the Chief Minister and Thiru Shanmugham at the Secretariat and requested them to expedite the issue of orders as released quota was about to be lapsed."

" 25. Meanwhile, the Mills also individually were sending requests to Commissioner of Civil Supplies and Government to issue allotment orders to nominees to lift lapsing levy sugar:

" 26. Thereafter, Thiru P. U. Shanmugham directed me to see the Secretary, Thiru Ramchander, for further action in the matter. . . . When I met Thiru Ramchander, he informed me that he had received instructions from Thiru P. U. Shanmugham and he was directed by the Minister to arrange to issue orders declaring the Mills as wholesalers and he assured that the orders would be issued shortly. It was in the middle of February 1970, Release Orders were first issued to the following mills releasing the various quantities of levy sugar to be sold as wholesalers by the mills:

1. Sakthi Sugars Ltd.
2. Aruna Sugars Ltd.
3. Thiru Arooran Sugars Ltd.

4. Kothari Sugars and Chemicals Ltd.

5. South India Steels and Sugars Ltd.”

Before the Commission, also, he has reiterated the substance of the same statement. In his deposition, dated 1-11-1976, Maruthai Pillai has stated that “a few days after” the handing over of the first five applications to the Minister, he learnt that the other Mills had also sent their applications in the same form to the Food Minister. Thereupon, “sometime in the second week of February, 1970”, the witness met the Minister and requested him to pass the necessary orders. Then the Minister told him—to quote Pillai’s own words—“that I can meet the then Food Secretary, Mr. Ramchander and that he had already communicated instructions on this. I then met Mr. Ramchandrar and he told me that he had received the Minister’s instructions, and that the necessary orders would be issued shortly”. Maruthai Pillai has further stated that “a few days thereafter” on 16th February 1970, they (the five sugar mills, Aruna Sugars, Sakthi Sugars, Thiru Arooran Sugars, Kothari Sugars and South India Steels and Sugars), were appointed as wholesalers and orders to that effect and also orders releasing the quantities of levy sugar mentioned in the release orders, were received by them.

In his counter-affidavit, dated 19-9-1976, replying to the allegations in Paragraphs 26 and 27 of Maruthai Pillai’s affidavit dated 7-7-1976, Shri P.U. Shanmugham has commented:

“10. The allegations in para 26 are not true. Thiru P. Maruthai Pillai says that on his representations to me I directed him to meet Thiru Ramchander. Thiru Maruthai Pillai further says that Thiru Ramchander told him that he had received instructions from me to arrange for the issue of orders declaring the mills as wholesalers. This meeting could not have taken place before 18-2-1970. It will be seen from the files No. 26 D.Dis/4966/70, page 3) that the earliest order was passed on 16-2-70 and it was given effect to almost immediately because the revalidated date was due to lapse on 21-2-1970. Thiru Ramchander took charge as Secretary, Food Department, on 11-2-1970. The release orders had already been issued in favour of the following mills on 16-2-1970.

South India Sugars.

Aruna Sugars.

Sakthi Sugars.

Arooran Sugars.

Kothari Sugars.

Therefore the averments contained in paragraph 26 relating to the alleged meeting between Thiru Maruthai Pillai and Thiru Ramachander which could be only on 18-2-1970 or thereafter and the latter’s assurance that orders will be issued shortly most obviously be false.”

“11. I deny the allegations in paragraph 27 that when the orders were received, Thiru P. Maruthai Pillai and Thiru Kailasa Gounder met me in the middle of February 1970 and assured me to collect the amounts from the various mills and pay them over to me. This statement is inconsistent with the allegation in paragraph 26 that Thiru Maruthai Pillai met Thiru Ramchander, Secretary to the Food Department and that the latter promised to issue orders only on or after 18-2-1970. But the files will disclose that orders were passed on 16-2-1970. If this statement is true, orders must have been issued only after 18-2-1970. As and when applications were received from the Mills in February—March 1970, orders were passed only by the Food Secretary and I had nothing to do with it. After 11-3-1970 the C.C.S. alone passed the orders.”

In his Rejoinder dated 5-11-1976 to Shri Shanmugham’s counter-affidavit, Shri Maruthai Pillai has stated:

“12. The allegations in paragraph 10 of the affidavit under reply are denied as incorrect. Sri Ramachander took charge on 11-2-1970 as Secretary, Food Department and

some time before 16th I met him when he informed me that he had received instructions from Sri P. U. Shanmugham. It is incorrect to allege that my meeting with Sri Ramchander could only be on 18-2-1970 or thereafter."

- " 13. The allegations in paragraph 11 of the affidavit under reply are denied as incorrect. After Sri P. U. Shanmugham passed orders on 16-2-1970, on the applications presented to him, in person, myself and Sri Kailasa Gounder met Sri P. U. Shanmugham thanked him and assured him of the collections.
- " 14. I further submit that it is not correct to say that subsequent release orders after 11-3-1970 were issued by the Commissioner of Civil Supplies, on his own. It was done only on instructions from the Food Minister, and these instructions were issued by the Food Minister only after his getting confirmation of the receipt of the payment by the Chief Minister."

The portions of the affidavit of the then Food Secretary Ramchander bearing on the matters reproduced above from the affidavit of S/Shri Maruthai Pillai and P. U. Shanmugham may also be extracted:

- " 8. I took charge as Secretary, Food Department and Commissioner of Civil Supplies on 11-2-1970 and I left for Delhi on 15-2-1970. During this period there was no occasion when I was made aware of the discussions with the Sugar Mills by the Minister. The decision to release the stocks in favour of the five Mills had been communicated to the Deputy Commissioner of Civil Supplies on 16-2-1970 by the Minister for Food, as seen from a note recorded by the Deputy Commissioner dated 18-2-1970. In that note, he had also mentioned that since the quotas were to lapse on 21-2-1970, the stocks have to be released without waiting for formalities like execution of agreement etc. and that conditions duly approved by the Minister were incorporated in the orders issued by him. This note was seen by me on 19-2-1970 and I had recorded that one more Private Mill had applied for such permission and that had been granted under date 19-2-1970. The Deputy Commissioner of Civil Supplies had also in a further note dated 18-2-1970, recorded that he had been orally informed of the Government Orders to appoint Messrs. Pugalur and Cauveri Sugar Mills on the above lines . . . and . . . the orders were issued that evening (18-2-1970). The Orders issued by the Deputy Commissioner communicating the note of the Minister dated 16-2-1970 has not been put up to me for perusal in the Secretariat on my return from tour.
9.
10. On my return from Delhi, I had received a note signed by the Minister, dated 17-2-1970, indicating that to avoid lapsing of the allotments and also to avoid financial difficulties to the Sugar Mills who have been representing . . . it will be desirable to accept the offer of the Sugar factories to act as wholesalers of the Government in respect of levy Sugar . . .
12. . . . With reference to the general policy indicated by the Minister in his note dated 17-2-1970 I had endorsed on the applications from Messrs. Madura Sugars Ltd. that January-February quota may be released as in the case of other Mills.
13. On 10-3-1970, I have recorded a note that the Food Minister desired that the quota of levy sugar available for February-March 1970 with all the nine Sugar Mills in the Private Sector may be released as done earlier for sale and that the allotment made on the Co-operative Mills may be retained for the present against the requirements for distribution through the Government. This note with a note on action thereon had been seen by the Minister for Food on 19-3-1970. . .
14. In a note dated 31-3-1970 recorded in the File dealing with the revision of ex-factory price for 1969-70 production and also revision of Excise Duty, I have noted that I had discussed the matter with the representative of sugar Mills on the instructions of the then Food Minister, Shri P. U. Shanmugham.

8. From April onwards . . . I always consulted the then Minister for Food, Shri P. U Shanmugham, before release of the allotments in favour of the Mills. On some occasions, the Minister asked me to hold up the allotments in which case the allotment was released later after getting this clearance . . .”

It will be seen from Ramchander's statement, extracted above, that he was in Madras on the 11th, 12th, 13th, 14th and 15th February till his departure for Delhi, and he appears to have returned to Madras on the 17th or 18th February, 1970—a date which cannot be ascertained with more precision from his statement. Maruthai Pillai therefore could meet Ramchander at Madras during the period from 11-2-1970 to 15-2-1970. Indeed, this is what Maruthai Pillai's version is. He has stated that he met the Minister in the middle of February to request him to pass the necessary orders on the first lot of applications that had been handed over to the Minister by the witness himself on 7-2-1970, and, on this occasion, the Minister asked him to see Ramchander; accordingly, the witness met Ramchander. While Ramchander does not specifically say that Maruthai Pillai never met him in February, 1970, he does not support Maruthai Pillai in as much as the latter has stated that he had met Ramchander on some date between 11-2-1970 and 15-2-1970 in connection with the applications submitted by the Mills to the Minister for appointment as wholesalers in respect of levy sugar. Ramchander's version that “during this period there was no occasion when (he) was made aware of the discussions with the Sugar Mills by the Minister”, discounts, by implication, the statement of Maruthai Pillai on this point.

This discrepancy between the statements of Maruthai Pillai and Ramchander appears to be due to a lapse of memory, probably on the part of Maruthai Pillai. May be, Maruthai Pillai is mistaking ‘Ramchander’ for A. M. Swaminathan, who, as will be presently seen, was verbally instructed by the Minister to issue orders immediately appointing the 5 Mills as wholesalers and was then given a written note, dated 16-2-1970, for immediate implementation.

Be that as it may, the question whether or not, Maruthai Pillai met Ramchander during the period from 11-2-1970 to 15-2-1970, is one of an immaterial detail which hardly affects the main fabric of Maruthai Pillai's testimony. Assuming that this version given by Maruthai Pillai with regard to the factum and the date of his meeting with Ramchander, is incorrect, then also, it does not falsify his evidence on the point that he had met the Minister about the middle of February, 1970 and urged him to expedite orders on the applications which he had submitted to the Minister on 7-2-1970. It will be presently seen, how the truth of Maruthai Pillai's evidence relating to such a meeting with the Minister receives assurance from the concomitant circumstances and the probabilities of the case. Indeed, it would be a strange logic to hold that since the witness has erred on some minor matter of detail, the whole body of his testimony should be rejected. Such an irrational argument stems from the maxim, *falsus in uno falsus in omnibus*, which has long been consigned to the archives of legal fossils and exploded myths by modern jurists and courts, alike.

Neither the temerarious denial, nor the overstretched argument conjured up from an inconsequential aberration in Maruthai Pillai's evidence by P. U. Shanmugham, furnishes an answer to the plethora of vital questions that stand out from the record in stark confrontation to the Respondents. The factual premises of some of these questions are adumbrated in Maruthai Pillai's affidavit, dated 7-7-1976, while the others, equally crucial, have been posed by the facts patent on the face of the official records which were duly inspected by the Respondents, well before they filed their last counter-affidavits. The facts stated by the officials viz., Diraviam, Ramchander, Swaminathan, Thangaraju etc. in their statements recorded during investigation under s. 5-A, further reinforce the factual premises of those questions. These officials subsequently filed affidavits in October 1976, in response to the notices issued by the Commission. In those affidavits they have reaffirmed their earlier statements, also. The Respondents inspected the investigation report including the statements recorded by the Investigating Officers and the documentary evidence collected by them and took verbatim notes thereof well before they filed their further affidavits in September, 1976. But, even in their further affidavits, the Respondents have stated nothing substantial in rebuttal of the facts alleged in the statements under s.5-A, amounting to an imputation of deviant conduct against the Respondents, on the specious ground that the order for investigation was itself illegal, and, as a result, all the evidential material collected by the Investigating Officers was vitiated and could not be used for any purpose whatever by the Commission.

This objection was found to be untenable and was rejected. Nevertheless, they confined their comments and replies in their further counter-affidavits to the allegations made in the affidavits of Maruthai Pillai and others which were filed in response to the notices/notification issued by the Commission under r.5(2).

It appears to me that the Respondents could ignore to answer, only at their own peril, the vital questions posed by the facts apparent on the face of the official records. Some of these questions are: Why did the former Minister Shri P. U. Shanmugham, and the Chief Minister, Shri M. Karunanidhi, make an abrupt and obtrusive departure from the National Sugar Policy settled by the Government of India, in appointing the Sugar Mills in the State, wholesalers of the levy sugar allotted to the State, without prior consultation with the Government of India? Why no attempt was made by the Respondents to discuss the possible solutions of the problem of the Sugar Mills created by the unlifted stocks of levy sugar, with the existing wholesalers, the District Collectors etc.? Why did the Minister, Shri P. U. Shanmugham, not hand over the representation by SISMA in their letter, dated 8-2-1970, addressed to him for appointment of the Mills as wholesalers, to the Secretariat or the Departmental Officers for examination and comments? Why did he not get the first set of representations-cum-applications, dated 7-2-1970, from the Sugar Mills, handed over to him by Maruthai Pillai, examined by any of the bureaucrats and technocrats of the Department concerned, in such an important matter involving a major change of Sugar Control Policy? Why did he not, on receiving the various verbal representations, from the representatives of the Mills—a fact admitted by him—get the subject matter of those representations examined in accordance with the time tested norms of official practice and prudence? Why did he not take the high Officers of the Secretariat into confidence and invite them to participate in discussions which he admittedly had with the representatives of the Mills to consider the proposal for appointing them as wholesalers of levy sugar? Why did he keep the first set of representations-cum-applications of the Mills, personally given to him by Maruthai Pillai on 7-2-1970, pending with himself till 16-2-1970 and delay the passing of the orders thereon for 8 or 9 days? Why did he not get the 'representations' of the Factories referred to by him in his statement to the Press on 4-2-1970, examined in accordance with the established procedure by the concerned officials of his Department? Why was Shri Diraviam abruptly transferred from the post of Food Secretary to Government? How is it that the date on which the Food Minister received the first set of applications from the Sugar Mills for appointment as wholesalers, synchronises with the date of Diraviam's transfer order? Why did he not send any reply whatever to the charge of receiving a bribe of Rs. 5 lakhs by the "Madras Minister" for appointing wholesalers of levy sugar which was specifically made in the complaint sent by the Central Government to the State Government for comments? Why were the suggestions made by the Central Government for taking written agreements in the forms suggested by it together with the security of Rs. 5,000 from the Mills not accepted and implemented? Why, were the Sugar Mills who were appointed as wholesalers permitted to sell levy sugar even to bulk consumers such as Halwais etc. in contravention of the Sugar Policy and the Public Distribution System devised by the Central Government in consultation with the State Governments? Why no check was kept on the sales of levy sugar by the Sugar Mills appointed as wholesalers to ensure whether or not they were abiding by the nominal conditions imposed on them under the orders of their appointment passed by the then Minister?

These are some of the questions which were staring the Respondents right in the face and which have not been satisfactorily answered or squarely met by them in their counter-affidavits. On the contrary, Shri Shanmugham has tried to deny even those facts which are patent on the face of the official record or have been indubitably established by other reliable evidence on record.

For finding correct answers to these questions posed, it is necessary to have a correct, and straight picture of their factual premises and features, appearing in the evidence on the record.

The first point that falls to be determined in this connection is: Did Maruthai Pillai on 7-2-1970 hand over any 'set' of applications from the Mills to the Minister, Shri P. U. Shanmugham? If so, which were the applications comprised in that 'set'? Shri P. U. Shanmugham has plainly denied that a set of applications from the Mills for appointment as wholesalers was handed over

to him by Maruthai Pillai on 7-2-1970, although he has admitted that Maruthai Pillai, as a representative of the Mills had been meeting him to seek a solution of the problem created by the accumulating stocks of unlifted levy sugar. It has been noticed that Maruthai Pillai in his Rejoinder-Affidavit, dated 5-11-1976, as extracted above, reiterated that he had presented one "set" of such applications personally to the Minister, Shri P. U. Shanmugham on 7-2-1970, and "that this fact was borne out by the applications themselves", implying thereby that those applications which bear the date '7-2-1970' constitute that "set" of applications which were presented by him on 7-2-1970. Before the Commission, however, Maruthai Pillai stated:

"As a first batch personally, I went and handed over the applications of five Factories to Mr. Shanmugham, *i.e.* those of Aruna Sugars, Sakthi Sugars Limited, Kothari Sugars Limited, Thiru Arooran Sugars, South India Steel & Sugars Ltd."

There, he did not in this context, mention the date of handing over of these applications to the Minister. He however, referred to the applications, Ex. CW. 14/1 to Ex. CW 14/5, in this connection.

A perusal of these applications would show that only *three* of them, namely, (i) the application, Ex. CW 14/1, of Aruna Sugars, (of which Maruthai Pillai was himself the Managing Director), (ii) the application, Ex. CW 14/2, of Sakthi Sugars, and (iii) the application, Ex. CW. 14/5, of South India Steel & Sugars, bear the date '7-2-1970'. The application, Ex. CW. 14/3, of Thiru Arooran Sugars, bears no date. But it appears from the affidavit of V. S. T. Mudaliar, Chairman and Managing Director of Thiru Arooran Sugars, that this application was sent by that Mill on 8-2-1970. Therefore, it could not have been presented on 7-2-1970. The application, Ex. CW. 14/4, from Kothari Sugars, bears the date '11-2-1970'. It is clear from the evidence of CW 18, T. L. Raghavan that this application of their Mill (Kothari Sugars) was sent on 13-2-1970 to Maruthai Pillai for presentation to the Food Minister. This means that these two applications (Ex. CW 14/3 and Ex. CW 14/4) could not be a part of that set of applications which, according to Maruthai Pillai, were handed over to the Minister on 7-2-1970. The correct position seems to be that only three applications, (Ex. CW 14/1, Ex. CW 14/2 and Ex. CW 14/5, of Aruna Sugars, Sakthi Sugars and South India Steel and Sugars) which bear the date '7-2-1970,' were handed over in one lot by Maruthai Pillai to the then Minister, Shri P. U. Shanmugham. Indeed, this is the position of Maruthai Pillai in his Rejoinder-Affidavit.

Another fact that can be inferred from the other evidence on record, is that the other two applications,—Ex. CW 14/3, of Arooran Sugars, and Ex. CW 14/4, of Kothari Sugars, also, appear to have been routed to the Food Minister through Maruthai Pillai. With regard to the application of Kothari Sugars, the evidence of their Manager, T. L. Raghavan is positive enough to show that it was sent through Maruthai Pillai to the Minister. As regards the application, Ex. CW 14/3, of Thiru Arooran Sugars, the evidence is not very categorical as to the mode by which it was sent to the Minister. But the surrounding circumstances and the general evidence rendered by V. S. Thyagaraja Mudaliar, the Chairman of the Company, raise an inference that in all probability, this application, Ex. CW. 14/3, was also given to Maruthai Pillai on or about the 8th February 1970 for submission to the Minister. This application does not bear any date-seal or initials of the Minister or any other official to show that it was received by post or on such and such date. This negative circumstance is a common feature of all these five applications. On the other hand, in the case of applications, dated 13-2-1970, from the Mills of E.I.D. Parry Group, which were received by post, there is the date-seal of the Minister showing '14-2-1970' as the date of the receipt. V. S. Thyagaraja Mudaliar does not say that the application, Ex. CW 14/3, was sent by them by post or by messenger. But he does state that Maruthai Pillai, being the President of their Association, was authorised by all the nine Mills to pursue this matter with the Minister. It will therefore be not unreasonable to presume that this application was also sent through Maruthai Pillai, to the Minister.

The contents of all these five applications are almost identical. They are all of the same pattern and conform to the draft that had been circulated by Maruthai Pillai to all the nine Mills in the First week of February 1970. This circumstance further strengthens the inference that this application of Thiru Arooran Sugars, also, was routed to the Minister through Maruthai Pillai.

From a conjoint reading of the several statements made by Maruthai Pillai in this Inquiry, the correct position that emerges, is, that on 7-2-1970, Maruthai Pillai personally handed over to the Minister the *three* applications, Ex. CW 14/1, from Aruna Sugars, Ex. CW 14/2 from Sakthi Sugars, and Ex. CW 14/5, from South India Steel and Sugars, in one lot, on 7-2-1970, and the other *two* applications, Exs. CW 14/3 and CW 14/4, from Thiru Arooran Sugars and Kothari Sugars, *subsequently*, probably on the 14th February, 1970 when he, along with Kailasa Gounder, met the Minister to press for an early issue of the orders on the applications previously submitted.

Thus considered, there is no real conflict between what Maruthai Pillai has stated in his affidavits and What he has said in his deposition before the Commission. What appears to be a discrepancy on this point in his statements is the result of confusion about recollection of details. This confusion lies in recalling the fact whether all these five applications were handed over to the Minister, in one lot, on one date, or in two lots on different dates. This confusion can be easily resolved by carefully reading together all the statements made by Maruthai Pillai from time to time with reference to the dates, if any, borne by these applications and the evidence of the concerned witnesses, such as, T. L. Raghavan, V. S. Thyagaraja Mudaliar, etc.

It may be noted that the contents of all these five applications-cum-representations (Ex. CW 14/1 to Ex. CW 14/5) are almost identical. These applications all start with the preamble: "The Representatives of the SISMA have been discussing with your good self the problems faced by the factories, by the State Government not lifting the levy sugar (70% of the production) for the past few months, thus creating great anxiety to the factories". The striking similarity of the style and contents of these applications is eloquent enough to indicate that they were submitted in furtherance of a common design which had emerged from the discussions which the representatives of the SISMA had been having with the then Food Minister. The identical contents of these applications thus, furnish inferential corroboration of Maruthai Pillai's evidence that he and Kailasa Gounder had been discussing this problem with Shri P. U. Shanmugham and these identically worded, stereotyped applications were submitted in accordance with the verbal instructions of the Minister after the latter had been informed by Maruthai Pillai that all the nine Mills had agreed to collect and pay Rs. 3 per bag on sales of levy sugar, as demanded by the Minister and the Chief Minister.

Shri P. U. Shanmugham did not entrust these applications/Representations to the Departmental officials for examination and comments, nor otherwise took them into confidence. Everything relating to these representations was done in a hush—hush manner. He retained these applications for several days with him, even without putting thereon a date or his date—seal, showing the date or dates of their receipts. It was on 16-2-1970 a day or two after Maruthai Pillai met him again and requested for expediting the matter, that he wrote this order on the application of Kothari Sugars:

"Declare this Factory as wholesaler. Take an undertaking from them that they will not sell more than the levy sugar rate to the consumers. Re. 1 may be charged as administrative charges."

On the application of Sakthi Sugars, also the Minister himself, minuted:

"Please see the orders passed on Kothari Sugars." He then sent a Note—which has been extracted earlier—to the Secretary, Food, on the same date, directing the latter to declare the five Sugar Mills mentioned therein as "whole-sale-cum-retailers" after taking from them an undertaking not to sell the sugar at a rate higher than the levy rate fixed by the Government. This note further directed the Secretary to allot the entire sugar that was likely to lapse on 21-2-1970 to these five Mills and to collect from them administrative charges at Re. 1 (per bag).

It is noteworthy that in an important matter like this involving a major change of policy, the order emanated directly from the Minister. The Secretariat officers concerned, who were supposed to have expert knowledge of the technical aspects and implications and impact of this action on the sugar policy settled by the Government of India, were given no opportunity to examine the applications/representations of the Mills. Even the Government of India was not consulted, although in the matter of sugar policy, the State Government were expected to act

strictly in accordance with the instructions issued from time to time by the Government of India. Even as a matter of good sense and cooperation, the State Government were not supposed to deviate from the policy laid down by the Government of India without prior consultation with them.

It is further evident from the relevant official record that similar applications, dated 13-2-1970, from the Mills in the E.I.D. Parry Group, addressed to the Minister, Shri P. U. Shanmugham, were received by him on 14-2-1970. This interval between the dates of the receipt of the first set of applications from the three Mills and those belonging to the E.I.D. Parry Group, constitutes circumstantial evidence lending strength to the story of Maruthai Pillai, that although the Mills other than the E.I.D. Parry Group, had consented to the arrangement of paying Rs. 3.00 per bag to the Minister/Chief Minister, there was initial resistance from the E.I.D. Parry Group, and it was only after a considerable persuasion, that Shri H. V. R. Iyengar, Chairman of the E.I.D. Parry Group, agreed to fall in line with the others.

Similar orders on the applications of the E.I.D. Parry Group were directly passed by the Minister himself, on 18-2-1970, without getting them processed by his Secretariat staff.

The Minister also handed down a Note, dated 17-2-1970, to the Secretary, Food, which reads as follows:

“ The Sugar Factories have been representing that non-lifting of the levy sugar quota by various Governments including Tamil Nadu, has been causing great financial difficulties to them, since large quantities of unlifted sugar lying with the Factories add considerably to their costs on financing and storage. We have not been able to utilise the allotment in favour of the State Government fully and we have surrendered the allotments for some months, because the off-take by dealers appointed under the Public Distribution System has been poor.

It is desirable that the lapsing of the allotments are avoided and stocks of levy sugar are made available to the public. Even though the prices of open market sugar are not very high, releases of the levy sugar held up in the factory due to the poor off-take under the Public Distribution System would have a healthy effect on the prices and also improve the availability. For these reasons, it will be desirable to accept the offer of the Sugar Factories to act as wholesalers of the Government in respect of levy sugar, subject to the condition that the retail prices should not exceed the prices fixed under the Government Distribution System. Incidentally, this will also benefit a major industry in the State by helping them to dispose of the accumulated stocks and thereby enabling them to pay the canegrowers.

I have forwarded the applications received from the Sugar Factories for appointment as wholesalers, with suitable directions. Applications from other factories, if received, may also be accepted. The allotments of Factories which have not applied for appointment as wholesalers of Government may be allowed to other applicants, if any, instead of being allowed to lapse for want of off-take by the dealers nominated under the Public Distribution System. Immediate action is necessary in this respect so that stocks can be lifted from the Factories before the lapse of any of the allotments.

(Sd.) P. U. SHANMUGHAM

17-2-1970

(Emphasis added)

Three significant points in the above Note of Shri P. U. Shanmugham are worthy of note. *Firstly*, there is his admission that the sugar Factories have been representing about their difficulties to him. In the absence of any representation/application of a date prior to 7-2-1970, the inference is that representations by the Sugar Factories made prior to the said date to the Minister, were all but one dated 8-1-1970 verbal representations. *Secondly*, that orders on all the applications received by him from the Mills, were being sent down direct to the Secretariat. That is to say, the Secretariat was never allowed to examine these applications/representations on merits with reference to the policy set down by the Government of India. *Thirdly*, this Note read in con-

junction with the orders, dated 16-2-1970, passed by the Minister and the surrounding circumstances shows that inspite of the press statement, dated 4-2-1970, and the fact that he had received the applications/representations from the three Mills (Other than E.I.D. Parry Group) on 7-2-1970, the Minister postponed the making of any orders thereon till 16/17-2-1970. This postponement, in my opinion, was designed to see whether or not the Mills in the E.I.D. Parry Group and others who were lagging behind, would also join and work the collective arrangement proposed by the Minister and the Chief Minister.

Delay in passing orders on applications dated 7-2-1970

It may be remembered in this connection that the arrangement devised by the then Food Minister and Chief Minister to extract these gratifications was in the nature of a 'package deal'. As stated by Maruthai Pillai in his affidavit, the underlying purpose of insisting on this package arrangement was to preserve its secrecy. If all the Mills agreed and cooperated in working this 'arrangement' of collecting the 'extra' money and passing it on to the Chief Minister, there would be less chances of its disclosure by any of the Mills for fear of being indicted as accomplices and abettors. That was why the Chief Minister had made it clear to Maruthai Pillai that if any of the nine Mills did not agree to the proposed arrangement, no relief would be granted to any of them. This explains why Shri P. U. Shanmugham delayed the passing of the orders on the first batch of applications received by him on 7-2-1970. He was marking time to see whether *all* the nine Mills were coming forward with their applications to work this 'package arrangement.'

It may be recalled further that after the receipt of the information that H. V. R. Iyengar had also agreed to the proposal, Maruthai Pillai had three meetings with the Food Minister in the first fortnight of February, 1970. The first of such meetings was probably held about the 3rd or 4th of February 1970, *i.e.* before the issue of the press statement on 4-2-1970 by the Minister; the second was held on 7-2-1970 when Maruthai Pillai handed over the first set of three applications to the Minister; and the third was held about the 14th or 15th February 1970. As already observed, it was probably at this meeting that Maruthai Pillai had handed over the applications of Kothari Sugars and Thiru Arooran Sugars to the Minister. Furthermore, this meeting was probably held after the Minister had seen the applications from the sugar mills in the Parry Group which, according to the date-seal of the Minister thereon were received by him on 14-2-1970. In the first and the second meetings, Maruthai Pillai must have informed the Minister that such applications from the remaining sugar Mills, including those in E.I.D. Parry Group were forthcoming. It appears that the Minister did not act upon the mere verbal assurance to that effect given by Maruthai Pillai in the first meeting. He wanted more positive proof of the fact that all the Mills, particularly those in the E.I.D. Parry Group who were initially resisting the demand of gratification, had fallen in line to work the collective 'arrangement' proposed by him and the Chief Minister. Such proof became available to the Minister, only when he received the applications of the Mills in the E.I.D. Parry Group in 14-2-1970. This proof was further buttressed by the delivery of two more applications from Thiru Arooran Sugar Mills Ltd. and Kothari Sugars by Maruthai Pillai on or about the 14th or 15th February, 1970. It seems when the Minister became absolutely convinced that all the nine Mills were going to work the collective 'arrangement', only then, he on 16-2-1970, passed the orders. This deferment of the orders for 8 or 9 days, on the first set of applications, received on 7-2-1970, therefore, was not inadvertent or innocent, but was actuated by the corrupt motive of making pecuniary gain, the object being to compel all the nine Mills to accept and work the bribe-extracting arrangement proposed by the Minister and the Chief Minister.

Instead of giving any plausible explanation of this obvious delay, Shri Shanmugham has, in his counter-affidavit intransigently taken up the position that there was no delay at all.

Why the Secretary was not taken into confidence?

There is reliable evidence on the record, which unerringly points to the conclusion that the failure of the Minister, Shri P. U. Shanmugham, to get the applications of the Mills examined by the Secretariat officials, was not innocent, unintentional, or accidental, but was designed to avoid anticipated opposition to what the Minister intended to do, from the head bureaucrat of his Department. In this connection, it is pertinent to refer to the evidence of Diriviam who has

deposed that prior to the decision taken by the Minister to appoint the Mills as wholesalers of levy sugar, he had in an informal talk, told the Minister that the Sugar Mills should not be appointed as wholesalers. It will be worthwhile to quote Diraviam's own words, which indubitably show that *before* the making of his press statement on 4-2-1970, and the orders, dated 16-2-1970, on the first five applications submitted by the Mills for appointment as wholesalers, the Minister was *clearly aware* of the adverse views held by the then Secretary, Food.

Diraviam's Evidence

In his affidavit, dated 18-10-1976, Diraviam has stated:

“ . . . There was a news report in the ‘Hindu’, dated 5-2-1970, which stated that the then Food Minister, Shri P.U. Shanmugham had indicated that the Government was considering the question of allotting sugar quota to dealers other than authorised dealers if they gave a guarantee to sell sugar at Government prices. In this connection I state that I was transferred from the post on 7-2-1970 and actually handed over on 11-2-70. While I was aware that some negotiations were going on with Millers at the Ministerial level regarding the arrangements of disposal of sugar, I was not involved in those discussions and I had therefore no knowledge of the discussions which the Minister had with the Millers. *In one or two informal discussions which I had with the Minister, though not specifically on the problem, I had clearly expressed my view that the distribution of levy sugar should not be left to sugar Mills. However, it was my impression that this view did not find acceptance by the Minister.* There was no occasion to examine this proposal at the official level and put up a note as the proposal was not mooted at the official level. From the file of the Civil Supplies Department, I find that the Deputy Commissioner of Civil Supplies discussed with me on 7-2-1970 about the question of making arrangements for the disposal of Sugar stocks. As my transfer orders had already been issued on 7-2-1970, I advised the Deputy Commissioner to await Government orders and take further action on receipt of orders. The note of the Deputy Commissioner, dated 9-2-1970, bears this out. I handed over charge on the morning of 11-2-1970 and till I handed over, the *Minister did not discuss with me the arrangements which he spelt out in his press interview at Vellore on 4-2-1970.*”

(emphasis added)

I find the above statement of Diraviam entirely trustworthy. His conduct as evidenced by his statement and the attendant circumstances on record, reveals him as a sharp, straight and unbending officer who should be the least disposed to compromise his views even at the instance of the Minister, with regard to the observance of the norms of good and clean administration. The Minister, Shri P. U. Shanmugham, had therefore every reason to apprehend that the Food Secretary, Diraviam, would oppose the appointment of the Mills as wholesalers, or stultify and thwart the implementation of orders to that effect, if passed by the Minister during Diraviam's tenure on that post. This being the case, it will not be unreasonable to presume that the order of Diraviam's transfer from the post of the Food Secretary, issued on 7-2-1970, was in the nature of a forestalment calculated to eliminate and remove the anticipated opposition from him to the passing and implementation of the Minister's orders appointing the Mills as wholesalers. The synchronisation of the date of the transfer orders with the date on which the first batch of the Mills' applications were submitted directly to the Minister, is itself a tell-tale circumstance. Diraviam relinquished charge of the post of Food Secretary on 11-2-1970. After receiving the Mills' applications on 7-2-1970, the Minister kept them with him. One reason for deferring orders on those applications appears to be that the Minister wanted to make sure that Diraviam had handed over charge and gone away from the Department. Another reason for this deferment by the Minister, as already discussed, was that he was waiting to see if the other Mills, particularly those in the E.I.D. Parry Group were also applying and thus falling in line with the other Mills to accept the arrangement imposed by him and the Chief Minister. Although there was an interval of four or five days between the date of the receipt of the applications by the Minister and the relinquishment of charge by Diraviam, the Minister—acting unlike a prudent and disinterested Minister—did not even informally consult the Food Secretary, who was supposed to be his principal advisor in such matters.

Minister's studied inaction turned into lightning action on 16-2-1970—Why?

The former Food Minister's studied inaction in keeping the applications of the Mills, dated 7-2-1970, pending with him for several days, stands in marked contrast to the lightning speed with which he sprang into action on 16-2-1970. On 16-2-1970, in the evening, he called A. M. Swaminathan, Deputy Commissioner of Civil Supplies (Headquarters), Madras, and informed him that the Sugar Mills had been appointed as wholesalers of levy sugar and consequently, orders releasing the quota of levy sugar in favour of the Mills for sale at the levy price be issued forthwith. The Minister peremptorily directed the Deputy Commissioner to implement his orders, immediately. Swaminathan requested the Minister to give him written orders. Thereafter, the Deputy Secretary, Thangaraju, gave him at about 4-30 P.M., the same evening, a Note dated 17-2-1970, containing the detailed Order of the Minister. (I have extracted this Note earlier, in full). It may be noted that this note, although written and handed over on 16-2-1970 in the evening, was dated '17-2-1970' which was a Sunday.

How earnest and serious the Minister was in seeing to the immediate implementation of his orders, can be best appreciated from what A. M. Swaminathan has stated in his affidavit (Serial No. 2):

- " 9. I state that on 16-2-1970 at about 4 P.M. I was called by one of the P.As to the Food Minister from my office to the Secretariat to meet the Minister. Sri Ramchander, Commissioner Civil Supplies was not available on that day. The Minister informed me that a decision has been taken by the Government to appoint private sugar factories as wholesalers and that they will be free to sell levy sugar at prices not exceeding the retail price of the levy sugar anywhere within the State, and that they will be asked to pay to the Government an administrative surcharge of Re. 1 per quintal. The Minister wanted me to issue orders to this effect immediately. I told him that it would not be possible for me to do so unless Government orders are given in writing. The Minister gave me a note addressed to the Food Secretary and directed me to issue appropriate orders on the same date. He told me that no restriction need be placed on the sale by the mills except (i) that the price to the ultimate consumer should not exceed the existing levy sugar price and (ii) that sugar should not be exported outside the State. He told me that the intention was to liquidate the stocks immediately, to increase the availability to all consumers in the State and avoid lapse of the quotas allotted to the State.
- " 10. . . . the above said note of the Minister along with five applications mentioned therein were handed over by me to Sri C. Thangaraju, Dy. Secretary. A copy of the Minister's note was given to me by Sri C. Thangaraju, Dy. Secretary to Government Food Department at about 4-30 P.M. on the same day. I came back to my office and issued orders as per the Government's instructions. The representatives of the five mills noted in the Government Memo took delivery of those orders late in the evening of the same day The applications from Sugar mills for appointment as wholesalers were not received in the office of the Commissioner of Civil Supplies.....
- " 11. . . . on 18-2-1970 I informed the Commissioner of Civil Supplies about the above decision and action. Later, on the same day I was orally informed by the Commissioner of Civil Supplies about the Government orders regarding the appointment of Messrs. Cauvery Sugars and Messrs. Deccan Sugars as wholesalers on the same line Orders for Cauvery Sugars and Deccan Sugars were issued by me on 18-2-1970 On 19-2-1970 I was given another order (Government Memo No. 6342/OP/70, dated 19-2-1970) asking the Commissioner of Civil Supplies to appoint Messrs. Madura Sugars Ltd. also as wholesalers on the usual terms. I carried out the orders on the same day *i.e.* on 19-2-1970."

C. Thangaraju, who was then Deputy Secretary in the Food Department, in his affidavit (Sl. No. 3) has fully corroborated what A. M. Swaminathan has said. According to him he had also received a telephone call from one of the P. As to the Minister that the latter desired that orders as per his note be issued at once.

The reason given by Shri P. U. Shanmugham in his affidavit for this lightning action on his part, is, that the revalidated sugar quota of October 1969 allotted by the Central Government to Tamil Nadu was, lapsing on 21-2-1970. Contrasted with his 'masterly' inactivity for the preceding days, this argument assumes a factitious complexion. This facile ground demanding prompt action, was always there, even during these nine days of inertia. This ground was repeatedly and pointedly emphasised by the Mills in their applications presented to the Minister on 7-2-1970. It was prominently mentioned therein that the period for which the Government of India had revalidated the unlifted allotment of 9,000 tonnes of sugar relating to October 1969 for the State of Tamil Nadu, was expiring on 22-2-1970 (an obvious mistake for 21-2-1970). This was one of the expressed grounds on the basis of which the Mills urged the Food Minister to make early orders nominating them as wholesalers of the levy sugar; (e.g. the application of Kothari Sugars).

Why did the Minister blink at this ground of urgency so prominently brought to his notice in the first set of applications, dated 7-2-1970? Why was he not moved to action despite his awareness of this ground for several days preceding 16-2-1970? The answer is that during this period of inaction, this ground of urgency was completely eclipsed by overriding extraneous considerations then prevailing in the mind of the Minister. What those extraneous considerations were, which by their paramount operation on the mind of the Minister, tied him to inaction for several days, is a matter which has already been probed and dealt with. It is not necessary to repeat the same. All that may be recalled here, for the sake of narrative, is that during this period the Minister was waiting to see if all the nine Mills were coming forward with their applications for appointment as wholesalers. It was only the submission of such applications that would give a sure indication of their consent to work the proposed bribe-extracting arrangement. Almost all the Mills had sent their applications by the 16th February, 1970, which amounted to their commitment to work the said 'arrangement'. Thereupon, the Minister suddenly became alive to the urgency of passing orders in the matter.

Further delay in making the orders, might have led to the lapse of the revalidated quota. Passing orders immediately before or after the lapse of that quota of 9,000 tons, would be tantamount to locking the stable after the horse had run away. In that event, the bribe extracting arrangement would have been rendered, to a large extent, sterile, by such a supervening factor. Thus considered, any further delay on the part of the Minister in passing the orders which he did, and in implementation thereof, would have involved risk of losing the expected illegal pecuniary gain by the Minister and the Chief Minister. This obverse side of the coin, explains why the Minister's designed inaction for several days suddenly turned into electrified action on 16-2-1970.

It is further pertinent to note here that on February 14, 1970, an express telegram was sent by the Tamil Nadu Government under the signature of its Deputy Secretary, C. Thangaraju, to the Directorate of Sugar and Vanaspati, Ministry of Food, New Delhi, seeking extension of the period of revalidated quota. This telegram reads:—

“ REFER TEL EVEN NO DATED 27TH JANUARY 1970 AND YOUR SAVINGRAM NO. 4-6/(1)68-SC.II, DATED TWENTYEIGHTH JANUARY 1970 (AAA) KINDLY EXTEND THE PERIOD OF REVALIDATION BY ONE MORE MONTH

CEREALS

C. THANGARAJU

DEPUTY SECRETARY TO GOVERNMENT

Post copy in confirmation to go to the Chief Director, Directorate of Sugar and Vanaspati, Jamnagar House, Ministry of Food, Agriculture, Community Development and Co-operation (Department of Food), New Delhi.

Copy to the Commissioner of Civil Supplies, Madras-5

Forwarded

By Order

(Sd.) V. KRISNAMURTHI

Superintendent”

There is yet another circumstance which points to the shady character of the decision taken by the Minister. From the official notings and correspondence in File No. 4/1/504/A1/70 (Sl. No. 3 of the list of files made over by the State Government) it appears that as early as in the first fortnight of March, 1970, the Government of India had received a complaint which contained these specific allegations against the Tamil Nadu Government:

“I bring to your kind notice this urgent news to prevent the misuses of Government benefits.

Levy sugar is permitted to be distributed to the public for domestic purpose only. But Madras Govt. recently permitted the following mills to sell the levy sugar in open market to the merchants on the bulk consumers. This is quite wrong to the Sugar Control Order. By this thing *Madras Minister collected 5 lakhs Rupees*, for the party expenses. This is done very secretly.

Madras Government issued the order on 16-2-1970. I request you Sir, this is not an ordinary thing. This is very serious offence. Madras Govt. misused the Sugar Control Order and had benefits to his party. It is very open matter. The evidence will be available in Madras Government records and in the mills. So please kindly take action to prevent that.

1. Messrs. Aruna Sugars Ltd., Pennadam.
2. Messrs. Thiru Arooran Sugars Ltd., Vadapathimangalam.
3. Sakthi Sugar Mills, Erode.
4. Messrs. Kothari Sugars, Kattur.
5. South India Steel & Sugar Mills, Mundiampakkam.

Further Madras Govt. is deciding to sell sugar on this month.

Thanks.”

It will be seen that this complaint, albeit anonymous, contained specific allegations including a grave charge of taking illegal gratification against the “Madras Minister” concerned, relating to his orders, dated 16-2-1970, appointing the five Sugar Mills, named therein, as sellers of levy sugar with permission to sell in the open market to the merchants or the bulk consumers. This according to the complainant, was a violation and misuse of the Sugar Control Order.

Shri R. S. Talwar, then Joint Secretary to the Central Government in the Ministry of Food and Agriculture, under cover of his D.O. 7/JS/(S)70, dated March 16, 1970, sent a copy of that complaint to Shri Ramchander, then Food Secretary to Tamil Nadu Government and requested him to send the comments of the State Government, “urgently”, in respect of the allegations contained in the complaint. Shri Ramchander put up Shri Talwar’s letter along with the complaint annexed thereto, to the Minister, Shri P. U. Shanmugham, and thereafter sent a reply on 24-3-70, in which he tried to justify the release of levy sugar to the Mills for direct sale to the public—“not necessarily” to domestic consumers but to “bulk consumers also”, on the puerile ground that: “Handling on Government account involves additional expenditure on transport from the mills to the Government godowns as well as on storage. Direct sales by the mills eliminates this expenditure and therefore this Government has been able to maintain the same selling price notwithstanding the increase in the excise duty amounting to nearly Rs. 3 per quintal.”

Significantly enough, Shri Ramchander did not say anything to rebut the grave charge of receiving a gratification of Rs. 5 lakhs against the Minister, although the reply letter was supposed to have been written by him with the consultation and approval of the Minister.

The Government of India was not satisfied with the reply of the State Government. It took exception to the grant of permission to the Mills to sell levy sugar to bulk consumers. The Joint Secretary to the Government of India, in his D.O. No. 15-8/70-S-Py, wrote back to the State Government:

“As you are aware the policy of partial decontrol envisages that 70% of the production of the factories during 1969-70 will be taken over by Government at fixed prices for controlled distribution mainly to domestic consumers. In our Circular letters No. 12-36/67-SCI, dated 25th September and 4th November, 1967, the State Governments were

clearly informed that the levy sugar was meant mainly for distribution to domestic consumers and not to bulk consumers or commercial consumers, such as, halwais, hotels, biscuit and confectionery factories, food processing industries, etc. The permission given by the State Government to sugar factories in the State to sell levy sugar to bulk consumers, therefore, cuts across the policy of partial decontrol."

In the last paragraph of this letter, the Government of India again impressed on the State Government that the permission granted by the latter to the Mills to sell levy sugar to bulk consumers would cause complications in the implementation of Government of India's sugar policy, and urged the State Government to ensure that such diversion was not allowed in the State.

There was then protracted correspondence between the Central and the State Government, in the course of which, the Central Government repeatedly urged—without success—the State Government to reconsider its decision under which they had permitted the Mills to sell levy sugar as whole-salers-cum-retailers to bulk consumers, and to revert to the "arrangements of distribution (of levy sugar) through controlled channels as before". The State Government did not accept the advice of the Central Government to revise its decision, and continued to send rather evasive replies to the Central Government.

A further query was made by the Government of India who wanted to know the difference between the ex-factory price and the ultimate price paid by the consumers and as to who would appropriate such difference. On this point also, there was protracted correspondence. The Government of India, as it appears from that correspondence, were not satisfied with the explanations given by the State Government. In some of the letters, the State Government, put fellers—apparently to soften the stand taken by the Government of India—as to whether "the Government of India had no objection to the arrangements made by the State Government for distribution of levy quota, subject to the condition that the levy quota is sold for domestic consumption only and not to bulk consumers" (e.g. D.O. No. 7.C/6/70, dated 3-11-1970).

By their letter dated November 19, 1970 (vide page 31 of the office File) (CW 32/7), the Government of India sent a reply wherein they did not confirm this assumption made by the Government of Tamil Nadu. This letter of the Government of India shows that their objection extended to the entire arrangement which the State Government had made with the Mills for sale and distribution of levy sugar. The Central Government did not approve of the distribution of levy sugar without any quantitative limit, even to domestic consumers. Thereafter, there was a lot of inter-departmental correspondence and still more of office notings in the Department of Commissioner of Civil Supplies of the Government of Tamil Nadu. All this correspondence and office noting was directed to devise a suitable reply calculated to stall the advice given by the Government of India in the matter. The office of the Commissioner of Civil Supplies, Tamil Nadu continued to procrastinate over this matter for about two months. At one stage the Deputy Secretary-cum-Deputy Commissioner of Civil Supplies suggested that the expression 'bulk consumers' should be deleted from Clauses (4) and 6(B) of the agreement proposed to be executed by the Mills who were appointed as wholesalers. The Deputy Secretary however observed that such deletion "will not fully meet the points raised by the Government of India in their letter dated 19-11-1970 since there are no means of regulating the sales by the wholesalers to whom the Mills may sell." The then Commissioner of Civil Supplies, Ramchander, also, appears to have agreed with this view. It was therefore suggested that the matter should be discussed with the representatives of the Mills and thereafter a proposal should be formulated in accordance with which a suitable reply should be sent to the Government of India. Finally, on 27-11-1970, the office put up a note (see pp. 2-4 of the Noting Portion of File No. Lodged No. 41504/AI/70, Food Deptt. dated 20-5-1971). In this note it was suggested that the agreement proposed to be executed by the Sugar Mills should be amended in this way: (a) that the words 'bulk consumers' occurring in Clause (4) of the proposed agreement and elsewhere, should be deleted; (b) the Sugar Mills while executing this agreement should be required to deposit a sum of Rs. 5,000 as security for due and faithful performance of the contract and observance of its terms and conditions and in case of breach of any term of the agreement, the security deposit will be liable to be forfeited to the Government. As regards the objection of the Government of India that even to the domestic consumers, the sugar should not be sold without any quantitative limit, the note said that "it was difficult for the State to organise its own distribution in all areas and that instead of allotting sugar to all retailers, the Sugar Mills themselves

might be allowed to organise sales to the extent the Government Distribution System could not absorb the quotas allotted and that it would be in the best interest of maintaining supplies in all areas of the State. The distribution to domestic consumers would be done by the Sugar Mills themselves acting as wholesalers to Government." Alongwith this note a draft letter prepared on the lines suggested in the note for sending a reply to the letter of the Government of India was put up. The Deputy Commissioner then minuted on this note:

"A—page 2 ante. Action may be taken to amend the agreement now itself. For orders".

"Draft letter to the Government of India, below is for consideration".

Thereafter in the margin Ramchander, the then Commissioner of Civil Supplies, passed his orders under the date 12-12-1970. Those orders are to the effect, that the agreement may be amended as suggested by the Deputy Secretary in the portion of the office note dated 27-11-1970 marked 'A'. In this portion the deletion of the words 'bulk consumers' from the proposed agreement to be executed with the Mills is suggested. Then below that in the margin, the Commissioner noted that it is not necessary to send any reply as envisaged by the draft letter to the Government because "it does not specifically call for a reply."

Thus there was no concrete proposal in the note to meet the objection of the Government of India that even to domestic consumers the levy sugar should not be sold without any quantitative limit. The orders of the Deputy Secretary relating to the amendment of the draft agreement to which the Commissioner agreed, does not, in terms, approve of the suggestion in the office note with regard to the making of a provision for security deposit by the Mills.

Further, it is difficult to understand how the Commissioner assumed that the Government of India did not expect any reply to their repeated letters spread over the preceding period of 9 months. The sum and substance of the objections raised by the Government of India to this arrangement for sale and distribution of levy sugar through the Mills was, that it cuts across the entire sugar distribution system and the Sugar Control Policy.

It may be observed that this office file, CW 32/7, presents very curious features. Here and there some office notings, letters or other documents appear to be missing. Even from a scrutiny of this truncated record, the impression that emerges is, that despite the earnest efforts of the Government of India to persuade the State Government to scrap the arrangement that they had made with the Sugar Mills or to remove its objectionable features for the sale and distribution of levy sugar, the State Government stalled and frustrated those efforts by engaging it in a wordy 'war' of attrition. Although now and then the State Government showed gestures of small concessions to the objections of the Government of India, such as, to get an agreement executed by the Mills whereby they would not be entitled to sell the levy sugar to bulk consumers, the fact remains that even those gestures remained merely on paper and were never implemented. Wearied embarrassed and frustrated by the protracted correspondence yielding no result, the Government of India failed to prod the State Government further for a response. The State Government appears to have taken full advantage of the situation when it abruptly closed the case on 15-5-1971 with this note recorded by the Food Secretary, Ramchander:

"I see Government of India do not expect a reply and they have not pursued the matter after November 1970. The Commissioner, Civil Supplies had been instructed separately to watch the performance of the Mills regarding retail sales while releasing levy sugar for sale by them.

No further action in this file."

Thus, the arrangement which the State Government had made with the Sugar Mills for sale of levy sugar in the open market at fixed levy price to bulk consumers and others, with all objectionable features remained in tact in its original form. Despite all the corrective efforts of the Government of India, the then Food Minister and the Chief Minister impenitently shielded this deviant arrangement, their motive being to preserve its graft-yielding capacity even at the cost of public interest. The Respondents, particularly the Food Minister, Shri P.U. Shanmugham, cannot disclaim personal responsibility for these objectionable acts of omission and commission merely by shifting the blame to the Food Secretary, through whose instrumentality they were ostensibly

committed. The then Food Secretary, Ramchander, has deposed that everything with regard to the complaint and the letters sent by the Government of India relating to the appointment of the Mills as wholesalers-cum-retailers of levy sugar, was done by him with the prior approval and consultation of the Food Minister, Shri P. U. Shanmugham. This is what Ramchander has affirmed in paragraph 19 of his affidavit:

“ On 23-3-1970 a letter was received from Shri Talwar, Joint Secretary to the Government of India, Department of Food enclosing a petition stating that the Tamil Nadu had misused the Sugar Control Order for the benefit of the party by permitting the sale of levy sugar in open market to merchants and bulk consumers. I had put up this letter to the Minister and it had been seen by him. I had sent a reply in my letter dated 24-3-1970 explaining the policy in the context of the levy allotment being surplus to the requirements of the domestic consumers, through the Public Distribution System. Another letter dated 30-3-1970 was received and seen by me on 2-4-1970 and in reply I had invited the attention to the earlier letter dated 24-3-1970. A reply was received from Shri Talwar dated 23-4-1970 in which he had pointed out that the permission given by the State Government to the Sugar Factories in the State to sell the levy sugar to bulk consumers cuts across the policy of partial de-control pointing out that in circular letters of the Government of India, dated 23-9-1969 and 4-11-1969, the State Governments were clearly informed that the levy sugar was meant mainly for distribution to domestic consumers and not to bulk consumers or commercial consumers such as Halwais, Hotels, Biscuits and Confectionary factories food processing industries etc. I had sent a reply in letter dated 27-5-1970 after obtaining the approval of the Minister for Food on 24-5-1970. A further letter was received from Shri Talwar dated 16-6-1970 and this has been replied to by me in my letter dated 25-8-1970 again after obtaining the approval of the Minister. In a further letter dated 27-10-1970, Shri Talwar had pointed out that as the sugar released for free sale by the factories under the Policy of partial de-control would require a market for disposal, it was provided that levy sugar will not be distributed amongst bulk consumers and the bulk consumers will be required to purchase their requirements from the free market and he has specifically mentioned that the State Government should ensure that the levy sugar is not released for free sale or for distribution to the bulk consumers. A note has been put up to the Minister with reference to the correspondence ending with the letter received from the Government of India dated 19-11-1970 for deletion of the word ‘ bulk consumer ’. I had pointed out that the deletion of the word ‘ bulk consumer ’ in the provision in the agreement which contemplates sale within the State of Tamil Nadu, will not fully meet the point of the Government of India, since there is no means regulating the sales by the wholesalers to whom Mills may sell, and I would have separately discussed the matter with the Sugar Mills. The Sugar Mills had been addressed through the Commissioner of Civil Supplies for increasing the retail sales. However, the control on price, distribution and movement of sugar was removed, with effect from 23-5-1971 and I see from the file that after November 1970 this matter was not further pursued by the Government of India. There has been delay in taking further action in this matter because the date on my endorsement dated 26-11-1970 for deletion of ‘ bulk consumer ’ has been put up for circulation by the office in January 1971 only even though I had specifically mentioned that in my note dated 12-12-1970 that action to amend the agreement may be taken. There has been delay in the Secretariat and the instructions regarding the amendment has not been issued even though specifically approved in circulation. In August 1970, I have addressed a letter to the Government of India, after obtaining the approval of the Minister on 19-8-1970, stating that due to open market prices being more or less at the same level as in the case of levy sugar after October, 1969 resulting in unlifted stock of levy sugar, this Government felt it necessary to authorise the Sugar Mills themselves to dispose of the levy sugar acting as wholesaler, instead of surrendering the levy quotas. ”

It is not as if the Sugar Mills alone were appointed as wholesalers of levy sugar; several non-millers such as Ashoka Traders, Karthikeyan & Co., Messrs. Venkateswara Rice Mills were also appointed as wholesalers of levy sugar. This fact is evident from the statement of Ramchander. Shri Ramchander, the then Food Secretary has deposed that after issue of the allotments in favour

of Ashoka Traders, a note was put up to the Minister under the date 20-2-1970 by the witness. The Minister signed it in token of approval on 1-3-1970; and in the case of Messrs. Karthekeyan Trading Co., and Venkateswara Rice Mills, orders had been issued with reference to the specific instructions issued by the Minister as recorded in Ramchander's note, dated 19-2-1970. There is therefore force in the contention of the learned Counsel for the Memorialists that the original wholesalers were brushed aside because the Ministers wanted to exclude all except those with whom they were able to strike some 'shady' deal !.

It is clear from what has been said above that the National Sugar Policy and the Scheme of Sugar distribution had been materially changed by the State Government in appointing the Mills and the aforesaid non-Millers as 'wholesalers-cum-retailers'. Under the arrangement in question devised by the State Government, levy sugar could be sold to bulk consumers, commercial consumers such as bakers, hotels, etc.; but under the pre-existing System, it could be sold only to card-holders or domestic consumers and that, too, according to the rationed scale. Under the arrangement in question the dealers and the card-holders could buy unlimited quantity of levy sugar.

The office notings and the inter-departmental correspondence show that the then Commissioner of Civil Supplies and other senior officials of the Department, frankly acknowledged this loophole in the arrangement in question. As already noticed, at page 33 of the Office File (Ex. CW 32/7) there is an office copy of a letter, dated 1-2-1971, written by the Commissioner of Civil Supplies to Thiru Pandurangan, D.C.C.S. (H) Madras in which he has, 'inter alia', pointed out not only the necessity of deleting the words "bulk consumer" from the proposed arrangement to be executed by the Mills, but also acknowledged the force of Central Government's objection to quantitatively unrestricted sales. He conceded: "there is no means of regulating the sales by the wholesalers to whom the Mills may sell". There were no means of checking whether the levy sugar released to the Mills was sold at the fixed price and within the State only. The possibility of some of the released sugar having been exported out of the State could not be ruled out.

I will discuss in a latter part of this dissertation about the losses suffered by the Public Exchequer and the domestic consumers as a result of this arrangement devised by the State Government in contravention of the National Sugar Policy.

In the light of what has been said above, the conclusion is inescapable that the Minister, Shri P. U. Shanmugham, abused his official position and misconducted himself in as much as in appointing the Sugar Mills in the State as wholesalers-cum-retailers of levy sugar, he acted in a most extraordinary and deviant manner: He did not take into confidence the concerned Secretariat Officials; in one sweep he brushed aside the original wholesalers without even discussing the pros and cons of the problem with them and the District Collectors etc.; he gave a complete go-by to the norms of prudence and healthy practice, he made a sudden and unobtrusive departure for the National Sugar Policy, to the detriment of domestic consumers, in particular, and the public interest in general; he deliberately kept the first set of the applications from the Mills pending with him for several days, from ulterior motive, till he passed orders thereon on 16-2-1970; he did not reconsider, revise or modify a bit, the arrangement under which the Mills were appointed as wholesalers of levy sugar, despite the persistent corrective efforts made by the Government of India. On the contrary, he, in concert with the Chief Minister, Shri M. Karunanidhi, adhered to that arrangement from corrupt motives with brazen obduracy even when the Government of India brought to his notice that that arrangement with the Mills had given rise to a charge of receiving a bribe to the tune of Rupees 5 lakhs against him. He did not say even a word in refutation of this charge although his comments were invited by the Government of India.

In view of these findings, it is clear that if there could be one broad answer to all the questions posed in the foregoing part of this discussion, it is this: that the Minister, Shri Shanmugham committed all these deviant acts of omission and commission, in concert with the then Chief Minister, Shri Karunanidhi, because both of them were actuated by corrupt motives of making pecuniary gain as revealed in the testimony of Maruthai Pillai, C.W. 14.

Shri P. U. Shanmugham has, in his counter-affidavit which has been extracted earlier, also alleged that after March 1970, all order releasing allotments to the Mills for sale were issued by the Department of Civil Supplies at its own level. This point will come up for discussion under the topic: "Payment of gratification". I, therefore, need not dilate on it here. All that may be

said in passing, is, that Ramachander has in his affidavit (extracted earlier) fully refuted this stand taken by Shri P. U. Shanmugham.

(iii) Raising/collection of the Bribe-money by the Mills:

The next salient circumstance in this case which corroborates Maruthai Pillai's evidence and assures its veracity, both with regard to the demand of the gratification and its payment at a particular scale in relation to a particular release, is that "extra" amounts were collected by all the nine Mills concerned at the same rate or rates on the sale of released levy sugar, at which, according to Maruthai Pillai, the gratifications were demanded by the Food Minister/the Chief Minister, and paid to the Chief Minister.

Maruthai Pillai's evidence is to the effect, that the former Food Minister/Chief Minister had demanded the gratifications in respect of different releases during certain periods, at different rates. In respect of the releases made in February, the Chief Minister had demanded money and the Mills had agreed to pay the same at the rate of Rs. 3 per bag on the sales of released sugar. The witness communicated this to the representatives of the Mills, who accordingly, collected Rs. 3 per bag on sales out of these releases. The collected amounts were then sent to Maruthai Pillai for passing on to the Chief Minister. It is further in his evidence that the collections of this "extra" money on sales, in respect of the next *seven* monthly releases to the Mills and collective payments to the Chief Minister, were made at the rate of Rs. 1.50 per bag, and for the remaining *eight*, at the rate of 50 Paise per bag. These rates were fixed according to the rates at which the demands were made by the Minister/Chief Minister and conveyed through Maruthai Pillai, who used to further communicate the same to the Mills concerned. Accordingly, the Mills collected the "extra" money on sales of released sugar and sent their collections to Maruthai Pillai for transmission to the Chief Minister.

The representatives of all the nine Mills have given evidence with regard to the part played by them in working this arrangement. Their evidence was taken either on affidavits or on viva voce examination before the Commission, or by both the modes. Almost, all these witnesses were also examined by the investigating agency whose services are being utilised under s. 5A. Some aspects of the evidence of some of these witnesses, have already been discussed. The other aspects relating to the collection of the "extra" money from the purchasing dealers will be discussed now.

(a) Collections by E.I.D. Parry Group :

S. N. LAL (C.W. 16)

S. N. Lal was the Special Director of Parry & Co. Ltd. in charge of the Sugar Department. He has stated that in the beginning of the second week of February 1970, he was informed by Maruthai Pillai to send applications to the Food Minister, requesting him to issue orders, declaring their Mills as wholesalers of levy sugar. Accordingly, the three Mills in E.I.D Parry Group sent their applications on 13-2-1970 to the Minister who passed orders thereon on 18-2-1970. After the issue of the orders, Maruthai Pillai informed the witness that Rs. 3 per bag should be collected from purchasing dealers for payment to the Minister. Accordingly, the witness instructed V. Mahadevan, Assistant Manager in the Sugar Division to collect Rs. 3 per bag from the purchasing dealers at the time of issue of sale notes, and pass it on to Maruthai Pillai. Accordingly, he collected Rs. 3 per bag from the first set of releases issued in February 1970, and the same was passed on to Maruthai Pillai through Jayaram, for payment to the Minister (vide paragraph 15, 16 of his affidavit and pages 12 to 15 of his deposition). In his deposition before the Commission, he has clarified that occasionally, when Maruthai Pillai would phone to the witness to find out why there was delay in collecting these amounts and passing on to him, the witness used to check up with Jayaraman and Mahadevan about the collections. He has further deposed that he had received information from Maruthai Pillai that from March to September 1970, both months inclusive, the "extra" collections were to be made at the rate of Rs. 1.50 per bag. Again, after September, Maruthai Pillai informed the witness that from October 1970 onwards, the "extra" amounts were to be collected at the rate of 50 Paise per bag. The witness used to convey such information about rates further to Jayaraman and Mahadevan who collected accordingly. The witness stated that according to the information given to him by Jayaraman and Mahadevan, the total amount of all the "extra" collections made by the three Sugar Mills in the Parry Group and handed over to Maruthai Pillai for passing on to the Minister and the Chief Minister, was Rs. 4.8 lakhs.

S. JAYARAMAN (C.W. 15), SUGAR-CANE ADVISOR TO E.I.D. PARRY

His evidence is to the effect, that S. N. Lal, the Executive Director of Parry Group, used to inform Mahadevan from time to time about the rates at which the "extra" amounts were to be collected on sales of levy sugar, for passing on to Maruthai Pillai, for further transmission to the Minister of Tamil Nadu Government. The witness used to receive those collections from Mahadevan, Assistant Manager, and pass them on to Maruthai Pillai. S. N. Lal directed him and Mahadevan, also, to collect Rs. 3 per bag on the sale of levy sugar in respect of the releases in February, 1970. The witness directed the Salesmen to collect, accordingly. Such "extra" collections on sales made by Deccan Sugars relating to the releases in February 1970, amounted to Rs. 52,230, and those by Cauvery Sugars to Rs. 38,350, and by E.I.D. Parry Ltd. to Rs. 8,415.

According to Jayaraman, collections of such "extra" amounts on sales, for the *first* collective payment relating to the revalidated quota of 1969 and January-February Quota of 1970, was made at the rate of Rs. 3 per bag, while the next *seven* monthly collections of such amounts, relating to the quotas of March-April, April-May, May-June, June-July, July-August and August-September, 1970 were made at the rate of Rs. 1.50 per bag, and the remaining *eight* collections relating to September-October 1970 quota up to May, 1971, were made at the rate of 50 Paise per bag. The witness has also given facts and figures of the bags released out of the various monthly quotas in favour of the three Factories in the Parry Group, the number of bags sold by them out of those releases and the "extra" collections made. He has given these facts and figures after collecting the same from the records maintained by the E.I.D. Parry Group. These facts and figures substantially tally with those given in the tabulated statement furnished by Maruthai Pillai.

Jayaraman has also given the approximate dates on which he had handed over the various "extra" collections made by the Companies in the Parry Group to Maruthai Pillai for passing on to the Minister/Chief Minister.

After consulting the records of Mills, the witness testified that the total "extra" amounts collected by their Mills and passed on by the witness to Maruthai Pillai for onward transmission to the Chief Minister, from time to time, during the relevant period, were as follows:—

	Rs.
Deccan Sugars	2,09,267.50
Cauvery Sugars	96,600.00
E.I.D. Parry	1,76,365.00
Total ..	4,82,232.50

(Vide page 29 of his deposition before the Commission).

These totals given by Jayaraman suffer from an arithmetical mistake. The witness himself did not work out the figures collected by his assistant Manager, V. Mahadevan. He appears to have simply adopted the calculations made by his Assistant. Those calculations as will be presently seen suffered from an arithmetical error with regard to Cauvery Sugars—item 11, Oct.-Nov. '70 quota. The same mistake has been repeated by Jayaraman. After correcting that arithmetical mistake the totals of the amount paid by the three Mills in the Parry Group should be:

	Rs.
Deccan Sugars	2,09,267.50
Cauvery Sugars	96,100.00
E.I.D. Parry	1,76,365.00
Total ..	4,81,732.50

V. MAHADEVAN

The next witness concerned with the "extra" collections made by the Sugar Mills in the E.I.D. Parry Group, is V. Mahadevan, Assistant Manager of the E.I.D. Parry Ltd. He has filed

an affidavit. In 1969-71, at the material time, he was the person who was in charge of immediate supervision of the sales of sugar by the Companies in E.I.D. Parry Group. He worked under the directions of Jayaraman (C.W. 15) and the Directors, S. N. Lal and J. S. Prabhu.

In his affidavit, he has given a statement showing the month-wise break-up of the various "extra" collections made by the three Mills in the Parry Group. The figures of extra amounts have been worked out from the figures of sales which have been taken from Sales Journals and books maintained by the Mills and which have been tendered in evidence. These figures tally with the entries in the books of the Company. This Statement prepared by the witness, as correcte d may be extracted as under:—

Sl. No.	Quota period	Quantity allotted in bags by the T. Nadu Govt. in bags	Quantity sold to the dealers from whom the extra amount was collected	Rate of extra money per bag collected	Total amount
(1)	(2)	(3)	(4)	(5)	(6)
				Rs.	Rs.
<i>Deccan Sugar & Abkhari Co. Ltd.</i>					
1.	Revalidated upto 21-2-1970	12,705	11,445	3.00	34,335.00
2.	January-February 1970 ..	17,410	17,410	3.00	52,230.00
3.	February-March 1970 ..	6,960	6,960	1.50	10,440.00
4.	March-April 1970 ..	7,844	7,844	1.50	11,766.00
5.	April-May 1970 ..	9,136	9,136	1.50	13,704.00
6.	May-June 1970 ..	5,150	5,150	1.50	7,725.00
7.	June-July 1970 ..	13,135	13,135	1.50	19,702.50
8.	July-August 1970 ..	7,995	7,995	1.50	11,992.50
9.	August-September 1970 ..	7,870	7,870	1.50	11,805.00
10.	September-October 1970 ..	11,940	11,940	1.50	5,970.00
11.	October-November 1970 ..	8,250	8,250	0.50	4,125.00
12.	November-December 1970 ..	12,472	12,472	0.50	6,236.00
13.	December-January 1971 ..	13,810	13,810	0.50	6,905.00
14.	January-February 1971 ..	7,429	7,429	0.50	3,714.50
15.	February-March 1971 ..	3,836	3,836	0.50	1,918.00
16.	March-April 1971 ..	1,699	1,699	0.50	849.50
17.	April-May 1971 ..	11,699	11,699	0.50	5,849.50
				Total ..	2,09,267.50
<i>Cauvery Sugars & Chemicals Ltd.</i>					
1.	Lapsed quota revalidated upto 21-2-1970 ..	7,820	5,820	3.00	17,460.00
2.	January-February 1970 ..	4,439	4,439	3.00	13,317.00
3.	February-March 1970 ..	6,390	6,390	1.50	9,585.00
4.	March-April 1970 ..	6,210	6,210	1.50	9,315.00
5.	April-May 1970 ..	6,711	5,040	1.50	7,560.00
6.	May-June 1970 ..	3,930	3,730	1.50	5,595.00
7.	June-July 1970 ..	5,430	5,430	1.50	8,145.00
8.	July-August 1970 ..	995	995	1.50	1,492.50
9.	August-September 1970 ..	4,070	4,070	1.50	6,105.00
10.	September-October 1970 ..	9,900	9,900	0.50	4,950.00
11.	October-November 1970 ..	4,553	4,533 (4,553)	0.50	2,776.50 (2,276.00)
12.	November-December 1970 ..	3,178	3,178	0.50	1,589.00
13.	December-January 1971 ..	7,480	4,630	0.50	3,740.00
14.	January-February 1971 ..	4,630	4,630	0.50	2,315.00
15.	March-April 1971 ..	1,610	1,610	0.50	805.00
16.	April-May 1971 ..	8,007	3,700	0.50	1,850.00
				Total ..	96,600.00 (96,100.00)

Sl. No.	Quota period	Quantity allotted in bags by the T. Nadu Govt. in bags	Quantity sold to the dealers from whom the extra amount was collected	Rate of extra money per bag collected	Total amount
(1)	(2)	(3)	(4)	(5)	(6)
<i>E.I.D. Parry Ltd.</i>				Rs.	Rs.
1.	January-February 1970 ..	2,805	2,805	3.00	8,415.00
2.	February-March 1970 ..	1,487	1,487	1.50	2,230.50
3.	March-April 1970 ..	15,910	15,910	1.50	23,865.00
4.	April-May 1970 ..	12,249	11,571	1.50	17,356.50
5.	May-June 1970 ..	8,206	3,000	1.50	4,500.00
6.	June-July 1970 ..	7,871	7,871	1.50	11,806.50
7.	July-August 1970 ..	18,142	18,072	1.50	27,108.00
8.	August-September 1970 ..	11,380	11,380	1.50	17,070.00
9.	September-October 1970 ..	30,681	30,521	0.50	15,260.50
10.	October-November 1970 ..	15,270	15,030	0.50	7,515.00
11.	November-December 1970 ..	16,030	15,790	0.50	7,895.00
12.	December-January 1971 ..	11,279	9,534	0.50	4,767.00
13.	January-February 1971 ..	13,730	13,570	0.50	6,785.00
14.	February-March 1971 ..	12,670	12,590	0.50	6,295.00
15.	March-April 1971 ..	15,535	13,245	0.50	6,622.50
16.	April-May 1971 ..	18,867	17,747	0.50	8,873.50
				Total ..	1,76,365.00

(totals added)

In the statement prepared and furnished by V. Mahadevan in his affidavit dated 26-6-1976, the quantity of sugar bags allotted to Cauvery Sugars out of the Oct.-Nov. 1970 quota is shown as '4553', the whole of which was sold, and extra amounts at the rate of 50 P. per bag were collected on those sales. If that were so the total amount thus collected should have been $4553 \times .50 =$ Rs. '2276.50'. But owing to a mistake in multiplication Mahadevan wrongly showed the product of the multiplication as Rs. '2776.50', instead of 2276.50. After correcting this obvious arithmetical mistake the total would also work out to '96100', instead of '96600' as erroneously shown in Mahadevan's Statement. This mistake was pointed out by Maruthai Pillai also, in his further statement, dated 7-9-1977. The total amount according to Maruthai Pillai's statement received by him from the three Parry Group Companies was Rs. 4,81,732.50.

The affidavit of Maruthai Pillai includes a tabulation showing the facts and figures of the "extra" amounts collected by the various Mills every month during the relevant period, and handed over to the witness for passing on further to the then Chief Minister, Shri M. Karunanidhi. Maruthai Pillai reaffirmed that affidavit when he was in the witness-box before the Commission. These figures of the collections which, according to Maruthai Pillai, he had received from the three Mills of Parry Group, namely, E.I.D. Parry, Deccan Sugars and Akkharai Ltd., and Cauvery Sugars, exactly tally with the figures given by Mahadevan and Jayaraman. The total amount, according to Maruthai Pillai's statement, dated 7-9-1977, received by him from the three Mills in the Parry Group, was Rs. 4,81,732.50. On this point, also, Maruthai Pillai's evidence stands corroborated by the evidence of S. N. Lal, Mahadevan and Jayaraman. The entries in the books of these Mills which were made from day to day, regularly, in the course of business, give the figures of the sales made during the relevant period. These books were tendered in evidence by Jayaraman. It will be discussed later that the figures of the sales given by Mahadevan and Maruthai Pillai tally with those in the Sales Books and related records of these Mills.

Further discussion of Shri H.V.R. Iyengar's evidence:

I have also dealt with the evidence of J. S. Prabhu, another Director of E.I.D. Parry Group, and their Chairman, Shri H. V. R. Iyengar. Shri Iyengar's evidence appears to me entirely impeccable.

Shri P. U. Shanmugham has assailed the evidence of Shri H. V. R. Iyengar on two grounds. *First*, that Shri Iyengar and Shri Maruthai Pillai contradict each other on a material point and this contradiction raises a serious doubt about the credibility of both of them. *Second*, that Shri Iyengar is 'capable of moulding his evidence to suit the occasion' because he did so on an earlier occasion before a Commission which was inquiring into the Mundhra Scandal regarding the sale of shares to L.I.C.

The first plea has been taken by Shri Shanmugham in these words:

“ Maruthai Pillai's version (is) that he met the Food Minister and the Chief Minister and it was the Chief Minister who demanded the extra amount of Rs. 3 per bag for issuing the release orders and this was communicated by him to the Members of the South India Sugar Mills Association including Parry Limited, who control the following Mills:

1. Deccan Sugars & Abkari Co. Ltd. and
2. Cauveri Sugars & Chemicals Limited.

According to Thiru Maruthai Pillai, Thiru H. V. R. Iyengar was not willing to pay this amount and he was later made to agree to the said proposal reluctantly when it was decided that the extra amount will be collected from the wholesalers and the Mills will not be involved in this transaction in any manner.

It follows from what I have stated above that Thiru H. V. R. Iyengar must have been made aware of the fact by Thiru Maruthai Pillai that the alleged payment was to be made to the Chief Minister. But Thiru H. V. R. Iyengar does not at all refer to the Chief Minister in his affidavit. According to him he understood that the Government was willing to nominate the factories as wholesalers to start with the payment of Rs. 3 per bag for release of the levy sugar to be paid privately to the Food Minister. He was unwilling to pay the said amount, and an alternative scheme was proposed by some members of the South India Sugar Mills Association, whereby the mills were to collect the amount of Rs. 3 per bag from the wholesalers and the money was to be handed over to Thiru Shanmugham, the Food Minister with the knowledge of Chief Minister. Therefore, it is obvious from the statement made by Thiru H. V. R. Iyengar that he was not apprised that the money was to be paid to the Chief Minister. On the contrary he was informed that the money was demanded by the Food Minister and it was to be paid to the Food Minister with the knowledge of the Chief Minister. The statement made by Thiru Maruthai Pillai cannot therefore be reconciled with the statement of Thiru H. V. R. Iyengar. It raises a serious doubt whether Thiru Maruthai Pillai is speaking the truth about the alleged demand of payment by the Chief Minister.” (para 16(a)(b) of his counter)

It will be seen from the above that the argument has been dressed up in isolated patches culled out of the statements of these witnesses, which give a distorted picture of their evidence.

The substance of Maruthai Pillai's evidence, taken as a whole, is that Shri P. U. Shanmugham and Shri M. Karunanidhi in regard to the demand and receipt of the gratifications in question, were acting in *close concert* with each other; that it was Shri Shanmugham who first spelt out the demand in concrete terms when he in the State Guest House, Madras, demanded a payment of Rs. 3 per bag as a consideration for the release of levy sugar to be sold by the Mills as wholesalers, and when Maruthai Pillai and his companion showed reluctance to the acceptance of this proposal, they were taken before the Chief Minister, Shri Karunanidhi, who was also there in a separate room, and, then, the Chief Minister, in the immediate presence of Shri Shanmugham, told them that if they really wanted immediate relief and to get rid of their problem, they must agree to pay Rs. 3 per bag for the sugar releases in their favour. When Maruthai Pillai pleaded that it was not practicable, the Chief Minister retorted that unless they agreed to the proposal there would be no releases of sugar and they would have to put up with their problem, and added that the Mills need not meet the demand from their own pocket but could collect it from the dealers to whom they would sell.

Maruthai Pillai has further stated that thereafter, he reported about this demand by the Minister and the Chief Minister to the members at an informal meeting of SISMA. At that meeting, E.J.D.

Parry Group were represented by their Special Director, S. N. Lal; and Shri H. V. R. Iyengar was not present there. It is in S. N. Lal's evidence that he conveyed what Maruthai Pillai had reported at the informal meeting, further to Shri Iyengar who refused to be a party to any such arrangement. Maruthai Pillai, has said that two or three days thereafter, he, along with two other representatives of the Mills, went to the office of E.I.D. Parry, and met S. N. Lal and J. S. Prabhu there and requested them to bring round their Chairman, Shri Iyengar, to fall in line with them in complying with the demand of the Minister and Chief Minister. *Maruthai Pillai has nowhere said that he had himself apprised Shri H. V. R. Iyengar all about the demand of the bribe by the Food Minister and Chief Minister, on any occasion. Even when, he went to E.I.D. Parry office, he personally did not meet Shri Iyengar. He met S. N. Lal and J. S. Prabhu and left the task of persuading Shri Iyengar entirely to them.*

S. N. Lal and J. S. Prabhu, also, do not say that on this occasion, Maruthai Pillai had personally met Shri H. V. R. Iyengar.

Shri Shanmugham's assumption "that Thiru H. V. R. Iyengar must have been made aware of the fact by *Thiru Maruthai Pillai* that the alleged payment was to be made to the Chief Minister", is not well-founded. It has no firm basis.

Further, it is patently wrong to say that "Thiru H. V. R. Iyengar does not at all refer to the Chief Minister in his affidavit". As a matter of fact, Shri H. V. R. Iyengar has specifically and repeatedly referred to both the Food Minister and the Chief Minister in the context of the demand of a payment of Rs. 3 per bag. In para 6 of his affidavit (which has been extracted earlier), Shri H. V. R. Iyengar stated:

"Mr. P. U. Shanmugham was the Food Minister in charge and Mr. M. Karunanidhi, the Chief Minister. I understood that the Government was willing to nominate the factories as wholesalers, provided, to start with, Rs. 3 per bag was paid privately to the Food Minister."

It will be seen that Shri Iyengar, in this sentence, was identifying "the Government" with the then Chief Minister and the Food Minister. Later, Shri Iyengar in the same paragraph speaks of a scheme, according to which, Rs. 3 per bag were to be collected by the Companies from the dealers, and the money was to be "handed over to the Food Minister, Mr. Shanmugham, with the knowledge of the Chief Minister, Mr. Karunanidhi". In paragraph 7 of his affidavit, Shri Iyengar, has stated that "there was no option but to yield to the illegal demand of the Ministers". The word 'Minister' used by him in plural, obviously covers both the then Food Minister, Shri Shanmugham and the Chief Minister, Shri M. Karunanidhi. The statement of Shri Iyengar, read with reference to the context and substance, as a whole, clearly shows that according to the witness, the demand of the bribe was a concerted act of the Food Minister and the Chief Minister and the payment to be handed over to the Food Minister under the proposed arrangement was meant for "the Government", i.e. both for the Food Minister and the Chief Minister. Thus, the variation on this point between the statement of Maruthai Pillai and the derivative, second-hand account given by Shri Iyengar, was no more than a difference between 'tweedledum' and 'tweedledee'. There was general agreement between the two statements with regard to the substance of the matter. Such natural variations or minor discrepancies always creep in even in the statements of truthful witnesses, particularly in the statement of a witness who reproduces from memory information derived from another. Such variations are really due to the natural differences in the faculties of different persons in the matter of perception, memorisation, expression and reproduction of details. They can hardly be a ground for rejection of their evidence when there is general agreement as to the substratum of the story.

There is no merit in the *first* ground and I repel the same.

This takes me to the *second* contention raised by Shri P. U. Shanmugham in his affidavit. The contention, in his own words, is:

"I am not able to understand why Thiru H. V. R. Iyengar has not taken the ordinary care to verify the statement of Thiru Maruthai Pillai or write to the Central Government about the alleged clandestine deal then itself. That Thiru H. V. R. Iyengar is capable of

moulding his evidence to suit the occasions is made plain by his own performance as a witness in the CHAGLA INQUIRY relating to the affairs of the L.I.C.

Thiru H. V. R. Iyengar was then holding a position of high responsibility as the Governor of the Reserve Bank. He was admittedly present at a Council meeting that took place between Mr. Bhattachariar then Chairman of the State Bank, Mr. Patel, then Finance Secretary and the then Finance Minister. While Mr. Bhattachariar gave evidence that on 22nd June, 1957 Mr. Patel mentioned to the Minister about the letter to the LIC and the reply of the Minister that 'it may be looked into urgently'. Mr. Iyengar gave evidence that no such conversation took place between Mr. Patel and the Minister within his hearing. This evidence was not believed by the Commission and the evidence of Mr. Patel and Bhattachariar was believed."

(para 16(b)(c) of the affidavit)

It may be observed that no extract from the proceedings of that Commission which is said to have disbelieved Shri H. V. R. Iyengar's statement before it, has been placed before me, to judge the truth or otherwise of the factual premises of this contention. Even if it is assumed for the sake of argument, that some earlier Commission accepted the statements of some other witnesses before it in preference to that of Shri Iyengar, then also, that is no ground to hold that the witness is 'capable of moulding his statement to suit the occasion'. To my mind, this insinuation is wholly unwarranted.

Shri Shanmugham's expression of his inability to understand why Shri Iyengar had not verified from him Maruthia Pillai's statement, is faked and fictitious.

This oblique argument carries a baseless innuendo against Maruthai Pillai as if he were a notorious cheat who was out to swindle the Mills. Nothing could be more preposterous than this argument. The very fact that the Mills had elected Maruthai Pillai as the President of their Association shows that in their eyes and of the industrial world, Maruthai Pillai enjoyed unimpeachable reputation for integrity. Shri H. V. R. Iyengar and the other Millers therefore had absolutely no ground to doubt Maruthai Pillai's word that the Minister and the Chief Minister were demanding gratification. These are, if I may venture to say so, crocodile tears.

As regards the other limb of the argument that Shri Iyengar could have complained about it to the Central Government, it may be recalled that as early as March, 1970 a complaint was made to the Central Government by some person in which a specific allegation was made about the receipt of a gratification of Rs. 5 lakhs by the "Madras Minister" for appointing the five Mills mentioned therein, as wholesalers with permission to sell levy sugar to bulk consumers and commercial consumers. This complaint was sent to the State Government for comments, and was put up by the Food Secretary, Ramchander, to Shri P. U. Shanmugham. Still, he did not, in reply to the Central Government, say a word in refutation of that allegation.

The Respondents have not been able to allege that Shri Iyengar has had any animus against them or a motive to tell a lie. I find his evidence entirely trustworthy. It is consistent with that of S. N. Lal, CW 16, J. S. Prabhu, V. S. T. Mudaliar and D. C. Kothari. I am not unaware of the fact that Shri Shanmugham has challenged the credit of these witnesses, also, mainly on the ground of alleged "discrepancies and material contradictions" in their statements. I shall deal with that criticism towards the end of this topic. At this place, it would be sufficient to say that their evidence does not suffer from any material infirmity which may undermine their credit.

Coming back to the evidence of Shri H. V. R. Iyengar, I would reiterate that his statement is fully credit-worthy, and it lends considerable assurance to the story of Maruthai Pillai, particularly on the point that the Chief Minister had foisted a package arrangement on all the nine Mills, according to which they had all to pay collectively through Maruthai Pillai, a gratification on the sales of the first releases of levy sugar, to start with, at the rate of Rs. 3 per bag, and in the event of any of them not agreeing to this arrangement, none of them would be granted the relief sought by them. This condition precedent, laid down by the Chief Minister, requiring collective payment by all the Mills, explains why Maruthai Pillai, D. C. Kothari and Mudaliar etc., the representatives of the other Mills, were so very anxious to persuade Shri Iyengar, to fall in line with them for the collection

of these 'extra' sums, off-the-record, from the purchasing dealers for passing on to the Chief Minister.

The evidence of all these witnesses belonging to the E.I.D. Parry Group, taken together, fully confirms the account given by Maruthai Pillai regarding these extra amounts collected and contributed by the three Sugar Mills in the E.I.D. Parry Group towards the sixteen collective payments of gratification through Maruthai Pillai to the Chief Minister, Shri Karunanidhi.

(b) Collections by Kothari Sugars D.C. Kothari

The witness is the Director of Kothari Sugars and Chemicals Ltd. He was present in the meeting in which Maruthai Pillai disclosed about the demand of the bribe at the rate of Rs. 3 per bag on sales of released levy sugar by the Minister and the Chief Minister. He has stated that sometime thereafter, he was asked by Maruthai Pillai to give their application for appointment of their Mill as wholesalers. An application was accordingly sent and on 16-2-1970, the Government passed an order appointing Kothari Sugars as wholesalers to sell the lapsed quantity. What happened thereafter, may be quoted in his own words:

“ . . . When the orders were issued by the Government releasing the quantity of sugar, Sri Maruthai Pillai informed that Rs. 3 (Rupees three) should be collected from the dealers for payment to the Ministers. Accordingly, I instructed Mr. T. L. Raghavan, Assistant Manager, Messrs Kothari Sugars and Chemicals Limited to collect at the rate Rs. 3 (Rupee Three) per bag from the dealers at the time of issue of sale note and pass the same on to Sri Maruthai Pillai. Accordingly, he (Mr. Raghavan) collected the money and passed on the same to Maruthai Pillai.

“ Subsequently, similar allotment orders were issued by the Government of Tamil Nadu for each monthly quota released by the Government of India authorising the Mills to sell the same as wholesalers. For each of the subsequent 7 allotment orders further discussion, I was informed by Sri Maruthai Pillai to collect the extra amount at the rate of Rs. 1-50 (Rupees one and paise fifty) per bag and later on 0-50 (Paise fifty) per bag. Sri T. L. Raghavan was informed accordingly to collect the amount from the dealers periodically and pass the same on to Sri Maruthai Pillai. ”

(Vide Paras 15, 16 of his affidavit Sl. No. 47, dated 1-7-1976).

T. L. Raghavan (C.W. 18)

He was, at the relevant time, in 1970-71, Assistant Manager of Kothari Sugars. Later he was promoted as Manager. He was incharge of sugar sales, in addition to other administrative functions. His evidence with regard to the financial crisis which this Mill was facing in 1969-70 owing to unprecedented accumulation of unlifted stocks of sugar, has already been discussed. Now I will notice his evidence with regard to the collection of the "extra" amounts by Kothari Sugars for payment to the Chief Minister, through Maruthai Pillai. The witness made three statements. The *first* in point of time was in his affidavit (Sl. No. 70), dated 3-7-1976), the *second* was the one he made on 10-8-1976 to the Investigating Officer under Section 5A, and the *third* was made by him on 3/4-11-1976, in the witness box before the Commission on *viva voce* examination. Excepting with regard to the date of making the application for appointment as wholesalers, all his three statements are consistent with one another on all material points. This is what he has stated:

“ 12. On 16th February, 1970, orders were received from the Government appointing our sugar mills and some other sugar mills in the private sector authorising the mills to sell the levy sugar directly to the dealers as wholesalers.

“ 13. I was informed by Mr. D. C. Kothari that we have to collect a sum of Rs. 3 per bag extra off the record for being paid to the Ministers and that it was on this condition that sugar mills have been authorised to effect levy sugar sales and that should explain this to the dealers and collect the money when selling the sugar. Mr. Kothari also told me that on collecting the said amount it has to be paid to Shri P. Maruthai Pillai for being passed on to the Minister. Thereafter at the time of the sale of sugar to the dealers was concluded, I explained the above to each of the dealers and that they must pay an extra amount to be paid to the Ministers for

getting the above orders. The said dealers paid the respective amounts accordingly. I collected the amounts from the dealers. On instructions of Shri D. C. Kothari I paid the above amounts to Shri P. Maruthai Pillai.

14. For the first occasion as mentioned above, Rs. 3 per bag was collected. Thereafterwards, the rate was reduced for the next seven occasions and the rate was at Rs. 1.50 per bag and thereafter it came down to Rs. 0.50 per bag till May 1971 when the control on sale of sugar was lifted.
- “ 15. I state the details of allotment orders, quantity allotted by the Tamilnadu Government, quantity sold to the dealers from whom the extra amount was collected and the rate and the total amount collected as under:
- “ 16. (a) In respect of lapsed quota relating to Sept/Oct. and Oct/Novr. 1969, the Government of Tamilnadu issued orders in Ref. No. 4956/70, dated 16th February, 1970 reallocoting to us as wholesalers a quantity of 12,065 bags of sugar not lifted by allottees. The whole quantity was sold to dealers and a sum of Rs. 36,195 (Rupees Thirtysix thousand, One hundred and Ninetyfive) at the rate of Rs. 3 per bag off the record was collected from them.
- “ 16. (b) With regard to the quota period Jan./Feb. 1970, the Government of Tamilnadu issued order No. 6110/F2/70/CS, dated 25th February, 1970 allotting a total quantity of 9,256 bags of levy sugar to be sold to the dealers by our mills as whole-salers and the whole quantity was sold accordingly A sum of Rs. 3 per bag off the record was collected from the dealers. A total sum of Rs. 27,768 (Rupees Twentyseven thousand, Seven Hundred and Sixtyeight)only was thus collected from the dealers off the records.
- “ 16. (c) With regard to the quota period Feb./March 1970 the Government of Tamilnadu issued an order No. 8233/F2/70/CS, dated 12th March 1970, allotting 9,090 bags (Nine thousand and Ninety bags) of sugar. Shri D. C. Kothari informed me that the rate of collection from the dealers had been reduced to Rs. 1.50 per bag. The entire quantity of 9,090 bags was sold to the dealers and a total sum of Rs. 13,635 (Rupees Thirteen thousand, six thundred and thirty-five only) was collected from the dealers off the records at the rate of Rs. 1.50 per bag.
- “ 16. (d) With regard to the quota period March/April 1970, the Government of Tamilnadu issued order No. 12297/F2/70/CS, dated 13-4-1970 allotting a quantity of 56 bags and order No. 10889/F2/70/CS, dated 30-4-1970 allotting a quantity of 19 bags, making a total quantity of 75 bags of sugar to be sold as wholesalers to the dealers. The entire quantity of 75 bags was sold to the dealers and a total sum of Rs. 112.50 (Rupees One hundred and Twelve and Paise Fifty only) was collected from the dealers off the records at the rate of Rs. 1.50 per bag.
- “ 16. (e) With regard to the quota period April/May 1970, the Government of Tamilnadu issued orders No. F2.13905/70/CS, dated 30-4-1970 allotting a quantity of 9,420 bags and order No. F.2/13905/70/CS, dated 6-6-1970 a quantity of 3,139 bags, making a total quantity of 12,559 bags of sugar to be sold as wholesalers to the dealers. Out of this, three bags were sold to Fair Price Shop, M.S.T.D. Trichy. The balance of 12,556 (Twelve thousand, five hundred and fiftysix) bags was sold to the dealers and a total sum of Rs. 18,834 (Rupees Eighteen thousand eight hundred and thirtyfour) was collected at the rate of Rs. 1.50 per bag off the records.
- “ 16. (f) With regard to the quota period May/June 1970, the Government of Tamilnadu issued orders in Ref. No. 16609/70/FS/CS, dated 5-6-1970 allotting a quantity of 2,138 bags and order No. 20372/70/FS/CS, dated 21-6-1970 a quantity of 712 bags was allotted making a total of 2,850 bags of sugar to be sold as wholesalers to the dealers. The entire quantity of 2,850 bags was sold to the dealers

and a total sum of Rs. 4,275 was collected from the dealers off the records at Rs. 1.50 per bag.

- “ 16. (g) With regard to the quota period June/July 1970, the Government of Tamilnadu issued orders Ref. No. 20452/70/CS, dated 2-7-1970 allotting a quantity of 2,265 bags and order No. 20452/70/CS, dated 27-7-1970 for 755 bags, making a total of 3,020 bags of sugar to be sold to the dealers as wholesalers by us. The entire quantity of 3,020 bags was sold to the dealers and a total sum of Rs. 4,530 (Rupees Four thousand, five hundred and thirty) only was collected off the records at the rate of Rs. 1.50 per bag from the dealers.
- “ 16. (h) With regard to the quota period July/August 1970, the Government of Tamilnadu issued an order Ref. No. 27937/70/E3/CS, dated 29-7-1970 allotting a quantity of 8,700 bags of levy sugar to be sold to the dealers. Out of this quantity, 70 bags (Seventy bags) was sold to the Trichy District Co-operative Marketing Society Ltd., Trichy. The balance quantity of 8,630 bags was sold to the dealers and a total sum of Rs. 12,945 (Rupees Twelve thousand, Nine Hundred and fortyfive only) was collected from the dealers off the records at the rate of Rs. 1.50 per bag.
- “ 16. (i) With regard to the quota period August/September 1970 the Government of Tamilnadu issued orders under Ref. No. 27836/70/CS/E3, dated 7-9-1970 allotting a quantity of 5,603 bags and order No. 27836/70/CS/E3, dated 17-9-1970 a quantity of 1,867 bags, making a total of 7,470 bags was allotted to the mills to be sold to the dealers. The entire quantity of 7,470 bags was sold to the dealers, and the total sum of Rs. 11,205 (Rupees Eleven thousand two hundred and five) only was collected off the records from the dealers at the rate of Rs. 1.50 per bag.
- “ 16. (j) With regard to the quota period Sept./Oct. 1970, the Government of Tamilnadu issued order No. 31519/70/E3/CS, dated 30-9-1970 for 17,150 bags and 31519/70/E3/CS, dated 11-11-1970 for 5,716 bags, making a total quantity of 22,866 bags was allotted to the mills for sale as wholesalers to the dealers. Out of this quantity, a quantity of 140 bags was sold to the Trichy District Co-operative Marketing Society Ltd., Trichy. The balance quantity of 22,726 bags of sugar was sold to the dealers. Mr. D. C. Kothari informed me that the rate of collection of the extra amount had been further reduced to Rs. 0.50 per bag and accordingly, I collected a total sum of Rs. 11,363 (Rupees Eleven thousand, three hundred and sixtythree only) from the dealers off the records at the rate of Rs. 0.50 per bag;
- “ 16. (k) With regard to the quota period Oct./Nov. 1970, the Government of Tamilnadu issued an order No. 34643/70/E3/CS, dated 11-11-1970 allotting a quantity of 8,850 bags to be sold as wholesalers. The entire quantity of 8,850 bags was sold and a total sum of Rs. 4,425 (Rupees Four thousand, four hundred and twentyfive) was collected from the dealers off the records at the rate of Rs. 0.50 per bag.
- “ 16. (l) With regard to the quota period November/December 1970, the Government of Tamilnadu. issued an order No. 37938/70/E3/CS, dated 8-12-1970, allotting a quantity of 5,475 bags to be sold as wholesalers. The entire quantity of 5,475 bags was sold and a total sum of Rs. 2,737.50 (Rupees Two Thousand, Seven Hundred and Thirtyseven and Paise Fifty only) was collected from the dealers off the records at the rate of Rs. 0.50 per bag.
- “ 16. (m) With regard to the quota period December 1970/January 1971, the Government of Tamilnadu, issued orders No. 42081/70/E3/CS, dated 5-1-1971 for 3,600 bags and 42 081/E3/CS, dated 21-1-1971 for 400 bags, making a total quantity of 4,000 bags was allotted to be sold as wholesalers. The entire sum of Rs. 2,000 (Rupees Two thousand only) was collected from the dealers off the records at the rate of Rs. 0.50 per bag.

- “ 16. (n) With regard to the quota period January/February 1971, the Government of Tamilnadu issued orders No. 4763/71/E3, dated 29-1-1971 allotting a quantity of 2,040 bags and No. 4763/71/E3, dated 22-2-1971 a quantity of 680 bags, making a total quantity of 2,720 bags allotted to be sold to the dealers as wholesalers by us. The entire quantity of 2,720 bags was sold to the dealers and a total sum of Rs. 1,360 (Rupees One thousand three hundred and sixty only) was collected from the dealers off the records at the rate of Rs. 0.50 per bag.
- “ 16. (o) With regard to the quota period February/March 1971, the Government of Tamilnadu issued orders No. 12032/71/E3/CS, dated 26-2-1971 for 4,170 bags and No. 12032/71/E3/CS, dated 11-3-1971 for 1,390 bags making a total quantity of 5,560 bags was allotted to be sold to the dealers as wholesalers by us. The entire quantity of 5,560 bags was sold by us to the dealers and a total sum of Rs. 2,780 (Rupees two thousand seven hundred and eighty only) was collected from the dealers off the records at the rate of Rs. 0.50 per bag.
- “ 16. (p) With regard to the quota period March/April, 1971, the Government of Tamilnadu issued an order Ref. No. 21417/E3/CS, dated 5-4-1971 allotting quantity of 8,667 bags of sugar to be sold as wholesalers to the dealers. The entire quantity of 8,667 bags was sold to the dealers, and a total sum of Rs. 4,333.50 (Rupees Four thousand, three hundred and thirtythree and paise fifty only) off the records was collected from the dealers at the rate of Rs. 0.50 per bag.
- “ 16. (q) With regard to the quota period April/May 1971, the Government of Tamilnadu issued orders No. 27946/71/E3/CS, dated 30-4-1971 allotting a quantity of 3,540 bags and No. 27946/71/E3/CS, dated 5-5-1971 allotting a quantity of 1,100 bags and No. 27946/71/E3/CS, dated 3-5-1971 a quantity of 1,181 bags was allotted making a total quantity of 5,821 bags to be sold to the dealers as wholesalers by us. Out of this a total quantity of 490 bags was lapsed and the balance quantity of 5,331 bags was sold to the dealers and a total sum of Rs. 2,665.50 (Rupees two thousand, six hundred and sixtyfive and paise fifty) only was collected from the dealers off the records at the rate of Rs. 0.50 per bag.
- “ 17. A total sum of Rs. 1,61,164 (Rupees one lakh sixtyone thousand, one hundred and sixtyfour only) was thus collected from the dealers off the records. Each of the payment as and when collected were passed on by me to Mr. Maruthai Pillai. On some occasions Mr. Maruthai Pillai phoned to me to make the payments to his agent or representative, whom he sent for the occasion. I do not remember the names of those persons.”

In the witness-box, the witness was subjected to thorough probing and searching questioning to test his credit. He convincingly explained the discrepancy with regard to date of the application. He appears to have emerged unscathed and unshaken, from the prolonged questioning. I was greatly impressed by his demeanour in “the witness-box”. He gave straight and frank answers when the contentions advanced by Shri P. U. Shanmugham in his counter-affidavit were put to him.

In his examination before the Commission, T. L. Raghavan has elaborated the procedure which he adopted for the information of Maruthai Pillai about the particulars of the collected amount at the time of handing over the same to Maruthai Pillai. The witness first stated about the instructions he received from D. C. Kothari for collecting the extra amounts. He deposed:

- “ . . . In February 1970, Mr. D. C. Kothari informed me that the Ministers viz., the Chief Minister Mr. Karunanidhi and the Food Minister Mr. Shanmugham had agreed to allow the mills to be appointed as wholesalers to sell the unlifted levy sugar directly to the dealers on the understanding that the Mills would pay off-the-record amounts at the rate of Rs. 3 per bag on such sugar sold. Also, he asked me to hasten with the requisite application for our mills being appointed as wholesaler. The draft of it was given by the Association. Accordingly we submitted our application, if I remember correct, on 13-2-1970.”

The witness was asked:—

“What was the quantity allotted to your Company under the release order received by you on 16-2-1970, marked as Exh. CW 18/4”?

The witness replied:

“12,065 bags were allotted to us out of the lapsed quota relating to September-October 1969. We collected extra charge off-the-record at the rate of Rs. 3 per bag for this quantity, from the purchasing dealers and the total amount thus collected was Rs. 36,195. I made the sales and collected these amounts. This amount in currency notes was bundled up with a slip showing the particulars of bags sold and amount collected at the rate of Rs. 3 per bag sold and then the bundle was handed over to Mr. Maruthai Pillai. I took that amount myself to Mr. Pillai and handed it over to him. He checked up the amount given to him with the particulars noted on the slip, and the same procedure was followed by me with regard to the extra amounts collected on the sales of other releases, made from time to time, excepting of two or three occasions. I have prepared a statement of the collections, and other necessary particulars of such sales and collections made from time to time. In all fifteen such off-the-record collections of amounts were made by me. Excepting on two or three occasions, all the collections were personally handed over by me to Mr. Maruthai Pillai from time to time as indicated in the Statement which I am submitting as Exhibit CW 18/5”.

The tabulated statement, Ex. CW 18/5, in which all the figures (excepting those of the extra amounts which have been worked out) are said to have been extracted from the Sale Journals, Invoice Registers and other books and records maintained by the Company in the regular course of business, may be reproduced as below:

“ Ex. CW 18/5 ”.

STATEMENT SHOWING THE EXTRA AMOUNT COLLECTED IN RESPECT OF
RELEASE ORDERS FOR WHICH WE WERE APPOINTED BY THE GOVERNMENT OF
TAMILNADU AS WHOLESALERS OFF-THE-RECORD

Sl. No.	Quota Period	Quantity sold (bags)	Amount Collected per bag	Total amount for the quantity sold against the allotment order	Approximate week and month when the money was handed over to Mr. Maruthai Pillai
1.	Lapsed quota for September-October and October-November 1969	12,065	3.00	36,195.00	Last week of February 1970.
2.	January-February 1970	9,256	3.00	27,768.00	1st week of March 1970.
3.	February-March 1970	9,090	1.50	13,635.00	1st week of April 1970.
4.	March-April 1970	75	1.50	112.50	Third week of June 1970,
5.	April-May 1970	12,556	1.50	18,834.00	
6.	May-June 1970	2,850	1.50	4,275.00	Last week of June 1970.
7.	June-July 1970	3,020	1.50	4,530.00	End of July 1970.
8.	July-August 1970	8,630	1.50	12,945.00	First week of August 1970.
9.	August-September 1970	7,470	1.50	11,205.00	Last week of September 1970.
10.	September-October 1970	22,726	0.50	11,363.00	2nd week of November 1970.
11.	October-November 1970	8,850	0.50	4,425.00	1st week of December 1970.
12.	November-December 1970	5,475	0.50	2,737.50	2nd week of January 1971.
13.	December-January 1971	4,000	0.50	2,000.00	End of February 1971.
14.	January-February 1971	2,720	0.50	1,360.00	
15.	February-March 1971	5,560	0.50	2,780.00	End of March 1971.
16.	March-April 1971	8,667	0.50	4,333.50	2nd week of April 1971.
17.	April-May 1971	5,331	0.50	2,665.50	Third week of May 1971.
		1,28,341		1,61,164.00	

* All these amounts were handed over personally by me to Mr. Maruthai Pillai excepting on two or three occasions when the money was handed over to his nominee or agents who came to our office. It is difficult to recollect these two or three occasions and also the names of the persons who collected it on behalf of Mr. Maruthai Pillai.

(Sd) T. L. RAGHAVAN

The witness then gave details of the releases, the monthly sales and the collections of 'extra' amounts thereon. He has explained how for seven months on the sales from March to September, 1970, these 'extra' collections (in accordance with the information conveyed by D. C. Kothari or Maruthai Pillai), were made at the rate of Rs. 1.50 per bag. Further collections on sales from October 1970 till May, 1971 were made at the rate of 50 paise per bag. The witness tendered in evidence the Statement, Ex. CW 18/7, in which he gave all the necessary particulars of the sales made by Kothari Sugars under the supervision of the witness between February 1970 and May 1971. This statement has been prepared dealer-wise and not monthwise. It is marked, Ex. CW. 18/7. The witness testified that the particulars in this Statement had been extracted by him from the records of their Company including the Sale Notes in their possession. He clarified that the dates of the invoices mentioned therein need not synchronise with the *dates of the sales*, but they do synchronise with the *dates of the deliveries* of the sold stocks to the purchasing dealers. He has summed up the total collections of extra amounts, off-the-record, made by Kothari Sugars and handed over to Maruthai Pillai on fifteen occasions, as under:

"The total amount of collections from time to time and handed over to Maruthai Pillai was Rs. 1,61,164 and the total number of sugar bags sold related to these collections was 1,28,341. The said amounts were passed on to Maruthai Pillai for onward transmission to the Chief Minister and the Food Minister."

Maruthai Pillai has testified that all such collections of "extra" amounts during the relevant periods received from Kothari Sugars were generally handed over to him by T. L. Raghavan, CW 18, of that Mill. Maruthai Pillai has further stated that the total of such "extra" amounts received from Kothari Sugars by him, towards the 15 collective payments made to the Chief Minister by him, was Rs. 1,61,164 only, which tallies with the figures given by T. L. Raghavan.

Thus, with regard to the facts, as to who used to hand over the collections made by Kothari Sugars and how much those 'extra' amounts were, the testimony of Maruthai Pillai has been corroborated by T. L. Raghavan and also by the entries in the books of Kothari Sugars which were maintained regularly in the course of business. The evidence of D. C. Kothari, also, so far as it goes, corroborates Maruthai Pillai.

In view of what has been contended by Shri P. U. Shanmugham in his counter-affidavit, the witness was questioned as to whether, while selling the released levy sugar, they had made any representation to the purchasing dealers that the "extra" money, off-the-record, demanded from them at the rate of Rs. 3 per bag was meant only to recoup what the Mills had already paid to the Minister or the Chief Minister, the witness replied that he or his salesman might have so represented to the purchasing dealers; by way of exaggeration. He frankly conceded that such a gimmick was frequently adopted by them just to facilitate the collection of these 'extra' amounts at the rate of Rs. 3 per bag, although they knew at that time, that this money was not being collected for *recoupment* of anything already paid, but for payment after collection to the Minister/Chief Minister.

It may be noted that in his subsequent counter-affidavit, Shri P. U. Shanmugham has pointed out that several dealers who purchased the levy sugar from the Mills, have stated in their affidavits, that while demanding Rs. 3 per bag, off-the-record, on the sales, the Mills told the m (purchasers) that this collection was being made to recoup what they had already paid to the Ministers. T. L. Raghavan's statement shows that such a representation might have been made by the selling Mills, only to cajole or coax the reluctant purchasers to pay the extra 'levy'. It is not unusual for clever businessmen to indulge in such bluffing tactics. Be that as it may, many of the 78 dealers who have filed affidavits, have stated that the representatives of the Mills while selling the released sugar, had told them that this 'extra' collection of Rs. 3 per bag etc. was being made to comply with the demand of the Minister/Chief Minister.

(c) Collections by Sakthi Sugars

P. NATARAJAN, CW. 26

Kailasa Gounder, Commercial Director of this Company died on 19-2-1976 (vide Natarajan, CW-26). His evidence therefore could not be recorded. Further, there are two witnesses who give evidence with regard to the collections of 'extra' amounts made by Sakthi Sugars during

the relevant period. The first one is P. Natarajan (CW 26). This witness was at the material time in 1969—1971, Assistant Sales Officer of Saktm Sugars. It was he who had made all the collections of these 'extra' amounts on the sales of the various sugar releases made by the Government in favour of Sakthi Sugars. The witness was examined before the Commission as CW 26. For facility of reference, it will be useful to extract the material portions of his testimony, as under:

" . . . Mr. Kailasa Gounder proceeded to Madras in the 1st week of February. After his return he told me that the Minister had agreed to appoint the mill owners as wholesalers to liquidate the stock. At that time he told me that if we were to be appointed as wholesalers we had to pay Rs. 3 per bag off-the-record to the Chief Minister and the Food Minister . . .

" . . . He told me that if we were to dispose of the stocks, we had to collect Rs. 3 per bag off-the-record without account, in order to send the same to the Chief Minister and the Food Minister . . .

" CQ. When was the quota for February released?

A. We had received the allotment order on 16th February for 17,865 bags.

Q. Did you receive release orders subsequently?

A. Subsequently we had received the release orders from the Commissioner of Civil Supplies on 17th February.

CQ. Which quota was released?

A. Lapsed quota for August-September, September-October and October-November . .

Our Liaison Officer at Madras told me that they had the release order for so many bags and that should be disposed of immediately . . .

I got this information by phone . . .

Ex. CW 26/2 is that file containing all the release orders during the relevant period . . .

On receipt of the allotment order I had conveyed to our sugar dealers at Madurai, Coimbatore, Tiruchi, Salem and Erode, by phone, as to how many bags they had to lift and I told them that they would have to pay Rs. 3 per bag off-the-record well in advance *i.e.* 18th February by the very next day . . .

They first hesitated and later responded since they had got a profit margin of Rs. 5 to Rs. 10 in the sale . . . On 17-2-1970 release order was received for 17,865 quintals. The sales were completed on 21-2-1970 and I had collected the extra amount of Rs. 53,595 at the rate of Rs. 3 per bag off-the-record . . . In the third week of February, I handed over the entire amount, along with a chit, to Mr. Kailasa Gounder with the particulars . . . I had noted as to how many were hundred rupee note, ten rupee note and five rupee note etc. . . . The second allotment order for 5,998 was received on 25-2-1970 for January-February quota . . . On 25-2-1970, I received information that the release order would be issued the next day. On 26-2-1970, I arranged to sell the quota and the delivery was completed on 23-3-1970 . . . What was the amount collected? How many bags were sold from this quota? I had sold 5,998 bags *i.e.* the entire allotment. I had collected off-the-record amount at the rate of Rs. 3 per bag, the total amount being Rs. 17,994 . . . As usual, I handed it over to Mr. Kailasa Gounder along with a chit containing accounts . . .

" In the month of February itself the dealers were suffering very much to pay the extra surcharge of Rs. 3 per bag. Therefore I approached Mr. Kailasa Gounder and asked him was there any possibility of reducing the rate of the extra amount to be collected off-the-record. He informed me that he would consult the Ministers in this connection and try to reduce the amount of collection. In a day or two thereafter he told me that in respect of the allotment for February-March the collection of extra amount off-the-record would be at the rate of Rs. 1.50 only . . .

We received the allotment order on 12-3-1970 and commenced the sale on 13th itself. Before that he told me, probably it would have been on 10th . . .”

The witness extracted relevant data from the books maintained by the Company in the course of the business, and on the basis of that data, prepared a consolidated Statement showing the dates of release orders, the quantity allotted, quantity sold, the rates at which ‘extra’ amounts off-the-record were collected, and the total of such amounts, which he had handed over to late Kailasa Gounder. That Statement is marked as Ex. CW 26/3.

The other witnesses who give evidence with regard to the collections of ‘extra’ amounts made by Sakthi Sugars are P. V. Viswanathan and N. Mahalingam. P. V. Viswanathan was, at the material time, General Manager of Sakthi Sugars, while N. Mahalingam was the Chairman and the Director of the Company.

P. V. VISWANATHAN

This is what P. V. Viswanathan has stated with reference to these collections:

“ 16. I was further given to understand by late Kailasa Gounder that the wholesalers/retailers paid Rs. 3 per bag of sugar to start with and payments were progressively scaled down till it reached Rs. 0.50 per bag of sugar and that this situation continued till May, 1971 when the control on the sale of sugar was removed.

17. Late Kailasa Gounder was himself attending to the matter of collection of extra payment to be made to the Food Minister and the Chief Minister off-the-record and all other matters incidental and ancillary to the same.”

(Vide his affidavit dated 25-6-1976).

N. MAHALINGAM

A part of his evidence has already been noticed earlier. It may be noticed further with regard to the collections of these extra amounts. He has stated:

“ 7. . . . Subsequently, after agreeing to effect the payment in the manner aforesaid, orders were issued by the Government of Tamil Nadu declaring all the Mills as wholesalers. I was also informed (by late Kailasa Gounder) that on receipt of such orders all the Sugar Mills in the State of Tamil Nadu in the Private Sector were selling the sugar to the wholesalers/retailers and collecting the aforesaid extra money as per the demand of the Food Minister and the Chief Minister in the manner aforesaid and passed the same on to Shri P. Maruthai Pillai from time to time for effecting payments in the manner aforesaid. I was further given to understand that the wholesalers/retailers paid Rs. 3 per bag of sugar initially to start with and payments were progressively scaled down till it reached Rs. 0.50 per bag of sugar. This situation continued till May 1971 when the control on the sale of sugar was removed.”

(Vide paragraph 7 of his affidavit dated 22-6-1976)

(Parenthesis added)

Maruthai Pillai has testified that these ‘extra’ collections made by Sakthi Sugars, used to be handed over to him for further transmission to the Chief Minister by late Kailasa Gounder, the Commercial Director of that Company, and that the total ‘extra’ amount collected and handed over to him by Sakthi Sugars, from time to time, during the relevant period was Rs. 2,79,161.50 (Vide Ex. CW 14/34 tendered in evidence by Shri Maruthai Pillai). This exactly tallies with the total figure given by P. Natarajan after working out the same on the basis of the figures of sales taken from the books and records of the Company. In this way P. Natarajan’s evidence furnishes valuable corroboration of the testimony of Maruthai Pillai. Similarly with regard to the arrangement imposed by the Minister and the Chief Minister on the Mills for extracting these gratifications, the statements of P. V. Viswanathan and N. Mahalingam furnish valuable supporting evidence of the story propounded by Maruthai Pillai.

(d) Collections by Aruna Sugars

M. GANESAN (CW 23)

Maruthai Pillai was not only the president of SISMA he was also the Managing Director of Aruna Sugars. Maruthai Pillai has testified that as soon as he received information about the

issue of release orders passed on 16-2-1970 by the Government allotting levy sugar to their Mill for sale, he gave instructions to the Mill's Salesman, M. Ganesan (CW 23), to collect 'extra' amounts at the rate of Rs. 3 per bag, 'off-the-record', on the sales. M. Ganesan accordingly, collected Rs. 3 per bag and handed over the collected amount to the witness sometime between the 5th and 10th of March 1970. The total "extra" amount handed over on this occasion by Ganesan was Rs. 47,918. While handing over the first collection relating to February 1970, M. Ganesan showed the witness a slip of paper on which the total number of bags sold and the total amount collected thereon at the rate of Rs. 3 per bag was noted. This slip was destroyed by them, subsequently. His statement is that all collections received from the other Mills from time to time were also handed over to M. Ganesan who with the aid of the slip accounts received with the collections from the Mills, used to prepare a consolidated Master List, in duplicate. One copy of such consolidated Statement of account or Master List was invariably handed over by the witness along with the money to the payee. The witness further testified that Ex. CW 23/1 was a correct statement prepared from the records of their Company by M. Ganesan. It shows the "extra" amounts collected by Aruna Sugars during the relevant period for payment to the Chief Minister.

M. Ganesan was the Sales Manager of Aruna Sugars at the relevant time and was posted at the Head Office of the Company in Madras, while its Sugar Factory is at Pennadam, Vridhachalam Taluk in South Arcot District. The witness is distantly related to Maruthai Pillai. He is a man of Maruthai Pillai's confidence and used to be in charge of cash and sales made by this Mill (Company) since 1969. All the levy sugar released in favour of Aruna Sugars at the relevant time, was sold under his supervision.

According to this witness, in the first week of February 1970, Maruthai Pillai instructed him to collect Rs. 3 per bag, 'extra' 'off-the-record', for the quantity of the levy sugar sold every month, from the purchasing dealers. In accordance with these instructions, the witness made collections on the sales made in February 1970, at the rate of Rs. 3 per bag from the purchasing dealers. He has further stated that the collections for the following 7 months were made at the rate of Rs. 1.50 per bag, and thereafter for some months at the rate of Rs. 0.50 per bag from the purchasing dealers. Witness also referred to the entries in the Sales Register maintained by the Company for the period, 16-2-1970 to 2-6-1971. This is marked as Ex. CW 23/5. Entries in this Register bear his signatures. He has testified that Maruthai Pillai had instructed him to prepare consolidated statements of account/master lists with the aid of the account-slips received along with the collections sent by the various Mills from time to time. The witness had been authorised by Maruthai Pillai to receive such collections from the other Mills, in his absence.

According to the witness, collections from the Mills on sales relating to the releases made in February 1970, were expected to be received in the first week of March 1970. Accordingly the witness, after going through the 'account slips' received with the collections from the other Mills, prepared a consolidated Master List, showing the number of bags sold and the amount of the collections made thereon by each Mill and the grand total of such collections pertaining to the releases made in February. The witness after preparing that consolidated account statement or Master List, in duplicate, handed over the same to Maruthai Pillai. The total collection on the first occasion received from the nine Mills was about Rs. 3,77,000. Similar procedure was followed by him with regard to the subsequent collections. He has also given the figure of amounts collected from the Mills every month on such releases by Aruna Sugars.

The witness has testified that Maruthai Pillai had told him that these "extra" amounts were being collected for passing them on to the Chief Minister and the Food Minister for appointing the Mills as wholesalers of levy sugar, and that in case of default of collection of this 'extra' amount, no further allotment orders releasing levy sugar to the Mills for sale would be received from the Government. He added that Maruthai Pillai had authorised him to receive such collections from the other Mills whenever he was out of station. Maruthai Pillai was not available in station only on one or two occasions. Consequently, on these occasions, the witness received the collections from Madura Sugars and Kothari Sugars. The witness remembers that one Mr. Raghavan of Kothari sugars used to bring the collections of the 'extra' amounts made by that Mill. He further stated that he used to prepare the Master List, in duplicate, in respect of the collections received from the Mills before the amount of the particular collections was taken by Mr. Pillai for passing it on to the Ministers. To quote the words of the witness: "Mr. Pillai

would take the consolidated Master Lists along with the collections and would return the duplicate copy to me on his return after passing on the amounts to the Ministers" . . . Under instructions from Mr. Maruthai Pillai I used to destroy the slip-accounts and Master List after a payment had been made to the Chief Minister or the Food Minister . . . Since I was the Cashier at that time I used to keep with me the various collections made by the Mills, 'off-the-record'. I was keeping the same under "instructions of Mr. Pillai with me till they were consolidated and sent or taken further by Mr. Pillai for payment to the Ministers." He was asked: "So, you and Mr. Pillai were accountable for these collections received from the various Mills who were members of the Association?" He replied: "Yes. That position is correct." He was further questioned: "Therefore, why did you not keep some separate confidential account with you of all these collections as a safeguard against any dispute that might be raised by any one of the contributors?" His answer was: "I did not use to keep or preserve such accounts because the money was collected 'off-the-record' by the Mills. Everytime I used to hand over the money alongwith the consolidated account on the Master List and he used to check-up the same, and once this was done, the purpose of those *ad hoc* accounts was served and my obligation was also discharged to the satisfaction of Mr. Pillai." The witness was further asked: ". . . Is it right if it is assumed that you did not preserve the accounts with regard to these alleged collections, 'off-the-record', because of fear that those (accounts) were incriminating evidence which might land you in trouble? The witness replied: "Yes. That is correct."

The witness stated that in all, he had collected total of the '17' (an obvious mistake for '16') instalments of such "extra" amounts on the sales of released levy sugar. The witness stated that during this period from February 1970 to May 1971, the total number of the bags of released levy sugar sold by Aruna Sugars was 1,14,189 and the total of the "extra" amounts collected thereon at different rates for different periods was Rs. 1,48,736.50. The witness has prepared a detailed statement (Ex. CW 23/4) showing the quantity of released levy sugar sold under the various release orders made by the Commissioner of Civil Supplies every month, and the "extra" amounts collected by him 'off-the-record' on those sales from the purchasing dealers. This Statement is marked, Ex. CW 23/4. The basic figures in the Statement have been taken by the witness from the books and records of Aruna Mills. The witness also prepared another statement, Ex. CW 23/6, showing the list of dealers to whom these Mills sold the released levy sugar. The figures shown in these Statements do not cover the quantities which they had sold to the Co-operative Societies because no 'extra' amounts were collected on the purchases made by such Societies. The Statement, Ex. CW 23/4, prepared by the witness is as under:

ARUNA SUGARS LTD., MADRAS

Quota period	Quantity allotted by Govt.	Quantity sold to Co-op. wholesalers	Quantity Lapsed	Quantity sold to dealers from whom the extra amount was collected	Rate per Bag	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)
					Rs.	Rs.
February 1970 (October-November 1969 quota re-validated)	10,850	240	..	10,610	3.00	48,918.00
February 1970	5,696	..	..	5,696		
March 1970	15,919	284	..	15,635	1.50	23,452.50
April 1970	2,810	..	..	2,810	1.50	4,215.00
May 1970	5,670	1,000	..	4,670	1.50	7,005.00
June 1970	6,795	1,140	..	5,655	1.50	8,482.50
July 1970	4,611	4	..	4,607	1.50	6,910.50
August 1970	2,830	..	..	2,830	1.50	4,245.00
September 1970	8,210	540	..	7,670	1.50	11,505.00
October 1970	11,900	1,640	..	10,260	0.50	5,130.00
November 1970	8,350	1,000	..	7,350	0.50	3,675.00
December 1970	6,231	500	..	5,731	0.50	2,865.00
January 1971	4,900	70	..	4,830	0.50	2,415.00
February 1971	6,200	280	..	5,920	0.50	2,960.00
March 1971	6,930	..	..	6,930	0.50	3,465.00
April 1971	7,540	..	..	7,540	0.50	3,770.00
May 1971	6,130	1	684	5,445	0.50	2,722.50
	1,21,572	6,699	684	1,14,189		1,41,736.50

(Sd.) M. GANESAN

M. Ganesan has further testified that the profit margin even after paying this gratification of Rs. 3 per bag to the Ministers, at the relevant time, was Rs. 10 or Rs. 12 per bag. This aspect of the matter will be discussed when I will deal with the general criticism levelled by Shri P. U. Shanmugham against the testimony of these witnesses.

Thus, M. Ganesan fully corroborates Maruthai Pillai in all material particulars and so far as the basic figures appearing in the compiled tabulated Statements, including Exhibits CW 23/1, CW 23/4 are concerned, they tally with the entries in the books and Sales Registers of this Company. These books were kept in the regular course of the business and there is no reason to doubt their authenticity.

(e) Collections by Thiru Arooran Sugars

R. RAMAKRISHNAN, CW 19

Evidence with regard to the collections of the "extra" money made, "off-the-record", by Thiru Arooran Sugars, is given by R. Ramakrishnan. The witness is the Administrative Manager of Thiru Arooran Sugars. He has deposed to the making of an application by Thiru Arooran Sugars for appointment as wholesalers to the Tamil Nadu Government. He has further testified that on 16-2-1970, they received the first allotment order releasing levy sugar in their favour, for sale as wholesalers. There were two allotments and releases of such sugar in February, 1970. Under the directions of his Managing Director, the witness collected for every bag of sugar sold, Rs. 3, 'extra', 'off-the-record', and thus collected a total amount of Rs. 28,611. After making this "extra" collection, the witness sent over the amount to his Managing Director, V. S. Thyagaraja Mudaliar, who, according to the information of the witness, had, in turn, handed over that collection to Maruthai Pillai. The witness has prepared a detailed statement of the bags sold, and the collections made at the specified rates from time to time on the sales, from the purchasing dealers. This statement is Ex. CW 19/3. The figures relating to releases and sales in the statement have been taken from the records maintained by the Company. All the collections made from February 1970 to May 1971 were sent by him to his Managing Director. The witness has stated that along with the collections, he used to send to V. S. Thyagaraja Mudaliar, account-slips bearing all the necessary particulars showing how the amount had been arrived at. The witness used to note in those account-slips, among other particulars, the number of bags sold and the rate at which the collections were made from the purchasing dealers. The total of such collections made from time to time, and handed over to the Managing Director by the witness, was Rs. 1,12,610.

The witness has tendered a statement, Ex. CW 19/4, showing the production, releases and allotment of Sugar made to Thiru Arooran Sugars during the periods in question. He has prepared this statement from the records maintained by the Mill. He has also furnished a dealer-wise statement of the Sugar sales made by him during the relevant period, of the released levy sugar. It is Ex. CW 19/6 and bears his signature. The witness also tendered in evidence the wholesale Invoice Register relating to the period from 23-2-1970 to 30-3-1971. It is Ex. CW 19/6. The wholesale Invoice Register for the period from 6-4-1971 to 30-10-1971 was also tendered by the witness. It is Ex. CW. 19/7.

The witness made a statement to the Investigating Officer (under s.5-A). He also filed the affidavit, Ex. CW. 19-A, before the Commission. He was further examined before the Commission. The account given by him in all his three statements is consistent in all material particulars.

V. S. THYAGARAJA MUDALIAR

V. S. Thyagaraja Mudaliar, Managing Director of Thiru Arooran Sugars, in his affidavit, dated 1-7-1976, filed before the Commission, has stated that Maruthai Pillai had informed them all about the demand of the gratification made by the Food Minister and the Chief Minister, at an informal meeting held at Maruthai Pillai's house. The witness had attended that informal meeting. The witness has further stated that he had accompanied Maruthai Pillai sometime after that informal meeting, to the office of E.I.D. Parry Ltd. to persuade Shri H. V. R. Iyengar, Chairman of E.I.D. Parry Ltd. with the co-operation of S. N. Lal and J. S. Prabhu, to agree to comply with the demand of gratification made by the Chief Minister/Minister. He has stated that Shri H. V. R. Iyengar reluctantly agreed only when he was told that this tainted money would not be paid out of the funds of the Company but would be collected off-the-record from the

dealers to whom the released sugar would be sold. He has further corroborated his Administrative Manager, R. Ramakrishnan, about the collections made on the sales of released levy sugar, initially at the rate of Rs. 3 per bag, and subsequently at the rate of Rs. 1.50 per bag for the next seven months upto September, 1970, and from October 1970 onwards at the rate of 50 paise per bag upto April 1971. He has deposed that he had instructed R. Ramakrishnan to make these collections at the rates at which the gratifications were demanded by the Minister/Chief Minister and were communicated through Maruthai Pillai. He has further stated that Ramakrishnan used to hand over such 'extra' collections to him and he, in turn, used to pass on the same to Maruthai Pillai for further transmission to the Chief Minister/Minister. The witness has stated that Maruthai Pillai used to keep them informed about the payments of those collections to the Minister. In the later part of his statement, the witness used the word 'Minister', but earlier, he had mentioned that Maruthai Pillai had, at the informal meeting held at his house, informed them that the Chief Minister, Shri M. Karunanidhi, had agreed to appoint the Mills as wholesalers on the condition that a sum of Rs. 3 per bag on the sales of released sugar should be paid to him 'off-the record'. This reference to the 'Minister' as to be construed as including a reference to the Chief Minister, also.

(f) Collections by South India Steel & Sugars

V. N. SUBBARAYAN

The first witness who gives evidence with regard to the collections of 'extra' amounts made by this Company is its Director, V. N. Subbarayan. He has stated:

- " 11. With reference to the release orders issued in Feb. 1970, on the advice of Shri Maruthai Pillai, a sum of Rs. 3 per bag extra was collected to be paid to the Chief Minister Shri M. Karunanidhi and Shri P. U. Shanmugham. Accordingly, necessary instructions were issued to Shri K. Swaminath, my P.A. to inform the dealers about this when they approached the Mills for purchase. They were also told that the money was collected for payment to the Ministers to get the release orders.
12. The sale of sugar for our factory was mainly controlled from Head Office. When the sale deal was finalised, the authorities in the factory were told to deliver the sugar to the concerned dealers. At that time of finalisation of the deal, the 'extra' amount was collected from the dealers through their agents, and the same was being passed on to Shri P. Maruthai Pillai. Subsequently, allotment orders were issued by the Government of Tamil Nadu and for each allotment order, the 'extra' amount payable to the Ministers were communicated to me and the same was collected from the dealers and passed on to Mr. Maruthai Pillai. This was being continued till the quota period relating to April-May 1971. For the first set of release, the rate was Rs. 3 per bag and for the next 6-7 releases it was Rs. 1.50 per bag and thereafter it came down even to 50 paise. The amounts so paid by the dealers were passed on to Shri P. Maruthai Pillai for the payment to the Ministers.
13. In the month of April 1970 Shri I. K. Natarajan joined Messrs. South India Steel & Sugars Ltd. as Deputy General Manager. I informed him all the aforesaid developments". (*Vide* his affidavit dated 28-6-1976).

I. K. NATARAJAN

The material part of his statement is as follows:

- " 5. When I joined in April 1970 as the Dy. General Manager, I was informed by Shri V. N. Subbarayan, the then Managing Director of the said firm, of the developments.
6. At that time when I took over, the extra amount of Rs. 1.50 per bag was being paid by the dealers. After a few months, it was reduced to Rs. 0.50 per bag. The collection of the extra money was continued till the quota period relating to April-May 1971 when the control was removed.
7. I state that the amounts so paid by the dealers were passed on to Shri P. Maruthai Pillai for payment to the Ministers". (*Vide* affidavit dated 28-6-1976).

K. SWAMINATH (CW-21)

Best evidence with regard to the collections of the tainted money by the Sugar Mills for payment to the Minister/Chief Minister has been given by CW-21, K. Swaminath, who, at the relevant time, was Personal Assistant to its Managing Director. He has testified that the Managing Director of his Company had instructed him in the middle of February 1970, that the witness should collect at the rate of Rs. 3 per bag, 'off-the-record', from the purchasing dealers on the sales of released levy sugar. The Managing director instructed the witness to inform the purchasing dealers that the Mills would collect Rs. 3 per bag from them 'extra', 'off-the-record', for passing on to the Ministers through Maruthai Pillai. Initially, the witness was directed to ascertain after the receipt of every allotment order from the State Government of the levy sugar, from Subbarayan, the Managing Director, the rate at which the 'extra' amount was to be collected from the purchasing dealers. The witness was assisting Subbarayan in supervising the sales of released levy sugar. The witness personally used to negotiate the sales, and the Accountant, Mahadevan, used to receive the sale proceeds. The witness used to tell the purchasing dealers that they should pay Rs. 3 per bag, 'extra', 'off-the-record'. At that time, the ex-Mill price of sugar was Rs. 162 per bag.

On the first occasion, some purchasing dealers protested against the demand of 'extra' payment at Rs. 3 per bag. They asked the witness to convey their resentment to the Managing Director. They also protested that the rate of 'extra' collection was high and should be reduced, at least, in the subsequent releases. The witness told the purchasing dealers that this 'extra' amount was to be paid to the Ministers, 'off-the-record.' The witness stated that he had learnt from Subbarayan that these collections were to be paid to the Chief Minister/Food Minister. On hearing the explanation from the witness, to the effect that the 'extra' collections were actually meant to be transmitted to the Chief Minister/Food Minister, the purchasing dealers invariably agreed to pay the same.

The witness has further stated that the first collections made in regard to the quota of January-February 1970, on the sale of 1,267 bags, was sent by him through Sankaralingam or Raghavan, employees of the Company, to Maruthai Pillai in the fourth week of February, 1970; and the next collections upto September 1970, were made by him at the rate of Rs. 1.50 per bag sold. On sales relating to the releases after September 1970 upto first week of May 1971, the collections were made at the rate of 50 paise per bag. These collections were sent by the witness either through Sankaralingam or Raghavan to Maruthai Pillai in sealed cover. A chit indicating the number of bags sold and the total amount collected was also enclosed in the cover. He has stated the approximate dates or weeks in which these collections were sent to Maruthai Pillai. He says that he sent 18 instalments of such collections to Maruthai Pillai, the aggregate of which was Rs. 95,464.50. He has added that while sending the collections, he used to inform Maruthai Pillai on telephone about the same. He has also prepared and tendered in evidence the statement, Ex. CW-21/20, containing all the facts and figures relating to the sales and the collections.

The witness has further testified that the profit margin on the sale of levy sugar was Rs. 15 per quintal. CW 21/3 is the Sugar Sales Journal maintained by this Company in the course of business. It contains entries of the sales made by this Mills from 1969 to June, 1972. The statement of the witness with regard to the sales of sugar made during the relevant period by this Company is corroborated by the entries in this Journal. The amounts of collections made by this Company for payment to the Minister/Chief Minister have been worked out on the basis of the particulars of sales taken from this Journal. Earlier, the witness had filed an affidavit (Ex. CW 21/A). He was also examined by the Investigating Officers under s.5-A. In all his three statements, he has given a consistent account.

Maruthai Pillai also confirms Swaminathan's version as to who used to hand over these collections to him. Pillai has testified: "There was one Mr. Swaminathan. Sometime he came to me personally and sometimes he sent to me the collection in a cover through some other representative of the Mill".

(g) Collections by Madura Sugars

L. MUTHIAH CW-17

The first witness who gives evidence with regard to these collections in question made by this Company is L. Muthiah, CW-17. He is the Chief Executive Officer of Madura Sugars. Muthiah

has testified that he was informed by Maruthai Pillai that he had met the Minister, and thereafter, all the Sugar Mills at Madras had agreed to pay Rs. 3 per bag to the Minister so that in consideration thereof, the Mills could be appointed as wholesalers to clear their accumulated stocks of levy sugar. This information was given to him by Maruthai Pillai on 18-2-1970. Maruthai Pillai wanted the witness to make the application on behalf of this Mill in accordance with a draft which he gave to the witness. In terms of that draft, the witness prepared the application (Ex. CW 17/2) on behalf of Madura Sugars, addressed to the Food Minister, and then handed over the same to Maruthai Pillai for getting the orders of the Minister. The witness identified his signature on Ex. CW 17/2. Maruthai Pillai told the witness that they should pay Rs. 3 per bag, 'off-the-record', to the Chief Minister so that their stocks could be released by the Commissioner for Civil Supplies. This 'extra' money was to be collected from the dealers to whom the released levy quota was to be sold. Initially, the witness was reluctant, but when Maruthai Pillai disclosed that the other Mills had agreed to collect and pay and get appointed as whole-salers, the witness also fell in line. Subsequently, the witness received information, on telephone, on the 19th February 1970 itself, that necessary orders had been passed appointing this Mill as wholesaler and 4,775 bags of levy sugar relating to the lapsed, revalidated quota for August-September, September-October and October-November 1969 had been released to their Mill for sale. This order dated 19-2-1970, is marked Ex. CW 17/3. He has referred to all these release orders which were issued from time to time. They are marked Exs. CW 17/3 to CW 17/9.

The witness described the procedure for effecting the sales and making collections thereon. According to him, Mr. T. V. Krishnamurthy, Administrative Officer of the Company at Madurai used to strike the bargain (agreement) of sales and advise the witness on telephone to collect the sale proceeds and the extra-amounts from the purchasers. Accordingly, the extra amounts, over and above the sale proceeds, were then collected from the purchasers by the witness with the assistance of the cashier on the premises of the Factory at Pandiarajapuram (which is 22 miles from Madurai). To quote his words:

"After collecting the extra amount of Rs. 27,204 from the three purchasing dealers viz. M. M. Kandaswami Nadar, T. M. N. Madalai Nadar, I entrusted that amount to my clerk, Mr. Ramiah, to carry the same to Mr. Maruthai Pillai at Madras and deliver it there to him. The money was put in a cover with a slip of paper showing the number of bags sold and the extra amount collected. The particulars were noted on that slip by me and then it was put in that cover and handed over to Mr. Ramiah. Mr. Ramiah . . . enjoyed our confidence. I instructed him to hand over the cover containing the amount to Mr. Maruthai Pillai, and, I think it was on the 2nd or 3rd of March, 1970. He returned on the following day after doing the needful and informed me that he had passed on the money to Mr. Maruthai Pillai."

Similar procedure with regard to subsequent collections and their transmission to Maruthai Pillai has been described by him.

The witness has explained that they did not preserve any account of those 'extra' collections because, the same being evidence against them, could land them in trouble at the hands of different authorities. He added "I knew that such collections and payments 'off-the-record' were not permissible."

TELEGRAM EX. CW 17/27—DOCUMENTARY CORROBORATION

The witness then referred to an important piece of documentary evidence which corroborates his testimony and lends valuable general assurance to the testimony of Maruthai Pillai, inasmuch as he has stated that 'extra' collections 'off-the-record' were made on the sales of the released quotas of levy sugar by the Mills. The witness referred to the telegram, Ex. CW 17/27, and stated that it was received by him on 18-3-1971, from the Administrative Officer, Krishnamoorthy Madurai. This telegraph reads:

"SWEET AMMAIYANAICKANUR

SOLD 2,230 BAGS—171 PLUS 50 REMIT EXCISE DUTY".

As already noticed, the sugar factory run by this Company is at a far off distance from its Head Office where the witness used to work. While the agreements for sales were negotiated and settled at the Head Office of the Company in Madurai, as explained by the witness, ordinarily,

such messages for making the collections at particular rates on the sales, were received by the witness on telephone. But, on that date, Krishnamoorthy was not able to communicate with him on telephone because Krishnamoorthy's telephone was then out of order. That was why, instead of putting through a telephone call, Krishnamoorthy was obliged to intimate these instructions by the telegram, Ex. CW 17/27. The contents of this telegram were conveyed to the witness by the Telegraph Department on phone, on the morning of the 18th March, which were reduced into writing by the Time-keeper in his office. The witness identified the initials of the Time Keeper, Shri Pandia Pillai on this telegraphic message. It was subsequently confirmed by Krishnamoorthy in his letter (Ex. CW 17/27)(a), received by the witness on 19-3-1971. This letter also bears the receipt stamp of the Company. The witness further explained that the expression '171 plus 50' in the telegram, Ex. CW 17/27, denotes that 50 paise per bag of sugar, sold, was to be collected separately in addition to the price of Rs. 171.

T. V. KRISHNAMOORTHY, CW 22

T. V. Krishnamoorthy, CW-22, then Administrative Officer of Madura Sugars, has corroborated Muthiah's evidence, in general, and with regard to this telegram, in particular. He has testified that this telegram, CW 17/27, was sent by him to their Factory at Pandiarajapuram from Madurai, because at Madurai, on that date, his telephone was out of order. The witness had, therefore, no option but to send a message through this telegram intimating the sale price of levy sugar and also the 'extra' amount per bag to be collected thereon, by Muthiah who was there on the premises of the Factory. This witness, also, has explained that the expression 'plus 50' in this telegram, meant the rate (50 paise) at which the 'extra' money was to be collected 'off-the record', in addition to the price of Rs. 171 per bag. The witness has identified the letter, Ex. CW-17/28, which he had written to Muthiah in confirmation of this telegram. He explained that in this letter, he deliberately did not reproduce the entire contents of the telegram, particularly the characters "plus 50", because they indicated "extra money" to be collected 'off-the record', in addition to the price of Rs. 171 per bag. In answer to a question put by the Commission, the witness stated that initially, at the Factory, some temporary rough accounts on slips used to be prepared and sent along with the collections, to Maruthai Pillai, and thereafter those slips used to be destroyed. Asked why those accounts were not preserved, the witness replied: "I knew bribe of such tainted money was an offence". This answer explains the conduct of the Mills concerned and their employees, in not preserving any accounts of the 'extra' collections. Moreover, as already discussed, these rough, 'slip-accounts' were prepared by the Mills only for the purpose of these collections and payments and for the mutual understanding of Maruthai Pillai and the Mills. As soon as that purpose was served, there was no longer any necessity to preserve these incriminating documents.

Krishnamoorthy, CW-22, has stated that he had sent Muthiah to meet Maruthai Pillai and hand over an application for appointment of their Company (Madura Sugars) as wholesalers, and that Muthiah, on his return, informed the witness that they were required to collect Rs. 3 per bag, off-the record, for payment to the Minister, as a consideration for getting the sugar release orders. The witness has also, prepared and furnished the statement, Ex. CW 17/1, of the 'extra' collections made by Madura Sugars, during the period in question. It is exhibited as CW 17/1. He has further supported Muthiah inasmuch as the latter stated that it was he who used to send the collections to Maruthai Pillai, and has stated that they received the next release orders only after the remittance of the collections, relating to the preceding release, to Maruthai Pillai for further transmission to the Chief Minister or the Food Minister. He added:

"Mr. Maruthai Pillai had told me that this 'extra' collection had to be paid to the Chief Minister or the Food Minister. Mr. Maruthai Pillai had clearly conveyed to us that unless the 'extra' collections at the stipulated rates were paid to the Minister and the Chief Minister, for the previously released quota, release orders for the next quota would not be forthcoming".

Shri P. U. Shanmugham has, in his further affidavit, dated 19-9-1976, made these comments against the statement of T. V. Krishnamoorthy (CW 22):

"(a) The statement that on 17-3-1971 we have sent a telegram to the factory at Pandiarajapuram stating therein the sale of 2,230 bags at the rate of Rs. 171 plus 50 paise which

has been confirmed in our letter, dated 17-3-1971. In this letter, we have asked the factory to send the sale note at Rs. 171 per bag. This will show that the amount of 50 paise mentioned in the telegram was collected separately from the dealers out of account for payment to Shri Maruthai Pillai who in turn would make payment to the Minister made by Thiru T. V. Krishnamoorthy in paragraph 4 of his affidavit is false. The statement of Shri A. M. Swaminathan, Deputy Commissioner, Civil Supplies, before the Investigating Officer clearly shows that after March 1970, allotment orders were made by the Civil Supplies Department. This shows that the Minister or the Government need not pass orders regarding the allotment and release of sugar to the mills.

“(b) Secondly, the distance between the factory and the Administrative Office is only 5 miles and there need not be any cause for the office to send a telegram to the factory on the matter. According to Thiru Krishnamoorthy, the collection of extra money was going on from February 1970 and 50 paise per bag was collected from October, 1970. It may be relevant to note here that no such telegram or communication had been sent for collection of this extra amount from February 1970 to March 1971. But surprisingly this telegram is claimed to have been sent for such collection only in March 1971. So the allegation that an extra money was collected is not true. There was also no reason for such a telegram only in March 1971.”

Analysing the above comments, it will be seen that the *first point* raised by Shri P. U. Shanmugham appears to be, that after March 1970, all orders of allotment and release of sugar to the Mills were passed by the Civil Supplies Department at their own level, implying thereby that the question of the Minister or the Government demanding or accepting any gratification as a consideration for making such allotments and releases, did not arise. For the factual premises of this argument Shri Shanmugham has relied mainly on the statement of A. M. Swaminathan. A similar plea has been taken up by Shri M. Karunanidhi in his counter-statement. I shall deal with this contention, fully in detail, when I will discuss Maruthai Pillai's evidence with regard to the payment of the gratifications and their causal connection with the allotment and release orders. Suffice it to say here, that it is not correct that after March, 1970, the Commissioner of Civil Supplies passed the allotment and release orders in favour of the Mills without any direction or clearance from the Food Minister. Shri Ramchander, I.A.S., who was at the relevant time, from 11-2-1970 onwards, Food Secretary-cum-Commissioner of Civil Supplies, and as such, the best informed person on the point, has averred in his affidavit that although on the official files there are no orders of the Food Minister for the allotments and releases of levy sugar from April 1970 onwards, each individual order of release in favour of the Mills was passed by him after prior consultation with the Minister, Shri P. U. Shanmugham.

Maruthai Pillai, also, has stated: “Thiru P. U. Shanmugham used to inform Thiru Ramchander to issue order for the subsequent release” (vide para 35 of his affidavit dated 7-7-1976). It may be noted that there is no inherent contradiction between the statements of A. M. Swaminathan and Shri Ramchander. The former's affidavit is confined to information derived from the official records; while Shri Ramchander has sworn to this fact from his personal knowledge. The first point raised has thus no merit and is rejected.

The *second* ground of criticism made by Shri Shanmugham, is that the telegram, dated 17-3-1971, is not a genuine document. There was no need or occasion for sending this communication because the sugar factory where Muthiah, the addressee was working, is hardly 5 miles from the Head office of the Company, where the alleged sender, Krishnamoorthy, was. The suggestion is that the distance between the Head office and the Factory being so short, the message could be conveniently conveyed through a cycle runner, by word of mouth, instead of sending it through the medium of Telegraph Department. Another reason given against the genuineness of this Telegram, is that no such telegram or communication was sent on any other occasion, although according to Krishnamoorthy, collections of such extra money were going on from February 1970, and at 50 paise per bag from October, 1970.

The *second* contention does not stand on firm foundation. It is factually wrong to say that the sugar factory of this Company is not situated at a far-off distance from its Head

Office. According to the evidence of Krishnamoorthy, CW-22, this distance is not less than 22 miles. Nor is it correct to say that no communication directing Muthia to collect these extra sums, was passed on any other occasion.

L. Muthiah (CW 17) the then Chief Executive Officer of Madurai Sugars factory at Pandiarajapuram has testified that he used to receive instructions from the Administrative Officer, T. V. Krishnamoorthy, who was at the Head Office of the Company, about the rate at which the 'extra' sums were to be collected, in addition to price, on sales in respect of every allotment and release of levy sugar made by the Government. Ordinarily, such instructions were conveyed to him on telephone, but on that day (17-3-1971) Krishnamoorthy's telephone was out of order. *Krishnamoorthy* (CW 22) has corroborated Muthiah. He (CW 22) has explained that agreements for sale used to be effected at the Head Office of the Company at Madurai, while the sale proceeds, together with the 'extra' sums, used to be collected at the factory at Pandiarajapuram. After effecting the sale-agreements, the witness normally used to convey instructions to Muthiah with regard to the rates at which the sale-proceeds and the 'extra' sums thereon were to be collected. Since on 17-3-1971, his telephone was out of order he had sent the message through telegram.

The evidence of Muthiah and Krishnamoorthy meets the test of probabilities and the natural human conduct in a given situation. It inspires confidence.

L. Muthiah (CW 17) has testified that he used to send the collections of these 'extra' amounts to Maruthai Pillai through his subordinates, namely S. Ramaiah, K. Ugrapandian and V. Ganapathy. These witnesses corroborate him.

S. RAMIAH

S. Ramaiah, was then Cane Supply Office Clerk, Madura Sugars. He has stated:

" 5. Sri L. Muthiah, Chief Executive Officer of the Mills directed me to go to Madras and hand over cash in all Rs. 30,186 twice in March 1970 and in May 1970— at Sri Maruthai Pillai's Office at 'Dhun Building', Madras. Accordingly I went to Madras and handed over this amount at Maruthai Pillai's Office. For the three trips amounts of Rs. 63-60, Rs. 63-60 and Rs. 72-50 respectively were claimed and paid to me by the Company by way of travelling expenses for the above journeys (Vide his affidavit dated 20-10-1976)".

K. UGRAPANDIAN

The evidence of this witness is to the effect:

- " 4. I am working as Cane Accounts Clerk in the Mills from 30th April 1973. Previous to this I was working as a Clerk/Cashier.
5. Sri L. Muthiah, Chief Executive Officer of the Mills directed me to go to Madras and hand over cash Rs. 4,768-50 at Maruthai Pillai's Office at 'Dhun Building', Madras in March 1970. Accordingly I went to Madras and handed over this amount at Maruthai Pillai's Office. An amount of Rs. 53-60 was claimed and paid to me by the Company by way of travelling expenses for the above journey". (Vide affidavit dated 20-10-1976).

V. GANAPATHY

This witness has deposed:

- " 4. I am working as Accounts Clerk in the Mills from 2nd May 1973. Previous to this I was working as Cashier.
5. As per instructions from the Chief Executive Officer of the Mills Sri L. Muthiah, I used to collect the extra money from the Wholesale Sugar Dealers at the rates informed to me then and there and keep it with me separately in the Safe and send it to Madras as and when the Mills Staff go over there.
6. As for myself, I too went to Madras in March 1971 and handed over a cash Rs. 12,566 in Sri Maruthai Pillai's office at 'Dhun Building', Madras. An amount of Rs. 53-30

was claimed and paid to me by the Company by way of travelling expenses for the above journey". (Vide affidavit dated 20-10-1976).

There is no good reason to disbelieve the evidence of these witnesses.

Maruthai Pillai and all the witnesses of this set are unanimous in their evidence that the *first* collection was made at the rate of Rs. 3 per bag, the next *seven* collections from March to September were made at the rate of Rs. 1.50 per bag; while the remaining *eight* collections from October 1970 to May 1971 were made at 50 paise per bag. Thus, on the sales of released sugar in March, 1971, when this telegram was sent, the rate for collecting the extra sums, under the arrangement with the Food Minister and the Chief Minister, was 50 paise per bag. The collections were made at different rates in relation to particular releases during different periods. The administrative and other charges also varied. That was why it was necessary for Krishnamoorthy to convey regularly in respect of every lot of sales pertaining to a particular release, instructions to the Chief Administrative Officer at the Factory with regard to the rates at which the sale proceeds and extra sums were to be collected from the purchasers.

This being the position, I am of the considered opinion that the contentions of Shri P. U. Shanmugham against the authenticity of the telegram (Ex. CW 17/27) and the credibility of T. V. Krishnamoorthy (CW 22) are wholly devoid of merit. I do not find any infirmity in the evidence of Muthiah and Krishnamoorthy. Their evidence inspires confidence. I have, therefore, not the least doubt about the genuineness of the Telegram, Ex-CW 17/27. It furnishes valuable documentary evidence in corroboration of the evidence of Krishnamoorthy and Muthiah, in particular, and the story of Maruthai Pillai, in general.

In short, the evidence of all the witnesses from the management of the Nine Mills is reliable. It clearly establishes that 'extra' amounts were collected by all these nine Mills on the sales of levy sugar, during February 1970, March to September, 1970, and October 1970 to May 1971 at the rate of Rs. 3, Rs. 1.50, and 50 paise per bag, respectively; and such collections were handed over by those Mills to Maruthai Pillai for passing on further to the Chief Minister/Minister. The facts and figures pertaining to the sales of levy sugar by these Mills during the relevant periods, which are said to have been taken from the books and records of these Mills—coupled with the oral evidence of the witnesses pertaining to these collections, may be summarised in the form of the following tabulations:

Sl. No.	Name of the Sugar Mill	SALES MADE IN					
		During February 1970 and first week March 1970 at Rs. 3 per bag		During March 8 to September 1970 at the rate of Rs. 1.50 per bag		During October 1970 to May 1971 at the rate of 50 p. per bag	
		Bags sold	Amount collected	Bags sold	Amount collected	Bags sold	Amount collected
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		Bags	Rs.	Bags	Rs.	Bags	Rs.
1.	E.I.D. Parry	2,805	8,415.00	69,291	1,03,936.50	1,28,027	64,013.50
2.	Deccan Sugars	28,855	86,565.00	58,090	87,135.00	71,135	35,567.50
3.	Cauvery Sugars	10,259	30,777.00	31,865	47,797.50	35,051	17,525.50
4.	Kothari Sugars	21,321	63,963.00	43,691	65,536.50	63,329	31,664.50
5.	Sakthi Sugars	23,863	71,589.00	1,05,621	1,58,431.50	98,282	49,141.00
6.	Aruna Sugars	16,306	48,918.00	43,877	65,815.50	54,006	27,003.00
7.	Thiru Aroran Sugar Mills	9,537	28,611.00	42,623	63,934.50	40,129	20,064.50
8.	S.I. Steels & Sugars	3,878	11,634.00	37,087	55,630.50	56,400	28,200.00
9.	Madura Sugars	9,068	27,204.00	9,060	13,590.00	17,266	8,633.00
	Column wise Total	1,25,892	3,77,676.00	4,41,205	6,61,807.50	5,63,625	2,81,812.50

Over all total of Columns 3, 5 and 7:—11,30,722 Bags.

Over all total of Columns 4, 6 and 8:—Rs. 13,21,296.00.

Further points of criticism raised by Shri P. U. Shanmugham in his counter-affidavit are:

(a) The affidavits filed by the witnesses are stereotyped and attested by the same Advocate in most cases. The 78 affidavits of the dealers present a striking similarity with

regard to the arrangement of the paragraphs, language, etc. which shows that a Central agency must have been at work to collect them and give them a set pattern. The statements in the affidavits are not voluntary and have been obtained by the use of unfair means by the Central Bureau of Investigation.

- (b) The first Release Order was passed on 16-2-1970 for 66,855 bags and the second Release Order was made for 58,956 bags. It was impossible for the Mills to sell and the purchasers to lift this stock of 1,25,811 bags before March 1970.
- (c) The 78 wholesalers have dealt with black-money. The affidavits of 29 purchasing dealers show that they were informed by the Millers that the amount had been *paid* to the Ministers and the extra amounts were being collected from them to recoup the same, and that this was a material contradiction.
- (d) No retailer who purchased from the Mills has been examined.

(A) I have partly dealt with this allegation. It may be observed again that a query was addressed to 34 witnesses who were examined by the Investigating Officers under Section 5-A as to whether any unfair means, such as, coercion, threat, tutoring, etc. were used by any person to procure statements from them. Of them, 31 have filed affidavits. All of them, without exception, have in their affidavits, not only reiterated the substance of their statements recorded under Section 5-A but have also expressly vouched that their statements recorded by the Investigating Officers under Section 5-A, contained a voluntary and true account of what they had themselves stated. Apart from Shri K. A. Rajagopalan, who was Incharge of Section 5-A Investigating Agency, 12 crucial witnesses were examined before the Commission. They too, have emphatically refuted this allegation of coercion or tutoring. The mere fact that these affidavits resemble each other in form and features and are of common pattern, is no ground to hold that they were not truly and voluntarily made by the deponents. These statements were duly sworn before competent authorities who have attested them. It is not unusual that persons in the same situation desirous of filing affidavits go to a common lawyer or Advocate for getting their affidavits drafted or attested. Even lawyers often rely upon affidavits prepared by another, on common or similar questions because such a ready-made pattern cuts short their labour. I do not see anything wrong if persons similarly situated approach for advice the same lawyer or lawyers associated by friendship or practice in the same field. Even the deponents of the same class in similar circumstances would like to consult one another. One stark circumstance which points towards the falsity of this insinuation is that *most* of these deponents were examined by the Investigating Officers under Section 5-A of the Act *long after* they had filed their affidavits. This will be manifest from the chart given below:

S. No.	Name of the Witness	Date of affidavit, if any, filed in response to notice u/r 5 (2)	Date of his examination u/s 5-A of the Act
(1)	(2)	(3)	(4)
1.	Maruthai Pillai	7- 7-1976	8- 8-1976
2.	S. Jayaraman	28- 6-1976	12- 8-1976
3.	S. N. Lal	28- 6-1976	6- 8-1976
4.	J. S. Prabhu	28- 6-1976	6- 8-1976
5.	V. Mahadevan	28- 6-1976	5- 8-1976
6.	D. C. Kothari	1- 7-1976	6- 8-1976
7.	T. L. Raghavan	3- 7-1976	10- 8-1976
8.	V. N. Subbarayan	28- 6-1976	7- 8-1976
9.	I. K. Natarajan	28- 6-1976	7- 8-1976
10.	P. V. Viswanathan	25- 6-1976	11- 8-1976
11.	N. Mahalingam	22- 6-1976	....
12.	M. Ganesan	6- 7-1976	9- 8-1976
13.	R. Ramakrishnan	2- 7-1976	12- 6-1976
14.	V. S. Thyagaraja Mudaliar	1- 7-1976	9- 6-1976
15.	K. Swaminath	28- 6-1976	7- 8-1976
16.	L. Muthiah	26- 6-1976	7- 6-1976
17.	T. V. Krishnamoorthy	26- 6-1976	7- 6-1976

There is thus no substance whatsoever in the allegation that the statements or affidavits of the witnesses were procured by the use of unfair means by the Central Investigating Agency or by any other person.

Contention (b) relates both to those witnesses who were concerned in the collection of the 'extra' amounts and also to the purchasing dealers from whom such amounts are said to have been collected. I will therefore, deal with this contention when the evidence of the purchasing dealers is taken up for consideration.

Contention (c). One limb of it has been, to some extent, considered in the context of the evidence of T. L. Raghavan, who, has stated that in order to make some reluctant dealers agree to the payment of 'extra' amount, they might have bluffed them by telling that the Mills had already paid that amount to the Ministers. This contention, relates to the evidence of the purchasing dealers, also. It will, therefore, be considered further while discussing the evidence of those dealers.

Contention (d) also concerns the purchasing dealers and will be dealt with later.

Now I will consider one more argument which has been advanced by Shri P. U. Shanmugham against the credibility of witnesses who were concerned with the raising/collection of the bribe money. In paragraph 17 of his further affidavit, dated 19-9-1976, Shri P. U. Shanmugham has contended:

" I give below the *different* versions made by the Mills regarding the alleged demand as narrated to them by Thiru P. Maruthai Pillai.

" (a) *Thiru Ganesan*

" Maruthai Pillai informed me that Rs. 3 per bag should be collected in cash from the dealers off-the-records for the payment to the *Chief Minister, Thiru M. Karunanidhi and Food Minister, Thiru P. U. Shanmugham* as the said Government orders were issued by them only on such condition.

" (b) *Thiru V. S. Thiagaraja Mudaliar*

" Shri Maruthai Pillai informed us that *Shri M. Karunanidhi and Shri P. U. Shanmugham* had indicated that they would be agreeable to appoint the sugar factories themselves as wholesalers to effect sales of the levy quota at levy price on condition that a sum of Rs. 3 per bag was paid off-the-records.

" (c) *Thiru Shiva Nandan Lal*

" Mr. Maruthai Pillai and Kailsa Gounder met *Mr. Karunanidhi and Shri Shanmugham* and the Ministers agreed to appoint the Mills as wholesalers provided the mills in the private sector agreed to pay Rs. 3 per bag off-the-records. Thiru P. Maruthai Pillai also told us that all the mills in the private sector should agree to this arrangement and only then the request will be considered.

" (d) *Thiru J. S. Prabhu*

" I was informed by Shri S. N. Lal that the Food Minister *P. U. Shanmugham and Chief Minister* had agreed to appoint the mills as wholesalers to sell the levy sugar directly to the dealers but they demanded an amount at the rate of Rs. 3 per bag to be handed over to them off-the-record.

" (e) *Thiru S. Jayaram*

" I am informed that the amount of Rs. 3 per bag that was being collected was to be passed on to Sri Maruthai Pillai for payment to the *Chief Minister* who had on this condition only ordered appointment of the Mills as wholesalers.

" (f) *Thiru L. Muthiah*

" Shri T. V. Krishnamoorthy used to inform me by telephone the number of bags to be released and the amount to be collected as extra money for payment to *the Minister* from the dealers.

I have collected at the rate of Rs. 3 per bag an extra money for being paid to the Minister and sent these amounts to Sri Maruthai Pillai through S. Ramaiah in the month of March 1970.

(g) *Shri T. V. Krishnamoorthy.*

Shri Muthiah went to Madras, presented the petition and returned on 19-2-1970. He informed me that *the Minister P. U. Shanmugham* had agreed to appoint our mills as in the case of other mills in the private sector provided we pay Rs. 3 as extra money per bag.

(h) *Thiru D. C. Kothari.*

At this meeting Thiru Maruthai Pillai informed us that we had met the *Chief Minister and Food Minister* and had explained to them the difficulties that the mills (were) facing and requested the Government to appoint the mills as wholesalers to help them liquidate the accumulated stocks. Thiru Maruthai Pillai also informed the members that *the Ministers* were agreeable to the request of the mills provided "...

In paragraphs 18 to 21 of the affidavit, Shri Shanmugham, argues:

- " 18. The categorical statement now made by Thiru Maruthai Pillai is that it was the Chief Minister who was demanding that the amount should be paid at the rate of Rs. 3 per bag. If the demand was really made by the Chief Minister there was no need for Maruthai Pillai to keep that information to himself. There was no reason for him to tell the members of the South India Sugar Mills Association that the demand was made by the Food Minister and the Chief Minister or that the demand was made by the Food Minister alone. I submit that both the versions must be false. As otherwise there can be no reason why so many versions are made by the other mills owners as mentioned above. The Commission must therefore necessarily examine whether Thiru Maruthai Pillai did mention the name of the Chief Minister to the members of SISMA. Thiru Maruthai Pillai must therefore appear before the Commission and explain the several inconsistencies pointed out above.
19. The Commission will naturally be surprised that none of the other members of the Association including Thiru H. V. R. Iyengar cared to make further enquiries to find out whether the statement made by Thiru Maruthai Pillai is true and whether the demand was really made by the Food Minister or the Chief Minister. They are not strangers to Ministers and they must have had several occasions to meet them. Thiru V. Mahalingam and V. S. T. Mudaliar cannot pretend that they were not well acquainted with the Chief Minister or the Food Minister. They could have easily contacted either of them to find out, check and verify the truth of the statement made by Thiru Maruthai Pillai relating to the alleged demand of money for issuing the release orders. Why not any one of them cared to find out from the Ministers whether there was any truth in Thiru Maruthai Pillai's statement that a demand was made for payment at the rate of Rs. 3 per bag for ordering the release of the sugar from the mills.
20. Thiru H. V. R. Iyengar states that he did not want to countenance any clandestine payment however grave this was reprehensible. Why did he fail to find out whether there was any truth in the statement made by Thiru Maruthai Pillai? I understand that Messrs. E.I.D. Parry & Co. also are members of the All India Sugar Manufacturers Association. Mr. H. V. R. Iyengar or even Thiru Maruthai Pillai cannot say that he was ignorant of the fact that Sugar factory owners in Uttar Pradesh had obtained a writ against the Government in respect of levy sugar that had accumulated with them by filing a Writ Petition at the Allahabad High Court. He could have easily verified the circumstances under which the Writ Petitions were filed and the reasons which necessitated the passing of the orders in favour of the Sugar factories by the High Court, Allahabad. If Thiru H. V. R. Iyengar really felt so strongly about the alleged demand for clandestine payment of any money

to the Minister nothing prevented him from taking legal advice on this matter and obtained orders from the High Court, at Madras, similar to the orders passed at the High Court, Allahabad. ”

21. It is also strange that Thiru H. V. R. Iyengar was persuaded to agree to the proposal, the moment it was mentioned to him that the extra money would be collected from the wholesalers. Thiru Iyengar who on hearing from Thiru S. N. Lal that the Ministers demanded Rs. 3 per bag did put his foot down and refused to accept the proposal. But when it was explained to him that the money will be collected from the wholesalers, he readily gave his consent. This clearly indicates that Thiru Iyengar expressed his dissent for the original proposal only for money that was to be paid by his Companies and not for principles. An experienced person like Thiru H. V. R. Iyengar must have known that it would be impossible for the wholesalers to forego their profit and make any extra payment particularly at a time when the sugar position was easy in the market and the price of levy sugar and free market sugar almost equal. He should have normally called some of the wholesalers for a discussion to try to find out whether they would be agreeable to lift the levy sugar from the mills by paying the extra amount of Rs. 3 per bag. How did Thiru H. V. R. Iyengar believe that the wholesalers had accumulated secret funds with them, that they would be willing to pay the extra money demanded at Rs. 3 per bag out of the secret funds. It is impossible to believe that Thiru H. V. R. Iyengar would have so easily accepted the story that the wholesale dealers would pay more than Rs. 10 lakhs without prior arrangement and consultation with at least some of the leading wholesale dealers especially when it was known to every one that it was buyer's market at that time. ”

There is no substance in Shri P. U. Shanmugham's contention that the witnesses mentioned in sub-clauses (a), (b), (c), (d), (e), (f), (g) and (h) extracted above, have given contradictory versions about what Maruthai Pillai told them about the Ministers making the demand for payment. Ganesan, V. S. T. Mudaliar, S. N. Lal, J. S. Prabhu, D. C. Kothari have all stated that the information transmitted to them was that the demand for payment of Rs. 3 per bag off-the-record was made both by the then Food Minister, Shri P. U. Shanmugham, and the Chief Minister, Shri M. Karunanidhi, as a consideration for appointing the Mills as wholesalers of levy sugar. Even in the extracted sub-clause (e) of his affidavit, Jayaraman states that the amount of Rs. 3 per bag then being collected, was to be passed on to Maruthai Pillai for payment to the Chief Minister.

Similarly, L. Muthiah and Krishnamoorthy in the portions of their statements extracted by Shri P. U. Shanmugham, stated that they had received information that the extra money to be collected on sales at the rate of Rs. 3 per bag was to be paid to the Minister.

It may be noted that in the first place, Jayaraman, Muthiah and Krishnamoorthy were not present in the informal meeting held at Maruthai Pillai's house at which he reported to the Members of SISMA about the demand of the gratification by the Food Minister and the Chief Minister as a consideration for appointing them as wholesalers of levy sugar in the free market. Jayaraman and Prabhu received only secondhand information through S. N. Lal, who only was present in that informal meeting.

Similarly, Muthiah and Krishnamoorthy were not present in that informal meeting at which Maruthai Pillai narrated the whole story about the demand of the bribe by the Food Minister and the Chief Minister.

L. Muthiah, however, met Maruthai Pillai on 18-2-1970 to present a draft application for appointment of Madura Sugars as wholesaler of levy sugar. As testified by Muthiah, CW-17, before the Commission, it was then that Maruthai Pillai told the witness that they had a meeting with the Food Minister and an extra amount of Rs. 3 per bag was to be charged on sales of released levy sugar for getting orders of the Minister.

Furthermore, it is not fair to cull out isolated portions from the statements of these witnesses and try to conjure up something inconsistent with the tenor and context of the statement as whole.

Muthiah and Krishnamurthy were examined in detail before the Commission. Muthiah as C.W. 17, testified that Maruthai Pillai had informed him that the extra money, to be collected at the rate of Rs. 3 per bag, was to be paid to the Chief Minister so that their accumulated stocks could be released for sale and orders passed by the Food Minister appointing them as wholesalers Krishnamoorthy, who received this information through Muthiah, has corroborated the latter.

Be that as it may, the case consistently propounded by Maruthai Pillai is, that the then Food Minister and Chief Minister, both, were acting in close concert in imposing this arrangement on the Mills for extraction of the gratifications, although the payments in pursuance of that arrangement were made to the Chief Minister.

This being the position, when the witnesses said that the payment of the extra collection was to be made to the ' Food Minister and Chief Minister ' or ' to the Chief Minister ' or to the Minister or Ministers, the substratum of their evidence remained the same. Thus considered, there is no significant variation in the statements of these witnesses, which could undermine their credit. Rather, if the statements of a number of persons give a parrot-like derivative account of an old event in identical terms, that would be a ground for suspecting that they had been carefully tutored and coached. Natural variations as distinguished from discord on vital points, always occur even in the statements of truthful witnesses.

I would, therefore, repel this contention.

The second contention appears to be a simulated ' lamentation ' over the ' failure ' of Shri H. V. R. Iyengar to " find out, check and verify the truth " of the statement made by Shri Maruthai Pillai relating to the alleged demand of the money by the Minister and the Chief Minister for issuing the release orders. I have already dealt with this contention. There was absolutely no reason for Shri H. V. R. Iyengar or the other Members of SISMA to doubt the truth of the information given by Maruthai Pillai regarding the demand of the gratification by the Minister and the Chief Minister as a consideration for appointing the Mills as wholesaler-cum-retailers of levy sugar. Maruthai Pillai was the President of their Association and as such, enjoyed their confidence and respect. The question of verifying or checking the information conveyed by Shri Maruthai Pillai would arise only if the member suspected that he was playing a ruse on them.

To sum up, the evidence of the representatives of the Mills discussed above, fully corroborates Maruthai Pillai about the demand of the bribe by the Food Minister and the Chief Minister initially at the rate of Rs. 3 per bag on sales of levy sugar to be released to the Mills for sale in the free market as wholesalers on behalf of the Government.

This takes me to the next head of discussion, i.e. the Evidence of the Sugar Dealers who purchased the released levy sugar from the Mills on payment of the extra amounts demanded from them.

(iii) Corroborative evidence of purchasing dealers

There is further corroborative evidence of the 78 dealers/persons, mentioned below, who had purchased levy sugar in bulk from the Mills during the relevant periods:

S. No.	Name of the dealer	S. No. of Affidavit
1.	Hajee Mohd. Abdullah	5
2.	M. Krishnamurthy	6
3.	G. Balasubramanian	7
4.	A. Dhanushkodi	8
5.	R. Govindarajan	9
6.	Singaravelu Mudaliar	10
7.	R. V. Avadithangam	11
8.	R. Soundararajan	12
9.	P. R. Raghavan	13
10.	Sabhpathi Chettiar	14
11.	S. Natarajan	15
12.	G.A. Vora	26
13.	Kandaswamy Nadar	27

S. No.	Name of the dealer	S. No. of Affidavit
14.	N. Seshappa	28
15.	R. Venkataswamy	32
16.	S. Abdul Hakeem	34
17.	T. M. Sathasiva Nadar	38
18.	A. S. V. Kumaresan	39
19.	P. Natarajan	40
20.	V. Gopal Naidu	41
21.	P. Stalin	42
22.	T. K. Dorai Arasu	43
23.	S. Sundaram Pillai	44
24.	T. M. M. T. Radhakrishnan	46
25.	T. M. M. S. Sadhasivam	49
26.	A. Soundararajan	51
27.	M. Ramakrishnan	52
28.	K. Natarajan	53
29.	G. Purushothaman	54
30.	A. Avanan	55
31.	V. Periaswamy	56
32.	Arunachalam Pillai	57
33.	T. Vaithialingam	58
34.	Srinivasa Konar	59
35.	N. Jeevaratnam Pillai	60
36.	B. Adhinarayanan	61
37.	T. M. Sathiaselvan	62
38.	S. Jeyaprakash	63
39.	P. A. R. Ayyamperumal	64
40.	P. N. V. N. Sathanantham	65
41.	T. M. M. Rajakkani Nadar	66
42.	C. Ratnavel	67
43.	P. A. C. Somasundara Nadar	68
44.	M. Kandasamy	69
45.	A. M. K. Jambulinga Mudaliar	79
46.	L. R. M. S. Ramanathan	86
47.	N. Subramaniam Chettiar	87
48.	A. R. Muthiah	88
49.	M. Ramachandran	89
50.	M. Chidambaram Pillai	90
51.	S. Mohamad Ibrahim	91
52.	K. Narasimhalu Chettiar	100
53.	B. Manavalan	110
54.	S. Mohd. Haneef	111
55.	R. D. Shanmugham	112
56.	B. Jayabal	113
57.	V. K. Muniappa Chetty	116
58.	S. Srinivasan	117
59.	P. V. Nagarajan	118
60.	V. Janakiraman	119
61.	P. V. Nagarajan	120
62.	J. Rajendraprasad	121
63.	C. N. Ramanujam	122
64.	S. V. Nambi	135
65.	T. K. M. Kailasam Pillai	136
66.	S. R. Subbiah	139
67.	A. Srinivasa Rao	140
68.	S. B. Balavenkatraman	141
69.	B. Vriupakshi	142
70.	Babulal Amarchand	143

S. No.	Name of the dealer	S. No. of Affidav
71.	P. S. Narayana Raja	146
72.	M. S. Mohd. Meera	147
73.	A. Balasubramaniam	148
74.	K. Periaswamy	149
75.	R. Anandakrishnan	150
76.	A. Natarajan	151
77.	Mohd. Amin	152
78.	T. Kesavulu	153

The sum and substance of their statements on affidavits is that on demand made by the selling Mills, they paid over and above the prescribed price, extra amounts at the rate of Rs. 3 per bag on purchases made by them in February, 1970; Rs. 1.50 per bag on purchases from March to September, 1970 and 50 paise per bag on purchases from October, 1970 to May, 1971. There is a slight discord in their statements with regard to the representation made by the selling Mills while demanding these extra payments.

It is not necessary to over-burden the record with a detailed discussion of the evidence of all these 78 witnesses who purchased levy sugar at the relevant period from these Mills. It will be sufficient to discuss the evidence of 28 or 29 of them against whose evidence some specific criticism has been made by Shri P. U. Shanmugham in his further affidavit.

It may be recalled that these witnesses and their account books were further examined in this connection by the Investigating Agency assisting the Commission, in compliance with the Commission's Order, dated 9-7-1977. After doing the needful, the Investigating Agency has submitted a Supplementary Report under Section 5A. I have carefully examined this Report under Section 5A. I have carefully examined this Report and am satisfied that it contains a faithful record of what was stated by the witnesses in their further examination.

To six of these dealers, interrogatories were also issued drawing their attention to the criticism levelled by Shri P. U. Shanmugham against their evidence. The witnesses filed further affidavits in response to the interrogatories.

It is now proposed to deal with the points raised by Shri P. U. Shanmugham in the various sub-clauses of Paragraph 40 of his further affidavit, dated 19th September, 1976, in the same order in which they have been set out by him.

V. K. MUNIAPPA CHETTY (AFFIDAVIT NO. 116)

V. K. Muniappa Chetty is a wholesale dealer in sugar at Salem. In his affidavit dated 12-7-76, he stated as follows:—

“ 3. I have made purchases of levy sugar as detailed below from Messrs. Sakthi Sugars Ltd., Erode, as per my books of accounts.

Sakthi Sugars Ltd.:

	Bags
February, 1970	640
March, 1970	630
April, 1970	910
May, 1970	1320
June, 1970	670
July, 1970	1030
August, 1970	1410
September, 1970	1250
October 1970 to March, 1971	3360

Deccan Sugar Mills:

							Bags
February, 1970	..	..	..	..	..	..	280
March, 1970	..	..	..	..	..	..	720
May, 1970 ..	..	..	..	..	..	..	70
December 1970 to March 1971	..	..	..	..	..	..	570
							1640

* * * * *

At the time of purchase of the above sugar, I now remember that the sugar Mill authorities stated that the levy sugar stocks with Mills were piling up, that they had been hard hit financially due to the accumulation of the stocks, that they had taken Government orders for the sale of levy sugar stock to the dealers of free market sugar by making certain payments to the Government authorities, for which they were making good by collecting from their dealers. Their demand was at the rate of Rs. 3 per bag for the bags purchased in February 1970, at the rate of Rs. 1.50 per bag for the bags purchased from March 1970 to September 1970, and at 0.50 per bag for the later purchases.

The Mill authorities insisted payment of the extra money without which they were not willing to give levy sugar. I had made payments at the rate of Rs. 3 per bag for the bags purchased in February 1970, at the rate of Rs. 1.50 per bag for the bags purchased from March 1970 to September 1970, and at 0.50 per bag for the purchases made later."

The criticism levelled by Shri P. U. Shanmugham in para 40(d) of his further affidavit, dated September 1976, is that there is a discrepancy between the evidence of the witness and the Sales Statement of the Mills as follows:

"According to the affidavit filed by V. K. Muniappa Chetty, he had purchased 280 bags of sugar from the Deccan Sugar Mills in the month of February, 1970 and he has further stated that he has paid Rs. 3 per bag for this to the Mills. But, according to the statement of Deccan Sugars sent to the CCS they have sold 1,000 bags to this man and collected Rs. 3 per bag."

By my Order dated 9-7-1977, I directed the Investigating Agency assisting the Commission to put this 'discrepancy' to the witness and record his explanation, if any, in regard thereto. The Investigating Agency was further directed to examine and procure an extract of the account books maintained by this firm. Accordingly, a supplementary statement of the witness was recorded under Section 5A on 29-7-1977, in which the witness stated:

"In February 1970 we contracted for the purchase of 1,000 bags of sugar from Deccan Sugars and lifted 280 bags in the same month and the balance 720 bags was lifted in the month of March 1970. This purchase has been reflected in our books of accounts, vide A-Ledger page No. 98 which shows payment of the money for the purchase of 1,000 bags. This is shown to you and I had produced a true extract of the same.

As the 1,000 bags of sugar was contracted in February 1970 an extra amount of Rs. 3 per bag was paid to the Mill authorities without any voucher."

The witness has also produced an extract from the Ledger of his firm, which appears to support his statement. What is noteworthy is that the deliveries of all the 1,000 bags which the firm had agreed to purchase in February 1970 out of these Releases, was taken by the firm by the 9th March 1970, that is to say, the delivery of almost the entire bulk purchased was taken before the First Collective Payment alleged to have been made on the 8th or 9th March 1970 to the Chief Minister.

The statement of the witness that their firm had contracted to purchase 1,000 bags in February 1970 out of the Releases in that month, receives confirmation from the entry on page 16 of the Pugalur Levy Sugar Sales Book, Exhibit C.W. 15/3, which was maintained by Deccan Sugars in

the ordinary course of their business. The second entry on (left) page 16 shows that V. K. Muniappa Chetty (Chettiar) contracted to purchase 1,000 bags of sugar on 23-2-1970 at the rate of Rs. 165.51 per bag from the First Release, while the deliveries of this contracted quantity were taken by the purchaser in instalments on different dates in February 1970 and in the first fortnight of March 1970. The subsidiary entries relating to piece-meal deliveries are on the opposite (right side page).

Thus, this discrepancy appears to have been satisfactorily explained away by the witness.

G. A. Vohra (Affidavit No. 26)

G. A. Vohra, Manager, Messrs. Bhiwandiwala & Company, Bombay, has in his affidavit dated 28-6-1976 stated as follows:—

“ 4. Details of purchases of sugar made by us from the mills are given below:

Month	E.I.D.	Aruna	Thiru Arooran	Kothari	Sakthi
Mar '70	..	3500	..	..	..
Apl. '70	..	5850	..	..	..
Jul. '70	..	500	..	..	..
Aug. '70	500	2000	..
Sep. '70	..	1400	..	..	..
Oct. '70	..	1260	..	..	570
Nov. '70	..	280	..	..	..
Dec. '70	..	1000	..	..	..
Jan. '71 to
May '71	.. 11280	560	1030	..	..

For the above purchases the mode of payment was by cheques and these transactions have been brought in our books of account.

5. At the time of taking delivery in March 1970 the mill owners demanded an extra money of Rs. 1.50 per bag and explained that the extra money was collected to make good the money given by them to the Tamil Nadu Government authorities for the sale of levy sugar into free market sugar. They were not willing to sell their levy sugar if extra cash was not paid. As my firm solely deals in sugar I accepted for the payment of extra money to keep my business running. For the 11250 bags of sugar purchased from Aruna Sugar Mills between March 1970 and September 1970 I paid extra money at the rate of Rs. 1.50 per bag. Similarly for the 500 bags of sugar purchased in Thiru Arooran Sugar Mills and 2000 bags purchased from Kothari Sugar Mills during August 1970 I paid extra money at the rate of Rs. 1.50 per bag. For the 3100 bags of sugar purchased from October 1970 to February 1971 from Aruna Sugar Mills; for the 570 bags purchased from Sakthi Sugar Mills in October 1970; for the 1030 bags of sugar purchased in April 1971 from Thiru Arooran Sugar Mills and 11280 bags of sugar purchased between January and May 1971 from E.I.D. Parry I paid an extra money at the rate of 0.50 paise per bag.”

In para 40(e) of his further affidavit, Shri P. U. Shanmugham has pointed out a discrepancy between the affidavit of this witness and the Statement submitted by the Mills to the Commissioner of Civil Supplies, as follows:—

“ According to his affidavit he says that he has purchased from Aruna Sugar Mills 3500 bags of sugar and paid Rs. 1.50 per bag to the mills, whereas, as per the list given by Aruna Sugars to the C.C.S. they have said that 6,930 bags have been sold to this man and collected Rs. 1.50 per bag. ”

A supplementary statement was recorded by the Investigating Agency as per Order, dated 9-7-1977 of the Commission. In this statement dated 19-7-1977, G. A. Vohra has tried to clarify the position as follows:—

“ The Branch Office of Messrs. Bhiwandiwala & Company is doing business at No. 45, Anderson Street, Madras-1, and in connection with the purchase of sugar from Sugar

factories, I have furnished already my affidavit to the Sarkaria Commission of Inquiry. Now it is alleged that Messrs. Aruna Sugars have sold 6930 bags to us whereas in my earlier statement, I have said that only 3500 bags were purchased from them during March 1970. This quantity of 3500 bags relates to the bags lifted in March 1970 alone. Subsequently *in continuation of the contract* we have taken delivery of 3430 bags of levy sugar from Messrs. Aruna Sugars in the first half of April 1970 and another 2070 bags in the second half of April 1970, thus bringing the total purchase in April 1970 as 5500 bags.

In my earlier statement and affidavit I had stated that we purchased 5850 bags of levy sugar from Aruna Sugars in the month of April 1970. I would like to correct it now and state that in April 1970 our purchase was only 5500 bags as explained above and by mistake, 350 bags purchased in July 1970 was included. In my earlier statement I had also mentioned that we purchased levy sugar 500 bags from Messrs. Aruna Sugars in the month of July 1970. Now the 350 bags which was added by mistake in the April consignment has to be added to the figure of 500 bags purchased by us in July 1970 which would bring out the correct position of purchase of sugar in July 1970 also, i.e. 850 bags in July 1970.

It is true that Aruna Sugars have sold us 6930 bags. Out of this quantity, though contracted in March 1970, 3500 bags were lifted in the month of March itself, and the balance 3430 bags in the first fortnight of April 1970 "

The witness also furnished an extract from his accounts along with his supplementary statement under s. 5A, and added: " An extra amount of Rs. 1.50 per bag was paid for the consignment for which no receipt was given by the Mills. "

From the supplementary statement and the extract of accounts, the position that emerges is, that by mistake, 350 bags purchased in July 1970 were included in the quantity purchased in April 1970. In his earlier affidavit, he had wrongly mentioned that he purchased 500 bags in July 1970. He has now explained the correct position which would be that the firm had purchased 850 bags in July 1970, and not 500 only as earlier stated by him. The explanation that it was due to an accidental clerical mistake may be correct.

Kandaswamy Nadar (Affidavit No. 27)

This witness is a Managing Partner of Messrs. Aiyaswamy Nadar at 172, Anna Pillai Street, George Town, Madras. This firm is, inter alia, dealing in Sugar. The witness was examined by the Investigating Agency under Sec. 5A. He also filed an affidavit dated 28-6-1976, in which he stated:

" As per the relevant entries in the books of account and as per the invoices which are in my possession, during the month of February 1970 I have purchased 490 bags of levy sugar from Messrs. Kothari Sugar Mill, 420 bags of sugar from Messrs Deccan Sugar Mill and 85 bags from South India Steel & Sugar Mill. From Messrs. E.I.D. Parry Ltd., I have purchased 790 bags of sugar in April 1970, 780 bags in May, 500 bags in June and 6,400 bags from October 1970 to May 1971. Besides, I have purchased 580 bags of sugar during March 1970 from Messrs. Deccan Sugar Mill and 500 bags during March 1970 and 130 bags during May from Messrs. Cauvery Sugar Mill and thousand bags during December 1970 from Messrs. South India Steel & Sugar Mills.....

While taking delivery of the above consignment the mill authorities besides the invoice amount demanded some extra money to be given to the Tamil Nadu Government authorities for having permitted them to sell the levy sugar to their dealers.....

In the interest of my business I have paid this extra money as and when I took delivery of above consignment. This amount I have paid at the rate of Rs. 3 per bag for 995 bags purchased during the month of Feb. 1970, at the rate of Rs. 1.50 per bag for the 3,330 bags purchased during the months of March, April, May and June 1970 and at the rate of 50 N.P. per bag for the remaining 7,400 bags purchased between October 1970 and May, 1971. "

In para 40(f) of his further affidavit, Shri P. U. Shanmugham has said against the evidence of this witness, as under:—

“ According to the Deccan Sugars Statement they have sold 1000 bags to this person and collected Rs. 3 per bag, whereas this gentleman in his affidavit says he has purchased 420 bags only and paid Rs. 3 per bag. As per Cauvery Sugar statement they have sold 500 bags to this firm and collected Rs. 3 per bag. Whereas in the affidavit of the firm they have not mentioned it. ”

The witness was confronted with this discrepancy pointed out by Shri P. U. Shanmugham, and his supplementary statement under Section 5-A was recorded by the Investigating Agency on 19-7-1977 as per Order, dated 9-7-1977, of the Commission. In this statement he tried to explain the position as follows:—

“ It is true that we had *contracted* for the *purchase of 1000 bags* of sugar from Messrs. Deccan Sugars *in the month of February 1970* and actually lifted 420 bags in February 1970 and the remaining 580 bags in the month of March 1970. *For the full consignment of 1000 bags, an extra amount of Rs. 3 per bag was paid* to the Mill without any voucher. From Messrs. Cauvery Sugars also we had contracted for the purchase of 500 bags of sugar during the month of February 1970 but it was lifted in the month of March 1970 and for this consignment also, an extra amount of Rs. 3 per bag was paid to the Mill without any voucher. *By mistake, I had in my earlier statement and affidavit indicated that for the consignments actually lifted in March 1970 an extra amount of Rs. 1-50 was paid, but actually extra amount paid for the above said bags were at the rate of Rs. 3 per bag.* ”

The witness also produced an extract from his books in respect of these purchases. This extract shows that on 5th March, 1970 this firm purchased 140 bags, and on 9-3-1970, 360 Sugar bags more, total 500 bags, from Cauvery Sugars and Chemicals. If the entries in the firm's account book are not subsequently fabricated—and I have no reason to suspect so—then it was through some oversight only that the witness had failed to disclose the purchase of these 500 bags from Cauvery Sugars. According to the entries in the account book, these purchases of 500 bags from the Cauvery Sugars, were completed by the 9th March 1970, i.e. approximately by the date on which the First Collective Payment is said to have been made to Shri Karunanidhi.

The extract of the accounts relating to the purchases from Deccan Sugars shows that 420 Sugar bags were purchased by this firm from this Mill in February 1970, and further lots of 140, 210 and 230 Sugar bags were purchased on the 2nd, 3rd and 4th March, 1970 respectively. This means according to the books of the firm, a total of 1000 bags was purchased by it from Deccan Sugars by the 4th March, 1970, out of the First Release of levy sugar. These purchases were completed several days before the date of the First Collective Payment to Shri Karunanidhi.

The explanation given by the witness with regard to purchases from Cauvery Sugars is not fool-proof. But it is plausible and probable. The probability of this explanation being true, is enhanced by the entries in the Sales Book, Ex. CW 15/2 of Cauvery Sugars. At page 4 of this Book is an entry, dated 3-3-1970, showing the sale of 500 bags of sugar at the rate of Rs. 165-50 on 3-3-1970 to the firm Messrs. Aiyaswamy Nadar, Madras. The subsidiary entries on the left side of that page show that delivery of this purchased quantity was taken in small lots on different dates in the first fortnight of March, 1970.

As regards the purchase of 1,000 bags from Deccan Sugars, the explanation given by the witness is more satisfactory. In the Sales Book, Ex. CW. 15/3, of Deccan Sugars, on page 14, there is an entry showing that the firm, Messrs. Aiyaswamy Nadar, purchased from Messrs. Deccan Sugars on 24-2-1970, 1000 bags at the rate of Rs. 165-50 per bag from the First Release, though he took its delivery in instalments on different dates in February and March, the last of which was taken by him on 7-3-1970. On the opposite side of the page in the Sales Book, are subsidiary entries, containing references to the bills and the dates of the deliveries. These Books have been maintained systematically in the regular course of business. There is, therefore, no reason to doubt the genuineness of the entries in it. These entries lend substantial assurance to the explanation that the contracts for purchase of 1,000 bags from Deccan Sugars, and 500 bags from Cauvery Sugars were made on 24-2-1970 and 3-3-1970, respectively, though part-deliveries were taken by the purchasing firm on different dates, at the convenience of the parties. In other

words, these purchases by this firm were completed and extra money paid thereon to the Mills, well before the First Payment to Shri Karunanidhi.

P. Natarajan (Affidavit No. 40)

Messrs. N. P. N. A. Narayanan Stores, Madras

P. Natarajan's further statement under Sec. 5A was recorded on 18-7-1977, in compliance with a direction from the Commission. He was confronted with the criticism levelled against his evidence by Shri P. U. Shanmugham in para 40(g) of his affidavit. He, thereupon, stated:

“ As a clarification to my earlier statement and affidavit, I state the following: In the month of February 1970 negotiations were made with Messrs. Deccan Sugars for the purchase of 580 bags of levy sugar. But we had lifted only 300 bags in the same month i.e. February 1970 and the balance of 280 bags were lifted in March 1970. For all these two consignments, we have paid the extra money of Rs. 3 per bag to the Mills without any receipt or voucher. ”

The witness also furnished an abstract of the relevant entries regarding purchases of sugar from the books, which, rendered in English, reads as under:

“ LEDGER NO. 1-B

Year 1969-70

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**MADRAS N. P. N. A. NARAYANAN COMMISSION PROVISION STORES
PUGALUR THE DECCAN SUGAR & ABKHARI CO., LTD.**

Debit and Credit A/c.

Sowmiya Year	Month		Debit Rs.	Credit Rs.
26- 2-1970	Masi 15	150 bags sugar at Rs. 165-51 per bag—Credited ..		24,826-50
		150 bags of sugar at Rs. 165-51 per bag—Credited ..		24,826-50
3- 3-1970	20	Remittance made on 27-2-1970 through Krishnaswami Gounder of Karur—Debited	49,653-00	
4- 3-1970	21	280 bags of sugar at Rs. 168-00 per bag—Credited ..		47,040-00
12- 3-1970	29	Remittance made on 9-3-1970 through A. S. R. Subbiah of Trichy by Draft No. 090083 of Canara Bank—Debited.	47,040-00	
		Total ..	96,693-00	96,693-00

This extract from the books of the purchasing firm, N.P.N.A. Narayanan, clarifies that it was through some accidental slip that the witness, P. Natarajan, had, in his earlier statement, said that they had purchased 300 bags only in February 1970 from Deccan Sugars and paid extra money at the rate of Rs. 3 per bag on those bags. The correct and complete picture as clarified by the witness in his statement is, that this firm had negotiated and promised to purchase 580 sugar bags in February 1970 and paid extra money on the whole lot of those 580 bags at the rate of Rs. 3 per bag. Out of this contracted quantity, the firm lifted 300 bags in February 1970 and the balance of 280 bags on 4-3-1970.

The clarification given by the witness is substantially in accord with the entries in the Sales Book, Ex. CW. 15/3, maintained by Deccan Sugars, Pugalur. The entries at (left side) page 16 of this Book show that on 26-2-1970, two lots of levy sugar, each of 180 bags, were sold by Deccan Sugars to N.P.N.A. Narayanan. Then there is another entry in this Book showing the sale of 280 bags on 4-3-1970 to N. P. N. A. Narayanan, Madras. In any case, both these sales had been completed well before the First Collective Payment, which, according to Maruthai Pillai, was made to Shri Karunanidhi on or about the 8th or 9th March, 1970. Thus, there is no substance in the criticism made by Shri P. U. Shanmugham against the evidence of this witness in Paragraph 40(g) of his further affidavit.

V. Gopal Naidu (Affidavit No. 41)

In compliance with a direction from the Commission, the Investigating Agency headed by Shri K. A. Rajagopalan, Superintendent of Police, confronted Gopal Naidu, also, with the

discrepancy pointed out by Shri P. U. Shanmugham in Paragraph 40(h) of his further affidavit, and recorded his explanation with regard thereto. The explanation given by the witness is as follows:

“ During February 1970, we made arrangements with Messrs. South India Sugars for the purchase of levy sugar. Actually we had lifted 771 bags in February 1970 for Messrs. Navaneetham & Co. We have not made any purchase from Messrs. Deccan Sugars during the period in question. The figure 871 bags in my earlier statement is a clerical error.

On behalf of Messrs. Shanthi & Co., we had also purchased 910 bags of sugar from Kothari during February 1970. The aforesaid purchases of sugar are entered in our books and shown now. Two extracts of the relevant entries are produced... ”

Even in his earlier affidavit, the witness has nowhere stated that he had purchased any sugar from Deccan Sugars in February 1970. Therefore, Shri P. U. Shanmugham's reference to Deccan Sugars in paragraph 40(h) of his further affidavit, appears to be misconceived. The witness also produced an extract from his firm's account books, which is as follows:—

Date (1970)	Bags	Value
		Rs.
February 12 ..	140	24,759.00
February 18 ..	140	24,759.00
February 19 ..	140	22,611.40
February 26	70	11,305.70
February 27 ..	70	11,305.70
February 27 ..	70	11,305.70
March 3 ..	141	22,772.91
	771	1,28,819.41

In view of these entries, which were made in the regular course of business, it can be accepted that it was through some clerical error or accidental slip that the witness had in his earlier statement, deposed to the purchase of 871 bags in February 1970 from South India Sugars. It is true that 141 bags were purchased by him from that Mill on March 3, 1970 but for the purpose of the point in issue that does not make much difference because the First Payment to Shri Karunanidhi presumably consisted of extra collections made at the rate of Rs. 3 per bag on sales made upto 7th or 8th March, 1970. Thus considered, there is no material discrepancy between the sales as shown in the books of the Mills concerned and what has been deposed to by the witness.

Further, it is not correct, as Shri P. U. Shanmugham seemed to contend in his affidavit, that according to the records of Messrs. South India Sugars, they had sold 1140 bags to this witness. A reference to the deposition, dated 4-11-1976, of Swaminath of Messrs. South India Sugars recorded before the Commission, would show that this contention is factually incorrect. Further, the Statement of Sales Party-wise submitted by Swaminath to the Commissioner of Civil Supplies, Madras, does not show that 1140 bags were sold by this Mill to V. Gopal Naidu or the firms represented by him. The Sales Register of Deccan Sugars, also, does not show any sale by that Mill to Gopal Naidu or to any of the firms on whose behalf the witness was acting.

S. Sundaram Pillai (Affidavit No. 44)

He is a partner of Messrs. Ashoka Traders at No. 15, Anna Pillai Street, Madras, and of Messrs. Anandam Maligai at No. 139, Athiappa Naicken Street, Madras. He was also looking after the business of Messrs. Vasavi and Company which is at No. 15, Anna Pillai Street, Madras,

whose partners were besides his younger and elder brothers, the sons and wife of the witness. The material part of his earlier statement on affidavit runs as under:

“ 4. During the year 1970-71, I have purchased sugar for our concerns as shown below:

Month	E.I.D.	Deccan	Cauvery	Aruna	Kothari	Sakthi	South India
<i>Asoka Traders</i>							
February 1970 .. ..	..	2130	..	2500	630	..	1250
March 1970	1895	2870	..	2990	..	..	..
April 1970	3105	..	600	..	..	..	..
May 1970	2710	500	303	70	..	..	1615
June 1970	290	..	..	..	..	..	400
July 1970	140	..	..	500	..	..	3785
August 1970	7282	..	..	500	..	..	..
September 1970.. ..	2070	..	..	650	..	190	..
October 1970	2392	..	..	1000	..	..	..
November 1970.. ..	3860	..	..	..	..	..	2010
December 1970 .. ..	..	..	..	..	..	..	1690
January 1971	2510	..	..	..	..	..	90
February 1971	865	..	..	..	..	..	1510
March 1971	3825	..	..	..	..	..	..
April 1971	1000	..	..	..	..	..	..
<i>Anandam Maligai</i>							
May 1970	1386	..	..	930	..	..	..
October 1970 .. ..	..	..	..	..	..	..	55
November 1970.. ..	..	..	..	..	..	..	2000
January 1971	2070	..	..	..	..	..	1000
February 1971 .. ..	..	..	..	..	..	..	1000
March 1971 .. ..	..	..	..	..	..	..	738
<i>Vasavi & Co.</i>							
November 1970.. ..	..	..	..	..	..	..	2318
February 1971 .. ..	..	..	..	..	..	..	2455
March 1971 .. ..	..	..	..	2130	..	..	2667
April 1971	1800	..	..	2820	..	..	1000
May 1971	2300	..	..	1593	..	..	416”

The payments for the above purchases were made sometimes

“ by Bank drafts and at times by cash. Those transactions have been entered in the books of accounts and they are in my possession. ”

In paragraphs 6 and 7 of his affidavit, the witness also speaks about the payment of Rs. 15,000 to Kailasa Gounder for getting him appointed as a wholesaler-cum-retailer of levy sugar and for getting an allotment of 5,000 bags of sugar for sale.

The witness further stated:

“ 8. On the assurance from Jambulinga Mudaliar I have paid Rs. 30,000 by cash to Shri Kailasa Gounder, during the 3rd week of Feb. 1970 at Ashoka Hotel, Madras. He had collected the necessary applications of mine and Messrs. Karthikeyan. During the same month I had received orders from the Government appointing Messrs. Asoka Traders as wholesalers in Sugar and was directed to take delivery of about five hundred and odd tons of levy sugar from Salem Co-operative Sugar Mill, Mohanur. Similarly, Messrs. Karthikeyan Trading Company was also appointed as wholesalers and permitted to lift about five hundred and odd tons of levy sugar from National Co-operative Sugar Mills, Alankanallur. I had also paid administration charges at the rate of Re. 1 per bag for the above quantity allotted by the Tamil Nadu Government. ”

“ 9. When I approached Salem Co-operative Sugar Mills for taking delivery of the allotted sugar I was informed that they could deliver only 1865 bags of levy sugar from the total quantity allotted to me. I had paid the cost of 1865 bags as per invoices and lifted them. On my claim to Government I got back Rs. 4,000 and odd for the bags not lifted by me.

“ 10. I have entered the payment of Rs. 30,000 to Thiru. Kailasa Gounder on 11-3-1970 under Sugar purchase account. Messrs. Karthikeyan Trading Company had lifted the entire allotted quantity of sugar from National Co-operative Society, Alankannallur. I met Kailasa Gounder subsequently and narrated to him about the loss incurred by me in the transaction for which he promised to help me in making good the amount. He has helped me by allotting sugar from Messrs. Sakthi Sugar for my sale and thereby I have earned a commission of Rs. 60,000. I have disposed of the sugar purchased to my retailers without stipulating any conditions regarding the price to be fixed by them. No control was imposed on the sale of levy sugar by the Civil Supply Authorities by their physical check and verification.”

These averments relating to the payment of Rs. 15,000 to Kailasa Gounder for appointment as wholesalers, are, strictly speaking, not relevant to the collection of the extra amounts on sales of levy sugar, now under investigation. This payment is not a part of the sixteen Collective Payments which are said to have been made by the 9 Mills through Maruthai Pillai to the then Chief Minister. I am, therefore, not referring to this part of his evidence.

The other part of his evidence regarding the collection of extra amounts on sales of levy sugar is relevant to the point in issue.

In Para 40(i) of his further affidavit, filed in September 1976, Shri P.U. Shanmugham has criticised the evidence of Sundaram Pillai on this point, in these terms:

“ As per the list given by Deccan Sugars, they have sold to Ashoka Traders from revalidated sugar 3,000 bags and from January-February quota 2,000 bags, in all a total of 5,000 bags. They have collected Rs. 3 per bag from the Ashoka Traders, and according to the Ashoka Traders statement in their affidavit they have said that they have purchased in February 2,130 bags and in March 2,870 bags and they have said in the statement, that they have paid Rs. 3 per bag for the sugar taken delivery in the month of February 1970. Further, they have stated for the March delivery they have paid Rs. 1.50 per bag.”

An interrogatory was issued to the witness to enable him to explain this criticism. He replied that interrogatory in his affidavit, dated 29th January 1977, thus:

“ . . . We had taken delivery of 2,130 bags of levy sugar in February 1970 and balance of 2,870 bags of levy sugar in the month of March 1970 commencing from 23-2-1970 to 19-3-1970 from Messrs. Deccan Sugars. This is against Sale Note of Messrs. Deccan Sugars issued in February 1970 for 5,000 bags. As the Sale Notes for 5,000 bags were issued in February 1970 itself, the extra money paid by me over and above the invoice amount was at Rs. 3 per bag. At the time of my submitting affidavit and giving statement, this fact did not strike my mind. I have taken the figures on the basis of invoice particulars available with me and as I recollected that the extra money for allotments from March 1970 was Rs. 1.50 per bag, I have incorrectly furnished this rate for 2,870 bags taken delivery in March 1970. As stated earlier, for all the 5,000 bags I paid extra amount at the rate of Rs. 3 per bag.”

In his further statement, dated 23-7-1977, also, recorded under Section 5A by the Investigating Agency, the witness has given very much the same explanation:

“ I state that I got a Sale Note for 5,000 bags of levy sugar from Messrs. Deccan Sugar and Abkari Company Limited in February 1970. Out of this, 2,130 bags were lifted in February 1970 and the balance 2870 bags in March 1970. As the Sale Note for 5,000 bags of sugar was issued in February 1970, extra money at the rate of Rs. 3 per bag for the full consignment of 5,000 bags was paid to Shri Mahadevan of the above said Sugar Mills without any vouchers and not at the rate of Rs. 1.50 per bag against 2,870 bags lifted in March 1970. I had made this mistake because the extra payment had not been recorded in our books.

I have made this statement with reference to our books of accounts and a certified extract of which is furnished now.”

This extract shows that upto the 8th March 1970, i.e. before the making of the First Collective Payment to the Chief Minister, this firm had taken delivery of 3,420 bags of levy sugar from Cauvery

Sugars. The delivery of the remaining 1,580 bags purchased by them from this Mill, was taken on different dates from 9th March to 19th March, 1970.

The explanation given by the witness of this discrepancy in his supplementary statements is quite plausible. This explanation is consistent with what Mahadevan, Assistant Manager of Cauvery Sugars, has said about the stage and the *modus operandi* of collecting these extra amounts.

In Para 17 of his affidavit, dated 28-7-1976, V. Mahadevan, Assistant Manager of Cauvery Sugars, has stated:

“ . . . When the release orders were received on 18-2-1970. . . . I informed the dealers of E.I.D.—Parry Ltd., Deccan Sugars and Cauvery Sugars and requested them to pay the extra amount of Rs. 3 per bag before taking the delivery on the Sale Note. Thereafter, whenever the dealers approached me to get the Sale Note for the purchase of sugar from our Mills, they used to pay the extra amount in respect of the quantities noted in the Sale Note. ”

The Sales Book (Ex. CW. 15/3) of Deccan Sugars also reflects the position that Ashoka Traders contracted to purchase 3,000 bags of levy sugar out of the first release on 21-2-1970 and 2,000 bags more on 26-2-1970; but the deliveries were all given and bills were issued subsequently on various dates starting from 23rd February 1970 to 19th March 1970. There is no good reason to doubt the correctness and authenticity of the entries in the Sales Book (Ex. CW. 15/3). The entries in it were made in the regular course of business, at a time when the controversy now before the Commission, had not arisen.

The further statements of the witness, coupled with the entries in the Sales Books of the Mills, satisfactorily establish the fact that Deccan Sugars had in fact, contracted to sell 5,000 bags to Ashoka Traders and collected therein from the latter extra amount at the rate of Rs. 3 per bag in February, 1970, although deliveries of some the sugar bags purchased in February 1970, were taken in March 1970. The explanation given by the witness, Sundaram Pillai, that in his earlier statement what he had stated something different on this point, was due to mistake of memory, might be correct.

A. Srinivasa Rao (Affidavit No. 140)

This witness is Manager of Messrs. S. Ottajee Branch at 186, Big Bazar Street, Coimbatore. The firm also deals in wholesale sugar. In his affidavit dated 20-7-1976, A. Srinivasa Rao has stated:

“ The details of our sugar purchasers from the factories are:

	E.I.D.	Deccan	Cauvery	Kothari	Sakthi
February 1970
March 1970	2800
April 1970	..	140	140	70	2020
May 1970	..	209	440	624	..
June 1970	900
July 1970	1620	1200
August 1970	180	270
September 1970	2160
October 1970	2470
November 1970	2170
December 1970	2330
January 1971	2750
February 1971	1500
March 1971
April 1971	700
	349	580	694	3820	20480

“ . . . Hence to keep our business running we had to pay extra amount for our above purchases to the factory authorities ranging from 50 ps. to 1.50 per bag. No receipt was issued by them for the extra sum received. The above amount was made good by collecting from the retailers to whom we sold. ”

Against the evidence of this witness, Shri P. U. Shanmugham has in Para 40(j) of his further affidavit stated:

“ As per their statement in affidavit, he has stated he has purchased 2,800 bags in the month of March and paid Rs. 1.50 to Sakthi Sugars, wherefrom they have taken

delivery. But according to the statement of Sakthi Sugars, they have said that they have sold 3,500 bags and collected Rs. 1.50 per bag."

Thus, he has pointed out a discrepancy in regard to the quantity sold by Sakthi Sugars in March 1970. This witness was further examined on 27-7-1977 by the Investigating Agency in compliance with the Commission's Order dated 9-7-1977. In this statement, the witness has tried to clarify this discrepancy, as under:

"We had signified our willingness to purchase 3500 bags of levy sugar from Messrs. Sakthi Sugars Limited in March 1970 itself. The validity period for lifting of levy sugar was upto 23rd April 1970. We took the delivery of 3,500 bags as shown below:—

		Bags
14-3-1970	..	500
16-3-1970	..	165
17-3-1970	..	835
21-3-1970	..	400
22-3-1970	..	360
23-3-1970	..	240
31-3-1970	..	300
		—
		2800
1-4-1970	..	300
4-4-1970	..	400
		—
Total	..	3,500

Thus we took delivery of 2,800 bags during March 1970 and the remaining 700 bags during April 1970. The total quantity was 3500 bags.

The total purchase of 1200 bags of levy sugar for the month of April 1970 shown in my earlier affidavit is inclusive of 700 bags of levy sugar referred to above.

As the above mentioned 700 bags were lifted in April 1970, this figure was not included in the purchase during March 1970. We have paid at the rate of Rs. 1.50 per bag extra to the Mills."

The witness also produced an extract from the relevant entries from the Sugar Stock Book of his firm, which appears to support his statement.

The explanation given by the witness is plausible.

Babulal Amarchand (Affidavit No. 143)

Babulal Amarchand is the Manager of the firm Lakme Traders at No. 390, Rangai Gowder Street, Coimbatore. He has deposed to the purchase of sugar made by his firm from the Mills, as under:

	E.I.D.	Deccan	Cauvery	Kothari	Sakthi
February 1970
March 1970	..	7000	1659	..	..
April 1970	..	1000	..	4710	..
May 1970	..	513	..	..	..
June 1970	3000
July 1970	12535
August 1970	..	3090	1000	..	7465
September 1970	3880
October 1970	..	2000	1000	2000	6254
November 1970	..	7800	450	..	970
December 1970	..	9200	455	2010	4750
January 1971	..	5645	1093	..	3850
February 1971	3320	..	5065
March 1971	4864	..	620
April 1971	7446
May 1971	5000	..	..

It is further stated that at the time of the sale of the sugar, the selling Millers demanded extra money with the representation that this extra collection was to be given by them to the Tamil Nadu Government authorities for getting levy sugar for sale in the free market. Since the firm of the deponent dealt mainly in sugars, he paid the extra money for the purchases made by him, first, at the rate of Rs. 1.50 per bag, and thereafter, at Rs. 0.50 per bag. No purchases were made by this firm in February 1970.

Against the evidence of this witness, Shri P. U. Shanmugham has said:

“ According to this gentleman's affidavit he has stated in the statement that he was purchased 7,000 bags from Deccan Sugars and 1,659 from Cauvery Sugars and paid Rs. 1.50 per bag to the concerned factories. But as per the statement of Deccan Sugars, they have sold 7,000 bags for the month of February and Cauvery Sugars have sold 1,659 bags to this firm and they have collected Rs. 3 per bag from this firm. ”

(Para 40-k of his affidavit)

This discrepancy pointed out by Shri P. U. Shanmugham was put to the witness in interrogatories, to which he replied on affidavit. In his supplementary statement, dated 28-7-1977, recorded under Sec. 5-A also, the witness clarified the position as under:

“ . . . I state that the purchase of 7,000 bags from Messrs. Deccan Sugars and 1,659 bags from Messrs. Cauvery Sugars were drawn from January-February quota but the deliveries were effected in March 1970. As I have no record regarding the extra payment, and since the consignments were taken delivery in March 1970, by mistake, I assumed that Rs. 1.50 per bag only was paid as extra money. Now, I correct my earlier statement to the effect that in fact for the above said two consignments an extra amount of Rs. 3 per bag was paid to the Mills but not at the rate of Rs. 1.50 per bag as the consignments were from January-February 1970 quota.

The purchase details are entered in our records which are now shown. The true extract of the relevant entries are furnished.”

From the extracts furnished from the books of the firm by the witness, it is clear that all invoices were issued and deliveries were given of the purchased bags by Cauvery Sugars to this firm during the period 10-3-1970 to 13-3-1970, the total bags purchased by this firm from Cauvery Sugars was 1659. Similarly, the entries in the books of the firm show that they purchased a total of 7,000 bags from Deccan Sugars and took deliveries on various dates from 10-3-1970 to 20-3-70. The fact remains that Babulal Amarchand have not said that they had entered into the agreement for purchase of this total number of bags from these Mills in February 1970, against which they took deliveries in March, 1970.

The only explanation given by the witness is that the purchases were made or drawn from Release of January-February 1970 quota, but the sugar was actually lifted by them in March, 1970. If by this explanation it is implied that the contract for purchase of all these bags was made in February 1970, then it would be in accord with what finds mention in the Levy Sugar Sales Books of these Mills relating to the relevant period. The Sales Book (Ex. CW 15/2) of Cauvery Sugars has on page 4 an entry which shows that on 3-3-1970, 1,659 bags at the rate of Rs. 1.65.50 per bag were sold to Lakme Traders. This record further shows that the invoices were issued and deliveries were taken subsequently in March in small lots, from time to time by the purchasing dealers.

Similarly, the Sales Book, Ex. CW. 15/3, relating to Deccan Sugars, page 20, shows that on 4-3-1970 Lakme Traders agreed to purchase 7,000 bags of levy sugar from the Second Release. Invoices read with the other entries in this Book show that deliveries to Lakme Traders were made on different dates in March in instalments of the total quantity that had been contracted for purchase on 4-3-1970. The position which emerges is that Lakme Traders contracted to purchase a total of 1,659 bags of levy sugar from Cauvery Sugars and 7,000 bags from Deccan Sugars on the 3rd and 4th March 1970, and collected extra money thereon at the rate of Rs. 3 per bag on these dates. Both the sales were completed and deliveries given in smaller lots subsequently in March 1970.

T. M. M. Rajakkani Nadar (Affidavit No. 66)

T.M.M. Rajakkani Nadar is a partner of the firm, Messrs. Amarjothi Vilas Oil Mills, Virudhunagar, which deals in wholesale purchase and sale of sugar. In his affidavit, dated 30-6-1976, he has stated:

“ To get rid of the accumulated stocks of Levy Sugar, the Mills in Tamil Nadu got into some arrangements with the Tamil Nadu Government. Accordingly, they collected out of books an extra amount of Rs. 1.50 during March, 1970—September 1970 and Re. 0.50 during October 1970 to May 1971 per bag of Levy Sugar sold by them.

We were obliged to purchase and reluctantly purchased the following Levy Sugar bags:

(a) Paying extra amount at Rs. 1.50 per bag, out of books, during the period March 1970 to September 1970.

From Cauvery Sugars & Chemicals Ltd., Pettaivaytalai	..	510 bags
From E.I.D. Parry Ltd., Nellikuppam	..	1,500 bags
From the Deccan Sugar & Abkhari Co. Ltd., Pugalur	..	2,300 bags
		Total .. 4,310 bags

(b) Paying an extra amount of Re. 0.50 per bag, out of books, during the month May 1971.

From The Deccan Sugar & Abkhari & Co. Ltd., Pugalur 250 bags

All the amounts paid as extra out of books were subsequently collected by us from our retail dealers when they bought these bags from us from time to time.”

In para 40(1) of his further affidavit, Shri P. U. Shanmugham has pointed out this discrepancy with reference to the evidence of this witness:

“ According to Deccan Sugars, they have sold 1,100 bags to this firm and collected Rs. 3 per bag. Whereas this gentleman in his affidavit does not mention about it.”

The witness was given an opportunity to explain this discrepancy. His further statement under Section 5-A was recorded on 29-7-1977 in compliance with the Commission's Order dated 9-7-1977. This is what he then stated on this point:

“ . . . In this connection I state that during February, 1970 we had contracted Messrs. Deccan Sugars for the supply of 1,100 bags of sugar for which the entire amount had already been paid in the month of March 1970. For this consignment we had paid an extra amount of Rs. 3 per bag to the levy sugar involved. In my affidavit filed on 30-6-76 before the Commission, I have stated that our firm have purchased from 3/70 to 9/70, 2,300 bags of sugar from Deccan Sugar & Abkhari Co. Ltd., Pugalur. This quantity included 1,100 bags for which the contract was made in 2/70. As no bag was lifted during February, 1970 it was not mentioned in my earlier statement. The purchases of sugar bags mentioned above were brought into our account and the account books are shown now.”

The witness also produced an abstract of the relevant entries in his books of account.

Thus, the explanation given by the witness is that since the contract for purchasing a total of 1,100 bags of sugar from the First Release of February 1970 was made in February 1970, extra money at the rate of Rs. 3 per bag was paid thereon, although deliveries of the contracted quantity were taken later on.

Entries on page 20 in the Sales Book, Ex. 15-3, of Deccan Sugars show that on 4-3-1970, 1,100 bags of levy sugar were sold at the rate of Rs. 168 per bag by this Mill to Amarjothi Vilas Oil Mills, Virudhunagar.

The date '4-3-1970' does not appear against this entry, but this date appears against the preceding and the succeeding entries. This date, therefore, presumably governs the sale of 1,100

bags to Amarjothi Vilas Oil Mills, also. These 1,100 bags were delivered piecemeal in smaller lots on different dates during the period from 12-3-1970 to 14-3-1970. In other words, the contract for sale of this sugar was made before the date of the First Collective Payment to Shri Karunanidhi. The clarification given by the witness is thus, a possible explanation of the alleged discrepancy.

K. Narasimhalu Chettiar (Affidavit No. 100)

K. Narasimhalu Chettiar is a partner of Messrs. K. Narasimhalu Chettiar, No. 59, Gandhi Road, Panruti, South Arcot District. He has stated that during the period between February 1970 and May 1971, he purchased from E.I.D. Parry, Aruna Sugar Mills and South India Steel & Sugar Mills, the undermentioned quantities:—

Month and Year	E.I.D. Parry	Aruna Sugars	South India
February 1970 .. ..	..	..	150
March 1970	70	..	..
May 1970 .. ..	..	..	220
July 1970	250	..	301
August 1970	750	..	80
October 1970	800	..	..
November 1970 .. ..	..	..	480
December 1970	500	..	..
February 1971	160	..	..
March 1971	600	..	500
April 1971	500	160	..
May 1971	640	..	..
Total ..	4270	160	1731

He further stated that while taking delivery of the above bags, the Mill authorities, besides collecting the price, demanded some extra money. "Accordingly, I had paid an extra money of Rs. 450 at the rate of Rs. 3 per bag for the 150 bags purchased from Messrs. South India Steel & Sugars during the month of February 1970. I had paid besides the invoicement amount, a sum of Rs. 2,506-50 at the rate of Rs. 1-50 per bag for the 1,671 bags purchased between March and August 1970 and also an extra money of Rs. 2,170 at the rate of 50 np. per bag for the 4,340 bags purchased subsequently till May 1971. I was informed by the Mill authorities that they are collecting this amount to make good of the amount which they have paid to Government authorities for having obtained orders permitting them to sell levy sugar to their dealers. I had paid this extra money by cash and the Mill authorities did not give any vouchers for the receipt of the amount. I had collected at the same rate from my retailers and made good of this amount. I too, had not given any receipts to them. As the payments of the extra money to the Mill authorities and my subsequent collections at the same rate from my dealers were not supported by any vouchers I did not bring them to accounts."

In para 40(m) of his further affidavit, Shri P.U. Shanmugham has pointed out a discrepancy with reference to the evidence of this witness, as below:

"As per the statement in his affidavit he says he has not purchased from Aruna in the month of February, but whereas according to Aruna Sugars Statement, they have sold 140 bags to this man. Collected Rs. 3 per bag. Further, as per the statement of Aruna Sugars, they have sold 220 bags to this gentleman for the month of March. This also is not found in the statement."

In his statement, dated 26-7-1977, recorded under Section 5-A in compliance with the Commission's Order, dated 9-7-1977, this witness has tried to clarify the matter as under:—

"I had already given my statement as well as sworn affidavit in connection with the purchase of levy sugar during 1970-71. I had stated in these that we did not purchase any sugar from Messrs. Aruna Sugars. It is a mistake. In February 1970 we had purchased 140 bags of levy sugar from them. For these sugar bags an extra amount of Rs. 3 per bag was paid in cash to the Mill authorities over and above the invoiced price. They had not given any voucher or receipt for the extra amount paid."

The witness also produced an extract from the account books of his firm. The extract from the Sugar Sales Stock Register maintained by this firm shows that on 8-2-1970, this firm purchased 140 bags of sugar in two lots from Aruna Sugars. If this entry has not been fabricated as an afterthought—and I hope it is not so—then it lends assurance to the explanation given by the witness. The statement of Aruna Sugars is supported by the entries and the records maintained by this Mill in the ordinary course of its business.

A. M. K. Jambulinga Mudaliar (Affidavit No. 79)

This witness is a partner of Messrs. A. M. Kanniappa Mudaliar and Jambulinga Mudaliar at No. 44, Mandy Street, Vellore, North Arcot District. In his affidavit, dated 3-7-1976, he has stated:

“During the month of May 1971 I have purchased 1,000 bags of levy sugar from Messrs. E.I.D. Parry as per invoice Nos. MY/100 dated 15-5-1971; MY/112 dated 17-5-1971; MY/120 dated 18-5-1971; MY/128 dated 19-5-1971. The bags have been taken delivery from the Mill at Nellikuppam by my Clerk and the amount as per the invoices referred to above was paid at the E.I.D. Parry Office in Madras. While making payment, the Mill authorities demanded an extra money at the rate of 50 N.P. per bag . . . I had paid this extra money as and when I remitted amount in the above invoices. The Mill authorities refused to give any receipts for this collection.”

As against this evidence, Shri P. U. Shanmugham in para 40(n) of his further affidavit, contends:

“As per the affidavit, he has not purchased sugar from South India Steel & Sugars in the month of February, whereas they have stated in their statement to the C.C.S. that they have sold 540 bags in the month of February to Karthikeyan Trading Co., Vellore, belonging to this man and collected Rs. 3 per bag.”

In his further statement, dated 23-7-1977, recorded under Section 5-A by the Investigating Agency, in compliance with the Commission's Order, dated 9-7-1977, the witness *inter alia* stated:

“It is true that apart from the consignment mentioned by me in my earlier affidavit I had purchased 550 bags of sugar from South India Steel and Sugars in February 1970 for Karthikeyan Trading Co. and for which an extra amount of Rs. 3 per bag was paid to the mill without any vouchers. This consignment was omitted in my earlier affidavit by oversight. In our books of accounts the purchase has been brought in and shown. Now, I am furnishing a copy of the relevant entry for this transaction.”

The abstract of the relevant entries in the account book of Messrs. Karthikeyan Trading Co., produced by the witness shows that on 17-2-1970, the firm purchased 460 sugar bags from South India Steel and Sugars, Mundiampakkam and further lot of 90 sugar bags on 18-2-1970 from the same Mill. The records of the South India Steel and Sugar Mills also confirm it. The explanation given by the witness is, thus, acceptable.

T. K. M. Kailasam Pillai (Affidavit No. 136)

In his affidavit, dated 19-7-1976, the witness stated that he was the Managing Partner of Messrs. Pani Company, High Road, Tirunelveli. After referring to the firm's books of accounts, he stated that they had purchased these quantities of sugar from the Mills:—

From

“E.I.D. Parry Company Ltd.

May 1970	..	..	..	..	..	300 bags.
April 1970	..	..	..	..	..	1,187 bags.
March 1970	..	..	..	..	..	830 bags.
June 1970	..	..	..	..	..	180 bags.
August 1970	..	..	..	..	..	150 bags.
September 1970	..	..	..	..	..	350 bags.
October 1970	..	..	..	..	..	190 bags.
November 1970	..	..	..	..	..	1,310 bags.

4,497 bags.

Aruna Sugar Mills:

October 1970	..	..	..	..	..	150 bags.
November 1970	850 bags.
April 1971	100 bags.

Thiru Arooran Sugar Mills:

March 1971	295 bags.
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Kothari Sugar Mills:

April 1970	500 bags.
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Deccan Sugar Mills:

April 1970	334 bags.
September 1970	463 bags.
December 1970	152 bags.
January 1971	..	..	..	..	..	1,000 bags.
May 1971	..	..	..	..	..	320 bags.

For Trichy from Kothari Sugar Mills:

June 1970	..	..	..	..	..	500 bags.
November 1970	..	..	..	..	..	1,000 bags.

Cauvery Sugar Mills:

February 1970	..	..	..	..	..	500 bags.
March 1970	..	..	..	..	..	550 bags.
April 1970	..	..	..	..	..	107 bags.
October 1970	..	..	..	..	..	820 bags.
November 1970	..	..	..	..	..	180 bags.
December 1970	..	..	..	..	..	60 bags.
January 1971	..	..	..	..	..	790 bags.
February 1971	..	..	..	..	..	210 bags.

South India Sugar Mills:

May 1970	..	..	..	..	..	2,545 bags.
July 1970	..	..	..	..	..	1,115 bags.
July 1970	..	..	..	..	..	1,005 bags.
October 1970	..	..	..	..	..	495 bags.
February 1971	..	..	..	..	..	5,310 bags.
May 1971	..	..	..	..	..	500 bags.

He further deposed that they had paid extra money at the rate of Rs. 3 per bag on the purchases made in February 1970, at the rate of Rs. 1-50 per bag on purchases made in March 1970 to September 1970, and at 50 paise per bag during the latter period from October, 1970.

As against his evidence, Shri P. U. Shanmugham in para 40 (o) of his further affidavit, has stated:

“As per the affidavit of this gentleman, in the statement he says that he has purchased 500 bags only from Cauvery Sugar and paid Rs. 3 per bag but according to Cauvery Sugar's, statement in the month of February they have sold 1,050 bags to this man and collected Rs. 3 per bag.”

In his supplementary affidavit, dated 1-11-1976, the witness clarified:

“It is true that I have mentioned 500 bags of levy sugar in my affidavit as the quantity purchased during February 1970. I have also purchased 550 bags of levy sugar as per invoices dated 2-3-1970 and 9-3-1970, from Messrs. Cauvery Sugars, Pettavai-thalai for which purchases had been arranged in February 1970 itself. These 550 bags have to be included as our purchases in February 1970, though lifted in March 1970. These 550 bags have been mentioned in my affidavit in March 1970.”

Support for the explanation given by the witness about this discrepancy in his supplementary affidavit, dated, 1-11-1976, is to be found in the oral evidence rendered by Jayaraman of Messrs. Parry Group of Companies before the Commission on 2-11-1976. It will be worthwhile to extract the relevant part of Jayaraman's evidence before the Commission:

“ Q. Did Mr. Kailasam Pillai purchase 500 bags of sugar also in February 1970 from Cauvery Sugars, which is one of your Companies?

A. 500 bags were purchased by Pani and Company, and Mr. Kailasam Pillai is its partner and it was on 24-2-1970 from Pettaivaithalai.

Q. How many bags were purchased from you during February 1970?

A. 1,050 bags were sold actually in February 1970 but the delivery of 550 bags was not taken in February 1970 by this dealer.

Q. Tell me whether your first answer that 500 bags were sold by Cauvery Sugars in February to this dealer, is correct?

A. My record shows that 1,050 bags of sugar were sold by Cauvery Sugar Mills to this dealer, Mr. Kailasam Pillai in February 1970. He had taken delivery of 500 bags out of these sold bags on 24-2-1970 and the delivery of the remaining sold bags was taken by him on March 2 and 9.

Cauvery Sugars' " Levy Sugar Sales Book ", Ex. CW 15/2, pages 2-3 contains an entry showing that, in all, 1,050 bags—910 bags at the rate of Rs. 164.63 per bag, and 140 bags at the rate of Rs. 156.34 per bag—were purchased by Pani Company, Tirunelveli from this Mill on 23-2-1970, and in pursuance of that contract, the delivery of all the 1,050 bags were taken by the purchasing firm in four lots of 500 bags, 210 bags, 200 bags and 140 bags from Cauvery Sugars on 24-2-1970, 2-3-1970, 9-3-1970 and 2-3-1970, respectively. These entries contain references to the Invoice Numbers and to the credit vouchers also. There can be no doubt about the authenticity of these entries in the Sales Book, which has been kept in the regular course of business. These entries lend credence to the oral evidence of Jayaraman, which, in turn, assures the truth of the explanation given by the witness, Kailasam Pillai, in his further affidavit.

T. K. Durai Arasu (Affidavit No. 43)

T. K. Durai Arasu is a partner of T. M. M. Kandasami Nadar Sons, 7, Venkalakadai Street, Madurai. The firm deals in sugar, etc. In his affidavit, the witness has stated that in February 1970, his firm took delivery of (350 plus 3,627) bags of sugar from Sakthi Sugars, Appakkudal, and Madura Sugars, Pandiarajapuram, for which the deponent's firm paid Rs. 3 per bag to the selling Mills at the time of taking delivery, apart from the price, as extra money. He has further stated that between March 1970 and September 1970 their firm purchased and took delivery of 58,110 bags of sugar and paid Rs. 1.50 per bag extra against the quantities taken from them. He further stated that between October 1970 to May 1971, their firm took delivery of 52,998 sugar bags from the Mills, *i.e.*, Pugalur, Pandiarajapuram, Nellikuppam, Pettavaithalai and Mundiam-pakkam and an amount of 50 paise per bag was paid to these Mills 'off-the-record'. The total extra amount thus paid by his firm was Rs. 1,25,595 in respect of purchases made during the aforesaid periods from the Mills. The witness also stated:

“ Except the Co-operative Sugar Mills all other Mills who were supplying sugar, wanted us to pay Rupees three per bag as extra payment out of books to make payment to Government for allotment of levy sugar in February 1970. For further allotments from March 1970 to September, 1970 a demand of Rs. 1.50 per bag was made as extra payment, to be paid to Government between October, 1970 to May 1971 an amount of Rs. 0.50 per bag was demanded. We reluctantly agreed and paid these amounts.”

The criticism against the evidence of this witness made by Shri Shanmugham in his counter-affidavit, is:

“ As per this gentleman's affidavit, he states that he had purchased sugar in the month of February 1970, 350 bags from Sakthi Sugars and 3,627 bags from Madura Sugars,

Pandiarajapuram, for which he has paid Rs. 3 per bag. According to the statement of Deccan Sugars they have sold 1,000 bags from October-November-February release and thereby they have collected Rs. 3 per bag, from this firm. So also as per the statement of Cauvery Sugars, they have said, in the month of February, they have sold 2,500 bags to this firm and collected Rs. 3 per bag."

[Para 40 (p) of his affidavit.]

In his supplementary affidavit which the witness filed in response to the interrogatories issued by the Commission, the witness stated:

"It is true that in my affidavit filed on 28-6-1976 before the Commission I have stated in paragraph 4 that our firm had purchased between March 1970 and September 1970, 58,110 bags of levy sugar from Deccan Sugars, Pugalur, Madurai Sugars, Pandiyarajapuram, E.I.D. Parry, Nellikuppam, Kothari Kattur, Cauvery Sugars, Pettavaithalai, South India Steel and Sugars Ltd., Mundiambakkam. This quantity includes 2,500 bags purchased from Cauvery Sugars and 6,860 bags from Deccan Sugars. These consignments were taken delivery by us in February and March 1970 and the Mills had made invoices when we lifted these bags. *But the purchase contract was made with the Mills in February, 1970.* Therefore the purchase of 9,360 bags should be included in our February Purchase."

(underlining mine) (*in italics*)

It shall be discussed when I consider in detail the entries in the books of the Mills under the topic "Payment of the Gratification", that the action taken by most of the Mills in collecting the extra amount from the purchasing dealers was, that immediately on getting the receipt of Release Orders they contacted their customers and negotiated the agreements for sale with them. It was at the time of making such agreements for sale, or at the time of invoicing and delivering the first instalment out of the contracted for quantity, that they generally collected the extra amounts from the purchasing dealers, who thereafter took deliveries and completed the sales in respect of the remaining quantity in different lots at their convenience. In most cases, the agreements for sale of the whole lot purchased by a particular customer, were made in February 1970 while the invoices were issued and deliveries were given piece-meal on different dates. The evidence of Dorai Arasu is consistent with what has been stated by the several salesmen or Assistant Managers who were in charge of sales of these Mills at the relevant time. The explanation given by the witness is therefore quite plausible. The supplementary statement of the witness gets assurance from the statement of Mahadevan of Messrs. Cauvery Sugar and the relevant sale Books of that Mill pertaining to February 1970. These Books show that the Mill had sold 2,500 bags of levy sugar to this firm. The account books of the purchasing firm however were not readily available to the Investigating Officer, who was directed to examine these books and record the supplementary statement of the witness. Even so, that is no reason to doubt the sworn word of the witness in his supplementary affidavit that the contracts for the purchase of 9,360 sugar bags—2,500 bags from Cauvery Sugars and 6,860 from Deccan Sugars was made in February 1970, though the delivery of the contracted quantity was taken piece-meal on different dates in February and March and apart from the source, Rs. 3 per bag extra was paid to the selling Mills.

A. S. V. Kumareasan (Affidavit No. 39)

This witness is a partner of Messrs. A. S. Vannia Nadar and Sons, Sugar dealers at Madurai. In his affidavit dated 28-6-1976 he has deposed:

"... In February 1970, 2,734 bags were taken delivery from Kothari Sugars and Chemicals Ltd., Kattur, Madurai Sugars Ltd., Pandiarajapuram, Cauvery Sugars and Chemicals Ltd., Pettavaithalai, and Sakthi Sugars, Erode, for which, we had paid Rs. 3 per bag to the Mills at the time of taking delivery. Between March 1970 to September 1970, 10,731 bags were taken delivery from the following mills and an amount of Rs. 1.50 per bag was paid extra to the mills against the quantities taken from them: Kattur, Pandiarajapuram, Pettavaithalai, Sakthi, Mundiampakkam, Pugalur, Nellikuppam,

between October 1970 to May 1971; 18,725 Bags were taken delivery from the following Mills:

Kattur, Pandiayarajapuram, Pettavaithalai, Sakthi, Vadapathimangalam, Mundiampakkam, Pugalur, Nellikuppam, Pennadam, and an amount of Rs. 0.50 per bag was paid to these Mills at the time of taking delivery. All our retail dealers paid the extra amount when they took delivery from us on sale as per sale bills from time to time."

"The total amount paid as extra amount as above comes to Rs. 33,661.00."

As against the evidence of this witness, Shri P. U. Shanmugham, in his further affidavit, para 40 (g), contends:

"As per the affidavit of this gentleman, he has purchased 2,734 bags of sugar in the month of February 1970 from Kothari Sugars and Chemicals Ltd., Kattur, Madura Sugars Ltd., Pandiarajapuram, Cauvery Sugars & Chemicals Ltd. Pettaivaithalai and Sakthi Sugars Ltd., Erode and paid Rs. 3 per bag to the Mills at the time of taking delivery. But according to the statement filed by South India Steel Sugars they have sold 280 bags and according to the statement filed by Deccan Sugars they have sold 350 bags of sugar to this gentleman and thereby collected Rs. 3 per bag."

In his further statement, dated 30-7-1977, recorded under Section 5-A in compliance with the Commission's Order, dated 9-7-1977, the witness explained:

"Our firm had purchased 10,731 bags of levy sugar from March 1970 to September 1970 from Messrs. Kothari Sugar, Madura Sugars, Messrs. Sakthi Sugars, Messrs. South India Steel & Sugars Ltd., Messrs. Deccan Sugars and Messrs. E.I.D. Parry, Nellikuppam. The said 10,731 bags include 280 bags from Messrs. South India Steel & Sugars Limited and 350 bags from Messrs. Deccan Sugars. These (280 and 350) bags were taken delivery by us only in the month of March 1970, though the purchase contract was made with the Mills in February 1970. As these 630 bags were actually lifted in March 1970, I had not included the quantity in February purchase."

The accounts books of this firm relating to the relevant period could not be examined by the Investigating Agency as they were reported to have been destroyed in an accidental fire on 23-1-1977. Thus the oral explanation given by this witness could not be verified with reference to the accounts books of the firm.

The oral evidence given by the Officers and representatives of South India Steel & Sugars Ltd., and Deccan Sugars to the effect, that they had sold 280 and 350 bags of sugar respectively to Messrs. A. S. Vannia Nadar and Sons, Madurai in February 1970, receives confirmation from the sales books and related records of these Mills. The statement of the witness to the effect that their firm had contracted to purchase this quantity (280+350) from the said Mills in February 1970, and had paid extra amount at the rate of Rs. 3 per bag on these purchases, might be correct. To that extent, the discrepancy pointed out by Shri Shanmugam stands resolved; but the variation will remain as to the precise time of making payment of the extra amount by the purchasing firm to the Mills. Whereas the representatives of the Mills have testified that these extra amounts were generally collected at the time of making the contracts for sale, the version of this witness is that they had paid the extra amounts at the time of taking deliveries. This means that in respect of those deliveries which were made to this Firm after the 8th or 9th March 1970, the Mills concerned or Maruthai Pillai on their behalf, paid the extra amount from some other source towards the First Collective Payment to Shri Karunanidhi, and subsequently collected that amount in March 1970 from the purchasing firm at the time of the deliveries. This discrepancy is confined only to a matter of detail. It might be due to a lapse of memory on the part of the witness. In any case, it is no ground to reject the substratum of the evidence of Maruthai Pillai or his associate witnesses who have appeared on behalf of these selling Mills, because there is consensus among all these witnesses, that extra amount at the rate of Rs. 3 per bag were collected on the respective sales of 280 and 350 bags from this firm and passed on to Maruthai Pillai as contributions from these Mills in connection with the Collective Payment to the Chief Minister.

T. M. M. S. Sadhasivam (Affidavit No. 49)

In his affidavit, dated 1-7-1976, the witness who is the proprietor of the firm "T. M. M. S. Sadhasivam, Madurai, stated:

"In the months of March 1970 to September 1970, we have purchased following quantity from the following Mills for which we have paid an extra amount of Rs. 1-50 per bag,

Name of the Sugar Mill	Bags
1. Deccan Sugar & Abkhari Co. Ltd., Pugalur	420
2. Cauvery Sugars & Chemicals Ltd., Pettaivaithalai	640
3. The South India Steels & Sugars Ltd., Mundiampakkam	140
4. Kothari Sugars & Chemicals Ltd., Kattur	399
5. Thiru Arooran Sugars, Vadapathimangalam	140

"5. During the months of October 1970 to May 1971, we have purchased following quantity from the following Mills for which we have paid an extra amount of Rs. 0-50 per bag

Name of the Sugar Mills	Bags
1. The Deccan Sugars & Abkhari Chemicals Ltd., Pugalur ..	1,280
2. The South Indian Steel & Sugars Ltd., Mundiampakkam ..	480
3. Kothari Sugars & Chemicals Ltd., Kattur	770
4. Thiru Arooran Sugars, Vedapathiamangalam	270

As against his evidence, Shri P. U. Shanmugham in para 40 (r) of his further affidavit has stated:

"According to this gentleman's affidavit, he has not purchased sugar for the month of February but according to Deccan Sugars' statement they have sold 170 bags and collected Rs. 3 per bag."

The witness was further examined under Section 5-A on 28-7-1977 in compliance with a direction of the Commission. In this statement, the witness tried to explain this discrepancy as under:

"I have already given my statement and filed affidavit in connection with the purchase of levy sugar from Sugar Mills during 1970. Between March 1970 and May 1, 1970, 420 bags of levy sugar were lifted from Messrs. Deccan Sugars, Pugalur, of which 170 bags were taken delivery of in March 1970. *The Purchase contract for the consignment was made with the Mills in February, 1970* though the consignment was lifted in March 1970 after paying an extra amount of Rs. 3 per bag to the Mills without any voucher on receipt, under Bill No. 52, dated 9-3-1970 for 70 bags, Bill No. 67, dated 10-3-1970 for 70 bags and Bill No. 89 dated 10-3-1970 for 30 bags. In these circumstances I have not mentioned about the purchase of 170 bags in February 1970.

The Sales Book, Ex. CW. 15/3, contains entries on page 20, under the date '4-3-1970', showing the sale of 170 bags at the rate of Rs. 168 per bag to this firm out of the Second Release. Deliveries in pursuance of this sale are entered on the opposite right side of the page in the Sales Book as having been given on 9-3-1970 and 10-3-1970. Thus, the entries in this Sales Book of Deccan Sugars do not show that the sale was made in *February* 1970 as stated by the witness. But they do show that the sale contract was on 4-3-1970, i.e., *several days before the First Payment alleged to have been made by the Mills to Shri Karunanidhi*. The explanation given by the witness appears to be correct to this extent that the agreements for sale well preceded the dates of the issue of the invoices and the deliveries of the sugar sold. To that extent, and that extent only, the discrepancy stands resolved. But it still remains as to whether these extra collections were made by the selling Mill on 4-3-1970 or subsequently on 9-3-1970 and 10-3-1970. This discrepancy as to the time of the extra collections does not, however, undermine the substance of the evidence of Maruthai Pillai, or of Jayaraman and Mahadevan, representatives of Deccan Sugars, that on the sale of these 170 bags, also, the Mill had collected extra amount at the rate of Rs. 3 per bag and contributed that amount towards the First Payment to Shri Karunanidhi.

M. M. Kandaswamy (Affidavit No. 69)

The witness is a partner in the firm of Messrs. S. P. K. Munisamy, Madurai. In his affidavit, dated 1-7-1976, he has stated:

- “ 4. We have purchased the following quantity from the following Mill in the month of February 1970 for which we had paid an amount of Rs. 3 per bag.

Messrs. Deccan Sugar & Abkhari & Co. Ltd., Pugalur .. 1,050 bags.

5. In the month from March 1970 to September 1970 we have purchased the following quantity from the following Mills for which we have paid an extra amount of Rs. 1.50 per bag.

	Name of the Mills	Bags
(a)	Messrs. Deccan Sugar & Abkhari Co. Ltd., Pugalur	2,815
(b)	Kothari Sugars & Chemicals Ltd., Kattur	500
(c)	Messrs. Sakthi Sugars Ltd., Appakkudal	850
(d)	Messrs. South India Steel & Sugars Ltd., Mundiampakkam ..	280
(e)	Messrs. Cauvery Sugars & Chemicals Ltd., Pettavayathalai ..	2,350
(f)	Messrs. E.I.D. Parry Ltd., Nellikuppam	70
(g)	Thiru Arooran Sugars Ltd., Vadapathimangalam	1,372
	Total ...	8,237

As against this evidence, Shri P. U. Shanmugham in para 40 (s) of his further affidavit, commented:

- “ As per this gentleman's affidavit, he has purchased 1,050 bags from Deccan Sugars and paid Rs. 3 per bag, but according to the Statement of Deccan Sugars, they have sold 1,940 bags to this firm and collected Rs. 3 per bag. So also, according to Cauvery Sugar's statement, they have mentioned 500 bags were sold and collected Rs. 3 per bag from this firm. Whereas he has not mentioned about Cauvery Sugar Purchase.”

In his statement, dated 31-7-1977, recorded by the Investigation Agency under Section 5A in compliance with the direction from the Commission, the witness explained:

- “ *We contracted for supply of 1945 bags of levy sugar from Messrs. Deccan Sugars in February 1970. But actually we have lifted only 1,050 bags in February 1970 and the balance of 895 bags lifted in March 1970. For the whole consignment an extra amount of Rs. 3 per bag was paid to the Mills without any receipt. The consignment of 2,350 bags shown to have been lifted for the period from March 1970 to September 1970 as stated in my earlier statement is inclusive of the above said 895 bags for which an extra amount of Rs. 3 per bag was paid. For the remaining quantity we have paid extra amount of Rs. 1.50 per bag.*

In addition we made purchase contract for 500 bags of sugar with Cauvery Sugars in February 1970 and the consignment was lifted in March. For this consignment an extra amount of Rs. 3 per bag was paid. The purchases above mentioned have been brought in our books of account and a true extract in respect of the above said purchase is furnished.”

(underlining supplied) (*in italics*)

The statement of Jayaraman of E.I.D. Parry Group which is in accord with this explanation given by the witness, is supported by the entries in the Sales Book maintained by the Sugar Mills in the ordinary course of their business, Ex. CW. 15/3 is the Sales Book of Deccan Sugars. There is an entry on page 2 of this Book which shows that on 20-2-1970, S. P. K. Muniswamy Nadar of Madurai purchased 1,500 bags out of the First Release and on 23-2-1970, 450 bags from out

of the Second Release at the rate of Rs. 165.51 per bag. The delivery of the contracted quantity was taken in small lots on different dates by the purchaser during the period from 23-2-1970 to 15-3-1970. This is apparent from the entries on page 3 of this Book.

The discrepancy was thus, caused due to a lapse of memory on the part of the witness, M. M. Kandasamy, which he has corrected in his further statement, dated 31-7-1977. But, even in further statement, dated 31-7-1977, the witness is not very clear as to whether he had paid the extra amount on the sale of all the 1950 bags to the Mill in February or in proportionate instalments at the time of deliveries. But, in view of the reliable documentary evidence furnished by the entries in the Sales Book of Deccan Sugars, it will not be imprudent to presume that the extra money at the rate of Rs. 3 per bag on the entire contracted quantity (1950 bags) was paid by the purchasing dealer in February on the dates on which the contracts were made and first part-deliveries taken.

B. Virupakshi (Affidavit No. 142)

He is a partner of Messrs. P. S. V. & Co., doing sugar business at 598, K.K. Block, Coimbatore. In his affidavit, dated 20-7-1976, the witness has stated that he made the following sugar purchases for his firm:

	Sakthi Sugars	E.I.D. Parry	Deccan
March 1970	550	..	..
April 1970	960	..	..
May 1970	1,990	..	..
June 1970	750	..	..
July 1970	1,180	..	..
August 1970	540	..	..
September 1970	2,390	..	..
October 1970	1,705	..	..
November 1970	2,895	..	..
December 1970	1,710	..	..
Janaury 1971	1,280	..	..
February 1971	920	..	..
March 1971	..	..	..
April 1971	755	..	..
May 1971	..	200	210
	<hr/>	<hr/>	<hr/>
	17,625	200	210

He further deposed that they had to pay extra money for the above purchase to the Factory people, ranging from 50 paise to Rs. 1.50 per bag.

Against Virupakshi's evidence, Shri P. U. Shanmugham in para 40(u) of his further affidavit has stated:—

“As per the statement of this man he had purchased 550 bags from Sakthi Sugars in the month of March and paid Rs. 1.50 per bag. But, according to the statement of Sakthi Sugars, they have sold 700 bags and collected Rs. 1.50 per bag.”

In his further statement dated 27-7-1977, recorded under Section 5-A in compliance with a direction from the Commission, B. Virupakshi explained this discrepancy as under:—

“In this connection I state that we had contracted to purchase 700 bags of levy sugar from Sakthi Sugars Ltd. out of the quota for the period February-March 1970. The validity

period for lifting the above said quantity was upto 23-4-1970. Therefore, we took delivery of the said 700 bags of levy sugar as shown below:

Date of delivery	Quantity Bags
22-3-70	150
28-3-70	300
31-3-70	100
	—
	550
2-4-70	75
3-4-70	75
	—
Total	700
	—

Thus, we took delivery of 550 bags during March 1970 and 150 bags during April 1970. The total purchase of 960 bags of levy sugar for the month of April 1970 shown in my earlier affidavit is inclusive of 150 bags referred to above. On account of the afore-said reason, it was not included in my earlier affidavit about the actual lifting of 150 bags in March 1970.

The explanation given by the witness is satisfactory. Moreover, on these purchases made in March-April, the extra money collected was at Rs. 1.50 per bag. If the total sales were taken into account, this discrepancy, even if it were there, would not make any difference. Sakthi Sugars have shown sale of 750 bags to this firm in March, obviously because the agreement to purchase that much quantity by this firm was made in March.

T. Vaithialingam (Affidavit No. 58)

This witness is a partner of A.S.R.M. Subbiah Pillai and Manager of Aruna Sugars, Trichy.

Against the deposition of this witness, Shri P. U. Shanmugham in para 40 (w) of his affidavit contends:

“As per this man’s affidavit he has purchased 2,930 bags of sugar from Aruna Sugars in the month of February 1970 and paid Rs. 3 per bag. But, according to the statement of Aruna Sugars, they have sold (2,290+500) 2,790 bags of sugar and collected Rs. 3 per bag. As per this gentleman’s statement, he has purchased 940 bags from Cauvery Sugars in the month of February 1970 and paid Rs. 3 per bag. But, as per Cauvery Sugar’s statement, A.S.R.M. Subbiah Pillai’s name is not found in the list of persons from whom Rs. 3 per bag was collected. In the month of March 1970, this petitioner says he has purchased 1,060 bags from Cauvery Sugars and paid Rs. 1.50 per bag. Whereas Cauvery Sugars as per this statement, they have sold 1,300 bags and collected Rs. 1.50 per bag. As per A.S.R.M. Subbiah Pillai’s statement, he has purchased in the month of February 1970, 2,770 bags from Kothari Sugars and paid Rs. 3 per bag. Whereas as per the statement of Kothari, they have sold 2,210 bags only, and they have collected Rs. 3 per bag.”

Shri T. Vaithialingam was also examined further on 28-7-1977 by the Investigating Agency under Section 5-A in compliance with a direction from the Commission. His attention was drawn to this contention raised by Shri P. U. Shanmugham. Thereupon, he explained:

“In my earlier statement I have stated we had purchased 2,930 bags of levy sugar from Messrs. Aruna Sugars during February 1970. I have to state that the mistake had crept in while adding the quantities purchased from the above said Mill. The actual quantity of levy sugar purchased by us in February 1970 is 2,790 bags. A true extract of our books of accounts (ledger) showing the purchase of this quantity is now furnished.

It is a fact that we had purchased 940 bags and 1,060 bags of levy sugar from Cauvery Sugars in March and April 1970 respectively, but in my earlier affidavit and statement,

it was mentioned that these purchases were made in February and March 1970 respectively, which is typographical error. We have contracted with Messrs. Cauvery Sugars for the purchase of 1,300 bags in March 1970, and 700 bags in April 1970. The figures 940 bags and 1,060 bags of sugars taken delivery, as stated above, cover our contracted quantity of 1,300 bags in March and 700 bags in April 1970."

The witness produced this extract from his Ledger D—pp. 434 to 436:

Date of entry	Bill date	Bags	Amount
			Rs.
20-2-70	17-2-70	1,120	1,82,011.20
"	19-2-70	1,170	1,90,136.70
28-2-70	26-2-70	500	81,255.00
		2,790	4,53,402.90

I am satisfied from the supplementary statement of the witness read with the entries in his Ledger that the discrepancy with regard to purchases made from Aruna Sugars, was merely owing to some typographical or arithmetical error of calculation. No capital, therefore, can be made out of this mistake.

As regards the purchases made from Messrs. Cauvery Sugars, the witness has explained that the agreement to purchase 1,300 bags was made in March and 700 bags in April 1970, but the delivery of 940 bags and 1,060 bags was taken against the contracted quantity of 1,300 bags, in March and April 1970. The witness further confirmed the purchase of 2,770 bags of levy sugar from Kothari Sugars in February 1970.

Shri T. L. Raghavan, Manager of Kothari Sugars, Kattur, was also examined under Section 5A in pursuance of the orders of the Commission. In his further statement, he clarified that Kothari Sugars had supplied 2,210 bags of sugar to this firm in February 1970 from the revalidated quota and another 560 bags from the January-February quota; thus bringing the total supply to this firm in February 1970 to 2,770 bags. Raghavan thus, corroborates the corrected account given by T. Vaithialingam in his statement, dated 28-7-1977.

Thus, the other two limbs of this alleged discrepancy have also been satisfactorily resolved and explained.

B. Athinarayanan (Affidavit No. 61)

As against the evidence of this witness, Shri P. U. Shanmugham in para 40(x) of his further affidavit alleges:

"As per the affidavit he has stated in the statement that he has purchased 355 bags in the month of February 1970 from Kothari Sugars and paid Rs. 3 per bag to them. But, in the statement given by Kothari Sugars, they have sold in the month of February 1970, 215 bags and collected Rs. 3 per bag. In the same statement, it is said he has not purchased sugar in the month of February 1970 from South India Sugars. But, in the list given by the Mills, it is stated as they have sold 210 bags and collected Rs. 3 per bag."

In compliance with a direction from the Commission, this witness was further examined by the Investigating Agency on 28-7-1977. In this statement, the witness explained:

"In continuation of my earlier statement and affidavit I affirm that we had purchased 355 bags of levy sugar from Kothari Sugars during February 1970 paying an extra amount of Rs. 3 per bag to the Mills without any voucher.

It is a fact that I have not mentioned the purchases of 210 bags of sugars from South India Steel Sugars during February 1970 in my earlier statement *due to oversight*, but we have purchased the above said quantity from South India Steel Sugars in February 1970 on payment of an extra money at Rs. 3 per bag as demanded by Mill authority for which no voucher or receipt was given by the mills."

The witness furnished an extract from his account books, which, rendered into English, reads as follows:

“ Ledger of Shri Abbai Maligai, Trichy.

(Page 189) Kothari Sugar Ltd., Kattur

9-2-70	as per bill No.	5666	140	bags	24,829.00
21-2-70	„	5777	70	„	11,375.70
24-2-70	„	744	70	„	11,375.70
25-2-70	„	5760	75	„	12,188.25 ”

“ Ledger, page 172—South India Sugar Ltd.

16-2-70 United Commercial Bank 8,15,789, Draft Rs. 33,915.00.

18-2-70 D. D. 33915 paid in cash Rs. 2.10.

Receipt 676—Bill 210 bags Rs. 33,917.10 ”.

Thus, the discrepancy in regard to the purchases made by the witness from Messrs. South India Sugars in February 1970 was an inadvertent omission.

As regards purchases made from Kothari Sugars, the witness reiterated his earlier statement and reaffirmed its accuracy. Consequently, Shri T. L. Raghavan, Manager of Kothari Sugars was further examined to explain the position. In his further statement, Shri T. L. Raghavan stated that they had sold 215 bags to this firm in February 1970 out of the revalidated quota and 140 bags in February 1970 out of the January–February 1970 quota, bringing the total sale in February 1970, at 355 bags. Shri Raghavan’s statement is based on information derived from the books and records maintained by the Mill in the ordinary course of business.

The explanation of this discrepancy given by the witnesses is probable. This means the Statement of Kothari Sugars furnished to the Commissioner of Civil Supplies, if any, referred to by Shri P. U. Shanmugham in the extracted Paragraph 40(x) of his affidavit, does not cover the sale of 140 bags in favour of this firm *out of January–February 1970 quota*. T. L. Raghavan has stated that they did not furnish any return to the Commissioner of Civil Supplies regarding the sales from January–February 1970 quota.

N. Subramaniam Chettiar (Affidavit No. 87)

He is a proprietor of the business run in his name at Trichy.

In Para 40(y) of his further affidavit, Shri Shanmugham has commented against the evidence of this witness, thus:

“ Shri N. Subramaniam Chettiar orf Trichy has stated that he has purchased 1,570 bags from Messrs. Kothari Sugars in the month of February 1970 and paid Rs. 3 per bag, whereas in the statement of Messrs. Kothari they had sold 1,270 bags and collected Rs. 3 per bag from him.”

In his further statement, dated 28-7-77, recorded on a direction from the Commission, the witness reiterated what he had earlier said in his affidavit and statement, that he had purchased 1,570 bags from Kothari in the month of February 1970 and paid Rs. 3 per bag thereon. He asserted that this transaction is reflected in his books of accounts. He produced an extract thereof, which is as follows:—

Date	Invoice No.	No. of sugar bags	Amount
17-2-70	5678	140	22,751.40
18-2-70	5685	140	22,751.40
21-2-70	5718	210	34,127.00
24-2-70	5746	350	56,878.50
25-2-70	5756	140	22,751.40
26-2-70	5771	290	47,127.90
27-2-70	8009	300	48,753.00
		1570	2,55,140.60

It will be seen that what the witness has deposed is supported by the entries in the books of the firm kept in the course of business.

On further examination, T. L. Raghavan, Manager of Kothari Sugars explained that their Mill had sold 1,270 bags to this firm in February 1970, *out of the revalidated quota*, and another 300 bags in February 1970, *out of the January-February quota*, thereby bringing the total sale in February 1970 to 1,570 bags. This further statement of Raghavan made on the basis of information derived from the books of the Mills, supports the evidence of N. Subramaniam Chettiar.

This means that the Statement furnished by Kothari Sugars had omitted to mention the second sale of 300 bags made to this firm in February, out of January-February 1970 quota. If this conclusion is correct—and I am convinced that it is so—the so-called discrepancy pointed out by Shri Shanmugham disappears altogether. Indeed, T. L. Raghavan has deposed that Kothari Sugars did not send any return of sales from January-February 1970 quota. There is no good ground to disbelieve this version of Raghavan.

M. Ramachandran (Affidavit No. 89)

M. Ramachandran is Manager of T. Krishna Konar Sons, Trichy. As against the evidence of this witness, Shri P. U. Shanmugham, in para 40(z) of his affidavit says:

“As per the affidavit of this man, he has purchased 430 bags in the month of February 1970 and paid Rs. 3 per bag. But, as per the statement of Kothari, they have sold 280 bags and collected Rs. 3 per bag.”

In this connection, this witness was further examined in compliance with an order of the Commission, with reference to the account books of the firm. In his further statement, dated 28-7-77, M. Ramachandran has stated:

“I hereby affirm that it is correct that we had purchased 430 bags in Feb. 1970 from Kothari Sugars and paid the extra amount at the rate of Rs. 3 per bag for which no receipt or voucher was issued by the Mills.

Regarding this purchase we have entries in our account books and the same is produced.”

The extract reads as follows:

“Ledger No. 70 and 71 for Kothari Sugars and Chemicals Ltd.

18-2-70 Bill No. 5681—bags	70	..	11,375.80	11,375.80
Debit				
20-2-70 Bill No. 5709—bags	70	..	11,375.80	11,375.80
Debit				
23-2-70 Bill No. 5741—bags	70	..	11,375.80	11,375.80
Debit				
24-2-70 Bill No. 5745—bags	70	..	11,375.80	11,375.80
Debit				
26-3-70 Bill No. 8025—bags	150	..	24,771.00	24,771.00
Debit				
Total	..		70,273.80	70,273.80

T. L. Raghavan, Manager of Kothari Sugars, in his further statement under Section 5A, stated that their Mill had sold 280 bags of sugar to this firm in February 1970 out of the revalidated quota and another 150 bags in February 1970 from January-February 1970 quota, thus bringing the total sale to this firm to 430 bags.

This only means that the Statement furnished by Kothari Sugars to C.C.S. did not cover the sale of 150 bags in February 1970 *out of January-February 1970 quota*. What T. L. Raghavan has said in his further statement is evidently derived from the relevant entries in the records of the Mill kept in the regular course of the business. Shri T. L. Raghavan has also explained that the Statement referred to by Shri P. U. Shanmugham which had been sent to the Commissioner of Civil Supplies by Kothari Sugars, was *confined to sales made out of revalidated quota only*, and

did *not* include sales made out of January-February 1970 quota. There is, therefore, no reason to doubt what T. L. Raghavan has clarified in his further statement under Section 5A of the Act. In that view of the matter, the so-called discrepancy pointed out by Shri Shanmugham, would be non-existent altogether.

M. Chidambaram Pillai (Affidavit No. 99)

In sub-para (aa) of Para 40 of his further affidavit, Shri P. U. Shanmugham has criticised the evidence of this witness, thus:

“According to the statement furnished by this man, he has purchased 70 bags of sugar in the month of February 1970 from Kothari and paid Rs. 3 per bag. But this is not found in the sales list of Kothari.”

In this connection, Shri S. Karuppiyah, Accountant of Messrs. M. R. Chidambaram Pillai and Sons was examined by the Investigating Agency under Section 5A in compliance with a direction from the Commission. They could not record the statement of Chidambaram Pillai, as he was not available. S. Karuppiyah in his statement, dated 28-7-1977, stated:

“I have been working as Accountant in this firm since 1970. Shri Chidambaram Pillai is the Managing Partner and he has gone out from Trichy now.

I have now produced our books of account for February 1970. The accounts show that we had purchased 70 bags of levy sugar from Kothari Sugars during February, 1970 which fact was indicated by the Managing Partner, Shri Chidambaram Pillai, in his earlier statement and affidavit made to the Commission.

I am furnishing a true extract of the account book showing the purchase of 70 bags of levy sugar from Messrs. Kothari Sugars in February 1970.”

The Investigating Agency examined the books of the firm and obtained an extract of the relevant entries, an English translation of which is to be found at pp. 88-89 of the Supplementary Report.

In his further statement dated 23-7-1977, Shri T. L. Raghavan stated, *inter alia*, that their Mill had sold 70 bags to this firm out of the January-February 1970 quota and that there was no purchase by this party out of the *revalidated quota* which was sold by them in February 1970, *for which only the Mill had sent their returns to the Commissioner of Civil Supplies*. He has also produced an abstract of the relevant facts and figures from the books maintained by the Mill in the regular course of business. This abstract, therefore, is *prima facie* reliable.

There is no good reason to discard the explanation given by T. L. Raghavan, *viz.*, that the figures shown in the return (sales list) sent to the Commissioner of Civil Supplies, were confined to the *revalidated quota*, and no return was submitted by the Mills with regard to the sales from the January-February quota, out of which they had sold 70 bags to this firm.

This being the correct position, the “discrepancy” pointed out by Shri Shanmugham does not, in fact, exist.

S. Mohamed Ibrahim (Affidavit No. 91)

Against this witness, Shri P. U. Shanmugham has in para 40 (ab) of his further affidavit, stated:

“As per this man’s affidavit he has purchased 210 bags of sugar from Kothari in the month of February 1970 and paid Rs. 3 per bag. But in the *list* of Kothari it is stated that 140 bags have been sold and collected Rs. 3 per bag.”

In this connection the witness was further examined with reference to his books of accounts by the Investigating Agency in compliance with a direction from the Commission.

In his further statement, dated 29-7-1977 the witness reiterated that he had purchased 210 bags of levy sugar from Kothari Sugars in February 1970. To support this statement, he produced an extract from his account books.

Shri T. L. Raghavan, Manager of Kothari Sugars was further examined in this connection. Raghavan clarified that their Mill had sold 140 bags in February 1970 to this firm out of the *re-validated quota*, for which only they had sent their return to the Commissioner of Civil Supplies and that they had also sold to this firm another 70 bags in February 1970 out of the *January February 1970 quota*.

No return or list relating to sales out of January-February 1970 quota was furnished by this Mill to the Commissioner of Civil Supplies. That being the position, it cannot be said that there is any conflict between the statements of the witnesses (S. Mohamed Ibrahim and T. L. Raghavan) and the Return or List filed by Kothari Sugars in respect of sales made out of the revalidated quota only. The truth of what Shri Raghavan has deposed in his further statement, and Mohamed Ibrahim in all his statements, with regard to the sale of 70 bags in February 1970, cannot be doubted. Their statements derive support from the account books kept by their respective concerns in the regular course of business.

R. Venkataswamy (Affidavit No. 32)

Against the evidence of this witness, Shri P. U. Shanmugham has in para 40 (ac) of his affidavit commented:

“As per statement given by this person, he has purchased 1,420 bags of sugar from Messrs Kothari in the month of February 1970 and paid Rs. 3 per bag. Whereas as per the sales list of Messrs. Kothari they have sold 1,140 bags and collected Rs. 3 per bag.”

In this connection, Venkataswamy was further examined under Section 5A by the Investigating Agency. In his further statement, which he made with reference to his books of accounts, he explained that their firm had purchased 1,420 bags from Kothari Sugars in February 1970. He, however, explained that this firm had taken delivery of 1,210 bags for their trade and the balance of 210 bags on their account was diverted to three parties, each at the rate of 70 bags. He produced an extract from his account books.

In this connection, T. L. Raghavan, Manager of Kothari Sugars, in his further statement, explained that ‘1,140 bags’ shown by the Mills to have been sold to this firm in February 1970 in their return/Sale List sent to the Commissioner of Civil Supplies related *only* to the *revalidated quota*. Raghavan asserted that their Mill had sold another lot of 280 bags of sugar to this firm in February 1970 out of the *January-February 1970 quota*, the figures relating to which were not incorporated in the return sent to the Commissioner of Civil Supplies.

T. L. Raghavan’s further statement having been given with reference to the entries in the books and records maintained by the Mills, appears to be reliable. There is also no tangible reason to reject his explanation that Kothari Sugars Ltd. did not send any return to the Commissioner of Civil Supplies with regard to sales made out of January-February 1970 quota, and that the Sale List sent by this Mill to C.C.S. was confined to sales made out of the revalidated quota only. Thus considered, there was no such discrepancy as pointed out by Shri Shanmugham.

P. Stalin (Affidavit No. 42)

He is the Branch Manager of Messrs. T. M. M. S. Shanmughasundaram & Co. at No. 64, Govindappa Naicken Street, Madras-1. This firm is having one more Branch at Madurai. The witness was looking after the affairs of Madras Branch. The material part of his affidavit runs as under:

“4. During the year 1970 the Mill authorities were offering levy sugar for sale and also informed me that they had been appointed as wholesalers for sale of levy sugar to their dealers. They also informed me that for getting orders to appoint them as wholesalers they had paid heavy amount to the Ministers of Tamil Nadu Government.

5. During the year 1970-71, we have purchased sugar for our business as indicated below:

Year and Month	E.I.D. Parry	Kothari Sugar Mill	Thiru Arooran Sugar Mill	Aruna Sugar Mill	Cauvery Sugar	Deccan Sugar	South India Sugar
February 1970 ..	..	..	..	2000	..	980	..
March 1970 ..	..	..	..	70	140	650	..
April 1970 ..	830	..	..	360	1000	500	..
May 1970 ..	810	789	..	..	1130	250	..
June 1970 ..	70	..	..	..	..	..	..
July 1970 ..	..	..	..	..	..	630	..
August 1970 ..	210	..	..	..	..	720	..
September 1970 ..	720	..	..	..	..	..	..
October 1970 ..	70	..	..	..	..	..	..
December 1970 ..	..	210	..	..	..	..	1340
January 1971 ..	..	430	..	..	900	..	310
February 1971 ..	..	960	..	..	320	..	370
March 1971 ..	..	1140	..	..	..	..	..
April 1971 ..	..	..	500	..	..	..	1000
May 1971 ..	..	610	..	..	..	..	..
Total ..	2710	4139	500	2430	3490	3730	3020

6. At the time of taking delivery of the sugar bags from the Mills, the Mill authorities insisted the payment of some extra money besides the money invoiced. The reasons for the collection of this extra money according to them was to recoup the amount which they had paid to the members for having permitted them to sell levy sugar as wholesalers. I have paid this amount at the rate of Rs. 3 per bag for 2,000 bags purchased from Messrs. Aruna Sugar Mills during February 1970 to Thiru Ganesan; for the 980 bags purchased from Messrs. Deccan Sugars to Thiru Mahadevan of Messrs. E.I.D. Parry. For the purchases of 2,640 bags from Messrs. E.I.D. Parry; 2,270 bags from Messrs. Cauvery Sugars and 2,750 bags from Messrs. Deccan Sugars, I have paid to Thiru Mahadevan at the rate of Rs. 1.50 per bag. For the purchase of 789 bags in May 1970 from Messrs. Kothari Mills I have paid extra money at the rate of Rs. 1.50 per bag to the Mill authorities. For the purchase of 430 bags from Messrs. Aruna Sugars in March and April 1970, I have paid at the rate of Rs. 1.50 per bag to Ganesan of the said mill. For the purchase of 70 bags of Sugar in October 1970 from Messrs. E.I.D. Parry 1,220 bags during January and February 1971 from Messrs. Cauvery Mills, I have paid at the rate of 50 paise per bag to Thiru Mahadevan of Messrs. E.I.D. Parry. For the subsequent purchases of 3,350 bags of sugar from Messrs. Kothari Sugars, 500 bags from Thiru Arooran Sugar Mills during April 1971, and 3,020 bags from Messrs. South India Steel and Sugar Mills between December 1970 and April 1971 I have paid to the authorities concerned mills at the rate of 50 paise per bag. For the purchases made through parties this extra money was collected beforehand and paid to the mill authorities by me. The mill authorities refused to give any voucher for the receipt of this extra money. This extra money which I had paid to the mill authorities was made good by collecting from my dealers and I have not issued any vouchers for the receipt from them. Hence, the above transactions have not been entered in the account books."

Shri Shanmugham has criticised the evidence of this witness, thus:

"As per the affidavit of this person he has purchased 140 bags of sugar from Cauvery Sugars in the month of March and paid Rs. 1.50 per bag. But as per the sales list of Cauvery Sugars, they have sold 140 bags in the month of February 1970 and collected Rs. 3 per bag."

(Para 40-ae)

In his supplementary statement dated 23-7-1977, recorded under S. 5A in compliance with the Commission's Order, dated 9-7-1977, the witness positively stated:

"... This purchase had been arranged by me with the said Mills in February 1970 and lifted subsequently in March 1970. As there is no record for the payment of extra amount to the Mill authorities I would have stated in my earlier statement that an extra amount of Rs. 1.50 per bag was only paid for this consignment. As this quantity had been contracted in February 1970 the fact is that an extra amount of Rs. 3 per bag was paid by us for this consignment for which no voucher has been issued.

In support of my statement, I am furnishing a true extract of the account Books.

That extract is as follows:

T. M. M. S. SHANMUGHASUNDARAM & CO.,
64, Govindappa Naick Street,
Madras-1

(Madurai A/C.)

Account Copy for

CAUVERY SUGARS & CHEMICALS LTD., PETTAVAITHALAI

LEDGER No. 12 C.

Entered on Page No. 73 and 75

		Dr.		Cr.	
		Rs.	P.	Rs.	P.
17-3-1970	4	Cr. Sugar Bags 70—Bill No. 8, dated 6-3-1970	..	..	11,585.00
		Cr. Sugar Bags 70—Bill No. 13, dated 17-3-1970	..	..	11,585.00"

Thus, in this case the discrepancy pointed out by Shri P. U. Shanmugham was there. But the explanation of the witness is that due to a mistake of memory, he had wrongly stated in his affidavit that the extra money on these 140 bags of sugar was paid at the rate of Rs. 1.50 per bag. The *contract* of purchase was *made in February 1970* and the money, according to the recollection of the witness, was paid at the rate of Rs. 3 per bag and not at the rate of Rs. 1.50 per bag. It seems that since the delivery was taken in March 1970, he thought that the extra money might have been paid at the rate of Rs. 1.50 per bag.

The explanation given by the witness of this discrepancy may be correct, because it is in conformity with the reliable sale records maintained by the Mill.

T. Kesavulu (Affidavit No. 153)

The criticism levelled by Shri P. U. Shanmugham against the evidence of this witness, in para 40 (af) of his further affidavit is as under:

"As per the statement of this man he has purchased 210 bags of sugar from Cauvery Sugars in the month of February 1970 and paid Rs. 3 per bag. But as per the sales list of Cauvery Sugars they have sold (140+210)=350 bags of sugar and collected Rs. 3 per bag.

In this connection, the witness was further examined by the Investigating Agency in compliance with an order of the Commission, on 19-7-1977. After referring to his account books, the witness then stated:

"It is true that I had purchased 210 bags of sugar as mentioned in my earlier affidavit... During February 1970, I had also purchased the remaining 140 bags of sugar, but lifted the same after February 1970, and that is why it was not mentioned as having been purchased during February 1970. It is also a fact that we had paid the extra amount of Rs. 3 per bag for these bags also."

It is to be noted that even according to the entries made in the account books of this firm, all these 350 bags were purchased in three lots. The first lot was purchased in February, while the third lot was purchased on March 5, 1970. That is to say, all these purchases were made well before the date of the First Collective Payment said to have been made to Shri Karunanidhi. Further, all these purchases were from the quotas released in February 1970.

The clarification given by the witness in his further statement to the effect that he had paid extra money at the rate of Rs. 3 per bag on the purchase of 350 bags, bears the imprimatur of

probability. To the extent that he had contracted to purchase all these 350 bags in February, his statement receives support from the reliable entries in the Sales Book of Cauvery Sugars, which is on record. Thus, the explanation given by the witness satisfactorily resolves the so-called discrepancy.

Regarding General Criticism of the Evidence by Shri P. U. Shanmugham

Now I shall deal with the general criticism advanced by Shri P. U. Shanmugham against the evidence of the witnesses.

The *first* general point raised by Shri P. U. Shanmugham is that at least 29 out of the 78 dealer-witnesses have stated that when they approached the Mills to purchase levy sugar in February 1970, they were told by the salesmen of the Mills that the extra money of Rs. 3 per bag, in addition to the price demanded from them, was meant to reimburse the Mills for the money that they had already paid to the Ministers/Chief Minister of the State Government for getting the levy sugar allotted to the Mills for sale as wholesalers in the free market. Shri P. U. Shanmugham maintains that this story is materially different from that narrated by Maruthai Pillai, *viz.*, that in respect of sales of levy sugar out of each monthly Release, extra money was *first collected* from the purchasing dealers and *then* paid to the Chief Minister.

I have touched this objection earlier while dealing with the evidence of some witnesses, *e.g.*, T. L. Raghavan, C.W. 18 and Sundaram of Ashoka Traders. It is now proposed to discuss this point in further detail.

It is true that quite a number of witnesses—may be 29 or more—including R. Venkataswami of Arve Arcee Agencies (Affidavit Serial No. 32), S. Sundaram Pillai (Affidavit Serial No. 44), Partner of Messrs. Asoka Traders, S. Abdul Hakeem of S. Haji Kamaluddin Sahib & Co. (Affidavit No. 34), Mohd. Amin of Messrs. Kasbati & Co. (Affidavit Sl. No. 152)—have stated in their affidavit that while demanding extra money per bag on sales of levy sugar, the Mill authorities had said that the money was being collected *to recoup* what they *had already paid to the Minister(s)* for getting the allotment of levy sugar for sale in the free market. The aforesaid four witnesses had during the relevant period made purchases from Kothari Sugars, also, of which T. L. Raghavan was the Assistant Manager. The precise versions of these four witnesses on this point in their affidavits (Sl. Nos. 32, 34, 44 and 152) were put to T. L. Raghavan and the substance of the reply given by Raghavan was, that such a representation might have been made in order to facilitate payment of the extra money by the hesitant dealers. For instance, S. Sundaram Pillai had deposed in his affidavit (Sl. No. 44) that when he wanted the reasons for the collection of this extra money, over and above the paid price, the Mill authorities told him that they had paid money to the Ministers of Tamil Nadu for getting permission to dispose of the stagnated levy sugar to their dealers, and that they had to make good that amount by collecting it from their dealers. When the attention of Shri Raghavan was drawn to this part of S. Sundaram Pillai's statement, the former stated: "The talk has not been correctly reproduced by the Deponent. He might have asked for the reasons for demanding this extra payment 'off-the-record'. To some dealers we might have told that we had already paid and that we were then collecting the same to make good what we had paid. Such a representation might have been made by me, only to persuade the dealers to pay this extra amount." In answer to a supplementary question, T. L. Raghavan added: "We had no such secret funds or money from where we could first pay to the Ministers or anybody else, 'off-the-record', and then recoup the same from the dealers.

The witness was then asked whether it was a mis-representation on his part to say that this extra amount had already been paid. He replied: "It was not a mis-representation. It was just a gimmick which we sometimes had to adopt to persuade the customers to agree to pay."

Again, when Raghavan's attention was drawn to a similar version in the affidavit of Venkataswami, he stated: "To some dealers we might have told by way of exaggeration, that we had already paid the amounts to the Ministers for getting the release orders, and I do not remember if I had made any such statement to this particular deponent.

T. L. Raghavan appears to be a truthful witness who candidly admitted that such tactics were employed by them to coax the reluctant customers to pay this extra 'surcharge' of Rs. 3 per bag. Indeed, such gimmicks worked and the purchasers initially objecting to pay the extra money, eventually agreed to pay the same. Moreover, the point of substance was the *purpose*

for which this extra money was being collected. All the dealer-witnesses are agreed that they were informed that this extra money was *to be paid or had been paid* to the Minister or the Chief Minister of the Tamil Nadu Government for getting releases of levy sugar for sale in the free market.

Moreover, it may be noted that all the dealers who have filed affidavits, did not make purchases in February 1970; many did so subsequent to that period. Therefore, if the selling Mills asked such dealers to pay extra money on the sales made after February 1970, representing that they were making the collection of extra money to recoup what they had already paid to the Ministers for getting releases of levy sugar for sale in the free market, such a representation would not be altogether incorrect.

Quite a large number of these dealers have deposed that the Sugar-Mill authorities had demanded extra money in cash over the sale price of every bag saying that they had *to pay* such extra money collected to the State Government/Minister/Chief Minister. For instance, see the statements of R. Govindarajan (Affidavit Sl. No. 9), Singaravelu Mudaliar (Affidavit No. 10), R. V. Avadithangam (Affidavit Sl. No. 12), S. Natarajan (Affidavit Sl. No. 15), T. M. Sathasiva Nadar (Affidavit Sl. No. 38), A. S. V. Kumaresan (Affidavit Sl. No. 39), A. Soundararajan (Affidavit Sl. No. 51), G. Purushothaman (Affidavit Sl. No. 54), A. Avanan (Affidavit Sl. No. 55), V. Periasamy (Affidavit Sl. No. 56), S. Adhinarayanan (Affidavit Sl. No. 61), P. N. V. N. Sathanantham (Affidavit Sl. No. 65), T. M. M. Rajakkanni Nadar (Affidavit Sl. No. 66), C. Rathnavel (Affidavit Sl. No. 67), P. A. C. Somasundara Nadar (Affidavit Sl. No. 68) etc.

The common factor in the evidence of the dealer-witnesses is that they paid these extra amounts in the belief that it was being collected by the Mills in connection with the demand for money made by the Minister/Chief Minister as a consideration for releasing levy sugar to the Mills for sale to their dealers in the free market.

Regarding this point, Shri Maruthai Pillai has in paragraph 31 of his supplementary affidavit explained that as a matter of commercial expediency, some representatives of the Mills might have told the dealers, whom they sold, that the extra money being then collected by the Mills had already been paid to the Ministers, though in fact, it was not so paid.

It may be recalled that an interrogatory issued by the Commission to S. Sundaram Pillai (Affidavit No. 44) was: "In your affidavit you have stated that while taking delivery, the Mill dealers demanded extra money at Rs. 3 per bag for the quantity delivered in February 1970 and Rs. 1.50 per bag on bags delivered between March-September 1970, and 50 P. per bag for the bags delivered subsequently, stating that they had paid money to the Ministers of Tamil Nadu for permitting them to disburse all the stagnant levy sugar to the dealers and they were collecting the extra money to make good this amount from their dealers. Is this correct? Could you say who actually told you this?"

The witness replied (on affidavit):

"I have said so on the basis of information given to me by one of the clerks in the Sales Department, and I am unable to recollect at this distance of time which Clerk or which Mill actually told me so. I can, however, state that this information was not given to me by the officers to whom I had made payments. Since we were not actually concerned whether the Mills had already paid the money or they were going to collect from us to pay, I did not care to verify this information with the senior officers of the Mills."

A similar interrogatory was addressed to another witness, B. Manavalan (Affidavit Sl. No. 110) in these terms:

Q: "You have stated in your affidavit when the Mill authorities demanded extra money, they told you that it was to make good the amount that they had already paid to the Government authorities for permitting them to sell levy sugar in the market. Officers of the said Mills, namely Sarvashri Jayaraman and Ganesan of E.I.D. Parry Group and Aruna Sugar Mills respectively, in their statements before the Commission, have denied having told the purchasing dealers that the Mills had already paid to the Ministers the amounts at the rates testified and that they were collecting it from you and other dealers to make good that amount. What have you got to say regarding this?"

The witness replied: " This may have been on the basis of erroneous understanding. What happened was that when we went to take delivery of the Sale notes, the purpose of demanding extra amounts was explained in a loosely-worded manner by one of the Clerks. I am not able to recollect now either the name of the Clerk or the Sugar Mill to which he belonged. It was understood that payment of extra money was involved. Whether the Mills had already spent or were going to spend, was not material to us, because at any rate we had to pay this extra amount. Therefore, I had not bothered to verify this matter further."

I have extracted the replies of these two witnesses because they typify the initial hesitation of the purchasing dealers to pay the extra amount to the selling Mills and the sudden change of their attitude to one of compliance with the demand, on hearing that the money was in connection with the demand of the Ministers or the Government as a consideration for getting Releases of levy sugar for sale in the free market. For the purchasing dealers, it made no difference whether the extra collections being made from them by the Mills were for meeting the demand of the Ministers " *in futura* " or for *recouping* what the Mills had already paid. The moment the purchasers believed the representations made by the selling Mills that the money was in connection with the demand made by the Ministers as a consideration for getting release of levy sugar for sale, they felt that there was no alternative but to pay it. The discrepancy on this point pointed out by Shri P. U. Shanmugham in the statement of these witnesses, is thus of no significance.

The *second* general contention raised by Shri P. U. Shanmugham is that at the relevant time, *i.e.*, January-February 1970, sugar was freely available at cheaper rates in the market; that the absence of any profit-margin between the fixed levy price and the free-market price was the real cause of the inability of the Mills to sell the levy sugar allotted to them and of the resultant accumulation of stock. The first Release Order was on 16-2-1970 for 66,855 bags and the second Release Order was made of 58,956 bags, and it was impossible for the Mills to sell as the purchasers were unable to lift the stock of 1,25,811 bags of sugar before March 1970. According to Shri Shanmugham, it is impossible to believe the version of the representatives of the Mills that within a week after their appointment as wholesalers and the release of the levy sugar in their favour for sale, on 16-2-1970 and 26-2-1970, the entire released stock was sold out by the Mills, like hot cakes. The point sought to be made out is that the story of Maruthai Pillai, that the demanded money was first collected from the purchasing dealers and *then* passed on to the Chief Minister, is wholly improbable and incredible.

In this connection, interrogatories were issued to several witnesses to ascertain whether there was any profit-margin left for the dealers purchasing the levy sugar at the ex-factory price plus transport and administrative charges, with 'extra money' super-added. Most of them have sworn that there was a profit margin of Rs. 10 to Rs. 15 per quintal for the dealers purchasing sugar from the Mills at this rate.

Shri Kamachiraja, Assistant Secretary to Tamil Nadu Government-cum-Additional Commissioner of Civil Supplies, has thrown light on this aspect of this matter. He has deposed that in October 1969 and April 1970, the price structure of levy sugar was as follows:—

Components	1969-70	
	As on 26-10-1969	As on 15-4-1970
	Rs.	Rs.
Ex-Mill rate	161.44 (per quintal)	169.24 (quintal)
Transport and incidentals	4.00	Applicable to E-30 common grade
Administrative Surcharges	2.00	
Economic cost	167.44	
Margin to Government	4.06	
<i>Government issue price to wholesalers</i>	171.50	175.50
Margin to wholesalers	1.50	1.50
Wholesalers issue price to retailers	173.00	177.00
Retailers' margin	3.00	3.00
Retailers' issue price	176.00	180.00
Retail issue price to consumers	1.76 per Kg.	1.80 per Kg.

From a study of the above figures, it will be clear that there was a wide difference of about Rs. 15 per quintal after 26-10-1969, and about Rs. 11 per quintal after 15-4-1970, between the ex-Factory price and the retail-issue price of sugar. This difference covered various incidental expenses incurred by the wholesalers and also left reasonable profit margins to the retailers and also to the Government. The total share of the Government came to Rs. 10.06 per quintal up to 15-4-1970, and Rs. 6.26 after 15-4-1970, less actual transport charges from the Factories to the dealers' godowns. The transport charges were calculated at Rs. 4 per quintal on an average. The net margin to the Government, therefore, would have been not less than Rs. 6.06 per quintal up to 15-4-1970, and Rs. 2.26 after 15-4-1970.

But, as a result of the scheme devised by the Food Minister/Chief Minister appointing the Sugar Mills as wholesalers of levy sugar, the Government's share was given up in favour of the Sugar Mills which, as a consequence of those orders, had to pay only Re. 1 instead of Rs. 2 as administrative charges up to 15-4-1970. Evidently, this was the *quid pro quo* for the gratification extracted from the Mills. After 15-4-1970, the Sugar Mills had to pay the Government a differential cost ranging from Re. 0.82 to Rs. 1.26 per quintal depending on the grade. Thus, the Sugar Mills also, had got considerable pecuniary advantage under the scheme introduced by the State Government.

In this connection, reference may be made again to the evidence of T. L. Raghavan of Kothari Sugars. He was asked: "Is it correct to say that the ex-Factory price of sugar during February 1970 was Rs. 161 per quintal? Was the administrative charge Re. 1 per quintal only?" The witness answered this question in the affirmative and further explained that the figure, 'Rs. 161,' included the excise duty etc. The price of the corresponding free market sugar in February 1970, according to the witness, was Rs. 176 or Rs. 180 per bag, inclusive of excise.

The orders passed by the Minister, Shri P. U. Shanmugham on 16-2-1970 and later on February 25, 1970, on the applications of the Mills for their appointment as wholesalers, also confirm this position. While stocks were released to the Mills as wholesalers, the condition imposed by the Minister was that they should see that the retail price to the consumers did not exceed Rs. 1.76 per kg., and that an administrative surcharge of Re. 1 per quintal was also remitted by the Mills to the Government. Under the aforesaid price structure set out in Kamachiraja's statement, a sum of Rs. 6.06 (as administrative surcharge, Rs. 2, plus a margin of Rs. 4.06) was available to the Government as a cushion. The sum that would have been realised by the Government was Rs. 5.06 (Rs. 6.06 minus Re. 1.00) after deducting the administrative surcharge of Re. 1. Under this system of collecting administrative surcharge, a quantity of 25,446.9 tonnes of levy sugar had been released. The amount that would have been realised by the State Government at the rate of Rs. 5.06 per quintal on this quantity, works out to Rs. 12,87,613.

Kamachiraja has further clarified that the system of collecting administrative surcharge was discontinued with effect from March-April 1970 onwards and a system of calculating price differently was introduced with effect from 15-4-1970.

Shri P. U. Shanmugham in paragraph 49(d) of his affidavit dated 19th September 1976 has stated as follows:—

"The statement made by Thiru Kamatchiraja that the Government sustained a loss again proceeds on a misconception. The price structure on 26-10-1969 was that sugar was sold at Rs. 1.76 per kilo to the consumer public. This included Rs. 4.06 paid per quintal as the margin to the Government. When the Central Government increased the excise duty on sugar to Rs. 8 per quintal from April 1970 the price structure was revised on 15-4-1970. The margin of Rs. 4.06 retained by the Government was given up and the price fixed at Rs. 180 per quintal thereby giving a relief to the consumer of 4 paise per kilo which he would have been obliged to pay by reason of the increase in excise duty. The Government gave up their margin with a view to benefit the consumer. There was no benefit to the mill-owners. Thiru Kamatchi Raja is labouring under some delusion."

It would be seen from the price structure indicated at Page 258 that Government had a net margin of Rs. 6.06, i.e., Rs. 4.06 margin plus Rs. 2 Administrative Surcharge. On declaration

of the sugar factories as wholesalers, they had to pay only Re. 1 Administrative Surcharge, plus Rs. 4 Transport charge over and above the ex-factory price, *i.e.*, the factories had to pay the Government only Rs. 166.44 per quintal. Since they were appointed wholesalers-cum-retailers and were permitted to sell the accumulated levy quota not only to retailers but also to bulk consumers and even domestic consumers, the margin of profit of the mills, if they sold to retailers, was Rs. 6.56 (*i.e.* Rs. 173.00 minus Rs. 166.44), and if they sold to consumers direct, it was as high as Rs. 9.56. There is thus, no doubt that this scheme to declare factories as wholesalers-cum-retailers conferred considerable pecuniary advantage on the Factories at the expense of the State Government. Shri Shanmugham is not correct in saying that the margin of Rs. 4.06 was given up consequent on the increase in Excise Duty.

In exercise of the powers conferred by sub-section 3(c) of Section 3 of the Essential Commodities Act, 1965, the Central Government with effect from 1st March, 1970, revised the levy price of sugar consequent upon the change in the rates of Excise Duty. The ex-factory price exclusive of Excise Duty for Grade E. 30 (which was the most common grade as far as Tamil Nadu was concerned) was Rs. 135.39 per quintal. The Excise Duty was increased from 23% to 25%. The ex-factory price including Excise Duty as far as the State of Tamil Nadu was concerned was thus, Rs. 169.24 per quintal. From the noting in the file (Document No. 29), it appears that Shri Ramchander, the then Secretary, Civil Supplies, had held a discussion on 31-3-1970 with representatives of the Sugar Mills to decide about the revised price structure. From the notes of discussion recorded by Shri Ramchander himself, it appears that the Mills pleaded for a higher margin on the ground that Rs. 3.50 which was the margin then available towards cost of transport and Rs. 1.50 which was the wholesaler's margin, would not be adequate. If the existing margin of Rs. 8, *i.e.* Rs. 3.50 cost of transport plus Rs. 1.50 wholesaler's margin plus Rs. 3 retailer's margin were to be added to the ex-factory price of Rs. 169.34, the retail price that should have been fixed was Rs. 177.24. As against this, the price actually fixed was Rs. 180. This appears to have been done after a discussion with the Minister. The final decision taken was that the retail price should be fixed at Rs. 1.80 and the issue price to the wholesalers should then be worked out backwards, allowing the same margin as allowed earlier. The following sentence in the concluding portion of the note of discussion is very significant:

“ The Mills, however, if they act as whole-salers and distribute to government retailers, also, will get the same concessions as for direct sales by them as a part of the comprehensive arrangement with them.”

Consequent on the introduction of the revised price structure, sugar was made available to the mills at Rs. 1.71 per Kilo. As against this, they could sell at Rs. 1.77 per Kilo. to the retailers or, if they sold direct to consumers, at Rs. 1.80 per kilo. The Mills thus, obtained considerable pecuniary advantage under this scheme as well.

It is, therefore, entirely false on the part of Shri P. U. Shanmugham to claim that the Government's margin of Rs. 4.06 per quintal was given up to protect the interests of consumers. On the other hand, consumers were actually made to pay 3 paise per Kilo. more than what they should have normally paid and the Government's margin of Rs. 4.06 was given up entirely with a view to benefit the Mill-owners.

Thus, under the new policy introduced by the Food Minister after the appointment of Sugar Mills as wholesalers, it was possible for the Mills to manipulate the market and dispose of the sugar quickly.

As already noticed, Ganesan (CW-23) of Aruna Sugars, has testified that the profit-margin in February 1970, even after deduction of Rs. 3 per bag extra paid by them, was Rs. 10 to 12 per quintal.

S. Natarajan (Affidavit Sl. No. 15), P. Natarajan (CW-26), T. K. Dorai Arasu (Affidavit Sl. No. 43), S. Sundaram Pillai (Affidavit Sl. No. 44), P. Stalin (Affidavit Sl. No. 42), and Babulal Amarchand (Affidavit Sl. No. 143) also have stated in response to interrogatories issued to them, that there was sufficient profit margin ranging from 1 per cent to 2 per cent for the dealers who purchased in bulk the released levy sugar from the Mills on payment of the fixed price plus administrative charge and the extra 'surcharge' off-the-record.

In view of this cogent evidence, it is not correct to say that there was no profit-margin and, therefore, no incentive for the dealers to purchase the released levy sugar from the Mills quickly.

Another paramount factor which induced the dealers to purchase and enabled the Mills to sell the released levy sugar with lightning speed was, that under the new scheme introduced by the Food Minister/Chief Minister, the Mills appointed as wholesalers-cum-retailers were permitted to sell this released sugar even to the bulk consumers and the retailers of their choice without any restrictions which obtained under the earlier policy.

The sugar policy that had hitherto been pursued was one laid down by the Government of India in various Sugar Control Orders (*vide* clause 4 of the Sugar Control Order, 1966: Order dated 13-11-1967 GSK 1752/Ess. Comm./Sugar of G.O.I. and letter reference 1-22/69-SPY GOI, Ministry of Food and Agriculture, dated 23-10-1969.

The State Food Minister, Shri P. U. Shanmugham, obviously, in consultation with the Chief Minister, even without prior reference to the Central Government, much less with their concurrence, passed these orders dated 16-2-1970 and 26-2-1970, etc. abruptly changing the former policy of reserving 70 per cent of the total manufacture of sugar, for the ration cardholders. The underlying idea of the sugar policy settled by the Government of India was that this essential commodity should not be beyond the means of the middle class and the economically weaker sections of the public. That was why under the system, the sugar was distributed at the rationed scale to the cardholders, while the bulk consumers, such as Halwais, etc. were entitled to purchase their requirements from free sugar at the free-market rates which were generally much higher than those of levy sugar. Under the changed scheme introduced by the State Government, levy sugar could be sold to bulk consumers, such as bakeries, Halwais, etc. also. Even the same card-holder could buy unlimited quantity of sugar. No wonder, therefore, that the Mills were able to sell the released levy sugar with lightening speed at the fixed ex-Mill price plus reduced administrative charge of Re. 1, notwithstanding the addition of the extra ' surcharge ' of Rs. 3 per bag.

There is, thus, nothing intrinsically improbable or unbelievable in the assertion of Maruthai Pillai and the other witnesses who appeared on behalf of the Mills, that they were able to dispose of the bulk of the levy sugar released in their favour within a week or so of the Releases.

In this connection, it may be further noted that the Mills had anticipated that the orders passed in their favour by the Food Minister would boost up the sugar business. The industry was in a critical condition and the appointment of the Mills as wholesalers of levy sugar was expected to give a life-saving shot to the industry. That was why the Mills snapped at those orders, and made immediate arrangements to send their agents/employees to the Office of the Commissioner of Civil Supplies to collect those orders. Those agents informed the Mills on telephone; and thus, the moment the release orders were issued, the Mills started selling the released sugar. In most cases, the Mills made contracts for sale immediately on receipt of such telegraphic information and arranged to collect, in cash, the extra money at the rate demanded by the Chief Minister/Minister on the sales.

Yet another factor which goaded the Mills to act with hurricane speed in collecting the extra money was, that the next Release Orders could be obtained only after payment of the gratification as demanded on the sales of the earlier Releases. Time was the essence of the whole " business ". The Mills thought that this was the only way in which the progressively accumulating stocks of levy sugar could be relieved.

The inference that the Mills had already made arrangements in anticipation of the orders passed by the Minister on 16-2-1970, for the disposal of their accumulated stocks of levy sugar, receives strength from the deposition of A. M. Swaminathan, the then Deputy Commissioner of Civil Supplies. Even without obtaining the order of the Commissioner of Civil Supplies-cum-Food Secretary, who was temporarily absent from the station on that day, A. M. Swaminathan's statement to which reference has already been made, bears repetition on this point because it is quite revealing:

" . . . On 16-2-1970 at about 4 P.M. I was called by one of the P.As. to the Food Minister from my office to the Secretariat to meet the Minister for Food. I immediately went

there and met the Minister. Sri Ramachander, Commissioner, Civil Supplies was not available on that day. The Minister informed me that a decision has been taken by the Government to appoint private sugar factories as wholesalers and that they will be free to sell levy sugar at prices not exceeding the retail price of the levy sugar anywhere within the State, and that they will be asked to pay to the Government an administrative surcharge of Re. 1 per quintal. The Minister wanted me to issue orders to this effect immediately. I told him that it would not be possible for me to do so unless Government orders are given in writing. The Minister gave me a note addressed to the Food Secretary and directed me to issue appropriate orders on the same date. He told me that no restriction need be placed on the sale by the mills except (i) that the price to the ultimate consumer should not exceed the existing levy sugar price and (ii) that sugar should not be exported outside the State. He told me that the intention was to liquidate the stocks immediately, to increase the availability to all consumers in the State and avoid lapse of the quotas allotted to the State.

“... the above said note of the Minister along with five applications mentioned therein were handed over by me to Shri C. Thangaraju, Deputy Secretary. A copy of the Minister's note was given to me by Shri C. Thangaraju, Deputy Secretary to Government Food Department at about 4-30 P.M. on the same day. I came back to my office and issued orders as per the Government's instructions. The representatives of the five mills noted in the Government Memo. took delivery of those orders late in the evening of the same day. The Minister also informed me that the decision regarding the stocks in co-op. sugar mills will be taken after the return of Food Secretary. The applications from sugar mills for appointment as wholesalers were not received in the office of the Commissioner of Civil Supplies. I also wired the Collectors informing them of the orders.”

It may be remembered that the Government of India when it came to know about this unwarranted departure from the policy laid down by it, took objection to the orders made by the State Government (Food Minister). Indeed, they had received an anonymous complaint that in changing this basic policy with regard to the distribution of levy sugar and in appointing the Sugar Mills as wholesalers, the State Government had acted from corrupt motives. That anonymous complaint was sent by the Government of India to the State Government for comments. Thereupon, the State Government through its Food Secretary, Shri Ramachander, engaged the Government of India in a futile, protracted correspondence. The State Government tried to justify its action but it did not send any comments with regard to the specific allegation of corruption. A close examination of the correspondence shows that the Government of India was not satisfied with the stand taken by the Commissioner. The matter was still in the stage of correspondence when sugar was decontrolled. It is curious that the Commissioner, Ramachander, abruptly closed this case acting in an extraordinary fashion, without any further reference to the Government of India.

The *third* objection taken by Shri P. U. Shanmugham in his affidavit, is that none of the retailers to whom the 78 dealer-witnesses further sold the levy sugar purchased from the Mills has been examined. It is also pointed out that the purchasing dealers have not submitted their account books.

Taking the last limb of the argument first, it may be observed that a direction was issued by the Commission to the Investigating Agency nominated under Section 5-A to examine and procure extracts of the relevant entries in the account books of these dealer-witnesses who had purchased from the Mills. In compliance with that direction, the Investigating Agency has submitted a Supplementary Report containing the further statements of about 29 dealers, apart from the further statements of the representatives of the Mills. The Investigating Agency has also procured almost from all these witnesses, extracts of the relevant entries of their account-books which they had tendered for inspection before the Investigation Officer. Moreover, even in their first affidavit, almost all these 78 dealers had incorporated extracts of the entries in their books relevant to the purchases made by them from the Mills. There is, therefore, no force in the contention that these dealers have not submitted their account-books.

As regards the first limb of the contention, Shri P. U. Shanmugham has not named a single retailer, who, according to him, purchased from these dealer-witnesses released levy sugar. He has not submitted any list of such retailers to be examined as witnesses in the inquiry. Nor has he made any application for examining the account-books of any of the 78 dealers, who have filed affidavits.

For reasons of their own, the Respondents on September 20, 1976, decided not to participate in further proceedings before the Commission. In spite of it, information was given to the Respondents, from time to time, to enable them to participate in further proceedings and to produce evidence in rebuttal. They have not chosen to avail of these opportunities.

Moreover, it was not necessary to record the evidence of the retailers who purchased further from these dealer witnesses. Such a course would be impracticable and draw the Commission into interminable proceedings. The point in issue is, whether the Mills collected extra amounts at the rates stated by the representatives, from the purchasing dealers on the sales of released levy sugar. Only the Mills as sellers and the dealers who purchased from them could give direct evidence relevant to this issue. The evidence of the retailers would have only a remote bearing on this issue.

In connection with this contention, Shri P. U. Shanmugham has pointed out that these dealer-witnesses have stated that they paid extra money in cash from their personal accounts, and the Millers including Maruthai Pillai, have stated that they passed on this money 'off-the-account' to the Ministers.

On these premises, it is contended that these purchasing dealers as well as the Millers have dealt with black-money and, as such, are unreliable witnesses.

So far as the Sugar Mills are concerned, they are Registered Companies with limited liability. They are run according to a system regulated by law, by experienced businessmen and able managers. Their accounts are audited by authorised auditors and are subjected to examination by the Taxation Authorities. It is, therefore, difficult to believe that these Mills had any black-money off-the-record. May-be the dealers, who purchased from these Mills, had some personal funds to meet such extra-legal demands or exigencies.

The Commission, therefore, is loath to embark on a collateral roving inquiry, into the business affairs of these dealers who purchased the released levy sugar from the Mills.

Next is the allegation of the Respondents that the affidavits of the witnesses are of common pattern, emanating from the same source and are possibly the result of tutoring, coercion etc. on behalf of the Investigating Officers whose services are being utilised by the Commission under Section 5-A. There is no substance in this charge. It is common knowledge that even lawyers rely on affidavits prepared by other lawyers on common or similar questions. That apart, there is nothing wrong or improper in the same class of persons approaching for advice the same lawyer or lawyers associated by friendship or practice in the same field. Even these dealer-witnesses might have consulted one another before filing their affidavits because they were similarly situated.

Now I take up the last topic for discussion.

(iv) Payment of the Gratifications

The direct evidence with regard to the payment of the gratifications has been given by Maruthai Pillai. According to him, the Mills had made, in all, 16 collective payments through the witness to Shri Karunanidhi. Fifteen of these payments were handed over by the witness personally to Shri Karunanidhi, though the 5th Payment pertaining to the released quota of May-June 1970 in the sum of Rs. 1,00,672-50 was made by the witness through Shri Vaithialingam, then Private Secretary to the Chief Minister, Shri Karunanidhi, because the latter was then not available.

Maruthai Pillai has furnished the particulars of the 16 collections and contributions made by the Mills towards the 16 collective payments through him. Those particulars as corrected by the witness in his subsequent statement, may be condensed and tabulated as follows:—

Sl. No. of payment	Total No. of bags sold	Rate at which collection made	Total amount collected and paid	Approximate date of payment
(1)	(2)	(3)	(4)	(5)
		Per Bag		
		Rs.	Rs.	
I	1,25,892	3.00	3,77,676.00	8/9-3-1970.
II	64,713	1.50	97,069.50	Towards the end of March 1970.
III	61,212	1.50	91,818.00	Towards the end of April 1970.
IV	54,344	1.50	81,516.00	1st week of May 1970.
V	67,115	1.50	1,00,672.50	Middle of June 1970.
VI	59,035	1.50	88,552.50	Towards the end of July 1970.
VII	55,950	1.50	83,925.00	Towards the end of August 1970.
VIII	78,836	1.50	1,18,254.00	28-9-1970.
IX	1,17,262	0.50	58,631.00	1st week of November 1970.
X	75,075	0.50	37,537.50	1st week of December 1970.
XI	66,085	0.50	33,042.50	1st week of January 1971.
XII	64,384	0.50	32,192.00	Towards the end of January 1971.
XIII	55,982	0.50	27,991.00	Towards the end of February 1971.
XIV	62,491	0.50	31,245.50	1st week of April 1971.
XV	59,917	0.50	29,958.50	Towards the end of April 1971.
XVI	62,428	0.50	31,214.00	About 25th May 1971.

The total of these 16 collective payments made by the Mills through Maruthai Pillai, comes to Rs. 13,21,296.

Maruthai Pillai has also given the break-up of the above figures showing the sales and collections and contributions made by the individual Mills. The tabulated figures in this connection furnished by the Maruthai Pillai in Ex. CW. 14/34 which (after incorporating the corrections made by him in his subsequent statement) has been reproduced and need not be repeated here.

Maruthai Pillai has worked out these figures of collections and payments on the basis of the figures of sales, which he says, have been taken from the sale books and sale records of the 9 Mills who were members of SISMA. So far as the rates at which the collections were made during different periods are concerned, this fact has been supplied by him from memory. Maruthai Pillai's statement with regard to the collections and contributions made by the individual Mills towards these 16 payments has been corroborated—as already noticed—by the evidence of the representatives of the Mills who had made these collections and contributions. According to those witnesses also, they have worked out the figures of the collections and contributions made by them towards the collective payments on the basis of the figures of sales available in the records of their Mills.

To verify this assertion and the correctness of the figures of sales taken by Maruthai Pillai and his associate witnesses for the purpose of their calculations, it is proposed to check, as a sample test, the books and records of the Mills showing sales of released levy sugar in February and the 1st week of March 1970, which period only is material for verifying the collections and contributions made individually, by these 9 Mills towards the First Payment of Rs. 3,77,296, which according to Maruthai Pillai, was made to Shri Karunanidhi on 8th or 9th March 1970.

First, I will take up the Sugar Mills in the Parry Group. These Mills are: (1) E. I. D. Parry Nellikuppam, (2) Cauvery Sugars, Pettaivaithalai, and (3) Deccan Sugars, Pugalur. The relevant books and records of these Mills which appear to have been maintained in the regular course of business, are: Levy Sugar Sales Book (E.I.D. Parry) Ex. CW. 15/1, Invoice Folder Ex. CW. 32/54 (E.I.D. Parry); Levy Sugar Sales Book (Deccan), Ex. CW. 15/3; Invoice Folder Ex. CW. 32/55 (a) and (b) Series (Deccan); Levy Sugar Sales Book (Cauvery), Ex. CW. 15/2, and Invoice Folder, Ex. CW 32/56 Series (Cauvery).

These Sales Books show that the system followed by these Mills was that they sold the levy sugar soon after the Release/Releases in bulk mostly in February 1970 and some in the first week of March 1970, the last sale being on the 5th March 1970. The date of the contract of sale and the total quantity covered by it is entered on the left side of the page in the Sales Book and against it on the opposite part of the page are several subsidiary entries showing deliveries of the contracted sugar in instalments on subsequent dates. In other words, these books read in the light of the evidence of the officers who were in control of these sales, (including the further statement of Jayaraman recorded on 29-8-1977 under Section 5A in compliance with a direction, from the Commission), show that contracts of sales of particular quantities of the sugar were made earlier—*all before or on the 5th March, 1970*—but deliveries of the entire quantity sold was not given on the same date(s), but on different dates piece-meal on the basis of invoices/bills prepared subsequently.

The material facts apparent from the books and records of these Mills have been collated and annexed hereto as Excerpt I, II and III.

EXCERPT I
From
E.I.D. PARRY LTD.

Release Order No.	Bags released	Bags sold	To whom sold	Reference to the record of the Mill
(1)	(2)	(3)	(4)	(5)
RC No. 6114/2/70-CS, dated 25-2-1970.	2,805 bags from January-February 1970 quota.	*2,805 bags	..	Invoice/Bill Nos.
<i>Note:</i> This Mill was not allotted any quantity from the lapsed quota of August-November 1969.	<i>*Note:</i> This is the total of the sales one made on 4-3-1970 and the other on 5-3-1970.		1. Commercial Agency, Mayuram 2. K. Narasimha Chetty, Panruti .. 3. Shanmugam Stores, Madras-1 .. 4. G. Navaneetham & Co., Madras-1 .. 5. Ashoka Traders, Madras-1 ..	.. M 1 to M 14 M 16 to M 19 and A. 3 Ex. CW-32/54 (a) to (r) Ex. CW-15/1 (pp. 2-3) ..
				} Invoice Folder. Levy sugar Sales Book.

EXCERPT II
From
DECCAN SUGARS

Release Order No.	Bags released	Bags sold	To whom sold	Reference to the record of the Mill
(1)	(2)	(3)	(4)	(5)
RC No. 4956/70/F2/CS, dated 18-2-1970.	11,445 bags from the lapsed quota of August-November 1969.	28,855 bags (Sold mostly in February 1970 and some in first week of March, the last sale being on 5th March, 1970.	1. S. P. R. Muniswamy, Madurai ..	M 1-283
RC No. 6114/70/F2/CS, dated 25-2-1970.	17,410 bags from January-February 1970 quota.		2. Asoka Traders, Madras	M 290-294
			3. T. M. M. S. Shanmugha Sundaram & Co., Madras/Madurai.	M 297-300
			4. M. Bhavara Lal and K. Narasimhalu & Co., Vellore.	M 302-306 M 308
			5. T. M. M. Kandaswamy Nadar & Sons, Madurai.	E. 1-88
			6. M. Ayyaswamy Nadar, Madras	CW-32/55 (a) and (b) Series
			7. Swarambika & Co., Salem	
			8. Sri Murugan Soap Works, Salem	CW-15/3-pages 2-27
			9. N. P. N. A. Narayanan, Madras.	
			10. M. A. N. A. Narayanan, Madras.	
			11. Vidya Stores, Bhavani.	
			12. S. V. Adishesan, Salem.	
			13. A. S. Vannia Nadar, Madurai.	
			14. T. M. M. S. Sadasivam, Madurai.	
			15. Amar Joyti Vilas Oil Mills, Virudhunagar.	
			16. S. T. V. Govindarajulu Chettiar & Sons, Namakkal.	
			17. Lakme Traders, Coimbatore.	

Invoice/Bill Nos.

} Invoice Folder.

} Levy sugar Sales Book.

EXCERPT III
From
CAUVERY SUGARS

Release Order No.	Bags released	Bags sold	To whom sold	Reference to the record of the Mill
(1)	(2)	(3)	(4)	(5)
RC No. 4956/70/F2/CS, dated 18-2-1970.	7,820 bags from lapsed quota August-November 1969.	10,259 bags (sold mostly in February and some in 1st week, March 1970, the last being on 3-3-1970).		Invoice/Bill Nos.
RC No. 6114/F2/70/CS, dated 25-2-1970.	4,430 bags from January-February 1970 quota.		1. Pani Company, Tirunelveli F 1 to F 8	} Invoice Folder.
		2. A. S. R. Vannia Nadar, Madurai .. M 1 to M 36		
		3. T. M. M. Kandasamy Nadar Sons, Madurai .. M 38 to M 40		
		4. S. P. K. Munuswamy, Madurai .. M 44 and M 45	} Levy sugar Sales Book.	
		5. N. P. N. A. Narayanan, Madras .. Ex. CW 32/56 Series.		
		6. N. P. R. Alagappa Nadar & Sons, Dindigul. .. Ex-CW 15/2-pp. 2 to 5		
		7. T. Ramasubbiah Chetty & Sons, Madras		
		8. Arveeyarce Agencies, Madras		
		9. T. M. M. S. Shanmuga Sundar & Co., Madras/Madurai		
		10. M. Ayyaswamy Nadar, Madras		
		11. G. Navaneetham & Co., Madras		
		12. V. V. Shanmuga Nadar & Bros., Madras		
		13. Lakme Traders, Madras		

The net result of the examination of the Sales Books and related records of the Parry Group of Companies is, that by the 5th of March 1970, E.I.D. Parry had sold 2805 bags of levy sugar released in February 1970.

Similarly, the Deccan Sugars had sold 20855 bags of levy sugar by the 5th March, 1970, out of the two Releases made in February 1970.

Cauvery Sugars had sold 10259 bags by the 3rd March 1970, out of the quotas of levy sugar released in February 1970.

These figures of sales exactly tally with those given by Maruthai Pillai, N. Mahadevan and Jayaraman in their oral evidence. The figures of sales multiplied by Rs. 3 give the figures of collections and contributions made by these three Mills towards the First Collective Payment, and as such, lend credence to the statements of Mahadevan and Maruthai Pillai that the amounts collected on the basis of these sales and contributed by these three Mills, viz. (1) E.I.D. Parry, (2) Deccan Sugars and (3) Cauvery Sugars, towards the First Collective payment to Shri Karunanidhi on 8th or 9th March, 1970 through Maruthai Pillai, were Rs. 8,450, Rs. 86,565 and Rs. 30,777, respectively. The entries in these books were made by the Mills in the regular course of business and are reliable and fully corroborate the evidence of Maruthai Pillai and his associate witnesses from these Mills with regard to the particulars of sales made by them before the First Collective Payment.

(4) SAKTHI SUGARS

The relevant records of the Mill are the Sales Journal, Ex. CW. 26/4, and the Invoices. P. Natarajan of Sakthi Sugars was further examined under Section 5A to explain the entries in these records. The Journal, Ex. CW. 26/4, read with the Invoice Folder, shows that Sakthi Sugars sold 17865 bags related to the first Release Order for the lapsed quota of August-November 1969, during the period between 17-2-1970 and 25-2-1970 as per Invoice Nos., 17 dated 17-2-1970, and 44 dated 25-2-1970. The Mill also sold 5998 bags related to the second Release Order for the January-February 1970 quota during the period from 25-2-1970 to 27-2-1970 as per Invoice Nos. 45 dated 25-2-1970, and 47 dated 27-2-1970. The relevant information gathered from these records of the Mill has been collated and annexed hereto as Excerpt IV.

EXCERPT IV
From
SAKTHI SUGARS

Release Order No.	Bags released	Bags sold	To whom sold	Reference to the record of the Mill
(1)	(2)	(3)	(4)	(5)
RC No. 4956/70/F2/CS, dated 16-2-1970.	17,865 bags from lapsed quota.	23,863 bags <i>Note: All these were sold between 17-2-1970 and 27-2-1970.</i>	1. Sri Murugan Soap Works	Ex. CW-26/4-pp. 1-3 — Sales Journal.
RC No. 6114/F2/70/CS, dated 25-2-1970.	5,998 bags from January-February quota.		2. N. Subramaniam Chettiar.		1 to 47 — Invoices.
		3. T. M. M. Kandasamy Nadar Sons		
		4. Balu & Co.		
		5. R. Subramaniam.		
		6. P. N. Lakshmana Iyer & Sons.		
		7. Viswanathan & Co.		
		8. A. S. Vannia Nadar & Sons.		
		9. V. K. Muniappa Chetty & Co.		
		10. Vidhya Stores.		
		11. K. M. Seatharama Chetty.		
		12. N. G. Navanetham & Co.		
		13. Sri Vijayalakshmi Stores.		
		14. Diamond Soap Industries.		
		15. M. Deivasigamani		

These sales are duly reflected in the Sales Journal Ex. CW. 26/4, entries in which were made contemporaneously with the events in the regular course of business when the present controversy had not arisen. The figures of sales in these records exactly tally with those in the excerpt, Ex. CW. 26/3, filed by P. Natarajan of Sakthi Sugars. There is absolutely no ground to doubt the authenticity of these records.

It would not be out of place to mention here that in the original compilation, Ex. CW 14/34 tendered in evidence by Maruthai Pillai, he showed that the extra amounts collected by Sakthi Sugars on sales from the released lapsed quota of August-September 1969 and quota for January-February 1970 were Rs. 53,382.00 and Rs. 17,964, respectively, making a total of Rs. 71,346.00. These original figures were worked out on the basis that the sugar sales made by Sakthi Sugars out of the aforesaid Releases were of 17,794 and 5,988 bags only. On rechecking, Maruthai Pillai found that the basic figures were wrong. He therefore, rectified this mistake in his further affidavit, dated 10-2-1977, and filed a rechecked further tabular statement wherein he has stated that the figures Rs. 53,382.00 and 17,964 showing the collections made by Sakthi Sugars in respect of sales from the aforesaid Releases, should be read as "53,595+17,994.00" and not what he had stated in Ex. CW 14/34.

Thus, the documentary evidence furnished by the Mill records lends assurance to the testimony of Maruthai Pillai, (and P. Natarajan, also) that out of the two Releases made in February 1970, this Mill sold a total of 23,863 sugar bags in February 1970 and collected, apart from the price, Rs. 71,589.00 on those sales at the rate of Rs. 3 per bag and contributed the same towards the First Collective Payment made to Shri Karunanidhi on 8th or 9th March, 1970 through Maruthai Pillai.

(5) ARUNA SUGARS

The relevant records of this Mill are the Sugar Sales Day Book, Ex. CW. 23/5, and the related Invoices. To explain the entries in the records, M. Ganesan, was further examined under Section 5-A, on a direction from the Commission.

A perusal of these records shows that according to the entries therein, Aruna Sugars sold 10,850 sugar bags related to the first Release Order for the lapsed quota of August-November 1969, during the period from 16-2-1970 to 24-2-1970, covered by Invoice Nos. 1278 to 1297 and 1311. The Mill also sold, 5696 sugar bags relating to the January-February 1970 quota between 26-2-1970 and 28-2-1970 covered by Invoices Nos. D1 to D3. These sales are duly reflected in the Sugar Sales Day Book (Ex. CW 23/5) and the connected Sales Invoices which are now a part of the record of the Commission. The relevant particulars from the Mill records are collated and annexed hereto as excerpt V on the following page:

EXCERPT V
From
ARUNA SUGARS

Release Order No.	Bags released	Bags sold	To whom sold	Affidavit No.	Reference to the record of the Mill	
(1)	(2)	(3)	(4)	(5)	(6)	
RC No. 4956/70/2/CS, dated 16-2-1970.	10,850 bags from lapsed quota.	16,306 bags (All these sold from 16-2-1970 to 28-2-1970).	1. P. A. C. Somasundaram Nadar ..	68	1278 to 1297 and	
RC No. 6114/70/2/CS, dated 25-2-1970.	5,696 bags from January-February quota		2. T. M. M. Thanikodi Nadar	} Invoice Folder.
			T. M. M. Rajakkani Nadar (?)	66		1311
		3. T. M. M. S. Shanmugasundaram ..	..	..	D 1 to 13
		T. M. M. S. Sadhasivam (?) ..	..	49	CW-32/51 (a)-(z) & (aa) to (ag).
		4. A. S. R. M. Subbiah Pillai ..	..	140	
		5. Arvearcee Agencies				
		6. K. Narasimhalu Agencies				
		7. Indra Stores .. ..	..	..	CW-23/5-Pages 1 & 2 ..
		8. Duraikannu Trading Company			Sugar Sales Day Book.	
		9. Asoka Traders				
		10. C. B. Muthuswamy Chettiar				
		11. K. Balarama Chettiar				
		12. Mani Agencies				
		13. E. K. R. M. Ramakrishnan & Brother				
		14. D. Srinivasa Iyengar				
		15. A. P. Syed Ibrahim Rowther				
		16. P. Shanmugham				
		17. Muslim Industrial Stores				
		18. Mettur Agencies				

The Sales Day Book, Ex. CW. 23/5, and the connected Invoice Folder are records which were prepared by the Mill in the regular course of business and there is no reason to doubt their authenticity. This unimpeachable documentary evidence assures the correctness of the figures of sales which have been taken by Maruthai Pillai and M. Ganesan as the basis of their calculations and as an aid to recollection of the precise amount contributed by this Mill towards the First Payment.

(6) SOUTH INDIA STEEL & SUGARS LTD.

The relevant records of this Mill are the Sugar Sales Journal, Ex. CW. 21/3, and the connected Invoices. K. Swaminath, was further examined under S. 5-A on a direction from the Commission to help in interpretation of the entries in the Mill records. According to these records, this Mill sold 3,475 bags from the lapsed quota of August-November 1969 between 18-2-1970 and 25-2-1970, covered by Invoices Nos. 671 to 680, 682 and 683. The Mill also sold 1267 sugar bags relating to January-February 1970 quota on 26-2-1970, and 27-2-1970, covered by Invoice Nos. 689 and 704A. All these sales are reflected in the Sugar Sales Journal (Ex. CW. 21/3) and the connected Invoices which have been made a part of the Commission's record. The relevant entries in the records of these Mills have been marshalled and annexed hereto as EXCERPT VI.

EXCERPT VI

From

SOUTH INDIA STEELS & SUGAR MILLS LTD.

Release Order No.	Bags released	Bags sold	To whom sold	Affidavit No.	Reference to the record of the Mill
(1)	(2)	(3)	(4)	(5)	(6)
RC No. 4956/70/F2/CS, dated 16-2-1970.	3,475 bags from lapsed quota	3,878 bags (sold between 18-2-1970 to 27-2-1970)	1. Asoka Trading, Madras	CW-21/3-Pages 71, 72 and 74.	} Sugar Sales Journal
RC No. 6114/F2/70/CS, dated 25-2-1970.	1,267 bags from January-February Quota.		2. Karthikeyan Trading Co., Madras.		
			3. L. R. S. Chokkalinga Chettiar, Villupuram		} Invoice Folder.
			K. Narasimhalu Chetty, Panruti	671 to 680, 682, 683,	
			5. A. S. Vannia Nadar & Sons, Madurai	689 and 704-A.	
			6. Abboi Maligai, Trichy	CW-32/52 (a) (w)	
			7. Arvee Arcee Agencies, Madras		
			8. New Colombo Stores, Madras		
			9. T. Ramasubbiah Chetty & Sons, Madras		
			10. C. Navaneetham & Co., Madras.		
			11. K.K.V. Balram Chettiar, Vriddachalam.		
			12. M. Iyyaswami Nadar, Madras		

These records were prepared by the Mill almost contemporaneously with the sales and the connected events in the regular course of business. The trustworthy documentary evidence, therefore, goes a long way to lend credence to the sworn testimony of Maruthai Pillai and K. Swaminath, that out of the two Releases of levy sugar in February 1970, this Mill sold 3,878 sugar bags between 18-2-1970 and 27-2-1970, and collected and contributed Rs. 3 per bag on the basis of those sales, a total amount of Rs. 11,634 towards the First Collective Payment made through Maruthai Pillai on the 8th or 9th of March 1970 to Shri Karunanidhi.

(7) MADURAI SUGARS LIMITED

The relevant records produced by this Mill are: (1) The Sugar Account Book, Ex. CW 17/29, and (2) connected Invoices. According to these records, this Mill sold 4,775 sugar bags from the lapsed quota for August-November 1969, and 4,293 bags from the January-February 1970 quota, between 20-2-1970 and 28-2-1970, covered by Invoices Nos. 1 dated 20-2-1970, to No. 130, dated 28-2-1970. These sales are reflected in the Sugar Account Book Ex. CW. 17/29, and also in the connected Invoices which are now a part of the Commission's record. The relevant entries from the records of this Mill have been sorted out and marshalled in EXCERPT VII annexed hereto.

EXCERPT VII
From
MADURA SUGARS LIMITED

Release Order No.	Bags released	Bags sold	To whom sold	Affidavit No.	Reference to the record of the Mill
(1)	(2)	(3)	(4)	(5)	(6)
RC No. 4956/70/F2/CS, dated 19-2-1970.	4,775 bags from lapsed quota.	9,068 bags	1. T. M. M. Mathalai Nadar & Co. ..	CW-17/29	Sales Register.
			2. T. M. N. Kandasamy Nadar & Sons ..	1 to 130	Invoice Folder.
RC No. 6114/70/F2/CS, dated 25-2-1970.	4,293 bags from January-February quota.	(Sold between 20-2-70 and 28-2-1970).	3. A. S. Vannia Nadar & Sons	CW-32/53 (a) & 32/53 (b) (upto Invoice No. 130).	

These records were prepared contemporaneously with the events in the regular course of business and there is no reason to doubt their genuineness. This dependable documentary evidence therefore, goes a long way to strengthen the credibility of Maruthai Pillai and L. Muthiah, CW. 17, of Madurai Sugars, inasmuch as they have testified that this Mill out of the first two Releases made in February 1970, sold 9,068 bags and collected and contributed in respect of those sales at Rs. 3 per bag, a total amount of Rs. 27,204 towards the First Collective Payment made to Shri Karunanidhi.

(8) KOTHARI SUGARS

The relevant records procured from Kothari Sugars are—Sales Register relating to the relevant period and the Sales Invoice Books (Ex. CW. 18/10 to CW. 18/13 series). The Sales Register was produced before the Investigating Agency by K. Sundaresan on 7-9-1977. Sundaresan's statement was also recorded on the same date under Section 5-A in this connection, pursuant to a direction from the Commission.

Sundaresan is an employee of the Mill who had helped T. L. Raghavan in preparing the tabulated statement relating to the sales of levy sugar and the collection of the extra amounts from the purchasing dealers which he had tendered in evidence while in the witness-box. He explained the entries in the Sales Register.

A perusal of the entries in the Sales Register reveals that out of the Release made under R. C. No. 4956/70, dated 16-2-1970, relating to the revalidated lapsed quota of August-September, 1969, this Mill sold 12,065 bags and issued invoices and deliveries, on different dates commencing from 17th February upto 27th February, 1970, and out of the second Release relating to January-February 1970 quota made under R. C. No. 6114/F. II/70-CS., dated 25-2-1970, the Mill sold 9,256 bags and issued invoices for delivery during the period from 27th February to 20th March, 1970 on different dates. These sales were made, in all, to 54 different dealers. The dates of the Invoices-cum-deliveries in respect of these sales are reflected in their Sales Register and also in the Sales Invoice Book (CW. 18/10) and the concerned Invoices Nos. 5678 to 5683 and 8001 to 8063.

A scrutiny of the entries in the Sales Register shows that upto the 7th March, 1970 (i.e. before the date of the First Collective Payment to Shri Karunanidhi), the Mill had sold and given delivery of a total of 17,985 bags of levy sugar out of the first two Releases. Thereafter, on the 9th March, 1970, 536 sugar bags more out of the second Release, were sold and delivered under different Invoices, Nos. 8036—8040, to four dealers. Thereafter, from the 10th March to 20th March, 1970, this Mill gave delivery of 2,800 sold bags more, on different dates till 20-3-1970. Thus, by the 20th March, 1970 this Mill had sold and delivered out of the two Releases of February 21,321 bags, in all, on which, according to the evidence of T. L. Raghavan, then Assistant Manager of Kothari Sugars, a sum of Rs. 63,963 at the rate of Rs. 3 per bag was collected and handed over to Maruthai Pillai for passing on to Shri Karunanidhi.

Shri D. C. Kothari, Chairman, of the Company, Kothari Sugars, stated in his affidavit that he had instructed Shri T. L. Raghavan, Assistant Manager to collect at the rate of Rs. 3 per bag from the purchasing dealers *at the time of the issue of Sale Notes*. In his deposition before the Commission, Shri T. L. Raghavan also stated that the entire quantity of 12,065 bags relating to the lapsed quota of August-September 1969 was sold by 24-2-1970 to dealers, and this is, also, evidenced by the Telex message, Ex. CW 18/6, which was then sent by the Head Office of the Company to its Factory. Raghavan further testified that the entire quantity of 9,256 bags relating to the January-February 1970 quota was sold out by 4-3-1970. The compilation, EX. CW. 18/7, shows all the sales made by this Mill between February 1970 and May 1971. Raghavan further vouched:

“ I got this (Ex. CW. 18/7) prepared from the records of our Company *including the Sale Notes in our possession*. . . The dates of the invoices need not synchronise with the dates of the sales, but they do synchronise with the dates on which the deliveries were taken by the purchasing dealers. ”

In para 13 of his affidavit dated 3-7-1976, T. L. Raghavan has stated: “ . . . at the time the sale of sugar to the dealers was concluded, I explained the above to each of the dealers that they must pay an extra amount to be paid to the Ministers for getting the above orders. The dealers paid the respective amounts, accordingly. I collected the amounts from the dealers and on instructions of Shri D. C. Kothari, paid the above amounts to Shri P. Maruthai Pillai. ”

The Sales Register has 11 columns under printed captions. The first five columns of it are captioned as under:

Date	Invoice No.	Name of the Party	Place	L.F.	No. of Page	
					Levy	Free

It may be noted that the first column is merely captioned, "Date", and not "Date of Sale," and is immediately followed by the second column, captioned "Invoice No." There is no column in the Register which requires a reference to be given to the Sale Note concerned. Consequently none of the entries in this Register contains any reference to the concerned Sale Note. Looking at the captions and the juxtaposition of the entries of the first two columns in the Register, it seems that the dates given in the first column denote the dates of the Invoices, the Nos. of which are noted against those dates in the second column. This construction also receives support from the statement, dated 7-9-1977, of K. Sundaresan recorded under Sec. 5A. Accepting T. L. Raghavan's word that the dates of the Invoices did not always coincide with the dates of sales, there should be some Agreements or Contracts for sale which were made prior to 8th March, 1970, but deliveries against which were given, wholly or in part, under Invoices issued after that date. Such cases could be ascertained only from the Sale Notes which would bear the precise date of the Contract for Sale. It is in the evidence of T. L. Raghavan that such Sale Notes were in existence on the basis of which he testified on 4-11-1976, that the entire lot of 9,256 sugar bags relating to the second Release of January-February 1970, quota, was sold out by the 4th March, 1970. But through some oversight, the Sale Notes were not got produced on that date. But when pursuant to the Commission's order dated 9-7-1977, T. L. Raghavan and his Personal Assistant were examined and the production of the remaining records, including the Sale Notes was sought, it was found that the Sale Notes were not available. The Notes are supposed to have been lost or destroyed sometime after T. L. Raghavan's examination before the Commission. There is no ground to suspect that these records (Sale Notes are being withheld from an oblique motive. No adverse inference from the non-production of these records can be drawn against the veracity of T. L. Raghavan's version, that the contracts for the sale of these bags on which they had made extra collections at the rate of Rs. 3 per bag, were made earlier in February 1970, though in some cases the deliveries were given piece-meal subsequently, even in March 1970. Indeed, some of the purchasing dealers have deposed that against some contracts for purchase/sale made in February 1970 they took deliveries in March 1970, but had to pay to the selling Mills thereon extra money at the rate of Rs. 3 per bag. For instance, Sri Sabhapathy Chettiar, partner of Messrs. V. S. K. Ganapathy Chettiar of Tiruvarur, Tanjore, in his further statement, dated 27-7-1977, recorded u/s 5A on a direction from the Commission, stated that their firm had contracted to purchase 210 bags of sugar from Kothari Sugars in February 1970, but lifted 140 bags only in that month, and the balance of 70 bags was taken delivery by them in March 1970. Nevertheless, they lifted this balance of 70 bags, also, only after the payment of the extra amount of Rs. 3 per bag without any voucher to the seller-Mill.

Even so, in the absence of the Sale Notes, it is not possible to check T. L. Raghavan's oral statement on this point and to fix with positive certainty all those transactions in regard to which the contract for sale was made in February 1970 and delivery wholly or in part against that contract was given against Invoices issued in March 1970. So far as the Invoices issued upto the 7th March, 1970 are concerned, the question whether those sales in March were made pursuant to contracts for sale made in February loses its significance, because in the case of all such sales made prior to 8-3-1970, the extra amounts at the rate of Rs. 3 per bag could be collected and handed over to Maruthai Pillai well before the First Collective Payment allegedly made to Shri Karunanidhi on the 8th or 9th March, 1970. The number of the sugar bags covered by such invoiced sales made prior to 8-3-1970, as entered in the Sales Register and the Invoice Book, works out to 17,985.

Then, after 7th March 1970 upto the 20th March 1970, according to the Sales Register, there were invoiced sale-deliveries of 3,336 sugar bags to a number of purchasers. It is in the context of these 3,336 bags only, that the question, whether their sales made after 7th March, 1970 (out of the quota of January-February 1970 released for sale by the Mill under the Second Release Order) are referable to any contract for sale made in the last week of February or the first week of March 1970, assumes importance. A perusal of the Sales Register would show that of 3,126 sugar bags out of the aforesaid 3,336 bags, the recipients of the invoiced delivery were the same purchasers who had earlier under sale-invoices on some dates between the 17th February and 7th March 1970, taken delivery of varying quantities of sugar bags out of the two Releases relating to the revalidated quota and the January-February 1970 quota. It is conceivable—as Mr. T. L. Raghavan wants to have it believed—that in the case of these 3,126 sugar bags delivered to the same old purchasers the contracts for sale of all the sugar bags, including those delivered between the 9th and 20th March 1970, were made earlier when they took the first sale-invoiced delivery in February or in the first week of March 1970, and the extra amount at the rate of Rs. 3 per bag, also, was then collected from them in respect of all the deliveries, including those given after the 7th March, 1970. But no such inference can be drawn in the case of 210 sugar bags, viz., 70 bags delivered under sale-Invoice No. 8036 to S. P. Muthusamy Chettiar and Sons, Erode on 9-3-1970 and 140 bags delivered under Sale Invoice No. 8055 to S. D. Shanmugham Chettiar, Panrutti on 14-3-1970, because these two purchasers had not taken any sale-Invoiced delivery prior to 8-3-1970 from this Mill.

T. L. Raghavan and his Assistant, K. Sundaresan have stated that extra amounts at the rate of Rs. 3 per bag were collected by the Mill on the sales of all the 9,256 bags relating to the Second Release Order in respect of January-February 1970 quota, also, delivered upto March 20, 1970, including the sale of these 210 bags delivered to the aforesaid two (new) dealers, (70 on 9-3-1970 and 140 on 14-3-1970). This means in respect of these 210 bags, at least, this Mill *first* contributed extra amount at the rate of Rs. 3 per bag from its own source towards the First Collective Payment made to Shri Karunanidhi and *thereafter* recouped the same on 9-3-1970 and 14-3-1970 from these purchasers.

It will thus be seen that the entries in the Invoice Book and Sales Register of Kothari Sugars (an abstract of which is set out below towards the end of this item, as Excerpt VIII) read in the light of the explanation given by T. L. Raghavan and some dealer-purchasers, such as, Sabhapathy Chettiar, viz., that in many cases the contracts for sale were made in February 1970, while deliveries against those contracts extended even into March 1970, *substantially*, if not absolutely, corroborate the evidence of T. L. Raghavan and Maruthai Pillai, that Kothari Sugars contributed a sum of Rs. 63,963 calculated at the rate of Rs. 3 per bag on the sale of 21,321 bags, out of which, 12,065 bags related to the revalidated lapsed quota of August-November 1969, released for sale under RC No. 4956/70, dated 16-2-1970, and 9256 bags from January-February quota, released for sale under RC No. 6114/F2/70/CS, dated 25-2-1970. Even in the absence of the Sale Notes, which could not be procured, the entries in the Mill records which are available, establish beyond doubt the credibility of the version of T. L. Raghavan and Maruthai Pillai—viz., that they first collected the extra money and then contributed towards the Collective Payment through Maruthai Pillai to Shri Karunanidhi—in respect of the sale of 17,967 bags, i.e. 12,065 bags from the revalidated lapsed quota, sold in February 1970, and of a further quantity of 5,902 bags relating to the quota of Jan.-February 1970, which were undisputably sold and delivered by 7th March, 1970. With regard the sale of 3,126 sugar bags more, which were sold to the same dealers who had in respect of these Releases, taken deliveries under sale-invoices from this Mill on or prior to 7-3-1970, also, these entries in the sale records make the version about *first collecting* and *then contributing* towards the Collective Payment, probable. But with regard to the balance of 210 bags purchased by the two 'new' dealers after the 7th March, 1970, this version, in the absence of *unimpeachable* record such as the Sale Notes showing that these 210 bags also were sold pursuant to a contract for sale made prior to 8th March, 1970, cannot be swallowed without demur. In respect of these 210 bags also possibility is that the Mill anticipating their sale, contributed Rs. 630 from some other source, at the rate of Rs. 3 per bag thereon and *after* the First Collective Payment, recouped that "extra amount by collecting it" at the time of the sales to these two dealers, who took the sale-deliveries of 70 and 140 bags (total 210 bags) on the 10th March, 1970 and 14th March, 1970, respectively.

EXCERPT VIII
(Only from records produced)

KOTHARI SUGARS

Release Order No.	Bags sold	Bags sold & delivered	To whom sold	Reference to the record of the Mill
(1)	(2)	(3)	(4)	(5)
RC No. 4956/70, dated 16-2-1970	12,065 bags from lapsed quota. (Entered and sold between 17-2-1970 and 27-2-1970)	21,321 bags	N. Subramanian Chettiar Ananda Stores V. Rajagopala Iyer T. Krishna Konar & Sons A. G. Arunachala Nadar & Sons .. S. V. Shanmugam	.. CW-18/70-Invoice Book .. 5678-5783 & 8001-8063
RC No. 6114/F2/70/CS, dated 25-2-1970	9,256 bags from January-February quota. (Entered and sold between 27-2-1970 and 20-3-1970)		S. Mohamed Ebrahim & Bros. .. S. Mohamed Hussain Arvee Arcee Agencies .. S. Subramaniam Chettiar S. Periasamy & Sons K. Thangia Nadar & Bros. M. V. R. Alagappa Nadar & Sons. N. Jeevarathinam Pillai & Sons. A. S. R. M. Subbiah Pillai P. Shanmugham G. Packirisamy & Bros. The Commercial Agencies D. Narasimhan V. S. K. Ganapathy Chettiar The Bharat Stores Asoka Traders EMI Yes Agencies Shanmugham Stores Ramasubbia Setty & Son. R. Singaravelu Mudaliar S. Gunaseelan S. Muthuswamy Chettiar & Sons. A. S. Vannia Nadar S. T. Ammal M. Krishnaswamy Gounder Shanti Company	.. CW-32/57 Series Sales Register. .. (Sale Notes not available)

(9) THIRU AROORAN SUGARS

The relevant records produced by this Mill are the Sales Register (Ex. CW. 19/6) and the Invoices. According to this record, this Mill sold 1,735 bags relating to the lapsed quota August-September 1969, and 7,802 bags relating to the January-February 1970 quota and delivered the sold bags under Invoice Numbers 1 to 4, 6 to 12 and 14 to 33. A perusal of the Sales Register (Ex. CW. 19/6) shows that the dates of the deliveries under the Sale Invoice Nos. 1 to 4 and 6 to 11 are between 23-2-1970 and 7-3-1970. The dates of the sale deliveries in respect of Invoice Nos. 12 and 14 to 33 extend over the period from 9-3-1970 to 31-3-1970.

Shri R. Ramakrishnan, Administrative Manager of Thiru Arooran Sugars filed an affidavit in which he throws light on sales made by this Mill in respect of the two Releases of Levy Sugar for sale made in February. The witness was further examined under Section 5-A (vide First Supplementary Report) as a result of a direction from the Commission. The witness has stated that all these sugar bags, totalling 9,537, were sold by the Mill to Shri V. P. K. Kayaroganam Pillai, and an extra amount at the rate of Rs. 3 per bag was collected from the dealer on the sale, and the total thus collected, amounting to Rs. 28,611, was handed over by the witness to the Chairman of the Mill, V. S. T. Mudaliar, for passing on to the Ministers. The witness swears that he collected this extra amount from V. P. K. Kayaroganam Pillai because V. S. T. Mudaliar had instructed the witness to collect Rs. 3 extra per bag from the dealer "to whom the sugar was proposed to be sold" as this money was "required for payments to the Ministers to secure the orders from the Government of Tamil Nadu permitting the Mill to sell the unlifted levy sugar in the capacity of wholesalers" (vide Paragraph 3 of his affidavit). The witness further clarified that Shri V. P. K. Kayaroganam Pillai was their "main dealer who was lifting almost the entire quantity of the stock from the Factory till his demise in July 1970." On receiving instructions from V. S. T. Mudaliar, the witness asked Mudaliar to pay the extra amounts at the rate of Rs. 3 per bag on the purchases he was going to make and the dealer "agreed". Then, in Para 9 of his affidavit, the witness has shown extra collection amounting to Rs. 28,611 on the sale of all these 9,537 sugar bags (to this one dealer V. P. K. Kayaroganam Pillai) in February 1970. In his further statement dated 6-9-1977, R. Ramakrishnan has re-affirmed what he had earlier stated in his affidavit (including the statement in Para 9 thereof). The entries in the Sales Register and the Invoice Folder of the Mill, are to be read in the light of Ramakrishnan's statement. Unfortunately, V. P. K. Kayaroganam, the purchaser died on 26-6-1970 (and not in July 1970) and his statement therefore, could not be recorded.

Read in the light of Ramakrishnan's evidence, it appears from the Mill records that the contract for sale of all these 9,537 sugar bags was made in February 1970, and it was at that time, V. P. K. Kayaroganam Pillai on being asked by Ramakrishnan, promised to pay the sum of Rs. 28,611 on 9,537 sugar bags which he had contracted or promised to purchase, although against that contract he lifted the contracted quantity piece-meal, later. In any case, it is highly probable that this dealer paid the whole of this extra amount or the bulk thereof on the basis of the anticipated purchase of 9,537 bags, before the 8th March 1970. Even if the dealer partly paid that extra amount on the number of bags lifted by him till then, and promised to pay on the balance lifted subsequently after 7-3-1970, then also, so far as this Mill was concerned, his promise to pay that much was, for the purpose of the Mill, as good as payment. There is evidence on the record that the *de facto* relationship of V. P. K. Kayaroganam Pillai with this Mill was that of a stockist and agent of the Mill.

V. Govindaswamy employee of this dealer was examined under Section 5-A. The witness was an accountant under him for the past about 18 years. He continued to hold that job even after the death of Kayaroganam Pillai (which occurred on 26-6-1970) and the business is now being continued by the wife of the deceased. This witness has explained that the deceased was a stockist of sugar manufactured of Thiru Arooran Sugar Mills from the inception of the Mill, since 1956. Later on, this concern obtained a sugar dealer's licence, also. They sold the levy sugar supply to them by Arooran Sugars "on consignment basis" from February 1970 for which they were getting Commission at the rate of Rs. 1.50 per bag. It is further evident from the sale records, that this dealer had lifted upto 7-3-1970, 2,805 sugar bags. The sale proceeds of these lifted bags plus the extra amount of Rs. 8,415 paid thereon by the dealer, coupled with the promise to pay the balance by their trust Agent-dealer, itself, would have made available enough funds to the Mill, for adjustment and contribution therefrom the extra money of Rs. 28,611 on the entire quantity on 9,537 bags including those that remained to be lifted by the purchaser-dealer, and were in fact lifted on different dates from the 9th to the 31st March, 1970.

The relevant entries from the sale records produced by this Mill, are excerpted as below :

EXCERPT IX

From

THIRU AROORAN SUGARS

Release Order No.	Bags released	Bags sold	To whom sold	Reference to the record of the Mill
(1)	(2)	(3)	(4)	(5)
RC No. 4956/70/F2/CS, dated 16-2-1970	1,740 bags from lapsed quota	9,537 bags	V. P. K. Kayaroganam Pillai, Nagapattinam ..	CW-19/7-pp. 2 and 3 .. Sales Register. CW-32/68-Series
RC No. 6114/70/F2/CS, dated 25-2-1970	7,807 bags from January-February quota			Invoice Folder.* * Invoice No. 1, dated 23-2-1970 .. 320 bags. " 2, dated 24-2-1970 .. 330 " " 3, dated 26-2-1970 .. 80 " " 4, dated 27-2-1970 .. 50 " " 6, dated 3-3-1970 .. 580 " " 7, dated 4-3-1970 .. 360 " " 8, dated 5-3-1970 .. 150 " " 9, dated 6-3-1970 .. 350 " " 10, dated 7-3-1970 .. 264 " " 11, dated 7-3-1970 .. 321 " " 12, dated 9-3-1970 .. 400 " " 14, dated 10-3-1970 .. 150 " " 15, dated 11-3-1970 .. 320 " " 16, dated 12-3-1970 .. 525 " " 17, dated 14-3-1970 .. 140 " " 19, dated 16-3-1970 .. 240 " " 20, dated 17-3-1970 .. 850 " " 21, dated 18-3-1970 .. 490 " " 22, dated 19-3-1970 .. 500 " " 23, dated 20-3-1970 .. 647 " " 24, dated 21-3-1970 .. 360 " " 25, dated 22-3-1970 .. 155 " " 26, dated 23-3-1970 .. 823 " " 27, dated 24-3-1970 .. 140 " " 28, dated 25-3-1970 .. 150 " " 29, dated 26-3-1970 .. 210 " " 30, dated 27-3-1970 .. 70 " " 31, dated 28-3-1970 .. 280 " " 32, dated 30-3-1970 .. 210 " " 33, dated 31-3-1970 .. 72 "

Be that as it may, the picture disclosed by the entries in the sale-records of the Mill, probably-
 ses the version of Maruthai Pillai that this Mill, also, had collected and contributed Rs. 28,611 on
 the basis of the sale of 9,537 bags at the rate of Rs. 3 per bag, towards the First Collective Pay-
 ment which, according to Maruthai Pillai, was made by him to Shri Karunanidhi on 8th or 9th
 March 1970.

Thus, the sample test of the accuracy of the statements of Maruthai Pillai and the represen-
 tatives of the Mills, that they had taken the sale figures of relevant periods from the sale-records of
 the Mills, for the purpose of calculating, with rates supplied from memory, the precise amounts
 contributed by each of the nine Mills towards the *sixteen* Collective Payments said to have been
 made to Shri Karunanidhi—has been in the case of the seven Mills, namely: E.I.D. Parry, Deccan
 Sugars, Cauvery Sugars, Sakthi Sugars, South India Steel & Sugar, Madura Sugars and Aruna Sugars,
 perfectly satisfied, and in the case of the two Mills—Kothari Sugars and Thiru Arooran Sugars—
 substantially satisfied.

Since the First Collective Payment, in relation to which the sample test has been satisfied, was
 the biggest of the sixteen Payments, and most of the criticism levelled and the discrepancies speci-
 fically pointed out by Shri Shanmugham in his further counter-affidavit, are in the context of the
 first Payment to Shri Karunanidhi made on 8th or 9th March, 1970, it will not be unreasonable
 to presume that in the context of the remaining fifteen Collective Payments to Shri Karunanidhi—
 which were made at greatly reduced rates and in lesser amounts—the sale records of the Mills would
 corroborate Maruthai Pillai and the witnesses representing the Mills, in as much as they claim to
 have compiled the tabulated statements—furnished to the Commission—or collections and con-
 tributions made by these individual Mills towards those Payments, also.

Among the circumstantial evidence, there is one tell-tale circumstance which further fortifies
 the credibility of Maruthai Pillai's story. It is the proximate connection as cause and effect
 between a Collective Payment and the next Release of levy sugar for sale by the Mills, during the
 period from 8-3-1970 to 25-5-1971.

There is no dispute that the first two Release Orders in February 1970, were issued in imple-
 mentation of the Minister, Shri Shanmugham's orders, dated 16-2-1970, 19-2-1970 and 25-2-1970.
 With regard to subsequent Releases, there is the sworn statement of Shri Ramchander, the then
 Food Secretary-cum-Commissioner of Civil Supplies, Madras, that *all those Release Orders also*
were issued by him after getting clearance from the Food Minister, Shri Shanmugham. To quote
 his words: "I always consulted the then Minister for Food, Shri P. U. Shanmugham, before
 Release of the allotments in favour of the Mills. On some occasions the Minister asked me to hold
 up the allotments, in which case the allotment was released later after getting his clearance." This
 unerringly shows that the Minister was personally controlling the releases of levy sugar and the
 Commissioner of Civil Supplies was merely instrumental in implementing the Release Orders
 verbally issued by the Minister.

The following chart will show the proximate causal connection between the Releases and the
 Collective Payments to Shri Karunanidhi:

Approximate date of payment	Date of next Release Order
8-3-1970	12- 3-1970
End of March 1970	13- 4-1970
End of April 1970	30- 4-1970
End of May 1970	5- 6-1970
End of August 1970	7- 9-1970
First week of Sept. 1970	17- 9-1970
First week of Nov. 1970	11-11-1970
First week of January 1971	5- 1-1971
Towards the end of Jan. 1971	29- 1-1971
Towards the end of Feb. 1971	26- 2-1971
First week of April 1971	5- 4-1971

The last piece of evidence which directly reinforces the credibility of Maruthai Pillai's story in respect of the Fifth Collective Payment to Shri Karunanidhi in the middle of June 1970, is rendered by Shri M. Vaithialingam, then Private Secretary to the Chief Minister, Shri Karunanidhi. In Paragraph 25 of his affidavit, dated 8-7-1976, M. Vaithialingam has deposed:

" Shri Maruthai Pillai used to come to meet the Chief Minister on a few occasions presumably to pay the money. On two occasions, I received money on behalf of the Chief Minister as per his instructions, first, from Shri Maruthai Pillai and on the other occasion, from Shri Kailasa Gounder, and passed on to the Chief Minister immediately. "

He has repeated the same version in his statement, dated 9-8-1976 recorded under Section 5A. Vaithialingam's testimony was recorded by the Commission, also, on *viva voce* examination. The witness was thoroughly questioned on this point. What he thereupon stated, may be extracted:

" A.: I remember that Mr. Maruthai Pillai had met the Chief Minister on a few occasions at his residence after February 1970.

CQ.: Can you particularise the month, or tell the interval between one meeting and the other?

A.: He might have come and met the Chief Minister, but I am not sure for what purpose he met him. I think, frequently he was meeting him.

CQ.: Can you say monthly or bi-monthly?

A.: Sometimes, he would have met once a month. But on all occasions I was not present. Therefore, I cannot definitely say the interval between one meeting and the other of Mr. Maruthai Pillai and the Chief Minister. I am not aware of all the meetings because I might not have been present in the Chief Minister's room or outside it on all those occasions.

CQ.: Did you see Mr. Maruthai Pillai on any other occasion coming and delivering to you any collection made ' off-the-record ' with regard to the release of levy sugar to the Mills ?

A.: In the middle of 1970, one Mr. Maruthai Pillai came and met me at my residence and told me that he was unable to get access to the Chief Minister because the latter was pre-occupied. He asked whether I could pass on the money collections that he had made for that month, to the Chief Minister. I told him that I would consult the Chief Minister and then give a reply. When I conveyed this to the Chief Minister, the latter directed me to receive the amount and pass it on to him immediately.

CQ.: Where did you consult the Chief Minister?

A.: This conversation I had with the Chief Minister at his residence. Thereafter, Mr. Maruthai Pillai telephoned to me and wanted to know the result. I told him that he should come over to my residence and he accordingly did so.

CQ.: Where did he hand over the money?

A.: He handed over the money at my residence to me.

CQ.: Was the money in brief cases or envelopes or covers?

A.: It was in a bundle of money.

CQ.: Was the money in the shape of currency notes? Was there any sort of Master-list or some slip containing the particulars?

A.: I do not remember that in or with that bundle there was any such list containing some sort of a check how the amount was made up.

CQ.: What was the exact amount? Did you count it?

A.: I just checked whether the bundle contained money; i.e. currency notes, and after satisfying myself that it contained currency notes, I closed the bundle and took it

to the Chief Minister's house, the same evening, and delivered the same to the Chief Minister.

CQ.: Did Mr. Maruthai Pillai tell you how that collection had been made and what was the extent of the amount?

A.: He did not tell me the details but he told me that the amount was equivalent to the quantity of sugar released by the Government and sold by the Mills, and had been worked out at the rates fixed by the Chief Minister from time to time.

CQ.: How that bundle had been tied? Had it been wrapped in a cover?

A.: It was wrapped in some thick paper and tied with a thread.

CQ.: Was there any brief case?

A.: No, Sir.

CQ.: Can you recollect what was the denomination of the currency notes in that bundle or parcel?

A.: I remember, it contained only 100-Rupee currency notes.

CQ.: Could there be currency notes of lower denomination?

A.: I think there were no currency notes of lower denomination.

CQ.: Did the Chief Minister ask you as to how much the money was?

A.: The Chief Minister did not ask me as to how much the bundle contained. He simply received and kept it inside his house."

The witness further clarified that Shri Maruthai Pillai handed over money to him for passing on to the Chief Minister, only once and on no other occasion. In answer to another question, the witness conceded: "I know that the money passed on to Chief Minister by Mr. Maruthai Pillai through me, was tainted money, but I could not act in this affair either according to the dictates of reason or according to my own conscience, because refusal to do so would have made me a victim of the wrath of the Chief Minister." The witness further stated that his previous statements, one made in his affidavit and the other under Section 5A, were voluntary and not the result of pressure, inducement, threat or promise held out to him by any person in authority. He, however, admitted that a criminal case under the Prevention of Corruption Act had been registered against him and investigation in that case was still going on.

In spite of this background, it cannot be said that the witness has told a lie inasmuch as he says that in the middle of June, 1970, Maruthai Pillai handed over money to him for passing on to the Chief Minister, which the witness received after taking instructions from the Chief Minister, and immediately passed on the same to the latter. The witness was only a technical accomplice as he did not get any share, monetary benefit or slice out of this tainted money. He acted mechanically as a conduit in blind obedience to the orders of his master.

To sum up, the story narrated by Maruthai Pillai is highly probable and inspires confidence. Besides being intrinsically trustworthy, it receives ample corroboration and assurance in material particulars from other reliable evidence—circumstantial, direct and documentary. While in one fringing facet, viz., that the Mills first collected the "extra" money and then contributed towards the First Collective Payment, Maruthai Pillai's story may not be altogether impeccable—particularly in the case of Kothari Sugars and Thiru Arooran Sugar in respect of a proportionately marginal number of sugar bags—its substratum is indubitably true; and I have no hesitation in accepting the same.

In view of all that has been said above, I hold that the following charges, relating to this allegation, have been established with a preponderance of probability:

- (a) That in January 1970, Shri P. U. Shanmugham and Shri M. Karunanidhi, while being the Food Minister and the Chief Minister, respectively, of the State of Tamil Nadu,

abusing their Offices and official powers, taking undue advantage of the critical situation resulting from the unprecedented accumulation of stocks with the Sugar Mills in the State, and both acting in concert, demanded from the Sugar Mills in the Private Sector, through Shri Maruthai Pillai, President of their Association (S.I.S. M.A., Madras Branch) gratifications at particular rates on sales of levy sugar for particular periods in respect of particular Releases, as a motive or reward for appointing the Sugar Mills as wholesalers-cum-Retailers of levy sugar on behalf of the State; and

(b) in pursuance of the aforesaid arrangement, Shri Karunanidhi, then Chief Minister, received from the nine Sugar Mills, namely: E.I.D. Parry, Deccan Sugars, Cauvery Sugars, Sakthi Sugars, South India Steel & Sugars, Madura Sugars, Thiru Arooran Sugars, Kothari Sugars and Aruna Sugars, collectively, through Maruthai Pillai illegal gratifications in cash, aggregating Rs. 13,21,296 in the following manner:—

- (1) Rs. 3,77,676.00 on or about the 8th or 9th March, 1970.
- (2) Rs. 97,069.50 towards the end of March 1970.
- (3) Rs. 91,818 towards the end of April 1970.
- (4) Rs. 81,516 in the first week of May 1970.
- (5) Rs. 1,00,672.50 in the middle of June 1970.
- (6) Rs. 88,552.50 towards the end of July 1970.
- (7) Rs. 83,925 towards the end of August 1970.
- (8) Rs. 1,18,254 towards the end of September 1970—probably on 28-9-1970.
- (9) Rs. 58,631 in the first week of November 1970.
- (10) Rs. 37,537.50 in the first week of December 1970.
- (11) Rs. 33,042.50 in the first week of January 1971.
- (12) Rs. 32,192 towards the end of January 1971.
- (13) Rs. 27,991 towards the end of February 1971.
- (14) Rs. 31,245.50 in the first week of April 1971.
- (15) Rs. 29,958.50 towards the end of April 1971.
- (16) Rs. 31,214 on or about the 25th May 1971.

(c) That S/Shri M. Karunanidhi and P. U. Shanmugham committed serious acts of impropriety in violation of the sugar policy settled by the Government of India and the established norms of official procedure inasmuch as:

- (i) they permitted the Mills to sell levy sugar in the free market even to bulk consumers such as Halwais, Restaurants, Confectionery factories etc. without any restriction or scale much to the detriment of the weaker sections of Society who were entitled to this sugar on ration scale;
- (ii) that even the observance of the nominal conditions was not ensured; no attempt was made to see at what price the sugar reached the consumer ultimately. No proper effort was made to ascertain how and to whom the Sugar factories distributed stocks, much less how it was distributed further down the line. It is not even known whether any part of these levy sugar stocks were exported outside the State;
- (iii) By giving up the Government margin of Rs. 4.06 per quintal, monetary loss of approximately Rs. 13 lakhs was caused to the State Government and considerable pecuniary advantage was conferred on the Sugar factories which facilitated their payment of illegal gratification to the extent of over Rs. 13 lakhs to the Ministers.

- (iv) On a major policy issue of this nature, the Minister Shri P. U. Shanmugham abruptly departing from the healthy practice of taking into confidence the high Departmental officials, took a decision straight-away, without getting the matter examined by the Secretariat;
- (v) Even though the State Government at one stage had indicated to the Government of India that it would accept its suggestion to discontinue sales of levy sugar to bulk consumers, it was never done and the matter was peremptorily closed on the excuse that the Government of India had not pursued the matter further.