

# COMMITTEE OF PRIVILEGES

## FOURTH AND FIFTH REPORTS

(SECOND LOK SABHA)

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NEW DELHI

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## **FOURTH REPORT**

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## PERSONNEL OF THE COMMITTEE OF PRIVILEGES

1. Sardar Hukam Singh—*Chairman.*
2. Shri Satya Narayan Sinha.
3. Shri Asoke K. Sen.
4. Pandit Munishwar Dutt Uppadhyay.
5. Dr. P. Subbarayan.
6. Shri Nemi Chandra Kasliwal.
7. Shrimati Jayaben Vajubhai Shah.
8. Shri N. M. Wadiwa.
9. Shri Sarangadhara Sinha.
10. Shri Shivram Rango Rane.
11. Shri Hirendra Nath Mukerjee.
12. Shri Indulal Kanaiyalal Yajnik.
13. Shri Bimal Comar Ghose.
14. Shri Shraddhakar Supakar.
15. Shri Hoover Hynniewta.

*Members.*

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### SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*

Shri Avtar Singh Rikhy—*Deputy Secretary.*

# FOURTH REPORT OF THE COMMITTEE OF PRIVILEGES

## (SECOND LOK SABHA)

### I. INTRODUCTION AND PROCEDURE

I, the Chairman of the Committee of Privileges, submit this report to the Speaker in the following case, which was referred, under rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha, to the Committee by the Speaker on the 21st October, 1957:—

Shri Kansari Halder, M.P., in a letter\* addressed to the Speaker, complained:

- (i) "I was kept in police custody in Delhi for four days, and was produced before Additional District Magistrate on the 24th August. At that time, however, attempts were made to put handcuffs on my wrists. I vehemently objected and pointed out that as I was being prosecuted on a political charge, handcuffing was extremely improper and I would not tolerate it. I added that as a Member of Parliament I was certainly entitled to expect the courtesies ordinarily extended to political offenders. The Additional District Magistrate, Mr. S. Hossain, however, appeared to take a different view and said that handcuffing of accused persons was part of 'the law of the land'. I was astonished to hear this and protested strongly. Perhaps fearing I might resist further and the repercussions might be unpleasant, the handcuffs were not actually put on my wrists, but I feel I was deliberately and unwarrantedly humiliated, and that humiliation affected not me personally so much as the dignity of Parliament to which my people elected me with a very large majority.
- (ii) When I was in police custody and these extraordinary humiliations were being poured on me, I wrote a letter† to the Deputy Leader of my party in Lok Sabha, Shri Hiren Mukerjee, M.P., detailing the incidents and requesting that the matter be taken up with you or in

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\*Appendix 'A' (Pages 30—31)

†Appendix 'B' (Pages 32—33)

any manner conformable with Parliamentary practices and conventions. I did not write to you directly at that time because I thought that you would come to be informed of my predicament by Shri Hiren Mukerjee. I have now learnt that the said letter never reached Shri Mukerjee. This means that the authorities must have held it up. I feel this is unwarrantable interference with the rights of a Member of Parliament who writes from prison to one of his leaders in the House in order that his privileges are not disregarded by the executive."

2. The Committee held five sittings.

3. At the first sitting held on the 19th November, 1957, the Committee considered the complaint of Shri Kansari Halder, M.P., and directed that Shri Halder might be requested to appear before the Committee to give detailed information on the subject.

The Committee also directed that the Ministry of Home Affairs might be requested to furnish information about the circumstances of the release of Shri Kansari Halder and the reasons why that information had not been sent to the Speaker by the authority concerned in terms of rule 230 of the Rules of Procedure and Conduct of Business in Lok Sabha.

4. At the second sitting held on the 21st November, 1957, the Committee examined Shri Kansari Halder. The Committee directed that the facts in regard to the complaint of Shri Halder about the alleged withholding of his letter addressed to Shri Hirendra Nath Mukerjee, M.P., by West Bengal jail authorities, might be obtained from the authorities concerned.

5. At the third sitting held on the 31st March, 1958, the Committee considered the facts of the case as supplied by the Ministry of Home Affairs, and came to their conclusions.

6. At the fourth and fifth sittings held on the 5th and 16th April, 1958, the Committee deliberated on the draft report.

## II. FACTS OF THE CASE

7. The facts relating to the arrest of Shri Kansari Halder are as under:—

- (i) On the 31st May, 1957, the Deputy Superintendent of Police, South District, New Delhi, sent a letter to the

Lok Sabha Secretariat, requesting that he might be permitted by the Speaker to arrest Shri Kansari Halder, Member, Lok Sabha, in execution of a non-bailable warrant issued by the Judge, Third Tribunal, Alipore (24 Parganas) to stand a charge for criminal offence under sections 120B/302/436, Indian Penal Code.\*

The letter of the Deputy Superintendent of Police mentioned above was forwarded in original to the Ministry of Home Affairs for disposal and their attention was drawn specifically to rule 232 of the Rules of Procedure which lays down that no arrest should be made within the precincts of the House without obtaining the permission of the Speaker. The Ministry were also informed that if circumstances required that a M.P. should be arrested within the precincts of the House, a well reasoned request should be made by the Ministry of Home Affairs for the consideration of the Speaker.

- (ii) On the 22nd August, 1957, the District Magistrate, Delhi, sent the following intimation to the Speaker about the arrest of Shri Halder and this was read out in the House by the Speaker on that very day :

"In execution of a warrant of arrest issued by the Court of Judge, Third Tribunal, Alipore, 24 Parganas, West Bengal, under Section 75, Cr. P.C. which was marked to Shri P. D. Punetha, Deputy Superintendent of Police (South) he found it necessary in discharge of

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\*Indian Penal Code, 1860.

120B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

his duties to put under arrest Shri Kansari Halder, Member, Lok Sabha, on the 21st August, 1957, at 18-15 hours from 2, Windsor Place, New Delhi and he was remanded by the Resident Magistrate, New Delhi, to Judicial Custody till the 25th August, 1957."

[L.S. Deb., Dated 22nd August 1957, Col. 9324.]

- (iii) In response to the query of the Committee to the Ministry of Home Affairs about non-intimation of release of Shri Halder subsequent to his arrest the Ministry forwarded a copy of the letter\* from the Judge, Third Tribunal, Alipore, which *inter alia* stated that Shri Kansari Halder, M.P., had been "released on bail on the 28th September, 1957 during the pendency of the trial" in pursuance of the order of the Calcutta High Court. It further stated that "inasmuch as the release on bail was made during the trial and not after conviction, pending appeal, the fact, it appears was not intimated to the Speaker, Lok Sabha."

The Committee also noted that the Ministry of Home Affairs in their forwarding note had stated :

"The explanation furnished by the Judge, 3rd Tribunal, Alipore, with regard to non-intimation to the Speaker, of the fact of release on bail pending trial of Shri Kansari Halder appears to be in accordance with the rules on the subject. Rule 230 of the Rules of Procedure and Conduct of Business in Lok Sabha does not make it incumbent upon the authority concerned to intimate the fact regarding the release of a Member of Parliament on bail pending trial, to the Speaker."

The Committee are of opinion that no breach of privilege had been committed under the existing rules by the authorities concerned in not sending the intimation of release of Shri Kansari Halder on bail pending trial, to the Speaker.

8. The Ministry of Home Affairs, who were requested to furnish a copy of the letter written by Shri Halder from prison to Shri Hirendra Nath Mukerjee and details of circumstances and reasons because of which the letter was withheld by the West Bengal authorities, furnished the following documents:

- (i) Letter of Shri Kansari Halder in original (Bengali),

\* Appendix 'C' (Pages 34—35)

together with an English translation\*, as received from the Government of West Bengal.

Shri Kansari Halder, in his letter addressed to Shri Hirendra Nath Mukerjee, M.P., had, *inter alia* mentioned:

“On 24th August last when I was produced before the Additional District Magistrate, Delhi, Mr. Safik Hosen,\*\* he ordered me to be sent to Calcutta handcuffed. Not knowing exactly what is there in law about the use of handcuffs I told him that I am at present a Member of the Lok Sabha. I had attended the first session and was attending the second. Hence, the question of my going underground once again could not arise at all. He then said to me that that is the law at present. It should therefore be obeyed.”

\* \* \* \* \*

“When there is no provision in the law at present for applying handcuffs, how is it that the Magistrate at Delhi passed such an order in spite of his having placed me in the category of first class political prisoners? As far as I remember it was this Magistrate of Delhi who was entrusted with the task of instituting an elaborate enquiry into the case of firing on the scavengers of Delhi. Is there any chance of even the value of life being recognized by such a class of rulers, not to speak of the personal liberty of the people at large?

I, therefore, think that it will be proper to raise a question in the Parliament on this point.”

(ii) A copy of letter\*\*\* No. 38-H.J., dated 7th January, 1958 from the Government of West Bengal addressed to the Ministry of Home Affairs, New Delhi.

According to this communication, the said letter of Shri Kansari Halder “was withheld in the public interest under the provisions of the Jail Code by order of the State Government.”

(iii) A copy of the Bengal Jail Code, Vol. I.

The Government of West Bengal, in this connection, invited attention to Rules 682, 1073 and 676† of the *Bengal Jail Code*, as containing the necessary provisions under which Shri Kansari Halder’s letter was withheld by them.

\* Appendix ‘B’ (Pages 32-33).

\*\* Should be Mr. Safiq Hussain.

\*\*\* Appendix ‘D’ (Page 36).

† Appendices ‘E’ and ‘F’ (Pages 37—9).

### III. FINDINGS OF THE COMMITTEE

9. The provisions relating to handcuffing of prisoners in Delhi are laid down in Chapter XXVI of the Punjab Police Rules, rule 26.22. Rule 26.22 lays down as follows :

*"Conditions in which handcuffs are to be used*

26.22.(1) Every male person falling within the following category, who has to be escorted in police custody, and whether under police arrest, remand or trial, shall, provided that he appears to be in health and not incapable of offering effective resistance by reason of age, be carefully handcuffed on arrest and before removal from any building from which he may be taken after arrest :—

- (a) Persons accused of a non-bailable offence punishable with any sentence exceeding in severity a term of three years' imprisonment.
  - (b) Persons accused of an offence punishable under section 148 or 226, Indian Penal Code.
  - (c) Persons accused of, and previously convicted of, such an offence as to bring the case under section 75, Indian Penal Code.
  - (d) Desperate characters.
  - (e) Persons who are violent, disorderly or obstructive or acting in a manner calculated to provoke popular demonstration.
  - (f) Persons who are likely to attempt to escape or to commit suicide or to be the object of an attempt at rescue. This rule shall apply whether the prisoners are escorted by road or in a vehicle.
- (2) Better class under-trial prisoners must only be handcuffed when this is regarded as necessary for safe custody. When a better class prisoner is handcuffed for reasons other than those contained in (a), (b) and (c) of sub-rule (1) the officer responsible shall enter in the Station Daily Diary or other appropriate record his reasons for considering the use of handcuffs necessary."

10. The Committee noted that Shri Kansari Halder had been arrested in execution of a non-bailable warrant to stand a charge for criminal offence under sections 120B/302/436, Indian Penal Code, punishable with imprisonment for a term exceeding three years. His case therefore fell in the ambit of part (a) of Rule 26.22 (1) of the Punjab Police Rules.

The Committee are, therefore, of opinion that the police officers had committed no irregularity under the law in attempting to handcuff Shri Kansari Halder.

11. As regards the question whether a Member of Parliament who is under arrest on a criminal charge should be exempt from being handcuffed, the Committee reiterate the stand taken by the Committee of Privileges in the Deshpande Case wherein they observed:

"It has to be remembered that the fundamental principle is that all citizens including Members of Parliament have to be treated equally in the eyes of law. Unless so specified in the Constitution or in any law a Member of Parliament cannot claim any higher privileges than those enjoyed by any ordinary citizen in the matter of the application of the laws."

[C.B. No. 10, p. 4, para. 17.]

12. As regards the complaint of Shri Kansari Halder about the withholding of his letter addressed to Shri H. N. Mukerjee, M.P., by West Bengal jail authorities, it may be mentioned that Shri Halder was at the time of writing the letter an under-trial prisoner. Rule 682 of the Bengal Jail Code is therefore pertinent. Rule 682 of the Bengal Jail Code reads as follows:

"Unconvicted criminal prisoners and civil prisoners shall be granted all reasonable facilities at proper times and under proper restrictions for interviewing or otherwise communicating either orally or in writing with their relatives, friends and legal advisers."

The term "proper restrictions" occurring in this rule has not been defined in the section dealing with the "Special rules relating to under-trial and civil prisoners" in the Bengal Jail Code. It appears that the intention of the West Bengal Government in quoting Rules 676 and 1073 was perhaps to throw light on the interpretation of this term. In the absence, however, of any specific definition of the term "proper restrictions" being given in the Code, it becomes necessarily a matter of discretion with the executive authority to decide as to what are the "proper restrictions" in such cases.

13. Under Article 105(3) of the Constitution, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, have been equated, until defined by Parliament by law, with those of the British House of Commons, and of its members and committees as on the 26th January, 1950. No such legislation has so far been undertaken by Parliament in this country.

14. The following precedents pertaining to the British House of Commons may be mentioned:

(i) In the Ramsay case of the British House of Commons, Captain Ramsay who was in detention under Defence

Regulation 18B of the Defence (General) Regulations, 1939, wrote the following letter to the Speaker of the House of Commons, which was read out by the Speaker to the House on the 5th June, 1940:

"Dear Mr. Speaker,—I have now been for nearly a fortnight under preventive arrest with no charge whatever preferred against me. I claim, Sir, that this preventive arrest constitutes a grave violation of the privileges and vital rights of Members of this Honourable House, and beg that you will convey this my appeal to the House of Commons.

Yours sincerely,

(Sd.) ARCHIBALD RAMSAY."  
[361, H.C. Deb. 5s., Col. 825.]

This case was subsequently referred to the Committee of Privileges and Captain Ramsay was given "every facility in preparing his case and in submitting his case to the Committee". In fact, he was given "the widest opportunity of making his representations."

[367 H.C. Deb. 5s., Col. 933.]

It may, however, be stated that Sir John Anderson, Secretary of State for the Home Department, U.K., in answer to questions in the House and in his evidence tendered before the Committee of Privileges in Ramsay Case, deposed that "there was no difference in the treatment of Captain Ramsay from that which would have been accorded to any other person in similar circumstances."\* He also submitted that the "exceptional treatment in the matter of coming up to the House of Commons to study documents in the Library and so on" was "as a result of action taken by the Committee".

(ii) On the 3rd February, 1908, in the House of Commons, U.K., Mr. Swift Macneill, M.P., asked the Speaker as to whether Mr. Ginnell, M.P., who was in prison under a sentence of contempt of court, could have "free access to Parliamentary Papers and Reports, and whether he might communicate with the officials of the House in respect of putting down questions on the Paper, the Questions to be sent to the officials without the supervision of any prison officials reading them". The Speaker thereupon observed:

"The ordinary Papers which are issued to every Member of the House will be issued to the hon. Member for North

\*Minutes of Evidence taken before the Committee of Privileges in Ramsay case, P34, Paras 187-195; see also, 361 H. C. Deb. 5s., Col. 994 and 363 H. C. Deb. 5s., Col. 611.

Westmeath in the usual way. Whether he will be permitted to receive them, or whether he will be entitled to carry on any correspondence is a matter over which I have no control. That must be a matter of prison discipline. If the authorities of the prison in Ireland have no objection to the hon. Member sending Questions to the Table of the House, I have no objection to their appearing on the Paper, provided that it does not presuppose or necessitate the appearance of the hon. Member here. The House has been officially informed that the hon. Member cannot be present in his place for some little time, and therefore, it will be carrying things to an absurdity if his name appeared on the Paper and I should be asked to call upon him when it is known that he cannot be here to respond. But in other respects, as far as the Chair is concerned, there is no objection to his enjoying the usual privileges."

[183 H.C. Deb. 4s., Col. 539.]

Mr. Swift Macneill thereupon "referred to Unstarred Questions, and pointed out that personally he had asked several when he had been in Dublin. He thought that the same privilege should be given to Mr. Ginnell. Again, he had seen frequent notices of letters having been addressed to the Speaker from prisoners arrested for contempt of court. If Mr. Ginnell chose, therefore, to address a letter to the Speaker, he asked that the letter should not pass through the ordinary supervision of the prison officials."

The Speaker observed:—

"I have no control over the prison officials. If the letter reaches me I shall presume that the officials have passed it; in fact, I have received one letter from the hon. Member."

[183 H. C. Deb. 4s., Col. 540.]

15. The following cases from India are pertinent:

- (i) In the case of Shri K. Anandan Nambiar, the Madras High Court upheld the right of a detenu who is a member of legislature to correspond without let or hindrance with the Speaker and the Chairman of the Committee of Privileges. The Court observed:

"As long as a detenu continues to be a member of a legislature, drawing the emoluments of his office, receiving summons to attend, he is entitled to the right of correspondence with the legislature, and to make representations to the Speaker, and the Chairman of the

Committee of Privileges and no executive authority has any right to withhold such correspondence. \* \* \* This right, as it appears to us, flows not merely from principles of natural justice, which will be violated by such letters being withheld, but as a continuing member of the House, he would also appear to be entitled to this privilege under Art. 194(3) of the Constitution under which English Parliamentary Practice has to be followed until a law is enacted by the Legislature defining the powers, privileges, and immunities of the House, its Committees and its Members. Capt. Ramsay was permitted to correspond with the House of Parliament while under detention and was also given a personal hearing in an elaborate enquiry conducted by the Committee of Privileges. It is true that some early letters of the petitioner were forwarded to the House who sent him a reply but he is entitled to continue making further representations.

We accordingly declare the right of the petitioner as a Member of the Legislative Assembly to correspond without let or hindrance with the Speaker and the Chairman of the Committee of Privileges through the Secretary of the Legislature during his period of detention and issue a writ by way of *mandamus* directing the Chief Secretary to Government and the Superintendent of the Central Jail to forward to the House any letters from the petitioner held up on executive orders so that the Legislative Assembly may deal with them in accordance with Parliamentary law and practice prevailing in England by which the Legislature is bound."

[A.I.R., 1952, Madras, p. 119.]

- (ii) As a sequel to the above quoted judgment, it is understood, the Madras Government have incorporated the following provisions in rule 11(4) of the Madras Security Prisoners Rules, 1950:

"All communications addressed by a security prisoner who is a member of the State Legislature or of Parliament, to the Speaker or Chairman of the House of which he is a member, or to the Chairman of a Committee (including a Committee of Privileges) of such House, or of a Joint Committee of both Houses of the State Legislature or of Parliament, as the case may be, shall be immediately forwarded by the Superintendent of the Jail to the Government so as to be dealt with by

them in accordance with the rights and privileges of the prisoner as a Member of the House to which he belongs."

- (iii) The Speaker of the Punjab Vidhan Sabha, in a ruling given by him on the 25th October, 1957, in connection with a privilege issue, observed:

"The only privileges that a detained Member has are the privileges of having the factum of his arrest or detention communicated to the Speaker and of corresponding with the Legislature and of making representations to the Speaker etc., and no executive authority can withhold such correspondence."

16. It would be seen from the above that while the precedents in the British House of Commons indicate that a letter addressed by a Member in detention to the Speaker was passed on to the latter authority, there are no instances in respect of letters addressed by a Member in detention to another Member.

Similarly in the case of Shri K. Anandan Nambiar, the judgment of the Madras High Court mentions specifically only the right of a Member in detention to correspond "without let or hindrance with the Speaker and the Chairman of the Committee of Privileges through the Secretary of the Legislature". It however makes no mention of correspondence by a Member in detention with another Member of the House.

#### IV. RECOMMENDATIONS OF THE COMMITTEE

17. The Committee are of opinion that no breach of privilege was committed by the authorities concerned of West Bengal Government in withholding Shri Kansari Halder's letter to Shri Hirendra Nath Mukerjee, M.P.

18. The Committee recommend that the Ministry of Home Affairs may be moved to arrange for incorporation of provisions on the lines of Rule 11(4) of the Madras Security Prisoners' Rules 1950 in the Jail Codes, Security Prisoners' Rules etc., of State Governments and Centrally administered areas in respect of all communications addressed by a Member of Parliament, under arrest or detention or imprisonment for security or other reasons, to the Speaker of Lok Sabha or Chairman of Rajya Sabha, as the case may be, or to the Chairman of a Parliamentary Committee, or of a Joint Committee of both Houses of Parliament.

It may also be considered by the Ministry of Home Affairs whether in the interest of uniformity State Governments may be requested by that Ministry to make similar provisions in respect of Members of State Legislatures.

NEW DELHI;

*Dated the 16th April, 1958.*

HUKAM SINGH,

*Chairman,*

*Committee of Privileges.*

## SPEAKER'S ORDERS

### *Speaker's Orders on the Fourth Report of the Committee of Privileges*

The Committee may re-consider whether it would be desirable to provide that a Member of Parliament, who is under arrest on a criminal charge, should ordinarily be exempted from being handcuffed.

Sd/-. M. ANANTHASAYANAM AYYANGAR,  
5th May 1958.

# MINUTES

## I

### First Sitting

*New Delhi: Tuesday, the 19th November, 1957.*

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The Committee met from 16-00 to 16-40 hours.

#### PRESENT

1. Sardar Hukam Singh—*Chairman.*

2. Dr. P. Subbarayan

3. Shri Nemi Chandra Kasliwal

4. Shri N. M. Wadiwa

5. Shri Shivram Rango Rane

6. Shri Hirendra Nath Mukerjee

7. Shri Indulal Kanaiyalal Yajnik

8. Shri Bimal Comar Ghose

} *Members.*

#### SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary.*

2. The Committee considered the complaint of Shri Kansari Halder, M.P., against the behaviour of the Police authorities. The Committee directed that Shri Kansari Halder might be requested to appear before the Committee to give detailed information on the subject.

3. The Committee also directed that the Ministry of Home Affairs might be requested to furnish information about the circumstances of the release of Shri Halder and the reasons why that information had not been sent to the Speaker by the authority concerned in terms of Rule 230 of Rules of Procedure.

*The Committee then adjourned till 16-00 hours on Thursday the 21st November, 1957.*

## II

### Second Sitting

New Delhi: Thursday, the 21st November, 1957.

The Committee met from 16-00 to 17-15 hours.

#### PRESENT

1. Sardar Hukam Singh—*Chairman*.

2. Shri Asoke K. Sen

3. Dr. P. Subbarayan

4. Shri Nemi Chandra Kasliwal

5. Shri N. M. Wadiwa

6. Shri Shivram Rango Rane

7. Shri Hirendra Nath Mukerjee

8. Shri Indulal Kanaiyalal Yajnik.

} *Members.*

#### SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary*.

2. The Committee considered the complaint of Shri Kansari Halder, M.P., against the alleged misbehaviour of police authorities.

3. The Committee noted that no breach of privilege had been committed by the authorities concerned in not sending the intimation of release of Shri Kansari Halder on bail pending trial, to the Speaker.

4. The Committee noted that the police officers had committed no irregularity under the law in attempting to handcuff Shri Kansari Halder.

5. The Committee directed that Shri Kansari Halder might be called in to give detailed information in regard to the alleged

withholding of his letter addressed to Shri Hirendra Nath Mukerjee, M.P., by the authorities concerned.

6. Shri Kansari Halder was called in and examined by the Committee.

*(Shri Kansari Halder then withdrew)*

7. The Committee directed that the facts in regard to the complaint of Shri Kansari Halder about the alleged withholding of his letter addressed to Shri Hirendra Nath Mukerjee might be obtained from the authorities concerned.

### III

#### Third Sitting

New Delhi, Monday, the 31st March, 1958.

The Committee met from 15-30 to 16-05 hours.

#### PRESENT

1. Sardar Hukam Singh—*Chairman*

2. Shri Satya Narayan Sinha

3. Dr. P. Subbarayan

4. Shri Nemi Chandra Kasliwal

5. Shri N. M. Wadiwa

6. Shri Shivram Rango Rane

7. Shri Indulal Kanaiyalal Yajnik.

Members

#### SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary.*

2. The Committee considered the complaint of Shri Kansari Halder, M.P., regarding the withholding of his letter addressed to Shri Hirendra Nath Mukerjee, M.P., by West Bengal Jail authorities, in the light of information supplied by the Ministry of Home Affairs, and came to their conclusions.

3. The Committee decided that the draft Report of the Committee be considered at their sitting to be held on Saturday, the 5th April, 1958 at 15-30 hours.

*The Committee then adjourned till 15-30 hours on Saturday, the 5th April, 1958.*

## IV

### Fourth Sitting

*New Delhi, Saturday, the 5th April, 1958.*

The Committee met from 15.30 to 15.45 hours.

#### PRESENT

- |  |   |                |
|--|---|----------------|
| 1. Sardar Hukam Singh— <i>Chairman</i> | } | <i>Members</i> |
| 2. Dr. P. Subbarayan                   |   |                |
| 3. Shri Nemi Chandra Kasliwal          |   |                |
| 4. Shri N. M. Wadiwa                   |   |                |
| 5. Shri Shivram Rango Rane             |   |                |
| 6. Shri Hirendra Nath Mukerjee         |   |                |
| 7. Shri Indulal Kanaiyalal Yajnik      |   |                |
| 8. Shri Shraddhakar Supakar.           |   |                |

#### SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary.*

2. The Committee deliberated upon the draft report relating to the complaint of Shri Kansari Halder, M.P., about the alleged attempt of Police authorities in Delhi to handcuff him and the withholding of his letter addressed to Shri H. N. Mukerjee, M.P., by West Bengal Jail authorities.

3. The Committee decided to further consider the draft report at their next sitting.

*The Committee then adjourned.*

**Fifth Sitting**

*New Delhi, Wednesday, the 16th April, 1958.*

The Committee met from 16-00 to 16-45 hours.

**PRESENT**

- |  |   |                 |
|--|---|-----------------|
| 1. Sardar Hukam Singh— <i>Chairman</i> | } | <i>Members.</i> |
| 2. Pandit Munishwar Dutt Uppadhyay     |   |                 |
| 3. Shri Shivram Rango Rane             |   |                 |
| 4. Shri Hirendra Nath Mukerjee         |   |                 |
| 5. Shri Indulal Kanaiyalal Yajnik.     |   |                 |

**SECRETARIAT**

Shri Avtar Singh Rikhy—*Deputy Secretary.*

2. The Committee deliberated upon the draft report and adopted it with the following amendment :—

“That the words ‘of which he may be a member’ shall be deleted from the last sentence of the main para 18 of the draft report.”

*The Committee then adjourned sine die.*

MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE OF  
PRIVILEGES

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Thursday, the 21st November, 1957.

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MEMBERS PRESENT

1. Sardar Hukam Singh (*Chairman*)
2. Shri Asoke K. Sen
3. Dr. P. Subbarayan
4. Shri Nemi Chandra Kasliwal
5. Shri N. M. Wadiwa
6. Shri Shivram Rango Rane
7. Shri Hirendra Nath Mukerjee
8. Shri Indulal Kanaiyalal Yajnik.

SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary*.

WITNESS

Shri Kansari Halder, M.P.

(The Committee met at 16.00 hours.)

EVIDENCE OF SHRI KANSARI HALDER

**Mr. Chairman:** Now, we may call Shri Halder to find out the facts.

**Shri A. K. Sen:** When was the first occasion that he complained about non-delivery of the letters?

**Deputy-Secretary:** We received a letter on 14th October. He was arrested on 21st August.

**Mr. Chairman:** Mr. Halder, you have complained that you wrote a letter when you were in the police custody to Shri Mukerjee, and that letter has not reached Shri Mukerjee. Where did you write that letter? Where were you when you wrote this letter?

**Shri Halder:** I wanted to convey that letter to the Speaker through Shri Hiren Mukerjee.

**Mr. Chairman:** Where were you then?

**Shri Halder:** Then I was in the Presidency Jail, Calcutta.

**Shri Yajnik:** Not in Delhi.

**Shri Halder:** No.

**Mr. Chairman:** Do you recollect the date on which you had written that letter?

**Shri Halder:** Roughly in the first week of September.

**Mr. Chairman:** It was in the first week of September that you wrote that letter?

**Shri Halder:** Yes.

**Mr. Chairman:** When did you reach the Presidency Jail in Calcutta?

**Shri Halder:** I reached the Presidency Jail, Calcutta, on 26th August.

**Mr. Chairman:** Did you get the permission of the jail authorities to write that letter?

**Shri Halder:** Yes, Sir. They gave me permission to write, and in my convict ticket, they entered it.

**Mr. Chairman:** That must have been entered.

**Shri Halder:** They also showed me the letter.

**Mr. Chairman:** Then you must have delivered it to the jail authorities to be posted.

**Shri Halder:** Yes; they also told me that "see your ticket. We have already sent it to the person addressed".

**Mr. Chairman:** They told you that they had posted it or sent it to the addressee for whom it was meant,—here, to Shri Mukerjee. They informed you that also?

**Shri Halder:** Yes.

**Shri Kasliwal:** To what address did you send that letter?

**Mr. Chairman:** The question is, whether Mr. Mukerjee was in Delhi and you addressed it to his residence or to some other place.

**Shri Halder:** I addressed it to Delhi.

**Mr. Chairman:** What address was written?

**Shri Halder:** I forgot Mr. Mukerjee's address in North Avenue. I addressed it to the Parliamentary Office.

**Mr. Chairman:** This was addressed to the Parliamentary Office of the Communist Party in Windsor Place.

**Shri Halder:** I addressed it to Shri Hiren Mukerjee.

**Shri A. K. Sen:** You put the address 2, Windsor Place?

**Shri Halder:** Yes.

**Mr. Chairman:** Did you enquire from your Parliamentary Office whether they had received that letter or not?

**Shri Halder:** No. They did not receive it.

**Mr. Chairman:** How are you satisfied that it was not misplaced in the Parliamentary Office? There are three alternatives whether it was the negligence of the jail authorities that they did not post it or whether the postal authorities intercepted it and did not deliver it or whether it was the negligence of your Parliamentary Office. It might have been lost there. Can you give us any reasons why you come to this conclusion that it is the negligence of the police that they have not allowed this letter to reach Mr. Mukerjee or it must have been intercepted by the postal authorities? As I have told you, there can be three possibilities. Either the jail authorities might not have posted it at all or the postal authorities might have withheld it. It was not registered?

**Shri Halder:** No.

**Mr. Chairman:** So, it was ordinary post. The postman might have left it at the office and there might have been some negligence there; they might have lost it.

**Shri Halder:** I am convinced because I addressed two other letters, one to the Secretary, Communist Party, 24 Parganas District that was duly delivered. In that letter, I only mentioned, "Send me white papers and clothing". I wrote also another letter to Shri Jyoti Basu, the Leader of the Opposition in the Bengal Assembly. But that letter was not delivered. In that letter, I complained about the jail administration in West Bengal, particularly in the Presidency Jail. I did not

actually complain, but I gave some advice about food that the authorities in jails were wasting and they took it for a complaint. Perhaps for that reason that letter was not delivered to Jyoti Basu. Due to these reasons I came to the conclusion that this letter was not at all delivered to Mr. Mukerjee also.

**Mr. Chairman:** This is your guess or conjecture, the impression that you have gained from that. Because you had said something against the police in that letter which you addressed to Mr. Mukerjee, your fears are that perhaps on that account, that letter has not been delivered to Mr. Mukerjee.

**Shri Halder:** Yes.

**Mr. Chairman:** In the case of the two instances which you gave, those letters were to be delivered in Calcutta. One was delivered and the other was not delivered, but they were to be delivered in Calcutta. I am asking you whether you can give us any reasons on which we should preclude this possibility altogether that there has been no negligence so far as the Parliamentary Office was concerned, because it would be difficult to trace the letter itself. We can hold the police or the postal authorities responsible only when we are convinced that there is no negligence anywhere else. If there is a possibility of some negligence elsewhere also, we cannot say that a particular agency is responsible. Am I right?

**Shri Yajnik:** Yes.

**Shri A. K. Sen:** In your letter addressed to Mr. Mukerjee, you did not mention anything about the other letters you wrote?

**Shri Halder:** I did not mention anything. I may clear myself about this matter. I was a convict....

**Mr. Chairman:** You are not a convict; you are under-trial.

**Shri Halder:** I was still in prison and for that reason, the jail authorities passed on my letters to the special branch. The special branch sent my letters to the Home Ministry of the West Bengal Government. Only from there they are to be sent to other places. There was also a letter addressed by me to Shri Bhupesh Gupta, Leader of the Opposition, Rajya Sabha, which was not delivered.

I thought that once my letter was passed on to the special branch and again to the Home Department....

**Mr. Chairman:** There is no possibility of its reaching here?

**Shri Halder:** Yes.

**Mr. Chairman:** Your argument is that because it has to go to several agencies or authorities, therefore it could not reach Mr. Mukerjee. But if another letter which has passed through all these agencies and has reached the addressee, why not this? When we enquire from them, if they admit that they had withheld it, then there would be a case for our proceeding with them and saying, "Why was it withheld?" That would be a different affair. But that would be done only if they admit that they have withheld it. But if we are told that they had gone in the ordinary course and delivered it there, what shall we do in that case? We are taking into consideration all possibilities. It is all right if they say that they have withheld it. In that case, certainly you can say that we can proceed against them. But if they do not admit, what shall we do? Is there anything which we can confront them with to say, "No; it has not been delivered." This is what I wanted to find out.

**Shri Halder:** I have come to this conclusion that it is due to some political reasons. Why I say 'political' is, some special policemen are following me in Calcutta day and night. There is one car from the special branch which is following me day and night. I protested before the Special Judge of Alipore. They enquired about this and then the Public Prosecutor totally denied my complaint.

But it was printed in a newspaper. The card number was printed in a newspaper of Calcutta, and I placed that paper in the court and it is also with me.

**Shri A. K. Sen:** But how can that be more worthy of treatment than your own statement?

**Mr. Chairman:** We agree there. We put our difficulty before you. Even conceding all that,—we believe you—that you were being harassed, pursued, haunted, admitting all these facts, this cannot be advanced by us as grounds for believing that the letter has not been delivered. We want you to help us with reasons on which we might conclude that the letter has not reached its destination.

**Shri A. K. Sen:** Or that it was deliberately stopped. Did you use an envelope?

**Shri Halder:** I had no opportunity to register it. I did send it in an envelope. All political prisoners are given envelopes by the jail authorities.

**Shri A. K. Sen:** You wrote out the address on the envelope yourself?

**Shri Halder:** Yes. I did.

**Shri A. K. Sen:** You closed it. Then what did you do?

**Shri Halder:** I sent it to the Jail Superintendent.

**Shri A. K. Sen:** Through whom?

**Shri Halder:** Through one warder of the jail.

**Shri A. K. Sen:** You did not send it through others. Did you take a receipt from the warder?

**Shri Halder:** They showed my jail ticket in which it was duly entered.

**Mr. Chairman:** Who showed that ticket to you?

**Shri Halder:** Jailor.

**Mr. Chairman:** Do you recollect his name. We might particularly ask him that.....

**Shri Yajnik:** That would be found out.

**Mr. Chairman:** If he denies or if they conceal that.

**Dr. P. Subbarayan:** If he says that he posted it.....

**Shri Yajnik:** It will be in the ticket. I wanted to know whether all the three letters were sent on the same day or on separate days.

**Shri Halder:** On separate days.

**Shri Yajnik:** On that day, you did not send any other letters? These two other letters—were they sent on different days—before or after?

**Shri Halder:** I do not remember. On different days.

**Shri Yajnik:** All the three are put on the book?

**Shri Halder:** Yes; all.

**Mr. Chairman:** There is restriction on the number of letters that a person can write. Perhaps for those that have not been convicted, they get one letter a week and the convicted man gets one letter a month or a fortnight.

**Shri Halder:** As for Members of Parliament, they can write as many letters as they like.

**Dr. P. Subbarayan:** You addressed the letter on different days?

**Shri Halder:** Yes.

**Shri A. K. Sen:** You have not addressed your letters to your relations?

**Shri Halder:** I have relations no doubt, but I did not write any letter to any of my relatives.

**Shri Yajnik:** But you must have written to the lawyers.

**Shri A. K. Sen:** During your detention.

**Shri Halder:** During the whole of my underground life for ten years.

**Mr. Chairman:** We are talking of this detention only.

**Shri Halder:** I did not write.

**Dr. P. Subbarayan:** This time, it is an arrest.

**Mr. Chairman:** That is a technical term. For Preventive Detention, we are talking of an under-trial prisoner.

**Shri Yajnik:** Have you written any other letters before or after, excepting these two, which, in your opinion have been intercepted?

**Shri Halder:** No.

**Shri Yajnik:** You were defended by lawyers?

**Shri Halder:** No letter was intercepted. I wrote several letters to lawyers.

**Mr. Chairman:** All were delivered except these two letters.

**Dr. P. Subbarayan:** Except those two letters—to the Bengal Opposition leader and to Shri Mukerjee.

**Shri Halder:** I shall mention—though I did not mention in my letter also—that I wrote another letter to Shri Bhupesh Gupta. That was also not delivered.

**Shri Yajnik:** To what address?

**Shri Halder:** To Bhupesh Gupta's address—13-D, Ferozeshah Road.

**Mr. Chairman:** Our difficulty is that a particular point of breach of privilege has been referred to this Committee. We have to find out only on that.

**Shri H. N. Mukerjee:** In this letter to me, did you refer to all kinds of matters, political and otherwise, or did you only refer to your being in jail and the desirability of my doing something by way of intimating to the Speaker about it? What was the kind of contents

there, to warrant a suspicion that the police might have looked upon as undesirable? Was it a straightforward statement about how you were? Was it that you wanted the fact of your being there being communicated to the Speaker, or, did you discuss any kind of political things?

**Shri Halder:** In that letter I complained against the police.

**Mr. Chairman:** About handcuffing.

**Shri Halder:** And against the A.D.M. of Delhi.

**Dr. P. Subbarayan:** There was no handcuffing.

**Shri Halder:** There was an order for handcuffing. I protested.

**Dr. P. Subbarayan:** When you protested you were not handcuffed.

**Mr. Chairman:** Do you have a copy of the letter that was sent to Shri Mukerjee?

**Shri Halder:** No. That is not allowed by the jail authorities.

**Mr. Chairman:** You only mentioned a grievance that you had against the police and the A.D.M. about the treatment that had been meted out to you. The A.D.M. has directed the police that they might handcuff you because you had made a remark that this was the law of the land and the police had threatened to handcuff you. This was your complaint, and these two facts you had mentioned in that letter which you addressed to Shri Mukerjee. Nothing else?

**Shri Halder:** No, nothing else.

**Mr. Chairman:** Did you write to Shri Mukerjee that he should take up this case with the Speaker?

**Shri Halder:** Yes.

**Shri H. N. Mukerjee:** Could you give us an idea as to why you did not write straight to the Speaker which would have helped matters perhaps?

**Shri Halder:** I thought that I was in jail and in jail custody. Then, it is better to represent the case to Shri Mukerjee. It is easier for him to represent my case and it is impossible.....

**Mr. Chairman:** He wanted an advocate

**Shri H. N. Mukerjee:** With dismal results!

**Mr. Chairman:** I think that is enough. With regard to the hand-cuffing, we might ask the Government and they will enquire from the jail authorities and give those facts. Let those facts come.

**Shri Yajnik:** You will have the whole statement recorded and sent. He says it has been put down in the jail ticket also.

**Mr. Chairman:** That is being recorded. A copy of the statement will be sent along with the request that the facts might be sent to us. They will have to give all those replies to those facts. He states that it was entered in the list. So, they will tell us something. If it is entered, they take upon the responsibility for passing it on further. We will know it.

**Shri Halder:** I had a note-book with me with copies of the letters which I wrote from the jail and it was passed by the jail authorities. It may be in my custody in Calcutta. I shall enquire.

**Mr. Chairman:** You do not carry your note-books with you—on so important things which you have to complain about.

**Shri Halder:** It may be.

**Shri A. K. Sen:** How big is this note-book?

**Shri Halder:** Small half-size foolscap paper.

**Shri A. K. Sen:** How can you keep copies of letters in that?

**Mr. Chairman:** This is what he says: that the jail authorities saw and even allowed that to be taken out.

**Shri Halder:** They passed it. Not so small, but it is just like half-size foolscap paper.

**Mr. Chairman:** They must have looked into it, that it contained a copy of the letter to Shri Mukerjee. Did they look into it?

**Shri Halder:** Yes; there are entries.

**Mr. Chairman:** All these writings were seen?

**Shri Halder:** They read every line and every word and they marked it and then passed it.

**Shri Yajnik:** No difficulty in passing, if it is just a copy of the letter to the authorities.

**Shri Yajnik:** The jail authorities might have passed it on to some other authority and they might not have known about it. In Government, one man does not know what the other does.

Let us now revert to the other question about his release.

**Mr. Chairman:** We shall take it up with the Rules Committee. Mr. Halder, are there any papers which you want to give to the Committee?

**Shri Halder:** No, Sir.

*(Shri Kansari Halder then withdrew.)*

## APPENDICES

### APPENDIX 'A'

(See para. 1 of Report)

#### MEMBER OF THE LOK SABHA

To

The Speaker,  
Lok Sabha.

Sir,

I write to you about a matter which agitates me greatly and which, I feel, should be placed by you before the Committee of Privileges, apart from such other steps as you, in your capacity of guardian of the rights of Lok Sabha members, may decide to adopt.

I was elected to Lok Sabha from Diamond Harbour Constituency during the last General Elections and duly made my affirmation and took my seat. On account of ill-health, I could attend the session somewhat fitfully and was very often absent.

It appears that a warrant from the West Bengal Government was pending against me, and in execution of it I was arrested in the premises of the Communist Party's Parliamentary Office on the 21st August, at 6 P.M. after attending that day's session was over. It will be noted that whenever I attend Parliament I was moving about freely, or I would not have been present in such a public place as the Communist Party's Parliamentary Office. On my part, I wish here to state, there was no effort to evade service on me of the warrant of arrest.

I was kept in police custody in Delhi for four days, and was produced before Additional District Magistrate on the 24th August. At that time, however, attempts were made to put handcuffs on my wrists. I vehemently objected and pointed out that as I was being prosecuted on a political charge, handcuffing was extremely improper and I would not tolerate it. I added that as a Member of Parliament I was certainly entitled to expect the courtesies ordinarily extended to political offenders. The Additional District Magistrate, Mr. S. Hossain,

however appeared to take a different view and said that handcuffing of accused persons was part of "the law of the land". I was astonished to hear this and protested strongly. Perhaps fearing I might resist further, and the repercussions might be unpleasant, the handcuffs were not actually put on my wrists, but I feel I was deliberately and unwarrantedly humiliated, and that humiliation affected not me personally so much as the dignity of Parliament to which my people elected me with a very large majority.

When I was in police custody and these extraordinary humiliations were being poured on me, I wrote a letter to the deputy leader of my party in Lok Sabha, Shri Hiren Mukerjee, M.P., detailing the incidents and requesting that the matter be taken up with you or in any manner conformable with parliamentary practices and conventions. I did not write to you directly at that time because I thought that you would come to be informed of my predicament by Shri Hiren Mukerjee. I have now learnt that the said letter never reached Shri Mukerjee. This means that the authorities must have held it up. I feel this is unwarrantable interference with the rights of a member of Parliament who writes from prison to one of his leaders in the House in order that his privileges are not disregarded by the executive.

I would request you to be kind enough to consider carefully the facts I have placed before you. I am prepared to see you and give you whatever other details you may require. I would further request you that you please have the matter referred to the Committee of Privileges so that members of Parliament placed similarly like myself, may not be denuded by the executive of the ordinary rights of the citizen, not to speak of the privileges of Parliament membership.

Yours faithfully,

Sd/- KANSARI HALDER.

## APPENDIX 'B'

[See paras. 1 and 8(i) of Report]

Comrade Hiren Mukherji,  
Deputy Leader,  
Communist Parliamentary Party,  
2, Windsor Place,  
New Delhi.

Dear Comrade,

On 24th August last when I was produced before the Additional District Magistrate, Delhi, Mr. Safik Hosen, he ordered me to be sent to Calcutta handcuffed. Not knowing exactly what is there in law about the use of handcuffs I told him that I am at present a member of the Lok Sabha. I had attended the first session and was attending the second. Hence, the question of my going underground once again could not arise at all. He then said to me that that is the law at present. It should therefore be obeyed.

Thereupon, the Police Sub-Inspector made an attempt to handcuff me forcibly but refrained from doing so on my protesting vehemently. After that, when I was taken to the Delhi Civil Line Lock-up, the police officers there said that there was no rule permitting the handcuffing of the first and second class prisoners. On the day following this, at the time of taking me to the Delhi Railway Station, the police officer, in whose custody I was, requested me to put on the handcuffs for at least a while, just to make a show of it before the superior I.B. Officers.

I refused to comply for the simple reason that it was not possible for any worker belonging to any political party to tolerate any such dishonourable act.

When there is no provision in the law at present for applying handcuffs, how is it that the Magistrate at Delhi passed such an order in spite of his having placed me in the category on first class political prisoners? As far as I remember it was this Magistrate of Delhi who was entrusted with the task of instituting an elaborate enquiry into the case of firing on the scavengers of Delhi. Is there any

chance of even the value of life being recognised by such a class of rulers, not to speak of the personal liberty of the people at large?

I, therefore, think that it will be proper to raise a question in the Parliament on this point. Had anybody met me while I was being brought from Delhi, I might have told him everything in detail. I failed in my attempt to contact you over the phone from the Delhi Jail. I hope you will let me know what you have got to say about this matter.

With regards,

Sd/- KANSARI HALDER.  
Division No. 477/512.

APPENDIX 'C'

[See para. 7(iii) of Report]

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GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

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Reference correspondence resting with our U.O. No. 35/1/57-P. II, dated 21st November 1957, regarding the arrest and release of Shri Kansari Halder, Member, Lok Sabha.

2. A copy of letter No. 526/III Spl., dated 22nd November, 1957, received from the Judge, 3rd Tribunal, Alipore, is enclosed for information. The explanation furnished by the Judge, 3rd Tribunal, Alipore, with regard to non-intimation to the Speaker, of the fact of release on bail pending trial of Shri Kansari Halder appears to be in accordance with the rules on the subject. Rule 230 of the Rules of Procedure and Conduct of Business in the Lok Sabha does not make it incumbent upon the authority concerned to intimate the fact regarding the release of a Member of Parliament on bail pending trial, to the Speaker. The question of issue of suitable instructions in this regard to the various State Governments, as desired by the Lok Sabha Secretariat *vide* their U.O. No. 741-CI/57, dated the 20th September, 1957, is still under consideration in consultation with the Ministry of Law.

Sd/-  
(P. L. CHHABRA)  
*Under Secretary.*

Lok Sabha Secretariat (Shri Avtar Singh Rikhy)

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M.H.A. U.O. No. 35/1/57-P-II, dated the 14-12-1957.

**Enclosure to Appendix 'C'**

Memo. No. 526/III Spl.

From

Sri A. K. Sen Gupta,  
Judge, 3rd Tribunal,  
Alipore.

To

The Secretary, Home Department,  
Government of India,  
New Delhi.

*Dated Alipore, 22nd November, 1957.*

Sir,

With reference to your Radiogram Message No. 35/1/57-P. II, dated 20th November, 1957, I am to state that Sri Kansari Halder, Member, Lok Sabha, was released on bail on 28th September, 1957, during the pendency of the trial in pursuance of the order of the Hon'ble High Court. Inasmuch as the release on bail was made during the trial and not after conviction, pending appeal, the fact, it appears was not intimated to the Speaker, Lok Sabha.

Yours faithfully,

Sd/- X

*Judge, Third Tribunal,  
Alipore.*

APPENDIX 'D'

[See para. 8 (ii) of Report]

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**Copy of the secret letter No. 38-H.J., dated the 7th January 1958 from the Government of West Bengal addressed to the Ministry of Home Affairs, New Delhi.**

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**SUBJECT:—Arrest and release of Shri Kansari Halder, Member, Lok Sabha.**

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I am directed to refer to the Ministry of Home Affairs letter No. 35/1/57-P. II, dated the 10th December, 1957, and to state that the letter addressed to Shri Hirendra Nath Mukerjee, M.P., by Shri Kansari Halder, M.P., while in custody as an under-trial prisoner in Presidency Jail, was withheld in the public interest under the provisions of the Jail Code by order of the State Government. I am to add that another letter written by Shri Kansari Halder to Shri Khagendranath Roy Chowdhury, M.L.A., was not withheld but was forwarded to the addressee in due course.

**APPENDIX 'E'**

[See para. 8 (iii) of Report]

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**MINISTRY OF HOME AFFAIRS  
(Police—II—Section)**

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**SUBJECT:—Arrest and release of Shri Kansari Halder, M.P.—  
Withholding of his letter addressed to Shri H. N.  
Mukerjee, Member, Parliament.**

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Reference correspondence resting with Shri Avtar Singh Rikhy's D.O. No. Nil, dated the 7th March, 1958, on the subject noted above.

2. Shri Halder's letter, in original, together with an English translation thereof, received from the Government of West Bengal, is enclosed.

3. As desired, a copy of the Bengal Jail Code—Volume I (complete with up-to-date correction slips) is also sent herewith. The State Government have, in this connection, invited attention to Rules 682, 1073 and 676, which contain the necessary provisions on the subject.

Sd/-  
(J. N. DHAMIJA)

*Deputy Secretary*  
Tele. No. 31357.

Lok Sabha Secretariat (Shri Avtar Singh Rikhy)  
M.H.A.U.O. No. 35/1/57-P-II, dated 12-3-1958.

## APPENDIX 'F'

[See para. 8 (iii) of Report] .

*Extracts from the 'Bengal Jail Code', Vol. I*

(FROM CHAPTER XVII—INTERVIEWS AND COMMUNICATIONS)

(*General Rules*)

676. No letter shall be delivered to or sent by a convicted prisoner until it has been examined and initialled by the Superintendent or by the Jailor or other officer under the Superintendent's orders, but no unnecessary delay should be allowed to occur in delivery or despatch. If a letter is written in a language unknown to the Superintendent, he shall take steps to procure a translation before forwarding the letter. No letter written in cipher shall be allowed. The Superintendent may withhold any letter which seems to him to be in any way improper or objectionable, or may erase any improper or objectionable passages. The Superintendent is authorised to pay the postal charges on unstamped or insufficiently stamped letters addressed to prisoners who have no cash to their credit under the head "prisoners' property".

(*Special Rules relating to under-trial and Civil prisoners*)

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682. Unconvicted criminal prisoners and civil prisoners shall be granted all reasonable facilities at proper times and under proper restrictions for interviewing or otherwise communicating either orally or in writing with their relatives, friends and legal advisers.

(FROM CHAPTER XXXV—RULES FOR THE TREATMENT OF PRISONERS IN DIVISIONS I AND II)\*

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1073. *Letters and communications.*—No letters or communications from or to prisoners in Divisions I and II shall be permitted, but well-conducted prisoners may be allowed to write one letter to their relatives or friends once a fortnight and to receive any number of letters under the same conditions as those applicable to interviews. On urgent occasions, e.g., a death or serious illness in the family, this rule may be relaxed at the discretion of the Superintendent. The

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\*Prisoners in Divisions I and II are convicted prisoners under rule 617

subject matter of all letters must be limited to private matters and there must be no reference to jail administration and discipline, to other prisoners or to politics. Such letters will be subject to the censorship of the Superintendent, who may, if he has any doubts regarding any letters, forward them to the Criminal Investigation Department for scrutiny. Similarly, that Department may call for the letters of any prisoner in Division I or II for examination.

*Note.*—A prisoner may, with the permission of the Superintendent, substitute a letter with reply for an interview or *vice versa*.