

COMMITTEE OF PRIVILEGES

FIRST REPORT

(Second Lok Sabha)

(Laid on the Table on the 12th September, 1957)



LOK SABHA SECRETARIAT

NEW DELHI

September 1957

Price : 30 nP.

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.

SECRETARIAT

1. Shri N. C. Nandi—*Deputy Secretary*.
2. Shri Avtar Singh Rikhy—*Deputy Secretary*.

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**FIRST REPORT OF THE COMMITTEE OF PRIVILEGES
(SECOND LOK SABHA)**

I, the Chairman of the Committee of Privileges, submit this report to the Speaker in the following three cases, which were referred to the Committee by the Speaker on the 7th September, 1957:—

- (i) The Additional Magistrate, 1st Class Tiruchirappalli, has sent a summons (See Appendix 'A') addressed to the Speaker, "to cause the production of the letter (See Appendix 'B') dated the 20th December, 1956, signed by accused R. Govindan and addressed to Shri H. V. Kamath then Member of Lok Sabha and passed on to the Speaker on the floor of the House during discussion of Ariyalur Train Disaster." The document is required in connection with a defamation case filed by Shri P. K. Madhava Menon, Divisional Superintendent, Southern Railway, Tiruchirappalli against Shri R. Govindan.

The document was required to be produced in the Court on the 7th September, 1957, but the Court has been requested (See Appendix 'C') to postpone the case till the decision of the Speaker is communicated.

The facts of the case are given in Appendix 'D'.

- (ii) The Registrar, City-Sessions Court, Bombay has sent a letter (See Appendix 'E') to the Secretary, Lok Sabha, requesting him to send a responsible officer for giving evidence in the court, supported by Register or relevant documents to show the dates of the sessions of Lok Sabha in December, 1950, January, February and March, 1951, and to show dates on which Shri Damodar Swarup Bahadurmal Seth, an accused, in a case before the court, attended the sessions of Lok Sabha.

The evidence was required to be given in the Court on the 9th September, 1957, but the Court has been requested (See Appendix 'F') to postpone the case till the decision of the Speaker is communicated.

- (iii) Sarvashri A. B. Vajpayee and Shivadin Drohar, Members of Lok Sabha, have sent letters (See Appendices 'G' & 'H') requesting for supply of certified copies of answer to Unstarred Question No. 965 given on the 27th August, 1957. The document is required for production in Courts in connection with election petitions. The

document, certified copies of which are required by the Members, is incorporated in the proceedings of the House dated 27-8-1957 (See Appendix 'I').

2. The common question in the three cases referred to above pertains to the procedure to be adopted for producing documents connected with the proceedings of the House before the Courts. This question was considered by the Committee at their sitting held on the 11th September, 1957.

3. There is no specific rule in the Rules of Procedure and Conduct of Business in Lok Sabha regarding the production of documents connected with the proceedings of the House before the Courts. Rule 383 relating to custody of papers of Lok Sabha reads as under:—

“The Secretary shall have custody of all records, documents and papers belonging to the House or any of its Committees or Lok Sabha Secretariat and he shall not permit any such records, documents or papers to be taken from the Parliament House without the permission of the Speaker.”

4. In the United Kingdom, the position has been described by May as follows:—

“...the usage of Parliament according to which no Member is at liberty to give evidence elsewhere in relation to any debates or proceedings in Parliament, except by leave of the House of which he is a Member has been held to apply also to officers and officials of either House.

The rights of the House are even further safeguarded by the resolution of session 1818 which directs that no clerk or officer of the House, or shorthand writer employed to take minutes of evidence before the House, or any committee thereof, shall give evidence elsewhere, in respect of any proceedings or examination had at the bar, or before any committee of the House, without the special leave of the House. Parties to a suit who desire to produce such evidence, or any other document in the custody of officers of the House, must accordingly petition the House, praying that the proper officer may attend and produce it; and the term ‘proper officer’ includes an official shorthand writer. The motion for leave may be moved without previous notice. During the recess, however, it has been the practice for the Speaker, in order to prevent delays in the administration of justice, to allow the production of minutes of

evidence and other documents, on the application of the parties to a private suit. But should the suit involve any question of privilege, especially the privilege of a witness, or should the production of the document appear on other grounds, to be a subject for the discretion of the House itself, he will decline to grant the required authority. During a dissolution the Clerk of the House sanctions the production of documents following the principle adopted by the Speaker."

[May's, 15th Edn., pp. 62-63.]

As regards the procedure, it is further stated by May that "on the presentation of a petition for the production of evidence in the possession of the House, unless objection be taken, a motion is made to carry out the object of the petitioners" (See Appendix 'J').

[May's, 15th Edn., p. 378.]

According to May, the practice of the House of Commons regarding giving of evidence in Courts touching the proceedings of the House conforms to Article 9 of the Bill of Rights under which Parliament has exclusive jurisdiction over its internal proceedings.

[May's, 15th Edn., p. 62.]

5. The Practice obtaining in the House of Representatives, U.S.A., is as under :—

"...in maintenance of its privilege the House has refused to permit the Clerk to produce in Court, in obedience to a summons, an original paper from the files, but gave the court facilities for making copies."

[Jefferson's Manual, 1957, p. 122.]

"No officer or employee, except by authority of the House, should produce before any court a paper from the files of the House, nor furnish a copy of any paper except by the authority of the House or a Statute."

[Jefferson's Manual, 1957, p. 122.]

"The Secretary of the Senate being subpoenaed to produce a paper from the files of the Senate, permission was given him to do so after a discussion as to whether or not he was exempted by privilege from the process."

[Hinds' Precedents, Vol. III, 2666.]

6. Similarly, in the House of Representatives, Australia, House of Assembly, South Africa, House of Representatives, New Zealand and the Dail Eireann, a document relating to proceedings of

the House can be produced in a Court of Law with the prior permission of the House on a motion made by a Member. The detailed procedure in those Houses may be seen at Appendices, K, L, M, and N respectively.

7. It would be seen from the above that the general parliamentary practice is that any document relating to the proceedings of the House or any committee of the House or in the custody of the officers of the House, cannot be produced in a Court of Law by a member or officer of the House without the leave of the House being first obtained. The House generally, however, grants such permission unless the matter involves any question of privilege.

8. In view of the above, the Committee are of the opinion that no member or officer of the House should give evidence in a Court of Law in respect of any proceedings of the House or any Committee of the House or any other document connected with the proceedings of the House or in the custody of the Secretary of the House without the leave of the House being first obtained.

When the House is not in session, the Speaker may in emergent cases allow the production of the relevant documents in Courts of Law in order to prevent delays in the administration of justice and inform the House accordingly of the fact when it reassembles. In case, however, the matter involves any question of privilege, especially the privilege of a witness, or in case the production of the document appears to him to be a subject for the discretion of the House itself, he may decline to grant the required permission and refer the matter to the Committee of Privileges for examination and report.

9. The Committee recommend that, whenever any document relating to the proceedings of the House or any committees thereof is required to be produced in a Court of Law, the Court or the parties to the legal proceedings should request the House stating precisely the documents required, the purpose for which they are required and the date by which they are required. It should also be specifically stated in each case whether only a certified copy of the document should be sent or an officer of the House should produce it before a Court of Law.

10. When a request is received during sessions for producing in a Court of Law, a document connected with the proceedings of the House or Committees or which is in the custody of the Secretary of the House, the case may be referred by the Speaker to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report and further

action should be taken in accordance with the decision of the House.

11. In regard to the three cases under consideration of the Committee, the following recommendations are made:—

- (i) that the Speaker may authorise the Secretary to designate an officer of the Lok Sabha Secretariat to produce the letter dated the 20th December, 1956, signed by Shri R. Govindan and addressed to Shri H. V. Kamath in the Court of the Additional Magistrate, 1st Class, Tiruchirappalli.
- (ii) that the Speaker may authorise the Secretary to designate an officer of the Lok Sabha Secretariat to produce the relevant documents showing the dates of the sessions of the Provisional Parliament from December, 1950 to March, 1951, and the registers showing the dates on which Shri Damodar Swarup Bahadur Seth, Ex-member attended the above mentioned sessions of the House.
- (iii) that certified copies of answer given to Unstarred Question No. 965 in the Lok Sabha on the 27-8-1957, may be supplied to Sarvashri A. B. Vajpayee and Shivadin Drohar.

12. The Committee, however, feel that normally certified copies of the documents, required to be produced in Courts of Law, should be considered sufficient evidence of such documents. If necessary, the relevant provisions of the Indian Evidence Act, 1872, may be amended accordingly.

NEW DELHI ;
The 11th September, 1957.

HUKAM SINGH,
Chairman,
Committee of Privileges.

MINUTES

New Delhi: Wednesday, the 11th September, 1957.

The Committee met from 15-00 to 16-05 hours.

PRESENT

1. Sardar Hukam Singh—*Chairman.*
2. Shri Asoke K. Sen
3. Shri N. M. Wadiwa
4. Shri Shivram Rango Rane
5. Shri Hirendra Nath Mukerjee
6. Shri Indulal Kanaiyalal Yajnik
7. Shri Shraddhakar Supakar
8. Shri Hoover Hynniewta

Members.

SECRETARIAT

1. Shri N. C. Nandi—*Deputy Secretary.*
2. Shri Avtar Singh Rikhy—*Deputy Secretary.*

2. The Committee considered the question relating to the procedure that should be followed for producing documents connected with the proceedings of the House before Courts of Law.

3. The Committee decided that the practice obtaining in the House of Commons, U.K., in this respect might be followed generally.

4. The Committee decided to recommend that normally certified copies of documents required to be produced in Courts of Law might be considered sufficient evidence of such documents.

5. One of the Members suggested that instead of producing such original documents in the Courts, the practice of the House of Representatives, U.S.A., whereby, the House granted facilities to the Courts to make copies of the documents, might be adopted.

6. The Committee authorised the Chairman to submit their Report to the Speaker.

The Committee then adjourned.

APPENDICES
APPENDIX 'A'

[See para 1 (i) of Report]

Hearing: 7-9-1957.

SUMMONS TO PRODUCE

(Section 94, Code of Criminal Procedure.)

**IN THE COURT OF THE ADDITIONAL FIRST CLASS MAGIS-
TRATE OF TIRUCHIRAPPALLI.**

Calendar Case No. 239 of 1957.

Sri

P. K. Madhava Menon, Divisional
Superintendent, Southern Railway,
Tiruchirappalli.

Complainant.

R. Govindan.—

Accused.

To

The Speaker, Lok Sabha
of New Delhi.

Whereas a complaint has been made before this Court that the accused has committed the offence of defamation under Section 500 I.P.C. and it has been made to appear to this Court that the production of the undermentioned documents now in your possession or power is necessary for the purposes of the trial before this Court, you are hereby summoned to cause to be produced the said documents before this Court at 11 A.M. on the Seventh day of September, 1957. Herein fail not.

Given under my hand and the seal of the Court, this 31st day of August, 1957.

Seal

Sd./-

*Additional 1st Class Magistrate,
Tiruchirappalli.*

Particulars of documents.

To cause the production of the letter dated 20th December, 1956 signed by accused R. Govindan and addressed to Sri H. V. Kamath then member of Lok Sabha and passed on to the Speaker on the floor of the House during discussion of Ariyalur Train disaster.

Sd./-

*Additional 1st Class Magistrate,
Tiruchirappalli.*

APPENDIX 'B'

[See para 1 (i) of Report]

Trichy, the 20th December, 1956.

From

R. Govindan,
Trichy District Board Member & President,
The Kulitalai Co-operative Building Society Ltd.,
Kulitalai, Trichy.

To

Mr. H. V. Kamath,
Member, Lok Sabha,
New Delhi.

Dear Mr. Kamath,

I read about your interpellations in the Lok Sabha about the Railway accident. I am sorry you mislaid the letter which is sent along with my pamphlet. I reiterate all I have said in the pamphlet about the burning of the bodies with petrol in the Ariyalur Accident. Please press the Government to include this and relevant matters also in scope of enquiry of the Bose Commission now sitting at Madras. I am prepared to lead evidence on this matter.

Yours, sincerely,
Sd./- (R. Govindan.)
20-12-1956.

Enc:

2 Hand Bills about
Ariyalur disaster.

APPENDIX 'C'

[See para 1 (i) of Report]

EXPRESS TELEGRAM

**ADDITIONAL MAGISTRATE,
FIRST CLASS
TIRUCHIRAPPALLI.**

NO. F. 509-T(I)/57(.) REFERENCE YOUR SUMMONS DATED 31ST AUGUST 1957 FOR CAUSING PRODUCTION OF CERTAIN DOCUMENTS CONNECTED WITH DISCUSSION OF ARIYALUR TRAIN-DISASTER IN LOK SABHA (STOP) MATTER UNDER CONSIDERATION OF SPEAKER (STOP) REQUEST POSTPONEMENT OF DATE TILL DECISION OF SPEAKER IS COMMUNICATED TO COURT (STOP)

VIDHISABHA.

Not to be telegraphed: Shri N. C. Nandi, Deputy Secretary, Lok Sabha Secretariat, New Delhi.

No. F. 509-T(I)/57

Dated the 5th September, 1957.

Copy by post in confirmation to additional Magistrate, First Class, Tiruchirappalli with reference to his summons, dated the 31st August, 1957.

Sd /- (N. C. Nandi)

5-9-1957.

Deputy Secretary.

APPENDIX 'D'

[See para 1 (i) of Report]

During the Fourteenth Session, 1956 of the First Lok Sabha, on the 19th December, 1956, the Deputy Minister of Railways and Transport during the course of his statement regarding Ariyalur Train Disaster laid on the Table certain printed documents, which he stated had been received by him from Shri H. V. Kamath.

2. On the 21st December, 1956, Shri H. V. Kamath interrupted the proceedings of the House and wanted to lay a telegram received by him from Shri R. Govindan, District Board Member, Kulitalai, Tiruchirappalli, regarding the Ariyalur Train Disaster. The telegram was later handed over by him at the Table and was treated as laid on the Table under orders from H. S.

3. On the 23rd December, 1956, Shri H. V. Kamath forwarded a letter from Shri Govindan, dated 20-12-1956 to the Secretary with the request to place that on record. The letter under orders from the Secretary was placed with the earlier papers and was not treated as papers laid on the Table.

4. From what is stated above it will be seen that the document in question was not passed on to the Speaker on the floor of the House during discussion on the Ariyalur Train Disaster. But it was subsequently forwarded to Secretary with the request that it may be placed on record. The letter was accordingly placed in this Secretariat for purpose of record along with the authenticated copy of the telegram.

APPENDIX 'E'

[See para 1 (ii) of Report]

IMMEDIATE.

No. 439/9/57

No. 1097 of 1957,

6-9-1957

High Court Extension,

Bombay-1, 3rd September, 1957.

From

Shri D. R. Nadkarni, B.A., LL.B.,
Registrar, City Sessions Court, BOMBAY.

To

The Speaker of the Lok Sabha,
NEW DELHI.

Sir,

I am directed by His Honour Shri B. D. Nadkarni, Additional Sessions Judge for Greater Bombay, to request you to be so good as to serve the accompanying letter on the Secretary of the Lok Sabha, New Delhi as early as possible.

Yours faithfully,

Sd/- (D. R. NADKARNI)

Registrar.

IMMEDIATE.

No. 1098 of 1957,

High Court Extension, Bombay-1.

3rd September, 1957.

From

Shri D. R. Nadkarni, B.A., LL.B.,
Registrar, City Sessions Court,
BOMBAY.

To

The Secretary of the Lok Sabha,
NEW DELHI.

Sir,

I am directed by His Honour Shri B. D. Nadkarni, Additional Sessions Judge for Greater Bombay, to request you to send a responsible Officer from your office to give evidence in this Court on the

9th September, 1957, supported by Registrar or relevant documents to show the dates of the Sessions of the Lok Sabha of the Parliament in December 1950 and in January, February, and March, 1951 and to show dates on which Damodar Swarup Bahadurmal Seth, Accused No. 7 in case No. 41 of VI Sessions 1956, attended the sessions of the Lok Sabha of the Parliament.

Yours faithfully,

Sd./- (D. R. NADKARNI)

Registrar

APPENDIX 'F'

[See para 1 (ii) of Report]

EXPRESS TELEGRAM

No. 770-CI/57 REGISTRAR, CITY SESSIONS COURT BOMBAY.

REFERENCE YOUR LETTER NO. 1098 DATED 3RD SEPTEMBER REQUESTING SENDING OF RESPONSIBLE OFFICER TO GIVE EVIDENCE ON 9TH SEPTEMBER BEFORE ADDITIONAL SESSIONS JUDGE FOR GREATER BOMBAY SUPPORTED BY RELEVANT DOCUMENTS TO SHOW DATES OF SESSIONS OF PARLIAMENT IN DECEMBER 1950 TO MARCH 1951 AND DATES ON WHICH DAMODAR SWARUP SETH ATTENDED SESSIONS (STOP) MATTER UNDER CONSIDERATION OF SPEAKER (STOP) REQUEST POSTPONEMENT OF DATE TILL THE DECISION OF SPEAKER IS COMMUNICATED TO COURT.

VIDHISABHA

Not to be telegraphed: Avtar Singh Rikhy, Deputy Secretary,
Lok Sabha Secretariat.

No. 770-CI/57, dated the 9th September, 1957.

Copy by post in confirmation to Registrar.
City Sessions, Court, Bombay.

Sd./- (AVTAR SINGH RIKHY)

9/9

11-15 A.M.

Dy. Secy., Lok Sabha Secretariat,
New Delhi.

APPENDIX 'G'

[See para 1 (iii) of Report]

LOK SABHA

The Secretary,

Dear Sir,

I want a certified copy of Unstarred Question No. 965 and the reply given to it on August 27. It is to be submitted in a Court of Law in connection with an election petition.

Thanking you,

Yours faithfully,

Sd./- A. B. VAJPAYEE

3-9-1957

Division No. 485.

APPENDIX 'H'

[See para 1 (iii) of Report]

LOK SABHA

To

The Secretary,
Lok Sabha.

Sir,

I want to produce the reply given in the Lok Sabha to the Unstarred Question No. 965 put by Shri Mohan Swarup, M.P. before the Election Tribunal, Hardoi in connection with the Election Petition in *re: Niranjan Singh vs. Chedalal Gupta*. I would therefore, request you to supply to me a certified copy of the Question No. 965, dated the 27th August, 1957 and its reply as given in the Lok Sabha.

Yours faithfully,

152, NORTH AVENUE, NEW DELHI,
5-9-1957.

Sd/- SHIVADIN DROHAR.
Division No. 515.

APPENDIX 'I'

[See para 1 (iii) of Report]

LOK SABHA

Unstarred Question No. 965.

To be answered on Tuesday, the 27th August, 1957.

Deposits for Election Petitions

965. Shri Mohan Swarup: Will the Minister of Law be pleased to state:

(a) the controlling authority of the treasury head given below:

“Central (Civil) Section P. Deposits and Advances Part II Deposits not bearing interest (c) other deposits accounts—Civil Deposits—Revenue Deposits—for Election petitions”; and

(b) the authority before whom the application for refund of the amount be made if the amount has been deposited in the above mentioned head without mentioning in the challan form at the time of the deposit that it is being deposited in favour of the Secretary, Election Commission?

ANSWER

SHRI A. K. SEN (Minister for Law):

(a) Secretary, Election Commission.

(b) Applications for refund of deposits in respect of Election Petitions should be made to the Election Commission, though the Secretary, Election Commission, as the Controlling Officer of the account head, is also competent to order refunds. Even where the deposits is not made in favour of the Secretary, Election Commission, applications for refund should be made to the Election Commission.

APPENDIX 'J'

(See para 4 of Report)

MR. LABOUCHERE said, he begged to present a petition from George Henry Lewis, Gentleman, of Ely Place, Holborn, praying that leave be given to the proper Officer of this House to attend the Queen's Bench Division of the High Court of Justice, in the action now pending wherein Joseph Gurney is Plaintiff and Charles Bradlaugh, esquire, one of the Members for the Borough of Northampton, is Defendant, in order to produce the paper writing subscribed by him at the Table of the House on the 21st of February last, and the copy of the New Testament named in the Journals of the House on the same date. He begged also to move—

“That leave be given to the proper Officer to attend the Queen's Bench Division of the High Court of Justice with the said paper writing and copy of the New Testament.”

Motion made, and Question proposed,

“That leave be given to the proper Officer to attend the Queen's Bench Division of the High Court of Justice with the said paper writing and copy of the New Testament.”

(Mr. Labouchere.)

MR. NEWDEGATE said, he opposed the Motion, and should feel it his duty to move the adjournment of the debate. He had not himself been informed that the Motion would come on today, and he believed other hon. Members had been equally taken by surprise.

MR. SPEAKER: I must point out to the House that the House allows unopposed Motions for Returns to be taken before the commencement of Public Business; and if this were an unopposed motion for a Return, I should say that the Motion might be made, and dealt with by the House at this period; but as the matter appears to be opposed, it will have to come on for debate when the Orders of the Day and Notices of Motion have been disposed of.

[Hansard's Parl. Deb., Vol. CCLXX, dt. 12th June, 1882, c. 805.]

On the 13th June, 1882, Mr. Labouchere, again moved the following motion:—

“That leave be given to the proper Officer of this House to attend the Queen's Bench Division of the High Court of

Justice with the paper writing subscribed by Mr. Charles Bradlaugh at the Table of the House on the 21st February, last, and the copy of the New Testament named in the Journals of the House of the same date."

After a brief discussion, the question was put and agreed to.

[Parl. Deb., Vol. CCLXX, dated 13th June, 1882, cc. 1111-1127.]

APPENDIX 'K'

(See para 6 of Report)

37. The custody of the Votes and Proceedings, Records, and all Documents whatsoever laid before the House shall be in the Clerk, who during a session shall neither take, nor permit to be taken, any such Votes and Proceedings, Records or Documents, from the Chamber or Offices, without the express leave of the House, or during recess or any adjournment, without the leave of the Speaker: Provided that on the application of a Department any original Document laid on the Table, if not likely to be further required by Members, may in the Speaker's discretion be returned to such Department.

Custody of
Records.

[S. O. No. 37 of the Standing Orders of the House of Representatives, Australia.]

APPENDIX 'L'

(See para 6 of Report)

Custody of
votes, records,
and documents.

284. The Clerk shall have the custody of all the Votes and Proceedings, records, or other documents belonging to this House and he shall neither take nor permit to be taken any such Votes and Proceedings, records or other documents from the Chambers, or offices, without the express leave or order of this House: Provided, however, that in the event of this House being adjourned for any period longer than one week, such leave may be given by Mr. Speaker, who shall report the same to this House upon its re-assembling.

[S. O. No. 284 of the Standing Orders of the House of Assembly, Union of South Africa.]

APPENDIX 'M'

(See para 6 of Report)

59. The custody of the Journals and records, and of all papers and accounts whatsoever presented to or belonging to the House, shall be in the Clerk of the House, who shall neither take, nor permit to be taken, any of such Journals, records, papers or accounts from the House or offices without an order of the House or by the leave or order of Mr. Speaker.

Custody of
Journals and
records.

[S. O. No. 59 of the Standing Orders of the House of Representatives, New Zealand.]

APPENDIX 'N'

(See para 6 of Report)

Custody of records and documents.

76. The Clerk shall have custody of all Journals of Proceedings, records, or other documents belonging to the Dail, and he shall neither take nor permit to be taken any such Journals of Proceedings, records or documents from the Chamber or offices, without the express leave or order of the Dail: Provided, however, that in the event of the Dail being adjourned for any period longer than a week, such leave may be given by the Ceann Comhairle who shall report the same to the Dail upon its re-assembling.

[S. O. No. 76 of the Standing Orders of Dail Eireann.]