

1ST LOK SABHA

(Year 1952)

(The Deshpande Case)

HOUSE OF THE PEOPLE

COMMITTEE OF PRIVILEGES

(THE DESHPANDE CASE)

(Report, Minutes, Appendices, Evidence and Debates in the House)



सत्यमेव जयते

PARLIAMENT SECRETARIAT

NEW DELHI

July, 1952.

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MEMBERS OF THE COMMITTEE OF PRIVILEGES

1. Dr. Kailas Nath Katju—*Chairman*
2. Shri Satya Narayan Sinha
3. Shri A. K. Gopalan
4. Dr. Syama Prasad Mookerjee
5. Shrimati Sucheta Kripalani
6. Shri Sarangdhar Das
7. Shri B. Shiva Rao
8. Shri R. Venkataraman
9. Dr. Syed Mahmud
10. Shri Radhelal Vyas.

~~SECRET~~

REPORT

(iii)

INTRODUCTION AND PROCEDURE

I, the Chairman of the Committee of Privileges, present this report to the House on the following question of privilege which was raised in the House on the 27th May, 1952, by Shri N. C. Chatterjee, M. P. and referred to the Committee by the Speaker:—

“That a breach of privilege of the House of the People has been committed by the arrest of Shri V. G. Deshpande, M.P. by the Police in the early hours of the morning on 27th May, 1952, when the House is in session and the House has been deprived of the contribution that the said Member would have made by participating in the deliberations!”

2. The Committee held six sittings. At its first sitting on the 28th May, 1952, the Committee discussed generally the law of privilege and the procedure to be adopted for the consideration of question referred to it. The Committee also decided that Shri N. C. Chatterjee who had raised the question of privilege in the House might be requested to assist the Committee on the question of law of privilege involved in the case before the Committee. The Committee further decided that the District Magistrate and the Inspector C.I.D., who had executed the warrant of arrest of Shri V. G. Deshpande and had sent informal intimation to the Secretary of the House, should be requested to give their statements in writing and thereafter if the Committee considered it necessary they might be examined.

3. The following letter from Shri V. G. Deshpande, written from the District Jail, addressed to the Speaker and communicated through the Government of Delhi, was placed before the Committee at this meeting:—

“Sir,

The Deputy Commissioner, Delhi, got me arrested this morning and has detained me in the District Jail, Delhi under the Preventive Detention Act and has thus obstructed me from attending the session of the House of People.

You are hereby requested to direct the Government of Delhi State to release me forthwith as this arrest and detention is a breach of powers and privileges of the House of People.

Yours faithfully,

District Jail Delhi,
27th May, 1952.

(Sd.) V. G. DESHPANDE,
Division No. 414”.

The Committee decided to give an opportunity to Shri V. G. Deshpande to represent his case as desired by him.

4. At its second sitting on the 30th May, 1952, the Committee heard Shri N. C. Chatterjee on the question of law of privilege involved in the case. The Committee was also informed of the written statements from the District Magistrate and the Inspector, C.I.D. which had been received by the Secretary of the House. After a brief discussion the Committee decided to call in person the District Magistrate and to examine him further on the matter. The Committee considered that the

written statement of the Inspector, C.I.D. was sufficient and decided not to call him to give further evidence. The Committee also decided to request Shri V. G. Deshpande, who, as the Chairman informed them, had been released earlier in the day, to appear before the Committee.

5. At the third sitting on the 4th June, 1952, the Committee heard Shri Deshpande, and examined the District Magistrate. Both of them gave evidence on oath.

6. The fourth sitting on the 14th June, 1952, was devoted to the consideration of the evidence (both oral and written) which was placed before the Committee.

7. At its fifth and sixth sittings on the 26th and 28th June, 1952, respectively the Committee deliberated on the draft report.

8. The Committee proceeded on the basis of the consideration that since the privileges of the House and of its Members and Committees, are similar to those of the House of Commons in the U.K. at the commencement of the Constitution, they should in general be guided by the precedents of the House of Commons in these matters. Nevertheless, under rule 207 of the Rules of Procedure and Conduct of Business in the House of the People the Committee had to examine every question referred to it and determine with reference to the facts of each case whether a breach of privilege was involved and if so the nature of the breach, the circumstances leading to it and also to make such recommendations as it deemed fit.

II

FACTS OF THE CASE

9. The District Magistrate, Delhi, Shri Rameshwar Dayal, came to the conclusion at about 10 P.M. on the 26th May, 1952, that Shri V. G. Deshpande, M.P. was, directly or otherwise, responsible for certain acts which were prejudicial to the public peace and safety of the city of Delhi, and therefore should be detained under Section 3 of the Preventive Detention Act, 1950. The District Magistrate signed the warrant of arrest at 3 A.M. on the 27th May, 1952. The warrant was executed at 5-30 A.M. by Shri Hirday Narain, Inspector, C.I.D. and Shri Deshpande was admitted to the District Jail between 6-30 and 7 A.M. Immediately thereafter on hearing from Shri Deshpande that he had to take part in the proceedings of the House that day the Inspector after the completion of the arrest sent informal intimation in writing to the Secretary of the House at about 8-17 A.M. that Shri V. G. Deshpande had been arrested.

10. The District Magistrate stated that as he was out of his house from 7-15 A.M. until about 10 A.M. on official duty he was informed only shortly after 10 A.M. by the Police that the warrant of arrest had been executed. After his return to the office he dictated at about 11 A.M. a letter to the Speaker to inform him of the arrest of Shri V. G. Deshpande. After dictating the letter he again went out to attend to certain urgent matters relating to the law and order situation in Delhi. The letter to the Speaker was signed by him at about 1-30 P.M. on his return from the City. The letter was despatched through a messenger who delivered it at the residence of the Speaker at 4-30 P.M. The Speaker actually got the letter at 4-45 P.M. which was the time noted by him on the letter itself.

11. The letter communicating the information about the arrest of Shri V. G. Deshpande from the District Magistrate to the Speaker who read it to the House on the following day reads as follows:—

"District Magistrate's Office,
Delhi, May 27, 1952.

Dear Mr. Speaker,

I have the honour to inform you that I have found it my duty in the exercise of my powers under Section 3 of the Preventive Detention Act of 1950 as amended to direct that Shri V. G. Deshpande M.P. be detained. Shri V. G. Deshpande was accordingly taken into custody this morning and is at present lodged in the District Jail, Delhi. The communal situation in Delhi has been tense during the last three days over the intended celebration of an inter-communal marriage. Shri V. G. Deshpande, among others, took a leading part in organising and directing meetings and demonstrations which led to a breach of the peace on May the 26th. Their subsequent conduct in continuing to hold meetings and demonstrations was calculated further to provoke a breach of the peace and as such it was considered necessary to detain them in the interest of maintenance of public order.

Yours sincerely,

(Sd.) RAMESHWAR DAYAL.

III

FINDINGS OF THE COMMITTEE

12. The Committee addressed itself to the following two questions as arising out of the case:—

- (i) Whether the arrest of Shri V. G. Deshpande under the Preventive Detention Act 1950 constitutes a breach of privilege, and
- (ii) Whether the intimation of his arrest to the Speaker by the District Magistrate was sent in time.

13. As regards the first question the law and practice in the House of Commons are as under:—

- (i) Arrest on a criminal charge for an indictable offence does not constitute a breach of privilege;
- (ii) Preventive arrest under statutory authority by executive orders is not within the principle of cases to which the privilege of freedom from arrest has been decided to extend.

14. The case referred to the Committee falls under the latter category. After giving careful consideration to various aspects of the case, including the views expressed by Shri N. C. Chatterjee, the Committee is of opinion that privilege does not extend to arrests and detentions under the Indian Preventive Detention Act, 1950.

15. It may be stated that Preventive detention in India is expressly authorised by Article 22 read with entry 3 in the Concurrent List in the VII Schedule to the Constitution. This Article expressly provides safeguards against arbitrary preventive detention. The Law authorising preventive detention can only be passed.

under certain circumstances and must comply with certain requirements of the Constitution in this behalf. The Constitution further expressly contemplates that such laws relating to preventive detention may be in operation even during peace time inasmuch as they cover a very wide field and can be passed to check *inter alia* activities calculated to interrupt essential supplies. The Constitution further provides for a very early examination of the cases of detention by an Advisory Board whose personnel is also prescribed by the Constitution.

16. Keeping all these facts in mind, the Committee thinks that preventive detention is in its essence as much a penal measure as any arrest by the police, or under an order of a Magistrate, on suspicion of the commission of a crime, or in course of, or as a result of the proceedings under the relevant provisions of the Criminal Procedure Code and no substantial distinction can be drawn on the ground that preventive detention may proceed merely on suspicion and not on the basis of the commission of an offence on the part of the person directed to be detained. The Constitution authorises preventive detention in the interests of the State, and it is well settled that "the privilege of Parliament is granted in regard to the service of the Commonwealth and is not to be used to the danger of the Commonwealth", and further every detention by whatever name it is called—preventive, punitive or any other, has, as was pointed out by the Committee of privileges in the House of Commons in Ramsay's case, this in common: "the protection of community as a whole".

17. As long as the person authorised to order preventive detention is one expressly authorised to do so by the law passed by Parliament or the State Legislature concerned in this behalf, his official status has no material bearing on the question now before the Committee. It is for Parliament or the State Legislature concerned to decide which particular officer and of what status should be clothed with the necessary authority to direct preventive detention. [It has further 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.] The Committee therefore considers that if preventive arrest under statutory authority by executive order is made no breach of privilege is involved.

18. On the second point whether the Speaker was informed of the arrest in time, the Committee observes that, while it is well recognised that such intimation should be given promptly, it is not possible to lay down any hard and fast rule on the subject. Much would depend upon the surrounding circumstances of each case. The note of Sir (now Lord) Gilbert Campion, the then Clerk of the House of Commons which is appended to the Report from the Committee of Privileges of the House of Commons on the Ramsay case in 1940 contains references to many cases in some of which intimation was given to the Speaker on the very day of the arrest, while in others intimation was given after 24 hours or even a longer period. In the present case Shri Deshpande was arrested and lodged in jail shortly after 6-30 in the morning. The District Magistrate stated that very early that morning at 7-15 he had to leave his house for urgent public work in the city and returned to his house a little after 10 A.M., when he received information of the arrest. Thereupon he dictated his letter to the Speaker and then immediately left again for another round of the City and on his return he signed the letter and despatched it to the Parliament House. The evidence before us showed that on the day previous to the arrest (26th May) there had been riotous incidents in Delhi. People had been attacked and injured including a Member of Parliament; two were severely injured, one of whom later succumbed to his injuries. There was great tension in the city and the District authorities had to be very vigilant in maintaining peace and order. On the 27th May, there was cause for much apprehension about the possibility of further disturbances and increased public excitement. The District Magistrate was, therefore, well justified

and was in fact duty bound to make all possible efforts by personal attention to see that public peace was maintained and not in any way endangered. The Committee feels that, while it would have been wiser and proper on his part to despatch his letter to the Speaker soon after he dictated it at 11 A.M., the delay of about 2½ hours, that occurred in his signing and sending the letter, under the stress under which he was working at the time is easily understandable and should be overlooked and condoned. The District Magistrate was fully aware of the general instructions which had been issued by Government on this matter, and the Committee has no reason to hold that there was any deliberate intention on his part not to act with due respect for such orders. Taking the case as a whole the Committee is of the opinion that there has been no breach of privilege of the House on the second point also.

19. The Committee is accordingly of opinion that—

- (i) the arrest of Shri V. G. Deshpande under the Preventive Detention Act, 1950, did not constitute a breach of the privileges of the House; and
- (ii) the intimation of the arrest was sent to the Speaker with as much expedition as was possible in the circumstances and there was therefore, no breach of privilege of the House.

20. Four members of the Committee who have found themselves unable to agree with the conclusions reached in this report, have expressed their views in a separate note which is appended to this report.

KAILAS NATH KATJU.

New Delhi,
Dated 9th July, 1952.

NOTE BY DR. SYAMA PRASAD MOOKERJEE, SHRI A. K. GOPALAN, SHRIMATI
SUCHETA KRIPALANI AND SHRI SARANGDHAR DAS.

The privilege of freedom from arrest of Members of Parliament is of great antiquity under the English Law. As Sir Erskine May has put it in his celebrated book on "Parliamentary Practice", "This privilege was of proved indispensability, first to the service of the King and now to the functioning of each House" (Fourteenth Edition, page 66). The principal reason for the privilege has been expressed in a well-known passage by Hatsell and is quoted by May. The passage runs as follows:

"As it is an essential part of the constitution of every court of judicature, and absolutely necessary for the due execution of its powers, that persons resorting to such courts whether as judges or as parties, should be entitled to certain privileges to secure them from molestation during their attendance; it is more peculiarly essential to the Court of Parliament, the first and highest court in this kingdom, that the Members, who compose it, should not be prevented by trifling interruptions from their attendance on this important duty, but should, for a certain time, be excused from obeying any other call, not so immediately necessary for the great services of the nation; it has been therefore, upon these principles, always claimed and allowed, that the Members of both Houses should be, during their attendance in Parliament, exempted from several duties, and not considered as liable to some legal processes, to which other citizens, not entrusted with this most valuable franchise, are by law obliged to pay obedience." (1 Hatsell, page 1-2).

Under the English law it is clear that a member of Parliament can be arrested on a criminal charge for an indictable offence. But the House must be informed of the cause for which he is detained from the service of Parliament.

We do not agree that preventive detention is in essence as much a penal measure as any arrest by the police or under the orders of a Magistrate when a person is charged with the commission of a crime. The fundamental difference between preventive detention and punitive detention has been emphasised in a number of recent cases. In one case a person is detained in order to prevent him from committing any illegal or injurious act, while in the other case detention is for having committed an illegal act.

We refer to the Judgment of the Federal Court in *Lakshmi Narain Das v. Province of Behar* A.I.R. 1950 F.C. 59-1950 S.C.R. 693. In that case His Lordship Mukherjea J. observed as follows: "Now preventive detention can properly be contrasted with punitive detention, one having reference to apprehension to wrong-doing and the other coming after the illegal act is actually committed." In that case the Federal Court approved of the observations made by a Full Bench of the Patna High Court in *Murat Patwa v. Province of Bihar* 26 Patna 628=1948 Pat 135. "In our opinion the phrase 'Preventive Detention' means, detention, not, as in the cases of ordinary imprisonment in respect of actual commission of illegal acts, but, detention in reasonable anticipation that some illegal act or acts may otherwise be committed."

In a well-known case *A. K. Gopalan v. the State*—1950 SCR 88=AIR 1950 SC 27, Mahajan J. observed as follows:

"Preventive detention laws are repugnant to democratic constitutions and they cannot be found to exist in any of the democratic countries of the world. It was stated at the Bar that no such law was in force in the United States of America. In England for the first time during the first world war certain regulations framed under the Defence of the Realm Act provided for preventive detention at the

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satisfaction of the Home Secretary as a war measure and they ceased to have effect at the conclusion of hostilities. The same thing happened during the Second World War. Similar regulations were introduced during the period of the war in India under the Defence of India Act.”

We want to refer also to the celebrated judgments of the House of Lords in *King v. Halliday* 1917 A.C. 260. In that case the learned Judges were dealing with regulation 14(B) of the Defence of Realm Consolidation Act, 1914. Lord Finlay, Lord Chancellor, observed as follows: “One of the most obvious means of taking precautions against dangers such as are enumerated is to impose some restriction on the freedom of movement of persons whom there may be any reason to suspect of being disposed to help the enemy. It is to this that Reg. 14B is directed. The measure is not punitive but precautionary. It was strongly urged that no such restraint should be imposed except as the result of a judicial enquiry, and indeed counsel for the appellant went so far as to contend that no regulation could be made forbidding access to the seashore by suspected persons. It seems obvious that no tribunal for investigating the question whether circumstances of suspicion exist warranting some restraint can be imagined less appropriate than a Court of Law. *No crime is charged*. The question is whether there is ground for suspicion that a particular person may be disposed to help the enemy. The duty of deciding this question is by the order thrown upon the Secretary of State, and an advisory committee, presided over by a Judge of the High Court, is provided to bring before him any grounds for thinking that the order may properly be revoked or varied.”

Lord Atkinson in the same case observed as follows: “And as preventive justice proceeds upon the principle that a person should be restrained from doing something which, if free and unfettered, it is reasonably probable he would do, it must necessarily proceed in all cases to some extent, on suspicion or anticipation as distinct from proof.”

The above passage of Lord Atkinson was quoted with approval by the present Chief Justice of India—Patanjali Sastri J; as he then was, in Gopalan’s case cited above. See A.I.R. 1950 S.C. page 78. There the learned Judge pointed out that preventive detention was a purely precautionary measure.

In the State of Bombay *v. Atma Ram Vaidya* 1951 SCR 167=AIR 1951 SC 157—Kania C. J. observed as follows: “By its very nature, preventive detention is aimed at preventing the commission of an offence or preventing the detained persons from achieving a certain end. The authority making the order, therefore, cannot always be in possession of full detailed information when it passes the order and the information in its possession may fall far short of legal proof of any specific offence, although it may be indicative of a strong probability of the impending commission of a prejudicial act.”

We do not want to multiply authorities. But two judgments have clearly pointed out that Preventive Detention Act really is not a penal or punitive measure. In AIR 1951, Madhya Bharat 56—*Kashinath v. The State*, it was observed as follows: “It is necessary to emphasise the fact that the powers under such an Act as the Preventive Detention Act are for the purpose of preventive detention and *they are not punitive in their nature*. A person cannot be detained under the Act for what he has already done but in order to prevent him from acting in any manner prejudicial to the matters mentioned in S.3(1) of the Act.”

We should conclude the citation of authorities by referring to a well-known Judgment of the House of Lords in *Liversidge v. Sir John Anderson*—1942 A.C. 206. There Lord Macmillan pointed out that preventive detention is justified by reasonable probability, but criminal conviction can only be justified by legal evidence.

We want to point out that crisis legislation or emergency legislation in times of war should not regulate the privilege of Members of Parliament in normal times, when there is no Proclamation of Emergency. In Halliday's case, Lord Atkinson observed as follows: "However precious the personal liberty of the subject may be there is something for which it may well be, to some extent, sacrificed by legal enactment, namely, national success in the war or escape from national plunder or enslavement."

In the Liversidge case, Lord Macmillan made very cogent remarks: "The liberty which we so justly extol is itself the gift of the law and as Magna Carta recognises, may by the law be forfeited or abridged. At a time when it is the undoubted law of the land that a citizen may by conscription or requisition be compelled to give up his life and all that he possesses for his country's cause, it may well be no matter for surprise that there should be confided to the Secretary of State a discretionary power of enforcing the relatively mild precaution of detention."

Therefore, preventive detention is fundamentally and basically different from punitive detention which is meant to punish a person for some crime already committed. In our opinion it is not right to say that the law of preventive detention is part of the penal law. In our view a Member of the Parliament cannot be arrested during the session of the Parliament under the Preventive Detention Act. He is not then charged with any crime. It is not proper to use the Preventive Detention Act for punishing a person who has already violated the law and committed a crime. In such a case he should be dealt with under the ordinary law of the land and, if a member of Parliament is arrested on such a charge, he cannot claim any immunity. In the absence of such an arrest, a member's immunity from arrest shall continue in order to enable him to discharge the public duties entrusted to him by the Constitution of India as a representative of the electorate.

According to the Oxford Dictionary 'Penal' means—pertaining to or relating to punishment, punitive, prescribing or enacting punishment of an offence or transgression. According to the judgments cited above, preventive detention law does not prescribe or enact the punishment for any offence or transgression committed by a citizen or person. Therefore, it cannot be punitive or penal law. Hence, the privilege for immunity of arrest should continue to be available to a Member of the Parliament in India, when he is sought to be detained under the Preventive Detention Act.

We have carefully gone through the proceedings of the Committee of Privilege in Captain Ramsay's case. In our opinion that case is distinguishable. Captain Ramsay was detained by the order of the Home Secretary under Regulation 18(B) of the Defence General Regulations, 1939. There the Committee of Privileges decided that such detention did not lead to any breach of privilege. It is no authority for the broad proposition that any kind of preventive detention under statutory authority by executive order excludes the privilege of freedom from arrest. Regulation 18(B) is basically different from Section 3 of the Preventive Detention Act. The Regulation provides among other things, that 'if the Secretary of State has reasonable cause to believe any person to be of hostile origin, or associations or to have been recently concerned in acts prejudicial to the public safety or the defence of the realm or in the preparation or instigation of such acts and that by reason thereof it is necessary to exercise control over him, he may make an order against that person directing that he be detained. The above provision clearly shows that the persons sought to be detained must be either of hostile origin or must have already committed some acts prejudicial to the public safety or defence of the realm or in the preparation or instigation of such acts. Therefore, it is in substance a case of punitive or penal detention. A man is deprived of his

liberty under regulation 18(B) because he has already committed some prejudicial act. Only during the War crisis he is not sent to an ordinary Magistrate or Court of Law for trial but the decision is made by the Secretary of State who is a responsible Cabinet Minister, and his subjective satisfaction as to the prior commission of a prejudicial act endangering defence or safety of the country is quite sufficient to justify the detention. Preventive Detention Act in India does not at all require that the prospective deténu must have been recently concerned in some prejudicial acts or in the preparation of such acts or in the instigation of such acts. When wide arbitrary authority is conferred on executive officials including the Commissioners of Police for Calcutta, Bombay, Madras and Hyderabad to arrest persons merely on suspicion or on the probability of a possible commission of some crime or prejudicial act by him, the privilege of a Member of Parliament should not be put in jeopardy in such a case. There is no safeguard in India of independent judgment by a Cabinet Minister who is responsible to the Parliament. We do not mean that ordinarily a Member of Parliament should be treated differently from an ordinary citizen. But we do maintain that Captain Ramsay's case is no justification for holding that there was no breach of privilege in the arrest of Mr. V. G. Deshpande, M. P.

In our view this House of the People should having regard to all the relevant matters clearly prescribe that there should be freedom from arrest in case of application of the Preventive Detention Act to a Member of the Parliament during the relevant period.

We are unable to accept as satisfactory the explanation of the District Magistrate regarding the delay on his part in sending the information to the Speaker. On a previous occasion when an M. P. was put under arrest by the same District Magistrate, he failed to send a communication to the Speaker and for this the then Home Minister expressed his regret on the floor of the House and assured the House that in future such an omission would not be repeated. Subsequently a circular letter was issued by the Ministry of Home Affairs to all executive authorities throughout the country pointing out the imperative necessity of sending immediate information to the Speaker in case an M. P. was arrested. The form in which such a communication should be sent was also clearly indicated in the circular letter. The District Magistrate admitted that he had duly received a copy of this circular letter. The District Magistrate further stated that he had decided to arrest Mr. Deshpande on the night of the 26th and the arrest was made early on the morning of the 27th. Bearing in mind the omission he had committed on a similar previous occasion and the strict injunction issued by the Ministry of Home Affairs, the District Magistrate could have and should have been more prompt and careful in following the orders issued by the Ministry of Home Affairs. It is significant that the letter to the Speaker was sent by him after the matter had been raised in Parliament and the Speaker had decided to refer it to the Committee of Privileges.

In our opinion, therefore, this delay on the part of the District Magistrate and his failure to attach sufficient importance to the matter constitutes a breach of the privilege of the House.

We do not propose to take any notice of the informal slip of paper which was signed by an Inspector of Police and passed on to the Secretary of Parliament. The Secretary in his evidence stated that this was no official intimation and the only intimation that he or the Parliament Secretariat received was the letter from the District Magistrate to the Speaker, already mentioned.

We deem it our duty to emphasise one aspect of the matter arising out of the evidence. While dealing with the circumstances under which the District Magistrate decided to arrest Mr. Deshpande, the District Magistrate stated in his letter of the 27th May to the Speaker as follows:

"The communal situation in Delhi has been tense during the last three days over the intended celebration of an inter-communal marriage. Shri

V. G. Deshpande among others took a leading part in organising and directing meetings and demonstrations which led to a breach of the peace on May the 26th."

Mr. Deshpande in his evidence pointed out that he was actually absent from Delhi from the night of the 20th May to the morning of the 26th May. On his arrival in Delhi early on the morning of the 26th May, he came straight to Parliament and went to the Hindu Mahasabha Bhawan at about 1-30 P. M. Mr. Deshpande stated that he had nothing to do with the meetings and demonstrations and other incidents that took place in Delhi prior to the 26th May and also on the morning of the 26th. While the District Magistrate was confronted with this evidence, he replied that he was of the view that Mr. Deshpande had everything to do with the incidents in Delhi prior to the 26th, although he was away from Delhi and that he was organising the meetings and demonstrations from Gwalior. We have no hesitation in rejecting this evidence of the District Magistrate. We hold that in giving such misleading information to the Speaker of the House a breach of privilege has been committed.

MINUTES

I

FIRST MEETING

New Delhi: Wednesday, the 28th May, 1952.

The Committee met from 3-30 to 5-30 P.M.

2. The following were present:

MEMBERS

1. Dr. Kailas Nath Katju—*Chairman*.
2. Shri Satya Narayan Sinha.
3. Shri A. K. Gopalan.
4. Dr. Syama Prasad Mookerjee.
5. Shrimati Sucheta Kripalani.
6. Shri Sarangdhar Das.
7. Shri B. Shiva Rao.
8. Shri R. Venkataraman.
9. Dr. Syed Mahmud.
10. Shri Radhelal Vyas.

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Shri M. N. Kaul—*Secretary*.

Shri S. L. Shakhder—*Officer on Special Duty*.

3. The Secretary, Shri M. N. Kaul, explained the procedure which is followed in making a reference to the Committee of Privileges. He stated that, normally, a motion is adopted in the House and that motion constitutes the terms of reference for the Committee. But in this particular case, no motion was adopted by the House, and the Speaker, in the exercise of his own discretion under the Rules, referred the matter to the Committee for consideration.

4. The Committee had thereafter a general discussion on the question of examining witnesses and the scope of such examination.

5. The Secretary read out a letter from the Home Secretary to the Delhi State Government, enclosing a letter from Shri V. G. Deshpande, M.P., requesting the Speaker to take steps to release him which the Speaker had asked to be placed before the Committee for its consideration.

6. It was suggested that Shri V. G. Deshpande should be asked to appear before the Committee to give evidence. The Committee, however, was of the view that in the first instance, a statement as to the circumstances leading to the arrest of Shri V. G. Deshpande and the time when information of the arrest was communicated by the District Magistrate to the Speaker may be obtained from the District Magistrate of Delhi and thereafter, if the Committee felt that Shri V. G. Deshpande's presence was necessary, he could be summoned before the Committee.

7. The Committee directed that Shri N. C. Chatterjee, M.P., should be requested to appear before the Committee at its next meeting on Friday, the 30th May, 1952 at 5 P.M.

8. The Committee also directed that the District Magistrate of Delhi should be asked to furnish full details regarding the arrest of Shri V. G. Deshpande, and the time when the information of the arrest was communicated to the Speaker.

9. The Committee further directed that the C.I.D. Inspector concerned should be asked to submit a report as to the circumstances under which he made a report to the Secretary.

10. It was decided that copies of the Preventive Detention Act, 1950, Ministry of Home Affairs circular letter dated the 22nd September, 1951 and the relevant proceedings of the House should be circulated to members of the Committee.

The Committee then adjourned till Five of the Clock on Friday, the 30th May, 1952.

SECOND MEETING

New Delhi: Friday, the 30th May, 1952.

The Committee met from 5 to 6-30 P.M.

2. The following were present:

MEMBERS

1. Dr. Kailas Nath Katju—*Chairman*.
2. Shri Satya Narayan Sinha.
3. Shri A. K. Gopalan.
4. Dr. Syama Prasad Mookerjee
5. Shrimati Sucheta Kripalani.
6. Shri Sarangdhar Das.
7. Shri B. Shiva Rao.
8. Shri R. Venkataraman.
9. Dr. Syed Mahmud.
10. Shri Radhelal Vyas.

SECRETARIAT

Shri M. N. Kaul—*Secretary*.

Shri S. L. Shakhder—*Officer on Special Duty*.

WITNESS

Shri N. C. Chatterjee, M.P.

3. The Chairman informed the Committee that Shri V. G. Deshpande, M.P., had been released.

4. The Chairman also informed the Committee that Shri N. C. Chatterjee, M.P., was present to assist the Committee on the question before them. He then requested Shri Chatterjee to make a statement.

5. Shri N. C. Chatterjee, M.P., then made a statement on the law relating to privilege of freedom from arrest enjoyed by Members of Parliament in the United Kingdom, with particular reference to cases of detention of Members of Parliament under executive orders.

(The witness then withdrew)

6. The Secretary read out the report of Shri Hirday Narain, Inspector, C.I.D., Delhi, regarding circumstances in which he had communicated the information of the arrest of Shri V. G. Deshpande, M.P. to the Secretary.

7. Secretary then read out a letter from the District Magistrate, Delhi and also the grounds of detention of Shri V. G. Deshpande, M.P.

8. The Committee directed that Shri V. G. Deshpande, M.P., should be requested to appear before the Committee at its next meeting on Wednesday, the 4th June, 1952 at 5 P.M.

9. The Committee also directed that the District Magistrate of Delhi should be asked to appear before the Committee at its next meeting on Wednesday, the 4th June, 1952 at 5-30 P.M.

The Committee then adjourned till Five of the Clock on Wednesday, the 4th June, 1952.

III

THIRD MEETING

New Delhi: Wednesday, the 4th June, 1952.

The Committee met from 5 to 6-20 P.M.

2. The following were present: .

MEMBERS

1. Dr. Kailas Nath Katju—*Chairman*.
2. Shri Satya Narayan Sinha.
3. Shri A. K. Gopalan.
4. Dr. Syama Prasad Mookerjee.
5. Shrimati Sucheta Kripalani.
6. Shri Sarangdhar Das.
7. Shri B. Shiva Rao.
8. Shri R. Venkataraman.
9. Dr. Syed Mahmud.
10. Shri Radhelal Vyas.

SECRETARIAT

Shri M. N. Kaul—*Secretary*.

Shri S. L. Shakhder—*Officer on Special Duty*.

WITNESSES

Shri Vishnu Ghanashyam Deshpande, M.P. (5 P.M.)

Shri Rameshwar Dayal (5-37 P.M.)

(Shri V. G. Deshpande was called in)

3. Shri Deshpande was sworn. He made a statement as to the circumstances and facts leading to his arrest on the morning of the 27th May, 1952. Thereafter he answered questions put to him by the Committee.

(Shri V. G. Deshpande then withdrew)

4. Shri Rameshwar Dayal, District Magistrate of Delhi, was called in, sworn and examined.

(Shri Rameshwar Dayal then withdrew)

The Committee then adjourned till Five of the Clock on Thursday, the 12th June, 1952.

IV

FOURTH MEETING

New Delhi: Saturday, the 14th June, 1952.

The Committee met from 5 to 6-25 P.M.

2. The following were present:

MEMBERS

1. Dr. Kailas Nath Katju—*Chairman*.
2. Shri Satya Narayan Sinha.
3. Shri A. K. Gopalan.
4. Dr. Syama Prasad Mookerjee.
5. Shrimati Sucheta Kripalani.
6. Shri Sarangdhar Das.
7. Shri B. Shiva Rao.
8. Shri R. Venkataraman.

SECRETARIAT

Shri M. N. Kaul—*Secretary*.

Shri S. L. Shakdher—*Officer on Special Duty*.

3. The Committee deliberated on the question whether the arrest of Shri V. G. Deshpande, M.P., on the 27th May, 1952 constituted a breach of privilege of the House.

4. The Committee authorised the Secretary to call the next meeting as soon as convenient.

The Committee then adjourned.

V

FIFTH MEETING

New Delhi: Thursday, the 26th June, 1952.

The Committee met from 5 to 5-15 P.M.

2. The following were present:

MEMBERS

1. Dr. Kailas Nath Katju—*Chairman*.
2. Shri Satya Narayan Sinha.
3. Shri A. K. Gopalan.
4. Dr. Syama Prasad Mookerjee.
5. Shrimati Sucheta Kripalani.
6. Shri Sarangdhar Das.
7. Shri B. Shiva Rao.
8. Shri R. Venkataraman.
9. Dr. Syed Mahmud.
10. Shri Radhelal Vyas.

SECRETARIAT

Shri M. N. Kaul—*Secretary*.

Shri S. L. Shakhder—*Officer on Special Duty*.

3. The Committee decided that the House may be requested to extend the time for presentation of the Report of the Committee of Privileges on Dehpande case upto Thursday, the 10th July, 1952.

The Committee then adjourned till Half Past Ten of the Clock on Saturday, the 28th June, 1952.

VI

SIXTH MEETING

New Delhi: Saturday, the 28th June, 1952.

The Committee met from 10-30 to 11-35 A.M.

2. The following were present:

MEMBERS

1. Dr. Kailas Nath Katju—*Chairman*.
2. Shri Satya Narayan Sinha.
3. Shri A. K. Gopalan.
4. Dr. Syama Prasad Mookerjee.
5. Shrimati Sucheta Kripalani.
6. Shri Sarangdhar Das.
7. Shri B Shiva Rao.
8. Shri E. Venkataraman.
9. Dr. Syed Mahmud.
10. Shri Radhelal Vyas.

SECRETARIAT

Shri S. L. Shakhder—*Officer on Special Duty*.

3. The Chairman stated that a note containing the views of four members of the Committee on the point of privilege before them had been received for incorporation in the draft Report of the Committee.

4. The Committee then deliberated on the question of procedure regarding incorporation in the draft Report of the views of dissenting members of the Committee.

5. The Committee authorised the Chairman to submit to the House the draft Report circulated by him to the Committee and to incorporate the views of the dissenting members in the form of a note which should be appended to the draft Report. The Committee further authorised the Chairman to make formal, verbal and consequential changes in the draft Report as he deemed necessary before the final draft was settled. The Committee also desired that amendments suggested by Shri E. Shiva Rao should also be taken into consideration before the draft is finalized.

The Committee then adjourned.

APPENDICES

APPENDIX I

No. 91/51-Police-I.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

From

Shri U. K. Ghoshal, I.C.S.,
Deputy Secretary to the Government of India.

To

All the State Governments.

New Delhi—Dated 22nd September, 1951

SUBJECT:—*Arrest, detention, etc., of Members of Parliament—Question of privilege of Parliament.*

Sir,

I am directed to say that instances have come to notice where Members of Parliament were arrested, detained etc. but necessary intimation to that effect from the authorities concerned was not sent to the Honourable the Speaker for being conveyed to the House, thereby infringing the privileges of Parliament and its Members. Under Article 105(3) of the Constitution of India, the privileges of Parliament and its Members and Committees are the same as those of the House of Commons of the Parliament of the United Kingdom. The privileges of the House of Commons have not been codified nor are they available at one place. An attempt has, however, been made by May in his 'Parliamentary Practice' (*vide* Chapters III to IX) to enumerate the various privileges and the case law on the subject. In Chapter V thereof, it is stated that in regard to the arrest of a Member of Parliament on a criminal charge or imprisonment of a Member consequent upon a sentence passed by a court or in the case of detention of a Member under executive order, the House is entitled to be informed immediately after the occurrence of the event. In the British House of Commons such a communication regarding arrest, imprisonment or detention of a Member is made by a letter addressed to the Honourable the Speaker by the committing Judge or Magistrate or other executive authority and in the case of conviction, the offence and the sentence are also communicated. It is also necessary, in case the judgement is reversed by a superior court and the Member concerned is consequently released, that further intimation is immediately sent to the Honourable the Speaker by the same committing judge, Magistrate or executive authority, and in the same manner. Non-compliance with this requirement of the law of privilege results in a breach of the privilege of Parliament.

2. Besides the information that should be communicated to the Honourable the Speaker by the authorities concerned after the arrest, imprisonment or detention of a Member, it is necessary that the form in which the communication should be sent should also be observed very strictly. In case the form of the communication

from the authority concerned to the Honourable the Speaker is not strictly complied with, the Honourable the Speaker may hold that a breach of privilege has occurred notwithstanding the fact that a communication has been sent to him. Two specimens of such communications addressed to the Honourable the Speaker of the House of Commons are enclosed herewith. These communications invariably disclose the reasons of arrest, detention or imprisonment and the sentence passed by the Court.

3. In civil cases, the privilege of freedom from arrest of Members of the British House of Commons extends during the continuance of the session of Parliament and forty days before its commencement and after its conclusion.

4. It may also be pointed out that under Article 194(3) and 238 of the Constitution, the privileges of the State Legislatures and their Members are also the same as those of Members of the British House of Commons (Parliament), until provision is made by Acts of the appropriate Legislatures. Similarly, under section 19(3) of the Government of Part C States Act, 1951, the privileges of members of Legislatures in Part C States and their Committees will be same as those of the House of the People and its Committees.

5. Since it is quite possible that the courts and other State authorities may not be fully aware of the privileges of Parliament and its Members, the Government of India would be glad if the State Government/you explain the foregoing position to them as early as possible so that in future there may not be any inadvertent breach of privilege and consequent difficulty.

The Government of India may be informed in due course of the action taken in the matter.

Yours faithfully,

(Sd.) U . K. GHOSHAL,

Deputy Secretary to the Government of India.

No. 91/51-Police-I.

New Delhi, 2, the 22nd September, 1951.

Copy forwarded for information to the Ministry of States/Law with reference to their U.O. No. D.4467-PCA/51/D.2255/51-C, dated the 14th September, 1951/3rd September, 1951.

Copy forwarded for information to the Parliament Secretariat, with reference to their U.O. No. 84-C/51, dated the 2nd June, 1951.

Copy forwarded, for information to the Regional Commissioner and Adviser, Rajasthan (Jaipur)/Madhya Bharat (Indore)/Pepsu (Patiala)/Saurashtra (Rajkot).

By Order,

(Sd.) C. P. S. MENON.

Under Secretary to the Government of India.

THE ROYAL COURTS OF JUSTICE,

Strand, London, W.C., 30th October, 1947.

Dear Mr. Speaker,

I have to inform you that Mr. David Weitzman, a Member of the House of Commons was tried at the Central Criminal Court before me on an indictment charging him and others with conspiring to contravene orders made by the President of Board of Trade [by virtue of powers conferred upon him by Regulation 55 of the Defence (General) Regulations, 1939] for the control and limitation of the manufacture and supply of toilet preparations, by causing a company called the Newington Supply Co., Ltd., to supply goods in excess of any that they were lawfully entitled to supply.

Yesterday evening after a trial lasting 25 days, the jury found him and some of the others guilty and I sentenced him to imprisonment for 12 months and a fine of £500.

Yours faithfully,
(Sd.) A. T. DENNING.

The Right Honourable,
The Speaker of the House of Commons.

Letter from the Secretary of State for the Home Department to the Speaker,
House of Commons, U.K.

23rd May, 1940.

Sir,

I have the honour to inform you that I have found it my duty, in the exercise of my powers under Regulation 18B of the Defence (General) Regulations, 1939, to direct that Captain Archibald Henry Maule Ramsay, Member of Parliament, be detained. Captain Ramsay was accordingly taken into custody this morning and is at present lodged in Brixton Prison.

I am, Sir,
Your Obedient Servant,
(Sd.) JOHN ANDERSON.

APPENDIX II

From

Shri Rameshwar Dayal, I.A.S.,
District Magistrate,
Delhi.

To

Shri M. N. Kaul, Bar-at-Law,
Secretary, Parliament House,
New Delhi.

Dated Delhi, the 29th May, 1952.

SUBJECT:—*Your letter No. 569-C/52, dated May 28, 1952 seen by me at 10 P.M. on 28th May 1952.*

Sir,

The grounds of detention served by me on Shri V. G. Deshpande, M.P., explain as to what led me to order the detention of Shri V. G. Deshpande. A copy of the grounds of detention served on him is enclosed.

Shri V. G. Deshpande was arrested at 5-30 A.M. and was admitted to District Jail at 6-30 A.M. Information from the police that the warrant of arrest had been carried out was received by me about 10 A.M. I was out of my house from 7-15 A.M. until about 10 A.M. to be present in the Irwin Hospital at the time of the visit of the Prime Minister and at New Delhi Railway Station at the arrival of His Excellency the Governor of Madras. From 9 A.M. to about 10 A.M. I was going round the city to check up law and order situation and arrangements.

My letter to Mr. Speaker was dictated about 11 A.M. I had to go out to attend certain urgent meetings after dictating the letter and had to go to the city again to attend to some aspects of law and order situation. As far as I can recollect letter to the Speaker was signed by me about 1-30 P.M. when I returned from the city. The messenger must have left the office somewhere about 2 or 2-30 P.M., and I have been told he first took the letter to the Parliament House and from there went to the residence of the Hon'ble Speaker. He says he delivered it about 4-30 P.M.

I also enclose a copy of the order of detention.

Yours faithfully,
(Sd.) R. DAYAL,
District Magistrate, Delhi.

Grounds of detention of Shri V. G. Deshpande, originally a resident of Mekhar, District Duldana, Berar, Madhya Pradesh, at present of Hindu Mahasabha Bhawan, Reading Road, New Delhi, Member of the House of the People.

With a view to promote and preach communal hatred and communal violence you started representing to the general public a purely personal matter of an intended civil marriage between a Muslim bridegroom and a Hindu bride, both of whom had given the required legal notices, as a matter of supreme communal and religious importance. To mislead the general public you started propaganda secret and open to excite communal hatred and preach communal violence. These activities were intentionally started after the expiry of the statutory period for filing objections to the proposed civil marriage.

On account of disturbed conditions, threatening communal riot, an order under section 144, Cr. P. C. had to be promulgated on the afternoon of 26th May, 1952 preventing the holding of meetings and taking out of processions. You in defiance of this prohibitory order participated in a meeting of about 2,000 persons in the Dewan Hall, on the evening of 26th May, 1952 and delivered highly provocative speech exhorting the audience to resort to communal disaffection and demanding the restoration of the bride to Hindus at all costs.

Your past history also shows that you have been instigating public at different times to resort to communal hatred and violence and that almost all the speeches made by you in past in Delhi, have tended to increase communal tension. You were arrested on 1.2.48 under Section 3 of the Punjab Public Safety Act and detained as you were considered a firebrand and an irresponsible speaker and the front-rank communalist.

Your activities, if therefore, allowed to persist, are likely to take a violent shape, seriously undermining the public order. With a view to prevent you from acting in a manner prejudicial to the maintenance of public order and peace you are detained under Section 3 of the Preventive Detention Act.

You may make a representation against the order to the Delhi State Government, if you so desire.

(R. DAYAL),
District Magistrate, Delhi.
27-5-52.

ORDER

WHEREAS, I Rameshwar Dayal, District Magistrate, Delhi, am satisfied with respect to the person known as Shri V. G. Deshpande son of X of Hindu Mahasabha Bhawan, Reading Road, New Delhi that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary to make an order that the said Shri V. G. Deshpande be detained:

NOW, THEREFORE, in exercise of the powers conferred on me by section 3 of the Preventive Detention Act, No. IV of 1950, as amended, I hereby make this order directing that the said Shri V. G. Deshpande be detained.

Given under my hand and seal this 27th day of May, 1952.

(RAMESHWAR DAYAL),
District Magistrate, Delhi.

No. F.4(7)/52- /Genl. Dated the 27th May, 1952.

Copy forwarded to the:—

1. Senior Superintendent of Police, Delhi.
2. Superintendent of Police, C.I.D., Delhi.
3. Superintendent of Police, (City), Delhi.
4. Superintendent, District Jail, New Delhi.
5. Home Secretary to Delhi State Government.

(RAMESHWAR DAYAL),
District Magistrate, Delhi.

APPENDIX III

Report of Inspector Hirday Narain, C.I.D., Delhi.

I was entrusted with the Detention Warrants of Shri V. G. Deshpande, issued by the District Magistrate, Delhi, under section 3 of the Preventive Detention Act IV of 1950 for service. I accordingly, in execution of warrants, arrested Shri Deshpande from the Hindu Mahasabha Bhawan on the morning of 27.5.52 at 5-30 A.M. Learning from Shri Deshpande at the time of his arrest that he was to attend the House of Parliament and was to move certain questions, I thought it advisable to communicate his arrest to the Secretary of the House immediately. Although such information had to be furnished by the Authority issuing the warrants but just to avoid delay in the communication of this important information, I informed the Secretary in good faith. This immediate and important information was conveyed by me hurriedly at the place of arrest in good faith, and thus under the circumstances when I was busy in making arrests, I could not even observe the routine formalities.

(Sd.) HIRDAY NARAIN,
Inspector of Police, C.I.D.,
Delhi, dated 29-5-52.

EVIDENCE

30

**PROCEEDINGS OF THE COMMITTEE OF PRIVILEGES
ON DESHPANDE CASE**

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PROCEEDINGS

Friday, the 30th May, 1952

MEMBERS PRESENT

Dr. Kailas Nath Katju (*Chairman*).

Shri Satya Narayan Sinha.

Shri A. K. Gopalan.

Dr. Syama Prasad Mookerjee.

Shrimati Sucheta Kripalani.

Shri Sarangdhar Das.

Shri B. Shiva Rao.

Shri R. Venkataraman.

Dr. Syed Mahmud.

Shri Radhelal Vyas.

SECRETARIAT

Shri M. N. Kaul (*Secretary*).

Shri S. L. Shakhder (*Officer on Special Duty*).

WITNESS

Shri N. C. Chatterjee, M.P.

(*The Committee met at Five of the Clock*)

Evidence of Shri N. C. Chatterjee

Chairman: I am sure we are all obliged to Shri Chatterjee for coming here and for assisting us with his exposition of the law on the subject. I remind you that we have got two absolutely separate questions. One deals with the point of time at which information should have been given to the House after detention. That stands completely on a separate footing and on that I understand the District Magistrate has sent to the Secretary a letter in which he has described as to how the letter came to be sent at one o'clock or two o'clock. That is a question of fact. The other is a much more important question, namely the exact scope of the Committee of Privileges for investigation when people are detained under the Preventive Detention Act or are arrested by the police on a suspected criminal charge during the course of police investigation, or on a warrant issued by a magistrate.

Now, Shri Chatterjee.

Shri N. C. Chatterjee: It seems that in England the law is this.

Chairman: Before Shri Chatterjee begins, may I tell you that the Delhi Administration, very likely because they think that normal conditions have returned to the City, have released Shri Deshpande, our colleague in Parliament. They have also probably released all the other persons who were detained. There were altogether 11 persons.

Dr. S. P. Mookerjee: They are in the process of being released.

Chairman: They are in the process of being released as normal conditions are returning.

These proceedings are strictly confidential.

Secretary: It is a breach of privilege to disclose any proceedings of this Committee.

Chairman: Now, whatever we do now is a matter for us to report to the House and for future guidance it would be very useful.

Shri N. C. Chatterjee: In England, the history of the privilege of freedom from arrest can be traced back to Anglo-Saxon times, when members going to attend the *witenagemot* were in the King's peace and therefore they could

30 May, 1952]

SHRI CHATTERJEE

[Continued

not be arrested during the session of the *witenagemot* or 40 days before and after the session. That was extended to sessions of Parliament and that has all along been the law in England. I quote to you the authority of Sir Arthur Berriedale Keith. At page 68 of Ridges' Constitutional Law (seventh edition), he says about the privilege of freedom from arrest as follows:—

"It still exists during, and for forty days before and after, a session of Parliament, even after a prorogation or a dissolution, and the rule applies to a person who was a member of the old Parliament, but is not a member of the new one"

Even then he cannot be arrested for forty days.

Shri B. Shiva Rao: I do not know the context, Shri Chatterjee. But do you suggest that that is absolute freedom from arrest?

Shri N. C. Chatterjee: No, no.

Shri Venkataraman: It would be helpful if you refer to civil action.

Chairman: Probably he is giving you the history of the matter. He is not explaining the present law. He is just telling us what the law was in the U.K.

Shri Venkataraman: Even then I would like to know whether it would mean arrest for a civil offence or a criminal offence.

Shri N. C. Chatterjee: Sir Arthur Keith in the next paragraph says—

"The privilege does not exist in the case of treason, felony, or breach of the peace".

Now, according to me the present case is not covered by these exceptions. It is not a case of treason, nor of felony, nor of breach of the peace. You must have studied Ramsay's case. Ramsay's case has got certain peculiar features. First of all, you ought to remember that it was detention under Regulation 18-B. Regulation 18-B of the Defence (General) Regulations of 1939 reads as follows. I am reading out from the celebrated case of *Liversedge v. Sir John Anderson* which is quoted in 42, Appeal Cases, at page 207. It says:—

"If the Secretary of State has reasonable cause to believe any person to be of hostile origin or association or to have been recently

concerned in acts prejudicial to public safety or the defence of the realm then an order against that person directing that he be detained be passed."

Shri Radhelal Vyas: Is that the opinion of the Judge or the language of the section?

Shri N. C. Chatterjee: Language of the section. Now, you will notice that this is not really preventive detention. During the war England made the Defence Regulations to this effect that if a person is a German or was a German and was of hostile origin and was sitting in the House of Commons he can be detained. Nobody can quarrel about that in war time as he is an enemy alien. The second part of the section under which this restraint was imposed against *Liversedge* is that there was reasonable cause to believe that he has been recently concerned in acts prejudicial to public safety. Therefore, really it is a punitive detention. The only novel thing is this, that instead of sending it to a Magistrate for trial, during war time Parliament thought it better to leave it to the discretion of the Home Secretary, but he must apply his mind and must be satisfied that the person has done something injurious in the past, something detrimental to the safety of the country, endangering the defence of the realm, and then this Regulation would be enforced.

I would submit for your consideration that our Preventive Detention Act is entirely different. There is no question of a person having done something in the past. It will not do simply to say that in the case of an internment or detention under Regulation 18-B Committee of Privileges of the British House of Commons decided that there was no freedom from arrest for a member of the British Parliament, therefore a member of our Parliament detained under the Preventive Detention Act cannot claim the privilege. I beg to point out to you that, fundamentally, our position is different. As you know, May's Parliamentary Practice has pointed out that you cannot have any freedom from arrest when you have committed a crime. The privilege of freedom from arrest is limited to civil cases and you cannot claim any privilege when a member is charged with an indictable offence. Practically, under Regulation 18-B, one is charged with an indictable offence. It is really a punitive detention, not a preventive detention. But the language of our law is much wider.

30 May, 1952]

SHRI CHATTERJEE

[Continued

As the Supreme Court pointed out in Gopalan's case in India there is no question of any crime being committed; there is no question of an indictable offence being brought home against any person. You are merely arrested on suspicion—maybe that you will never commit any crime, but on mere suspicion the executive is clothed with arbitrary authority under the law of arresting a person. I am, therefore, pointing out that it would not be fair to rely on Ramsay's case and say that it is a case like detention under Regulation 18-B and as in England they have said there cannot be any freedom from arrest for a Member of Parliament. No Member of the Indian Parliament can claim that privilege.

Chairman: Will you please explain for our benefit the distinction that you draw between punitive arrest and preventive arrest?

Shri N. C. Chatterjee: In the case of preventive arrest, no crime is committed and there is no question of punishment.

Chief Justice Kania pointed out that there is a fundamental difference between the two. There is an element of retribution or punishment in the case of punitive detention. In the case of preventive detention there is no question of punishment for the commission of any crime.

Chairman: In the case of preventive detention, who decides that the crime has been committed?

Shri N. C. Chatterjee: Ordinarily, the executive decides.

Chairman: In the case of punitive detention who decides it?

Shri N. C. Chatterjee: Ordinarily the Magistrate decides it.

What I am now trying to point out is that it is a misconception to say that Regulation 18-B of the English Defence Regulation was really a law with regard to preventive detention, because generally the cases in which that was invoked were cases in which a man was charged for having done something detrimental already.

Dr. S. P. Mookerjee: Are you suggesting that under the English law as it then stood, no one could have been arrested on suspicion?

Shri N. C. Chatterjee: The point is this. The Secretary of State must have reasonable cause to believe that he has

been recently concerned in acts prejudicial to public safety or prejudicial to the defence of the realm.....

Chairman: Or?

Shri N. C. Chatterjee:...or in the preparation or instigation of such acts.

Chairman: Is there anything further?

Shri N. C. Chatterjee:and that by reason thereof, and if necessary to exercise control over it, the Secretary of State can pass an order against that person directing that he should be detained.

What I am pointing out for your consideration is that there is a fundamental difference between our law and the English law. When the authorised person (District Magistrate or Sub-Divisional Officer, or a high police officer) has got to exercise his judgment, there is no question of the person to be detained being recently concerned in any acts prejudicial to the defence of the realm. It will not, therefore, be right to say that because in Ramsay's case the British House of Commons affirmed the Committee of Privileges Report, saying that no member of Parliament can demand freedom from arrest, the same thing should apply in India. I submit that it will not be fair and reasonable.

Dr. S. P. Mookerjee: Why not read section 3 of the Preventive Detention Act?

Shri N. C. Chatterjee: Regulation 18-B is really for an indictable offence. In war time somebody starts broadcasting to Germany from a particular place in England. Ordinarily that is an indictable offence and the man should be sent to a Magistrate and should be tried there. But in the public interest it is not desirable that during war time a formal trial should take place because the enemy would come to know the details of it. That would be detrimental to the safety of the country or to military operations. Therefore, they said that the Secretary of State should apply his mind. He is practically working in the capacity of a Magistrate for the purpose of finding out whether that man has committed any act detrimental to the safety of the realm. The language of our Act, Mr. Chairman, is entirely different:

“The Central Government, or the State Government may if satisfied with respect to any person that with, a view to preventing

30 May, 1952]

SHRI CHATTERJEE

[Continued

him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India, or security of the State or the maintenance of public order, or maintenance of supplies and services essential to the community,it is necessary so to do, make an order directing that such persons be detained."

You will notice that there is no question of his being concerned actually with any detrimental act. He has not committed any offence; there is no question of any prior commission of any act, or any crime or anything approximating to a crime.

I have not brought the book, but you can take it from me, Sir, that in Gopalan's case and other cases the Chief Justice of India pointed out that the authority has to act purely on suspicion. It is a subjective thing; therefore there is no question of its being justiciable. How can a Court sit in judgment over that—if somebody suspects a man and thinks that it is necessary to detain him. It may be that he will never commit any crime. But to prevent him or to make it impossible for him to commit that act, he may be detained.

Chairman: Is it your suggestion that when the Home Secretary acted in Ramsay's case, he was practically convicting him?

Shri N. C. Chatterjee: He was practically convicting him. He could not assume the jurisdiction of depriving him of his liberty unless he came to the finding that this man had been concerned in the commission of an offence—something detrimental to the defence of the realm.

Chairman: Would the Court take it a judicial finding?

Shri N. C. Chatterjee: I am not saying that it is a judicial finding. But it is clear that this power has been given to a very high official—a responsible Minister—and it is left to his subjective satisfaction. But the condition precedent to the assumption of the power is that he must apply his mind to that aspect of the question.

Chairman: What particular aspect of the case?

Shri N. C. Chatterjee: The recent commission of a particular act injurious to public safety.

What I am trying to point out is that the law is fairly clear that you cannot invoke the privilege of freedom from arrest when there is a charge and you are arrested on an indictable offence. From that point of view Ramsay's case was rightly decided, because the detention there was more or less an indictment on a criminal charge. He had committed a crime against the State and therefore he was deprived of his liberty.

In this respect the Preventive Detention Act goes much farther than the old ones and dispenses with any aspect of previous commission of any crime or participation, or preparation or attempt to commit any crime. Therefore it will not be right to say that privilege of freedom from arrest cannot be allowed to interfere with the administration of criminal justice.

Apart from that, we are in normal peace time. You have to remember that. There, England was in danger of invasion. Paris and Dunkirk had fallen, England was under the blitz. Therefore they said 'in this national emergency all these things should be brushed aside' and that must have weighed with them to this extent. Therefore I am pointing out that it should not be accepted as a precedent for negating this freedom. The Committee has to consider that the arrest and detention of Ramsay was under the Defence Regulations.

There is one other point. In May's Parliamentary Practice it is said that if anybody misrepresents or deceives the Speaker, or Parliament, or the House of Commons or its Committee, he is also guilty of breach of privilege, because Parliament is more or less a High Court. It is the supreme tribunal within its own sphere and therefore has to get the same protection as a High Court or Supreme Court. In this case you ought to know that what the Speaker has been told is founded on a deliberate misrepresentation of facts. Here it is said.....

Shri Venkataraman: We have not received a copy of the detention order.

Shri N. C. Chatterjee: This is in the letter to the Speaker:

"Dear Mr. Speaker, I have the honour to inform you that I have found it my duty in the exercise of my powers under Section 3 of the Preventive Detention Act of 1950 as amended to direct that Shri V. G. Deshpande, M.P. be

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Detained. Shri V. G. Deshpande was accordingly taken into custody this morning and is at present lodged in the District Jail, Delhi".

I would draw special attention to the sentences which follow:

"The communal situation in Delhi has been tense during the last three days over the intended celebration of an inter-communal marriage. Shri V. G. Deshpande, among others, took a leading part in organising and directing meetings and demonstrations which led to a breach of the peace on May the 26th. Their subsequent conduct in continuing to hold meetings and demonstrations was calculated further to provoke a breach of the peace and as such it was considered necessary to detain him in the interest of maintenance of public order."

There is a clear representation to the Speaker that for three days, that is the 24th, 25th and 26th, Shri Deshpande had been organising and directing meetings and demonstrations and that he took a leading part in those meetings and demonstrations, whereas the actual fact is that during that time he was 300 miles away.

Shri Radhelal Vyas: Those "three days" cannot be taken with the latter sentence.

Shri N. C. Chatterjee: On the 19th May he attended the House in connection with the general debate on the President's Address. On the 20th early morning he went away to Madhya Bharat where a by-election is going on in the constituency from where Shri Deshpande himself had been elected. He was actually in that area, Gwalior-Shivpuri. He left Delhi on the 20th morning and returned on the 26th morning and came practically straight to the House. He was with us till 1 P.M. Possibly he reached Hindu Mahasabha Bhavan at 1-30. From the 20th morning to the 26th morning he was not at all in Delhi. And he never took any part or never was in any way concerned with directing or organising meetings and demonstrations. You know the date of the intended marriage was the 24th. They are saying 'for three days' (that is, 24th to 26th) Shri Deshpande along with other people was taking a leading part in organising and directing these things. They say "The communal situation in Delhi has been tense during the last three days over the intended celebration of an inter-communal marriage. Shri V. G. Deshpande, among others, took a

leading part in organising and directing meetings and demonstrations which led to a breach of the peace on May the 26th." Reading between the lines the obvious suggestion is that for these three days he was going on organising and directing meetings and demonstrations, and the ultimate breach of the peace, of course, took place on May 26th, at the end of the three days. The suggestion is that is the consummation of his activities but this was going on during the three days.

Chairman: We are discussing the point whether in arresting Shri Deshpande there was a breach of privilege of the House. The point whether there has been any mis-statement of facts is a different matter. Assuming that there has been a mis-statement of facts, how is that relevant here?

Shri N. C. Chatterjee: I may be wrong, but I ask you to consider this, because any attempt to deceive the House of Commons or either House of Parliament, according to May, by any false evidence, prevarication or suppression of truth is breach of privilege of the House.

Chairman: Guilty of contempt or breach of privilege?

Secretary: It is the same thing.

Shri N. C. Chatterjee: This arises in connection with the intimation given to the Speaker.

Shri Radhelal Vyas: Similar points arose in the Ramsay case also, and it was said that such points could be raised by other Members or by Ramsay himself.

Chairman: I think we are discussing this point that you have raised, that under the Preventive Detention Act it is not open to the executive authority to arrest any Member of Parliament and that the circumstances of the Ramsay case are different. That is the matter that we are discussing. It is a minor thing whether it is 'guilty of contempt' or 'breach of privilege' in supplying wrong information. Assuming that he has given absolutely correct information, the question is whether the Committee of Privileges could go into the matter. This is the main point on which we would like to have your opinion.

Shri N. C. Chatterjee: The first question is what I have already explained to you. The second is the belated information supplied. And the third one,

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I thought it my duty to point out to you. It is really a charge of an indictable offence. This you will find in 1942 Appeal cases. You will find it quoted here at page 4. I shall mark the portion.

Shri Satya Narayan Sinha: Under the Preventive Detention Act, the arrest of a Member of Parliament constitutes a breach of privilege. That is the long and short of your argument.

Chairman: Supposing a Member is detained under the Preventive Detention Act, you say that he cannot be detained at all?

Shri N. C. Chatterjee: He cannot be detained when Parliament is in session and when he is going back to his constituency or coming from there.

Chairman: I come from Madhya Bharat and Dr. Mookerjee comes from Calcutta. Supposing there is a session of Parliament, say for 3 months, is a Member of Parliament immune from arrest under the Preventive Detention Act? Is that correct?

Shri N. C. Chatterjee: Yes.

Dr. S. P. Mookerjee: And also in civil proceedings?

Chairman: That is what I want to know. Can the House order his release?

Shri N. C. Chatterjee: Yes. If I may give this information—I do not know whether you would like to hear about it—in the American Constitution, I find that is the law. I am citing Cooley and he speaks of the "Immunity of Congressmen."

Shri Venkataraman: They have no Preventive Detention Act.

Shri N. C. Chatterjee: I am speaking about the immunity of the members of the Congress and the members of the Senate. I refer to the General principles of Constitutional law of U.S.A., by Cooley, 4th Edition, page 56, paragraph 12. It refers to the immunity of Congressmen. They also in all cases except treason, felony and breach of peace are provided from arrest during their attendance at the sessions of the respective Houses, and in going to and returning from the same. If I remember aright, they have incorporated this in the Constitution, in order to make it clear and other State legislatures have also followed that.

Shri Satya Narayan Sinha: You are using your own interpretation of the breach of peace. The authority says that this man is really guilty of breach of peace.

Shri N. C. Chatterjee: It is not so. Breach of peace means that you must actually break the peace, either you participate in a riot or dacoity and then only it is breaking the peace. Here you are coming to do the paramount duty of the Commonwealth. You cannot at the same time break the peace of the Commonwealth and say that I claim the privilege of the Commonwealth and not attend Parliament. You cannot have it both ways.

Chairman: I should like to have your opinion on this aspect, namely, is not there much difference in substance between the English Act and our Preventive Detention Act? It is not a question of the language used. The English Act says that the Secretary of State has reasonable cause to believe any person who has been recently concerned in acts prejudicial to the public safety. It may be any crime or it may be no crime—I am just reading it—or the defence of the realm or in the preparation or incitement of such acts, namely, acts which may be prejudicial to public safety or the defence of the realm, and that by reason thereof, it is necessary to exercise control over him. He may make an order against him. Now under our Preventive Detention Act, I take it that Parliament presupposes that the authority—the State Government or the officers to whom the authority is delegated—would act with reason and common-sense and honesty. It says the Central Government or the State Government may, if satisfied with respect to any person, with a view to preventing him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India or the security of the State or the maintenance of public order or anti-social activities, make an order directing that such person be detained.

Shri A. K. Gopalan: There his attendance is prevented by Parliament. The question here is that of a Member attending the Parliament while in session and after that. When he comes here, he attends the session. But you arrest him. This means that you acted not because he is acting in a manner prejudicial to the public safety. There is a specific work for him as a Member of Parliament. He is attending that work in Parliament and you prevent him from attending to his work in Parliament.

Chairman: I understand your point all right. Shri Chatterjee will realize what I am saying. I go back and say

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that Parliament in the first place deliberately passed this Act, knowing that there was no state of war, that the country was at peace. It may well have thought that the State Government would act reasonably and would only act against a person about whom they were satisfied that it was necessary to prevent him from acting in this manner. Now, if a man has done nothing, if he is completely innocent, completely honest, if he is completely a law abiding citizen, then Parliament may well have thought that no action will be taken against him. It may well be argued that Parliament must have definitely thought that action will be taken against that individual only whom the authority concerned had reason to believe that, from his conduct and from what he had already done, there was danger to public safety and that he would do something more and therefore, it was necessary to exercise control over him. I am only putting this to you so that we may have the benefit of your views in the matter.

Shri N. C. Chatterjee: I am pointing out that there is a fundamental and basic difference. I shall proceed on the footing that the executive is behaving in a *bona fide* manner. It is not proper to assume that it is exercising its powers dishonestly. Let us proceed to examine the English Regulation 18-B. The subjective satisfaction of the Secretary of State is a condition precedent to the exercise of this authority. What is the satisfaction? He must come to the conclusion that the prospective detenu has been recently concerned in acts prejudicial to the defence of the country.

Chairman: No. no. Concerned prejudicially with the public safety or the defence of the realm.

Shri N. C. Chatterjee: Therefore, it is not merely suspicion that he might do something; but you have got to be satisfied that he might actually be concerned in any act prejudicial to public safety or prejudicial to the defence of the realm. A man delivers speeches. He has done nothing prejudicial to public safety or defence of the realm. You know there is no constitutional abridgment of the freedom of speech or expression. Therefore, the strongest speeches are allowed under the Constitution. What happens? Because a man delivers some strong speeches, he has not done anything which is a crime or which can be called prejudicial to the defence of the country.

Dr. S. P. Mookerjee: Suppose the Secretary of State holds that that speech itself is an act prejudicial to the State. That is what Dr. Katju says.

Shri Satya Narayan Sinha: The speech may have resulted in acts of violence.

Dr. S. P. Mookerjee: He might not have done any overt act prejudicial to public safety; yet he may be arrested.

Chairman: Another point is this. Parliament must have clearly thought and clearly appreciated that the Central Government or the State Government or the officer concerned will only act reasonably in regard to persons who have already done something to raise that suspicion.

Shri N. C. Chatterjee: As Home Minister you should not say that.

Chairman: I respectfully wish to state that I am here only as a Member of Parliament and I am as anxious to protect the privileges of Members of Parliament as you yourself are.

Shri N. C. Chatterjee: I am not saying that in any spirit of criticism. The Supreme Court has pointed out that our Act makes a conscious departure from other analogous statutes. Here power is much wider. The Executive is clothed with much wider power.

Chairman: That is for Parliament to decide.

Shri N. C. Chatterjee: I am not complaining against that. We are now on a question of privilege. On the question of privilege, you can deprive a Member of Parliament of the right of claiming any privilege if he is charged with an indictable offence, that is a crime. I am only pointing out that in the English Regulations, it is practically conviction that the man has done something of the nature of a crime.

Chairman: Supposing the English law applies, the District Magistrate in Delhi receives information that a Member of Parliament who is resident in Delhi is carrying on anti-social activities, is engaged in black-marketing, smuggling food, etc., and that he has completely reasonable information, you say that he cannot be detained.

Dr. S. P. Mookerjee: He will be arrested under the ordinary law.

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Chairman: I am not talking of public peace. A person may come from Calcutta or he may come from Travancore-Cochin. Then, will it be said that he is not here to rouse public passions. Supposing a Member of Parliament or of a Legislative Assembly from Calcutta is engaged in anti-social activities, profiteering, etc., and the District Magistrate is completely satisfied, you say, do not touch him.

Dr. S. P. Mookerjee: Do not touch him under Preventive Detention Act. You may arrest him under the relevant penal law and try him.

Chairman: You say, try him, but do not touch under this law.

Shri N. C. Chatterjee: There are some cases of the Supreme Court where they have said that where black-marketing has been actually done, it is not a proper exercise of the powers under the Preventive Detention Act to detain the person concerned. You have got to proceed against him under the law. He has broken the law.

Chairman: I do not know what the Supreme Court has said. Here the wording is, maintenance of supplies essential to the community. In that, of course, black-marketing, profiteering, etc., come in. Suppose there is a Member of Parliament against whom it is said that he has been hoarding. It is not a criminal offence at all.

Shri N. C. Chatterjee: May I bring you back to the issue, Sir?

Chairman: The issue is this. There is a Member of the State legislature or a Member of Parliament against whom the District Magistrate or the Central Government or the State Government has complete information and is absolutely satisfied that he is engaged in anti-social activities, consisting in hoarding, keeping back, selling at higher prices etc., which do not come within the purview of the criminal law of the land. You say, he is a Member of Parliament, Parliament is in session and so he cannot be touched. That is the question for which I want an answer.

Dr. S. P. Mookerjee: Such a clause did not exist previously. That is a new clause. Previously that man could not be arrested.

Chairman: We are not considering the Act. We will take it up later. I hope Shri Chatterjee will not argue that if a person is detained on a charge of hoarding, a Member of Parliament cannot be detained.

Shrimati Sucheta Kripalani: Let me take the opposite case.

Shri Venkataraman: We will hear the answer of Shri Chatterjee before we go to the next question.

Dr. S. P. Mookerjee: What you say will perhaps be true.

Chairman: See the result. Parliament is in session for eight months. A Member of Parliament in Delhi occupies an advantageous position.

Dr. S. P. Mookerjee: Our penal law will have to be amended. But, suppose the majority party thought, as, in fact, was said in one of the books that you read yesterday that 20 Members or 50 Members of Parliament should be spirited away for a month.....

Chairman: Who said that?

Dr. S. P. Mookerjee: Suppose the House is divided with a narrow majority for Government and it is so decided. Look at the rigour of the present law. For one month you need not do anything. You can sit tight. After one month, you can refer to the Advisory Committee. You can take away 60 Members of Parliament. The absurdity of this position will have also to be considered.

Shrimati Sucheta Kripalani: That was my point also.

Chairman: We are only considering the legal question. Shri Chatterjee is here to help us.

Shrimati Sucheta Kripalani: That is one aspect of the present law and we cannot ignore it.

Chairman: We need not bring in political considerations here. If the majority party dishonestly uses this, then it ought to be condemned.

Dr. S. P. Mookerjee: How?

Chairman: According to the law.

Shri A. K. Gopalan: There are judgments of the Supreme Court under the Preventive Detention Act. They have said that there must be a suspicion. The case that we have put forward is this. Here is a Member of Parliament who is carrying on black-marketing; he is continuing it; don't you want to arrest him? The Judges have said that these powers can be used only when there is a suspicion, but there is nothing more. When he is carrying on black-marketing, you have got to arrest

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him and convict him for the offence. The Preventive Detention Act can be used only when there is suspicion. Suppose the District Magistrate hears that a Member of Parliament is carrying on black-marketing, certainly he can be convicted. When there is only a suspicion, when there is nothing for them to prove and they want to prevent something, then, the Preventive Detention Act can be used.

Shri Venkataraman: Before we discuss further, it would be better if we get the opinion of Shri Chatterjee.

Shri N. C. Chatterjee: What I am trying to point out is this. No Member of Parliament can claim any privilege from arrest if he is arrested on a criminal charge. Under Regulation 18-B really and substantially you are arrested on a criminal charge, because, you have been deprived of your liberty not for mere suspicion, but for your past activities which are detrimental to the safety of the State. Therefore, really it is an indictment.

Chairman: An act prejudicial to public safety may not be criminal at all.

Shri N. C. Chatterjee: It must be some detrimental or injurious act for which the man is deprived of his liberty. It is punitive and retributive. One is penalised for having done something in the past. It must be a serious thing which imperilled the safety of the country. Under our Preventive Detention Act there is nothing which says that your power is dependent on your satisfaction that the man has done something in the past.

Chairman: Could we not assume that Parliament was satisfied that the officers concerned would act in a legal manner?

Shri N. C. Chatterjee: Deliberately and consciously it has given that right, even if the man has not done anything in the past. The authorities are clothed deliberately with more extensive powers. You cannot deprive a man of his liberty as M. P. unless he is arrested on a criminal charge.

Chairman: Where is the criminal charge in DORA?

Secretary: What the Chairman says is that the man should have been recently concerned in acts prejudicial to public safety. These acts need not be criminal.

Shri N. C. Chatterjee: You should put a reasonable construction on those words there. It must be something connected with the defence of the realm. It is a war regulation. It is

meant for the purpose of defending England in times of grave emergency. If a man has done anything prejudicial to public safety or the defence of the country and if the Secretary of State is satisfied that he has done it, then the man's liberty can be taken away.

Secretary: You may conceive of acts which may be prejudicial to public safety but may not come under any provision of the Penal Code.

Shri N. C. Chatterjee: It envisages some serious act committed by a man. Therefore that fundamental difference is there. Under our Act one need not commit anything and the executive authority need not apply its mind at all to this.

Chairman: DORA says that you do something and the Home Secretary intervenes to prevent you from doing something more.

Dr. S. P. Mookerjee: Under the Preventive Detention Act one need not do anything. I will give you an instance. Two years ago when the Prime Minister was going to Calcutta there was a heated atmosphere. The day before he arrived about 50 people were arrested under the Detention Act who had done nothing but were known to have held opinions hostile to the Prime Minister. After the Prime Minister left Calcutta they were released. The Chief Minister of West Bengal justified the action by saying that it was done to prevent some mischief which might have been committed and that Government had the power under the law to do so.

Chairman: The second question is this. Do you mean to say that this Committee of Privileges has got jurisdiction to enquire from District Magistrates or State Governments and ask them "Why have you detained so and so?" Supposing the authority concerned says "The man had been profiteering or had hoarded 5,000 maunds of rice when everybody round about was dying." Would this Committee say that this order was completely justified? Would you go into the merits of each case? Or no matter what the merits of a case may be, whatever the activities a man may have indulged in, he might have delivered the most virulent speech or acted in an anti-social manner but he cannot be arrested, because he is a member of a legislature, local or Central. I am saying that there is no offence committed.

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Shri N. C. Chatterjee: Then I submit that a member of Parliament cannot be arrested.

Secretary: There may be acts which may fall short of crime but some act is necessary on the part of the member of Parliament. But what is the position if he had committed no offence but merely because there is a suspicion that he is likely to act in a manner prejudicial to public safety he is arrested?

Chairman: Are you going to suggest that it is for the Privilege Committee of Parliament to find out whether any act has been committed or not? If the authority concerned says that acts had been committed on which he came to the conclusion that it was necessary to restrain the man, then the Committee will say "O.K. You are justified".

Shri N. C. Chatterjee: We need not go into all these things. The prior commission is not at all requisite. You have to assume that he has not committed an offence and yet the executive thinks that he ought to be detained.

Chairman: Your suggestion is that under the Preventive Detention Act as framed no member of Parliament or the State Legislature can be detained at all, while the legislature is in session. It is like freedom from civil arrest.

Secretary: It is argued that Ramsay's case is not applicable, as our law is differently framed.

Chairman: We are not bound by the Ramsay case. There is nothing to prevent us from saying that this Act indicates a general policy. Every one knows that there is complete peace in the land and yet Parliament for certain purposes passed this law which enlarged the scope to defence of India, relation of India with foreign powers, security of India or the maintenance of public order. Next comes maintenance of supplies and services essential to the community, which means postal or railway strikes. It conferred authority deliberately on the Central Government and State governments to take certain action. Why should we not assume that so far as this Act is concerned Parliament, not having conferred by express language any particular immunity to members of the legislatures, they should be treated alike, because this Act is on the face of it a penal statute.

Shri N. C. Chatterjee: Parliament is really a High Court. In some civilised democratic countries it is called as

High Court of Parliament. High Court in the sense that it has got certain assigned functions. Take for instance that a case is going on in a court of law. You are serving as a member on the Jury. Can you be arrested? No, you can't unless you commit a crime.

Chairman: Are you going to argue that if a criminal trial is proceeding and a Jury has been sitting continuously for 20 days, then under this Act a jurymen cannot be detained?

Shri N. C. Chatterjee: We are all participants in a Legislature which is the highest sovereign Legislature in the country. We are practically in the position of jurors and it will be absolutely contempt of court to interfere with the freedom of the witness or the juror when he is actually participating in the trial. Because you cannot impede the Judge, you cannot impede the witness. You cannot in any way interfere with the liberty of the person.

Chairman: Can you detain a Judge of the High Court?

Shri N. C. Chatterjee: I do not think so. What I am pointing out is this that unless you find express words—you should require express words—you cannot detain anybody.

Chairman: You throw the onus on me.

Shri N. C. Chatterjee: You must find out express words before you deprive a Member of Parliament of his freedom of liberty. The Constitution says that you shall enjoy all the privileges of the British House of Commons. That means I cannot be arrested in civil cases. I cannot be arrested except on a criminal charge. The mandatory provision of this paramount law is that—I read it in that way because that is a proper reading—no Member of Parliament shall be deprived of his liberty or can be arrested except on a criminal charge.

Chairman: Would you not go further and say that no Member of the Legislature can claim any immunity in regard to the application to him of statutes which are penal in their nature?

Secretary: He says that the fundamental law is laid down in the Constitution itself. There is an implied exception in favour of the Member of Parliament.

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Chairman: The fundamental law put in the Constitution is that no Member shall be arrested otherwise than on a criminal charge. I take that to mean that criminal charge means action under a penal law.

Shri N. C. Chatterjee: But this is not a penal law. In Gopalan's case it has been decided that that is not a penal law. The argument was that you cannot possibly deprive a man under any process of law of his liberty. You must satisfy yourself that the man has done something. Simply because he came to Delhi where the Act has been enacted, you cannot deprive the man of his liberty. You cannot deprive a Member of Parliament of his liberty until he is charged with some criminal offence.

Chairman: Is it or is it not open under the Criminal Procedure Code for a Magistrate to take action under section 110 or 109 or 108? Cannot a person be arrested under either of these sections?

Shri N. C. Chatterjee: If I remember aright, I think you will find the section says that the person must have done something.

Shri Venkataraman: Section 110 is with regard to habitual offenders.

Shri N. C. Chatterjee: The law is perfectly clear in England that freedom of liberty can be taken away only when an M.P. is indicted of an offence. When there is no question of any crime or any participation in any offence, can you say that the freedom can be taken away?

Chairman: Supposing in the streets of Calcutta or anywhere where there is a danger of communal disturbance, danger of breach of peace and the Magistrate says "Well, I am going to take action against you under section 107" and issues a warrant of arrest, then, will that be in order?

Shri N. C. Chatterjee: So far as I remember under those sections you can order security to be given. Only when security is not given, the Magistrate can issue a warrant of arrest.

Shri A. K. Gopalan: Under section 151, they can arrest a man. But if it is found out later on that there was no basis for it, then that is another thing.

Secretary: Have you read the judgment of the Madras High Court on this question? Have you any recollection of the upshot of that judgment because in that judgment they accepted the principle of Ramsay's case?

Shri Venkataraman: It is really of the nature of a civil action. It is not at all penal nor criminal.

Shri Radhelal Vyas: Suppose a man has committed certain acts prejudicial to public safety, can he not be detained under the Preventive Detention Act? It covers those cases also. We would like to be enlightened by Shri Chatterjee on this point.

Secretary: His point is that members do not have the advantage of the privilege because they are committing a criminal act. That is the fundamental principle. They have stated in Ramsay's case that if a member of Parliament does something prejudicial to the safety of the realm, in that particular case they have said that instead of accepting the judgment of the Court as it were, they accept the judgment of the Home Secretary, that is to say, the Home Secretary who is a Minister in England. His judgment as it were is substituted for the judgment of the Magistrate. But there must be some acts prejudicial to public safety. Shri Chatterjee's point is that our law is wider in scope.

Dr. S. P. Mookerjee: Then it raises this issue. Supposing a person, an M.P., is put under arrest after having committed certain acts prejudicial to the security of the State, will such detention be considered valid?

Secretary: My personal opinion is, yes.

Dr. S. P. Mookerjee: That is not what I was going to say.

Shri Radhelal Vyas: We would like to be enlightened by Shri Chatterjee.

Secretary: This is from Ramsay's case.

"It might, however, be suggested that the Executive in possession of these powers could in effect avoid Parliamentary control by intern-ing under it all those Members who might be likely to challenge its actions. The recent case of 'in re Lees' shows the legal safeguard against such a suggested danger. In that case a person interned under the Regulator in question, though under a different paragraph, applied for a writ of Habeas Corpus. The Home Secretary was given notice of the application and he swore an affidavit, accepted by the Court, to the effect that he had carefully considered the information at his disposal and believed that the applicant was a person to whom the provisions of

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the Regulation applied. On this evidence the Court refused the application. If the real ground of internment had been that the Member was likely to prove an embarrassment to the Executive in Parliament no such affidavit could have been sworn without the commission of gross perjury."

Now, are similar remedies available here?

Dr. S. P. Mookerjee: That is the point.

Shri Radhelal Vyas: He can go to the Advisory Board.

Shri N. C. Chatterjee: Here it is not available. In the cases of Khare, Asutosh Lahiri and other cases, the Supreme Court said: Circumstances here are very different, because the powers enjoyed by the Executive are so wide, and we are powerless to ask the Executive to release them. We cannot go into questions of fact.

Shri Venkataraman: The judgment was that whatever be the circumstances, the Court, either the Supreme Court or the High Court, cannot go into questions of fact...

Secretary: The safeguards which were available in Ramsay's case do not exist in India.

Shri N. C. Chatterjee: Exactly.

Dr. S. P. Mookerjee: Can we come to this conclusion, that only in one set of circumstances the question of privilege can be sustained and not in the other set of circumstances?

Shri N. C. Chatterjee: The fundamental principle is: privilege can only be taken away when an M.P. is arrested for the commission of an indictable offence. This is the fundamental argument. This is clearly laid down. Was this M.P. arrested for the commission of an indictable offence? Does this Act at all contemplate that there must be an indictable offence?

Shri Radhelal Vyas: Was Captain Ramsay arrested on an indictable offence?

Shri N. C. Chatterjee: Looks like that.

Shri Radhelal Vyas: I am sure it was not an indictable offence for which he was arrested.

Chairman: I am sure that I am voicing the opinion of all the members of this Committee in expressing our great gratitude and appreciation to Shri Chatterjee for coming here and assisting us. There has been a great discussion and it has led to great illumination.

Shri N. C. Chatterjee: I am thankful to you.

(Shri N. C. Chatterjee withdrew).

Chairman: Shall we now close at 6.30? While the importance of the Committee remains because this is a matter of privilege, the urgency, so far as the individual is concerned, no longer exists.

Dr. S. P. Mookerjee: The papers may be circulated to us.

Secretary: This is the report of Inspector Hirday Narain, CID, Delhi:

"I was entrusted with the Detention Warrants of Shri V. G. Deshpande, issued by the District Magistrate, Delhi under section 3 of the Preventive Detention Act IV of 1950 for service. I accordingly, in execution of warrants, arrested Shri Deshpande from the Hindu Mahasabha Bhawan on the morning of 27th May 1952, at 5.30 a.m. Learning from Shri Deshpande at the time of his arrest that he was to attend the House of Parliament and was to move certain questions, I thought it advisable to communicate his arrest to the Secretary of the House immediately. Although such information had to be furnished by the Authority issuing the warrants but just to avoid delay in the communication of this important information, I informed the Secretary in good faith. This immediate and important information was conveyed by me hurriedly at the place of arrest in good faith, and thus under the circumstances when I was busy in making arrests, I could not even observe the routine formalities.

Sd/- HIRDAY NARAIN,

Inspector of Police, C.I.D. Delhi.

Dt. 29.5.52."

30 May, 1952]

[Continued

Chairman: What does the District Magistrate say?

Secretary:

"From

Shri Rameshwar Dayal, I. A. S.,
District Magistrate, Delhi.

To

Shri M. N. Kaul, Bar-at-Law,
Secretary, Parliament House,
New Delhi.

Dated Delhi, the 29th May, 1952.

SUBJECT: Your letter No. 569-C/52, dated May 28, 1952, seen by me at 10 P.M. on 28. 5. 52.

Sir,

The grounds of detention served by me on Shri V. G. Deshpande, M. P. explain as to what led me to order the detention of Shri V. G. Deshpande. A copy of the grounds of detention served him is enclosed.

Shri V. G. Deshpande was arrested at 5.30 a.m. and was admitted to District Jail at 6.30 a.m. Information from the police that the warrant of arrest had been carried out was received by me about 10 a.m. I was out of my house from 7.15 a.m. until about 10 a.m. to be present in the Irwin hospital at the time of the visit of the Prime Minister and at New Delhi Railway Station at the arrival of His Excellency the Governor of Madras. From 9 a.m. to about 10 a.m. I was going round the city to check up law and order situation and arrangements.

My letter to Mr. Speaker was dictated about 11 a.m. I had to go out to attend certain urgent meetings after dictating the letter and had to go to the city again to attend to some aspects of law and order situation. As far as I can recollect, letter to the Speaker was signed by me about 1.30 p.m. when I returned from the city. The messenger must have left the office somewhere about 2 or 2.30 p.m. and I have been told he first took the letter to the Parliament House and from there went to the residence of the Hon'ble Speaker. He says he delivered it about 4.30 p.m.

I also enclose a copy of the order of detention.

Yours faithfully,

Sd/- R. DAYAL,
District Magistrate, Delhi."

Grounds of Detention of Shri V. G. Deshpande, M.P.

"With a view to promote and preach communal hatred and communal violence you started representing to the general public a purely personal matter of an intended civil marriage between a Muslim bridegroom and a Hindu bride, both of whom had given the required legal notices, as a matter of supreme communal and religious importance. To mislead the general public you started propaganda secret and open to excite communal hatred and preach communal violence. These activities were intentionally started after the expiry of the statutory period for filing objections to the proposed civil marriage.

"On account of disturbed conditions, threatening communal riot, an order under section 144 Cr. P.C. had to be promulgated on the afternoon of 26th May, 1952 preventing the holding of meetings and taking out of processions. You in defiance of this prohibitory order participated in a meeting of about 2000 persons in the Dewan Hall, on the evening of 26th May, 1952 and delivered highly provocative speech exhorting the audience to resort to communal disaffection and demanding the restoration of the bride to Hindus at all costs.

"Your past history also shows that you have been instigating public at different times to resort to communal hatred and violence and that almost all the speeches made by you in past in Delhi have tended to increase communal tension. You were arrested on 1st February 1948 under Section 3 of the Punjab Public Safety Act and detained as you were considered a fire-brand and an irresponsible speaker and the front-rank communalist.

"Your activities, if therefore, allowed to persist, are likely to take a violent shape, seriously undermining the public order. With a view to prevent you from acting in a manner prejudicial to the maintenance of public order and peace you are detained under Section 3 of the Preventive Detention Act."

"You may make a representation against the order to the Delhi State Government, if you so desire".

(The Committee adjourned till Five of the Clock on Wednesday, the 4th June, 1952).

Wednesday, the 4th June, 1952

MEMBERS PRESENT

Dr. Kailas Nath Katju (*Chairman*).

Shri Satya Narayan Sinha.

Shri A. K. Gopalan.

Dr. Syama Prasad Mookerjee.

Shrimati Sucheta Kripalani.

Shri Sarangdhar Das.

Shri B. Shiva Rao.

Shri R. Venkataraman.

Dr. Syed Mahmud.

Shri Radhelal Vyas.

SECRETARIAT

Shri M. N. Kaul (*Secretary*).

Shri S. L. Shakhder (*Officer on Special Duty*).

WITNESSES

Shri Vishnu Ghanshyam Deshpande, M.P. (5 P.M.).

Shri Rameshwar Dayal (5-37 P.M.).

(*The Committee met at Five of the Clock*)

(*Shri V. G. Deshpande, M.P., was sworn*).

Evidence of Shri Deshpande

Chairman: Would you like to make a statement, Shri Deshpande?

Shri V. G. Deshpande: I left Delhi on the 20th of May 1952 for Gwalior. From 20th of May to 25th of May, I toured in Gwalior, Sheopuri, Kolarus and other places. I reached Delhi back on the 26th of May morning by the Amritsar Express. I came to Parliament in the morning of the 26th and remained in Parliament up to 1 P.M.

I did not know much about this Raj Sharma-Sikandar marriage before this. On the morning of 26th, while going to Parliament I read a small report regarding it in the local newspapers. After taking my meals at two I learnt that injunction had been granted against the marriage and there was some commotion in the city. At 5.30 P.M. I was informed that a public meeting was in progress in the Dewan Hall and my presence was required there. I went to the Dewan Hall. The meeting was in progress and one Shri Gyan Chand Khattar was addressing. Prof. Ram Singh was presiding at the meeting. I addressed the meeting for nearly

fifteen minutes, in which I discussed whether such marriages have social implications and said that the State and the leaders of public opinion have to take interest in such marriages. I told people that injunction has been granted and they should maintain peace and order, as the matter is *sub judice* and that the final decision would be given on the 9th of June.

At 6-30 P.M. I left the meeting and came to the Hindu Mahasabha Bhavan. Early in the morning (at 4.30 A.M.) on the 27th May a police inspector (Pandit Hirday Narain) came to me and told me that there were orders for my arrest and detention in the District Jail, Delhi.

Shri Satya Narayan Sinha

1. While you were away from Delhi, that is during your Gwalior tour, did you hear any news about this marriage?—Once I heard that news about this marriage had appeared in some Urdu papers, either *Milap* or *Pratap*.

2. It was only when you reached Delhi and came to Parliament, that you read some such thing was going on?—Yes.

3. From the Hindu Mahasabha Bhavan you were taken to the jail?—I was allowed to take my bath. They took me to the jail at 7 A.M.

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SHRI DESHPANDE

[Continued

Dr. S. P. Mookerjee

4. When did you reach the jail?—I reached the jail at about 7 A.M.

Shri Satya Narayan Sinha

5. Was any warrant shown to you?—Yes; a detention order.

Shri B. Shiva Rao

6. Between the 20th and 25th May, when you were in Gwalior State, did you deliver any speeches there?—At some places I did deliver speeches.

Shri Satya Narayan Sinha: He was there in connection with the by-election.

7. So you spoke at different places?—Not every day, but most of the days. On the 23rd, 24th and 25th May, I did not speak—in fact there was polling on the 24th. I spoke on the 22nd.

Shri Radhelal Vyas

8. When did you leave the Sabha Bhavan for your residence on the 26th night?—I live in Sabha Bhavan.

9. With how many persons did you have discussions or talks on the 26th night?—Practically no one, because some of the people who accompanied me did not come up till 10-30 in the night.

10. While you went for addressing the meeting, did you know that there was a ban on meetings?—Not to my knowledge.

Shri Satya Narayan Sinha

11. Is this the first time that you addressed public meetings in Delhi, or previous to this, that is before you became a Member of Parliament, you came to Delhi several times and addressed meetings of the Sabha?—Yes, I did address.

12. So, as a public speaker you were known to the local authorities here?—Yes.

Dr. S. P. Mookerjee

13. So far as this agitation, this commotion caused, is concerned, did you have any discussions with any one after your arrival here?—After coming out from jail. Before that I had no time to do that.

14. Did you have any hand in organizing demonstrations or meetings which took place before the 26th May?—No.

15. Did you know that the statutory period for filing objections to the civil marriage had expired?—I did not know that.

16. When you addressed the meeting, were there policemen present there?—There were policemen outside the Dewan Hall; some police officers also were there.

17. For how many minutes did you speak?—Fifteen minutes.

18. Only?—Yes.

19. In your speech, did you demand that at all costs, the girl must be restored to the Hindus?—I did not say that.

20. Before you left for Gwalior, did you hear anything about this?—Absolutely nothing.

Shri B. Shiva Rao

21. You said you did not know any thing about this marriage when you left. Did you hear about it while you were in Gwalior?—I was told. I heard that some reports had appeared in some Urdu newspapers.

22. You didn't read them?—I don't read Urdu. Somebody told me.

23. You didn't take some interest?—I was away all the time at Kolarus and other places.

Chairman

24. I imagine when you heard about this at Gwalior you intensely disliked it?—Of course. I do not like Hindu girls marrying Muslims.

25. Do you want to discourage such marriages?—I do not think such marriages are desirable.

26. Do you think that a child born of a Hindu woman when she marries a Muslim would be a potential enemy of India?—Would be a Mussalman, whatever be the results.

27. Would he be a potential enemy of India?—Can be.

28. Is that what you said in your speech also?—Not in these words.

29. Something to that effect?—I will try to explain what I said, because I said it in summary. I said that marriage is a social institution and it has got its implications on society. Then I gave an instance that here, in India, when Pakistan took place, nationality was decided on religion. Parts in which Muslims predominated

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SHRI DESHPANDE

[Continued

were partitioned and given over to Pakistan. I quoted another instance also, that here those women who even profess Hindu religion at this time by law are sent to Pakistan because their husbands are Muslims. Therefore I said this is a matter which should be seriously thought over. Then I said now this lady is Hindu. If she is married to a Hindu, the son born to her will be a Hindu and that Hindu would fight for this country. Suppose this lady marries a Muslim, the child will be a Muslim and, as has happened in the past, if he becomes a Pakistani or goes over or opts to Pakistan, tomorrow he will naturally fight on behalf of Pakistan. That is what I said, and I was showing how marriage has social implications.

30. Therefore you said in your fifteen minutes speech that such marriages should be strongly condemned?—Yes, and they are undesirable.

31. And that all steps should be taken to prevent them?—Not all. In fact I said that the matter has gone to the Court.

32. That adequate steps should be taken to prevent them?—Yes.

33. The hall was full?—It was packed.

34. And there were loudspeakers outside?—I do not remember. Some people were standing outside also.

35. There were many outside. Would you consider that, if there was a ban under sec. 144 Cr. P.C., then this was a clear defiance of that ban?—My own idea is that some of the police officers know me, and had there been a ban the police would have informed me that there is a ban and told me "you should not go there". People called me. Responsible people were there. I entered. Nobody informed me that there was a ban.

36. Perhaps I have not made myself clear. I am not blaming you. What I am saying is that this meeting, which was being held inside the hall, constituted a breach of the order under sec. 144—not that you committed a breach—but that the meeting itself was a breach of the order under sec. 144, because there were four or five thousand persons present?—I do not know what answer I should give whether it was a breach or not.

37. There were four thousand people outside the hall?—There were some people outside the hall.

38. Three or four thousand?—I do not think so.

39. Inside it was packed?—Yes.

40. How many speeches were delivered in your presence?—When I went, Gyan Chand Khatar's speech was coming to conclusion. I spoke and I left. Mauli Chandra Sharma was to have spoken after that.

41. You heard how many speeches, two or one?—I did not hear any.

42. How many speakers were present there?—Shri Gyan Chand Khatar and Mauli Chandra Sharma.

43. You found that the audience were fairly excited?—They were excited. The excitement was there and I asked them to be quiet also.

44. Were there frequent expressions of approval of what you were saying and what other speakers were saying?—In fact they did not approve of my speech. There was a complaint against my speech.....

45. Because you were preaching 'shanti'.—They did not like much what I said in my speech. There was a 'hubbub' when Shri Mauli Chandra Sharma came and the last part of my speech was not audible.

46. Do you think that the audience would have preferred a much stronger speech from you, perhaps?—It is all hypothetical.

Shri B. Shiva Rao

47. The 'hubbub' was due to the fact that in the opinion of the audience your speech was much too mild?—Some of them did not like my saying that we should keep peace and allow the law to take its course. I also said that the injunction had already been granted and the final orders would be made on the 9th.

Chairman

48. Being a prominent leader of all India fame the audience naturally expected a much stronger speech from you?—They expected a correct lead.

Shri B. Shiva Rao

49. Is that why you left that meeting afterwards?—I had to attend to some parliamentary work. I was absent for a pretty long time. In fact I was to ask some questions the next day.

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SHRI DESHPANDE

[Continued

Chairman

50. I could not follow clearly your earlier statement. Were you invited to attend this meeting or you went there of your own accord?—I was informed that a meeting was in progress and it would be desirable if I could come. That telephone message was received before I started.

51. Did anybody telephone you to come?—I was informed on the telephone.

52. They thought that what you would say would have some effect on the citizens of Delhi?—They would be more orderly and all that.

53. Whatever it may be—That is what I took it to be. I was under that impression when they called me.

Shri B. Shiva Rao

54. It means that you had no hand at all in the organization of this meeting?—I had none.

55. Until somebody telephoned you?—Yes.

56. At what time were you telephoned?—Five or five thirty.

Chairman

57. When you came here and when you went from Parliament, friends in Delhi talked?—I did not meet any one in fact.

58. Were you informed about what actually happened in Delhi on Sunday the 25th?—I did not meet anyone in the afternoon.

59. Before you went to the meeting?—Yes. I learnt it.

60. You were also informed as to what had happened on the morning of the 26th?—That I did not know. The only thing that I learnt was that an injunction had been granted.

61. Apart from that, in the Court compound there had been rioting and Gandhi caps had been snatched and burnt there. Were you told of that?—No. In fact none was there in the Hindu Mahasabha Bhawan.

62. I want your knowledge.—My knowledge is that when I went it was very hot. I reached there nearly at Two.

63. Did you know that after the Court had granted the injunction there had been stray assaults in the city on

the 26th and that several people had been injured and that too very seriously?—That I did not know.

64. That they were all Muslims?—That also I did not know.

65. That there had been a great 'golmal' in Chandni Chowk?—I did not know.

66. That there had been a great deal of commotion?—Commotion I could see in the meeting itself, but I did not know about these incidents and other things.

67. Before you went to the meeting you knew that there was a great commotion in Delhi about this matter?—A large number of people had gone to the Court to see whether the injunction had been granted.

68. I think you will also agree with me that the presence of about 5 lakhs of refugees in Delhi would create a very excitable atmosphere.—It is a question of opinion. My feeling is that the refugees are the most secular and docile lot following the policy of the Congress.

69. I am only saying that they were liable to get excited when they came to know that there had been assaults.

Dr. S. P. Mookerjee: In such circumstances the organizers of the meeting would not have attempted to hold the meeting.

70. I am asking Shri Deshpande.—In fact, I did not know about this.

71. In 1948 you had had another experience of this description in Delhi?—What description?

72. You were arrested and ordered to leave?—Yes. An order was served after Liaquat Ali came to India in 1950. It was not in 1948.

73. What happened?—Mahatma Gandhi was assassinated by somebody and the Government thought that I must go to jail and I was taken.

74. You were ordered to go out?—I was ordered to go into this very jail.

Shri Satya Narayan Sinha: Were you sent to jail?

75. Were you detained in Delhi?—Yes.

76. For how long?—10 months.

Dr. S. P. Mookerjee: You were not placed for trial?—No.

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SHRI DESHPANDE

[Continued

77. That means detention. Was your advice sought in Gwalior as to what should be done in Delhi to prevent these extraordinary things?—The question did not arise at all. In fact I did not get sufficient knowledge. Nobody contacted me.

Dr. S. P. Mookerjee

78. How were you treated in the jail?—There was not much of a treatment. There are two classes of detenus, class I and class II. When we asked as to what class is given to us, they said that there were no instructions for class I being given to us. The C.I.D. Officer said: I will telephone. But for four days no answer was received. Then they said: "You will be sent to a certain place. You won't be allowed to sleep in the night outside". I said: "I want to make a representation to the jail authorities". They replied: "You go into the barrack; we won't allow you to make a representation". I insisted that I must make a representation. Then the Superintendent said: "We will give instructions to take you forcibly and put you in a solitary confinement". The point that I wish to mention is that I was taken there. Class I was not given to us. Then I made a representation that we should be allowed to sleep in the open in the night, it being summer. They said that the Delhi Government had amended their old instructions; the detenus must sleep within the barracks. Then I wanted to make a representation. Then, they said: Take this man forcibly and if he does not go willingly put him into solitary confinement.

Chairman

79. I am afraid that is not really relevant.—I will tell you what happened. Then the Superintendent came and apologized. He said that the mistake lay with the district authorities in that they never informed him that somebody was being sent. He thought that ordinary criminals had come. He could not tolerate their making of a representation and all this luxury being indulged by us.

80. Were you allowed to sleep outside?—We were allowed to sleep afterwards.

Unfortunately I was never allowed to sleep outside when I was in jail.

Shri Radhelal Vyas

81. Did you make any representation against the detention order to the State Government?—There was no time. The point is this. We reached there on the 27th. On the 28th at 7-15 in the evening, the grounds were supplied to us. Then, on the 28th, our legal adviser came and we gave him the grounds for habeas corpus petition. After that was drafted, we were to make a representation. But, before that, we were released.

Shri B. Shiva Rao

82. How long were you in detention?—Three and a half days.

83. When were you released?—On the 30th, afternoon.

Shri Sarangdhar Das

84. Under the High Court's order?—No; under the Jail Superintendent's order. He said, go out.

(Shri V. G. Deshpande withdrew and Shri Rameshwar Dayal was called in and sworn).

Evidence of Shri Rameshwar Dayal
Chairman

85. You issued an order for the detention of Shri V. G. Deshpande?—Yes, Sir.

86. Under your signature?—Yes, Sir.

87. Did you send to the Secretary of Parliament a letter explaining the circumstances under which you sent him information about the arrest?—Yes, Sir.

88. You sent two letters, one on the 27th, and another letter stating the timings as to when you received information and all that? (The two letters were shown to the witness.)—Yes; this is the first letter and this is the second letter.

89. The facts that you have stated in the second letter in which you have given explanation about the timings, are, to your knowledge and information, correct?—Yes, Sir; they are correct.

90. Are these the grounds of detention served upon Shri Deshpande? (The witness was shown the document)—Yes; these are the grounds of detention.

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SHRI RAMESHWAR DAYAL

[Continued

Shri B. Shiva Rao

91. What is the date of the order which you signed, giving the grounds of detention?—27th May.

92. You signed it on the date of detention?—After issuing the warrant of arrest, I issued it.

Chairman

93. You served it upon Shri Deshpande in accordance with the provisions of the Preventive Detention Act. Is that correct?—Yes, Sir.

Shri Satya Narayan Sinha

94. Shri Deshpande was arrested in the early morning of the 27th at 4-30?—At 5-30.

95. When were you informed of the actual arrest and his being put into the jail?—At about 10 A.M.

96. When did you send information to the Speaker?—I have explained in my letter. I dictated the letter at about 11 A.M.

97. You knew that Parliament was in session from 8 o'clock in the morning?—Yes, Sir.

98. Why did you not send information immediately to the Speaker? You remember in the case of Prof. Shibban Lal Saksena, this same thing happened and there was a long discussion over this point.—I got information about 10 o'clock. I dictated the letter at 11 o'clock. Immediately I had to go to the city again owing to the law and order situation.

99. Did you not consider this to be a very important and serious matter? A similar thing had happened in the case of Prof. Shibban Lal Saksena. When Parliament was in session, did you not think it very serious, important and urgent that you should inform Parliament immediately, leaving other things to wait?—I would like to submit that at 11 o'clock when I dictated the letter, I did not expect that I would be called upon to go to the city on account of the law and order situation. Then, I left. I could come back only at 1-30 P.M. It was very necessary to go into the city at that time.

Shri Venkataraman

100. At 10 o'clock when you got the information, did you not know that you had to communicate this to the Speaker immediately?—Yes. A letter

had come in September, 1951. I knew that the arrest had to be reported.

101. You knew that it had got to be done immediately, as early as possible?—I interpreted 'immediately' to mean as early as circumstances permit.

102. At 11 o'clock what was the information that you received about the law and order situation that compelled you to go out to the city, rather than attend to this matter immediately?—The information was that there was some trouble in Sadar Bazaar, and that some people were being assaulted.

103. Was it a case of stray assaults or did they say that the situation was getting out of control so as to necessitate your immediate presence?—The report was—there were two or three telephone calls—that there were assaults. Later on, I discovered that there was only one assault, that people had collected, but the police had reached and other things had been prevented.

Chairman

104. May I just put one more question? You are the Registrar of Marriages also?—Yes, Sir.

105. An injunction was served upon you on the 24th?—Yes, Sir, intimation that an injunction had been served.

106. You got that?—Yes.

107. Therefore, you didn't then register the marriage?—No, Sir.

108. What was the condition of the city on the 25th?—During the day information that reached me was that small meetings were being held by different groups in the City, but they were not big meetings, and it was only about half past ten at night that I was informed that a big meeting had been held in the Diwan Hall and that a procession had started which was going through Chandni Chowk and through other parts of the city.

109. Then, on the 26th there was a gathering in the Court compound?—Yes, Sir, there was a gathering in the compound.

110. Then, was the injunction granted on the 26th?—Yes, Sir. It was said that the date given was 9th June and till then no marriage could be performed.

111. Was there any riot in the city on the 26th?—Yes, on the 26th there were some stray assaults in the city and people were attacked. People

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SHRI RAMESHWAR DAYAL

[Continued

whom we could actually discover, who came to hospital or to us, their number was nine; two were seriously injured, one of them died.

112. Was the Chief Minister, Shri Brahm Prakash, also injured?—He was assaulted.

113. Was there another Member of Parliament, I mean Member of the Council?—Shri Onkar Nath received fairly heavy injury on his head. He had a big wound. Two stitches had to be put. He had lathi marks on his back.

114. Did you hear of any instance about snatching of Gandhi caps?—Yes, Sir, they were reported.

115. Did you issue any order about banning meetings under Section 144?—Yes, Sir. I issued an order on the 26th at about 4.15.

116. Was the public notified?—Yes, Sir. We sent out six Police lorries fitted with loudspeakers to go and proclaim it throughout the city.

Dr. Syed Mahmud: Perhaps at that time meeting was going on.—(Witness) No, Sir. The meeting was held after five.

117. The meeting was held where?—in the Gandhi Grounds?—The meeting was not held there.

118. Where was it held?—They went into the Diwan Hall.

Shri Sarangdhar Das

119. You say you received the information at 10 o'clock and you dictated the letter at 11. And you left at 1.30 for the city?—No, Sir. I left at 11 and came back to my house at 1.30. Soon after dictating the letter I left.

120. Did not the circular of 1951 say that information had to be given to the Speaker about any arrest of a Member of Parliament immediately or forthwith?—Yes, Sir. The word used is "immediately" in the circular. But as I submitted earlier, I dictated the letter soon after I got information, I never expected I would have to go out. But I had to go out. As a matter of fact, I might state here, Sir, that in the sample letter given with the circular, I found the case had been reported to the House of Commons one day after.

Shrimati Sucheta Kripalani

121. You say that the arrest took place at half past five in the morning. Is that correct?—That is what I was told.

122. And they informed you at 10 o'clock, i.e. 4½ hours after the arrest had taken place?—Yes.

123. Was it not possible for these officers to inform you earlier than that?—They could not have done so because after 5.30 A.M. they took them to jail, and then I was out of my house from 7 and got back only at about 10.

124. You received this information at 10 o'clock and you dictated the letter?—When I reached the house, I rang up the Police as to how many of the 14 had actually been arrested.

125. You took the initiative in getting the information?—They may have rung me. I was not at my house.

126. You say that you got the information at 10 o'clock and you dictated the letter at 11, i.e., one hour elapsed before you dictated the letter. How long would you have taken to write that letter or dictate it? Was it a long letter?—The reason was I had to get the circular of 1951. That had come from the office. That took a little time. I only knew that there was a letter and I had to report. I wanted to satisfy myself because I had not the form before me.

127. Can you enlighten us about the instructions you received in the circular of 1951? Give us some details of the instructions you received by the circular of 1951.—I have got a copy of that circular.

Chairman: We have got that circular, and it can be made available.

128. May I know if it is a fact that when the injunction was served on you, the marriage was to take place at the Constitution Club, I suppose, and you were to preside. Is it also a fact that you first refused to take the order?—No, it is not like that. I never refused. What I know is this. There was a very important meeting. Two foreign engineers had come to discuss the matters of N.D.M.C. with the Secretary, the Health Officer and the Engineer, and all the five of us were working. At that time my chaprasi came and said two lawyers were waiting outside who wanted to see me. I said: "I cannot see anyone just now".

129. So, the injunction order was not served on you at the Constitution Club?—No, it was served at my house. When I finished that meeting, I asked the chaprasi whether the lawyers were still available. They had left. Then at 5.30 when I was leaving my office

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SHRI RAMESHWAR DAYAL

[Continued

room, the peon said: "They have come". I said: "Call them in". One of the peons brought me the official intimation that an injunction had been issued against the parties. It was not an injunction order on me. It was only an intimation of the injunction order.

Dr. S. P. Mookerjee

130. I suppose it was you who decided to arrest Shri Deshpande. The decision was yours?—Yes, Sir.

131. At what time did you come to this decision?—I came to the decision somewhere about half past nine or 10 P.M.

132. On the 26th?—Yes.

133. Did it not then occur to you that you were ordering the detention of an M.P., and Parliament was in session, and it was incumbent upon you to follow the directions of the Government of India, communicated on the 22nd September, 1951?—Yes, Sir. I was only issuing the warrant of detention. I did not know whether we would succeed in serving it on him.

134. Did it occur to you that the Government of India had directed all the State Governments that a distinction had to be made between the arrest of an ordinary person and the arrest of an M.P., and that certain procedure had to be followed?—I knew that I had to report if I arrested him.

135. You are the Deputy Commissioner. I suppose you know that when Shibbanlal Saksena was arrested, Sardar Patel had to apologise to the House that intimation was not sent to the Speaker. You know the genesis of the circular letter which was issued?—Yes, Sir.

136. I suppose you knew also that in order to help the officers, the exact form is given as to how the intimation is to be sent.—Yes, Sir.

137. In the letter it is stated that officers are strictly to follow the draft which is given and that a violation of this may become a breach of privilege. That is the direction of the Government of India.—Yes, Sir.

138. So, although you had made this decision at 9 P.M. on the 26th May and the arrest was naturally to be made early next morning, you did not think it necessary to intimate to the Speaker till late in the afternoon on the 27th?—I interpreted the letter to mean that I had to report when the arrest had taken place.

139. You might have kept that letter ready for your signature and then sent it to the Speaker?—It may be, Sir, but I signed this warrant only at 3 A.M., because some papers had to be prepared and certain things had to be gone into.

140. So, that means it was possible for you to sign another letter which might have been kept ready, and later on sent to the Speaker.—I thought I would send the letter to the Speaker only after the arrest.

141. So far as the proceedings in the House of the People are concerned, did anybody communicate to you that this matter has been raised in the House as a question of privilege on the 27th itself?—I did not get the time to read any evening newspapers. I visited my home only in the afternoon. Nobody had informed me that the matter had already come up before the House and no intimation had reached me to that effect.

142. Before you actually sent the letter to the Speaker, the matter had already been raised on the floor of the House, and the Speaker had referred the question to a Committee of Privileges. Did you know of this before you signed and sent out the letter to the Speaker?—As a matter of fact, I personally heard it some time in the evening.

143. What time?—In the evening, sometime about 5 or 6 P.M.; when I was in the Kotwali, somebody mentioned that; also there was some talk that it had come in the evening newspaper.

144. Did the C.I.D. Inspector write with your approval and knowledge?—I do not know, Sir.

145. That also you do not know?—No, Sir.

146. So far as the marriage is concerned, you were the ex-officio Registrar of Marriages?—Yes, Sir.

147. On that day, at the Constitution Club, several hundreds of policemen were posted. Was it done under your orders?—Yes, Sir. They were not posted at the Constitution Club, but they were kept nearby in reserve.

Shri B. Shiva Rao: Were there several hundreds of policemen?—(Witness) There were not several hundreds, but some policemen were posted nearby.

148. Then, how many were there?—I could not give that, but I said there was a good reserve of police force kept nearby.

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[Continued

149. Why was it done? At that time there was no trouble.—Just as a precautionary measure. The father appeared before me at 3 A.M. with the objections. I thought that it was time-barred for me to take any action. It was only after that I told the police to keep some good reserve of police force.

150. Is it usual for any such marriages to be held in the Constitution Club? Have you ever presided over such functions in the past, in your wide experience?—I have not performed any civil marriage at the Constitution Club. But I have done so at other places.

Shri B. Shiva Rao: I have been the Secretary of the Club, and I can tell you that there have been no marriages in the Constitution Club.

151. Did it not occur to you, when you found that the father has objected, that it would be better not to worsen the situation by forcing the marriage in that place?—I did not fix that place. The parties notified me that it is going to be held in that place. The parties may deposit Rs. 75 in a Government Treasury and ask me to go to any place, and I have to go.

152. As a Deputy Commissioner, did you consider it necessary that some precaution should be taken so that the situation might not worsen? Actually nothing happened on Saturday afternoon?—Well, not before I sent out the police. I was told that there were some demonstrations in the Constitution Club. Only after that the police were posted nearby.

153. Did you not anticipate that such a marriage might wound the feelings of some sections of the community, and may create some trouble?—I did suspect that.

154. When this peon went to you, were you very much annoyed? He came to you with a copy of the injunction order on you as Registrar of Marriages.—Actually I said to the peon that he had no business to walk straight into my room. I said that was very objectionable conduct. When I was with a Vakil who wanted to see me in my room, the peon simply walked into my room, without waiting for anything. I told him that this was not proper, he should have waited, and when I would have called him, he should have come in.

Shrimati Sucheta Kripalani

155. Did you threaten to dismiss him?—Who am I to dismiss him? I only told him that I would report his objectionable and improper conduct to the District and Sessions Judge.

Dr. S. P. Mookerjee

156. We are not concerned with anybody else now. That is a law and order problem. Now, in the report which you sent to the Speaker, about Shri Deshpande, the following sentence occurs.

“The communal situation in Delhi has been tense during the last three days over the intended celebration of an inter-communal marriage. Shri V. G. Deshpande, among others, took a leading part in organising and directing meetings and demonstrations which led to a breach of the peace on May the 26th.”

Did you know where Shri Deshpande was, whether he was in Delhi during these very relevant dates? Did you make any enquiries as to where Shri Deshpande was?—I knew that he was out of Delhi.

157. Did you know that he had come to Delhi only on the 26th morning? And did you know that he had nothing to do with these occurrences prior to the 26th, namely the organising and directing of meetings and demonstrations?—On the other hand, my plea is that he had everything to do with it prior to the 26th, although he was away from Delhi.

158. When you were touching a Member of Parliament and making such a serious conclusion, did you make any special enquiry to find out exactly as to where he was and what he was doing?—I knew that he was organising these disturbances.

159. Do you know when he actually left Delhi for Gwalior?—On the 20th.

160. Did you hear anything of this trouble on the 20th May over this intended marriage?—I think some people knew about it because it had been given notice of.

161. I am not questioning you to disclose the evidence which you have. But have you materials to suggest that even on the 20th before Shri Deshpande left for Gwalior, he knew about this marriage and the possible commotion that it might cause?—I would not say that before 20th he knew. I do not say that. I say that

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[Continued

after his departure from here, he had contacted people who had collected information to show that the trouble has started, showing its ugly head; and it was brought to his notice. The first incident took place on the 24th.

162. Your suggestion is that between 20th and 24th May although Shri Deshpande was in Gwalior, he was organising these meetings and demonstrations from Gwalior?—Yes, Sir. He was being contacted from Delhi and was giving instructions from Gwalior itself.

163. Have you got sufficient evidence to show that?

Chairman: I would rather not go into this matter. Witness says, that he, Shri Deshpande, received the information from Delhi.

164. When did he arrive here, on the 26th May?—Yes.

165. How did you know that he was here on the 26th?—On the 26th noon, I knew that he was here.

166. Did the meeting take place at 5 o'clock?—After five, Sir.

167. You banned it at 4 o'clock?—About 4.

168. The meeting was to be held at Gandhi Ground?—The meeting was advertised to be held at Gandhi Ground.

169. Has it been customary in the past that when a meeting in the open maidan is banned, it is also banned behind closed doors?—No, Sir. There is no such custom. This order I had issued under sec. 144 Cr. P. C. The previous order I had issued under the Punjab Public Safety Act and orders under the Punjab Public Safety Act confer no immunity if a meeting is held inside a hall; but this order I had issued under section 144 banning meetings in public places.

170. But did that include the hall?—My view at that time was that it did not.

171. So when you say that, in defiance of section 144 Cr. P. C. Shri Deshpande held a meeting inside the hall, there was no defiance, technical defiance I mean.—First they met at Gandhi Ground; people had come to the Gandhi Ground. They were told that they were not allowed to hold the meeting. They said they would like to hold the meeting and if they were not allowed, they would hold it elsewhere. That is why I say technically it was a meeting in defiance that they held inside the hall.

172. Did Shri Deshpande go to the Gandhi Ground?—I could not say that.

173. So when you stated to the Speaker that the meeting was held in defiance of this prohibitory order, technically that is not correct?—Technically, in a way, it is correct, as I submitted.

174. How is it, that when he did not go to Gandhi Ground to preside over the meeting, you say he held a meeting in defiance?—As I submitted Sir, I could not say whether he went there or not.

175. Assuming that he did not go to the Ground but went straight to the hall, then there is no technical defiance on his part?—Well, I would beg to differ in the sense that I knew that instructions were given from a certain place where certain people were collected and it was being said, openly said, that even though the meeting had been banned they would hold it, and therefore I said that technically the meeting held inside the hall was a defiance.

176. Did any of these policemen and officers warn them that they were holding the meeting in defiance?—Yes, Sir, I submit we sent out...

177. No, no. When the meeting was held inside the hall, did any officer warn any of these respectable citizens?—I could not say, Sir, whether the policemen told them or not.

178. The arrest was made at 5.30 A.M. So although previously according to your secret information it was he who was conducting all these things, at that time you did not think it necessary to arrest him? It was only at 9 or 10 on the 26th May that you thought for the first time of arresting him under the Preventive Detention Act?—Yes.

Shri A. K. Gopalan

179. According to the Preventive Detention Act, to arrest and detain a man, there must be reasonable grounds to believe that he would act prejudicially to public safety. Before issuing the warrant, you must have grounds to believe that the man will act prejudicially to public safety. Is it not?—Yes, Sir.

Chairman: What does it matter?

180. On the 26th night you arrested him. You said that Shri Deshpande came here on the morning of 26th.—Yes, Sir.

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[Continued

181. Did you, before the morning of the 26th, have any suspicion or any ground to believe that he would act in a manner prejudicial to public safety?

Shri Satya Narayan Sinha: That he has said.

Chairman: Do not answer that question. He has said that he made up his mind to arrest him.

182. I want to know whether, before you made up your mind, you had any suspicion. Here it is said, for three days the situation was tense. Although you had suspicion that Shri Deshpande had been conducting and doing all these things, you did not arrest him then.—No.

183. Can you give any reason why you did not arrest him when you understood that he was acting....

Chairman: I do not think this question is proper. We must not go into these matters.

Shri A. K. Gopalan: I am asking the reason.

Chairman: He says that he made up his mind, and that is the end of the matter.

184. On the 24th and 25th, you admit he has been responsible for all these things. For three days the situation had been tense in the city and from the very beginning he was responsible for this?—My information was that he was responsible from the very beginning.

Shrimati Sucheta Kripalani

185. You said at 3 o'clock the father came with objections. Was one of the objections the age of the girl?—Yes.

186. Usually what do you do in such a case? When the one party is a minor, do you proceed with the marriage or do you take it as your responsibility to find out the girl's age.—The law does not require me to inquire about the age. I have to accept the statement given in the notice.

187. Even if the father of the party informs you that the girl is a minor?—If it was given within the 14 days' notice period.

188. I understand that, but apart from that the father came to you with proof that the girl's age was less than 21?—He did not come with any proof.

Shri A. K. Gopalan: Did you watch the activities of Shri Deshpande from the morning of the 26th when he arrived here up to his arrest?

Chairman: I cannot allow this question. These are all C.I.D. matters. Why do you ask this question?

Shri B. Shiva Rao

189. You reached the decision to detain him on the 26th night and the assaults took place on the 26th during the day, and therefore your decision followed a definite deterioration in the law and order situation in Delhi. Is that the position?—Yes.

190. Did you have, at the time you took that decision, a report of the speeches made at the meeting in the Diwan Hall?—Yes, Sir, I did.

Dr. S. P. Mookerjee

191. As you must have seen, it has been said that a lot of interest was taken in this marriage by some of the officers, etc. When did you hear of this intended marriage for the first time?—The notice of the marriage had been given in my office; it came to my notice on the 14th May.

192. When did you come to know that objections were being taken to that?—Objections were taken only on the 24th; not before.

Shri B. Shiva Rao

193. When a notice comes, is it put on the notice board?—No. It is not a requirement of the law. It is copied in the register which is kept open for inspection.

Dr. S. P. Mookerjee

194. Is it not the duty of the Registrar or anybody else to find out whether parents have been informed?—No, Sir, the law does not require it.

195. When the father first approached you, it was on the technical ground of 14 days' period that you declined to give any protection? That was on the 24th, at 3 P.M.? You found him very much excited? But did you give any advice as to what he as father should do or what he should not do?—No.

Shrimati Sucheta Kripalani: When was the notice given?—(Witness) 6th of May.

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SHRI RAMESHWAR DAYAL

[Continued

196. When did you first realise that it would give rise to communal commotion or feeling?—That became apparent on the 24th.

197. Was it then that you got information that from Gwalior Shri Deshpande was directing these activities?—I did not say that. I said communal tension became apparent. But before that what was done was that it was being organised.

198. Before anything was apparent, was it being organised? Did you advise the parties not to hold the function at the Constitution Club—as Deputy Commissioner, not as Registrar?—No. That was not my object, nor my province.

Chairman: Thank you very much.

(Witness then withdrew)

Secretary: There are two letters which I have to place on record. The first is addressed by Shri V. G. Deshpande to the Speaker. It reads:

“New Delhi.

Dated 29th May 1952.

To

The Hon'ble Shri G. V. Mavalankar,
Speaker of the House of People,
New Delhi.

Shrimanji,

I thank you for having referred my case to the Privileges Committee of the House of People. I understand that my case is being considered by the said Committee. I have addressed a letter to the Hon'ble Dr. Kailash Nath Katju, Minister for Home Affairs and the Chairman of the said Committee, drawing his attention to the fact that I want to appear before the Committee and present my own case

personally. It is noteworthy that I am unable to study books and literature on the subject nor I can consult and take legal advice from esteemed friends like Dr. Syama Prasad Mookerji who is a Member of the said Committee and Shri N. C. Chatterjee, M.P., Bar-at-Law and Senior Advocate of the Supreme Court. I have requested him and request you as well that I be ordered to be released on parole for the purpose of presenting my case to the Committee but without any condition because if there are any conditions to my release on parole I shall not accept them and would not like to be released on parole.

Yours truly,

(Sd.) V. G. DESHPANDE, M.P.”

The other letter is addressed by the District Magistrate to the Speaker informing him of Shri Deshpande's release. It reads:

“Office of the
Deputy Commissioner,
Delhi, June 3, 1952.

Dear Mr. Speaker,

I have the honour to inform you that Shri V. G. Deshpande, M.P. was released from detention under the Preventive Detention Act on the afternoon of May 30, 1952.

Yours sincerely,

(Sd.) RAMESHWAR DAYAL”.

*The Committee adjourned till
Five of the Clock on Thursday, the
12th June, 1952.)*

DEBATES IN THE HOUSE

EXTRACT FROM THE HOUSE OF THE PEOPLE DEBATES DATED THE
27TH, 28TH, AND 30TH MAY, 1952 RE: COMMITTEE OF PRIVILEGES ON
DESHPANDE CASE.

27th May, 1952

Mr. Speaker: I have received a letter of request from the hon. Member Shri N. C. Chatterjee, who wishes to have my consent to raise a question of privilege upon the arrest of one of the members of this House. The motion is that a breach of privilege of the House of the People has been committed by the arrest of Shri V. G. Deshpande, M.P. by the police in the early hours on the morning of the 27th May, when the House is in session and the House is deprived of the contribution that the said member would have made by participating in the deliberations. Of course we are not much concerned with the latter part of the motion but the substantive motion is that the House is in session and a member of this House has been arrested by the executive government.

Instead therefore of going through the long procedure that is prescribed in the Rules of Procedure I would prefer to exercise my authority under rule 214 and refer the question raised in this notice to the Committee of Privileges, who will inquire into all the facts connected with this matter and also consider as to whether on the facts as elicited by them they constitute a breach of privilege of the House. So nothing further requires to be done and this matter will go now to the Committee of Privileges.

Shri Nambiar: May I respectfully submit to the hon. Home Minister through you, Sir, to see if he could make a statement as to whether under what rule and under what circumstances this hon. Member has been arrested, whether he is likely to be released soon, or whether he will continue to be detained. If some information is given then we will be able to understand.....

Mr. Speaker: I do not think we need go into that at all. Hon. Members feel anxious about their colleague in this House and so does the Chair. That is why I am referring this question specially to the Committee of Privileges, which consists of hon. Members of this House who represent various parties. They will in the committee try to scan the evidence on the various facts that they have probed into and will come to proper conclusions. The matter will then come before this House for such disposal as the House may like.

Shri N. C. Chatterjee: Sir, Mr. Deshpande has been detained under an executive fiat under section 3 of the Preventive Detention Act.....

Mr. Speaker: He need not give the information to the House but he may give it to the Committee of Privileges.

Shri N. C. Chatterjee: May I make one suggestion. Under the rule under which you have exercised your prerogative would you kindly fix an early date for the report of the Committee to be submitted, so that the matter may be finalised and placed before the House.

Mr. Speaker: I shall ask them to finalise it as early as possible. After all the Committee will work in its own way and I will stress the urgency of the matter on the Committee.

28th May, 1952

Mr. Speaker: As regards the question about the privilege of this House and its Members raised yesterday by Shri Chatterjee, I have already referred the matter to the Privileges Committee, as the House knows. Yesterday, after that was done, I received at 4-45 P.M. the following communication marked "Secret" from the District Magistrate of Delhi. It runs as follows:—

An Hon Member: But it is "secret".

Mr. Speaker: Yes, so long as it was communicated to me it was secret, but I cannot keep it secret as between me and the House. It would have been secret had it reached me at a certain stage, but unfortunately it came to my hands at 4-45 P.M. This is how the letter reads:—

"District Magistrate's Office,
Delhi
May 27, 1952

Dear Mr. Speaker,

I have the honour to inform you that I have found it my duty in the exercise of my powers under Section 3 of the Preventive Detention Act of 1950 as amended to direct that Shri V. G. Deshpande, M.P., be detained. Shri V. G. Deshpande was accordingly taken into custody this morning and is at present lodged in the District Jail,

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[Continued]

Delhi. The communal situation in Delhi has been tense during the last three days over the intended celebration of an inter-communal marriage. Shri V.G. Deshpande, among others, took a leading part in organising and directing meetings and demonstrations which led to a breach of the peace on May the 26th. Their subsequent conduct in continuing to hold meetings and demonstrations was calculated further to provoke a breach of the peace and as such it was considered necessary to detain them in the interest of maintenance of public order.

Yours sincerely,

(Sd.) RAMESHWAR DAYAL."

Of course, the subject is not open to any discussion, but I mentioned this letter and its contents to the House merely for information. A reference has already been made to the Privileges Committee and I am forwarding this letter also to that body. It will take this matter into consideration along with the other matters under investigation and then make its report.

Dr. S. P. Mookerjee (Calcutta-South-East): On a point of information. When was this letter received?

Mr. Speaker: I said, at 4-45 P.M.

Dr. S. P. Mookerjee: Did your office receive it at about that time, or was it lying in your office?

Mr. Speaker: It came directly to me at my residence.

Shri Srikantan Nair: (Quilon cum Mavelikkara): What is the time of its despatch?

Mr. Speaker: It is dated the 27th and looking to its contents, obviously it was despatched after the arrest and after Shri Deshpande had been taken into custody.

Dr. S. P. Mookerjee: And after it was known that you had referred the matter to the Privileges Committee?

Mr. Speaker: I do not know whether it was known to him. It all depends upon whether the District Magistrate was watching the proceedings of this House from moment to moment. I do not know that. He may have known or he may not have known. Anyway, it is for the Privileges Committee to enquire into the matter now.

Shri R. K. Chaudhury (Gauhati): May I know whether Shri Deshpande will be allowed to attend the sittings of the House if he desires to do so?

Mr. Speaker: Let us await the report of the Privileges Committee.

Shri R. K. Chaudhury: I am making an application to you now to permit him to attend the sittings of Parliament.

Mr. Speaker: Even if an application is made just now, I will await the report of the Committee. I have already instructed the Committee to expedite its work, and the first meeting of the Committee is going to be held today at 3-30 P.M.

30th May, 1952

Shri Nand Lal Sharma (Sikar): May I know, Sir, when the House will get the report of the Privileges Committee?

Mr. Speaker: I understand that the Committee is meeting at 5 P.M. today.

Shri Nand Lal Sharma: When will the House get the report?

Mr. Speaker: When the report has been made.

(Interruptions)

Mr. Speaker: Order, order. The Privileges Committee of the House is not interested in this or that party. It is a Committee whose function is to protect the rights of all Members, irrespective of their political leanings. The Privileges Committee does not work, as is done in the House, on a party system. Whether it is the case of a Member of this or that party, the Privileges Committee is concerned with the prestige and privileges of every Member of this House, irrespective of his party inclinations: the prestige of the entire House is concerned. It will take some time but it does not matter. Let these questions be decided once for all. I would earnestly request members of the Opposition that they should not treat questions of privileges purely as party questions.

Dr. S. P. Mookerjee: That should be addressed to Government Benches. (Interruption).

Mr. Speaker: Order, order. The Chairman of the Committee, the hon. Home Minister is a well known lawyer and a good Parliamentarian but I thought that members of the Opposition were new ones. That was why I referred to the members of the Opposition.