



PARLIAMENTARY PRIVILEGES

DIGEST OF CASES

1950-2000

VOLUME-I

**LOK SABHA SECRETARIAT
NEW DELHI
2001**

Corrigenda to Parliamentary Privileges : Digest of cases 1950-2000 (Volume -I)

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PREFACE

A compilation of summaries of privilege cases in the two Houses of Parliament from 1950 to 1985 was brought out in 1986. This compilation which has now been updated and is in two volumes, contains summaries of privilege cases in the two Houses of Parliament from 1950 to 2000. The summaries have been grouped under various subjectheads. Where a summary falls under two or more subjectheads, full summary has been given at the first place and cross references to relevant page(s) have been given at subsequent place to avoid unnecessary repetition.

Volume I comprises summaries under the subjectheads—"Allegations" to "Misconduct". Volume II comprises summaries falling under subjectheads—"Misleading Statements" to "Miscellaneous".

While every care has been taken to ensure accuracy and objectivity of the Digest, readers are advised to rely on the original texts for authenticity and authoritative citation.

It is hoped that this compilation will be read with interest and will prove useful reference tool to those interested in the subject.

NEW DELHI;
January, 2001

G.C. MALHOTRA,
Secretary-General.

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PARLIAMENTARY PRIVILEGES—AN OVERVIEW

Definition and Scope of Privileges

A simple definition of privilege is that it is an exceptional right or exemption. In its legal sense it means an exemption from some duty, burden, attendance or liability to which others are subject. In Parliamentary language, however, the term applies to certain rights and immunities enjoyed by each House of Parliament collectively, and by members of each House individually without which they cannot discharge their functions. The object of Parliamentary privileges is to safeguard the freedom, the authority and the dignity of Parliament. Privileges are necessary for the proper exercise of the functions entrusted to Parliament by the Constitution. They are enjoyed by individual members, because the House cannot perform its functions without unimpeded use of the service of its members, and by each House collectively for the protection of its member and the vindication of its own authority and dignity.

2. It must, however, be remembered that the privileges of Parliament are granted to members in order that they may be able to perform their duty in Parliament without any let or hindrance. They are available to individual member only in so far as they are necessary for the House to perform its functions freely. They do not exempt the members from the obligations to the society which apply to other citizens. Privileges of Parliament do not place a member of Parliament on a footing different from that of an ordinary citizen in the matter of the application of laws, unless there are good and sufficient reasons in the interest of Parliament itself to do so. The fundamental principle is that all citizens including members of Parliament have to be treated equally in the eyes of law. Unless so provided in the Constitution or in any law a member of Parliament cannot claim any higher privileges than those enjoyed by an ordinary citizen in the matter of the application of the laws.

Thus, the privilege against assaults or molestation is available to a member only when he is obstructed or in any way molested while discharging his duties as

a member of Parliament. In cases, when members were assaulted while they were not performing any parliamentary duty, it was held that no breach of privileges or contempt of the House had been committed. Similarly privilege of Parliament will not be attracted if a libel or a reflection upon a member of Parliament does not concern his capacity as a member of the House and is not based on matters arising in actual transaction of the business of the House. Further, a member does not enjoy any exemptions from the operation of the ordinary laws of the land and it has been held in a typical case that a member does not enjoy any special privilege in regard to the censoring of mail and tapping of telephone authorised by law equally applicable to all citizens.

Constitutional Provisions

3. Each House of the Indian Parliament collectively and its members individually enjoy certain powers, privileges and immunities which are considered essential for them to discharge their functions and duties effectively without any let or hindrance. While the more important of these privileges, namely freedom of speech in Parliament and immunity of members from any proceedings in courts in respect of anything said or any vote given by them in Parliament, are specified in the Constitution¹, itself and some of them are specified in certain statutes and the Rules of Procedure and Conduct of Business in Lok Sabha, others are at present based on the precedents and conventions which have grown in this country, in terms of the provisions of the Constitution², until defined by Parliament by Law.

4. Article 105 of the Constitution of India which provides for powers, privileges and immunities of the Houses of Parliament and of the members and the Committee thereof, reads as follows:—

- (1) Subject to provisions of this Constitution and to the rules and standing orders regulating the Procedure of Parliament, there shall be freedom of speech in Parliament.

¹Article 105(1) and (2)

²Article 105(3)

- (2) No member of Parliament shall be liable to any proceeding in any court in respect of anything said or any vote given by him in Parliament or any Committee thereof, and no person shall be so liable in respect of the publication, by or under the authority of either House of Parliament or any report, paper, votes or proceedings.
- (3) In other respects, the powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House shall be such as may from time to time be defined by Parliament by law, and until, so defined, shall be those of that House and of its members and Committees immediately before the coming into force of Section 15 of the constitution (Forty-fourth Amendment Act, 1978).
- (4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of a House of Parliament or any Committee thereof as they apply in relation to members of Parliament.

The corresponding provisions relating to the powers, privileges and immunities of the Houses of State Legislatures and of members and Committees thereof are contained in Article 194 of the Constitution which are in identical terms to those in Article 105 relating to Parliament.

Section 15 of the Constitution (Forty-fourth Amendment) Act, 1978 came into force with effect from the 20 June, 1979. Prior to that, clause (3) of Article 105 provided that in other respect the powers, privileges and immunities of each House shall be such as may from time to time be defined by Parliament by law, and, until so defined *shall be those of the House of Commons of the Parliament of the United Kingdom, and of its Members and Committees* at the commencement of the Constitution i.e. on the 26 January, 1950.

Main Privileges of Parliament

5. Some of the more important privileges of each House of Parliament and of its members and Committee are as follows:—

- (i) Freedom of speech in Parliament [Article 105(1) of the Constitution];

- (ii) Immunity to a member from any proceedings in any court in respect of anything said or any vote given by him in Parliament or any Committees thereof [Article 105(2) of the Constitution];
- (iii) Immunity to a person from proceedings of any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes, or proceedings [Article 105(2) of the Constitution];
- (iv) Prohibition on the courts to inquire into proceedings of Parliament (Article 122 of the Constitution);
- (v) Immunity to a person from any proceedings, civil or criminal, in any court in respect of the publication in a newspaper or a substantially true report of the proceedings of either House of Parliament unless the publication is provided to have been made with malice. This immunity is also available in relation to reports or matters broadcast by means of wireless telegraphy (Article 361A);
- (vi) Exemption of members from liability to serve as juror;
- (vii) Prohibition of disclosure of the proceedings or decision of a secret sitting of the House;
- (viii) Rights of the House to receive immediate information of the arrests, detention, convictions, imprisonment and release of a member (Rules 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha, Ninth edition);
- (ix) Prohibition of arrest and services of legal process within the precincts of the House without obtaining the permission of the Speaker (Rules 232 and 233 of the Rules of Procedure and Conduct of Business in Lok Sabha Ninth Edition);
- (x) Members or officers of the House cannot give evidence or produce documents in courts of law, relating to the proceedings of the House without the permission of the House. (First Report of Committee of Privileges of Second Lok Sabha, adopted by Lok Sabha on 13 September, 1957);

- (xi) Members or officers of the House cannot attend as a witness before the other House or a Committee thereof or before a House of State Legislature or a Committee thereof without the permission of the House and they cannot be compelled to do so without their consent (Sixth Report of Committee of Privileges of Second Lok Sabha, adopted by Lok Sabha on 17th December, 1958);
- (xii) All Parliamentary Committees are empowered to send for persons, papers and records relevant for the purpose of the enquiry by a Committee.....A witness may be summoned by a Parliamentary Committee who may be required to produce such documents as are required for the use of a Committee (Rules 269 and 270 of the Rules of Procedure and Conduct of Business in Lok Sabha);
- (xiii) A Parliamentary Committee may administer oath or affirmation to a witness examined before it (Rule 272 of the Rules of Procedure and Conduct of Business in Lok Sabha);
- (xiv) The evidence tendered before a Parliamentary Committee and its report and proceedings cannot be disclosed or published by anyone until these have been laid on the Table of the House (Rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha).

6. In addition to the above mentioned privileges and immunities each House also enjoys certain consequential powers necessary for protection of its privileges and immunities.

These powers are as follows:—

- (i) to commit persons, whether they are members or not for breach of privilege or contempt of the House;
- (ii) to compel the attendance of witnesses and to send for papers and records;
- (iii) to regulate its own procedure and conduct of its business (Article 118 of the Constitution);
- (iv) to prohibit the publication of its debates and proceeding (Rule 249 of the Rules of Procedure and Conduct of Business in Lok Sabha);

- (v) to exclude strangers from the secret sittings of the House (Rule 248 of the Rules of Procedure and Conduct of Business in Lok Sabha);
- (vi) to regulate admission to and order withdrawal/removal of strangers from any part of the House (Rules 386, 387, 387A of the Rules of Procedure and Conduct of Business in Lok Sabha).

Freedom of Speech

7. The Most important privilege of members of Parliament is freedom of speech in Parliament. This privilege is embodied in clause (1) and (2) of Article 105 of the Constitution. This privilege is based on Article 9 of the Bill of Rights, 1689 of the United Kingdom whereby it was declared:—

“That the freedom of speech, and debate or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.”

Thus no action can be taken against a member of Parliament in any court or before any authority other than Parliament in respect of anything said or any vote given by him in Parliament or any Committee thereof. It would be a breach of privilege to institute any legal proceedings against a member in respect of anything said by him in Parliament.

8. A member cannot also be questioned in any court or by any agency outside Parliament for any disclosures he may make in Parliament. The Committee of Privileges of Rajya Sabha in their 12th Report, adopted by Rajya Sabha on the 20 December, 1968, observed:

“.....It would be impeding a Member of Parliament in the discharge of his duties as such Member if he is to be questioned in any place outside Parliament for a disclosure that he may make in Parliament. The right of a Member of Parliament to function freely and without fear or favour is in India, as in the U.K., a constitutional guarantee. This guarantee is subject only to the rules of the House and ultimately to the disciplinary jurisdiction of the House itself..... and investigation outside Parliament of anything that a Member says or does in the discharge of his duties as Member of Parliament would amount to a serious interference with the Member's right to carry out his duties as such Member.”

The Committee also recommended:

"If in a case a Member states something on the floor of the House which may be directly relevant to a criminal investigation and, if in the opinion of the investigating authorities, it is of vital importance to them as positive evidence, the investigating authority may make a report to the Minister of Home Affairs accordingly. If the Minister is satisfied that the matter requires seeking the assistance of the Member concerned, he would request the Member through the Chairman to meet him. If the Member agrees to meet the Home Minister and also agrees to give the required information the Home Minister will use it in a manner which will not conflict with any Parliamentary right of the Member. If, however, the Member refuses to respond the Home Minister's request, the matter should be allowed to rest there."

In pursuance of the above recommendations of the Committee of Privileges of Rajya Sabha, the Ministry of Home Affairs have issued the following instructions¹ to all State Governments and Union Territory Administrations:

"When it is found from disclosures made by a Member on the floor of the Rajya Sabha/Lok Sabha that he is in possession of a vital information in the criminal case which is under investigation, the matter should be referred by the concerned Superintendent of Police to the State Governments/Union Territory Administrations. If the State Government/Union Territory Administration is also of the opinion that the information in the possession of a Member is of such vital importance that his assistance should be sought, a detailed report may be sent to this Ministry enclosing a list of points on which information is sought from the Member. The matter will then be taken up by the Minister of Home Affairs with the Member concerned through the Chairman of Rajya Sabha/Speaker of Lok Sabha. The information that might be made available by the Member will be communicated to the State Government/Union Territory Administration and the extent to which it might be used in the investigation of the case, will also be indicated."

9. Thus, the speech and action in Parliament may be said to be unquestioned and free. However, this

freedom from external influence or interference does not involve any unrestrained licence of speech within the walls of the House. The right to freedom of speech in the House is circumscribed by the constitutional provision in Article 121 that the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties shall not be discussed in Parliament except upon a motion for presenting an address to the President praying for the removal of the judge. Rules 352 and 353 of the Rules of Procedure and Conduct of Business in Lok Sabha also guard against making of unwarranted allegations against a person. When a member violates any of these restrictions, the Speaker may direct him to discontinue his speech, or order the defamatory, indecent or unparliamentary or undignified words used by the member to be expunged from the proceedings of the House, or direct the member to withdraw from the House, or put the question of suspension of the member from the service of the House.

10. It has been held by the Supreme Court that the freedom of speech conferred on members under Article 105 is subject only to those provisions of the Constitution which regulate the procedure of Parliament and to the rule and standing orders of the House, but is free from any restrictions which may be imposed by any law made under Article 19(2) upon the freedom of speech of an ordinary citizen.

11. Interpreting clause (1) of Article 194, the Supreme Court observed:

".....The words regulating the procedure of the Legislature occurring in cl. (1) of Art. 194 should be read as governing both 'the provisions of the Constitution' and the rules and standing orders. So read, freedom of speech in the Legislatures become subject to the provisions of the Constitution regulating the procedure of the Legislature, that is to say, subject to the articles relating to procedure in Part VI including Articles 208 and 211; just as freedom of speech in Parliament under Article 105(1), on a similar construction, will become subject to the articles relating to procedure in Part V including Articles 118 and 121."

12. As already stated, for his speech and action in Parliament a member is subject only to the discipline of the House itself and no proceedings, civil or criminal, can be instituted against him in any court in

¹See Ministry of Home Affairs Letter No. 32266-Pol. I(ADS) dated June, 1969 and August, 1969.

respect of the same. Absolute privilege has been given in respect of anything said or any vote given in Parliament or a Committee thereof so that members may not be afraid to speak out their minds and freely express their views. It has been held that though the words uttered by members in the House may be false and malicious to their knowledge and though a speech delivered by a member in the House may amount to contempt of court, no action can be taken against him in a court of law. It has also been held that the disclosures made in the House by members either by speeches or questions cannot be made the subject-matter of a prosecution under the Official Secrets Act.

13. It is also the duty of each member to refrain from any course of action prejudicial to the privilege of freedom of speech which he enjoys. As declared by the House of Commons, U.K. by a resolution on July 15, 1947:

“It is inconsistent with the dignity of the House, with the duty of a member to his constituents and with the maintenance of the privilege of freedom of speech of any member of his House to enter into any contractual agreement with an outside body, controlling or limiting the member's independence of action in Parliament or stipulation that he shall act in any way as the representative of such outside body in regard to any matter to be transacted in Parliament; the duty of a member being to his constituents and to the country as a whole, rather than to any particular section thereof.”

Breach of Privilege

14. When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the Members individually or of the House in its collective capacity the offence is called a breach of privileges and is punishable by the House. Besides breaches of specific privileges, actions in the nature of offences against the authority or dignity of the House, such as disobedience to its legitimate orders of libels upon itself, its members or officers, are also punishable as contempt of the House.

Contempt of Parliament

15. Contempt of the House may be defined generally as “any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officers of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results.” It may

be stated that it is not possible to enumerate exhaustively every act which might be constructed by the House as a contempt of the House.

16. Some typical cases of breach of privilege and contempt are as follows:—

- (i) Speeches or writings reflecting on the House, its Committees or members;
- (ii) Reflections on the character and impartiality of the Speaker in the discharge of his duty;
- (iii) Publication of false or distorted report of the proceedings of the House;
- (iv) Publication of expunged proceedings of the House;
- (v) Premature publication of proceedings, evidence or report of a parliamentary committee;
- (vi) Publication of proceedings of secret sessions of the House;
- (vii) Reflections on the report of Parliamentary Committee;
- (viii) Circulation of petitions before presentation;
- (ix) Molestation of members on account of their conduct in the House or obstructing members in the performance of their duties as members or while on their way to or from attending the House or a Committee thereof;
- (x) Intimidation of members to influence them in their Parliamentary conduct;
- (xi) Offering bribes to members to influence them in their Parliamentary conduct;
- (xii) Obstructing or molesting officers of the House in the execution of their duties;
- (xiii) Giving false or misleading evidence or information deliberately to the House or a Committee thereof, by a member or a witness;
- (xiv) Obstructing or molesting any witness during his attendance in the House or evidence as such witness before the House or a Committee thereof;
- (xv) Disobedience to orders of the House or its Committees;
- (xvi) Misconduct in the House or the Committee thereof;
- (xvii) Presenting false, forged or fabricated documents to the House or its Committees;

(xviii) Tampering with documents presented to the House or its Committees.

Thus, in a case where it was alleged that two officers of the Ministry of industry had written to the Ministry of Home Affairs to take such action as the Ministry may like against another officer of the Ministry for giving certain evidence before the sub-Committee of Committee on Public Undertakings of Lok Sabha in October, 1978, the Speaker *inter alia* observed that all witnesses appearing before Parliamentary Committees are protected by the privilege of this House in respect of any statement made by them during their evidence before a Parliamentary Committee.

Power of Parliament to punish for contempt

17. Each House of Parliament is the guardian of its own privileges. Courts of law in India, have recognised that a House of Parliament (or of a State Legislature) is the sole authority to judge as to whether or not there has been a breach of privilege or contempt of the House in a particular case.¹ The House may punish a person found guilty of breach of privilege or contempt of the House either by reprimand or admonition or by imprisonment for a specified period. In case of its own members, two other punishments can be awarded by the House, namely, suspension from the service of the House and expulsion.

The penal jurisdiction of the House is neither confined to its own members nor to its officers, but extends to all contempts of the House, whether committed by members or by persons who are not members, irrespective of whether the offence is committed within the House or beyond its walls. This power of the House to punish any person who commits a contempt of the House or a breach of any of its privileges is the "key stone" of Parliamentary Privileges. It is this power that gives effect to the privileges of Parliament and emphasises its sovereign character so far as the protection of its rights and the maintenance of its dignity and authority are concerned.

The power possessed by each House of Parliament and a House of the Legislature of a State to punish for contempt or breach of privilege is a general power of committing for contempt analogous to that possessed by the Superior Courts and is in its nature discretionary.

Norms of punishment for breach of privilege or contempt

18. The House may impose the following punishments on a person found guilty of breach of privilege or contempt of the House.

(i) Imprisonment

The period for which the House can commit an offender to prison for contempt or breach of its privileges is limited by the duration of the session of the House. As soon as the House is prorogued, the prisoner is set at liberty. In a number of cases where visitors shouted slogans and threw leaflets from the visitors gallery on the floor of the House, the offenders were sent to prison for committing a contempt of the House by creating disorder in the public Galleries.

(ii) Admonition or reprimand

In cases where the offence of breach of privileges or contempt is not so serious as to warrant the imprisonment of the offender by way of punishment the person concerned may be summoned to the Bar of the House and admonished or reprimanded by the Speaker by order of the House. Admonition is the mildest form of punishment, whereas reprimand is the more serious mark of displeasure of the House. In Lok Sabha there have been two cases of persons having been summoned to the Bar of the House and reprimanded by the Speaker. In one case Shri R.K. Karanjia, Editor of a weekly magazine 'Blitz' was reprimanded for publishing a libellous despatch in his magazine. In the other case, Shri S.C. Mukherjee, a Government officer was reprimanded for deliberately misrepresenting facts and giving false evidence before the Committee on Public Accounts.

19. As already stated above, in the case of its own members, two other punishments are also available to the House by which it can express its displeasure more strongly than by admonition or reprimand, namely:

- (i) Suspension from the service of the House; and
- (ii) Expulsion from the House.

The penal powers of the House for breach of privilege or contempt of the House are, however, exercised only in extreme case where a deliberate attempt is made to bring the institution of Parliament into disrespect and undermine public confidence in and support of Parliament. It is considered desirable

¹M.S.M. Sharma, Vs. Shri Krishna Sinha, AIR 1959, SC 395; Homi D Mistry Vs. Nafisul Hasan, AIR 1957, Bombay, 218.

that the process of parliamentary investigation should not be used in a way which would give importance to irresponsible or reckless statements or to persons of no consequence making such statements. It has also been observed by the Committee of Privileges that in the ardour of political contest and in the heat of moment, strong and undesirable words are sometimes used which a person, thinking more coolly, would not say. It has also been held that the law of Parliamentary Privileges should not be administered in a way which could fetter or discourage the free expression of opinion or criticism, however, prejudicial or exaggerated such opinions or criticism, may be.

20. It may be mentioned that the Select Committee on Parliamentary Privileges of House of Commons (U.K.), 1967 made the following recommendations:

"The House should exercise its penal jurisdiction (a) in any event as sparingly as possible, and (b) only when it is satisfied that to do so is essential in order to provide reasonable protection for the House, its members or its officers from such improper obstruction or attempt at or threat of obstruction as is causing, or is likely to cause, substantial interference with the performance of their respective function."

Subsequently, the Committee of Privileges of the House of Commons in their Third Report (1996-97) reiterated this recommendation, and the House of Commons, U.K., adopted it on 6th February, 1978.

21. The above approach has normally been followed in matters of privilege by Lok Sabha as well. Thus the Committee of Privileges of Seventh Lok Sabha in their First Report presented to the House on 8 May, 1981, observed *inter alia* as follows:

"The Committee feel that it adds to the dignity of one and all if power in a democratic system is exercised with restraint; the more powerful a body or institution, the greater restraint is called for particularly in exercising its penal jurisdiction."

It is also a tradition of the House that unqualified and unconditional regrets sincerely expressed by the persons guilty of breach of privilege and contempt of the House are accepted by the House and the House normally decides in such cases to best consult its own dignity by taking no further notice of the matter.

Privilege of freedom from arrest or Molestation

22. One of the privileges enjoyed by members is freedom from arrest in civil cases during the continuance of the session of the House and during a period of 40 days before its commencement and 40 days after its conclusion (Section 135A of the Code of Civil Procedure). The object of this privilege is to ensure the safe arrival and regular attendance of Members of Parliament. The arrest of a Member of Parliament in Civil Proceedings during the period when he is exempted from such arrest is a breach of privilege and the member concerned is entitled to release.

23. The Privileges of freedom from arrest does not, however, extend to criminal offences or cases of detention under the preventive detention. A criminal act committed by a member within the House cannot be regarded as a part of the proceedings of the House, for purposes of protection under the provisions of Article 105(2) of the Constitution. Thus, in Maharashtra Legislative Assembly when a member shouted at the operator to connect his mike to the loud-speaker, threw a paper-weight in the direction of the loud-speaker operator and rushed towards the Speaker, and grabbed the mike in front of the Speaker, he was not only expelled from the House but was subsequently convicted under different sections of the Indian Penal Code and sentenced to a rigorous imprisonment for six months.

24. Although members do not have any privilege or immunity from arrest on a criminal charge or under any law for preventive detention, the House has a right to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member.

25. The failure on the part of a judge or a magistrate or other authority to inform the House of the arrest, detention or imprisonment of a Member would constitute a breach of privilege of the House.

26. Another privilege which a member under custody enjoys is his right to correspond without any let or hindrance with the Speaker, Secretary or Chairman of a Parliamentary Committee. It is a breach of privilege to withhold any communication addressed by a member in custody to the Speaker, Secretary-General, Lok Sabha or the Chairman of a Parliamentary Committee.

27. No arrest whether of a member or of a stranger, can be made within the precincts of the House without obtaining the prior permission of the

Speaker.¹ Request for seeking the permission of the Speaker to make arrest within the precincts of the House should not be made by the authorities concerned as a matter of routine. Such request should be confined only to urgent cases where the matter cannot wait till the House adjourns for the day. The request in each such case should be signed by an officer not below the rank of Deputy Inspector General of Police and it should also state the reasons why arrest within the precincts of the House is necessary. Similarly, no legal process, civil or criminal, can be served within the precincts of the House without obtaining the prior permission of the Speaker whether the House is in session or not.² As a corollary to this rule, the court of law should not seek to serve a legal process, civil or criminal on Member of Parliament through the Speaker or Lok Sabha Secretariat. The appropriate procedure is for the summons to be served direct on members concerned outside the precincts of Parliament, that is at their residences or at some other places. A court of law should not also ask the Speaker or the Lok Sabha Secretariat to inform a member about issue of a legal process against him or seek to utilise in any manner the agency of the Speaker or of the Secretariat of the House in the Service or execution of a legal process, civil or criminal, against a member.

Use of Handcuffs

28. There is no privilege specifically exempting a member of Parliament who is under arrest on a

criminal charge, from being handcuffed. The Committee of Privileges of Fifth Lok Sabha in their Nineteenth Report presented to the House on 31 August, 1986 observed that the instructions regarding handcuffing of prisoners by the Union Minister of Home Affairs from time to time should be strictly and scrupulously followed by all the authorities concerned of the State Governments and Union Territory Administration and there should ordinarily be no occasion to handcuff prisoners such as Member of Parliament, Members of State Legislature, peaceful satyagrahis, persons occupying good positions in public life and professionals like jurists, journalists, doctors, writers and educationists.

Molestation of Members

29. It is also a breach of privilege and contempt of the House to obstruct or molest a member while in the execution of his duties, that is, while he is attending the House or when he is coming to, or going from the House. Thus, insults offered to Members on their way to or from the Houses have always been deemed to be high breaches of privilege. Molestation or obstruction caused to a member while going to Parliament House or coming from the Parliament House is a breach of privilege but it would be a breach of privilege even if that molestation or obstruction is caused to him at a place outside New Delhi while he is on his way to New Delhi to attend any business of Parliament or any Committee thereof.³

¹See Rule 232 of the Rules of Procedure & Conduct of Business in Lok Sabha (9th Edition)

²See Rule 233 *Ibid.*

³See Eleventh and Seventeenth Report of Committee of Privilege of Fifth Lok Sabha.

ALLEGATIONS AGAINST MINISTER(S)/MEMBER(S)—PROCEDURE FOR

1
LOK SABHA
(1967)

Point of privilege

Procedure to be followed when allegations are made against Ministers or Members

Facts of the case and ruling by the Speaker

On the 30th May, 1967, Shri S. M. Banerjee, a member, called the attention of the Prime Minister to the reported news about some of the Central Ministers being on the pay roll of Birlas and requested her to make a statement thereon.

2. The Prime Minister (Shrimati Indira Gandhi) made the following statement:—

“At the recent meeting of the Congress Parliamentary Party, Shri Arjun Arora made a general statement to the effect that some Central Ministers were in the pay of Birlas. I have requested Shri Arora to furnish whatever facts or information he may have in his possession to support the allegation. He has promised to do so. When I receive this I shall naturally look into it. Until then, it would be improper for me to say anything more.”

3. While seeking elucidation of the statement of the Prime Minister, Shri Madhu Limaye, a member, stated that he had given notice of a motion under rule 184 of the Rules of Procedure and Conduct of Business for constituting a Parliamentary Committee to investigate into the allegations.

4. The Speaker observed that he had not till then seen the notice given by Shri Madhu Limaye and he would give his decision thereon later on.

5. On the 31st May, 1967, the Speaker (Dr. N. Sanjiva Reddy) observed as follows:—

“I have now looked into the notice by the member (Shri Madhu Limaye). The hon. member has tabled it under rule 184. The notice reads as follows:

‘This House resolves that a Committee of 15 members of Parliament be appointed to investigate into the charges against the members of the Cabinet that they are in the pay of Birla group, and that Rajya Sabha be requested to appoint 6 of these members’.

The hon. member has not specified the names of the Ministers nor the charges against them.

The notice is in the nature of an inquiry into the conduct of members of this House or the other House. At present there is no Minister who is not a member of either House. In order that a notice of a motion on the conduct of a member may be admissible, certain preliminary procedures have to be followed. I would refer the hon. member to the procedure that was adopted in 1951 when a Committee to inquire into the conduct of H.G. Mudgal, a member of Provisional Parliament, was appointed. Briefly speaking, the procedure antecedent to the discussion of a motion in the House is as follows:—

Anyone who has reasonable belief that a member of Parliament has acted in a manner which, in his opinion, is inconsistent with the dignity of the House or the standard expected of a member of Parliament, may inform the Leader of the House (Prime Minister) or the Speaker about it. The person making such an allegation should first make sure of his facts and base them on such authentic evidence, documentary or circumstantial, as he may have. He should be careful in shifting and arranging facts because, if the allegations are proved to be frivolous, worthless or based on personal jealousy or animosity, directly or indirectly, he will himself be liable to a charge of the breach of privilege of the House. Therefore, it is of the utmost importance that allegations are based on solid, tested and checked facts.

When information regarding the alleged misconduct on the part of a member of Parliament is received, the usual practice is that the Prime Minister examines the whole evidence and if he is satisfied that the matter should be proceeded with, he should give a full and fair opportunity to the member to state his own version of the case to disprove the allegations against him and to place before the Prime Minister such information as may assist him to come to a conclusion. After the member's explanation, oral or written, is received by the Prime Minister, he sifts the evidence critically and together with his conclusions places the whole matter before the Speaker. If the member has given adequate explanation and it is found that there is nothing improper in his conduct and he has cleared all the doubts, the matter may be dropped and the member

exonerated. If, however, on the basis of the explanation given by the member and the evidence it is help by the Speaker that there is a *prima facie* case for further investigation the matter is brought before the House on a motion for the appointment of a Parliamentary Committee to investigate the specific matter and to report to the House by the specified date.

However, if in the course of preliminary investigation it is found that the person making the allegations has supplied incorrect facts or tried to bring discredit to the name of the member wilfully or through carelessness he shall be deemed to be guilty of a breach of privilege of the House.

I will, therefore, suggest to the member or anyone who wishes to make any charges against any Minister to follow the above procedure."

2

LOK SABHA
(1969)

Point of privilege

Procedure regarding making of allegations

Facts of the case and ruling by the Speaker

On the 3rd April, 1969, some members, alluding to a rumour published in the *Organiser*, a weekly newsmagazine alleged that the Minister of Industrial Development, Internal Trade and Company Affairs (Shri Fakhruddin Ali Ahmed), who was not then present in the House, had married a second time with a young girl of 21 years.

2. Later, during the day, Shri Fakhruddin Ali Ahmed, when he came to the House, denied the allegations completely and said that it was a false rumour.

3. Thereafter, all sections of the House condemned the irresponsible publication of the matter by the *Organiser*.

4. On the 9th April, 1969, the Speaker (Dr. N. Sanjiva Reddy), referring to the above incident, observed *inter alia* as follows:—

"This is not the first occasion when personal allegations against Ministers or members have been made in the House without the members making the allegations having taken any steps to

verify the authenticity thereof and without giving notice to the Chair in advance. There have been occasions in the past also when a notice based on news-item contained in a newspaper like the *Organiser* has been tabled. I have no doubt that everyone of us here will agree that baseless personal allegations made in the House bring down the dignity and prestige of this august House.

I may inform members that notices relating to any allegations based on newspaper reports will not be considered by me unless the member tabling the notice gives me substantial proof that the allegations have some factual basis.

I may also invite the attention of the members to my ruling dated 31st May, 1967 in which I stated the procedure¹ to be followed for investigation of allegations against Members or Ministers. I would once again appeal to Members to follow the prescribed procedure."

3

LOK SABHA
(1986)

Point of privilege

Allegation of violation of the principle of collective responsibility enshrined in article 75(3) of the Constitution by two Ministers

Facts of the case and ruling by the Speaker

On 25th February, 1986, the Speaker (Dr. B.R. Jajhar) observed as follows:—

"On 30th January, 1986, Prof. Madhu Dandavate gave notice of a question of privilege against Shri Arif Mohammed Khan, Minister of State in the Department of Power and Shri Z.R. Ansari, Minister of State in the Ministry of Environment and Forests for violating Article 75(3) of the Constitution by expressing totally opposite views on a Private Member's Bill *viz.* the Code of Criminal Procedure (Amendment) Bill, 1985 by Shri G.M. Banatwalla, M.P. The contention of Prof. Dandavate is that while participating in the debate on the above Bill, Shri Arif Mohammed Khan and Shri Z.R. Ansari both members of Council of Ministers, vehemently expressed diametrically opposite views on the Supreme Court judgement in the 'Shah Bano Case'; the former defended the

¹For summary of that case See p. 1 *ante*.

judgement while the latter attacked it in no uncertain terms. Thus both the Ministers had violated the principle of collective responsibility and thereby committed a breach of privilege and contempt of the House.

As the House is aware, the Code of Criminal Procedure (Amendment) Bill seeking to amend Sections 125 and 127 of the said Code dealing with maintenance allowance to wives, children and parents is a Private Member's Bill and is at the stage of general discussion. The concerned Minister who will spell out Government's considered views/decision in the matter has yet to reply to the debate.¹ As such the policy decision of the Government on the Bill has not been placed before the House.²

2. The Speaker, therefore ruled:—

"A contempt of the House can generally arise only when something is done which directly or indirectly causes or tends to cause obstruction in the functioning of the House, members, officers or committees. I do not find any of the aforesaid ingredients in the speeches made by Shri Arif Mohammed Khan and Shri Z.R. Ansari. Moreover, alleged violation of any constitutional or statutory provision is a matter to be decided by courts and no parliamentary privilege would arise in such cases.

Accordingly, I withhold my consent under rule 222 to the raising of the matter in the House as a question of privilege."

4

LOK SABHA

(1990)

Point of privilege

Allegations made against a member by another member in the House

Facts of the case and reference to the Committee of Privileges

On the 12th April, 1990, while replying to Starred Question No. 439 regarding 'Inquiry into affairs of

IFFCO Project', the Deputy Prime Minister and the Minister of Agriculture (Shri Devi Lal) stated as follows:—

"Enquiry has been initiated by IFFCO in respect of the irregularities in the payments involved in the execution of the Aonla Project. It will take some time before the enquiry is completed. The matter has also been referred to the Central Bureau of Investigation."

2. During supplementary questions, Shri Rajveer Singh, member stated *inter-alia* as follows:—

"Mr. Speaker, Sir, of course the CBI will hold an enquiry about these employees but I would like to know whether two senior ministers of the previous Government i.e. the Minister of Agriculture and the Minister of State in the Ministry of Agriculture were involved in this scandal and there were differences between them. Mr. Speaker, I have got information and some proof in this regard. Shri R. Prabhu, the former Minister of State in the Ministry of Agriculture was sheltering the whole scandal. Employees and officers resorted to large scale bungling under his shelter. May I know whether all this is in the knowledge of the Hon. Minister and whether the report of CBI will cover them also?.....Mr. Speaker, Sir, I want to ask from the Hon. Minister through you that it is an important issue and the report of Internal Audit has been received in this regard. The Hon. Minister may please tell us what action has been taken on the basis of the report of Internal Audit?"

3. Shri R. Prabhu, member, thereupon stated as follows:—

"Mr. Speaker, Sir, one of the hon. members has made some wild allegations against me and my senior colleague, Shri Bhajan Lal. I would like to say Sir, that I am willing to face any inquiry by any organisation of the Government or any forum, if it so desires."

4. When Prof. P.J. Kurien and Shri Kamal Chaudhry, members, stated that allegations had been made by Shri Rajveer Singh, a member, against Shri R. Prabhu, another member, without obtaining prior

¹Position as on 30th January, 1986. The Bill was subsequently withdrawn by the members concerned.

²The Muslim Women (Protection of Rights on Divorce) Bill, 1986, was introduced in Lok Sabha by Minister of Law and Justice on 25th February, 1986.

permission of the Speaker and the same should, therefore, be expunged, the Speaker observed as follows:—

“Mr. Prabhu has made his own submissions. It is already on record..... Shri Rajveer Singh has said it and Mr. Prabhu has also made his submissions here. I will look into it whether any allegatory reference has been made.”

5. On the 18th April, 1990, Shri R. Prabhu gave two notices of question of privilege against Shri Rajveer Singh for making allegations against him on the 12th April, 1990. Shri Prabhu stated in his notices, *inter alia*, as follows:—

“You would kindly recall that on 12-4-1990, a member, Shri Rajveer Singh, by means of a supplementary on a Starred Question No. 439, made wild allegations against me..... The allegation was specific and by name. As you are aware, the procedure for making allegations against a member of Parliament is specifically laid down in the rules. This requires your previous permission which has to be granted after following the established parliamentary practice of getting the comments of the member against whom allegations are sought to be made and after you are satisfied about the *prima facie* case. The member concerned has not followed the prescribed procedure. It is highly unfortunate that he chose covert means to make a highly tendentious, defamatory and baseless statement which is not only derogatory to me and to my prestige and reputation but also tends to undermine the dignity of the House. I now find that the remarks made by the member have gone on record in the proceedings of the House and have not been expunged. The allegations are totally baseless, false and motivated. They have been made on the floor of the House without giving any advance notice as required. This has also appeared in all newspapers and has caused irreparable damage to my reputation. This is clearly a breach of privilege and calls for a reference to the Committee of Privileges.”

On the same day, four more identical notices of question of privilege were received from Sarvashri Era Anbarasu, Krishna Kumar, P. Shanmugam, R. Jeevarathinam, G. Devaraya Naik, Kamal Chaudhry, Kadambur M.R. Janarthanan, Mohammad Shafi Bhatt, A.G.S. Ram Babu, N. Dennis, P.R. Kumaramangalam, R. Muthiah, C. Srinivasan, M.G.

Sekhar and Kanchee Paneer Selvam, other members, regarding the allegations made by Shri Rajveer Singh against Shri R. Prabhu. It had been stated in the notices, *inter-alia* as follows:—

“On 12-4-1990, an Hon'ble member, Shri Rajveer Singh in a supplementary on a starred Question No. 439 made allegations against another Hon'ble member Shri R. Prabhu. You promised to look into this in the record. We find from the records that Shri R. Prabhu's name has not been expunged and the allegations have also not been expunged.

Procedure for making allegations against a member of Parliament is specifically laid down in the rules under Rule 353. This has not been followed. The allegations are of a very serious nature and are defamatory in character. This is a very bad precedent where an Hon'ble member is allowed to make serious allegations against another member without following the prescribed rules. This is of utmost importance and affects the dignity of the House and also the rights and privileges of members of Parliament.

This is clearly a breach of privilege and should be referred to the Committee of Privileges.”

On the same day, when Shri R. Prabhu sought to raise the matter in the House, the Speaker observed as follows:—

“I have allowed you to make a personal explanation.... You can again write to me and I will again give you a chance to make personal explanation... Where any allegations have gone on record, the Minister or the member against whom allegations have been made, is allowed, if he so requests, to make a statement in the House, clarifying the position, either on the same day or later on. And that brings the matter to an end.....”

However, when Shri Prabhu stated that he had given notice of a question of privilege in the matter, the Speaker observed that he would consider the matter.

6. On the 20th April, 1990, Shri Rajveer Singh was requested, as directed by the Speaker, to substantiate the allegations made by him on the floor of the House on the 12th April, 1990, against Shri R. Prabhu with the help of documentary proof in his possession, if any.

7. Shri Rajveer Singh, in his reply dated the 4th May, 1990, stated *inter alia* as follows:—

“I enclose copies of the following documents:—

1. Newsreport in Amar Ujala, Bareilly, date line 20-2-89 (caption—IFFCO-Aonla Pariyojana ka Vistar Khatyai mein)
2. Newsreport in Amar Ujala dated 29-1-90 (caption—IFFCO adi Urvarak Companiyon mein Boree ki khareed mein karodon ka Kamishan Liya gaya)
3. Newsreport in Indian Express date line 2-11-89 (caption—An election-eve tender)
4. Newsreport in Hindustan Times dated 26-9-89 (caption—Minister in a soup)
5. IFFCO-minutes of the meeting held with M/s ETO during the period 10-7-89 to 19-7-89.
6. IFFCO-minutes of the meeting held with M/s Agarwal Carriers Corporation of India (ACCI) during the period 4-9-89 to 17-10-89.
- 7-8. Newsreports in Statesman dated 23-2-89 (caption—Fun and Games at IFFCO) and Jan Satta dated 15-2-89 (caption—IFFCO ke muattalafsar ko bachane ki koshish)
9. Article in Economic Times dated 7-5-89 (caption—The gigantic Jute tender scandal)
10. Newsreport in Jan Satta dated 11-2-89 (caption—IFFCO ki Aonla Pariyojana mein Karodon ka Ghotala)
11. Audit Report ka Vistrit Vivaran.

The above documents clearly show that there have been a large number of irregularities in the IFFCO (Aonla) Project involving loss of crores of rupees. This project was under the overall charge of the then Minister of State for Fertilizers, Shri R. Prabhu. It was also reported in the newspapers that Shri S.R. Sahore who was looking after the work of the Aonla fertilizer project as its acting Director, had the blessings of the then Union Minister of State for Fertilizers, Shri R. Prabhu.

It may be pointed out that as reported in the newspapers, Shri S.R. Sahore had been suspended from service *vide* orders dated 8-2-89 but these suspension orders were subsequently revoked in less than a week on the intervention of Shri R. Prabhu.

This is a very serious matter involving loss of crores of rupees due to irregularities in the

IFFCO (Aonla) project and needs a thorough enquiry. In this connection, I invite your attention to the reply given by the Deputy Prime Minister to SQ No. 439 on 12-4-90 in which the Deputy Prime Minister stated that the IFFCO was investigating into the case of irregularities in the Aonla project and the matter had also been referred by the Government to the Central Bureau of Investigation.”

8. Shri R. Prabhu, to whom a copy of the reply received from Shri Rajveer Singh, together with its enclosures was forwarded, as directed by the Speaker, for information/comments, if any, gave another notice of question of privilege on 14 May, 1990, stating *inter alia* as follows:—

“In his letter dated the 4th May, 1990, the member has adduced in all 11 annexures of which no less than 8 are newspaper reports. It is an agreed convention of Parliamentary practice that newspaper reports do not constitute ‘proof’. They are nowhere accepted as such and cannot be relied upon. So this is not ‘proof’ as claimed by him. In any case, I deny the allegations contained in the newspaper reports. They are false, mischievous, motivated and have been planted by interested parties.

Of the remaining 3 annexures, 2 are minutes of meetings held between IFFCO and its transport contractors. These minutes contain no reference to me and have nothing to do with me. They are obviously part of the day-to-day working routine of the society.

As far as the last remaining enclosure is concerned, it is entitled ‘Audit report ka Vistrit Vivaran’. The Hon’ble member has not indicated where this has been obtained from or of what document it forms part. Obviously it is a purported Hindi translation of some audit report of IFFCO. Even so, going through the entire annexure I cannot find any reference to me. This document is not even authenticated and we don’t know the genuineness of the contents.

The member has reiterated the main thrust of his allegations in the last 3 paras of his letter dated 4th May, 1990. When the Hon’ble member talks of my ‘shelter to employees and officers’ he is obviously referring to newspaper reports that Shri S.R. Sahore, Executive Director of Aonla Project of IFFCO was

suspended by a sitting of the Board of Directors and the suspension orders were revoked by the Ministry (Department of Fertilizers). This single action taken in public interest in the normal course by the Department does not in any way constitute a general 'shelter for doing irregularities in an unprecedented manner' as the member claims. Although I do not have to justify this perfectly legal action (I understand that the Delhi High Court later upheld this action) within its purview by the Department of Fertilizers, I would definitely do so when an opportunity is given to me before the Privileges Committee.

It is also to be noted that whereas the SQ No. 439 to which the Hon'ble member was putting supplementaries and making allegations, relates only to 'Aonla expansion project' of IFFCO, the newspaper reports furnished by him relate to all kinds of matter not relevant to nor related to this subject. It is obviously an afterthought. He has done this just to confuse, prejudice and throw a 'red herring' across the trail.

The Hon'ble member has made baseless and derogatory allegations against me on the floor of the House and I have been defamed in the process. He is now trying to justify his action by producing newspaper reports which he calls 'proof'. It will be a very bad precedent where members flout rules of procedure and make such wild allegations and defamatory statements against another member and later on produce newspaper reports to justify the same.

I seek your protection to uphold my honour and the dignity of this August House. The grounds for the privilege motion are now even more strengthened by the failure of the member to produce evidence as required. I request you to please refer this whole matter to the Privileges Committee so that my privilege is protected and my honour restored."

9. On the 16th May, 1990, the Speaker referred the matter to the Committee of Privileges under rule 227 of the Rules of Procedure and Conduct of business in Lok Sabha for examination, investigation and report.

Findings and recommendation of the Committee

10. The Committee of Privileges, after examining Sarvashri R. Prabhu and Rajveer Singh, members, and also after considering relevant documents, in their Second report presented to the Speaker and laid on the Table of Lok Sabha on the 12th March, 1991, recommended *inter alia* as follows:—

- (i) "The Committee note that the present case of alleged breach of privilege arose on 12 April, 1990, out of a supplementary question asked by a Member of the House Shri Rajveer Singh on Starred Question No. 439 pertaining to the IFFCO Project. The contention of Shri R. Prabhu, a member of the House, who has complained of the breach of privilege, is that Shri Rajveer Singh, MP, in his supplementary made baseless allegations against certain actions of the former when he held the office of the Union Minister of State for Agriculture. As regards the affairs of the IFFCO Project, the Committee note, the Deputy Prime Minister and the Minister of Agriculture stated in his reply to the question that an enquiry had been initiated by the IFFCO in respect of the irregularities in the payment involved in the execution of the Aonla Project and the matter had also been referred to the Central Bureau of Investigation. Shri Prabhu through an intervention allowed by the Speaker refuted the allegations against him. The Committee also note that the Project is situated in the constituency of Shri Rajveer Singh."
- (ii) "After a careful analysis of the evidence, both written and oral, the Committee have come to the conclusion that while Shri Rajveer Singh, MP, could not substantiate his impugned statements against Shri R. Prabhu, MP, with the help of any other evidence than certain newspaper reports and other papers mentioned by him, Shri Rajveer Singh categorically stated before the Committee that he had no *malafide* intention in asking the supplementary question, which the Committee have no reason to hold otherwise. In view of this, no question of privilege is involved in the matter and the Committee feel that no further action need be taken in the matter."
- (iii) "The Committee recommend that in view of the denial of the allegations by Shri R. Prabhu on the floor of the House and also in

view of the fact that Shri Rajveer Singh, M.P. had no *malafide* intention in asking the supplementary question to SQ No. 439 regarding 'Inquiry into affairs of IFFCO Project', and also there being no question of privilege involved in this case, the

matter need not be pursued and it be dropped."

Action taken by the House

11. No further action was taken by the House in the matter.

ARREST

LOK SABHA

(1952)

Point of privilege

Arrest of a member under Preventive Detention Act during the session of the House

Facts of the case and reference to the Committee of Privileges

On the 27th May, 1952, the Speaker (Shri G.V. Mavalankar) informed the House that he had received the following privilege motion from Shri N.C. Chatterjee, a member:—

“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.”

The Speaker further observed as follows:

“.....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 214¹ and refer the question raised in this notice to the Committee of Privileges, who will inquire into all the fact 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.”

2. On the 28th May, 1952, the Speaker informed the House that he had received the following letter from the District Magistrate, Delhi, on the 27th May, 1952, at 4.45 P.M.:—

“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 organizing 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.”

Finding and recommendations of the Committee

3. The Committee of Privileges, after examining the written statement filed by the Inspector, C.I.D., and also examining Shri N.C. Chatterjee, and V. G. Deshpande, members, and Shri Rameshwar Dayal, District Magistrate, in their Report presented to the House on 9th July, 1952, reported, *inter alia*, as follows:—

- (i) “The Committee addressed itself to the following two questions as arising out of the case:
 - (a) whether the arrest of Shri V. G. Deshpande under the Preventive Detention Act, 1950 constitutes a breach of privilege; and
 - (b) whether the intimation of his arrest to the Speaker by the District Magistrate was sent in time.”
- (ii) “As regards the first question, the law and practice in the House of Commons are as under:
 - (a) Arrest on a criminal charge for an indictable offence does not constitute a breach of privilege;
 - (b) Preventive arrest under statutory authority by executive orders is not within the principle of case to which the privilege of freedom from arrest has been decided to extend.”
- (iii) “The case referred to the Committee falls under the latter category. After giving

¹Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition).

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."

- (iv) "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 is common : 'the protection of community as a whole'."
- (v) "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."

- (vi) "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 that on the day previous to the arrest (26 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 21-2 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 has 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."

(vii) "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."

Action taken by the House

4. No Further action was taken by the House in the matter.

6

LOK SABHA

(1952)

Point of privilege

Alleged arrest of a member on a Criminal charge during the session of the House

Facts of the case and reference to the Committee of Privileges

On the 13th June, 1952, the Speaker (Shri G. V. Mavalankar) informed, the House that he had received a complaint from Shri K. Ananda Nambiar, a member, of alleged breach of privilege arising out of the arrest of Shri Dasaratha Deb, another member, at Agartala on 12th June, 1952:

"That Shri Dasaratha Deb, a member of this House has been arrested on June 12, 1952 at Agartala, Tripura State, by the Agartala Police and such an arrest of the member of this House,

particularly while it is in session, is a serious breach of privilege of the hon. member and of this House."

2. The Minister of Home Affairs and States (Dr. Kalas Nath Katju) stated that the warrant issued under the Preventive Detention Act against Shri Dasaratha Deb had since been withdrawn. He himself did not know whether Shri Deb had been arrested or not. He added, however, that he would make inquiries immediately and try to get the information by the 14th June, 1952.

3. The Speaker, thereupon, held over the matter.

4. On the 16th June, 1952, Dr. Katju stated *inter alia* as follows:

"I have received a telegram and the Chief Commissioner of Tripura says that Shri Dasaratha Deb was examined by the police on the 12th instant in connection with a pending kidnapping case which is under investigation by the police and in which the police suspect his complicity. After the interrogation was over he was forthwith formally arrested by the police and immediately taken to the Sub-Divisional Magistrate and was released on bail at half-past ten in the morning on that very day.

We asked the Chief Commissioner in that telegram as to whether he had sent information to you and we referred him to the general circular letter which had been issued by the Home Ministry last year.....he says in his reply that he does not seem to have received any such letter at all and therefore he was not aware that it was his duty or it was proper and necessary for him to send forthwith immediate information to you.....it may be that the letter might not have been sent to him or it might not have reached him. But he says that he had not received any such information. If there was a mistake. I take the responsibility for that and you may kindly overlook it..."

5. Referring the matter to the Committee of Privileges, the Speaker observed:

"It is admitted that no information is given. It is only pleaded that it was unintentional, a technical breach which should be excused. I think nothing will be lost if I refer the question to the Privileges Committee. Let it consider it and let it make its own recommendations about all the circumstances in which the arrest took place. And then it will be for the House to consider as

to whether it was technical breach, whether it should be excused or should not be excused. The Privileges Committee may make its own recommendations. *Prima facie*, on the facts, I think it is a clear case to go to the Privileges Committee, and the question, of course, of punishment or otherwise or merits will be a matter for the House. So I refer this question to the Privileges Committee."

6. On the 27th June, 1952, the Speaker informed the House that he had received the followed communication from the Sub-Divisional magistrate, Sadar, Agartala, dated the 24th June, 1952, which he also referred to the Committee of Privileges:

"I have the honour to inform you that Shri S. N. Roy Choudhry, Deputy Superintendent of Police, Tripura, produced Shri Dasaratha Deb, member of Parliament, in connection with Fatikirai P.S. case No 7(2) 52 under section 364 of I.P.C. Shri Deb was produced before me on 12th June, 1952 at about 10 A.M. for keeping him in custody pending a Test Identification Parade. Soon after his production before me the learned pleader for Shri Deb moved for bail and he was granted bail of Rs. 1,000 (Rupees one thousand only), and released at about 10.30 A.M. According to the prayer of Police, the date of the Test Identification Parade has been fixed on 18th August, 1952, and Shri Deb, M.P., has been asked to appear in the Court for Test Identification Parade on the date fixed."

Findings and recommendations of the Committee

7. The Committee of Privileges, after considering the written statement submitted to them by Shri Dasaratha Deb, in their Report presented to the House on the 23rd July, 1952, reported *Inter alia* as follows:—

- (i) "When a member is arrested in the course of administration of criminal justice and immediately released on bail, it is under the law and practice of privilege of the House, necessary to give information to the Speaker, it being clear that such an arrest does not in itself constitute a breach of privilege of the House."
- (ii) "The Law and Practice in the House of Commons of the U.K. is clear on the point arising out of the case before the

Committee. The Speaker of the House of Commons while replying to a question on the 20th October, 1902 in the House explained the practice in the following terms:

'Four cases have been referred to ; in two of them the hon. Members in question were committed, and in those cases notices have been given. The other two were cases in which there was an arrest of two hon. members in order that they might answer to a charge which they were summoned to answer; when those cases came before the magistrate, I think I am right in saying they were convicted but were let out on bail during an appeal. In such a case the duty of the magistrate does not arise it is laid down in May's Parliamentary Practice and I think correctly laid down that the duty of the magistrate arises when he has committed a criminal to prison and when he is detained there without bail.'

- (iii) "It is clear from the statement of facts which have been corroborated by Shri Dasaratha Deb that he was released on bail immediately after he was produced before the Magistrate. There was therefore no duty on the part of the magistrate to inform the House. The Committee accordingly consider that in the circumstances there was no breach of privilege of this House."

Action taken by the House

8. No further action was taken by the House in the matter.

7

LOK SABHA

(1953)

Point of privilege

Arrest and detention of a member under Public Security Act

Facts of the case and ruling by the Deputy Speaker

On the 12th May, 1953, the Deputy Speaker (Shri M.A. Ayyangar) informed the House that he had received the following telegram from the Chief Secretary to the Jammu and Kashmir Government regarding the arrest of Dr. Syama Prasad Mookerjee, a member:—

"Dr. Syama Prasad Mookerjee declared publicly his intention to enter Jammu and Kashmir State in connection with his agitation launched against

the Government by Praja Parishad, a local party. In Jammu for the last six months an organised movement started with a view to subverting law and order through unlawful and violent means. This movement had the avowed support of Bharatiya Jana Sangh in India. Dr. Syama Prasad Mookerjee as the President of Bharatiya Jana Sangh did not merely justify this unlawful movement but also lent it the full support of the Sangh for the purpose of continuing and intensifying it. Even today in some parts of Northern India volunteers inspired and organised by Bharatiya Jana Sangh have in defiance of law been demonstrating in support of this movement. It was apprehended that the presence of Dr. Syama Prasad Mookerjee who along with his political party has been supporting the subversive movement launched by the Praja Parishad in Jammu would constitute a grave threat to public peace and law and order. It was therefore, with deep regret that the Jammu and Kashmir Government had to serve a notice under section 4(1) of the Jammu and Kashmir Public Security Act on Dr. Syama Prasad Mookerjee according to which his entry was banned into the State. Dr. S. P. Mookerjee in defiance of this notice, entered the territory of Jammu and Kashmir State. Taking into account the presence of Dr. S. P. Mookerjee in the State and also the threat that it constituted to the peace and tranquility of the State, the Inspector General of Police ordered his detention under section 3 of the Jammu and Kashmir Public Security Act."

The Deputy Speaker also informed the House that he had received a notice of a question of privilege from Shri N. C. Chatterjee, a member, concerning the arrest of Dr. Mookerjee and that he would take it up on the next day.

2. On the 13th May, 1953, Shri N. C. Chatterjee stated that it was the privilege of every member of Parliament to visit any part any State, or territory of India just as every citizen of India had freedom of movement throughout the territory of India and especially when the Government had not put any fetter or embargo. He added that it was the right and duty of a member to go and visit any State, see things for himself and report to Parliament or fight for the redress of any grievance there. There was no territorial limitation with regard to a member of Parliament that he could only represent the

grievances of his own constituency and no other part of territory.

3. The Deputy Speaker observed *inter alia* as follows:

"As was decided by the Committee of Privileges in connection with the arrest of Mr. Deshpande there ought to be no special privilege in the case of a member of the House as opposed to any ordinary person. No discrimination or no special privilege of freedom from arrest was granted to him. In the usual course he is arrested. All that is required is that the arresting authority must intimate the factum of arrest to the House. That was done and I read it out of the House....."

It is for the Government of the particular State to consider whether permitting any member or any other person will seriously jeopardise the law and order situation there or the sense of security there. We are not sitting in judgement as to whether 'meticulously' the apprehension that the entry of any hon. member, even be he a member of this House, might provoke or create a situation which they expected ought not to arise in the State, is right. There is no question of special privilege so far as a member is concerned. If he is detained like any other person, he can have recourse in the ordinary course, to placing his case and getting a decision. All that we are concerned with this whether in the due course he was detained or whether any exception was made in his case, which would not be made in the case of an ordinary person. From the telegram, it is seen no such thing has been done. All that has to be done so far as this House is concerned is to keep this House informed regarding the arrest of any member so that this House may keep a watch over that matter. That has been done. I am advised having regard to the fact here, I am advised having regard to facts here, I am not called upon to give my consent. There is not special privilege so far as this matter is concerned."

LOK SABHA

(1957)

Point of privilege

Alleged attempt to handcuff a member of Lok Sabha arrested on a criminal charge by the police and withholding of his letter addressed to another Member by Jail authorities.

Facts of the case and reference to the Committee of Privileges

Shri Kansari Halder, a member, in a letter addressed to the Speaker, complained as follows:—

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

thought that you would come to be informed of my predicament by Shri Hiren Mukerjee. I have now learnt that the said letter never reached Shri Mukerjee. This means that the authorities must have held it up. I feel this is unwarrantable interference with the rights of a member of Parliament who writes from prison to one of his leaders in the House in order that his privileges are not disregarded by the executive."

2. On the 21st October, 1957, the Speaker (Shri Anantha Sayanam Ayyangar), under rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha referred the matter to the Committee of Privileges for report.

Findings and recommendations of the Committee

3. The Committee of Privileges, after considering the matter and examining Shri Halder, in their Fourth Report, submitted to the Speaker on 16th April 1958, reported *inter alia*, as follows:—

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

Conditions in which handcuffs are to be used

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

- (a) Persons accused of a non-bailable offence punishable with any sentence exceeding in severity a term of three years' imprisonment.
- (b) Persons accused of an offence punishable under a section 148 or 226, Indian Penal Code.
- (c) Persons accused of, and previously convicted of, such an offence as to bring the, case under section 75, Indian Penal Code.
- (d) Desperate Characters.
- (e) Persons who are violent, disorderly or obstructive or acting in a manner calculated to provoke popular demonstration.
- (f) Persons who are likely to attempt to escape or to commit suicide or to be the object of an

attempt at rescue. This rule shall apply whether the prisoners are escorted by road or in a vehicle.

(2) Better class under-trial prisoners must only be handcuffed when this is regarded as necessary for safe custody. When a better class prisoners is handcuffed for reasons other than those contained in (a), (b) and (c) of sub-rule (1) the officer responsible shall enter in the Station Daily Diary or other appropriate record his reasons for considering the use of handcuffs necessary."

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

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

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

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

(iv) "As regards the complaint of Shri Kansari Halder about the withholding of his letter addressed to Shri H. N. Mukerjee, M.P., by West Bengal jail authorities, it may be mentioned that Shri Halder was at the time of writing the letter an under-trial prisoner. Rule

682 of the Bengal Jail Code is therefore pertinent. Rule 682 of the Bengal Jail Code reads as follows:

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

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

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

(vi) "The following precedents pertaining to the British House of Commons may be mentioned:

(a) In the Ramsay Case of the British House of Commons, Captain Ramsay who was in detention under Defence Regulation 18-B of the Defence (General) Regulations, 1939, wrote the following letter to the Speaker of the House of Commons which was read out by the Speaker to the House on the 5th June, 1940:

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

Yours sincerely,

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

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

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

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

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

The Speaker thereupon observed:

'The ordinary Papers which are issued to every Member of the House will be issued to hon. Member for North Westmeath in the usual way. Whether he will be permitted to receive them, or whether he will be entitled to carry on any correspondence is a matter over which I have no control. That must be a matter of prison discipline. If the authorities of the prison in Ireland have no objection to the hon. Member sending questions to the Table of the House, I have no objection to their appearing on the Paper, provided that it does not presuppose or necessitate the appearance of the hon. Member here. The

of the hon. Member here. The House has been officially informed that the hon. Member cannot be present in his place for some little time, and therefore, it will be carrying things to an absurdity if his name appeared on the Paper and I should be asked to call upon him when it is known that he cannot be here to respond. But in other respects, as far as the Chair is concerned, there is no objection to his enjoying the usual Privileges.'

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

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

The Speaker observed:

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

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

(vii) "The following cases from India are pertinent:

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

'As long as a detenue continues to be a member of a legislature drawing the emoluments of his office, receiving summons to attend, he is entitled to the right of correspondence with the legislature, and to make representations to the Speaker, and the Chairman of the Committee of Privileges and no executive authority has any right to withhold such correspondence..... This right, as it appears to us, flows not merely from

principles of natural justice, which will be violated by such letters being withheld, but as a continuing member of the House, he would also appear to be entitled to this privilege under Art. 194(3) of the Constitution under which English Parliamentary Practice has to be followed until a law is enacted by the Legislature defining the powers, privileges, and immunities of the House, its Committees and its Members. Capt. Ramsay was permitted to correspond with the House of Parliament while under detention and was also given a personal hearing in an elaborate enquiry conducted by the Committee of Privileges. It is true that some early letters of the petitioner were forwarded to the House who sent him a reply but he is entitled to continue making further representations.

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

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

(ii) As a sequel to the above quoted judgement, it is understood, the Madras Government have incorporated the following provisions in rule II (4) of the Madras Security Prisoners' Rule, 1950:

'All communications addressed by a security prisoner who is a member of the State, Legislature or of Parliament, to the Speaker or Chairman of the House of which he is a member, or to the Chairman of a Committee (including a Committee of Privileges) of such House, or of a Joint Committee of both Houses, of the State Legislature or of Parliament, as the case may be, shall be

immediately forwarded by the Superintendent of the Jail to the Government so as to be dealt with by them in accordance with the rights and privileges of the prisoner as a Member of the House to which he belongs.'

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

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

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

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

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

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

It may also be considered by the Ministry of Home

Affairs whether in the interest of Uniformity State Governments might be requested by that Ministry to make similar provisions in respect of members of State Legislatures."

Orders of the Speaker

4. On 5th May, 1958, the Speaker recorded the following order on the Report of the Committee:—

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

Findings and recommendations of the Committee

5. The Committee of Privileges considered the matter referred to them in para 4 above and in their Fifth Report and submitted to the Speaker on 11th September, 1958, reported *inter alia*, as follows:—

- (i) "The maintenance of public order is a State responsibility under the Constitution (List II of the Seventh Schedule, Entry No. 1). Accordingly, the subject of provision of handcuffing of prisoners by the Police comes within the purview of a State Government. The State Governments have made provision in their Police Rules/Manuals etc. for it.

The State Governments were requested to supply for the information of the Committee, certified copies of the relevant extracts from their Police Rules/Manuals as also any other instructions issued by them on the subject. The State Governments were also requested to State specifically whether any exceptional treatment was provided for in the Police Rules or through executive instructions or otherwise in actual practice, so far as handcuffing of Members of Parliament/State Legislatures was concerned."

- (ii) "The Committee note that no State Government has so far framed any specific rules or regulations or issued any executive instructions providing for any special treatment in so far as handcuffing of Members of Parliament/State Legislatures is concerned. The Government of Madhya Pradesh have, however, intimated that "the question of issuing instructions for special treatment to Members of Parliament and State Legislatures

in the matter of handcuffing is under examination of the State Government".

- (iii) "The Committee find that the instructions issued by the Government of Orissa to the effect that '.....in case where under-trial prisoners happen to be members of the Legislative Assembly, they should ordinarily be classified as prisoners of the superior class'¹ are of interest since, according to rule 241(a)(ii) of the Orissa Police Manual: 'Under-trial prisoners classified as superior..... by the Magistrate or by the officer-in-charge (or any convicted prisoners classified in Divisions I and II) should not be handcuffed unless it is suspected that they may attempt to escape'."

- (iv) "The general policy of the Government of India, in the matter of handcuffing of persons in Police custody and prisoners, whether under-trial or convicts, is laid down in circular letter No. F. 2/13/57P. IV, dated the 26th July, 1957 issued by the Ministry of Home Affairs to all the State Governments and Union Territories. The Circular, *inter alia*, states:

...instances have recently come to the notice of the Government of India in which persons arrested by the police were handcuffed although the circumstances did not seem to justify this course. Handcuffs are normally to be used by the police only where the prisoner is violent, disorderly, obstructive or is likely to attempt to escape or to commit suicide or is charged with certain serious non-bailable offences. It is, however, observed that in actual practice prisoners and persons arrested by the police are handcuffed more or less as a matter of routine. The use of handcuffs not only causes humiliation to the prisoner or arrested person but also destroys his self-respect and is contrary to the modern outlook on the treatment of offenders. I am accordingly to suggest for the consideration of the State Government that the use of handcuffs should be restricted to case where the prisoner is a desperate character or there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons. If the State Government have no objection, necessary instructions may please be issued to the police

¹Letter No. 473(13)—C, dated the 15th March, 1955, from the Deputy Secretary to the Government of Orissa, Home Department, Special Section, to all District Magistrates.

and other authorities.”

(v) “The Committee observe:

(i) That the police Rules/Manuals in all States generally provide that the status and the probability of their attempting to escape should be taken into account in deciding the necessity or otherwise of the use of handcuffs in respect of under-trial prisoners and that under-trial prisoners who are classified in superior class or convicted prisoners who are classified in Divisions I and II, should not be handcuffed, unless there is reason to suspect that they may attempt to escape;

(ii) That the Jail Codes in all States generally define better class prisoners as those prisoners who “by social status, education and habit of life have been accustomed to a superior mode of living”.¹ They also include prisoners “who have been arrested/convicted for offences in connection with political or democratic (including working class or peasant) movements”¹ provided they have not been arrested/convicted for certain offences “involving elements of cruelty, moral degradation or personal greed”¹, etc.;

(iii) That the classification of prisoners is generally done by the trying courts subject to “any general or special order of the State Government”¹;

(iv) “That Members of Parliament, who happen to be under arrest or in imprisonment, would generally be eligible for being treated as better class prisoners in view of their high status and therefore, ordinarily may not be handcuffed.”

(vi) The position in the United Kingdom is:

‘A constable is not only justified but is bound to take all reasonable steps to prevent a prisoner from escaping. What is reasonable depends upon circumstances, such as the nature of the charge and the temper and conduct of the person in custody. Recourse should be had to the use of handcuffs only if a prisoner has attempted to escape or if it is necessary to prevent him from escaping or if his demeanour is violent or gives rise to

apprehension of violence.’

“A prisoner who is handcuffed without reasonable need has right of action for damages.”

[Halsbury’s Laws of England, 2nd Ed.,
Vol. 25, p. 325]

(vii) “The Committee have not come across any privilege or legal provision in the United Kingdom specifically exempting Members of Parliament from being handcuffed.”

(viii) “The Committee observe that the Police Rules/Manuals of the various States and the executive instructions issued by the State Governments, particularly circular letter No. F. 2/13/57P, IV dated the 26th July, 1957 issued by the Union Ministry of Home Affairs to all State Governments and Union Territories already provide that persons in police custody and prisoners, whether under-trial or convicts, should not be handcuffed as a matter of routine and that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or where there are reasonable grounds to believe that he would use violence or attempt to escape or where there are other similar reasons.”

(ix) “The Committee recommend that the Ministry of Home Affairs may be requested to again bring the contents of their circular letter No. F. 2/13/57-P. IV. dated 26th July, 1957, to the notice of the State Governments and to stress upon them the desirability of strictly complying with them especially in the case of members of Parliament, in view of their high status.

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

¹Sections 617 and 910 of the Bengal Jail Code, Vol. I.

Orders of the Speaker

6. On 16th September, 1958 the Speaker recorded the following orders on the Report of the Committee:—

“Seen. Further action as recommended by the Committee may be taken.”

Action taken by the House

7. On the 27th September, 1958, the Chairman of the Committee of Privileges (Sardar Hukam Singh) laid on the Table the Fourth and Fifth Reports of the Committee of Privileges.

9

LOK SABHA

(1968)

Point of Privilege

Alleged illegal arrest and remand to judicial custody of a member

Facts of the case and reference to the Committee of Privileges

On the 7th November, 1968, a telegram, dated the 6th November, 1968 addressed to the Speaker, Lok Sabha, was received from the Collector, Monghyr intimating that Shri Madhu Limaye, a member, had been arrested on the 6th November, 1968 at Lakhisarai Railway Station (Bihar) for violation of orders under Section 144, Criminal Procedure Code.

2. On the 10th November, 1968 another telegram dated the 8th November, 1968, addressed to the Speaker, Lok Sabha, was received from the Magistrate First Class, Monghyr, intimating that Shri Madhu Limaye had been arrested at Lakhisarai Railway Station on the 6th November, 1968, under Sections 151/107, Criminal Procedure Code and Section 188, Indian Penal Code, for violation of Prohibitory Orders under Section 144, Criminal Procedure Code and apprehension of committing cognizable offences.

As the Lok Sabha was not then in Session the information regarding the arrest of Shri Madhu Limaye was published in the Lok Sabha Bulletin Part II, dated the 8th November, 1968.

3. Sarvashri Rabi Ray and George Fernandes, members, raised the question of arrest of Shri Madhu Limaye in the Lok Sabha on the 12th, 14th and 18th November, 1968, and desired the Minister of Home Affairs to make a statement on the matter.

4. On the 19th November, 1968, the Minister of Home Affairs (Shri Y.B. Chavan) made the following statement in the House:

“As regards Shri Madhu Limaye, according to information furnished by the State Government, he was arrested under the direction of a magistrate on duty on November 6, 1968 at Lakhisarai under Sections 151 and 107 Cr. P.C. and Section 188 I.P.C. He was produced before the Sub-Divisional Magistrate, Monghyr the same day, and on his refusal to furnish a bond he was remanded to judicial custody. It is understood that Shri Limaye has filed a *habeas corpus* petition before the Supreme Court.”

5. On the 25th November, 1968, Shri George Fernandes, sought to raise a question of privilege alleging that the Collector of Monghyr and the Minister of Home Affairs had given wrong information to the House and urged that the House might order the release of Shri Madhu Limaye. The Speaker however, observed that he would give his ruling after getting the facts from the Government.

6. On the 25th November, 1968, Shri Madhu Limaye was released from custody by the Supreme Court pending hearing of his petition (Writ petition No. 355 of 1968) in that Court for a writ of *habeas corpus*.

7. On the 26th November, 1968, Shri Madhu Limaye sought to raise in the House a question of privilege and urged that the matter might be referred to the Committee of Privileges to consider the following issues:—

- (i) Whether sections 151, 107 and 117(3), under which Shri Madhu Limaye had been arrested and remanded, related to any criminal charge or criminal offence referred to in Rule 299 of the Rules of Procedure of Lok Sabha.
- (ii) Whether the arrest and subsequent remands of Shri Madhu Limaye amounted to a breach of the member's immunity from arrest 40 days before the beginning of the Session.
- (iii) Whether his arrest and remands by the G.R. P.S. in-charge, Kiul, Bihar, and S.D.O. in-charge and S.D.O. Sadar, Monghyr, Bihar constituted a breach of privilege and contempt of the House.
- (iv) Whether the Collector who was not the committing Magistrate in this case, was

required to send any intimation to the Speaker; whether he sent any wrong information to the House and was guilty of contempt.

- (v) Whether S.D.O. incharge and S.D.O. Sadar Monghyr had committed contempt by not sending intimation to the Speaker as required by rule 229.
- (vi) Whether it is not the duty of the Home Minister to ascertain the truth or otherwise of the information relating to members' arrest and detention, especially when the arrest and detentions take place in Union Territories and States which are under President's rule, and whether in cases or of *prima facie* breach of privilege or illegality, he should not intervene to secure members' release or whether he should be allowed to act merely as a postman.
- (i) Whether the Home Minister had in that case conveyed any wrong information to the House and had been guilty of contempt.

The Speaker, however, observed that the matter might be considered after the Supreme Court gave its judgement on Shri Madhu Limaye's Writ Petition pending in that Court.

8. On the 2nd December, 1968, the Supreme Court, after hearing the parties confirmed the release of Shri Madhu Limaye and reserved its detailed judgement.

The Supreme Court in their detailed judgement dated the 18th December, 1968, on the said Writ Petition of Shri Madhu Limaye, observed *inter alia* as follows:—

"Madhu Limaye, who has addressed arguments in person, has raised, *inter-alia* the following main contentions:

1. The arrests on November 6, 1968 were illegal inasmuch as they had been effected by Police Officers for offences which were non-cognizable.
2. There was a violation of the mandatory provisions of Art. 22(1) of the Constitution.
3. The orders for remand were bad and vitiated.
4. The arrests were effected for extraneous considerations and were actuated by *mala-fides*.

...The entire sequence of events from November 5, 1968 onwards is somewhat unusual and has certain features which have not been explained on behalf of the State. In

the first place when the arrests were effected by the Sub-Inspector Incharge of Government Railway Police Station on November 6, 1968, the offences for which the arrests were made, were not stated to be cognizable. In the various reports, etc. to which reference has been made the only offence alleged was one under section 188 I.P.C. which is non-cognizable. On November 6, 1968, apart from the allegation of commission of offences under section 188, the police reports disclose a variety of proceedings which were sought to be taken. Section 151 in all likelihood was invoked for effecting the arrests but proceedings were initiated under section 107 which appears in Chapter VIII of the Cr. P.C. Under that section the Magistrate can require a person about whom information has been received that he is likely to commit a breach of peace to show cause why he should not be ordered to execute a bond for a period not exceeding one year for keeping peace. Under section 117, which was also invoked, the Magistrate makes an enquiry as to the truth of an information. But proceedings under section 107 have to follow the procedure laid down in Chapter VIIC and arrests cannot be effected unless a Magistrate issued a warrant for that purpose under section 114. Section 151 which has been repeatedly referred to in various documents is meant for arresting without a warrant and without orders from a Magistrate if a police officer knows of a design to commit any cognizable offence and if it appears to him that the commission of such offence cannot be otherwise prevented.

...In all the documents which were prepared before November 19, 1968 there was no mention of an offence under section 143 I.P.C. having been committed by Madhu Limaye and other persons who were arrested on November 6, 1968. It is obviously for that reason that no formal First Information Report was recorded on November 6, 1968 which would have necessarily been done if the police officers effecting arrest had thought of section 143, Indian Penal Code which is a cognizable offence. No explanation has been furnished on behalf of the State as to why the information which was recorded in the general diary on November 6, 1968

was not recorded as an information in cognizable cases under section 154 of the Cr. P.C. There is force in the suggestion of Madhu Limaye that the first information report came to be recorded formally on November 19, 1968 only because the matter had been brought to this court by way of a petition under Art. 32 of the Constitution and after a *rule nisi* had been issued and a petition under Art. 226 had been filed in the Patna High Court. The authorities then realised that they had been completely oblivious of the true position that arrests could not have been effected for a non-cognizable offence made punishable under section 188, Indian Penal Code or for taking proceedings under section 107, Cr. P.C. Under section 151 Cr. P.C. the police officer could have arrested without a warrant.

It would be legitimate to conclude that the arrest of Madhu Limaye and his companions was effected by the police officer concerned without any specific orders or directions of a Magistrate on November 6, 1968 for the offences and the proceedings mentioned before in the various reports made prior to November 19, 1968.

The submission of Madhu Limaye on the second point has hardly been effectively met on behalf of the State. It appears that the authorities wanted to invoke all kinds of provisions like section 151, 107/117 of the Cr. P.C. apart from section 188 of the Indian Penal Code. Since no arrest could be effected for an offence under section 188 by the police officers without proper orders, these officers may have been naturally reluctant to comply with the mandatory requirements of Art. 22(1) by giving the necessary information. At any rate whatever the reasons, it has not been explained even during the course of arguments before us why the arrested persons were not told the reasons for their arrest or of the offences for which they had been taken into custody;...

Once it is shown that the arrests made by the police officers were illegal, it was necessary for the State to establish that at the stage of remand the Magistrate directed detention in jail custody after applying his mind to all relevant matters. This the State has failed to do. The remand orders are patently routine and appear to have been

made mechanically... The orders of remand are not such as would cure the constitutional infirmities. This disposes of the third contention of Madhu Limaye.

We have been pressed to decide the question of *mala-fide* which is the fourth contention of Madhu Limaye. Normally such matters are not gone into by this court in these proceedings and can be more appropriately agitated in such other legal action as he may be advised to institute to take. We would like to make it clear that we have ordered the release of Madhu Limaye and the other arrested persons with regard to whom *rule nisi* was issued on the sole ground of violation of the provisions of Art. 22(1) of the Constitution."

9. On the 20th December, 1968, Minister of Home Affairs moved the following motion which was adopted by Lok Sabha:—

"That the question of privilege arising out of Shri Madhu Limaye's arrest on November, 6, 1968 and his remand to judicial custody at Lakhisarai (Bihar) be referred to the Committee of Privileges with instructions to frame such issues as the committee consider relevant from the point of view of the Privileges of this House and make a report thereon."

Findings and recommendations of the Committee

10. The Committee of Privileges in their Eighth Report presented to the House on the 30th August, 1969, reported *inter alia* as follows:—

(i) "The Committee, after giving careful thought to all aspects to this matter, framed the following three issues for their consideration:—

(1) Whether the arrest of Shri Madu Limaye, M.P. under Section 107, 117(3) or 151 of the Code of Criminal Procedure, 1898 at Lakhisarai on the 6th November, 1968 and his subsequent remand and detention constituted a breach of privilege of the House;

(2) Whether the requisite intimation about the arrest of Shri Madhu Limaye in this case was sent to the Speaker, Lok Sabha by the competent authority; and

(3) Whether any information conveyed to the House by the Minister of Home

Affairs in this case constituted a contempt of the House."

(ii) "After a detailed examination of the facts of the case and relevant documents made available to the committee and a thorough consideration of the law and precedents on the subject of privilege of freedom from arrest enjoyed by members of Parliament, the Committee have arrived at the following conclusions:—

(1) Though the Committee feel that there were grave breaches of the requirements of the law in the procedure adopted by the police and the magistracy in relation to the arrest and remand of Shri Madhu Limaye, M.P., the Committee are of the opinion that Shri Madhu Limaye's arrest under Section 107, 117(3) or 151 of the Code of Criminal Procedure, 1898 at Lakhisarai on the 6th November, 1968, and his subsequent remand and detention do not constitute a breach of privilege or contempt of the House. Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition) lays down the procedure for sending intimations to the Speaker about the arrest/release etc. of members of Lok Sabha. The substantive privilege of freedom from arrest is governed by the provisions of clause (3) of Article 105 of the Constitution. 'The privilege of freedom from arrest is limited to civil causes and has not been allowed to interfere with the administration of criminal justice or emergency legislation... The development of privilege has shown a tendency to confine it more narrowly to cases of a civil character and to exclude not only every kind of criminal case but also cases which while not strictly criminal, partake more of a criminal than of a civil character.' This development is in conformity with the principle laid down by the Commons in a Conference with the Lords in 1641: 'Privilege of Parliament is granted in regard of the service of the Commonwealth and is not to be used to the danger of the Commonwealth. [May's *Parliamentary Practice*, 17th Ed. p. 78].' Arrest to prevent offences (Section 151, Cr. P.C.) or arrest for failure to furnish security for keeping the peace (Sections 107 and 117, Cr. P.C.) is an arrest for causes which are of criminal nature.

The Committee are of the view that for the grave breach of the requirements of the law committed by the authorities concerned while arresting or remanding him to custody the proper forum for Shri Madhu Limaye to seek the remedy for the wrong, if any done to him is a court of law and not the Committee of Privileges. In the matter of criminal proceedings or proceedings under the relevant provisions of the Code of Criminal Procedure, 1898, all citizens including members of Parliament have to be treated equally in the eyes of law.

The Committee, however, wish to emphasise that all the forms and rules of law must be strictly and scrupulously observed by the police and the magistracy in all cases more particularly when their conduct results in the deprivation of personal liberty of a citizen. The Committee also deprecate the indiscriminate resort to sections 10, 117, and 151 of the Cr. P.C. by the Police in dealing with respectable citizens, particularly, members of Parliament and Legislatures."

(iii) "(2) The Committee are of the opinion that the requisite intimation about the arrest of Shri Madhu Limaye, M.P. in this case was sent to the Speaker by the competent authorities. In this connection, the Committee observe that although according to Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition), 'the committing judge, magistrate or executive authority, should send the requisite intimation to the Speaker, Lok Sabha, regarding the arrest, detention etc. of a member, yet intimations received from other authorities e.g., Police officers, Superintendents of Jails, Registrars or Assistant Registrars of High Courts or Supreme Court etc., have been received by the Speaker and conveyed to the House and regarded as fulfilling the requirements of the rules."

(iv) "(3) The Committee are of the view that the information conveyed to the House by the Minister of Home Affairs in this case was not incorrect and does not constitute a contempt of the House."

(v) "The Committee recommend that no further action be taken by the House in the

matter.”

LOK SABHA
(1968)

Action taken by the House

11. On the 24th November, 1969 Shri Madhu Limaye moved the following motion in Lok Sabha:—

“That this House do consider the Eighth Report of the Committee of Privileges on this issues arising out of the arrest of Shri Madhu Limaye presented to the House on the 30th August, 1969.”

While moving the above motion in the House Shri Madhu Limaye stated *inter alia* as follows:—

“I sent a long statement alongwith all the documents to the Privileges Committee.....the Committee did not call me before taking its decision. Had the Committee called me. I would have clarified the purport and meaning of a numer of documents. I feel the Committee did not consider 3 or 4 important points....I want to explain the purport of every document and also to show as to how this was done with *malafide* intentions. I want this report to be sent back to the Committee with the recommendation to hear me before giving its decision. Then I will not oppose that decision.”

12. After some discussion, the following motion was adopted by Lok Sabha on the 24th November, 1969:—

“That the Eighth Report of the Committee of Privileges be referred back to the Committee of Privileges for reconsideration after hearing Shri Madhu Limaye on the matter.”

13. Before the Committee could however, reconsider the matter, it lapsed consequent on the dissolution of the Fourth Lok Sabha on the 27th December, 1970.

Point of Privilege

Illegal detention of a member

Facts of the case and reference to the Committee of Privileges

On the 3rd December, 1968, Shri J.M Biswas a member raised a question of privilege regarding his alleged illegal detention and re-arrest by the police at Purulia (West Bengal) on the 19th and 20th September, 1968, and non-intimation thereof to the Speaker, Lok Sabha. While raising the question of privilege Shri J.M. Biswas, stated *inter alia* as follows:

“I was arrested by the Police at Adra, Purulia District in West Bengal on the 19th September, 1968 at about 6.30 A.M. under Section 147/353, IPC, Section 5 of the Ordinance of September, 1968 and Section 100B of the Indian Railways Act. I was then produced before Shri S.K. Ganguli, Magistrate, 1st Class Purulia at about 4 P.M. The Magistrate immediately released me on the ground that the investigating officer did not send copy of case diary and the first information report of the case. But I was kept under detention by the police unlawfully till 1 A.M. of 20th September, 1968... While under unlawful detention by the police I was re-arrested at about 1 A.M. on 20th September, 1968, and produced before the Sub-Divisional Magistrate, Purulia at about 2.20 A.M. on 20th September, who ordered for my release on PR bond at about 2.30 A.M.... It appears that no information was sent to the Lok Sabha Secretariat about this arrest and the illegal detention. The Magistrate who released me on PR bond did not also inform the Lok Sabha Secretariat. All these constitute a clear breach of privilege of a member of the House and the House itself.”

2. The Minister of Home Affairs (Shri Y.B. Chavan) stated that he would give the details of the case after ascertaining the position.

3. On the 4th December, 1968, the Minister of

Home Affairs stated that he had no objection to the matter being referred to the Committee of Privileges. The matter was thereupon referred to the Committee of Privileges by the House.

Findings and recommendation of the Committee

4. The Committee of Privileges, after calling for facts of the matter from the Government of West Bengal and written statements of the concerned officers and after examining Shri J.M. Biswas, M.P. and Sarvashri B.C. Sen, Superintendent of Police, Purulia, D. Bhowmic, Deputy Superintendent of Police, Purulia and J.N. Sarkar, Sub-Divisional Magistrate, Purulia in their Tenth Report presented to the House on the 23rd February, 1970, reported *inter alia* as follows:

- (i) "The Committee note from the written statements received from the Government of West Bengal, the Superintendent of Police and the Sub-Divisional Magistrate, Purulia that Shri Biswas was re-arrested and sub-sequently released at about midnight of the 19th September, 1968, whereas Shri Biswas had contended in his statement in the House on the 3rd December, 1968 that while under unlawful detention he was re-arrested at about 1 A.M. on the 20th September, 1968 and released at about 2.30 A.M. on the 20th September, 1968, for which no intimation was sent to the Speaker. The Government of West-Bengal, the Superintendent of Police and the Sub-Divisional Magistrates Purulia denied in their written statements that Shri Biswas had been kept under detention, after his release at about 16.00 hours on the 19th September 1968, till he was re-arrested at about midnight on the same day."
- (ii) "After a careful consideration of the circumstances of the case, oral evidence given before the Committee and the documents made available to the Committee by the authorities concerned the Committee have come to the conclusion that Shri J.M. Biswas, M.P. was either illegally detained or put under some kind of restraint or guard or surveillance by the police on the 19th September, 1968, between about 16.00 hours when the Magistrate, First Class, Purulia (Shri S.K. Ganguli) released him and about 23.30 hours, when he was produced before the Sub-Divisional Magistrate, Purulia (Shri J.N. Sarkar)."

- (iii) "When the Committee re-examined Sarvashri B.C. Sen, then Superintendent of Police, Purulia and D. Bhowmic, then Deputy Superintendent of Police (Head-quarters), Purulia on the 14th November, 1969 both of them offered their unqualified regrets when apprised that the finding of the Committee was that there was some sort of restraint or surveillance on Shri J.M. Biswas, M.P., on the 19th September, 1968, after he had been released by the Magistrate, First Class, Purulia at about 16.00 hours, till about 23.30 when he was produced before the Sub-Divisional Magistrate, Purulia."

- (iv) "In view of the unqualified regret expressed by Sarvashri J.N. Sarkar, then Sub-Divisional Magistrate, Purulia, B.C. Sen, then Superintendent of Police, Purulia and D. Bhowmic, then Deputy Superintendent of Police, Purulia the Committee feel that no further action may be taken in the matter."

- (v) "The Committee, however feel that the conduct of the Magistracy and the Police authorities in this case leaves much to be desired. They would like to reiterate the recommendation made by them in their 8th Report (Fourth Lok Sabha) that all the forms and rules of law must be strictly and scrupulously observed by the police and the magistracy in all cases more particularly when their conduct results in the deprivation of personal liberty of a citizen."

- (vi) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

6. No further action was taken by the House in the matter.

LOK SABHA
(1969)

Point of Privilege

Alleged arrest of members and preventing them from attending the House

Facts of the case and ruling by the Deputy Speaker

On the 24th December, 1969, Sarvashri Rabi Ray and Madhu Limaye, members, sought to raise a question of privilege against the Minister of Home Affairs regarding the arrest of Sarvashri Madhu Limaye, Arjun Singh Bhadoria, J.H. Patel and Janeshwar Misra, members, on the 22nd December, 1969, when they were allegedly on their way to attend the House.

2. The Minister of Home Affairs (Shri Y.B. Chavan) stated *inter alia* as follows:

"Members have a right to come here and exercise their rights as a member of Parliament by attending Parliament. But whether he has the privilege to commit a crime on the way....

Unfortunately or fortunately, what Mr. Limaye did on the way may be justified in his own eyes from the political point of view, but in the eyes of law what he did and what he admitted amounts to an offence under the Act and for that matter the magistrate has very legally convicted him"

3. The Deputy Speaker (Shri G.G. Swell) who was then in the Chair reserved his ruling.

4. On the 23rd February, 1970, disallowing the question of privilege, the Deputy Speaker observed as follows:

"Sarvashri Rabi Ray and Madhu Limaye sought to raise a question of privilege on 24th December, 1969 regarding the arrest of Sarvashri Madhu Limaye, Arjun Singh Bhadoria, J.H. Patel and Janeshwar Misra under section 188 of the Indian Penal Code on 22nd December, 1969 and intimation thereof to the House. I heard the members and the Minister of Home Affairs on the matter. From the facts and information placed before me, I find that these members were arrested on a charge under Section 188, Indian Penal Code. Further, the House was informed that they pleaded guilty to the

charge and as such were convicted by the Court. The intimation regarding their arrest and conviction by the Court had been received and communicated to the House. The Sub-Divisional Magistrate had also expressed his regret for the earlier incorrect information given by him.

I find, therefore, there is no question of privilege involved in this matter and I do not give my consent to raise this matter as a question of privilege."

12
LOK SABHA
(1971)

Point of Privilege

Alleged arrest of a member and misbehaviour with him by police officers

Facts of the case and reference to the Committee of Privileges

On the 22nd July, 1971, Shri Krishna Chandra Halder, a member, raised a question of privilege against certain police officers of Durgapur (West Bengal) for allegedly arresting him and misbehaving with him on the 15th July, 1971, while he was visiting Durgapur. While raising the question of privilege, Shri Krishna Chandra Halder stated *inter alia* as follows:—

"....on the 15th July, 1971, in Durgapur, which is a part of my constituency....I went to the workers' colony of the AVB factory of Durgapur, in order to make some enquiries regarding retrenchment and police atrocities....I went to the colony at about 5.30 in the evening and at approximately 7.30 p.m. I left that place. I was travelling in a car with four companions, the driver and his assistant....My car was stopped near the Apprentice Hostel of the AVB, by the police and CRP led by the same Atin Mukherjee (A.S.I.) about whom I was told so much by the people of the workers' colony. The police officer who was in plain dress ordered me to get out of the car and to go with them. I then showed my card of the Parliament to him, but that infuriated him. He started shouting at me, saying that the fact that I was an M.P. made absolutely no difference, as far as he was concerned, and again ordered me to leave the car. His behaviour was very

insulting, rude and uncivilised, and he was all the time shouting and using filthy language...He then brought me out of the car by force and did the same in a much more insulting way to my companion...I was then forced to go to the police station, in spite of my repeated insistence that it was improper and that it was infringing my rights and privileges as a member of the Parliament...I was detained and interrogated for more than one hour, but this matter was not reported to the hon. Speaker. I consider this as a matter of privilege, and the persons responsible for my arrest and detention are *prima facie*, guilty of breach of privilege....my complaints against Shri Atin Mukherjee the ASI, are as follows:

- (1) He filthily abused me, along with the CRP personnel, although I showed him my Identity Card;
- (2) He threatened me while arresting me, and forced me out of the car;
- (3) He unlawfully restrained my movement and compelled me to go to the investigation centre, and detained me there against my wishes; and
- (4) All these amounted to molestation on his part.

I also accuse the sub-Inspector in charge of the investigation Centre and the SDPO of Durgapur for being a party to this molestation, and particularly the latter for giving out a fabricated story to the press."

2. After some discussion, the Speaker (Dr. G.S. Dhillon) observed as follows:—

"....If he was arrested, the communication should have been immediately sent to me either by express letter or telegram. I have ascertained from my office that it has not been received. So I am sending this to the Home Minister to verify the facts as to what is the version from his side. When it comes, I will lay it before the House....I am not going to send (to the Ministry of Home Affairs) anything else except about the fact of arrest. As far as other points such as disrespect having been shown to the Member are concerned, I am one with him. It should not have been done....So far as disrespect and other matters are concerned, I have said, I am one with the members. But so

far as the factum of arrest is concerned, I was asking the Minister why it was not communicated. Let me know the reasons and along with that, I wanted to send it to the Privileges Committee."

3. On the 28th July, 1971, the Minister of State in the Ministry of Home Affairs (Shri K.C. Pant) made the following statement in the House:—

"We have received the following information from the Government of West Bengal. One car coming from Calcutta side was searched by the police at Durgapur on 15th July, 1971, and a dagger with a nine inch long blade was recovered from one of the inmates of the car who gave his name as Shri Kalachand Bhattacharji. In that car there were three or four other occupants including Shri K.C. Halder, member of the Lok Sabha. On being questioned, Shri Kalachand Bhattacharji offered the explanation that the dagger was being carried for the security of the M.P. He was taken by police jeep to the Durgapur police station. Shri Halder followed the police jeep in his car entirely on his own. In regard to the recovery of the dagger from Shri Bhattacharji, an entry was made in the General Diary in the police station....No one was put under arrest. After the entry had been made in the General Diary, the party resumed their journey."

4. After some discussion in the House, the Speaker observed as follows:—

"The old decision was that in the case of misbehaviour of disrespect shown, the House might decide it....Now also a motion is moved that this matter, so far as misbehaviour and disrespect are concerned, should be referred to the Committee of Privileges....So far as the fact of arrest is concerned, if it is unlawful restraint or anything of the nature, something which is not arrest, the legality of the arrest cannot be gone into by the Privileges Committee. This was discussed in very much detail and though it was disputed it has been decided that the Privileges Committee cannot go into the legality of it. Shri Madhu Limaye went to the Court on the question of the legality of arrest....the motion before the House is that the matter be referred to the Committee of Privileges. I take it that the House approves of it...I did not want to say, so far as the legality of arrest is concerned, whether it is an unlawful restraint or restriction

and all that in this House. In all these matters, members have been going to the Courts. Suppose you hold something as 'arrest' and they go to the Court and the Court holds that it is not, then it is a delicate matter....it is misbehaviour, misconduct and disrespect shown that is going to be examined."

5. Thereafter, the following motion moved by Shri Atal Bihari Vajpayee, a member, was adopted by the House:—

"That this matter be referred to the Committee of Privileges."

Findings and recommendation of the Committee

6. The Committee of Privileges, after taking the oral evidence of Shri Krishna Chandra Halder, M.P., and the concerned police officers, in their Third Report presented to the House on the 1st September 1972, reported *inter alia* as follows:

- (i) "The Committee considered the question whether Shri Krishna Chandra Halder, M.P., had been ill-treated and abused, and forcibly taken to the M.A.M.C. Investigation Centre, Police Station Durgapur, for interrogation, by Shri Atin Mukherjee, Assistant Sub-Inspector of Police, as alleged by Shri Krishna Chandra Halder, M.P. In order to find out the correct position, the Committee examined on oath Sarvashri Atin Mukherjee, Assistant Sub-Inspector of Police, Durgapur (West Bengal) and Rajendra Prasad Bhattacharya, Sub-Inspector of Police and Officer-incharge of M.A.M.C. Investigation Centre, Durgapur (West Bengal). The Committee also examined Shri Krishna Chandra Halder, M.P.

Shri Krishna Chandra Halder, M.P., in his evidence before the Committee on the 15th January, 1972, deposed that Shri Atin Mukherjee, Assistant Sub-Inspector of Police, had ill-treated him and used filthy language against him. He had added that he was also arrested and taken to the police station by Shri Atin Mukherjee.

Shri Atin Mukherjee, Assistant Sub-Inspector of Police in his evidence before the Committee on the 10th November, 1971, however, denied the above allegations and said that he had

neither ill-treated Shri Krishna Chandra Halder, M.P., nor arrested him. On the contrary, he had shown due respect and courtesies to him.

Shri Rajendra Prasad Bhattacharya, Sub-Inspector of Police and Officer-incharge of M.A.M.C. Investigation Centre, Police Station Durgapur, in his evidence before the Committee on the 15th January, 1972, deposed that Shri Krishna Chandra Halder, M.P., had not been arrested by Shri Atin Mukherjee. He further said that Shri Halder did not complain against the misbehaviour of Shri Atin Mukherjee when he came to the police station on the day of incident.

- (ii) Shri Rajendra Prasad Bhattacharya also submitted to the Committee that he had shown due respect to Shri K.C. Halder.

He also expressed his regret to the Committee for the inconvenience caused to Shri K.C. Halder in the incident, in the following terms:—

"I have shown and given proper respect to learned M.P. and if he still feels anything in my dealings then I am sorry for that. I am sorry if any inconvenience has been caused to Shri Halder in this incident."

- (iii) "The Committee are of the view that, considering all the circumstances of the case, the above unqualified apology, offered by Shri Rajendra Prasad Bhattacharya, Sub-Inspector of Police and incharge of the M.A.M.C. Investigation Centre, Durgapur, should be construed to be an apology on behalf of his subordinate Shri Atin Mukherjee, the concerned Assistant Sub-Inspector of Police, also, as he had expressed his regret for the inconvenience caused to Shri Krishna Chandra Halder, M.P. in this incident'. The Committee also note that when Shri K.C. Halder had raised the question of privilege in the House on the 22nd July, 1971, he had *inter alia* stated that 'the Officer who interrogated us expressed regret for the whole incident.'

In view of the unqualified apology tendered by Shri Rajendra Prasad Bhattacharya, Sub-Inspector of Police, for the whole incident, the Committee are of the opinion that the

matter may be dropped.

The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

7. No further action was taken by the House in the matter.

13

**LOK SABHA
(1973)**

Point of Privilege

Issue of a warrant of arrest against a member

Facts of the case and ruling by the Speaker

On the 18th December, 1973, Shri Madhu Limaye a member, complained in the House that a warrant of arrest had been issued against Shri S.A. Shamim, another member, by the Government of Jammu and Kashmir, for writing an article in the annual number of the *Illustrated Weekly of India*.

2. The Speaker (Dr. G.S. Dhillon) observed *inter alia* as follows:—

"A member is at par with any other citizen when there is a breach of the law.... It is only when he has a privilege not to be obstructed from coming to this House that the position is different.....There is no question of privilege....I am not allowing you to bring any matter before the House unless I have proper information and notice in advance and unless I had examined it.

A member is like any other citizen. He cannot claim protection like this.....If a member commits a crime, he cannot come here and say that he has the privilege not to be arrested....If the police arrest without any justification, you raise it in the Court, not in this House."

3. On the 19th December, 1973, Shri Madhu Limaye again sought to raise this matter as a question of privilege and contended that during the Sessions of Lok Sabha a member could not be arrested in that way.

4. The Speaker disallowed the question of breach of privilege and ruled *inter alia* as follows:—

"....So long as Shri Shamim is speaking in this House, he is protected. But if he does something outside the House, he is not protected. After

writing that article, he can come to this House. Nobody will arrest him so long as he is sitting in this House."

5. When a suggestion was made that the Speaker might go through the impugned article in the magazine and determine whether a warrant of arrest could be issued on that basis the Speaker observed that he could not assume judicial functions and that was a matter for the courts to decide.

14

**LOK SABHA
(1974)**

Point of Privilege

Alleged assault on a member and his detention by police

Facts of the case and ruling by the Speaker

On the 1st March, 1974, Shri Jambuwant Dhote, a member, sought to raise question of privilege on the ground that on the 28th February, 1974, when Shri Ram Hedao, another member, was about to leave for Delhi to make his maiden speech in the House, he was beaten up and detained by the police authorities at Nagpur because of which Shri Ram Hedao could not attend the House on the 1st March, 1974. Shri Dhote contended that the police had obstructed Shri Ram Hedao from attending the House and, therefore, a breach of privilege and contempt of the House had been committed.

2. The Speaker (Dr. G.S. Dhillon) observed that in accordance with the practice of the House, he would call for the information from the Government.

3. On the 6th March, 1974, the Minister of State in the Ministry of Home Affairs (Shri Ram Niwas Mirdha) made the following statement:—

"According to information received from the Government of Maharashtra, Field Marshal Manekshaw was invited by the Nagpur Municipal Corporation to inaugurate on the 28th February, 1974, the newly constructed Martyrs' Memorial at the Cotton Market Chowk in Nagpur in memory of soldiers killed in the 1971 war. The leaders of the Maha Vidarbha Rajya Sangharsh Samiti started an agitation, demanding that the statue of Netaji Subhash Chandra Bose should be erected at the site.

On 28th February, 1974, at 3.30 a.m., the police received information that some workers of the Samiti had gone to the Cotton Market Chowk and were trying to damage the Memorial. Police rushed to the spot and arrested two persons under 151 Cr. P.C. while the others ran away. At about 9.30 a.m., Shri Ram Hedao, M.P., along with 30 other followers, started a 'Dharna' at the Memorial and wiped out the painted names of war martyrs. To avoid a confrontation with the Samiti the Corporation authorities decided to hold the function at the Corporation Hall.

However, the Field Marshal along with Mayor, Deputy Mayor and a few corporators went to the Memorial to place a wreath thereon. At the time, Shri Ram Hedao, who was standing on the top of the Memorial, jumped on him to prevent him from placing the wreath on the Memorial. The Mayor and the others intervened and took Shri Ram Hedao aside. The Field Marshal left the Chowk after placing the wreath. Immediately thereafter some miscreants started pelting stones on the persons gathered and also on the nearby shops. As a result of stone-pelting two members of the public, one officer and 9 policemen, received minor injuries. To avoid damage to property and to maintain law and order, the police resorted to a mild cane-charge and teargas and dispersed the crowd. A case was registered by the police under sections 341, 147, 148, 149, 323, 332, 336 and 337, IPC. The police did not, however, detain or arrest Shri Ram Hedao. They did not go near him at all. On the next day Shri Ram Hedao addressed a public meeting and criticised the police and the organisers of the function. The allegation that Shri Ram Hedao was beaten up by the police as a result of which he was not in a position to attend the Lok Sabha is not true."

4. The Speaker, thereupon, disallowed the question of privilege.

Point of Privilege

Alleged illegal arrest of a member while he was proceeding to attend the Session of the House.

Facts of the case and reference to the Committee of Privileges

On the 4th May, 1974, the Speaker (Dr. G.S. Dhillon), informed the House that he had received the following wireless message dated the 3rd May, 1974, from the Superintendent of Police Birbhum (West Bengal):—

"In the early hours (at about 03.00 hours) of 3 May, 1974, the Officer-in-charge, Nalhati Police Station went to a place in Nalhati Police Station area for arresting some persons under Section 151 Cr. P.C. Seven persons were found at that place. A few of these persons did not disclose their identity at that time. Therefore, all of them were brought to Nalhati Police Station for interrogation and for establishing their identity. At Nalhati Police Station, it was discovered that one of the persons was Shri Gadadhar Saha, member, Lok Sabha. Shri Saha was released on personal recognition at 07.00 hours on 3rd May, 1974."

2. On the 10th May, 1974, Shri Gadadhar Saha, the concerned member, raised a question of privilege in the House regarding his detention at Nalhati Police Station by the Officer-in-charge of the Police Station on the 3rd May, 1974. While raising the question of privilege, Shri Saha stated that the requirements of rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha had not been complied with the added:—

"...I was arrested..... While I was proceeding to Delhi to attend the Lok Sabha.... In spite of the fact that I had showed my identity card then and there, they did not take any notice of it. On the contrary they seized my identify card, Lok Sabha diary, the other important Parliamentary documents and my other belongings like watch, pet etc. They detained me in the police lock-up for hours together. After keeping me in illegal detention they released me at 12.30 hours on 3rd May, 1974. I should say that there was no warrant against me, no injunction under section

144....I appeal you, Sir, to send the matter to the Privileges Committee."

3. After some discussion, the Speaker observed *inter alia* as follows:

".....As to the point about the reasonable time within which intimations should be sent to the Speaker, what would be the contents, what are the precedents, I am going to examine these points myself. The earlier part raised by Mr. Saha will go to the Privileges Committee."

Findings and recommendation of the Committee

4. The Committee of Privileges, after examining Shri Gadadhar Saha, M.P. and Sarvashri Subhas Chandra Maitra, Promode Ranjan Majumdar and Pran Gopal Goswami, the Police Officers concerned of the Nalhati Police Station and also after having perused the relevant material called for by the Committee, in their Fifteenth Report, presented to the House on 9th May, 1975, reported *inter alia* as follows:—

(i) "From the material placed before the Committee and the oral evidence given before them, the Committee find that Shri Gadadhar Saha, M.P., was arrested on the midnight of 2nd/3rd May, 1974 and released on the 3rd May, 1974. Due intimation thereof was sent to the Speaker, Lok Sabha, which was read out to the House on the 4th May, 1974. However, there are two different versions regarding the point of time when Shri Gadadhar Saha disclosed his identity as a member of Parliament to the police authorities. While Shri Gadadhar Saha, M.P., has stated that he disclosed his identity as a member of Parliament to the concerned Police Officer twice, once at the time of his arrest at the Nalhati Railway Station and again at the Nalhati Police Station where they they were taken in a Police van, the concerned Police Officers have maintained that they came to know that Shri Gadadhar Saha was a member of Parliament only at about 05.10 hours on the 3rd May, 1974, whereafter they took necessary steps to release Shri Gadadhar Saha, M.P."

(ii) "However, from the circumstances of the case, the Committee feel that had the concerned Police Officers shown greater consideration towards the arrested persons

and had been conscious of their duty, the unfortunate situation in which Shri Gadadhar Saha, M.P., was placed, could have been avoided."

(iii) "The Committee are of the opinion that although no breach of privilege or contempt of the House may have been involved in the matter, they are not happy about the manner in which Shri Gadadhar Saha, M.P., was arrested and kept in police lock-up without taking adequate steps to make sure about his identity and without properly determining whether it was necessary to detain him in the police lock-up. The Committee deprecate this kind of indiscreet action of the Police and would like to emphasise that the Police should exercise utmost discretion and restraint when their action results in the deprivation of personal liberty of a citizen, particularly a member of Parliament, even for a short period."

(iv) "However, in view of the apology tendered by the concerned Police Officers before the Committee, the Committee feel that no further action need be taken in the matter by the House and it may be dropped."

(v) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

5. No further action was taken by the House in the matter.

16

LOK SABHA
(1978)

Point of privilege

Alleged false news report by UNI about the detention and release of a member and his implication in false cases by a Superintendent of Police, in connection with his party election work.

Facts of the case and ruling by the Speaker

On the 1st December, 1987, Shri Sharad Yadav, a member, gave notice of a question of privilege against the UNI News agency, Presiding Officer of Salempur election Booth and Superintendent of Police, Samastipur, regarding arrest and release of Shri Ram Vilas Paswan, another member, when the latter had gone to

Samastipur in connection with the by-election to Lok Sabha on the 26th November, 1978. Shri Sharad Yadav stated in his notice of question of privilege, *inter alia*, as follows:—

“A news item published in the Hindustan (Hindi), The Time of India, the Statesman and some other newspapers dated the 27th November, 1978, originating from a news agency, the UNI, states as follows:—

“Mr. Ram Vilas Paswan, a Janata M.P. was detained and his jeep was seized, two revolvers were also seized. Later, the M.P. was released at the intervention of the additional Inspector-General of Police, Mr. Fazal Ahmed.”

“This report relates to the by-election to Lok Sabha in Samastipur, a neighbouring constituency of Shri Paswan, the polling for which was held on the 26th November, 1978, that is, a day previous to the publication of the news item in various newspapers.

The amount of untruth employed and the motive to bring Shri Paswan into disrepute leave us no choice but to treat it as a gross and deliberate attempt to inhibit his functioning and effectiveness as a Member of Parliament—particularly as one elected to this House from a Reserved Seat provided by the Constitution....

I have elicited the facts from Shri Paswan and would like to state clearly and emphatically that neither any jeep nor two revolvers were seized in his case. Even the report of his detention is unfounded, though in a technical sense, and technical sense only, his arrest may appear to have been made. But this again, to repeat, was never accompanied by any detention....For the so-called order of arrest and of release on bail were both simultaneous and without any gap in time. It is also not correct to say that he was released at the intervention of the Additional Inspector-General of Police, Mr. Fazal Ahmed....

In the circumstances, it is my respectful submission that a case of breach of privilege arises against the following:—

- (i) The news Agency UNI which has fabricated and disseminated a false, mischievous and motivated report,

- (ii) The Presiding Officer, Salempur booth, Shri Jha, who incited people to kill Shri Paswan,
- (iii) The Superintendent of Police who instead of taking cognizance of Shri Paswan's complaints and taking steps to protect him has tried to implicate him in false cases.”

2. On the 5th December, 1978, when Sharad Yadav sought to raise the matter in the House, the Speaker (Shri K.S. Hegde) ruled as follows:—

“...The notice given is that certain events that have taken place in Bihar have been wrongly reported in the Press, thereby it has put the Member in bad light. Under article 105 of the Constitution, so far as the privileges of the members are concerned, it is only for Members' functioning *qua* Member in the House or as *qua* member outside, not as a party leader or as party worker. That does not arise. Those things will have to be agitated like by every other citizen in the courts because no Member has more rights than any other citizen except when he functions *qua* Member. All the reports in the notice given to me are not as *qua* Member... If hon. Members have anything, they can come to my chamber; it is not a matter of debate. If Mr. Sharad Yadav has anything he can come and discuss it with me. No further discussion.”

3. The matter was, thereafter, closed.

17

RAJYA SABHA

(1967)

Point of Privilege

Alleged mala fide arrest and subsequent release on bail of a member

Facts of the case and reference to the Committee of Privileges

On the 7th April, 1967, Shri Rajnarain, a member raised a question of privilege on the ground that on the 6th April, 1967 he was arrested at Lucknow on a warrant with entries thereon manipulated and without the signatures of the magistrate or of the court *peshkar* and without the seal of the court. He alleged that his arrest was *mala fide* and constituted a breach of privilege although he was subsequently released on bail.

2. The Chairman (Shri V.V. Giri), after hearing Shri Rajnarain and some other members and

perusing the warrant furnished by Shri Rajnarain alongwith his notice of privilege, observed:

"I think the arrest was made on a warrant which appears *prima facie* to be a very, very doubtful document and so the matter should be referred to the Privileges Committee with the request that they should submit their report before the end of the next session."

Findings and recommendations of the Committee

3. The Committee of Privileges, after calling for facts and further clarifications from the Government of Uttar Pradesh, in their Eleventh Report presented to the House on the 14th August, 1967, reported *inter alia* as follows:

- (i) "On a perusal of the original warrant, it was seen that its back portion had been scored off, but the date '18th March, 1967' which had been entered there as the date of hearing had been cut, and in its place the date '13th April, 1967' inserted. Neither this change in the date nor the scoring off of the back portion of the warrant bore any initial or signature of the person who had made these entries. Shri Rajnarain had contended in his submission before the House that the change of date from 18th March, 1967 to 13th April, 1967 was without authority, and therefore, his arrest was illegal and *mala fide*."

The magistrate in his letter dated the 5th June, 1967 has explained the change thus:

'So far as the question of change of the date from 18th March to 13th April is concerned the photostat copy of the warrant shows that warrant was prepared on 13-3-67 for 18-3-67. It appears that it could not be sent in due time for execution. When on 18-3-67 the same order of issue of warrant was repeated, instead of preparing the fresh warrant the same warrant was utilised with a change in date for 13-4-67, the next date fixed in the case and was sent for execution. There is no specific order for change of date in that very warrant on the file. The correct position could be given only by *Ahalmad* concerned who is on leave.'

It may be convenient at this stage to refer to the legal position in regard to a warrant of

arrest. Under sub-section (1) of section 75 of the Criminal Procedure Code, 1898, every warrant of arrest issued by a court shall be in writing, signed by the Presiding Officer, or in the case of a bench of magistrates, by any member of such bench; and shall bear the seal of the court. Under sub-section (2) of the said section, every such warrant shall remain in force until it is cancelled by the court which issued it, or until it is executed. The warrant in the present case does contain the signature of the magistrate and the seal of the court on the front portion. The back portion of this warrant does not really have any relevance in the present case, as the warrant is a non-bailable warrant. The fact, however, remains that a date was given on the back portion and this date was subsequently changed. The entire suspicion of *mala fide* in the present case arose because of the insertion of these dates and because such insertions did *not* bear any initial or signature of the person making it.

Shri Rajnarain had contended that since no arrest had been effected before 18th March, 1967, the warrant had expired, and the change of date from 18th March, 1967 to 13th April, 1967 was made without authority to illegally arrest him on April 6, 1967. It is quite clear from the warrant that it had not been cancelled at the time of Shri Rajnarain's arrest on April 6, 1967. In other words, at the time of the arrest the warrant was in force and therefore, under the provisions contained in sub-section (2) of section 75 of the Criminal Procedure Code, to which reference has already been made, it cannot be held that Shri Rajnarain's arrest was illegal. This view is also supported by the case reported in Cr. L.J. of May, 1967—page 574 (*Indra Mandal & Others, Petitioners Vs. The State of Bihar, Respondent—A.I.R. 1967 Patna 141*)."

- (ii) "Shri Rajnarain had also contended in his notice of privilege—and had subsequently repeated in the House—that there was an announcement by the then Chief Minister of Uttar Pradesh (Shri C.B. Gupta) in the U.P. Legislative Assembly to the effect

that the cases connected with the '*Ghera Dalo*' movement would be withdrawn and that his arrest on April 6, 1967, was pursuant to a conspiracy of the police officers for 'defaming the first non-Congress Ministry'.

From the explanation furnished by the Government of Uttar Pradesh, it would appear that the decision to withdraw cases pertaining to those like Shri Rajnarain's was taken only subsequent to Shri Rajnarain's arrest, and *not* prior to his arrest. From the order sheet of the magistrate, it would be seen that on 18-4-1967 at the request of the prosecution, the case was adjourned for an indefinite period and the warrants against the accused persons withdrawn. Finally, on May 24, 1967, the case was actually withdrawn by the prosecution. In the light of these facts the Committee is satisfied that on this point also the charge of Shri Rajnarain cannot be sustained."

(iii) "On the facts set out above and having regard to the legal position, the Committee is of the opinion that Shri Rajnarain's arrest was neither illegal nor *mala fide* and therefore there is no breach of privilege involved in the case.

The Committee would, however, like to point out that there was ground for a reasonable apprehension in the mind of Shri Rajnarain that the action in arresting him on April 6, 1967 was not *bona fide*. As the Committee has stated earlier, the confusion arose because of the entry and subsequent alteration of the dates on the back of the warrant without any signature or initial of the authority making the entries. It is pertinent to point out that even the magistrate has not been able to give a satisfactory explanation on this point. The Committee has already observed that the warrant being a non-bailable warrant it was unnecessary to make any entry on the back portion thereof. The back portion had in fact been rightly scored off. If it is the practice in the U.P. courts to give the next date on the back of a non-bailable warrant, it would seem desirable that any alteration therein should be duly signed by the

authority making the alteration. If only this had been done in the present case, this complaint of breach of privilege would not probably have arisen."

(iv) "Another unhappy feature of the present case was the extraordinary delay on the part of the U.P. Government in replying to the letters of the Rajya Sabha Secretariat and furnishing information. This resulted in the Committee having to seek the indulgence of the Rajya Sabha to extend the time for the presentation of the Committee's report. It does not need to be emphasized that the State Governments, like anybody else, owe a duty to Parliament and its Committees to respond promptly when communications are addressed to them asking for information."

(v) "In the view taken by the Committee that there is no breach of privilege involved in the complaint of Shri Rajnarain, the Committee would recommend to the House that no action is called for in the matter."

Action taken by the House

5. No further action was taken by the House in the matter.

18

RAJYA SABHA

(1969)

Point of Privilege

Alleged arrest of a member and thereby preventing him from attending the sitting of the House.

Facts of the Case and ruling by the Deputy Chairman

On the 23rd December 1969, the Minister of State in the Ministry of Home Affairs (Shri Vidya Charan Shukla) made a statement regarding the arrest of certain members of Parliament in connection with a demonstration outside the Parliament House on 22nd December, 1969. Shri Bhupesh Gupta a member, thereupon, alleged that the concerned members of Parliament had been arrested under Section 188, Indian Penal Code, for violation of the prohibitory orders issued under Section 144, Code of Criminal Procedure and this they had been prevented from attending the sitting of the Parliament that day. He specifically referred to the case of Shri Raj Narain, a member of Rajya Sabha, and alleged that he had

been arrested because he had tried to enter the Parliament House and he was thus prevented from attending the sitting of the House.

Refuting the allegation, the Minister of State in the Ministry of Home Affairs stated that the concerned members of Parliament had been told that if they wanted to go to the Parliament House, they were absolutely free to go. He added that these members had been arrested for shouting slogan and violating Section 144, Code of Criminal Procedure.

2. Disallowing the question of privilege, the Deputy Chairman (who was in the Chair) ruled as under:

"No doubt, as pointed out by many members, the privileges of Members of this House are important and definitely every effort should be made to uphold the rights and privileges of members of Parliament. The real question is, what are the circumstances? Under what circumstances has Mr. Raj Narain been arrested? It has been pointed out by the Leader of the House that there were certain abnormal conditions and abnormal circumstances under which Mr. Raj Narain was arrested.

Suppose, normally an individual member intends to come to the House for attending the Session. In that case had he been prevented from attending the Parliament Session, it would really be a very bad thing. Suppose a member, accompanied by thousands of persons, comes before Parliament House. Definitely members will agree with me that it is an abnormal condition. Therefore, if we are to distinguish or differentiate between normal conditions and abnormal conditions, we have to take into consideration all the circumstances."

19

RAJYA SABHA
(1970)

Point of Privilege

Alleged ill-treatment of members in jail

Facts of the case and ruling by the Deputy Chairman

On the 18th August, 1970, when the Deputy Chairman (Shri B.D. Khobragade) informed the House of the arrest of Shri Bhupesh Gupta, a member, Dr. Z.A. Ahmed another member, sought

to protest against the manner in which Shri Bhupesh Gupta was arrested and treated in the Jail. He suggested that some rules should be framed so that members of Parliament were not arrested during the sessions of Parliament. Shri Mulka Govinda Reddy, another member, suggested that members of Parliament when arrested during the session of Parliament should be brought to Parliament and allowed to participate in the deliberations of the House.

The Leader of the Opposition (Shri Shyamnandan Mishra) stated that member while in prison, should be lodged in proper conditions. Shri Akbar Ali Khan supported the view point expressed by the Leader of the Opposition.

Shri Lokanath Mishra, another member, however, opposed any such privilege being given to the members.

2. The Deputy Chairman, thereupon, observed *inter alia* as under:—

"...So far as these questions that have been raised are concerned, of course, I agree that hon. members of Parliament have got their privileges and these privileges should be protected and safe-guarded and I will also be along with you to see that the privileges of hon. Members are protected. As pointed out by Mr. Akbar Ali Khan, if a member of Parliament is arrested it is also essential and necessary that proper medical care and attention should be provided to hon. members of Parliament."

20

RAJYA SABHA
(1980)

Point of Privilege

(i) *Arrest of a member and alleged ill-treatment meted out to him while in detention*

(ii) *Delay in sending intimation about the arrest of a member*

1. *Arrest of Shri Sadashiv Bagaikar, a member*

Facts of the case and reference to the Committee of Privileges

On 26th December, 1980, Shri Sadashiv Bagaikar was "detained" in Nagpur for defying prohibitory orders under section 37(3) of the Bombay Police Act, 1971 during a Dindi procession. He was released in the evening the same day. A wireless message dated 26th December, 1980 in this regard was received in

the Rajya Sabha Secretariat on 29th December, 1980. The following formal communication dated 26th December, 1980 received from the Police Inspector, Police Station Sitabuldi, Nagpur, on 30th December, 1980, was notified in the Bulletin Part II, No. 26110 of the same date:

"I have the honour to inform you that I have found it my duty in the exercise of my powers under section 68/69 of the Bombay Police Act to direct that Shri Sadashiv Bagaitkar, M.P., be detained for defying prohibitory orders u/s 37(3) B.P. Act at Nagpur during Dindi procession. Shri Sadashiv Bagaitkar, M.P. was accordingly taken into custody at 14.00 hours on 26.12.1980 and is at present lodged in the open place at Police Line, Takali, Nagpur.

N.B. He was released on 26-12-1980 at 19.00 hours."

2. Shri Bagaitkar sent a telegram dated 28th December, 1980 from Bombay to the Chairman stating that he was "detained from 8.45 A.M. to 9.00 P.M. in the Sonegaon Police Station, Nagpur, on 26th December, 1980, without lunch, tea and without written order in spite of demand". Subsequently, Shri Bagaitkar sent a letter dated 2nd January, 1981, to the Chairman giving details about his arrest and release and the treatment meted out to him by the Police at the Sonegaon Police Station.

3. On 17th February, 1981, referring to the Rajya Sabha Bulletin Part II, dated 30th September, 1980, containing the intimation about his arrest and release, Shri Bagaitkar stated in the House, *inter alia* as follows:—

"The whole thing is, if I may say so, a fabrication of imagination and a totally untrue picture has been given.....I was never arrested at the place mentioned or at the time mentioned nor was I released at the time mentioned in this. I was arrested and kept at a totally different place and released at 9.30 P.M. at a totally different place. So, if they deliberately mislead you to believe in this, I think there is a question of privilege involved in this and you should kindly allow me to move a privilege motion against the police officer concerned."

The Chairman (Shri M. Hidayatullah) then observed that he was looking into the matter.

4. On 19th February, 1981, Shri Bagaitkar gave notice of a question of privilege against the Police Commissioner, Nagpur. Besides giving his version of his arrest etc. Shri Bagaitkar raised the following points in the notice:—

- (1) The information regarding place of arrest and detention, time of arrest and release was completely incorrect and contrary to facts and had not been conveyed accurately and truthfully as per rules in this regard.
- (2) Arrest under section 68 of Bombay Police Act was unwarranted and interference with his duties as a member of Parliament.
- (3) By deliberately misleading the Chairman, members and the House not only an attempt had been made to avoid accountability involved in the arrest and detention but a breach of privilege of the House had been committed.

5. On 16th March, 1981 the Chairman, after considering the matter in the light of the complaint made by Shri Bagaitkar and the factual information furnished by the Government of Maharashtra, referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

6. The Committee of Privileges, after hearing Shri Sadashiv Bagaitkar and also the then Commissioner of Police, Nagpur, the Home Secretary, Maharashtra and other police officials concerned with the arrest of Shri Bagaitkar, in their Twenty First Report presented to the House on 9 September, 1981, reported, *inter alia*, as follows:—

- (i) "From the written comments of the Government of Maharashtra and the oral submissions of its officials and the police officials before the Committee, the following points seems to emerge:

- (1) That the information regarding the time and place of arrest of Shri Bagaitkar and his release has not been correctly intimated to the Chairman, Rajya Sabha. The correct facts in this regard are that Shri Bagaitkar was arrested at 9.30 A.M. on December 26, 1980 under section 68 of the Bombay Police Act (instead of 1400 hrs. as stated in the communication). He was kept at the Sonegaon Police Station (instead of at Police Lines Takali as stated in the communication). Shri Bagaitkar was released on the same day

at about 21.30 hrs. (instead of at 1900 hrs. as stated in the communication). The police officials have stated that these discrepancies had occurred unintentionally and in the 'rush of work' on account of the Dindi procession in which a large number of persons including VIPs participated. The police officials also stated that there was no *mala fide* intention in conveying what has turned out to be factually wrong information.

- (2) As regards the legality of the arrest, Shri Bagaitkar was arrested under section 68 of the Bombay Police Act and according to police officials it was not necessary to give written orders in regard to the arrest under that section. The police officials also maintained that the direction to restrain Shri Bagaitkar was in the situation obtaining at that point of time, reasonable.
- (3) As regards the treatment meted out to Shri Bagaitkar at the police station, the police officials maintained that arrangements were made to allow Shri Bagaitkar and others to take food at a nearby restaurant and food packets were also made available at the police station."
- (ii) "...the Committee has come to the conclusion that the facts relating to the time and place of arrest of Shri Bagaitkar and the time of his release were wrongly conveyed to the Chairman, Rajya Sabha by the Police Inspector, Sitabuldi Police Station, Nagpur. It has been stated by the police officials before the Committee that due to rush of work, sequel to the massive Dindi procession wrong information came to be conveyed to the Chairman, Rajya Sabha. The Committee feels that the police officials ought to have exercised adequate care in communicating the facts about Shri Bagaitkar's arrest and release. The casual and perfunctory manner in which information regarding arrest and release of a member has been communicated to the Chairman leaves much to be desired. The communication has been sent in utter disregard of the sanctity of communication addressed to Chairman for the information of the Rajya Sabha. The Committee is not quite impressed with the *alibi* put by the police officials for conveying wrong information. However, in view of the fact that there was no want of *bona fides* on the part of the

police official nor was there a deliberate attempt to mislead the House the Committee accepts the expression of regret and apology tendered by the concerned police officers before it. The Committee does hope that police officials will appreciate the importance and sanctity of such communication and verify facts with abundant care before communicating the same to the Chairman. Such laxity does credit to no one concerned."

- (iii) "As regards the legality of the arrest of Shri Bagaitkar and other related issues, namely whether he was lawfully arrested under section 68 of the Bombay Police Act; whether his detention till 21.30 hrs. which was much beyond the hour when the demonstration was over, was reasonable or not; whether any orders were required to be given in writing to those arrested under the provisions of the Bombay Police Act—the Committee feels that these issues do not fall within the purview of the privilege jurisdiction of the Committee and the appropriate forum where these matters could be considered would be a court of law. The Committee would not, therefore like to extend its jurisdiction by considering the legality or propriety of Shri Bagaitkar's contentions mentioned above."
- (iv) In so far as Shri Bagaitkar's contention that his detention was an interference with his normal work as a member of Parliament is concerned, the Committee will like to reiterate the following observations contained in para 7 of its 16th Report (Shri Niren Ghosh's case) which appositely apply in the present case:

'The privilege is available to a Member only when he is obstructed or in any way molested while discharging his duties as member of Parliament. Thus, it would be a breach of privilege and contempt of the House to obstruct or molest a Member while in the execution of his duties as a member *i.e.*, while he is attending the House or any of its Committees or when he is coming to or going from the House or any of its Committees. The privilege, however, is not available in a case when the member is not performing any parliamentary duty.'

- (v) "As regards the treatment meted out to Shri Bagaitkar while under arrest, the Committee will like to emphasise that members of Parliament are entitled to utmost consideration at the hands of the public servants. The police or any other authority should not do anything or act in manner which will hamper members of Parliament in their functioning as public men. The authorities concerned while dealing with the members of Parliament should act with great restraint and circumspection and show all courtesies which are legitimately due to the representatives of the people. The police should exercise utmost discretion and forbearance and should not put more fetters on the personal liberty of a citizen particularly of members of Parliament even for a short period than are reasonably necessary to meet a particular situation."
- (vi) "While considering the case, the Committee noticed that the Government of Maharashtra in its comments to the Committee sent through the Union Ministry of Home Affairs *inter alia* stated that 'the allegations that Shri Sadashiv Bagaitkar was denied tea and meals are false and malicious.' The Committee takes strong exception to the use of the words 'false and malicious' in respect of the members' complaint. The Committee examined the Home Secretary and the Joint Secretary in the Department of Home of the Government of Maharashtra on this question. It is indeed sad that even though the communication was approved at the level of the Joint Secretary, Home no one appreciated the seriousness of this accusation. It is unthinkable that the member would have any malice against police officials in saying that he was denied tea and meals at the police station. Even the police officials have not stated anywhere that the member was motivated by malice in making this complaint. The Committee was hard put to make the police officials and others realise the seriousness of this accusation. It so looked as if these words were used by the police officials at the lower level without realising their import. This does not reflect a happy situation and more so when the communication passed through the hands of senior officials of the Government without

anyone of them realising the seriousness of the accusation. However, considering that an apology was tendered by the seriousness of the accusation, the Committee recommends that no further action in this regard was called for. The Committee does hope that due care and caution will be taken by all concerned while sending communications with regard to members of Parliament."

- (vii) "In the view taken by the Committee and having regard to the apology tendered, the Committee recommends that no further action need to be taken by the House in the matter."

Action taken by the House

7. No further action was taken by the House in the matter.

II. Arrest of Shri Hukmdeo Narayan Yadav, a member.

Facts of the case and reference to the Committee of Privileges

On 1st March 1981, Shri Hukmdeo Narayan Yadav, M.P. was arrested in Partaratu Police Station, District Hazaribagh (Bihar) under section 188, IPC and was later released on the same day. A wireless message dated March 3, 1981 received by the Hon'ble Chairman at 9.30 A.M. on March 4, 1981, from the Deputy Commissioner, Hazaribagh in the matter was notified in the Rajya Sabha Bulletin Part II, No. 26246 on the same day.

2. On 5th March, 1981 several members raised in the House the matter of delay in sending intimation of arrest and release of Shri Yadav. The Deputy Chairman (Shri Shyam Lal Yadav) observed as follows:

"He was arrested on the 1st March. They should have sent the message immediately, message itself is dated 3rd March it should have been done on the 1st March because he was arrested and released the same day. I think it requires an explanation from them."

3. On 5th March, 1981 Shri Hukmdeo Narayan Yadav gave notice of a question of privilege against the Deputy Commissioner and Superintendent of Police, Hazaribagh. In his notice Shri Yadav *inter alia* contended that by arresting him and by not giving information to the House with proper despatch, the police officers had committed breach of privilege of the House and also his privilege as a member of

Parliament. Shri Yadav also raised the matter in the House on March 6, 1981.

4. On the 10th April, 1981, the Chairman (Shri M. Hidayatullah) after considering the matter in the light of the complaint made by Shri Yadav and the explanation of the Superintendent of Police, Hazaribagh, referred the matter to the Committee of Privileges for examination, investigation and report.

Finding and recommendation of the Committee

5. The Committee of Privileges, after considering the matter and the two communications received from the Deputy Secretary, Government of Bihar, respectively admitting that delay had taken place in informing the Rajya Sabha about Shri Yadav's arrest and the action taken by the State Government in this regard, in their Twenty First Report, presented to the House on 9 September 1981 reported, *inter alia* as follows:—

“The Committee notes that couple of days delay has occurred in sending intimation of

Shri Yadav's arrest to the Chairman, Rajya Sabha. The Committee is constrained to observe that there has been a lapse on the part of the police officials in not sending information about the member's arrest and release promptly. However, in view of the fact that the displeasure of the State Government has been communicated to the Additional Collector In-charge, Hazaribagh, for the lapse on his part and the Sub-Inspectors of Police, Bhurkunda and Patratu Police Stations having been awarded censure for delay in communicating the information of Shri Yadav's arrest the Committee recommends that the matter need not be pursued further.”

Action taken by the House

6. No further action was taken by the House in the matter.

ARREST—DELAY IN INTIMATION/NON-INTIMATION OF

21
PROVISIONAL PARLIAMENT
(1950)

Point of privilege

Alleged arrest and removal of a member and non-intimation of this fact to the House or the Speaker.

Facts of the case and action taken by the House

On the 1st March, 1950 Shri H.V. Kamath, a member, raised a question of privilege regarding the arrest and removal from Delhi on the previous day, under the East Punjab Public Safety Act, 1949, of Shri Shibban Lal Saksena, a member during the session of Parliament, without communicating this fact to the House or to the Speaker. He also urged for appointment of Committee of Privileges to examine the matter.

2. The Minister of Home Affairs and the States (Sardar Patel) stated *inter alia* as follows:—

"When I heard about it... Immediately communicated to the Home Secretary that Mr. Shibban Lal if he is here and not removed, should be removed to his house in Delhi and not anywhere else. But he had already been removed by that time. Immediately I informed the Home Secretary that the order, so far as removal from Delhi or externment was concerned, should be cancelled forthwith and that Shri Shibban Lal should be informed of the Government's regrets that he had been put to inconvenience. It was not the intention to extern him from Delhi. The intention was that he should not fast at that place (Rajghat) as he was advised by the Prime Minister also..."

I am glad that the House is so anxious about the presentation of the privileges of the members of the House. The Government, more than anybody else, would be anxious to protect the privilege of the House and of its members... In this particular case, all courtesy due to a member of this House was shown to Shri Shibbanlal Saksena..."

3. The Prime Minister and Leader of the House (Shri Jawaharlal Nehru) stated *inter alia* as follows:—

"...It is gratifying to me that the House should be so interested in maintaining its privileges and the privileges of its members. And, as my colleague the Deputy Prime Minister said, certainly no member of Government is less interested in maintaining those privileges. Something has happened, and there can be little doubt that if

mistakes have been committed—inadvertently—the Government of course, is responsible, for every mistake. I entirely admit that responsibility, though neither the Deputy Prime Minister, nor I, nor any other member of Government was aware of what has been done—till actually the House itself met here, or slightly before that, yesterday... There was no question of his arrest or his removal from Delhi, or anything else... Now, a certain error was committed... And for that the Deputy Prime Minister has expressed his regret to Mr. Shibbanlal Saksena himself. And for my part, I certainly would like to express my regret and the Government's regret to you Sir, specially and to this House, that this blunder was committed by any officer of Government in this respect. As for the rest, if you or the House considers that the matter should be gone into by a Committee of privileges, I have the last objection."

4. Shri Goenka, another member, moved the following motion which was adopted by the House after a lengthy debate:—

"That in view of the statements made by the hon. the Prime Minister and the hon. the Deputy Prime Minister on the point of privilege raised by Shri H.V. Kamath in the House today the matter be dropped."

22

LOK SABHA
(1961)

Point of Privilege

Delay by a Magistrate in sending to the House intimation regarding conviction and release on bail of two members.

Facts of the case and ruling by the Speaker

On the 14th August, 1961, the Speaker (Shri M.A. Ayyangar) informed the House as follows:

"On the 7th August, 1961, Sarvashri S.M. Banerjee and Indrajit Gupta gave notice of a question of privilege on the ground that information regarding their conviction on the 26th July, 1961 and their subsequent release on bail the same day had not been communicated to the House by the Magistrate First Class, Jamshedpur, as required under Rule 230. In this connection a reference was made to the Minister of Home Affairs.

In the meanwhile, I received the following telegram, dated the 9th August, 1961 from the Magistrate First Class, Jamshedpur:

'Sarvashri S.M. Banerjee and Indrajit Gupta, Members, Lok Sabha, were put up on trial under section 28 of the Industrial Disputes Act, on the charge of instigating and inciting workers of the Tata Iron and Steel Company Limited, Jamshedpur, to go on illegal strike on 12th May, 1958. They have been found guilty and convicted by me on the above charge on the 26th July, 1961, and have been sentenced to undergo simple imprisonment for a term of six months and to pay a fine of Rs. 500/- in default simple imprisonment for one month more each. Both of them were also granted bail on the same date and filed petition that they would prefer appeal before the Sessions Judge. The information was not sent before through oversight for which I express deep regrets and apologize.'

The Ministry of Home Affairs have also intimated that the Bihar Government had expressed regret that the lapse should have occurred and had stated that they would take steps to ensure that it was not repeated.

In view of the regret expressed by the Magistrate, First Class, Jamshedpur, as well as by the Bihar Government the matter may be closed."

23

LOK SABHA
(1965)

Point of privilege

Failure of Magistrate to inform the Speaker about the release of two members on bail.

Facts of the case and action taken by the House

On the 27th August, 1965 Shri Ram Sewak Yadav, a Member, complained that the House was informed about the arrest of Sarvashri Mani Ram Bagri and Kishen Patnayak, members, on the 16th August, 1965, but the intimation of their release on the 21st August, 1965 on bail had not been given to the House. Shri Yadav contended that under Rules 229 and 230 of the Rules of Procedure of the House. The Magistrate was required to inform the House when a member was released on bail and by not informing

the House, the magistrate had committed a breach of privilege of the House.

2. The Speaker (S. Hukam Singh) observed *inter alia* as follows:—

"Whether it was a breach of privilege or not, it was a breach of the law as according to Rules of the House when they (members) are released from custody, that intimation should also be sent... I would bring it to the notice of the Minister of Home Affairs to make an enquiry into the matter as to why the information was not sent."

3. The Minister of Home Affairs (Shri Gulzari Lal Nanda) stated that so far as he was concerned, the provision of Rules were mandatory and he would take all the steps to see that they were carried out.

4. On the 30th August, 1965 the Speaker informed the House *inter alia*:—

"I have received the following communication dated the 27th August, 1965, from the Sub-Divisional Magistrate, New Delhi:—

"I have the honour to inform you that Shri Mani Ram Bagri, Member, Lok Sabha, who was detained on 16th August, 1965, in a case under section 107/151, Criminal Procedure Code, was released on bail on 1st August, 1965. The next date of hearing fixed in the case is 1st September, 1965.

With your permission, Sir I would like to explain that intimation about this release on bail was not submitted earlier under the impression that the Third Schedule appended to the Rules of Procedure did not provide for such intimation to be submitted prior to the conviction of the member. I was under the impression that none of the forms A, B and C prescribed in the Third Schedule covered this case. However, as a doubt has arisen about this matter. I have decided to submit the above information with my apologies in case delayed submission has caused any inconvenience in any quarters."

I have received a similar communication in respect of Shri Kishen Patnayak also.

So far as these forms are concerned I will get them examined.¹ If there is some flaw there, I shall get that remedied."

¹The matter was accordingly considered by the Rules Committee which made appropriate changes in Form C of the third Schedule of the Rules of Procedure and Conduct of Business in Lok Sabha. [Bn. (II) dt. 30-11-1965, para 1506]

24
LOK SABHA
(1966)

Point of privilege

Question whether a member released on parole can attend the House

Facts of the case and ruling by the Speaker

On the 1st March, 1966, the Speaker informed the House of the release on parole of Shri R. Umanath, member, who was a detenué under the Defence of India Rules.

2. Shri H.V. Kamath, sought a clarification whether a member released on parole could attend the House. The Minister of Law (Shri G.S. Pathak) promised to make a statement on the next day.

3. On the 2nd March, 1966, the Minister of Law (Shri G.S. Pathak) informed the House that Shri Umanath had been released on parole in order to be able to attend to his ailing wife on the following conditions *inter alia* that:—

- (i) Shri Umanath will report daily before the concerned police authorities; and
- (ii) he will not during the period of parole take part in any political, labour or kisan activities or any subversive activities either directly or through intermediaries or address any public meetings.

He explained the position that under the conditions of parole, the member could not claim the right to attend Parliament. When further doubts were raised by some members, the Leader of the House (Shri Satya Narayan Sinha) stated that Government would study the position further, examine the implications of the matter and make a further statement later on.

4. In the meantime, Shri Umanath was served with another notice by the Government of Madras on the 2nd March, 1966 that he should not go to Delhi under the conditions of his parole.

5. On the 9th March, 1966, the Minister of Home Affairs (Shri G.L. Nanda) explained that all the conditions (of parole) specified by the Government of Madras were accepted by Shri Umanath and he had given a written undertaking to report daily before the Police in Tiruchirappalli.

Shri Kamath then raised a question of privilege that a contempt of the House had been committed inasmuch as a new condition had been imposed on Shri Umanath by service of a fresh order by the Government of Madras preventing him from

attending the House when the House was already seized of the matter and was considering the earlier order.

Shri Nanda however, stated that no fresh order had been issued and it was only an elucidation of the old order and no fresh conditions were imposed and that Shri Umanath had himself agreed to his release on the express conditions including *inter alia* the daily reporting to the local police station which implicitly meant continued stay at his residence.

6. After some discussion, the Speaker (S. Hukam Singh) reserved his ruling.

7. On the 14th March, 1966, the Speaker observed *inter alia* as follows:—

“The administration of Defence of India Rules is in the sphere of the State Government. The imposition of any conditions on Shri Umanath for release on parole is the exclusive jurisdiction of the Madras State and it was for Shri Umanath to agree to those conditions and secure his release on parole or not. The Central Government has no responsibility and this House cannot interfere, even if the conditions were such as prevented Shri Umanath from attending the House while on parole. There would be no contempt committed in such a case.

But the service of the order dated the 2nd March, 1966 has introduced a curious element. If the new order was only elucidatory. It was unnecessary; if it imposes a new condition, it is improper to do so, as it came into force while the House was seized of the matter.

Now let us examine the new order dated the 2nd March, 1966. This prohibits Shri Umanath from coming to Delhi and thus is expressly intended to preclude him from attending the House. This was the only question that was pending for consideration by this House, and the State Government or the officer responsible has created a situation under which Shri Umanath cannot attend the House even if the House had come to the contrary conclusion.

Attendance in the House and participation in the debates can never be considered as indulging in objectionable activities.

If under the original restrictions Shri Umanath had reached by some plane service any day, taken part in the debates and returned by the plane the same day to report his presence to the Police Station, he would not have committed any breach of the

original conditions; but if he does the same thing now this would be a clear breach, I am not competent to interpret the old conditions in the strict legal sense as that would be for the courts to decide. It may be that courts might hold that even under their original conditions the detenu could not attend the House. If then Shri Umanath had contravened any conditions, he would have done that on his own responsibility. My limited purpose now is to point out that the alleged elucidation has brought about a change in the original restrictions.

This would be more evident by a little further examination. The latest order does not prohibit Shri Umanath from visiting nearby towns or even going to Madras or other places, if he can return the same day to register his presence in the evening. If the original order had laid down that the detenu would confine his movements to his village or town, this could have been understood. I can go further. Even if the later order dated the 2nd March had conveyed that the original order was intended to restrict his movements within the boundaries of the local police station and Shri Umanath could not move out of those limits, it could possibly be argued that this was an unnecessary elucidation. But in the present circumstances I have no option but to hold that this was a fresh condition specifically served to make sure that he does not go to Delhi to attend this House.

At page 109 of *May's Parliamentary Practice* it is stated that 'any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, which obstructs or impedes any member in the discharge of his duty, or which has a tendency directly or indirectly to produce such results may be treated as a contempt, even though there is no precedent of the offence.'

It is significant that the Central Government, which is answerable to this House took no action to apprise the State Government of Madras of the discussion in the House on the 2nd March and of its undertaking to make a further statement after examining the position; and subsequently, when it came to its notice that a fresh elucidatory order had been issued on Shri Umanath, it did not advise the State Government to cancel or hold in abeyance the said order pending a decision by this House.

It is strange that while the Home Minister stated in

the House that Shri Umanath could attend the House if the conditions of parole permitted it otherwise the State Government of Madras had already neutralised the effects of its interpretation of the parole order. In the circumstances of this case, it is possible that the House may after fuller investigation of the case come to the conclusion that the service of the order dated 2-3-1966 prohibiting Shri Umanath from going to Delhi specifically, where the House of Parliament sit, during the period, when this House was seized of this very matter, may amount to contempt of the House.

My function at this stage is to consider whether I should give consent to the motion of Privilege being made. As I have stated above, there is enough material before me to give such consent, But I would urge the House to consider that as this is the first case of its kind and possibly the order has been issued in ignorance of its implications, the House would be better advised to express its displeasure at the impropriety and let the matter rest there.

I may reiterate I am not called upon to give any opinion as to whether Shri Umanath can attend this House under the restrictions laid down by the State Government and agreed to by him. That is a legal question to be adjudicated upon by courts. This House has no objection, but if he comes and attends he has himself to face the consequences."

8. After the Speakers' ruling the Leader of the House (Shri Satya Narayan Sinha), expressing his regret over the incident, stated that it had been done unwittingly and there was no desire on the part of the Government to challenge the Supremacy of the House or of Parliament. He assured that such things would not happen in future.

25

LOK SABHA
(1967)

Point of privilege

Non-intimation to Speaker of detention of a member

Facts of the case and reference to the Committee of Privileges

On the 7th April, 1967, Shri Kanwar Lal Gupta, member, raised a question of privilege that intimation regarding the arrest and release of Swami Brahmanand, M.P., on the 5th April, 1967, had not been sent to the speaker by the authorities concerned, as required under Rules 229 and 230 of

the Rules of Procedure and Conduct of Business in Lok Sabha.

2. On the 8th April, 1967, the Minister of Home Affairs (Shri Y.B. Chavan) made the following statement in the House—

“I asked the Chief Secretary, Delhi Administration, yesterday, to make an enquiry. He met Shri Brahmanand at the crossing near the north gate of Parliament House and recorded his statement. He also recorded the statements of the District Magistrate, the Additional District Magistrate, the Watch and Ward Officer of the Parliament House, the SDM Parliament Street and police officers concerned in the affair.

The Chief Secretary's conclusions are that Shri Brahmanand and his followers had been trying to court arrest; the magistracy and the police, however, did not consider their arrest necessary....

By getting into the police trucks at about 3 P.M. on 5th April, Shri Brahmanand and his followers were under the erroneous impression that they had succeeded in getting themselves arrested. There was, in fact, no arrest and they were not forced to get into trucks. Shri Brahmanand and his followers were treated with courtesy at Parliament Street Police Station. They remained in the Police Station for about two hours with a view to getting themselves arrested. When they did not succeed, they dispersed. These are the conclusions of the Chief Secretary.

The spirit behind informing Parliament about the arrest of a member is there because a member will have to attend the session of Parliament. But here is a member of Parliament who wanted to be arrested and, therefore, the facts get confused. So, really speaking, the question is whether in fact the member in question was arrested or not. The conclusion of the Chief Secretary which I read is that he was not in fact arrested. If, really speaking, the House wants and you want that the whole question should be gone into by the Privileges Committee, I would welcome it, because it is much better that these inquiries fix the responsibility. Because, the responsibilities of the Members of Parliament are also then made clear. Otherwise, the law and order agencies get confused. How are they to function? Here was a Member of Parliament who wanted to get himself arrested and, looking to their own responsibilities they refused to arrest him. This has been made the

issue of privilege. Therefore, I do not want to take a position as if I want to come in the way of the Privileges Committee going into the facts of the case. I am completely, in your hands. If you feel that it should be referred to the Privileges Committee, I have no objection.”

3. After some discussion, the matter was referred to the Committee of Privileges on a motion moved by Shri Atal Bihari Vajpayee, with instructions to report by the first day of the next session.

Findings and Recommendations of the Committee

The Committee of Privileges, after perusing the report of the Chief Secretary, Delhi Administration and the statement recorded by him and examining on oath Swami Brahmanand, M.P. the District Magistrate and the then Additional District Magistrate, Delhi, and other concerned police officers, in their First Report presented to the House on the 22nd May, 1967, reported *inter alia* as follows:—

(i) “Swami Brahmanand, in his evidence before the Committee, deposed that on the 5th April, 1967, when he along with several others offered *satyagraha* outside the Parliament House Estate, the police asked them to get into the vans which were parked there. He said that a Police Officer told them that they were under arrest as they had violated the law, although he could not say whether he himself was specifically told that he was under arrest. Swami Brahmanand added that while two or three vans carrying his other associates were driven away to the Police Station he was asked by the Police to get down on the ground that as he was an M.P., he should sit in a jeep. He was then taken to the Police Station in a taxi. He was kept at the Police Station for two or two and half hours. At about 7 P.M. he and others were asked to go away after their names and address had been noted by the Police.

The Police Officers, who appeared before the Committee, however, maintained that Swami Brahmanand and his associates were not arrested and the vans were taken to the Police Station as those persons, having boarded the vans, were not vacating them in spite of repeated requests.”

(ii) “After a thorough examination of the evidence given before the Committee, the Committee have come to the conclusion that, irrespective of whether Swami Brahmanand was arrested or not within the strict legal meaning of the term “arrest” he was in fact under some kind of detention by the

Police on the 5th April, 1967, from the time he was taken in a taxi from outside the Parliament House Estate (where he had offered *satyagraha*) to the Parliament Street Police Station (where his name and address were recorded by the police) to the time he left the Police Station at about 7 P.M."

(iii) "The Committee are, therefore, of the opinion that in the circumstances of the case, the authorities concerned should have informed the Speaker about the aforesaid detention and subsequent release of Swami Brahmanand as required under Rules 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha. The Committee consider that the failure of the authorities concerned to send the necessary intimation in the matter to the Speaker constituted, technically, a breach of privilege of the House."

(iv) "The Committee however, note that Shri B.N. Tandon, District Magistrate, Delhi during his evidence before the Committee, made the following statement:—

'As I said, we did not think that it was an arrest and so we did not inform the Speaker. But, if it is the opinion of this august body that there was a restraint on Swamiji, I have no hesitation in expressing regret. While I was not there on the spot and my A.D.M. or any magistrate was also not there, I take full responsibility of the happenings.'

(v) "The Committee again heard on the 7th May, 1967, Shri B.N. Tandon, who was asked to elucidate the implications of the above statement made by him. At this hearing, Shri Tandon assured the Committee that he offered his unqualified regret for the happenings."

(vi) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

5. On the 29th May, 1967, Shri Hardayal Devgun, a member, moved the following motion:

"That the First Report of the Committee of Privileges presented to this House on the 22nd May, 1967, be taken into consideration."

6. After some discussion and adoption of the above motion, Shri A.N. Mulla, a member of the

Committee, moved and the House adopted, the following motion:

"That this House agrees with the First Report of the Committee of Privileges presented to the House on the 22nd May, 1967."

26
LOK SABHA
(1968)

Point of Privilege

Alleged non-intimation of arrest of members by police

Facts of the case and ruling by the Speaker

On the 3rd May, 1968 Shri Kanwar Lal Gupta, a member, sought to raise a question of privilege on the ground that on the 30th April, 1968 Shri Brij Bhushan Lal, Shrimati Shakuntala Nayar and Shri Bharat Singh Chowhan, members, were arrested by police in connection with *Kutch Satyagraha* near Khavda Village, District Kutch, but intimation regarding restraint and removal of Shri Brij Bhushan Lal alone had been communicated to the House by the Speaker on the 2nd May, 1968. The intimation regarding the arrest of the other two members, Shrimati Shakuntala Nayar and Shri Bharat Singh Chowhan, had not been sent by the District Superintendent of Police, Kutch, which, the member contended, constituted a breach of privilege.

2. The Speaker (Dr. N. Sanjiva Reddy) observed that in the telegram which he had received there was another name also which was not clear. He said that he would, therefore, first find out the facts from the Government and then give his decision.

3. On the 6th May, 1968, the Speaker after communicating to the House three letters and a further telegram from the District Superintendent of Police, Kutch, regarding restraint and removal of all the above-named three members, disallowed the question of privilege, observing:

"The point is that as he (Shri Kanwar Lal Gupta) said on that day some names were there—Shri Brij Bhushan Lal etc.. But after the telegram, they sent in writing a letter. It is not the telegram alone that is the final thing. In the letter they have mentioned clearly all the names. In the telegram there was some information. One name was there. One name was wrong. Some confusion was there. Later on, the next day they have written a letter where absolutely there was nothing wrong and it was announced in the House...."

I have disallowed it There is no breach of privilege.

27
LOK SABHA
(1971)

Point of Privilege

Alleged ill-treatment and arrest of members and non-intimation thereof to Speaker

Facts of the case and reference to the Committee of Privileges

On the 17th December, 1969, Shri Tulmohan Ram, a member raised a question of privilege regarding his alleged arrest on the 28th November, 1969, and non-intimation thereof to the Speaker, and ill-treatment meted out to him by Shri Chandrika Prasad, the then Sub-Inspector of Police, Mahishi (Bihar).

After some discussion, the matter was referred to the Committee of Privileges by the House.

2. The brief facts of the case, as stated by Shri Tulmohan Ram in his notice of question of privilege were as follows:—

“On the 28th November, 1969, the Sub-Inspector Shri Chandrika Prasad met me in the afternoon outside the village. He was coming from my paddy field after getting the paddy crops looted. On my questioning as to why my paddy crop was looted and that too under the protection of police, the said Sub-Inspector asked me to get down from the back of the horse and rebuked me... I reached my house. The Sub-Inspector accompanied by persons hostile to me reached my house and was entering my family apartments. I told the Sub-Inspector that only ladies and children are in the House. On this the said Sub-Inspector got me arrested. The Sub-Inspector began to rebuke me again:—

‘I have seen many M.Ps. like you. It has become the profession of M.Ps. to tell lies. Even the Chamar, Dusadh boasts of being an M.P.’¹

I remained in the police custody (under arrest) for more than half an hour I was set free on the request of hundreds of persons of my village-Safauni.’

The said Sub-Inspector arrested me while the session of Lok Sabha was in continuance and did not inform the Hon'ble Speaker of the House.”

3. However, before the Committee could present their report to the House, the matter lapsed on the dissolution of the Fourth Lok Sabha on 27th December, 1970.

4. On 8th June, 1971, Shri Tulmohan Ram, M.P. again raise¹ the matter in the Fifth Lok Sabha and moved the following motion, which was adopted by the House:

“That the question of privilege regarding the alleged arrest of Shri Tulmohan Ram, M.P. on the 28th November, 1969 by Shri Chandrika Prasad, the then Sub-Inspector of Police, Mahishi (Bihar) and non-intimation thereof to the Speaker, Fourth Lok Sabha, be referred to the Committee of Privileges of this Lok Sabha”.

Findings and recommendations of the Committee

5. The Committee of Privileges of Fifth Lok Sabha decided that as the Committee of Privileges of Fourth Lok Sabha had concluded the evidence in the matter, it was not necessary to hear evidence *de novo*. The Committee, therefore, decided to consider the matter on the basis of the evidence and documents produced before the Committee of Privileges of Fourth Lok Sabha.

The Committee, after calling Shri Chandrika Prasad, the concerned Sub-Inspector of Police, before them in person, in their First Report, presented to the House on the 10th December, 1971, reported *inter-alia* as follows:—

- (i) “The main issue for consideration by the Committee in the present case is whether Shri Tulmohan Ram, M.P., was in fact arrested on the 28th November, 1969, by Shri Chandrika Prasad, Sub-Inspector of police, as alleged by Shri Tulmohan Ram M.P., which fact is denied by Shri Chandrika Prasad. The question of breach of privilege for not intimating the Speaker, Lok Sabha, about the alleged arrest of Shri Tulmohan Ram, by Shri Chandrika Prasad, will arise only if the factum of arrest of Shri Tulmohan Ram, M.P., is satisfactorily established. As is well known, in the case of

¹The Committee of Privileges of Fourth Lok Sabha had called for the written explanation from the concerned Sub-Inspector of Police and the factual comments of the Government of Bihar on the incident and also examined in person Sarvashri Tulmohan Ram, Chandrika Prasad and three witness as of each of them.

arrest of a member on a criminal charge, the only privilege of the House is the right to receive immediate information about the fact of arrest of the member concerned together with the place of his detention and the reasons for his arrest (*vide* Rule 229 of the Rules of Procedure of Lok Sabha)."

- (ii) "After a careful consideration of the evidence given before, and the documents made available to the Committee, the Committee are of the opinion that there conflicting and contradictory evidence on the factum of alleged arrest of Shri Tulmohan Ram, M.P., on 28th November, 1969. The Committee are of the view that since the fact of arrest of Shri Tulmohan Ram, M.P., on the 28th November, 1969 has not been conclusively proved, it could not be said that Shri Chandrika Prasad, Sub-Inspector of Police, had committed a breach of privilege in not sending intimation of the alleged arrest to the Speaker, Fourth Lok Sabha."
- (iii) "The Committee, however, feel that the taking into consideration the totality of the circumstances of the case, Shri Tulmohan Ram, M.P., had been ill-treated and abused by the Sub-Inspector, Shri Chandrika Prasad."
- (iv) "When Shri Chandrika Prasad, Sub-Inspector of Police, appeared before the Committee on the 10th November, 1971, he was apprised of the finding of the Committee that Shri Tulmohan Ram, M.P., had been ill-treated and abused by him. There upon, Shri Chandrika Prasad expressed his unqualified regret in the following words:—
- 'Sir, I did not misbehave with Mr. Tulmohan Ram, M.P. in any manner or uses any abusive language. I have got high regard for the Hon. members of Parliament I have also not uttered any undignified word against any Hon. member of Parliament. But if the Committee or any member of the Committee have any feeling that I might have made any remarks or uttered any undignified words towards them, I express my unqualified regret."
- (v) "In view of the unqualified regret expressed by Shri Chandrika Prasad, Sub-Inspector of Police, the Committee feel that no further action need be taken in the matter."
- (vi) "The Committee recommend that the matter be dropped."

Action taken by the House

6. No further action was taken by the House in the matter.

28

LOK SABHA

(1972)

Point of Privilege

Non-intimation of arrest and release of a member

Facts of the case and action taken by the House

On the 13th November, 1972, Shri Indrajit Gupta, a member, wrote to the Speaker that he was arrested at Calcutta on the 3rd October, 1972, at about 18.00 hours and was subsequently produced before a Magistrate and discharged at about 21.00 hours on the same date, but no intimation regarding his arrest and release had been furnished to the Speaker by the concerned authorities as required under Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha.

2. The matter was thereupon, referred to the Ministry of Home Affairs, Government of India, for a factual report, for consideration of the Speaker.

3. On the 29th November, 1972, the following communication, dated the 28th November, 1972, addressed to the Speaker, Lok Sabha, was received from the Commissioner of Police, Calcutta:—

"I have the honour to inform you that Shri Indrajit Gupta, member, Lok Sabha, was arrested on the 3rd October, 1972, afternoon, in connection with the Hare Street Police Station Case No. 626, dated the 3rd, October, 1972 under Section 151, Criminal Procedure Code for attempting to lead a demonstration to the Writers' Buildings, Calcutta, after violating prohibitory orders under Section 144, Criminal Procedure Code. He was produced before the Chief Presidency Magistrate the same evening and was discharged on the police report.

The failure on our part to report on the arrest is deeply regretted. I have since taken steps to ensure that such lapses do not occur in future. I also tender my unqualified apology for this unintentional lapse on our part."

4. In view of the unqualified apology tendered by the Commissioner of Police, Calcutta, the matter was treated as closed.

LOK SABHA

(1973)

Point of Privilege

Delay in sending intimation of arrest of a member

Facts of the case and reference to the Committee of Privilege

On the 27th April, 1973, Shri Dinen Bhattacharyya, a member, sought to raise a question of privilege in respect of the detention of Shri Jambuwant Dhote, another member.

2. The Speaker (Dr. G.S. Dhillon) observed that he had not till then received any information about the arrest of Shri Dhote.

3. On the 28th April, 1973, the following wireless message, dated the 27th April, 1973, regarding the detention of Shri Jambuwant Dhote, a member, addressed to the Speaker, Lok Sabha, was received from the Commissioner of Police, Nagpur, and published in the Lok Sabha Bulletin Part II, dated the 28th April, 1973, *vide para 1145*:—

"Shri Jambuwant Dhote, member, Lok Sabha, was detained under provisions of maintenance of Internal Security Act, 1971. He was taken into custody at about 18.15 hours on the 25th April, 1973. He is lodged in Yeravada Central Prison, Poona. A regular intimation to this effect sent by post at about 11.30 hours on the 26th instant. A State Express telegram to this effect also sent at about 15.00 hours on 26th instant."

The Express telegram, dated the 26th April, 1973, referred to in the above wireless message was not received in Lok Sabha Secretariat. However, the post confirmation copy dated the 26th April, 1973, of this telegram was received on the 28th April, 1973.

4. The following communication dated the 26th April, 1973, regarding the detention of Shri Dhote, was received from the Commissioner of Police, Nagpur, on the 28th April, 1973. Since the wireless message, reproduced in para 3 above, intimating the detention of Shri Dhote received earlier had already been published in Bulletin Part II, this communication was not published in the Bulletin:—

"I have the honour to inform you that I have found it my duty, in exercise of my powers under sub-clause (ii) of clause (a) of sub-section (1) read with clause (c) of sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971

(26 of 1971) to direct that Shri Jambuwant Dhote, member of the Lok Sabha, be detained with a view to preventing him from acting in any manner prejudicial to the maintenance of public order in Nagpur City.

Shri J.B. Dhote, M.P., was accordingly taken into custody at 18.15 hours on 25th April, 1973. He is being lodged in the Yeravada Central Prison, Poona."

5. On the 15th May, 1973, Sarvashri Madhu Limaye and Birender Singh Rao, members, again raised a question of privilege in respect of this matter. While raising the question of privilege, Shri Madhu Limaye stated *inter-alia* as follows:—

".....According to our rule (rule 229 of Rules of Procedure and Conduct of Business in Lok Sabha), in such a case, they will have to intimate the reason of arrest, when a member is detained and is not put to trial, it becomes all the more necessary to intimate the reasons of arrest. The rule thus has been violated....."

6. Shri Birender Singh Rao stated *inter-alia* as follows:—

"....On 28th, we came to know from the Lok Sabha papers (Bulletin Part II, dated 28th April, 1973) that the Lok Sabha has been informed the same day that Mr. Dhote had been arrested on the 25th but the Lok Sabha never received any such message....."

....Now it is nearly 20 days. The Minister should have come forward with a statement, but no statement has been made. Within 10 days of the arrest, the case was to be reviewed by a Board. That review also must have taken place. But the Lok Sabha has no information about what the case is or what the result of the review is, under what section or for what offence he has been arrested, etc. All this makes it very strange. Therefore, I request that a privilege motion should be allowed."

7. After some discussion, the Speaker, while referring the matter to the Committee of Privileges, observed *inter-alia* as follows:—

".....In my opinion, this is highly improper. The information should have been immediately conveyed to the Speaker. No lapse of time should have been allowed on it.

....I wish that the Committee examines the question of what should be the point at which the information should be sent to

the Speaker, at what time it should start and, secondly, what is the type of information that should be sent..... It is for the Speaker to be satisfied whether it is in time. In this case, when an M.P. is arrested under the Maintenance of Internal Security Act, in my opinion, the telegram should have come immediately afterwards and the details could have followed later. If I allow this motion, the Committee will examine how much information should be given and in what form in case of arrest under Maintenance of Internal Security Act.....

.....In my own opinion, there was not full information in the intimation given to me by the Commissioner of Police. He has just mentioned the law under which he was arrested and where he is detained, and at the end he says that it is to restrain him from certain activities..... In this case there is nothing. So, I give my consent to this privilege motion and, if you like, I can straightway send it to the Privileges Committee....."

Findings and recommendations of the Committee

7. The Committee of Privileges, after considering the written explanation and hearing the oral evidence of Shri V.V. Naik, the Commissioner of Police, Nagpur, in their Seventh Report presented to the House on the 5th April 1974, reported *inter-alia* as follows:—

- (i) "The Committee are not concerned with the question of justification or otherwise of the detention of Shri Jambuwant Dhote, M.P. under the Maintenance of Internal Security Act, 1971, however, undesirable it may be to arrest and detain a member of Parliament, or, as a matter of that, any citizen, without trial. The Committee, therefore, formulated the following two issues for their examination:—
 - (a) Whether there was any delay on the part of the Commissioner of Police, Nagpur in sending intimation to the Speaker, Lok Sabha, regarding the arrest and detention of Shri Jambuwant Dhote, M.P. on the 25th April, 1973; and
 - (b) Whether the information furnished to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur, indicating the reasons for the arrest and detention of Shri Jambuwant Dhote, M.P., was adequate in accordance with the

requirements of Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha."

- (ii) "As regards the question of delay in sending intimation to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur.....the Committee find that there was a delay of about 21 hours between the time of arrest of Shri Dhote and the sending of the telegram intimating his arrest and detention to the Speaker Lok Sabha, by the Commissioner of Police, Nagpur."

- (iii) In his written explanation, the Commissioner of Police, Nagpur Shri V.V. Naik, stated *inter-alia* as follows:—

"He, Shri Jambuwant Dhote, M.P., was arrested at 6-15 p.m. on 25th April, 1973, on Yeotmall-Darwah road in Ghat Section and was escorted directly to Aurangabad Jail. The information about his arrest was received by me at about 7.30 p.m. The police party along with Shri Dhote reached Aurangabad Jail at 4-30 a.m. on 26th April, 1973, but the Jail Superintendent informed them that there was no suitable arrangement for lodging Shri Dhote there. Shri Dhote, therefore, was taken to Yeravada Central Prison, Poona, at about 09.00 a.m. after contacting me and obtaining my orders at about 8.00 a.m. and after giving him about one hour at Aurangabad to complete morning ablutions, etc. Shri Dhote reached Yeravada Central Prison, Poona, at about 2.00 p.m. on 26th April 1973, and was admitted into that prison.

Under.....instructions forwarded by the Government of India to all State Governments, an intimation of arrest/detention/conviction is required to be sent to the Speaker by telegram and this first intimation should also contain the essential information, namely in the case of arrest, the place of arrest, the law and the section under which the arrest, was made, where the member is lodged, the name and designation of the authority which ordered the arrest, etc. As there was difficulty in the Hon'ble member's lodging as stated above the intimation was delayed. It would probably have been better if I had sent the intimation of his arrest by telegram immediately on receipt of information about it at about 7.30 p.m. on 25th April, 1973, and then sent a further telegram

about his place of lodging. But since para 7 of the Instructions appeared to me categorical, the delay occurred inadvertently for which I would like to apologise to the Lok Sabha and to the Privileges Committee of the Lok Sabha."

- (iv) "During the course of his oral evidence before the Committee, Shri V.V. Naik stated *inter alia* as follows:—

'.....Sir, there was no intention of showing any disrespect to the member of Parliament. As I said, it is a mistake and the circumstances have been explainedI said that in any case it is a slip on our part. We had delayed in sending the intimation. There is no doubt about it. I apologise for that....we will do our best and so far as I am concerned. I shall see that such a mistake does not occur again.....'."

- (v) "The Committee are not satisfied with the explanation of Shri V.V. Naik, regarding the reasons for the delay of about 21 hours between the time of arrest of Shri Jambuwant Dhote and sending of the telegram intimating his arrest and detention to the Speaker, Lok Sabha. He did not understand correctly the instructions forwarded by the Government of India to all State Governments in this connection and referred to by him in his written explanation. However, in view of the apology tendered by Shri V.V. Naik in his written explanation and during his oral evidence before the Committee and his assurance that such a mistake would not occur again, the Committee are of the view that no further action need be taken in the matter."

- (vi) "As regards the question of adequacy of the information sent to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur, indicating the reasons for the arrest and detention of Shri Dhote.... The Minister of Law, Justice and Company Affairs has, in his considered written note furnished at the instance of the Committee, stated *inter-alia* as follows:—

'.....a mere statement that a person has been detained under Section 3 of the Maintenance of Internal Security Act, 1971 may not amount to a compliance of Rule 229 *supra* but the Commissioner of Police, Nagpur, has pin-pointed only one reason, namely, 'maintenance, of public order' out of the

several upon which he could have acted and that may be held to be sufficient compliance with the rule.

It is well-settled that the ground of order of detention should not be vague or indefinite—Rameshwar Lal Vs. the State of Bihar (AIR) 1968 SC 1303. But at present we are only concerned with the reasons of detention to be communicated to the Speaker immediately and not the grounds to be communicated to the detenu.

...Though in the case of a concluded matter like conviction pronounced on a reasoned judgement there would be no difficulty in informing the gist of the judgement in the telegraphic communication to be followed by a copy thereof, it would not be reasonably practicable to expect the detaining authority to furnish the grounds of detention, more so when the statute itself does not require the authority to disclose the facts which it considers to be against the public interest to disclose.

...In view of the observations herein it appears reasonable to take a view that it would be sufficient for the detaining authority to indicate the broad reasons as set out in Section 3 (1)(a)(i), (ii) or (iii) (of the Maintenance of Internal Security Act, 1971), as the case may be."

- (vii) "After examining the implications of the words 'indicating the reasons for the arrest, detention or conviction' used in rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha, the Committee feel that the language of Rule 229 does not clearly imply that the detailed 'grounds' on which the order of detention has been made in respect of a member of Parliament should be communicated to the Speaker Lok Sabha."

- (viii) "After careful consideration of all aspects of the matter, the Committee are of the opinion that in the case of detention of a member of Parliament under the Maintenance of Internal Security Act, 1971, or under any other law providing for preventive detention, it would be desirable that, in addition to citing the relevant section of the Act and giving merely the reasons for the detention as specified in that section, detailed 'grounds' of detention required to be furnished to the detenu under that law should also be

communicated to the Speaker, Lok Sabha, by the detaining authority. The contents of such communications, when received by the Speaker, may be conveyed to the members of Lok Sabha in such manner as the Speaker may deem fit.

The Committee appreciate that it may not be always feasible for the detaining authority to convey to the Speaker, Lok Sabha, such detailed 'grounds' of detention of a member of Lok Sabha immediately on his arrest and detention. Therefore, in such cases, besides sending to the Speaker immediate information regarding the arrest and detention of a member together with the reasons for his arrest and detention, a copy of the detailed 'grounds' should be sent to the Speaker Lok Sabha, simultaneously when those, grounds are supplied to the detenu under the relevant law."

- (ix) "The Committee are of the opinion that in order to make the above position clear, a suitable provision may be made in the relevant rules and necessary instructions be issued by the Government of India to all the concerned authorities of State Governments and Union Territory Administrations to the above effect."
- (x) "The Committee recommend that no further action be taken by the House in the present case of question of privilege regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P."
- (xi) "The Committee also recommend that a suitable provision be made in the relevant rules and necessary instructions¹ be issued by the Government of India to all the concerned authorities of State Governments and Union Territory Administrations that when a member of Lok Sabha is arrested and detained under the Maintenance of Internal Security Act, 1971, or under any other law providing for preventive detention, the concerned authorities should, besides sending to the Speaker immediate information regarding the arrest and detention of the member together with the reasons for his arrest and detention, send a copy of the detailed 'grounds' to the

Speaker, Lok Sabha, simultaneously when those grounds are supplied to the detenu under the relevant law providing for preventive detention."

Action taken by the House

8. No further action was taken by the House in the matter.

30

LOK SABHA
(1973)

Point of privilege

Alleged arrest and detention of a member by Police and non-intimation thereof to the Speaker

Facts of the case and reference to the Committee of Privileges

On the 20th November, 1973, Shri Krishna Chandra Halder, a member, sought to raise a question of privilege regarding his arrest and detention on the 14th November, 1973, at Burdwan (West Bengal) and non-intimation thereof to the Speaker. While raising the matter, Shri Halder stated as follows:—

"On November 14, 1973....at Burdwan.... while participating in a demonstration inside the Court Compound; I was arrested by the police at about 12 noon and was taken inside a police prison van along with a number of volunteers who were also arrested. Subsequently, along with the arrested volunteers. I was taken in the van to Galsi, about 15 miles away from the town of Burdwan and after reaching beyond Galsi, I was asked to get down from the van as also the other arrested persons. No arrangement was made by the police to take us back to Burdwan and I had to return to Burdwan with considerable difficulty. I understand no intimation has been given to you by the police or the District Administration about my arrest which, I submit, amounts to a gross breach of privilege. I participated in the movement in the discharge of my function as a member of this august house.....as it is my duty, as the elected representative of the people, to bring to the notice of the authorities the great problems and acute distress experienced by the people in the present critical economic situation in the

¹The Ministry of Home Affairs accordingly issued the necessary instructions in the matter to all the State Government and Union Territory Administrations vide their letter No. 25/12/73 Polt/21/(D.-1) dated in 25th February, 1975.

country. I say that in any event, I was unlawfully detained by the police against my wishes and as I was discharging my duties and functions as a member of Parliament, it also amounts to breach of privilege. In the circumstances, I request you to refer the matter to the Committee of Privileges so that adequate steps against the deliberate and gross breach of privilege of this hon. House on the part of the authorities concerned may be taken."

The Speaker (Dr. G.S. Dhillon), thereupon, observed as follows:—

"So far as the case of his arrest is concerned, I will get full information. As for the later part, you are discharging the duties of the House when the House is sitting in Delhi. He says, he was discharging his duties in West Bengal...I do not accept that."

3. On the 22nd December, 1973 the Minister of State in the Ministry of Home Affairs (Shri Ram Niwas Mirdha) made the following statement in the House on this matter.

"According to the information received from the State Government, on 14th November, 1973, around 12.00 hours, about a hundred followers of CPI (M) led by Shri Krishna Chandra Halder, M.P., came to Burdwan Court compound as a part of the Civil Disobedience Movement in pursuance of the call given by a few political parties in West Bengal. The procession was intercepted by the police at the entry of the court compound as prohibitory orders under section 144 Cr. P.C. were in force in the whole of the Burdwan Municipal area except Ward No. IV. Most of the demonstrators dispersed peacefully but the remaining categorically told the police that they had assembled there with an intention to disobey the prohibitory orders. As a result, 20 demonstrators were arrested and taken to Burdwan police station and a case No. 26 dated 14-11-1973 was registered in Burdwan P.S. under section 188 I.P.C.

Shri K.C. Halder, M.P. who was present nearby was repeatedly requested by the police to come to the office chamber of District Magistrate, Burdwan, to place his grievances. A vehicle was kept there to bring him to the office of the District Magistrate. Shri Halder, however, refused to go to the office of the District

Magistrate and forcibly entered into a Police van standing nearby, alongwith his followers. It was very politely pointed out to him that he had not been arrested and that he should come out of the police van but he refused to come down from the van. With a view to dispersing the crowd and to avoiding untoward situation, the demonstrators, who had already boarded the police van, were taken out of the municipal area of Burdwan, Shri Halder remained in the same vehicle voluntarily. A jeep which was kept for the M.P. also followed. After reaching Galsi Bazar, 13 miles away from court compound, all the demonstrators got down the police van. The S.I. in-charge of the police party again requested Shri Halder to come in the jeep so that he might go back to his residence or wherever he intended to go. Shri Halder replied that he would prefer to remain with his followers rather than going back in a police jeep.

Since Shri Halder was not arrested or detained by the Police no intimation regarding the incident was sent to the Speaker, Lok Sabha."

4. After a brief discussion, the Deputy Speaker (Shri G.G. Swell), who was then in the Chair, observed *inter alia* as follows:—

"I cannot just discount what the member has said, and on the other hand I cannot also say that what the West Bengal Government has said is not true. There is no way of knowing what the truth is. Therefore under these circumstances, I refer this case to the Privileges Committee".

Findings and recommendations of the Committee

5. The Committee of Privileges, after examining Shri Krishna Chandra Halder, M.P. and also Sarvashri Abdul Mannan Khan Deputy Superintendent of Police (commandant) Burdwan, and Mihir Rajan Dutta, Sub-Inspector of Police, Burdwan, who were the Police Officers concerned with the incident, in their Tenth Report presented to the House on the 30th July reported *inter alia* as follows:—

- (i) "On the basis of the evidence before the Committee, the Committee are of the view that while Shri Krishna Chandra Halder, M.P. may or may not have been formally 'arrested' on 14th November 1973, he was certainly put under restraint or detention for about three hours in the Police van at the end of which he was let off at Galsi. The

Committee are, therefore of the opinion that intimation regarding the restraint or detention of Shri Krishna Chandra Halder M.P. on that occasion should have been sent to Speaker, Lok Sabha, and failure to do so did constitute a breach of privilege."

(ii) "However, in view of the unconditional and unqualified apologies tendered both by Shri Abdul Mannan Khan, Deputy Superintendent of Police, and Shri Mihir Rajan Dutta, Sub-Inspector of Police, the Committee feel that no further action need be taken in the matter and it may be dropped."

(iii) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

6. No further action was taken by the House in the matter.

31

LOK SABHA
(1973)

Point of privilege

Alleged arrest and detention of a member by Police and non-intimation thereof to the Speaker.

Facts of the case and ruling by the Speaker

On the 26th November, 1973, Shri Saroj Mukherjee, a member, gave notice of a question of privilege against the Commissioner of Police, Calcutta and Home Secretary, Government of West Bengal, for his alleged arrest and detention in Calcutta on the 15th November, 1973, and non-intimation thereof to the Speaker. Shri Mukherjee stated in his notice that he and some other members of Parliament and a few hundred persons who violated Section 144, Cr. P.C. before the Raj Bhawan in Calcutta were arrested and taken to a special court set up provisionally in the Presidency Jail, Calcutta, where they were detained till 10 P.M.

2. On the 21st February, 1974 the Minister of State in the Ministry of Home Affairs (Shri Ram Niwas Mirdha) made *inter alia* the following statement:

"Sir, on the 26th November, 1973, Shri Saroj Mukherjee, M.P., wrote to the Speaker, Lok Sabha regarding the circumstances of his alleged arrest by Calcutta police on the 15th November, 1973 and their alleged failure to

intimate the Speaker about the fact of arrest. Shri Mukherjee stated in his letter that this involved a breach of his privilege as member of Parliament.

Shri Mukherjee's letter was forwarded to the Home Minister by the Minister of Parliamentary Affairs the same day. The Government of West Bengal were requested by the Ministry of Home Affairs the same day *i.e.* the 26th November 1973, in a wireless message to intimate the connected facts. The State Government sent their reply on the 3rd December 1973, and a copy of the report was sent to the Lok Sabha Secretariat on the 7th December, 1973.

According to the report of the State Government, nine political parties took out a procession as a part of their civil disobedience movement on 15th November, 1973, in Calcutta from Raja Subodh Mullick Square and the procession was led by leaders of those parties including Shri Saroj Mukherjee, M.P.

On reaching Esplanade Row East, the processionist became violent, broke through police cordon and started brick-batting. The police arrested 160 persons. None of the leaders was arrested. When arrested persons were being removed to Presidency Jail. Calcutta Shri Saroj Mukherjee, M.P. and some other leaders, insisted on accompanying the arrested persons although they were told by the officer-incharge of the police party at Esplanade Row East that they were not under arrest. Shri Saroj Mukherjee, M.P., alongwith other leaders, arrived at Presidency Jail gate the same afternoon.

Of the 610 persons arrested by the Police 500 were lodged in the Presidency Jail. The remaining 110 persons were discharged by the Magistrate. At Presidency Jail gate, Shri Saroj Mukherjee, M.P. alongwith some other leftist leaders, took their seats in a tent near jail gate. They were again told by the officer-incharge of the police party that they were not under arrest and they were also requested to leave the place. Shri Saroj Mukherjee, M.P. and the other leaders, however, insisted on staying near the gate and told the police officers that they would not leave the place till the arrested persons were lodged inside the jail. After the arrested persons were lodged

inside the jail, Shri Saroj Mukherjee, M.P. and other leaders were escorted back home by the police from outside the jail gate at their own request."

3. When Shri Jyotirmoy Bosu, another member, insisted that the Minister had made an incorrect statement that Shri Saroj Mukherjee had, in fact, been arrested and that the matter be referred to Committee of Privileges, the Speaker (Dr. G.S. Dhillon) disallowed the question of privilege and observed:—

"They say he was not arrested. If he had been illegally detained he can go to the Court. The House is not here to judge it..... I have no powers to judge whether it was an arrest or he was in illegal custody. It is the Court which has to decide it..... The House has no powers to say whether he was in illegal custody or not. If he was in illegal custody, then one can go to the Court. The Speaker cannot perform the functions of the Court."

32

LOK SABHA
(1976)

Point of privilege

Alleged detention and release of a member and non-intimation thereof to the Speaker.

Facts of the case and ruling by the Speaker

On the 27th January, 1976 Kumari Maniben Patel, a member sought to raise a question of privilege regarding her alleged detention and subsequent release by police on the 12th December, 1975 and non-intimation thereof to the Speaker. While raising the question of privilege, Kumari Maniben Patel stated as follows:—

"On the 12th December, 1975, at 4 P.M., when I resorted to *Satyagrah* in Chandni Chowk, Delhi the police arrested me and took me to Kashmir Gate Police Station. After being detained there for three hours I was released and dropped at my house by the Police itself. Information to this effect was neither published in any Bulletin of Lok Sabha nor was it conveyed to the House.

It appears that the Police authorities did not inform the hon. Speaker about my arrest and detention for three hours at the Police Station and release. Thus it amounts to breach of my privilege as an M.P. as well as of the House. I,

therefore, suggest that this matter may be referred to the Committee of Privileges."

2. Thereupon, the Speaker (Shri B.R. Bhagat) observed as follows:—

"The Home Minister will make enquiries and bring up this matter."

3. On the 5th February, 1976, the Minister of State in the Ministry of Home Affairs (Shri Om Mehta) made the following statement:—

"Sir, according to a report received from the Delhi Administration, Delhi Police had information about the intended demonstration against emergency by some persons at Chandni Chowk on 12th December, 1975. Appropriate arrangements were made for maintenance of law and order under the supervision of senior officers. Around 4.30 P.M. some persons came in different groups to that area and shouted anti-emergency slogans. The slogans raised by the demonstrators attracted notice by the general crowd in that area, and some tension started building up. The police thereupon arrested some demonstrators as a preventive measure. The tension continued. Kumari Maniben Patel, M.P., was also seen standing near the place of trouble. "The police officers on the spot felt that if Kumari Maniben Patel was allowed to remain there, she might get caught up in the midst of the agitated crowd and some harm may be caused to her person. She was, therefore, taken to the Kashmir Gate Police Station in a police jeep, in the interests of her security. At the police station she was given facilities for brief rest. After the crowds subsided and the area become normal, she was escorted in a police vehicle to her residence. Kumari Maniben Patel was not arrested by the Police."

4. After a brief discussion in which Kumari Maniben Patel and Sarvashri H.M. Patel and Dasaratha Deb questioned the Minister's version, the Speaker disallowed the question of privilege and observed *inter alia* as follows:—

"If there is a doubt about the veracity of the fact then we cannot do anything. There must be a finality about it. When the statement is made (by the Minister), we cannot do anything. The Chair has no means to investigate. This is not a case for Privileges Committee.... I think, we should not go into this matter further because the Minister has denied that she has been

arrested. Therefore, at this stage, I think, let us conclude this."

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LOK SABHA
(1977)

Point of Privilege

Alleged wrong and slanderous information regarding arrest of a member sent to Speaker by authority concerned.

Facts of the case and ruling by the Speaker

On the 11th November, 1977, Shri M. Kalyanasundaram, a member, gave notice of a question of privilege against the Station House Officer, Tughlak Road Police Station, New Delhi, for sending alleged wrong slanderous and malicious information to the Speaker regarding the arrest of Shri C.K. Chandrappan, another member, under sections 112 and 117 of the Bombay Police Act, for creating 'rowdyism' in a public place on the 28th October, 1977.

The following information sent to the Speaker by the Station House Officer, Tughlak Road Police Station, New Delhi, was published in the Lok Sabha Bulletin—Part II, dated the 29th October, 1977.

"I have the honour to inform you that I found it my duty, in exercise of my powers under Section 112/117, Bombay Police Act, to direct that Shri C.K. Chandrappan, Member of Lok Sabha, to be arrested for creating rowdyism in public place, on the round-about of Safdarjang Road and Race Course Road and causing obstruction to the flow of traffic and inconvenience to the public."

Shri Kalyanasundaram contended that the action of the concerned Police Officer in characterising the action of Shri Chandrappan as 'rowdyism' was calculated to bring down his prestige and dignity in the eyes of the public.

2. As directed by the Speaker, the matter was referred to the Ministry of Home Affairs for their comments.

3. The factual comments furnished by the Ministry of Home Affairs on the matter, together with the explanation of the concerned Police Officer expressing his regret for the use of the word 'rowdyism' were communicated to Shri Kalyanasundaram.

4. On the 29th November, 1977 Shri M. Kalyanasundaram sought to raise the matter in the

House and stated that he had no objection to accepting the regret of the Station House Officer, but his regret should be communicated to the members as the information about the arrest of Shri Chandrappan was circulated to all the members. The Speaker agreed and the following extracts from a communication dated the 16th November, 1977, from the Station House Officer Tughlak Road Station, New Delhi, received through the Ministry of Home Affairs, were published in the Lok Sabha Bulletin—Part II, dated the 29th November, 1977:—

"On 28-10-1977, Shri C.K. Chandrappan Hon'ble Member of Parliament was arrested from near the official residence of the Hon'ble Prime Minister of India, No. 1, Safdarjang Road, New Delhi. The Hon'ble MP was leading a big demonstration of the Delhi State Youth Federation in collaboration with Delhi State Students Federation comprising of about 200 people.

.

The information with respect to the arrest of the Hon'ble MP was submitted by me to the Hon'ble Speaker immediately afterward in writing... The word 'rowdyism' was meant for the demonstration and the incident and not the Hon'ble M.P. My intention was not to injure the feelings of the Hon'ble MP in any manner.

.

It was never my intention to annoy the Hon'ble M.P. I would like to express my regrets if the feelings of the Hon'ble MP are hurt by inadvertent use of the word 'rowdyism' in my report to the Hon'ble Speaker".

34

LOK SABHA
(1982)

Point of privilege

Alleged delay in sending intimation about the arrest of a member

Facts of the case and ruling by the Speaker

On 13th October, 1982, the Deputy Speaker (Shri G. Lakshmanan) informed the House as follows:—

"I have to inform the House that the Speaker has received the following Teleprinter message dated 12 October, 1982, from the District Magistrate, Patna, today:—

"Today (12-10-82) Shri Jagpal Singh, member of

Parliament, has been arrested at Patna in connection with Kotwali Police Station case No. 1017/82 under sections 147/149/333/337/323 I.P.C."

2. On 20th October, 1982 when Shri Mani Ram Bagri, a member, sought to raise a question of privilege against the District Magistrate, Patna, regarding alleged delay in sending intimation by him about the arrest of Shri Jagpal Singh, the Speaker (Dr. Bal Ram Jakhar) observed as follows:—

"Shri Mani Ram Bagri has given notice of a question of privilege regarding alleged delay in sending intimation by the District Magistrate, Patna, about the arrest of Shri Jagpal Singh, M.P.

A Teleprinter message dated 12 October, 1982, from the District Magistrate of Patna regarding arrest of Shri Jagpal Singh was received on 13th October, 1982, and announced in the House the same day.

The Ministry of Home Affairs has informed me that the delay somehow occurred in its transmission. The District Magistrate Patna, has expressed regret.

In view of the regret expressed by the District Magistrate, Patna, the matter may be treated as closed."

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LOK SABHA
(1985)

Point of privilege

(i) *Non-intimation of the alleged arrest of a member to the Speaker*

(ii) *Publication of a misleading news item in a newspaper regarding intimation of the arrest of the member*

Facts of the case and ruling by the Speaker

The Speaker (Dr. Bal Ram Jakhar) observed on 3rd December, 1985 as follows:—

"I had received notices of a question of privilege from Shrimati Geeta Mukherjee and Shri S. Jaipal Reddy on 25th and 26th November, 1985 respectively, against the Commissioner of Police, Calcutta, for his failure to inform the Speaker about the alleged arrest of a member of this House in Calcutta on 19th September, 1985. When some members sought to raise the matter in the House on 25th November, 1985, I

told them that I had not been intimated about any arrest. I said, 'I have got certain information which does not pertain to and does not specifically mention about any M.P.'

On 25th November, 1985, I received another notice of question of privilege signed jointly by Sarvashri Basudeb Acharya, Saifuddin Chaudhury, Ajit Kumar Saha, Ananda Pathak and Anil Basu, against 'The Telegraph' for publishing a news item to the effect that the Speaker had been duly informed about the arrest of the member. Since the Speaker had denied receipt of such information, the members alleged that 'The Telegraph' had committed a breach of privilege of the House.

On 25th November, 1985 itself, I referred the matter to the Ministry of Home Affairs for facts.

On 26th November, 1985, when the matter was again sought to be raised in the House by some members, I informed the House that I had received an ambiguous communication on 18th November, 1985. No notice of this could be taken as it was unsigned. No official intimation by phone, telegram, telex or letter was received by me. At 5.20 p.m. on that day, i.e. 26th November, 1985 I received a copy of a crash teleprinter message dated 17th November, 1985 from the Deputy Secretary to the Government of West Bengal, Home (Political) Department, through the Ministry of Home Affairs. This also did not contain any specific and categorical statement regarding the arrest of a member of Parliament. To quote, it said, '.....The arrested person appears to be identical with Shri Prakash Chandra, M.P. from Bihar.....' The message also referred to the tally of signatures, identification of photographs, etc.

On 2nd December, 1985 I received a communication dated 29th November, 1985 from the Commissioner of Police, Calcutta, intimating *inter alia* that 'Shri Prakash Chandra was arrested in connection with Park Street PS case No. 579 dated 19.9.85 under sections 3, 4, 5, 6 and 7 of Suppression of Immoral Traffic in Women and Girls Act, 1956..... It was given out by Shri Prakash Chandra that he was a resident of 11 Dacres Lane, P.S. Hare Street, Calcutta. It was not divulged by him at the Police Station that he was an M.P. at any point of time..... A photograph of Shri Prakash Chandra, M.P. of Bihar was published in the

weekly "Sunday" dated 10.11.1985. The officers who had conducted raids on 19.9.85 could identify the said photograph as that of the person Prakash Chandra who was arrested on 19.9.85 It appears from the facts ascertained during investigation that the arrested person who gave out his name as Prakash Chandra, S/o Prabir Chandra, was in fact Shri Prakash Chandra, MP of Bihar..... The report of the Director, Questioned Document Examination Bureau, CID, West Bengal, was received on 17.11.85 which for the first time confirmed that the arrested person was Shri Prakash Chandra, MP and the same evening (17.11.85) a report was sent addressed to the Hon'ble Speaker, Lok Sabha, through the quickest possible means—the teleprinter service of Subsidiary Intelligence Bureau, Calcutta. Shri D.C. Nath, Deputy Director, SIB, Calcutta, later informed that as the teleprinter service was closed at the time when the message was received, the message was sent through telephone on 17.11.85 to Control Room, Intelligence Bureau, Ministry of Home Affairs, New Delhi, for transmission to you. It was sent again through teleprinter the next morning (18.11.85) at 09.20 hours vide TPM No. 1329 dated 18.11.85 to Control Room of Intelligence Bureau, Ministry of Home Affairs, New Delhi.'

I find that even this communication of 2nd December, 1985 is not unequivocal in stating that the person arrested was a member of Parliament in as much as it uses the language. 'It appears..... etc.'

As I have already stated, I did not take any note of the unsigned communication and in the absence of any further authentic/official information, I referred the matter to the Ministry of Home Affairs as soon as the question was raised in the House. If the teleprinter service was not working, the local authorities should have found it possible to send the communication directly to me or to my office through telephone or telegram. This was not done.

The Member, Shri Prakash Chandra, has also since written to me (on 2nd December) categorically denying his involvement in the alleged incident in Calcutta and questioning the veracity of the Statements in the Police Commissioner's Report.

The whole matter, including that of the identity of the person involved in the incident, is before the court. As the matter is *sub-judice*, as per well-established practice, no further action is called for at this stage. I, therefore, do not give my consent to the questions of privilege given notice of by Smt. Geeta Mukherjee, Shri Jaipal Reddy, Shri Basudeb Acharia and others."

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LOK SABHA
(1987)

Point of privilege

Alleged non-intimation of arrest/detention of a member and giving of wrong information to the Speaker and through him to the House

Facts of the case and reference to the Committee of Privileges

On 16th November, 1987, at about 3.30 P.M. when some members sought to raise in the House the question of alleged arrest/detention of Shri Vidya Charan Shukla, M.P. by Police on that day, the Speaker informed the House that "I will try to find out what is happening and then report back to the House". Immediately, thereafter, the Speaker asked the Minister of Parliamentary Affairs to ascertain the facts of the case so that he could apprise the House of the correct position.

2. At 17.14 hours on the same day, the Deputy Speaker on the basis of information received from the Minister of State for Parliamentary Affairs (Shrimati Sheila Dikshit) informed the House as follows:—

"Hon. members, I want to inform the House that it has been ascertained from the police authorities that no arrest or detention of hon. member of Parliament Shri V.C. Shukla took place today, i.e. 16th November, 1987."

3. On 17th November, 1987, the Speaker, while referring the matter to the Committee of Privileges observed *inter alia* as follows:—

".....last night at 9.30 PM, I received at my residence a communication from the Station House Officer, Lodhi Colony Police Station, informing me that Shri V.C. Shukla, member of Parliament was detained from 12.30 PM.

This is a very serious matter involving the prestige, rights and privileges of this House and of its members. The questions that raise are:

(i) If Shri V.C. Shukla was actually detained at 12.30 PM by the Delhi Police why was the

Speaker not *immediately* informed of the detention particularly when the House was in session and the detention was taking place in Delhi itself and there could hardly be any difficulty in immediate communication?

- (ii) Why wrong information was given to the Speaker and through him to the House to the effect that Shri Shukla had not been detained while actually he was detained for 3-1/2 hours?

Since, I was satisfied that there was a *prima facie* case needing enquiry, I had already decided to refer the matter to the Privileges Committee when at 10.50 A.M. today morning, I received a communication from the Commissioner of Police, Delhi, narrating in detail the sequence of events. According to him, Shri V.C. Shukla actually travelled in his own car to the Police Station in Lodhi Colony and 'demanded that he too should be detained with his supporters. He continued to sit in SHO's office without any restraint on him throughout the period. Since his supporters were in agitated mood and shouting slogans even in the Police Station, SHO Lodhi Colony who by then had returned from the Court did not consider it prudent to let them go immediately and detained them under Delhi Police Act from 12.30 PM to 4.00 PM. Shri Shukla's name was included in the list of his own insistence.'

Also I have since received notices of privilege from Hon'ble members Sarvashri K.P. Unnikrishnan, Arif Mohammed Khan and Jaipal Reddy. I am convinced that there is a *prima facie* case for enquiry. All aspects of the matter may therefore, be looked into by the Privileges Committee who may make an early inquiry on high priority basis and report to the House."

4. Subsequently, two further notices received from Sarvashri Vidya Charan Shukla and Raj Kumar Rai, MPs were' also referred by the Speaker to the Committee for their consideration.

Findings and recommendations of the Committee

5. The Committee of Privileges after examining in person Shri Vidyacharan Shukla, MP, Shri V.P. Marwah, Commissioner of Police, Delhi, Shri V. Ranganathan, Assistant Commissioner of Police (South), New Delhi, Shri P.R.S. Brar, Deputy Commissioner of Police (South), New Delhi, Shri Mansoor Ali Sayid, Additional Deputy Commissioner of Police (South), New Delhi and

Shri Rajendra Kumar, Station House Officer, Police Station Lodhi Colony, New Delhi, in their Third Report presented to the House on the 5th September, 1988, reported *inter alia* as follows:—

- (i) "The Committee note that Shri Rajendra Kumar, Station House Officer, Police Station Lodhi Colony did not send the communication regarding arrest/detention of Shri Vidyacharan Shukla, MP, to the Speaker, Lok Sabha, on 16th November, 1987 *immediately* as laid down in rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha. The Committee find that the Communication was neither in the prescribed form nor was it addressed to the Speaker, Lok Sabha. According to the said communication, Shri Shukla was detained at Police Station Lodhi Colony from 12.30 to 4.00 P.M. but the Speaker received it at his residence at 9.30 PM, on 16th November, 1987 *i.e.*, much after an announcement was made by the Deputy Speaker in the House at 17.14 hours based on the information received from the Minister of State for Parliamentary Affairs that '..... it has been ascertained from the Police authorities that no arrest or detention of hon. member of Parliament, Shri V.C. Shukla took place today, *i.e.*, 16th November, 1987'."
- (ii) "The Committee further note that Shri P.R.S. Brar, Deputy Commissioner of Police (South) has stated during the course of his evidence before the Committee, that he had informed the Commissioner of Police at 3.30 PM that Shri Shukla was neither arrested nor detained. Before giving this information to the Commissioner of Police (Shri V.P. Marwah), he had not ascertained the position from the Station House Officer, Police Station Lodhi Colony. The Commissioner of Police, Delhi, during his evidence before the Committee had stated that Shri Brar, Deputy Commissioner of Police (South) spoke to him on telephone on that day and gave him 'a categorical answer that Shri Shukla had not been detained.' According to Shri V.P. Marwah, Shri Brar should have re-checked the position from the Police Station, which he did not do."
- (iii) "After careful consideration of the evidence and other documents provided to them, the Committee have come to the conclusion that the Station House Officer, Police Station Lodhi Colony (Shri Rajendra Kumar) did not

send the intimation regarding the arrest/detention of Shri Shukla to the Speaker *immediately* as required under the Rules, particularly, when the House was in session and the detention took place in Delhi itself. The Committee also find that the manner in which the communication was written by S.H.O. was also casual as it had not been addressed to anyone.

As regards the Deputy Commissioner of Police (South) Shri P.R.S. Brar, the Committee have come to the conclusion that being a responsible police officer, he did not care to make a proper enquiry from the Police Station Lodhi Colony before informing the Commissioner of Police (Shri V.P. Marwah), which ultimately resulted in the latter giving wrong information to the Minister of State for Home Affairs for passing it on to the Speaker, Lok Sabha and through him to the House to the effect that Shri Shukla had not been detained while actually he was detained for 3½ hours."

- (iv) "The Committee are of the view that—(i) Shri Shukla was actually detained for 3½ hours on 16th November, 1987;
- (ii) there was inordinate delay on the part of Station House Officer, Police Station Lodhi Colony in sending a proper intimation to the Speaker, Lok Sabha regarding the said detention/release of Shri Vidyacharan Shukla, M.P.; and
- (iii) the Deputy Commissioner of Police (South) instead of first checking up the correct position from Station House Officer, Police Station Lodhi Colony gave wrong information to the Commissioner of Police for onward transmission to the Speaker, Lok Sabha."
- (v) "The Committee decided that Sarvashri Rajendra Kumar and P.R.S. Brar be called again to appear before the Committee in person to explain what they had to say in the matter in view of the above findings of the Committee.

When Shri Rajendra Kumar was apprised of the findings of the Committee, he promptly tendered unconditional apology for his conduct.

Shri P.R.S. Brar who was also apprised of

the findings of the Committee, while maintaining that he had no intention to show any disrespect to Shri Vidyacharan Shukla, Submitted *inter-alia* as follows:—

'.....I do now realise that it was a mistake. And I should have done thatI do feel regret. I do really apologise that I have caused this discomfiture and I have hurt the feelings of the Hon'ble Committee..... I am sorry and I express my unqualified apology."

- (vi) 'In view of the unconditional and unqualified apologies tendered by Shri Rajendra Kumar and Shri P.R.S. Brar, the Committee are of the opinion that no further action need be taken in the matter and it may be dropped.'
- (vii) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

6. No further action was taken by the House in the matter.

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**LOK SABHA
(1991)**

Point of privilege

Alleged arrest of a member by police and non-intimation thereof to the Speaker

Facts of the case and reference to the Committee of Privileges

On 6 November, 1991, a teleprinter message addressed to the Speaker, Lok Sabha, was received from the Personal Assistant to Kumari Frida Topno, MP, informing about the arrest of Kumari Frida Topno, MP, at 4.30 P.M. on 2 November, 1991, by Orissa Police at Rourkela.

2. As directed by the Speaker, Lok Sabha, the matter was referred to the Ministry of Home Affairs for furnishing a factual note on the matter.

3. On 10 November, 1991, Kumari Frida Topno, MP, gave notice of a question of privilege regarding her alleged arrest at Rourkela on 2 November, 1991. In her notice of question of privilege, Kumari Frida Topno, MP, stated *inter alia* as follows:—

"On 2nd November, 1991 I had gone to the office of the Executive Officer, Notified Area Council (Steel Township) Rourkela, alongwith some hundred fifty ladies and 100 men for a discussion regarding certain problems pertaining

to Sarla Mahila Samitti. While the discussion was going on in presence of Police Officer in-charge of Sector 7 Police Station, suddenly a group of Janata Dal hooligans using very abusive language against me and the ladies forcibly entered the conference hall and took away the Executive Officer. When we came out of the conference hall these Janata Dal goondas started throwing stones on us and demanded my arrest. The DSP Mr. R.K. Biswal on duty then arrested me. All 150 ladies and about 100 men were also arrested. The police detained me and the ladies in the Police Station from 6.30 P.M. to 5.00 A.M. No police officials such as DIG, or SP police Rourkela or the civil administration such as Collector or ADM visited the Police Station. I told the Collector about my arrest at 12.30 A.M. who was in the Circuit House hardly 2 Kms. from the Police Station but he did not come to the Police Station."

4. On 22 November, 1991, when Kumari Frida Topno, MP, sought to raise the matter in the House, the Speaker, Lok Sabha, observed as follows:—

"Madam, I have received your notice of privilege motion. I have to find out the facts. I am looking into it.... Please do not raise it now. After we get the facts, we will deal with it."

When Shri K. P. Singh Deo, MP, stated that it was a serious matter since Kumari Frida Topno was arrested and no intimation had been received about her arrest, the Speaker, Lok Sabha observed as follows:—

"....The letter which she has written to me is in my possession. I have read the letter and I shall have to take a decision as to whether it constitutes a breach of privilege or not only after getting the information. I will be the first person to protect the privilege of the members... As I am having some doubt about it, I have called for the information. I will take a decision after I receive the facts."

5. On 12 December, 1991, Kumari Frida Topno, MP, sought to raise the matter again in the House and on consent being granted by the Speaker, Lok Sabha, stated as follows:—

"Sir, on the request of the Executive Officer of NAC(ST) I have gone to his office on 2-11-1991 at 2.30 P.M. for a discussion pertaining to the change of the President of Sarla Mahila Samiti of Timber Colony, Rourkela. While the

discussion was going on, some twenty hooligans forcibly entered the hall, misbehaved with the ladies and used filthy language against me and the ladies. They took away the Executive officer.

Suddenly, some more hooligans came at the gate and started throwing stones on us. They created law and order problem and demanded my arrest. Some 150 ladies and 100 men were arrested with me by Shri R.K. Biswal, DSP on duty. We were taken in a police van to Sector 7 police station at 6.30 P.M and were detained there till 4.30 A.M. of 3-11-1991.

It was raining throughout the night and we were kept sitting on the verandah of the Police Station. The District Civil and Police Administration did not care to come to the Police Station to solve the problem. The District Magistrate who was camping at Rourkela also did not come to the Police Station.

Mr. Speaker, Sir, in this august House, I appeal to you to refer the matter to the Privileges Committee of this House and request that necessary action may be taken immediately against the officials responsible for such an incident, which is uncalled for."

6. The Speaker, thereupon, observed as follows:—

"This was a matter which was brought to my notice. I had asked for the explanation on 8.11.1991. Reminders were sent on 15.11.1991, 19.11.91, 22.11.91 and 25.11.91. Then, the show cause notice as to why the privilege notice should not be admitted was given on 27.11.91 and on 29.11.91.

Again there were letters sent on 6.12.91 and again on 12.12.91.

In spite of so many letters, nothing has been done. That is why, I am referring this matter to the Privileges Committee for taking stringent action....

"...I am referring this matter to the Privileges Committee and I will request the Privileges Committee to submit the report in the shortest time. And if the Privileges Committee comes to the conclusion that there is some mistake—real mistake—then we would take stringent action on it."

Findings and recommendations of the Committee

7. The Committee of Privileges after examining in person Kumari Frida Topno, MP, Shri R.K. Rath, Chief Secretary, Government of Orissa, Shri Gunanidhi Jena, Executive Officer, Notified Area Council (Steel Township), Rourkela, Shri R.K. Biswal, Deputy Superintendent of Police, Rourkela, Shri Jogendra Patnaik, Officer-in-charge, Sector 7 Police Station, Rourkela, Shri S.K. Pradhan, Superintendent of Police, Rourkela, Shri B.C. Patnaik, Home Secretary, Government of Orissa, Shri P.C. Mitra, District Magistrate, Sundergarh, Shri A.C. Jena, Inspector-in-charge, Sector 3 Police Station, Rourkela, Shri Kalucharan Chhotray, Junior Clerk, Notified Area Council (Steel Township) Rourkela and Dr. Madhav Godbole, Secretary, Ministry of Home Affairs, Government of India, in their First Report presented to the House on 11 August, 1992 reported *inter-alia* as follows:—

- (i) "At the outset, the Committee felt that two issues were broadly involved in the case:
 - (a) Whether Kumari Frida Topno, MP, was detained on 2 November, 1991 by Orissa Police at Sector 7 Police Station, Rourkela? If so, whether non-intimation thereof to the Speaker, Lok Sabha, amounted to a breach of privilege and contempt of the House? and
 - (b) Whether the instructions issued from time to time by the Government of India to the State Governments, Union Territories Administrations and others regarding (i) official dealings between the Administration and Members of Parliament and State Legislatures, and (ii) immediate intimation required to be given to the Speaker, Lok Sabha/Chairman, Rajya Sabha, about arrest/detention/release, etc. of MPs, were comprehensive enough to leave no scope for non-compliance therewith? If not, whether any review of the said guidelines was called for with a view to suggesting suitable modifications in the guidelines to the Government of India to make them more broad-based and comprehensive?

The Committee decided to deal with both the issues separately."

- (ii) "The Committee note that none of the officers of the Orissa Government examined by the Committee could give any plausible

explanation for the act of removing Kumari Frida Topno, MP, and her supporters from the Notified Area Council Office where they were, as per the version of the officers, holding a meeting with the Executive Officer, NAC, peacefully. In spite of admitting that apprehension of breach of peace, if any, was from the crowd of hooligans who had gathered outside the gate of the Notified Area Council office and were raising slogans and filthy abuses against Kumari Frida topno, neither Shri Jogendra Patnaik—who was instrumental in removing Kumari Frida Topno from the Notified Area Council Office, nor Shri R.K. Biswal—who was the senior most police officer on the spot—could explain, with any conviction, as to what prompted them to remove Kumari Frida Topno and her supporters from there instead of arresting and removing those persons who were threatening the member and from whom there was a genuine apprehension of breach of peace."

- (iii) "The Committee are disinclined to believe the story put forth by the concerned police officers that after the removal from the Notified Area Council office of Kumari Frida Topno, MP, and her supporters they were taken to the Sector 7 Police Station, Rourkela, out of their (police officers') concern for the security of the member and her supporters. Shri Jogendra Patnaik is on record as having stated that 'they (Kumari Frida Topno and her supporters) asked us to take them out and leave them somewhere.' In the face of such an admission by Shri Patnaik, it seems illogical as to why he should have taken Kumari Frida Topno and her supporters to the Sector 7 Police Station, Rourkela, unless the intention was to detain or arrest them. The behaviour of Shri Patnaik becomes all the more questionable in his subsequent action in letting Kumari Frida Topno, MP, go at about 4.30 A.M. in night on 3 November, 1991 (a time which cannot be said to be safe by any stretch of imagination)."
- (iv) "The Committee note that two different versions have been given at two different places by Shri Jogindra Patnaik in his

evidence before the Committee about the reason behind Kumari Frida Topno's insistence to remain in Sector 7 Police Station, Rourkela. At one place, he says, 'the hon. member said since we have come to the police station in a police vehicle, unless we are shown as arrested, we will lose our political standing before the other party.' At another, he states, 'they demanded 'we could not be successful in selecting our President. Collector, SP or ADM should come. They should give us the date when elections should take place. Unless date is given by any senior officer of the District Administration, we are not going to vacate the police stations'."

- (v) On the contrary, Shri Sushil Kumar Pradhan, Superintendent of Police, Rourkela, advanced an altogether different plea for Kumari Frida Topno's prolonged presence in the police station by stating, 'the MP herself insisted on her arrest alongwith the supporters (who had been arrested at Sector 7 Police Station on the basis of the First Information Report lodged by the Executive Officer, Notified Area Council, Rourkela) and that only if they (her supporters) are released, she would leave. It was in this capacity that she continued to be in the police station'."
- (vi) "This continuous shifting of the plea by the concerned police officers, when seen in the backdrop of the admission by the Chief Secretary, Government of Orissa, that the police officers made a mistake in bringing Kumari Frida Topno and her supporters in a police van to the police station and a second mistake in not sending intimation to the Speaker, Lok Sabha, about the same, leaves the Committee in no manner of doubt that there could have been no other intention in taking Kumari Frida Topno to the police station but to detain or arrest her there. The Committee are not at all convinced that Kumari Frida Topno, MP, could have chosen of her own accord — or for that matter any normal human being would willingly choose—to remain in a police station in the night for more than ten hours, as the police officers would have the

Committee believe."

- (vii) "The Committee, however, note that whereas on the one hand Kumari Frida Topno, MP, repeatedly stated that it was Shri R.K. Biswal, DSP, Rourkela, who had ordered her arrest and also informed her that he was arresting her. According to him, his role at the Notified Area Council office on the relevant date was limited to controlling the crowd that had gathered outside the Notified Area Council office gate and was raising slogans against Kumari Frida Topno and her supporters. He also stated that he neither went inside the Notified Area Council office nor met or talked with Kumari Frida Topno; he also did not see Kumari Frida Topno boarding the police van."
- (viii) "The Committee also note that Kumari Frida Topno was specifically asked when she appeared before the Committee a second time, as to whether she was sure that she was arrested by Shri R.K. Biswal, she reiterated her earlier statement that Shri R.K. Biswal had arrested her."
- (ix) "Shri R.K. Biswal, Deputy Superintendent of Police, Rourkela, however, denied when he appeared before the Committee once again, that he had arrested Kumari Frida Topno, MP. He stated that if the member had got an impression that he was responsible for effecting her arrest, he was sorry for that."
- (x) "After considering the contradictory statements made by Kumari Frida Topno, MP, and Shri R.K. Biswal, Deputy Superintendent of Police, Rourkela, as stated above, the Committee have no reason to disbelieve the version of the hon. member of Parliament that she was arrested on 2 November, 1991 at Rourkela. The Committee have arrived at the conclusion that Shri R.K. Biswal did, in fact, verbally convey to Kumari Frida Topno that she was under arrest. This conclusion of the Committee is further fortified by subsequent events where Kumari Frida Topno was kept in Sector 7 Police Station, Rourkela, for about ten hours."

- (xi) "The Committee feel that keeping Kumari Frida Topno at Sector 7 Police Station for about ten hours was an overt act which, though it might not have been a technical arrest definitely amounted to putting her under detention or restraint."
- (xii) "The Committee, therefore, hold that Shri R.K. Biswal, Deputy Superintendent of Police, Rourkela, was responsible for the detention of Kumari Frida Topno, MP. He should have ensured that the information relating to detention/restraint of Kumari Frida Topno was communicated to the Speaker, Lok Sabha, promptly as required under rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha."
- (xiii) "Since non-intimation of arrest/detention etc. of a member of Lok Sabha to the Speaker, Lok Sabha, amounts to a breach of privilege and contempt of the House, the Committee have arrived at the conclusion that a gross breach of privilege and contempt of the House has been committed in not sending immediate intimation about the detention/restraint of Kumari Frida Topno, MP, at Sector 7 Police Station, Rourkela, on 2 November, 1991."
- (xiv) "However, taking into consideration the totality of the circumstances and facts of the case and in view of the regret expressed by Shri R.K. Biswal, Deputy Superintendent of Police, Rourkela, and other senior officers of the Orissa Government, the Committee feel that the House would best consult its own dignity by taking no further action in the matters."
- (xv) "The Committee wish to bring on record the apathy and total lack of concern shown by senior officers like District Magistrate, Sundargarh, and Superintendent of Police, Rourkela, in not reacting to the situation with alacrity expected of such high ranking officers. These officers failed to respond to Kumari Frida Topno's repeated requests to them on telephone to come to the police station and discuss the matter with her. Had these officers gone to the police station, the Committee feel, the situation could have been diffused on the spot and the things would not have reached such a pass where a member of Parliament had to stay in a police station for the better part of a night."
- (xvi) "As a matter of fact, the Chief Secretary, Government of Orissa, when he appeared before them for oral evidence, agreed with the Committee that the officers should have visited the member of Parliament at the police station. He also assured that he would advise the officers to be careful in future."
- (xvii) "The Committee also wish to express their extreme displeasure at the role of the Executive Officer, Notified Area Council (Steel Township), Rourkela (Shri Gunanidhi Jena), in this whole unhappy episode. Shri Jena, during his evidence before the Committee seemed to be overcager to use the word 'rescue' with regard to Kumari Frida Topno's removal from the premises of Notified Area Council office. When asked to state the reason for using the word "rescue" first he said that that was the impression he had gathered but later on changed his statement to say that he was told by the staff of Notified Area Council office that Kumari Frida Topno had been rescued by the police. He also gave a very amusing and funny explanation that Kumari Frida Topno and her supporters were in 'rescue' when they were being taken by the police towards the police van and they were under 'arrest' when they boarded the police van."
- (xviii) "The Committee are not satisfied with the unconvincing explanation given by Shri Gunanidhi Jena for the delay of about 10 hours in lodging the First Information Report by him about the incident. It is hard to believe that Executive Officer took 10 hours in lodging the FIR because, as stated by him, he was 'tense'. The Committee also deprecate the conduct of the Executive Officer in falsely implicating Kumari Frida Topno in the FIR, on the basis of hearsay information, as having arrived in the Notified Area Council office with lathis and lethal weapons which was later on found to be unfounded and incorrect."

- (xix) "The Committee are constrained to observe that the conduct of the Executive Officer, Notified Area Council, was not at all in keeping with the standards expected of a responsible Government officer. The Committee desire that suitable action be taken against him by the Government of Orissa for making false and baseless allegations, on the basis of hearsay information, against Kumari Frida Topno, MP, in the FIR lodged by him in Sector 7 Police Station, Rourkela, on 2 November, 1991 without bothering to first verify the veracity of those allegations."
- (xx) "The Committee note that instructions have been issued from time to time by the Government of India to State Governments/ Union Territories Administrations regarding norms of official dealings between Administration and members of Parliament. These instructions require the Government Officers to show all courtesies to members of Parliament. It need hardly be emphasised that small gestures and courtesies go a long way in showing the concern and respect of the Administration towards the elected representatives of the people. The Committee feel that in a democratic set up like ours, the Administration or the executive should not fight shy of giving the elected representatives of the people the respect and regard which they rightly deserve."
- (xxi) "The Committee therefore, feel that the instructions regarding official dealings need to be reiterated and brought to the notice of all concerned—particularly the police officers and officials at the lower level. The Committee also feel that proper training needs to be imparted to the Government officers to make them realise that their job is to serve the people and they are, therefore, duty bound to show due courtesy and regard to the people's representatives. The Government may consider holding training courses for its officers, particularly at the lower level, to impress upon them the need to show due courtesy and regard to the elected representatives of the people."
- (xxii) "The Committee would like to emphasise that no useful purpose is going to be served unless the instructions percolate down to the lower level in the administrative machinery so that the officers/officials who are directly responsible for dealing with members of Parliament become aware of the existence of these instructions. The Committee, therefore, feel that the instructions should be translated into all regional languages so that these are properly understood and comprehended by the lower level staff."
- (xxiii) "The Government may also consider the feasibility of holding on a regular basis, conferences of the Chief Secretaries etc. of State Governments to review the effectiveness of the instructions as well as for discussing proper follow-up and feed back aspects of the matter."
- (xxiv) "The Committee note that the Secretary, Ministry of Home Affairs, Government of India (Dr. Madhav Godbole), stated during his evidence that a telex message sent by the Government of Orissa to the Ministry of Home Affairs, Government of India on 27 November, 1991, was not received by the Ministry of Home Affairs. The Committee take a very serious note of such a lapse in communication whereby the House was denied access to important information which was meant to be communicated by the Government of Orissa to the House through the Ministry of Home Affairs, Government of India. The Committee would like the Ministry of Home Affairs, Government of India, to inquire into the matter with a view to ensuring that such lapses do not occur in future."
- (xxv) "The Committee recommend that no further action need be taken by the House in the matter and it may be dropped."

Action taken by the House

8. No further action was taken by the House in the matter.

LOK SABHA
(1993)

Point of Privilege

Non-intimation of the alleged rearrest and release of a Member by Police to the Speaker.

Facts of the case and reference to the Committee of Privileges

On 8 April, 1993, a written communication was received from the Superintendent of Police, CBI, New Delhi, forwarding therewith a fax message received from Deputy Superintendent of Police, CBI (Camp at Lucknow) intimating about the arrest and lodgement of Shri Brij Bhushan Sharan Singh, MP, on 8 April, 1993. This intimation was published in Bulletin Part II dated 13 April, 1993.

2. On 10 April, 1993, a wireless message was received from the Additional Chief Judicial Magistrate, Lucknow, intimating about the arrest and lodgement of Shri Brij Bhushan Sharan Singh, MP, on 9 April, 1993; This intimation was also published in Bulletin Part II dated 10 April, 1993.

3. On 19 April, 1993, a written communication was received from the Chief Judicial Magistrate, Gonda, Uttar Pradesh, intimating about the issuance of production warrant against Shri Brij Bhushan Sharan Singh, MP, by him on the report of Police State Nawabganj, District Gonda.

4. On 22 April, 1993, Shri Brij Bhushan Sharan Singh, MP, gave notice of a question of privilege regarding alleged non-intimation of his rearrest and release by police at Lucknow on 17 and 20 April, 1993 to the Speaker, Lok Sabha.

The Member stated in his notice of question of privilege, *inter-alia*, as follows:—

“I was arrested on 8.4.1993 by CBI and lodged in the police lock-up at Lucknow. I was not produced before a Magistrate within 24 hours but only after 29 hours. Thus I was kept in illegal custody for 29 hours. CBI Magistrate of Lucknow accepted my bail on 16.4.1993. The bail was given on 17.4.1993. In spite of that I was not released. I was produced before the court of Special Judge (Gangster Act), Faizabad, on 20.4.1993 for police remand. But the court rejected the request for remand under Gangster Act and released me.

But no intimation regarding my bail on 16.4.1993, rearrest under Gangster Act and

release on 20.4.1993 has been given to the Lok Sabha by the authorities concerned.”

5. On 23 April, 1993, Shri Brij Bhushan Sharan Singh, MP, raised the matter in the House. Shri Atal Bihari Vajpayee, MP, also raised the matter in the House. The Speaker, Lok Sabha, observed that he would look into it.

6. On 12 May, 1993, Sarvashri Lal Krishna Advani, Staya Deo Singh, Brij Bhushan Sharan Singh, Chandra Shekhar and Bhogendra Jha, MPs, raised the matter in the House. The Speaker, Lok Sabha, observed that he would look into it.

7. On 14 May, 1993, the Speaker referred the matter to the Committee of Privileges for examination, investigation and report under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha.

Findings and recommendation of the Committee

8. The Committee of Privileges after examining in person Shri Brij Bhushan Sharan Singh, MP, Shri B.R. Saroj, Station Officer, Police Station, Nawabganj, District Gonda, Uttar Pradesh, Shri Shivnath Singh, the then Circle Officer, Gonda, Uttar Pradesh, Shri G.P. Sharma, Superintendent of Police, Gonda, Uttar Pradesh, Shri J.M. Tripathi, Inspector of Police, Lucknow, Uttar Pradesh, Shri B.D. Ram, District Magistrate, Gonda, Uttar Pradesh, Shri H.P. Choudhury, Second Additional Chief Judicial Magistrate, Gonda, Uttar Pradesh and Shri Yaduvendra Shukla, Superintendent of District Jail, Lucknow and also after considering all the relevant documents, in their Second Report presented to the Speaker and laid on the Table of the Lok Sabha on 7 December, 1993, reported *inter-alia* as follows:—

(i) “The Committee, after considering the notice of question of privilege given by Shri Brij Bhushan Sharan Singh, MP, felt that the following issues were broadly involved in the case:—

(i) Whether Shri Brij Bhushan Sharan Singh, MP, who was lodged in District Jail, Lucknow, since 9 April, 1993, was released on 17 April, 1993? If so, whether non-intimation thereof to the Speaker, Lok Sabha, as required under Rule 230 of the Rules of Procedure and Conduct of Business in Lok Sabha, amounted to any breach of privilege and contempt of the House?

(ii) Whether Shri Brij Bhushan Sharan Singh, MP, was rearrested on 17 April, 1993? If so,

whether non-intimation thereof to the Speaker, Lok Sabha, as required under rule 229 of the said Rules, amounted to any breach of privilege and contempt of the House?

- (iii) Whether intimation regarding release of Shri Brij Bhushan Sharan Singh, MP, on 21 April, 1993, was given to the Speaker, Lok Sabha, as required under rule 230 of the said Rules? If not, who was responsible for the lapse?
- (iv) Whether the non-intimation of release of Shri Brij Bhushan Sharan Singh, MP, amounts to a breach of privilege and contempt of the House?
- (v) Whether Shri Brij Bhushan Sharan Singh, MP, was rearrested at Gonda on 21 April, 1993, and kept in lock-up at the local police station during the night? If so, whether it amounts to a breach of privilege and contempt of the House?
- (ii) "The provisions relating to intimation required be sent to the Speaker, Lok Sabha, regarding arrest, detention, etc. and release of Members contained in the Rules of Procedure and Conduct of Business in Lok Sabha are as follows:—

229. When a Member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order, the committing judge, magistrate or executive authority, as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, so also the place of detention or imprisonment of the Member in the appropriate form set out in the Third Schedule.

230. When a member is arrested and after conviction released on bail pending an appeal or otherwise released, such fact shall also be intimated to the Speaker by the authority concerned in the appropriate form set out in the Third Schedule."

(iii) "The Committee note the Shri Brij Bhushan Sharan Singh, MP, was arrested at Gonda, U.P., on 8 April 1993, in a case registered by the Central Bureau of Investigation under various sections of the Indian Penal Code, and was lodged in the District

Jail, Lucknow, on 9 April, 1993. On 16 April, 1993, the Special Judicial Magistrate (CBI), Lucknow, granted bail to Shri Brij Bhushan Sharan Singh, MP, and release order was sent to the Superintendent, District Jail, Lucknow, on 17 April, 1993 (the day on which bail papers were filed and accepted). The release order was delivered, as per the jail-records, in the District Jail, Lucknow, at 16.40 hours on 17 April, 1993."

(iv) "The Superintendent, District Jail, Lucknow, did not, however, release Shri Brij Bhushan Sharan Singh, MP, forthwith since, according to him, he had already received production warrants in two different cases from two different Courts in Uttar Pradesh requiring him to produce Shri Brij Bhushan Sharan Singh, MP, in those Courts on different dates. The first production warrant, received in the District Jail, Lucknow, on 12 April, 1993, was issued by the Court of Chief Judicial Magistrate, Gonda, U.P., requiring Shri Brij Bhushan Sharan Singh, MP, to be produced in that Court on 15 April, 1993 in Crime No. 158/93 under the Arms Act, 1959, registered against him at Police Station, Nawabganj, Gonda, U.P. The second production warrant, received in the District Jail Lucknow, on 17 April, 1993, was issued by the Court of Special Judge (Gangster Act), Faizabad, requiring Shri Brij Bhushan Sharan Singh, MP, to be produced in that Court on 20 April, 1993 in Crime No. 161/93 under the U.P. Gangsters Act and Anti-Social Activities (Prevention) Act, 1986, registered against Shri Brij Bhushan Sharan Singh, MP, at Police Station Nawabganj, Gonda, U.P."

(v) "Shri Brij Bhushan Sharan Singh, M.P, was not, however, produced as required, in the Court of the Chief Judicial Magistrate, Gonda, U.P., on 15 April, 1993. He was produced in the Court of the Special Judge (Gangster Act), Faizabad, U.P., on 20 April, 1993, and in the Court of the Additional Chief Judicial Magistrate, Gonda, U.P., on 21 April, 1993. Since both the Courts declined to give remand to Shri Brij Bhushan Sharan Singh, MP, as prayed for by the police, the Member was released on 21 April, 1993, consequent upon the rejection by the Additional Chief Judicial Magistrate, Gonda, of the application for remand for 14 days moved by the Sub-Inspector of Police Station Nawabganj, Gonda."

(vi) "It is a fact that no intimation regarding the release of Shri Brij Bhushan Sharan Singh, MP, on 21 April, 1993, was received in the Lok Sabha Secretariat. The fact was further substantiated by the admission of the concerned police, executive, jail and judicial authorities, who appeared before the

Committee for evidence that none of them had sent any intimation to the Speaker, Lok Sabha, regarding Shri Brij Bhushan Sharan Singh's release on 21 April, 1993."

(vii) "The allegation that Shri Brij Bhushan Sharan Singh, MP, was again arrested at Gonda on 21 April, 1993, after his release and kept in lock-up at the local police station during the night, was denied by the police and executive authorities who appeared before the Committee for evidence."

(viii) "Findings of the Committee on the issues broadly involved in the case are given below:—

(i) Whether Shri Brij Bhushan Sharan Singh, MP, who was lodged in District Jail, Lucknow, since 9 April, 1993, was released on 17 April, 1993? If so, whether non-intimation thereof to the Speaker, Lok Sabha, as required under Rule 230 of the Rules of Procedure and Conduct of Business in Lok Sabha, amounted to breach of privilege and contempt of the House? and

(ii) Whether Shri Brij Bhushan Sharan Singh, MP, was rearrested on 17 April, 1993? If so, whether non-intimation thereof to the Speaker, Lok Sabha, as required under Rule 229 of the said rules, amounted to any breach of privilege and contempt of the House?"

(ix) "The Committee find that though bail was granted to Shri Brij Bhushan Sharan Singh, MP, in the CBI case on 16 April, 1993 and his release order was delivered in the District Jail, Lucknow, on 17 April, 1993, he was not released from the jail on that day and was detained in the jail on the basis of Production Warrants against him in two other cases. The Committee are, therefore, of the view that in spite of the fact that technically speaking the Member had been released on bail in the offence in which he was lodged in jail, he was not physically released from the jail."

(x) "The Committee also hold, on the same analogy, that since Shri Brij Bhushan Sharan Singh, MP, was not physically released from the jail, he continued to be under custody in the District Jail, Lucknow. As such, the Committee feel, the Member could not have been rearrested on 17 April, 1993."

(xi) "Under the circumstances, no intimation was received in the Lok Sabha Secretariat regarding the so-called release or rearrest of the Member on 17th April, 1993. Keeping in view the fact that the

Member was not physically released and could not, therefore, ostensibly have been rearrested, the Committee are disinclined to hold that any breach of privilege or contempt of the House was committed in not sending any intimation to the Speaker, Lok Sabha, regarding the alleged release and rearrest of the Member on 17 April, 1993.

(iii) Whether intimation regarding release of Shri Brij Bhushan Sharan Singh, MP, on 21 April, was given to the Speaker, Lok Sabha, as required under 230 of the said rules? If not, who was responsible for the lapse?"

(xii) "As already stated, no intimation was received in the Lok Sabha Secretariat, about the release of Shri Brij Bhushan Sharan Singh, MP, at Gonda on 21 April, 1993, in spite of the fact that the Additional Chief Judicial Magistrate, Gonda, had clearly stated in his order dated 21 April, 1993—whereby he had declined to give remand to the Member in the case under the arms Act—that intimation be sent to the Lok Sabha."

(xiii) "The then Circle Officer, Gonda, the Superintendent of Police, Gonda, and the District Magistrate, Gonda, admitted before the Committee that they had not sent any intimation to the Speaker, Lok Sabha, about the release of the Member on 21 April, 1993. The Additional Chief Judicial Magistrate, Gonda, admitted that it was a lapse on his part not to have ensured that the intimation was sent to the Lok Sabha Secretariat by his office in compliance of his order dated 1 April, 1993.

All the officers, however, apologised to the Committee for not having sent to the intimation regarding release of Shri Brij Bhushan Sharan Singh, MP, on 21 April, 1993, to the Speaker, Lok Sabha."

(xiv) "The Committee note that it is apparent from the evidence tendered by the concerned officers before the Committee that while on the one hand the officers were not sure whether intimation regarding release of a Member of Parliament is also required to be given to the Speaker, Lok Sabha, like the intimation regarding arrest or detention of a Member is given, on the other hand, there appeared to be a fair amount of confusion in their minds as to who should give the intimation.

The police officers who appeared before the Committee maintained that the intimation should have been given by the Additional Chief Judicial Magistrate, who released the Member. The District

Magistrate also thought that the Additional Chief Judicial Magistrate should have given the intimation. All of them presumed that the intimation might have been given by the Additional Chief Judicial Magistrate, Gonda, and did not care to ascertain whether such an intimation was, in fact, given or not.

The Additional Chief Judicial Magistrate, Gonda, while apologising for not having ensured that intimation was sent to the Lok Sabha Secretariat by his office as per his orders, pleaded before the Committee that technically speaking he had not released the Member, he had merely rejected the application moved by the police requesting for judicial remand for Shri Brij Bhushan Sharan Singh, MP, in the case under Arms Act."

(xv) "The Committee are of the view that the Additional Chief Judicial Magistrate, Gonda, should have ensured that his order directing his office to 'Send intimation to Lok Sabha' was duly complied with by his office.

The Committee, however, wish to bring on record that after considering the plea made by the Additional Chief Judicial Magistrate, Gonda, the Committee find that the stand taken by him cannot be said to be totally devoid of merit. The Committee appreciate the fact that the order passed by the Additional Chief Judicial Magistrate, Gonda, was not an order on any bail application on behalf of the Member; it was an order on an application moved by the police seeking judicial remand for the Member. The Additional Chief Judicial Magistrate, Gonda, rejected the application moved by the police. His order dated 21 April, 1993 does not anywhere mention that the Member be released. As a matter of fact, the operative portion of the order reads as follows:—

'The application for remand moved by the Police, Nawabganj, in Crime No. 158/93 under sections 25/27 Arms Act is rejected and warrant under section 267 Cr. P.C. is discharged. Intimation may be sent to the Lok Sabha.'

(xvi) "Under these circumstances, even if—hypothetically speaking—intimation as ordered by the Additional Chief Judicial Magistrate, Gonda, would have been transmitted by his office, it would, in all probability, have been an intimation regarding refusal of remand to Shri Brij Bhushan Sharan Singh, MP, and not of his release."

(xvii) "The question that arises in these circumstances is 'Who is primarily responsible for giving intimation about the release of a Member?'

The Committee gave a serious thought to the matter. Rule 230 of the Rules of Procedure and Conduct of Business in Lok Sabha (referred to in para 49 above) requires that intimation regarding release of a Member shall be given to the Speaker by the authority concerned in the appropriate form set out in the Third Schedule."

The crucial words, in view of the Committee, are 'the authority concerned'. It is the duty of the authority who releases the Member to inform the Speaker, Lok Sabha."

(xviii) "The Committee, however, note that the matter is not so simple as it appears to be at the first blush. In the case under consideration of the Committee, for instance, though the Special Judicial Magistrate (CBI), Lucknow, granted bail to the Member and sent his release order to the District Jail, Lucknow, the Member was not released from the jail due to the circumstances narrated above. On the other hand, the Additional Chief Judicial Magistrate, Gonda, did not release the Member; he merely rejected his remand application, yet the Member was released as there was no other case against him."

(xix) "The Committee, therefore, feel that intendment of the words 'authority concerned' in rule 230, is—the person or authority who actually and physically releases the Member from restraint, detention, confinement or custody.

In all cases, therefore, where a Member is arrested or detained etc. by police authorities for violation of prohibitory orders or other such offences, and released by them after occasion is over, the intimation should be sent by the concerned police authorities.

In cases where a Member is arrested or detained by police and is produced before a Magistrate and released on bail or otherwise released, the intimation should be given by the concerned police authorities/magistrate.

In cases, where a Member, after his arrest, is remanded to judicial custody and sent to jail, it appears to be in the fitness of things that intimation regarding his subsequent release should be sent by the concerned jail authorities when the Member is actually and physically released from the jail."

(xx) "The question for consideration before the Committee, in the back drop of the discussion above, is: Who was responsible in this case for not sending intimation to the Speaker, Lok Sabha, about the

release of Shri Brij Bhushan Sharan Singh, MP, on 21 April, 1993, at Gonda?"

(xxi) "The Committee feel that the occasion for consideration of this case by the Committee would not have at all arisen had proper procedure been followed while transferring Shri Brij Bhushan Sharan Singh, MP, from District Jail, Lucknow, to Faizabad Jail."

(xxii) "It was stated by Shri Yaduvendra Shukla, Superintendent, District Jail, Lucknow, that Shri Brij Bhushan Sharan Singh, MP, was required to be transferred to Faizabad Jail, as per the orders of the Chief Judicial Magistrate, Lucknow, on the Production Warrant received from the Court of Special Judge (Gangster Act), Faizabad. According to Shri Shukla, whenever an undertrial or detenu is required to be transferred to another jail, a request is sent to the District police authorities to provide police escort to take the person to the other jail. The detenu so transferred is required to be lodged in the other jail by the police party escorting him and the Superintendent of that jail is required to sent an intimation on the first jail about the lodgement of the detenu."

(xxiii) "The Committee, however, find that though Shri Yaduvendra Shukla, Superintendent, District Jail, Lucknow, had made a request on 18 April, 1993, to the police authorities in Lucknow to provide police escort for transferring Shri Brij Bhushan Sharan Singh, MP, to Faizabad jail for being produced before the Special Judge (Gangster Act), Faizabad, on 20 April, 1993, the police escort was provided as late as 20 April, 1993. Consequently, Shri Brij Bhushan Sharan Singh, MP, was transferred to Faizabad jail in the morning (at 9.15 A.M.) of 20 April, 1993, i.e. the day on which he was to be produced in the Court of Special Judge (Gangster Act), Faizabad.

According to Shri J.M. Tripathi, Inspector of Police, Lucknow, who escorted the Member to Faizabad, they reached Faizabad at about 1 P.M. and he straightaway took the Member to the court instead of taking him to the Faizabad Jail. The Committee note with concern that when, Shri Yaduvendra Shukla was asked whether the Member should have been taken to Faizabad Jail when he was transferred to that jail, or should he have been taken to court, he admitted that the correct procedure was that he should have been taken to the jail and lodged there. He, however, added that the 'practice is that they (the persons being transferred) are taken to court.'

He also stated that he had not received any intimation about lodgement of the Member in Faizabad Jail."

(xxiv) "Had the proper procedure been followed by the authorities concerned, the Committee are convinced, that Shri Brij Bhushan Sharan Singh, MP, would have been transferred to Faizabad Jail in time and lodged there properly. It would then have been the duty of Faizabad Jail authorities to produce him in the Court of Special Judge (Gangster Act), Faizabad, on 20 April, 1993, and in the Court of Additional Chief Judicial Magistrate, Gonda, on 21 April, 1993. It would also have been the duty of Faizabad Jail authorities to send intimation of release of Shri Brij Bhushan Sharan Singh, MP, after the rejection by the said courts of police applications for remand of the Member."

(xxv) "The turn of the events in this case leaves the Committee in no manner of doubt that the procedure for transfer of detenues from one jail to another is being followed in the State of Uttar Pradesh more in its violation rather than in its observance."

(xxvi) "The Committee would also like to comment on the role played by Shri J.M. Tripathi, Inspector of Police, Lucknow, in this whole unhappy episode. First, he violated the procedure in not taking Shri Brij Bhushan Sharan Singh, MP, to the Faizabad Jail, admittedly on the ground that since by the time they reached Faizabad, it was already 1 P.M., he took the Member straightaway to the Court instead of taking him to jail. Secondly, after application for remand of the Member was rejected by the Special Judge (Gangster Act), Faizabad, on 20 April, 1993, he took it upon himself to take the Member to Gonda, on the same day for being produced in the Court of Additional Chief Judicial Magistrate, Gonda, instead of taking him to Faizabad Jail and handing him over to the jail authorities. Thirdly, since the courts in Gonda were closed by the time they reached there, he (according to his version which was contradicted by the Member) took the Member to his residence and kept him there for the night."

(xxvii) "The Committee feel that Shri Tripathi should have taken the member straightaway to Faizabad jail instead of producing him on his own in the Court of Special Judge (Gangster Act), Faizabad. The Committee also feel that Shri Tripathi was supposed to take Shri Brij Bhushan Sharan Singh, MP, to Gonda. Shri Tripathi admitted before the Committee that his act in keeping Shri Brij Bhushan Sharan Singh at his residence (as per his version) was

not in keeping with the established procedure. The Committee, on the contrary, are of the view that if, as stated by Shri Tripathi, Shri Brij Bhushan Sharan Singh was kept at his residence it was highly irregular."

(xxviii) "The Committee, after carefully going through the documents on record and the evidence tendered before them, have come to the conclusion that there have been avoidable lapses and mistakes of omission and commission in this case. The Committee are pained to note that the attitude of the concerned authorities throughout this sorry episode had been one of characteristic bureaucratic indifference. They appeared to be totally unmindful of the fact that a Member of Parliament was involved in the case. A little more consideration, a little more tact on their part might have helped preventing the things from reaching such a stage where everybody concerned presumed that somebody else would give intimation about the release of the Member but all of them ended up ultimately, giving no intimation.

The Committee are, however, inclined to hold that the non-intimation of the release of Shri Brij Bhushan Sharan Singh, MP, on 21 April, 1993, was more of a combined and cumulative effect of unintended mistakes of omission and commission rather than a premeditated or wilful disregard of the requirement of the Rules of Procedure and Conduct of Business in Lok Sabha.

- (iv) Whether the non-intimation of release of Shri Brij Bhushan Sharan Singh MP, amounts to a breach of privilege and contempt of the House?"

(xxix) "The Committee note that the then Circle Officer, Gonda, and the Superintendent of Police, Gonda, admitted before the Committee their ignorance of the fact that intimation regarding release of a member of Parliament is also required to be given to the Speaker, Lok Sabha. The Committee are of the view that no responsible Government Officer—least of all police officers—should plead ignorance of law or rules and regulations as an excuse. The Committee take a very serious note of ignorance of the relevant provisions of rule 230 of the Rules of Procedure and Conduct of Business in Lok Sabha (about intimation regarding release of Members) shown by the concerned police officers."

(xxx) "While holding, in light of the discussion above, that a breach of privilege and contempt of the House has been committed in not sending intimation to the Speaker, Lok Sabha, about the release of

Shri Brij Bhushan Sharan Singh MP, on 21 April, 1993, at Gonda, the Committee keeping in view the totality of the facts and circumstances of the case and the unconditional apologies tendered by the Circle Officer, Gonda, the Superintendent of Police, Gonda, the District Magistrate, Gonda, and the Additional Chief Judicial Magistrate, Gonda, feel that no further action be taken in the matter and it be dropped."

(xxxi) "The Committee desire that suitable instructions be issued to all concerned to ensure that established procedure regarding transfer of detainees from on jail to another—particularly when Members of Parliament are involved is strictly followed and meticulously adhered to. The Committee also desire, even at the risk of stating the obvious, to reiterate that the need to be extra-careful and cautious by all concerned when dealing with Members of Parliament can hardly be over-emphasised."

(xxxii) "The Committee observe that there was some doubt and misconception in the minds of officers who appeared before them as to whether intimation regarding the release of Members of Parliament is also required to be given to the Speaker, Lok Sabha, like the intimation of arrest and detention etc. of the Members. The Committee desire that the provisions of rules 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha be brought to the notice of all the concerned authorities and suitable instruction be issued to ensure that these are complied with in letter and spirit.

- (v) Whether Shri Brij Bhushan Sharan Singh MP., was rearrested at Gonda on 21 April, 1993, and kept in lock-up at the local police station during the night? If so, whether it amounts to a breach of privilege and contempt of the House?"

(xxxiii) "The Committee observe that diametrically opposite statements were made on this point by the Member and by the authorities concerned. While the Member maintained that he was rearrested on 20 April, 1993, and kept in police lock-up for the night, the police officers and the District Magistrate, Gonda, denied the allegation and stated that the Member was neither rearrested nor kept in police lock-up."

(xxxiv) "The Committee have been unable to reconcile the contradictory statements made by the Member on the one hand and the concerned officers on the other.

The Committee note that the notice of question of privilege given by Shri Brij Bhushan Sharan Singh, MP, referred only to his alleged rearrest on 17 April, 1993 and release on 20 April, 1993. There was no mention in his notice, of his alleged rearrest on 20 April, 1993 and his confinement in police lock-up for the night. Moreover, the Member, did not even refer to the issue of his being kept in police lock-up when he raised the matter on the floor of the House on 23 April, 1993. Technically speaking, therefore, this issue is beyond the terms of reference of the Committee.

The Committee therefore, prefer not to pursue this aspect of the matter further."

(xxxv) "A host of legal issues were raised by Shri Brij Bhushan Sharan Singh MP, during his evidence before the Committee on two occasion. As stated earlier, the Committee decided to steer clear of legal issues— which can best be interpreted and settled only by courts of law—and confine themselves only to issues relating to alleged breach of privilege and contempt of the House.

The Committee, however, wish to bring on record that Shri Brij Bhushan Sharan Singh, MP, handed over copies of two judgements of the Allahabad High Court [Dharampal vs. State of Uttar Pradesh, ACC, 1982 (19) and Mohammad Daud alias Mohammad Saleem vs. Superintendent of District Jail, Moradabad and others, 1993 Cr. L.J 1358] which according to him had a bearing on his case. The Committee note that in the first of these judgements, the Allahabad High Court observed *inter alia* as follows:—

'The requisitions issued by the Criminal Courts in Haryana, therefore, did not authorise the Supdt. District Jail, Meerut to keep the two petitioners in his custody. They merely required the Supdt. to produce the two petitioners before the concerned Courts only if the Supdt. was entitled to keep them in his custody under some valid authority. Since various requisition orders did not authorise the Supdt., District Jail, Meerut to keep the two petitioners in custody and the moment the petitioners had been admitted to bail in all the criminal cases in connection with which their detention in District Jail, Meerut had been authorised, the authority of the Supdt., District Jail, to keep the petitioners under detention came to an end and the petitioner's detention after being

released on bail, became illegal and without authority of law. The requisitions received from the Criminal Courts at Haryana under Section 3 of the Prisoners (Attendance in Courts) Act, 1955 or under Section 267 of the Code of Criminal Procedure could not confer any valid authority on the Supdt. of Jail to keep the petitioners under detention and render his custody in District jail, Meerut valid.'

In the second judgement, the Allahabad High Court made the following observations on this point:—

'Taking up first the submission of the petitioner based on S. 267 of the Cr. P.C. that a warrant issued under the said section does not constitute a detention order authorising detention in prison of a person, it would be found that it is fully borne out from the provisions of S. 267 itself. The head-note as well as the phraseology of the said section indicates that the order envisaged therein is an order to produce a person confined or detained in a prison before a criminal court for answering to a charge or for the purpose of any proceedings against him. An order under this section does not partake the character of a detention order by the court seeking production qua the charge of the proceedings pending before it. This view finds support also from the principles laid down in Dharampal V. State of U.P.' "

(xxxvi) "The Committee tried to ascertain whether there existed any judgement of the Supreme Court whereby these judgements might have been reversed later on, but were unable to find any. The Committee, being conscious of the fact that they are not equipped to go into these legal matters, would nevertheless like to make one guarded observation. If the judgements referred to by Shri Brij Bhushan Sharan Singh, MP, have not been reversed and are still binding, as the orders of the superior courts are, suitable steps be taken to find out why, in spite of such observations of the court, persons are being detained in jail merely on the basis of production warrants issued under section 267 of the Code of Criminal Procedure. Committee would also appreciate it if remedial measures are immediately taken."

(xxxvii) "The Committee recommend that no further action need be taken by the House in the matter and it be dropped."

Action Taken by the House

9. No further action was taken by the House in the matter.

39
RAJYA SABHA
(1964)

Point of privilege

Alleged failure of the Police to send appropriate information to the Chairman about the arrest of a member

Facts of the case and ruling by the Chairman

On the 25th September, 1964, Shri Faridul Haq Ansari, a member, drew the attention of the Chairman that Prof. Mukut Behari Lal, another member, had been arrested at Bulandshahr on the 19th September, 1964, but the House had not been informed about his arrest. Shri Haq said that it was a contempt of the House.

2. The Chairman (Dr. Zakir Husain) observed:—

"I am indeed very sorry that no appropriate information has been sent to me about this arrest. A wireless message was received here. But that is not considered sufficient by us because we want a letter. Probably the officer in question might say that he sent a wireless message and not a telegram. But that does not help. We have not received any letter from the Magistrate. The presumption is that he has been produced before a Magistrate. If he has not been produced before a Magistrate that would be atrocious, I am very sorry this has happened and I hope the officers will be pulled up... In any case, I am seized of the fact...I will take it up."

3. On the 28th September, 1964, after the Chairman had informed the House of the arrest and subsequent acquittal of Prof. Mukut Behari Lal, Shri Mulka Govinda Reddy, another member, sought to raise a question of privilege regarding delay in intimation of arrest of Prof. Mukut Behari Lal.

4. The Chairman then observed as follows:—

"Prof. Mukut Behari Lal was arrested at Bulandshahr at 3.30 p.m. on September 19, 1964. The same evening the Superintendent of Police Bulandshahr, sent a wireless

message to me intimating that Prof. Mukut Behari Lal was arrested for an offence under sections 143 and 186 of the Indian Penal Code. In accordance with our practice intimation of this to members was held over pending the receipt of a formal written communication. I have just now read out to the House the form a communication from the Magistrate which I received on the 26th morning. I have also informed the House that on the 27th morning a written communication was received from the Magistrate that Prof. Mukut Behari Lal was after a trial lasting for two days, acquitted by the Judicial Magistrate, Bulandshahr on September 25. I may further inform the House that the District Magistrate has in a written communication furnished the facts relating to the arrest trial and acquittal of Prof. Mukut Behari Lal and has explained the steps taken by the authorities at Bulandshahr to give intimation of the arrest of Prof. Mukut Behari Lal to me. He has submitted that if any formality required by our rules has not been properly fulfilled the same has been due to inadvertence which he greatly regrets.

I expressed my concern over the matter in the House on 25th September, 1964. I hope and believe that the Ministry of Home Affairs will impress upon the authorities concerned that they should be very prompt in sending such communications. The Ministry would no doubt also impress upon all concerned that a written message or a telegraphic communication must invariably be followed by a formal communication in writing without any delay whatsoever.

In view of the fact that a wireless message was sent to me immediately after the arrest of Prof. Mukut Behari Lal and also in view of the explanation furnished and regrets expressed by the District Magistrate, I am of the view that we need not pursue the matter as a question of privilege."

5. The matter was not pursued further.

40
RAJYA SABHA
(1966)

Point of privilege

Alleged incorrect information furnished to the House about the arrest of the two members by a magistrate and alleged wrong statement made in the House by a Minister about their arrest

Facts of the case and ruling by the Chairman

On the 23rd November, 1966, Sarvashri Gaure Murahari and Raj Narain, members, sought to raise a question of privilege against Shri Y.B. Chavan the Minister of Home Affairs, for making a wrong statement in the House regarding their arrest and against the Sub-Divisional Magistrate, New Delhi, for furnishing incorrect information to the House about their arrest. Shri Gaure Murahari stated that on the 21st November, 1966, in reply to a question Shri Chavan had informed the House that as Shri Murahari and Shri Raj Narain were in Judicial custody, therefore, he could not make a statement in the House about their arrest. Shri Murahari contended that in fact they were not in judicial custody but were remanded by the Magistrate and that the statement of the Minister of Home Affairs was incorrect, and he had, thereby, committed a breach of privilege by misleading the House. Shri Murahari further contended that while the Sub-Divisional Magistrate in his communication to the House stated that the arrest was made under section 114 of the Criminal Procedure Code, he (the Sub-Divisional Magistrate) had not mentioned Section 107 and, therefore, had not confirmed to the requirement of the Constitution and Rules of Procedure of Rajya Sabha about the arrest of members.

2. Shri Raj Narain complained that there was no due compliance of law in the matter of his arrest and detention. He, further contended that the intimation sent by the Magistrate to the House about his arrest was misleading as it failed to give correct information.

3. The Chairman (Dr. Zakir Husain) observed that he would consider the matter after hearing the Minister of Home Affairs.

4. On the 25th November, 1966, the Minister of Home Affairs explained the position as follows:—

“The facts are that the two hon. members were taken into custody on the basis of warrants issued by the Sub-Divisional Magistrate under section 114 Cr. P.C. after

he had initiated proceedings under section 107 Cr. P.C. Proceedings under section 107 Cr. P.C. are judicial proceedings. They did not come to an end when remand was granted. When I made the statement in question, the Magistrate had not passed final orders in respect of the proceedings under section 107 Cr. P.C. drawn up against the hon. members. The proceedings were still pending in the Court. It was therefore, not considered proper to make any detailed statement on the subject here. There is no doubt that the hon. members had been remanded to custody in connection with judicial proceedings.

A point was also raised that the Magistrate had furnished incorrect information. Sir, you have all the communications sent by the Magistrate and will decide whether there has been any default. If need be, for your information, I will send the records of the Magistrate. I am only pointing out that warrants of arrest in connection with proceedings under section 107 Cr. P.C. are issued under section 114 Cr. P.C.

There are various other allegations which try to make out that the Government had acted *mala fide* in connection with a judicial proceeding, and the Magistrate had not acted according to law. These are matters for which remedies can appropriately be sought only in a competent court of law.”

5. The Chairman reserved his ruling.

6. On the 5th December, 1966, the Chairman observe, *inter-alia* as follows:—

“The Home Minister, in his statement on November 25, 1966, clarified his earlier statement regarding judicial custody. On the facts before me, and from the communications of the Sub-Divisional Magistrate regarding the arrest of the two members, which I reported to the House, the fact of the two members having been placed in judicial custody does not appear to be in doubt. In fact, the communications from the Sub-Divisional Magistrate clearly stated that the two members were in judicial custody. There is therefore, no case of breach of privilege against the Home Minister...

...The intimation sent to me by the Magistrate clearly stated the reason for which Shri Gaure

Murahari had been arrested, and also the section of the Criminal Procedure Code, namely, section 114, under which the arrest had been made. The mere omission to refer to section 107 in the communication will not itself, amount to a breach of privilege when the reason for the arrest had been clearly stated in the communication. I, therefore, hold that on this point also there is no breach of privilege involved.

....It is well established that the members of Parliament enjoy no privilege of freedom from arrest in criminal proceedings. The allegations contained in Shri Rajnarain's notice as to the failure on the part of the Magistrate to comply with the provisions of the law are matters which can be tested only in a court of law in appropriate proceedings. On the basis of the principle to which I have already referred, there cannot arise a question of breach of privilege in the matter of arrest and detention of a member under the Criminal Law. In this connection, I would like to point out that the Sub-Divisional Magistrate himself apologised for incomplete information supplied by him to me in his first communication relating to the arrest of Shri Rajnarain, and he took the earliest opportunity to put the House in possession of full factual information. I, therefore, hold that no breach of privilege is involved in Shri Rajnarain's complaint also.

Members of Parliament enjoy certain privileges and immunities conferred on them under the Constitution to enable them to perform their duties as such members without fear or favour and without any impediment or obstruction placed in their way in the due discharge of such duties. One such privilege is freedom from arrest when Parliament is in session. This privilege of freedom from arrest is limited only to civil causes, and has not been allowed to interfere with the administration of criminal justice or laws relating to preventive detention. Thus, during a session of Parliament, the privilege of freedom from arrest does not extend to arrest under criminal process. This, however, should place a special responsibility on the authorities to ensure that, in taking action for arrest or detention of a member at a time when Parliament is in session, they show the utmost regard to the procedure established by law, so that a member may not have legitimate cause for complaint or grievance that he has been arrested or detained without

strict compliance with the process of law and thereby illegally prevented from performing his parliamentary duties.

Although the privilege of freedom from arrest does not extend to criminal proceedings, it is the right of the House to receive immediate information of the arrest, imprisonment or detention of any member with the reasons therefor. The failure on the part of the authorities to give such information may amount to a breach of privilege. Thus, in all cases in which a member of a House of Parliament is arrested on a criminal charge or for a criminal offence, or is sentenced or imprisoned by a court or detained under an executive order, the concerned authorities must immediately intimate such fact to the Presiding Officer stating clearly the reason for the arrest, detention or conviction as also the place of detention or imprisonment of the member. I understand that the Government have issued instructions to all concerned drawing their attention to this requirement. Experience, however, has shown that in some cases the intimation is not sent promptly and does not contain all the material particulars. I would ask the Government to impress upon all concerned that there should be no lapse in this respect."

41

RAJYA SABHA

(1973)

Point of privilege

Delay in intimation of arrest and release of a member

Facts of the case and ruling by the Deputy Chairman

On 30 August, 1973, Sarvashri Veerendra Patil, Loknath Mishra and Chandra Shekhar, members, referred to the arrest of Shri Mahavir Tyagi, another member that day in Delhi at 10-30 hours and enquired whether intimation thereof had been received by the Chair. The Deputy Chairman (Shri Godey Murahari) informed the House that no such intimation had been received till then.

2. The Minister for Home Affairs (Shri Uma Shankar Dixit). Then stated:—

".....there was no disrespect meant to the House. I can only assure by that I have taken note of what has been said and the best that can be done will be done."

3. The Deputy Chairman thereupon observed, as follows:—

“Normally it takes some time for the Magistrate or whoever it is, to prepare the warrant and other documents and then prepare the statement to be sent to the Parliament. Even allowing an hour or so for that. I think the information should have reached us by now. The arrest was made at 10-30 A.M. I would expect that hereafter the officials, especially in the Capital, would not lose more than an hour to intimate the Parliament.”

4. Later in the day, the Deputy Chairman informed the House about the intimations received by him regarding the arrest and release of Shri Mahavir Tyagi on that day. He also informed the House that the information regarding the arrest of Shri Tyagi was sent by the authorities at the residence of the Chairman, Rajya Sabha. That was why the House could not be informed of it earlier.

5. The Minister for Home Affairs also made a statement in the House on the subject.

The matter was thereafter closed.

42

RAJYA SABHA
(1980)

Point of privilege

- (i) *Arrest of a member and alleged ill-treatment meted out to him while in detention.*
- (ii) *Delay in sending intimation about the arrest of a member.*

For details of the case please see summary No 20 at pp. 44—48 ante.

43

RAJYA SABHA
(1983)

Point of privilege

Failure to send intimation about the arrest and detention of a member

Facts of the case and reference to the Committee of Privileges

On 19th August, 1983, Dr. M.M.S. Siddhu, a member, sought to raise in the House a matter regarding the alleged failure on the part of the concerned authorities in Tamil Nadu to send intimation to the Chairman, Rajya Sabha, about the arrest and detention of Shri Era Sezhiyan, a member, by the police at Madras on 18th August, 1983.

2. On 22 August, 1983, Shri Era Sezhiyan, while making a personal explanation in the House, stated *inter-alia* as follows:—

“According to a resolution passed by the Tamil Nadu State unit of the Janata Party, we were to picket before the Central Government offices especially before the Post and Telegraph offices on the 18th August. Accordingly, on the 18th morning, myself and about 200 members of the Janata Party were preparing to picket before the Post and Telegraph office at Anna Salai on the 18th August morning to register our condemnation against the horrid atrocities perpetrated against the Tamils in Sri Lanka and also against the delay and failure on the part of the Central Government to give necessary and adequate protection to them. Sir, at about 10 A.M. when we were assembling there, the District Commissioner of Police in that area came and met me and asked me about my intention. I clearly told him that we are going to picket and he said, in that event, we will be arrested. I said, we are prepared and that we have come for that purpose. Then, Sir, at about 10.30 A.M., when we were preparing to make a march from there, when, myself, along with Mr. Jabamani, President of the Tamil Nadu unit of the Janata Party, Mr. Arumugaswamy, General Secretary and Mr. K.S. Narayanan and about 200 others were about to proceed to the post office, the police vans which were stationed nearby were opened and the police officer who was present there said that we should get into these vans. Immediately, I asked him ‘Am I arrested’. He said, ‘Yes’. I asked him, under what section. He said that this will be intimated when we go to the police station. Then, we were taken to the office of the Commissioner of Police. For about fifteen minutes, we were detained there. Then, later on, we were put into another police van and we were taken to a police station nearby. Then some police officers came and noted down the particulars like name, father’s name and so on. Then, after about two and a half hours, at about 1 P.M. some officer came in mufti and told us that we can go. When I asked him specifically,

under what section we have been brought here, what are the charges against us and why we are being asked to go now, he said, he is not aware. Then, he went back to the Police Commissioner's office and an Assistant Commissioner came and told me that we were brought under suspicion that we were causing harm to the law and order situation and violating section 144 in operation. In this case, I am highlighting a serious lapse. Of course, we were arrested and kept in police station only for a few hours. There are persons who have spent several years in detention. In this case, as I said, it was only for a few hours. It was a symbolic one. But the main point is, whenever a Member of Parliament is arrested or detained or restrained in his movements, the fact should be immediately communicated to the Speaker of the Lok Sabha or the Chairman of the Rajya Sabha as the case may be. There are specific rules for this. We have 222A, 222B and 222C.

These are the three provisions of the rules which say that whenever a Member is detained or arrested or sentenced, the fact of his arrest or detention or restraint should immediately be communicated. Rule 222A deals with arrest, rule 222B deals with release and rule 222C deals with bulletin and other things. It is a serious lapse. It is not a question of one or two hours' detention on account of bandh or something like that. The question is, if a Member of Parliament is detained or arrested or his movement is restricted, the same should have been intimated to this House, I think it is a failure on the part of the concerned authorities. So, far as I am concerned, I am not taking it seriously but this may not be a precedent for not keeping the House informed even if a Member is detained for months together. This is my plea for consideration of the House."

The Deputy Chairman (Shri Shyam Lal Yadav) who was then in the Chair assured the House that he would ascertain the facts from the State Government.

3. Subsequently Dr. Siddhu gave notice of a question of privilege against the persons responsible for not intimating the fact of arrest and detention of Shri Era Sezhiyan to the Chairman, Rajya Sabha.

4. On 25th November, 1983, the Chairman, after considering the statement of Shri Sezhiyan made in the House on 22nd August, 1983, and the comments of the Government of Tamil Nadu thereon, referred the matter to the Committee of Privileges for examination and report.

Findings and recommendations of the Committee

5. The Committee of Privileges after hearing the Commissioner of Police and the Deputy Commissioner of Police (Central) Law and Order, Madras City, in their Twenty-fourth Report presented to the House on 9th March, 1984 observed *inter-alia* as follows:—

- (i) "The Committee of Police, Madras, stated before the Committee that on August 18, 1983, Shri Sezhiyan and other volunteers wanted to go from the Kamaraj Statue to the Post-Master-General's Office, Madras, a stretch of about 200 metres, and demonstrate there. Another demonstration of the D.M.K. Party was also planned in that area on the same day. As a result, there was no transport available and Shri Sezhiyan was apprised of the situation. There was also a prohibitory order in force in Madras city on that day. The Commissioner of Police further stated that Shri Sezhiyan and others of his party were allowed to demonstrate for a while and then offered a vehicle to leave the place. No case was registered against them nor was Shri Sezhiyan taken in formal custody. The police vehicles were utilized only for the purpose of letting the volunteers off at a place where transport was available. Nonetheless, the Police Commissioner stated that the police authorities concerned were not sure whether the information relating to the incident was required to be conveyed to the Chairman, Rajya Sabha, and he expressed regret for the procedural lapse or mistake, if any, committed unintentionally."
- (ii) "The Committee is of the view that irrespective of whether Shri Sezhiyan was arrested, detained, removed or otherwise restrained, the Tamil Nadu authorities ought to have sent prompt intimation to the Chairman, Rajya Sabha without standing on any legal technicality as to whether or not Shri Sezhiyan's removal amounted to legal arrest. The Committee is not happy with the communication of the Chief Secretary of the Tamil Nadu Government. The

communication should have been plain and factual rather than perfunctory and fragile.”

- (iii) “In view, however, of the fact that it appears to be a case of unintentional lapse on the part of the authorities concerned, for which regret has been expressed, the Committee recommends that the matter need not be pursued further. At the same time, the Committee would like to observe that all concerned should act with circumspection when sending communications to the House with regard to its Members. Where a restraint is put on the movement of a Member of the nature as in the instant case, the fact should be immediately communicated to the House for its information, whether or not such restraint amounts to arrest or detention if the legal sense.”

Action taken by the House

6. No further action was taken by the House in the matter.

44

RAJYA SABHA (1987)

Point of privilege

Alleged obstructions to members in carrying out their parliamentary duties and alleged non-intimation of their arrest to Chairman, Rajya Sabha

Facts of the case and reference to the Committee of Privileges

On the 6th July, 1987, Shri P. Upendra, a member, gave notice of a question of privilege against Shri R.S. Kaushik, District Magistrate, Meerut and Shri V. K. B. Nair, Senior Superintendent of Police, Meerut, for allegedly preventing a delegation of members of Parliament from visiting certain riot affected areas of Meerut and also allegedly keeping them under arrest for 15 hours and non-intimation thereof to the Chairman, Rajya Sabha.

2. Shri Upendra in his notice of question of privilege stated *inter alia* that on 25 May, 1987 he alongwith some other members of Parliament went to Meerut to make an on the spot study of the situation in the riot-stricken areas of the city. On their arrival at the Meerut Circuit House, the Chief Minister of Uttar Pradesh met them and asked the District Magistrate and Senior Superintendent of Police to accompany the team when it left for Maliana village

which was the worst riot affected areas. According to Shri Upendra when they reached the outskirts of Maliana they were stopped by the Provincial Armed Constabulary and the district administration and were asked to return to the Circuit House. On their refusal to do so, the Magistrate present there told them that they were under arrest. Shri Upendra further stated that they were then taken by the police to the Transport Nagar Police Station and detained there for 15 hours. The police officials present at the police station did not record their arrest and asked them to leave the police station. They were arrested and detained in the police station for the whole night. No intimation of Shri Upendra's arrest was sent to the Chairman, Rajya Sabha, as was required under the rules. According to Shri Upendra, this was a serious breach of privilege and contempt of the House. Shri Upendra further contended that the action of the authorities in preventing him and other members from visiting Maliana village and getting to know first hand actual situation in the riot hit areas had prevented them from doing their duty as members of Parliament. According to Shri Upendra, this matter involved a serious question of privilege.

3. On the 26th November, 1987, the Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

4. The Committee of Privileges after examining in person Shri R.S. Kaushik, the then District Magistrate, Meerut, and Shri V.K.B. Nair, the then Senior Superintendent of Police, Meerut, and after considering the report furnished by the Government of Uttar Pradesh in the matter and all other relevant documents, in their Thirtieth Report presented to the House on 16th July, 1992 reported *inter-alia* as follows—:

- (i) “The State Home Department in its report gave a conflicting version of the incident inasmuch as they denied Shri Upendra's allegation that he was arrested alongwith other members of delegation or that they were prevented from visiting Maliana, the riot-affected village. On the other hand, it was mentioned that on the fateful day Shri Upendra and other members of the delegation were stopped at the outskirts of Maliana by the authorities present there and were repeatedly requested to go to the Circuit House for safety as also to enable the authorities to obtain permission of higher

authorities for visit of the delegation to Maliana. The delegation, however, moved to the Transport Nagar Police Station asking to be placed under arrest. There also they were requested to move to the Circuit House but they remained sitting there and repeatedly insisted that they should be arrested although the Additional District Magistrate assured that in case members desired to go to Maliana during the night, arrangements should be made for them."

(ii) "As regards the contention of Shri P. Upendra that on May 25, 1987 on the arrival of members at the Meerut Circuit House, the then Chief Minister of U.P. met them and asked the District Magistrate and Senior Superintendent of Police to accompany the team to Maliana, the officials maintained that the Chief Minister did not ask them to take the members to Maliana at that moment but instead left it to them to take their own decision, considering the law and order situation and the security aspects. The officials then requested members to have some rest in the Circuit House and allow the officials to make security arrangements for the team's visit. But the members did not accede to this request and proceeded to the spot where they were stopped by the officers then on duty and requested them to return to the Circuit House for safety reasons. But as per the reports supplied to them the members moved to the Transport Nagar Police Station, remained sitting there and kept on insisting on their arrest. They were, however, not arrested. Due courtesy was extended to them and they were provided with all comforts, food, water, etc. The Additional District Magistrate even requested them to stay and take rest and told them that necessary arrangements for their visit to the riot affected areas would be made next day in the morning when the curfew would be relaxed. Since there was no arrest or detention of the members or for that matter, no restraint was placed on them no report was sent to the Chairman, Rajya Sabha, in the matter."

(iii) "The Committee considered the report furnished by the U.P. Government and the views expressed by the then District Magistrate and Senior Superintendent of Police of Meerut. The Committee feels that it would have been better if the authorities

concerned had by way of abundant caution sent factual information about the circumstances under which the delegation was stopped from visiting the riot affected areas of Maliana. The Committee, however, recommends that the matter which has already become pretty old need not be pursued further."

Action taken by the House

5. No further action was taken by the House in the matter.

45

RAJYA SABHA

(1991)

Point of privilege

Alleged arrest of a member and non-intimation thereof to the Chairman, Rajya Sabha.

Facts of the case and reference to the Committee of Privileges

On 4 December, 1991, Maulana Obaidullah Khan Azmi, a member, gave notice of a question of privilege regarding his alleged arrest by the Uttar Pradesh Police at Sewapuri Railway Station and non-intimation thereof to the Chairman, Rajya Sabha. The member complained in his notice that while he was proceeding in a delegation, comprising of some former and present members of Parliament and members of Legislative Assembly of his party, to Varanasi to study the communal situation there, he was arrested and forcibly taken down at Sewapuri Railway Station from the train, by which he was travelling, by the Uttar Pradesh police officials. The Additional District Magistrate concerned ordered the police to use force for detaining him. Maulana Azmi contended that while accompanying the delegation to Varanasi, he was discharging his duties as a representative of the people and as there was no prohibitory order or curfew in that town during the day time, the act of the authorities in preventing him from going there was a denial of his right to travel to any place in India as a member of Parliament and disrespect to the dignity of the House and of its members and their privileges. Maulana Azmi further contended that the information regarding his arrest was not given to the Chairman and requested to refer the matter to the Committee of Privileges.

2. On 4 and 9 December, 1991 several members raised this matter in the House. Thereupon, the Deputy Chairperson, with the consent of the House,

referred the matter to the Committee of Privileges for examination, investigation and report.

46

RAJYA SABHA

(1992)

Findings and recommendations of the Committee

3. The Committee of Privileges after deliberating upon the matter and considering all other relevant documents in their Thirtieth Report presented to the House on 16 July, 1992, reported *inter alia* as follows:—

- (i) "The Committee took a serious view of the fact that the Uttar Pradesh Government had not furnished the factual report about the alleged arrest of Maulana Azmi sought by the Secretariat telegraphically and directed the Secretary-General to speak with the Chief Secretary of the Uttar Pradesh Government on telephone to ascertain the factual position in the matter and also advise him to send a reply to the Secretariat's communication."
- (ii) "Denying the arrest of Maulana Azmi, the Uttar Pradesh Government stated that on receiving a report that in case Maulana Azmi was allowed to enter Varanasi, law and order situation there would be disturbed, the Additional District Collector (City), Varanasi issued an order on December 1, 1991 under section 144 of Cr. P.C. banning the entry of Maulana Azmi into Varanasi. To implement this order, the Superintendent of Police (Rural), Area Officer (Sadar), Pargana Officer (Sadar) along with other force went to Sewapuri Railway Station and apprised Maulana Azmi about the circumstances and situation. After formally receiving the said order, Maulana Azmi desired that he should be sent to Azamgarh. Accordingly, he was sent to Azamgarh."
- (iii) "The communication received from the Uttar Pradesh Government was considered by the Committee and was also brought to the notice of Maulana Azmi. Maulana Azmi, thereupon, desired that no further action be resorted to."
- (iv) "The Committee feels that no useful purpose would be served by pursuing the matter further. The Committee, therefore, recommends accordingly."

Action Taken by the House

4. No action was taken by the House in the matter.

Point of Privilege

- (i) *Alleged arrest of a member and non-intimation thereof to the Chairman, Rajya Sabha by the authority concerned.*
- (ii) *Alleged misbehaviour with a member by the police.*

Facts of the case and reference to the Committee of Privileges

On 7 July, 1992, Shri Bhupinder Singh Mann, a member, gave notice of a question of privilege against certain officials of the Punjab Police for allegedly arresting him alongwith some other farmers on 20 June, 1992, at Dera Bassi Police Station and for keeping him in custody for about 25 hours without informing him of the reasons of his arrest. According to the member, the next day the police officials took him and others to Fatehgarh Sahib in a truck on the pretext of producing them before the Duty Magistrate. However, on reaching there, the officials asked them to get down from the truck to take meals. As soon as they got down and started taking meals, the police party ran away in that truck leaving them behind. However, according to member, the intimation regarding his arrest was not furnished to the Chairman, Rajya Sabha, by the authority concerned.

2. On 2 December, 1992, Shri Bhupinder Singh Mann gave another notice of question of privilege against the police authorities of Batala Town in Punjab and the SDO (Civil) at Batala for allegedly illegally arresting him in Batala on 10 October, 1992 and deliberately keeping him in 'C' Class jail as against his entitlement of 'B' Class as an M.P. and for causing harassment and humiliation to him.

3. The Chairman referred the matters to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

4. The Committee of Privileges after considering the comments of Shri Bhupinder Singh Mann, Member of Parliament and after examining in person Shri Kulchinder Singh, the then Officer-in-Charge of Dera Bassi Police Station, Punjab, Shri Suresh Arora, the then Senior Superintendent of Police, Patiala, Punjab, Shri K.P.S. Gill, Director-General of Police, Punjab, and Shri Ajit Kumar, Principal

Secretary, the Department of Home Affairs and Justice, Government of Punjab, in their Thirty-fourth Report presented to the House on 30 December, 1993, reported *inter-alia* as follows:—

- (i) "Shri Kulchinder Singh, Officer-in-Charge of police station at Dera Bassi submitted before the Committee that on June 20, 1993 the police had received information from the headquarters that some BKU (Mann) workers would carry a tractor-trolley loaded with wheat to Haryana through Lalru Barrier on that day in protest against the ban order on the carriage of wheat from Punjab to other States. When the police party reached there they saw a tractor-trolley with some people coming in that direction. Seeing the police, these people slipped away in different directions leaving the trolley full of wheat there. As there were no documents on the trolley, it was taken into custody. After some time Shri Mann came to the Police Station along with his supporters and demanded the release of the trolley. On his refusing to do so Shri Mann insisted that he be arrested and sat on a *dharna* along with others at the Police Station. The police official tried to persuade Shri Mann not to sit on *dharna*, but failed. Shri Singh denied the allegation that Shri Mann was arrested but admitted that the next day, to get rid of him, he told him a lie that he (Shri Mann) had been arrested and was being taken to Fatehgarh Sahib for being produced before the SDM. However, on reaching Fatehgarh when Shri Mann went to a Gurudwara to take his meals, the police party as per his instructions came back leaving him there."
- (ii) "In his oral evidence, Shri Suresh Arora, Senior Superintendent of Police, Patiala denied that he or any of his subordinate officers had advised Shri Kulchinder Singh to do so (i.e., tell a lie)."
- (iii) "During the examination of these officials the Committee learnt that there was no ban on movement of wheat from Punjab to other States, as was stated in the report of the State Government. However, both the officials i.e., Shri Kulchinder Singh, Officer-in-Charge of Police Station Dera Bassi and Shri Suresh Arora, Senior Superintendent of Police, Patiala expressed regret and tendered unconditional apology in the matter."
- (iv) "Shri K.P.S. Gill, Director-General of Police, Punjab, tendered an unconditional apology and assured that he would instruct his staff suitably to prevent the recurrence of such incidents in future."
- (v) "Shri Ajit Kumar, the Principal Secretary admitted that the State Government did not check the veracity of the facts contained in the report sent to the Committee as a result of which there were contradictions in the report *vis-a-vis* the statements given by the police officials before the Committee. He expressed regret for the same. He also assured to issue necessary instructions to all District Magistrates and District Police Chiefs to ensure that such kind of incidents did not happen in future and that he would apprise the Chief Minister of the correct position."
- (vi) "The Committee note that the Chief Minister of Punjab in his letter to the Chairman of the Committee has assured that Members of Parliament are treated with utmost respect and courtesy by the State administration. He has also stated that if any harassment has been caused to any member and the treatment which has been meted out is not in accordance with the standards of courtesy and politeness, it was a matter of great regret. He has also admitted that there was a lacunae in the instructions on the subject of providing appropriate class in jail to those who were entitled to it and stated that the concerned Superintendent of Jail had been warned."
- (vii) "The Committee note from the letter of the Chief Secretary of the Government of Punjab, that instructions have been issued to all the District Magistrates and Senior Superintendents of Police in the State to extend utmost respect and courtesy to Members of Parliament, Members of Legislative Assemblies, etc. and that they have been advised to convey the message right upto the lowest level functionaries of Government that extreme caution and care should be exercised while dealing with MPs, MLAs etc. so that their privileges and prerogatives are properly respected."
- (viii) "The Committee are constrained to observe that the concerned police officials had not treated Shri Mann with the courtesy and dignity which was due to him as a Member of Parliament. The Committee also

expressed its displeasure over the casual and perfunctory manner in which the State Government had sent the report to the Committee without verifying the facts."

- (ix) "However, in view of the steps taken by the State Government to check the recurrence of such incidents in future and the regrets expressed and unconditional apologies tendered by all concerned, the Committee recommend that the matter need not be pursued further."
- (x) "Nonetheless, the Committee desired that the Government of Punjab should take appropriate steps to familiarise its officials with the relevant instructions so that all the functionaries in the field follow the correct procedure with respect to Members of Parliament and are made fully aware of the penalties incumbent upon any breach of privilege."

Action taken by the House

5. No further action was taken by the House in the matter.

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RAJYA SABHA (1992)

Point of Privilege

- (i) *Alleged arrest of a member and non-intimation thereof to the Chairman, Rajya Sabha by the concerned authority;*
- (ii) *Alleged misbehaviour with the member by the Police Officers.*

Facts of the case and reference to the Committee of Privileges

On 25 November, 1992, Shri Ish Dutt Yadav, a member, gave notice of a question of privilege against the District Magistrate, Deoria, Uttar Pradesh (Shri Manoj Kumar), the Deputy Collector, Deoria (Shri Devnarayanan Tripathi), the Deputy Superintendent of Police, Deoria (Shri Ranbir Singh Rathi) and the Station House Officer, Police Station, Ghoshi, District Mau, Uttar Pradesh (Shri Banwari Lal) for allegedly arresting him without assigning any reasons, on the night of 7 and 8 October, 1992, at the PWD Inspection Bungalow in Deoria and also for misbehaving with him while being taken away from Deoria to the Central Jail, Varanasi, Uttar Pradesh. The member also alleged that the intimations regarding his arrest and release

were not sent to the Chairman, Rajya Sabha by the concerned authority.

2. In his notice of question of privilege, Shri Yadav stated *inter alia* that on 7 October, 1992, he was in Deoria, Uttar Pradesh, to gather information about the police firing on sugarcane growers at Ramkola Sugar Mill. On the night of 7 October, 1992, when he was sleeping in the Dak Bungalow of PWD at Deoria, the District Magistrate, Deoria arrived at Dak Bungalow alongwith few other subordinate officers and arrested him without assigning any reasons. According to member, he was also misbehaved with by the said officer who ordered his subordinate officers to take him to Central Jail, Varanasi in the night itself. The member further alleged that when he was being taken to Varanasi Jail he was insulted and humiliated by the Deputy Collector, Deoria, the Deputy Superintendent of Police, Deoria, the Station House Officer, Police Station, Ghoshi, District Mau, Uttar Pradesh. The member was lodged in the Central Jail, Varanasi, Uttar Pradesh on 8 October, 1992, and released on 14 October, 1992. Shri Yadav stated in his notice that the intimations regarding his arrest and release were not sent to the Chairman, Rajya Sabha by the District Magistrate, Deoria which according to member amounted to breach of privilege.

The matter was also raised in the House by Shri Ish Dutt Yadav and some other members on 1 and 22 December, 1992.

3. On 23 December, 1992, the Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

4. The Committee on Privileges after considering all relevant documents and examining in person Shri Manoj Kumar, District Magistrate, Deoria, Shri Vinod Shankar Srivastava, Executive Magistrate, Deoria, Shri Devnarayanan Tripathi, Deputy Collector, Deoria, Shri Ranbir Singh Rathi, Deputy Superintendent of Police, Deoria and Shri Banwari Lal, Station House Officer, Police Station, Ghoshi, District Mau, Uttar Pradesh, in their Thirty-sixth Report presented to the House on 30 December, 1993, reported *inter-alia* as follows:—

- (i) "Shri Manoj Kumar, District Magistrate, Deoria gave more or less the same version of the incident as was contained in the report of the State Government and denied any kind of misbehaviour with Shri Yadav.

He submitted that the information regarding the arrest of Shri Yadav was sent to the Chairman, Rajya Sabha, through the police wireless system on the night of 7-8 October, 1992 itself. However, due to some confusion and misunderstanding, the information about his release could not be sent."

- (ii) "Shri Vinod Shankar Srivastava, Executive Magistrate, Deoria, who had issued the orders of Shri Yadav's arrest and release, also denied misbehaviour with Shri Yadav but admitted his failure to intimate the release of Shri Yadav."
- (iii) "The District Magistrate and the Executive Magistrate, Deoria, as well as other officials (Shri Devnarayanan Tripathi, Deputy Collector, Deoria, Shri Ranbir Singh Rathi, Deputy Superintendent of Police, Deoria and Shri Banwari Lal Sharma, Station House Officer, Ghoshi) who appeared before the Committee expressed regrets and tendered unequivocal apologies for the lapse on their part and any discourtesy or inconvenience that may, even unintentionally, have been caused to Shri Yadav."
- (iv) "Shri Ish Dutt Yadav's complaint has raised two issues—one, regarding non-intimation of his arrest and release and the other regarding misbehaviour towards him by the concerned officials. On the first issue, the Committee, on perusal of relevant documents, find that though the information

about the arrest of Shri Yadav was sent to the Chairman, Rajya Sabha, by the District Magistrate, Deoria, through a radiogram, the same did not appear to have reached its destination. The loss of the message appears to have occurred due to its being passed through several hands. The Committee noticed that the District Magistrate and the Executive Magistrate, Deoria failed to intimate the release of Shri Yadav from the Central Prison, Varanasi to the Chairman, Rajya Sabha."

- (v) "As regards the complaint of misbehaviour towards Shri Yadav, in view of regrets expressed and unconditional apologies tendered by all concerned, the Committee recommend that the matter need not be pursued further."
- (vi) "Nonetheless, the Committee desire that the Government of Uttar Pradesh should take appropriate steps to ensure due compliance with the instructions issued by the Central Government from time to time in respect of modalities of official interaction with Members of Parliament, so that complaints of the nature dealt with in this report do not recur."

Action taken by the House

5. No further action was taken by the House in the matter.

ASSAULT/MISBEHAVIOUR WITH MEMBERS

LOK SABHA
(1970)

Point of Privilege

Manhandling and removal of member by police officer.

Facts of the case and action taken by the House

On the 18th November, 1970, Shri K.M. Koushik, a member, raised a question of privilege regarding his alleged manhandling and removal by the police at Nagpur Railway Station on the 27th May, 1970. While raising the question of privilege, Shri K.M. Koushik stated *inter-alia* as follows:

On the 27th May, 1970, I was at Nagpur. When I read in the papers that the President of India was passing through Nagpur, I went to the Railway Station. By that time the train was about to steam in.

When I went to the first class reservation hall I found that the police officers were actually necking, pushing and manhandling people and taking them into the van....I asked the police officers why they were manhandling those persons...One of the police officers said that they had decided in the first instance that when the President's train arrived there, they would allow only MPs and MLA's and no other person to go inside and that since those people were neither MPs nor MLAs, they did not allow them. As I have seen that there were so many persons who were neither MPs nor MLAs...I asked them how they allowed them....The police officer asked me if I was an MP. I told him that I was an MP and showed my identity card to him. He said that I could go in. But I said that it was not a question of my going in, the question was why they were discriminating between one person and another, when the Nagar Congress Committee President who was neither an MP nor an MLA was allowed, why were they not allowing others and were necking and pushing them out. On that the Deputy Commissioner of Police, Nagpur, said that I was challenging his authority and that even though I was an MP, he was not going to allow me. He put his hand on my neck and pushed

me...He actually put his hand on my neck, pushed me out and asked the constable to take me into the van. The constable caught my hand and began dragging me. I said, 'I am an old man; I am not going to run away; I shall come with you'.

When I went out to the portico following the constable, of the two police officers who were there the one who necked me out, came to the portico and said, 'Scoundral, you deserved this treatment.' I could have kicked him but I did not want to create any scene because the President's train was steaming in. I did not want to do anything and I simply followed them.

They took me into the van, detained me for one hour and then let me out. When they let me out, they took my name and all that. I asked them, what was the offence that I had committed for which they had detained me. They were not able to explain it. He said that it was too big a thing for him to explain but I had disobeyed orders. I asked him, what was the disobedience he had asked me to go in; because I did not go in, was that disobedience; were they detaining me for that."

2. After some discussion, the following motion was moved by Shri Atal Behari Vajpayee, a member, but was withdrawn subsequently by leave of the House:

"That the question of privilege arising out of the alleged manhandling and removal of Shri K.M. Koushik, M.P., by the police at Nagpur railway station on the 27th May, 1970, be referred to the Committee of Privileges."

Thereafter the following motion moved by Shri Nath Pai, another member, was adopted by the House:

"That this House resolves that Shri Padmanabhan, Deputy Commissioner of Police and Shri Choubey, Sub-Inspector of Police of the State of Maharashtra, be summoned to appear at the Bar of this House on Thursday, the 3rd December, 1970, at 12.00 hours to answer the charge of breach of privilege and contempt of this House for allegedly assaulting and abusing

Shri K.M. Koushik, a member of this House at the Nagpur Railway Station on the 27th May, 1970."

3. In pursuance of the above decision of the House on the 18th November, 1970 two separate summons in the following form were issued¹ by the Speaker (Dr. G.S. Dhillon) on the 19th November, 1970, to Sarvashri, K. Padmanabhan, Deputy Commissioner of Police and M.P. Choubey, Sub-Inspector of Police, of the State of Maharashtra, to appear in person at the Bar of the Lok Sabha on the 3rd December, 1970:—

SPEAKER,
LOK SABHA,
PARLIAMENT HOUSE,
NEW DELHI.

Dated : 19th November, 1970

28th Kartika, 1892 (Saka)

SUMMONS

WHEREAS the Lok Sabha has on the 18th November 1970, adopted the following motion:

'That this House resolves that Shri Padmanabhan, Deputy Commissioner of Police and Shri Choubey, Sub-Inspector of Police of the State of Maharashtra, be summoned to appear at the Bar of this House on Thursday, the 3rd December, 1970, at 12.00 hours to answer the charge of breach of privilege and contempt of this House for allegedly assaulting and abusing Shri K.M. Koushik, a member of this House, at the Nagpur Railway Station on the 27th May, 1970.'

NOW, therefore, in pursuance of the above decision of the House you, Shri Padmanabhan, Deputy Commissioner of Police and Shri Choubey Sub-Inspector of Police, are hereby summoned to appear in person to answer the above-mentioned charge at the Bar of Lok Sabha in the Parliament House, New Delhi, on Thursday, the 3rd December, 1970, at 12.00 hours.

Herein fail not.

Given under my hand and seal at New Delhi, this 19th day of November, 1970.

Sd/-
Speaker, Lok Sabha
SEAL'

4. On the 3rd December, 1970, immediately after the Question Hour, the Speaker made the following observations:

"We will now take up the item regarding the examination of Shri K. Padmanabhan, Deputy Commissioner of Police and Shri M.P. Choubey, Sub-Inspector of Police, of the State of Maharashtra who, in pursuance of the decision of the House of the 18th November, 1970, have been summoned to appear at the Bar of this House, today, to answer the charge of breach of privilege and contempt of this House for allegedly assaulting and abusing Shri K.M. Koushik, a member of this House, at the Nagpur Railway Station on the 27th May, 1970.

In this connection, I may remind the House that when dealing with matters involving breach of its privileges and contempts, the House in a sense functions as the High Court of Parliament. It is, therefore, profoundly important that particularly on such occasions, we should be judicious, fair and scrupulous and should maintain solemnity, dignity and authority of the House. I need hardly emphasise that when Sarvashri K. Padmanabhan and M.P. Choubey are being examined at the Bar, there should be pin-drop silence. According to the practice in such matters, it will be my duty to ask questions from these two witnesses when they appear at the Bar one by one and after both of them have given their evidence and withdrawn, the House can deliberate and arrive at a decision in the matter. No member shall ask any question or interrupt, whatever be the answers or statements of these two witnesses in reply to the questions asked by me and there shall be no observation or expression of any opinion on the matter, till the examination of the witness is over and they have withdrawn from the Bar."

5. Immediately thereafter the Speaker asked the Watch and Ward Officer, if Shri K. Padmanabhan was in attendance. The Watch and Ward Officer replied in the affirmative. The Speaker then directed the Watch and Ward Officer to bring him in. Shri K. Padmanabhan was accordingly brought to the Bar of

the House by the Watch and Ward Officer, where Shri K. Padmanabhan bowed to the Speaker, and stood. The Speaker (seated in the Chair) then addressed Shri K. Padmanabhan as follows:—

“Shri K. Padmanabhan, you have been summoned here to answer a charge of breach of privilege and contempt of this House for allegedly assaulting and abusing Shri K.M. Koushik, a member of this House, at the Nagpur Railway Station on the 27th May, 1970. Now, I have to ask you a few questions to which you will give specific and truthful replies.

Were you on duty at the Nagpur Railway Station on the 27th May, 1970, when Shri K.M. Koushik, M.P., was restrained and removed by the police from the Railway Station?”

Shri K. Padmanabhan replied in the affirmative.

Thereupon, the Speaker asked him whether he wished to say anything in that connection. In reply, Shri K. Padmanabhan offered his “profound apologies to the hon. member (Shri K.M. Koushik) and to the House for whatever (had) happened on that day.”

The Speaker then directed him to withdraw.

Shri K. Padmanabhan then bowed to the Speaker and withdrew as directed by him.

6. Thereafter, the Speaker asked the Watch and Ward Officer if Shri M.P. Choubey was in attendance. The Watch and Ward Officer replied in the affirmative. The Speaker then directed the Watch and Ward Officer to bring him in. Shri M.P. Choubey was accordingly brought to the Bar of the House by the Watch and Ward Officer, where Shri M.P. Choubey bowed to the Speaker and stood. The Speaker (seated in the Chair) then addressed Shri M.P. Choubey as follows:—

“Shri M.P. Choubey, you have been summoned here to answer a charge of breach of privilege and contempt of this House for allegedly assaulting and abusing Shri K.M. Koushik, a member of this House, at the Nagpur Railway Station on the 27th May, 1970. Now, I have to ask you a few questions to which you will give specific and truthful replies.

Were you on duty at the Nagpur Railway Station on the 27th May, 1970, when Shri K.M. Koushik, M.P., was restrained and

removed by the police from the Railway Station?”

Shri M.P. Choubey replied in the affirmative. Thereupon, the Speaker asked him whether he wished to say anything in that connection. In reply, Shri M.P. Choubey offered his profound apologies to the House, the Speaker and the member concerned (Shri K.M. Koushik) for whatever had happened on that day.

The Speaker then directed him to withdraw.

Shri M.P. Choubey then bowed to the Speaker and withdrew as directed by him.

7. The Speaker then observed as follows:

“In view of the apologies tendered by Shri K. Padmanabhan, Deputy Commissioner of Police and Shri M.P. Choubey, Sub-Inspector of Police, of the State of Maharashtra, at the Bar of the House today, I suggest that the matter may be treated as closed.”

The House agreed and the matter was closed.

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LOK SABHA
(1972)

Point of privilege

Assault on a member while he was proceeding to emplane for attending Session of the House

Facts of the case and reference to the Committee of Privileges

On the 16th November, 1972, Shri Krishnan Manoharan, a member, raised a question of privilege regarding an assault on him by certain persons at the Madras Airport on the 15th November, 1972, when he was proceeding to emplane for Delhi for attending the Lok Sabha Session. While raising the matter, Shri Krishnan Manoharan stated *inter alia* as follows:—

“At the Meenambakkam Airport (Madras), last evening, 15th November, 1972, when I was proceeding to emplane for Delhi for attending the Parliament Session today about 30 hooligans...pounced upon me as soon as I alighted from the car in the portico of the Airport. Two members of the gang strangled my throat, while some others went to the extent of getting hold of and squeezing my testicles. These were deliberate attempts pre-planned to

physically liquidate me before I got into the plane for reaching Delhi. I can identify all these people. I can tell the names of the people...

...I am unable to understand how these people were able to collect inside the portico of Meenambakkam Airport without the knowledge of the police. It will not be far from truth if I presume that the police was deliberately conniving with the hooligans...

...I, therefore, request that the matter should be taken up by this House as a breach of privilege."

After some discussion, the matter was held over till the 17th November, 1972.

2. On the 17th November, 1972, the Speaker (Dr. G.S. Dhillon) observed *inter alia* as follows:—

"...I leave it to you to decide whether we could make a reference to the Government of Tamil Nadu or be seized of it, because there are no precedents.... Since the Chief Minister also expressed regret, why not we get the information from the State Government. Then, everything would be before the House. I will get the information from the State Government and come again before the House..."

3. On the 1st December, 1972, the Minister of State in the Ministry of Home Affairs (Shri K.C. Pant) informed the House that he had received the requisite factual report in the matter from the Government of Tamil Nadu which stated *inter alia* as follows:—

"Neither Thiru K. Manoharan nor Thiru K.A. Krishnaswamy nor anybody else on their behalf had preferred any complaint to the Local Police about the alleged incident. No case was, therefore, registered by the Police....According to the Superintendent of Police the enquiries reveal that when Thiru K. Manoharan arrived at the portico of the Meenambakkam airport on 15th November, 1972, some persons, who had gathered there, raised slogans for and against his action in having joined the ADMK, that some persons without tickets attempted to enter the Airport, but they were prevented by Airport duty personnel at the main gate and that, in the melee, the M.Ps. shirt was torn. The

Superintendent of Police has also reported that the M.P. was taken in the Airport Lounge soon after by the Senior Traffic Assistant of the Meenambakkam Airport. He has further added that it is not correct to say that Police force was present at the Airport and that it did not come to the rescue of the M.P. On the other hand, the Sub-Inspector of Police, Meenambakkam, who was attending the security work and standing near the Customs Block, well away from the scene of the incident, on hearing the slogans, rushed to the portico with the available men. But on arrival, there was no crowd at the portico...."

4. Thereupon Shri Krishnan Manoharan stated that statements had been extracted from witnesses by the Police by terrorising and intimidating three of his friends namely Sarvashri K.N.K. Naidu, Ethiraj and Johnson.

5. The Speaker, then observed *inter alia* as follows:—

"I think that the only course that is open to us is to let the Privileges Committee examine all these issues."

6. The House, then referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee

7. The Committee of Privileges after examining Sarvashri Krishnan Manoharan and K.A. Krishnaswamy, M.Ps. (Shri K.A. Krishnaswamy, M.P., had accompanied Shri Krishnan Manoharan to the Madras Airport on the date of the incident and travelled with him in the same plane from Madras to New Delhi), the two Madras Airport Officials namely, Sarvashri Sreedharan Nair, Cashier and G. Krishnamurthy, Chief Traffic Assistant and the four persons named by Shri Krishnan Manoharan as his principal assailants namely, Sarvashri C. Panchaksharam, P. Asaimuthu, V. Janakiraman and P. Manickam, in their Eleventh Report presented to the House on the 7th August, 1974, reported *inter alia* as follows:—

(i) "On the basis of the evidence before them the Committee are convinced that Shri Krishnan Manoharan, M.P. was abused and assaulted on the 15th November, 1972, at the Madras Airport by a crowd of 25 to 30 persons while he was proceeding to emplane for Delhi to attend the Session of Lok Sabha.

There has thus been a clear breach of privilege by all those persons who were involved in the assault on Shri Krishnan Manoharan, M.P. on that occasion."

- (ii) "With regard to the identity of the specific persons who might have been involved in assault on Shri Krishnan Manoharan, although the Committee are inclined to believe the evidence given before them by Sarvashri Krishnan Manoharan and K.A. Krishnaswamy, M.Ps. the Committee feel that the totality of evidence before them is not conclusive to establish beyond reasonable doubt the identity of the alleged assailants."
- (iii) "The Committee regret that a member of Parliament, or, as a matter of that, any citizen, should be assaulted in this manner at a public place like the Madras Airport."
- (iv) "The Committee while condemning the assault on Shri Krishnan Manoharan and deprecating the conduct of and the breach of privilege committed by the persons concerned are of the opinion that taking into consideration the totality of the evidence and circumstances of this case, no further action need be taken by the House in the matter. The Committee hope that the importance of the privilege of freedom from molestation to members of Parliament while attending the House or coming to or going from it would be appreciated by all concerned and such incidents would not recur in future."

Action taken by the House

8. No further action was taken by the House in the matter.

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LOK SABHA
(1973)

Point of privilege

Alleged assault on a member by Police while staging a demonstration

Facts of the case and reference to the Committee of Privileges

On the 24th April, 1973, Shri Phool Chand Verma, a member sought to raise a question of privilege regarding an assault on him on the 13th April, 1973, by the Police at Gopalpur, Borda Barrier, District Dewas (Madhya Pradesh), when he was staging a demonstration. While raising the question of

privilege, Shri Phool Chand Verma stated *inter alia* as follows:—

"I, along with my colleagues was proceeding to Gopalpur, Borda Barrier, District Dewas, Madhya Pradesh on the 13th April, 1973 for a peaceful demonstration against inter-district restrictions (on movement of foodgrains). There, the D.S.P. of Dewas, Shri Brijendra Singh Tomar, knowing that I was a member of Parliament Manhandled me, tore out my clothes and said that he had set right many M.Ps. like me. He dragged me into a police truck. I am showing to you my torn *kurta* etc. Had I not restrained and pacified my colleagues, a serious situation might have arisen there. I was then taken to the police station and locked in a room. Again and again I pleaded with the Circle Inspector, Shri Qureshi, and D.S.P., Mr. Singh that I had got injuries and required medical aid and should be taken to hospital. But they did not take me to hospital. I was not given food or water upto 01.00 hours in the night and was subjected to inhuman treatment.

This constitutes a breach of my privilege and I request you to refer this matter to the Committee of Privileges."

2. The Speaker (Dr. G.S. Dhillon) observed that he would hear the other side and let the member know.

3. The Ministry of Home Affairs to whom the matter was referred for factual comments, furnished a copy of the inquiry report on the matter from the District Magistrate, Dewas received by the that Ministry through the Government of Madhya Pradesh.

The aforesaid inquiry report stated *inter alia* as follows:—

"From the examination of the statement of the Dy. S.P. the police record and the statements of eye-witnesses, what emerges out is that on 13th April, 1973 the Bharatiya Jan Sangh Party had given a call to the villagers to assemble at Village Borda and to break the ban imposed on inter-district movement of wheat.....

Shri Phool Chand Verma M.P. along with his other associates, came to this area with

packets of wheat and wanted to cross the border. He was stopped by the constabulary on duty. Despite the fact that he was stopped he tried to make room along with the associates by pushing the police force. The police naturally tried to prevent these people from crossing the barrier with packets of wheat. In the process, some scuffle may have taken place in which Shri Phool Chand Verma fell down. The DSP then rushed to the place and escorted Shri Verma to the police van in which he was taken to Police Station Khategaon.

From the foregoing it is absolutely clear that neither the DSP nor any member of the police force misbehaved with Shri Phool Chand Verma or assaulted him during or after his arrest."

4. On the 1st August, 1973, Shri Phool Chand Verma again raised the matter in the House.

While raising the matter Shri Verma requested *inter alia* that the matter might be referred to the Committee of Privileges.

5. The Minister of State in the Ministry of Home Affairs (Shri K.C. Pant), thereupon, stated *inter alia* that on the basis of the inquiry conducted in the matter by the District Magistrate, Dewas, the District Magistrate came to the conclusion that the allegations of misbehaviour on the part of Dy. S.P. and of the police officers in police station, Khategaon were not substantiated.

6. During the discussion on the matter, some members contended that in view of the contradiction between what Shri Phool Chand Verma had alleged in the House and what purported to be the inquiry report of the District Magistrate, Dewas the matter might be referred to the Committee of Privileges.

7. The Speaker then referred the matter to the Committee of Privileges and observed *inter alia* as follows:—

"I have no objection to forwarding the relevant observations—his complaints and also his replies—for examination by the Privileges Committee."

Findings and recommendations of the Committee

8. The Committee of Privileges after taking evidence of Shri Phool Chand Verma in their Eight

Report presented to the House on the 19th April 1974, reported *inter alia* as follows:—

(i) "In the present case the alleged incident took place when Shri Phool Chand Verma was 'proceeding to Gopalpur, Borda Barrier, District Dewas, Madhya Pradesh on the 13th April, 1973, for a peaceful demonstration against inter-district restrictions (on movement of food-grains)', as stated by Shri Phool Chand Verma himself in Lok Sabha on the 24th April, 1973. It is thus clear that he was not performing any Parliamentary duty on that occasion."

(ii) "The Committee find that according to Shri Phool Chand Verma, M.P. he was dragged into a police truck, beaten and his Shirt torn which also got blood stained due to injuries received by him on that occasion. The District Magistrate Dewas, in his inquiry report on the incident, has also stated *inter alia* that 'In the process, some scuffle may have taken place in which Shri Phool Chand Verma fell down.' The Committee are distressed over this incident and are of the view that the Police Officers should show proper decency and courtesy while dealing with peaceful demonstrators particularly members of Parliament."

(iii) "Since on the facts of this case, no breach of privilege or contempt of the House is involved in the matter the Committee are of the view that it may be dropped."

(iv) "The Committee recommended that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

9. No further action was taken by the House in the matter.

51

LOK SABHA
(1973)

Point of privilege

Alleged assault on a member by some demonstrators at a public meeting

Facts of the case and ruling by the Speaker

On the 19th November, 1973, Shri Madhu Dandavate, a member, sought to raise a question of

privilege regarding alleged assault by some demonstrators on Shri Samar Guha, another member while he was addressing a public meeting at Calcutta.

2. The Speaker (Dr. G.S. Dhillon), disallowed the question of privilege and observed *inter alia* as follows:—

“If Shri Samar Guha was there in connection with the performance of some service to this House, certainly, I will take note of this. But if he was just addressing a meeting and then something happened he will be treated like any other citizen under the ordinary administration of law. Of course, I would be the last man to approve of any assault even otherwise in a public meeting which has nothing to do with the performance at the duties of the House, because that is not in consonance with the democratic spirit in the country. But to make it question of privilege it has to be proved that he was there in the performance of his duties towards this House. We have a number of meetings going on through-out the country and all the time members address such meetings and sometimes may be facing such situations. They should not be brought to his House in the form of a privilege because they are dealt within the ordinary administration of law.”

52

LOK SABHA
(1974)

Point of privilege

Alleged assault on a member and his detention by police

For details of the case please see summary No. 14 at pp. 38-39 ante.

53

LOK SABHA
(1980)

Point of privilege

Alleged ill-treatment meted out to a member while under arrest

Facts of the case and ruling by the Speaker

On 11th July, 1980, the Speaker (Shri Bal Ram Jakhar) informed the House that he had received a letter from Shri George Fernandes on 10th July,

1980, enclosing therewith a letter from Shri Rasheed Masood regarding treatment meted out to him while under arrest at Baghpat (U.P.). The matter was immediately referred to the Minister/Ministry of Home Affairs for furnishing a factual note thereon.

2. On 15th, July, 1980, the Speaker (Shri Bal Ram Jakhar) informed the House as follows:—

“On 11 July, 1980, I had informed the House that a letter received by me from Shri George Fernandes enclosing a letter dated 9 July, 1980 from Shri Rasheed Masood regarding the treatment meted out to him while under arrest, had been referred to the Ministry of Home Affairs for furnishing a factual note on the matter.

A reference was thereupon made in the House to the case of Shri N.K. Ramalingam who had brought to the notice of the House in May 1979 that he had been beaten by the Delhi Police and not given proper medical aid and asked the Speaker ‘to protect the rights and privileges of the Members and, at the same time, direct the Government to hold a judicial inquiry in this regard.’

This was followed up on the same day by a notice of question of privilege given by Shri Vasant Sathe, M.P., under Rule 222. My distinguished predecessor, Mr. Speaker Hegde had made the following observations on the matter:—

‘There are two versions about the incident that took place on the 1st of May—one given by the Home Minister and another given by Shri Ramalingam. It is not the version of Shri Ramalingam that any harm was done to him when he was discharging any duty or function *qua* member of Parliament. In cases like these recourse should be had to Courts of Law.

No question of privilege arises. This position is well settled. No consent.’

In the light of the above observations, there is no question of privilege arising in the matter or consent being given under Rule 222.”

Point of privilege

Manhandling of a member and the use of abusive language in respect of members of Parliament by police personnel.

Facts of the case and reference to the Committee of Privileges

On 6th April, 1981, Shri Bhogendra Jha, a member, made the following statement in the House under rule 377 of the Rules of Procedure and Conduct of Business in Lok Sabha, regarding his alleged man-handling and use of abusive language in respect of members of Parliament by the police personnel at Ghaziabad, U.P., on 3rd April, 1981:—

“Having come to know that police in Ghaziabad had beaten up AITUC workers after entering its district office on the 1st of April, it was decided in consultation with CPI Group Leader in this House, Comrade Shri Indrajit Gupta, that I should go to Ghaziabad to ascertain the actual facts. I reached Ghaziabad at about 5.15 p.m. on the 3rd April. Comrade Jitendra Sharma, Ghaziabad District Secretary of C.P.I. and another Comrade accompanied me from Delhi on a taxi. We reached Ghaziabad after 5.15 p.m. About 5 to 6 persons were present in the District AITUC office situated at the site of what is known as Meerut Road.

While we took our tea in the office, some more workers gathered and narrated the story of the police repression on them. After hearing them, I began talking to them, about the need to defend their hardwon trade-union and other legal rights without getting provoked or cowed down. Just I had begun, one Police Inspector named R.R. Pal appeared and asked me whether I was Bhogendra Jha, member of Parliament. Confirming this query, I asked him to wait a bit as I would like to talk to him. Just at this point, scores of P.A.C. men and constables came running and began unwarrantedly assaulting the sitting workers with lathis, etc. Indiscriminately, brandishing lathis, rifle butts, they pulled out the workers from the AITUC office

room and pushed them out giving blows after blows. District AITUC President, Ghanshyam Sinha, General Secretary, Sukhbir Tyagi, District CPI Secretary Jitendra Sharma and two to three other local leaders surrounded me from all sides apparently to save me from blows. While I was standing their midst several P.A.C. men rushed towards me, pulling out and pushing out those surrounding me while giving them barrel push and bayonet blows. One of the P.A.C. men hit me with barrel in my chest exclaiming: ‘Saale Assembly aur Parliament wale Kyakarne aate hain’. Immediately after PAC men gave me push with barrel behind my back, then three of them began giving me full blows with rifle butts while hurling filthy abuses as to why members of Parliament poke their nose everywhere. When I was fainting, on the orders of the City Magistrate, Shri Trivedi, they huddled me into a jeep standing by in which the above named Mazdoor leaders had also been huddled in. The City Magistrate, Trivedi, and the Police Inspector, Pal were sitting in the same jeep on the front benches. I asked the Magistrate to find me back my spectacles taken away by some PAC men. Exclaiming ‘nothing doing’, he ordered the driver to proceed. After going about one to two furlongs, both the officers got down from the jeep at a place which I was told was the office of the Shriram Piston and Rings Mills, where workers are on strike since 17th March. Both of them had some confabulation with one official of the mill, who I was told was General Manager of the mill, some Agrawal. After talking to him, the Magistrate ordered me out of the jeep and asked me to go wherever we wanted to. Fortunately, the taxi from Delhi had been following us and we got into it. Having received severe blows and feeling acute pain all around the body, we rushed to the emergency ward of Dr. Ram Manohar Lohia Hospital and got ourselves treated.

Sir, I do not know and hence cannot impute any personal motivation against any of the officers and their men, because they had no personal acquaintance with me, excepting that they could

not tolerate any 'investigation' by any member of Parliament nor could I make out any understandable reason for their wanton and brutal display and use of force, including several rounds of firing."

2. Thereafter, the Speaker gave his consent to the raising of a question of privilege given notices of by Shri Indrajit Gupta and Shri Ramavatar Shastri, members, on the matter.

Shri Indrajit Gupta, then moved the following motion which was adopted¹ by the House:—

"That the matter relating to the statement made here on the floor of the House by Shri Bhogendra Jha concerning assault on him by the PAC at Ghaziabad on the 3rd of this month be referred to the Committee of Privileges."

Findings and recommendation of the Committee

3. The Committee of Privileges, after examining in person Shri Bhogendra Jha, Shri S.K. Trivedi, the then City Magistrate, Ghaziabad, Shri R.R. Pal, the then Inspector of Police, Ghaziabad, Shri Om Pathak, the then District Magistrate, Ghaziabad and Shri A.B. Shukla, the then Superintendent of Police, Ghaziabad, in their Fourth Report, presented to the House on 5 May, 1983, reported *inter alia* as follows:—

- (i) "The Committee find that the facts stated in their oral evidence before the Committee by Shri R.R. Pal, the then Inspector of Police, Ghaziabad, and Shri S.K. Trivedi, the then City Magistrate of Ghaziabad who were present on the scene of incident on 3 April, 1981, are totally contradictory to the facts stated by Shri Bhogendra Jha, M.P. in his statement in the House and later during his evidence before the Committee. The Committee also find that there are certain material contradictions between the evidence given by Sarvashri R.R. Pal, S.K. Trivedi, A.B. Shukla the then Superintendent of Police, Ghaziabad and Shri Om Pathak, the then District Magistrate of Ghaziabad."
- (ii) "After careful consideration of the evidence and other documents made available to the Committee, the Committee feel that there is no reason to disbelieve the facts stated by Shri Bhogendra Jha, M.P. that he was abused in filthy language and assaulted by the police personnel who were acting under the supervision of Sarvashri R.R. Pal and S.K. Trivedi. The Committee also feel that it is improbable that Sarvashri R.R. Pal and S.K. Trivedi in whose presence Shri Bhogendra Jha was assaulted and abused by the police personnel were not aware of Shri Bhogendra Jha's presence there at that time".
- (iii) "The Committee are, therefore, not convinced by the documents produced, and oral evidence given, before the Committee by Shri R.R. Pal, the then Inspector of Police, Ghaziabad and Shri S.K. Trivedi, the then City Magistrate, Ghaziabad."
- (iv) "The Committee after taking into consideration the totality of the circumstances of the case, have come to the conclusion that the police personnel used abusive language in respect of members of Parliament in general and Shri Bhogendra Jha M.P. in particular and assaulted him at Ghaziabad, on 3 April, 1981."
- (v) "The Committee are also not convinced that Sarvashri S.K. Trivedi and R.R. Pal were not aware of the presence of Shri Bhogendra Jha, M.P. at the scene of incident on 3 April, 1981, at Ghaziabad. The Committee find that both Sarvashri S.K. Trivedi and R.R. Pal, who were present at the scene of incident, failed in their duty to provide protection to Shri Bhogendra Jha, M.P., from being abused and assaulted by the police personnel under their charge."
- (vi) "In view of their finding the Committee decided that Shri S.K. Trivedi, the then City Magistrate of Ghaziabad and Shri R.R. Pal, the then Inspector of police, Ghaziabad be called again before the Committee to give them another opportunity to have their say in the matter."
- (vii) "When Shri S.K. Trivedi, the then City Magistrate of Ghaziabad and Shri R.R. Pal, the then Inspector of Police, Ghaziabad appeared again before the Committee on 7 April, 1983, they were apprised of the findings of the Committee. Thereupon,

Shri S.K. Trivedi expressed his unqualified regret in the following words:—

'I tender my unconditional apology to the Committee and the hon. member of Parliament'.

Thereafter, Shri R.R. Pal also tendered his unqualified apology in the following words¹:—

'I apologise. I apologise for the lapse on my part as pointed out by the Committee. In future, there shall not be any recurrence of such an incident on my part. We shall always honour the Hon'ble Ministers and members and these things will always be kept in mind. I apologise for whatever has happened, Sir.'

(viii) "In view of the unconditional and unqualified apologies tendered by Shri S.K. Trivedi, the then City Magistrate of Ghaziabad, and Shri R.R. Pal, the then Inspector of Police, Ghaziabad, the Committee are of the view that the dignity of the House would be best served by taking no further action in the matter."

(ix) "The Committee are, however, distressed to find that there have been several cases referred to them by the House regarding ill-treatment and assault by the police on the members. The Committee urge that the Ministry of Home Affairs should issue strict instructions¹ to all the authorities concerned to ensure that the members are not exposed to such ill-treatment and violence at the hands of the Police authorities."

(x) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

4. No further action was taken by the House in the matter.

55

LOK SABHA
(1981)

Point of privilege

Alleged assault on and use of abusive remarks against a member by police

Facts of the case and reference to the Committee of Privileges

On 22nd December, 1981 Shri Satyanarayan Jatiya a member, made the following statement under rule 377 regarding alleged assault on him and use of

abusive remarks against him by the police at Ujjain (Madhya Pradesh) on 15th December, 1981:—

"Mr. Speaker, Sir I am very much pained to make statement in the House detailing the sequence of events relating to the treatment meted to me—an elected representative of the people—on 15th of December, i.e. just two days before the Silver Jubilee function of M.P. Legislative Assembly, which you graced as the Chief Guest. It is all the more painful when I recall that I had also the privilege to serve the M.P., Legislative Assembly as a member.

More than 8000 workers and employees work in two textile Mills of Ujjain, viz. Vinod and Vimal Textiles. But these mills have not been running regularly since August, 1981 and have closed down since November 8, 1981. The closure of these mills has affected 8000 workers and employees as also 50,000 persons dependent upon them.

I am an elected representative of the people from the Ujjain Lok Sabha Constituency. Therefore, it is my duty to extend reasonable help to these thousands of persons rendered unemployed by trying to get these mills reopened. In this regard, I had requested the Hon'ble Chief Minister of Madhya Pradesh, Shri Arjun Singh, when he had come to Ujjain and also at Bhopal by meeting him personally, to re-open these mills without delay. During the current session of the Lok Sabha, the House was apprised of the problem by me on December 1, 1981 by way of raising the matter under Rule 377. Not only this I had made a submission in the Lok Sabha on Friday, last week to include this item in the agenda for the following week. I had apprised the Hon'ble Speaker the same day personally in his Chamber in Parliament House of the problem and he listened to me sympathetically.

On Friday, 11 December, I participated in the Half-an-Hour Discussion regarding imported sugar at 5.30 p.m. and I was in the Lok Sabha till the House adjourned for the day. Since there was no sitting of the House next day on Saturday and also on Sunday. I visited Ujjain for these two days. On reaching Ujjain the workers of the above Mills requested me to stay in Ujjain up to 15th of December. On December 12, 13 and 14, I met the people of

my Constituency and personally saw the economic deprivation of the families of these workers, who told me that they had to sell the ornaments of their womenfolk and also their utensils to make both ends meet. I addressed a rally of the workers in the morning of 15th December, during 'Ujjain Bandh', a call for which was given by the workers. Thereafter a token demonstration was held at the Railway Station in order to convey their demands to the Central Government. As this was the last public programme, I wanted to return to Delhi immediately after the demonstration was over to take part in the Lok Sabha proceedings. At that time I was accompanied by Shri Hari Vallab Bansal, Shri Rajendra Raghuvanshi, Shri Rameshwar Gahlod and Shri Kishore Lashkari. We were on the platform number 1 of the Railway Station and were going out of the Station. Near the Railway Police Station, Shri H.P. Singh, District Police Superintendent, Ujjain without listening to me, caught hold of my both hands and ordered the policeman to lathicharge me. The first blow was made on my head, the second blow was made on my right thigh and the third was on my left foot, below the knee, as a result of which I fell down. The people accompanying me ran to cover me in order to save me. They alongwith me received a number of injuries. I was hit with lathis on my head, both hands, elbow of my right hand, right thigh and knee and ankle. The front toe of my foot started bleeding as a result of lathi blows, I was severely injured. I wanted to talk to the Police Superintendent, but what to say of listening, he used abusive language and shouting in a very insulting tone, said '*Badmash, Goonde Kaheen ke, Netagiri karta hai. Teri Netagiri abhi thikaney laga deta hoon. Kaminey, Harijan kahin ke, Sansad Sadasya ban gaya to apni aukat bhool gaya*'. (You scoundrel, rogue, trying to be a leader? I will set your leadership right. You mean fellow, you Harijan after becoming an M.P. you have forgotten what you really are.) His lathi blows injured me but his derogatory and scornful words hurt my conscience.

Mr. Speaker, I have tolerated and suffered too much, I am greatly hurt. The Collector of Ujjain was

there at Railway Police Station, no order was given for my detention. The Police detained me forcibly on the platform itself for an hour, they made fun of me and I put up with that. Even after an hour when no order was given to me. I somehow came out. Outside the station, the Police surrounded me again and I was forcibly sent to jail. The prisoners in jail took me to the hospital where the Medical Doctor of the jail Shri Patwardhan examined me and provided first aid. Afterwards I was released on the night of 15.12.1981.

On 16-12-1981, when Shri Rajendra Shinde was sent to the Railway Police Station to make a written report regarding the matter they refused to accept it. Later, having consulted his officers, the Railway Police Officer accepted the report. I have a copy of the same, duly signed by the Police officer.

Mr. Speaker, Sir, the Superintendent of Police Shri H.P. Singh detained me forcibly. I was insulted repeatedly and was grievously hit again and again. I was prevented from taking part in the proceedings of Lok Sabha. I am putting up with the wounds on my persons, but my feelings are badly hurt. I request this House and request your goodself as the Speaker of this House, that:—

1. The said Police Officer, hurt my body as well as should and deprived me from discharging my duties as a people's representative in Lok Sabha. Therefore, justice should be done immediately so that nobody may dare, in future to behave in such a rude and unjust manner with the people's representatives.
2. In view of the seriousness of the incident, steps be taken to extend full safety and protection to myself members of my family and my friends referred to in this statement against any attempt on the part of the influential police officer to further harm us.

Lastly, through you, I would like to urge the hon. Minister of Industry to take over immediately the Vinod and Vimal Mills so as to end the unemployment of thousands of workers of these mills and provide relief to them.

Mr. Speaker, Sir, I request you and the House to refer this matter to the Committee of Privileges. I am here at the moment but even if I had not come here. I request that a written statement

should be accepted in such circumstances. I thank you for giving me an opportunity to raise this matter."

2. Thereafter, the Speaker (Dr. Bal Ram Jakhar) observed as follows¹—

"In this connection, I would like to observe that it is a breach of privilege and contempt of the House to obstruct or molest a member while in the execution of his parliamentary duties that is, while he is attending the House or when he is coming to or going from the House. Similarly, to molest a member on account of his conduct in Parliament is a breach of privilege. It has been held earlier by my distinguished predecessors that an assault on or misbehaviour with a member unconnected with his Parliamentary work or mere discourtesy by the police or officers of the Government are not matters of privilege and such complaints should be referred by, members to the Ministers direct.

However, I find that in the present case, the Government's version of the facts is different from the version given by Shri Satyanarayan Jatiya in the House. I have therefore, no objection if a motion is moved for referring the matter to the Committee of Privileges".

3. Shri Suraj Bhan, a member then moved the following motion which was adopted by the House:—

"That the matter relating to the statement made on the floor of the House by Shri Satyanarayan Jatiya concerning assault on him by the Police at Ujjain on 15th December, 1981, be referred to the Committee of Privileges for examination and report."

Findings and recommendations of the Committee

4. The Committee of Privileges after examining Shri Satyanarayan Jatiya, Shri H.P. Singh, the then Superintendent of Police, Ujjain, Shri Ajit Raizada, the then District Magistrate, Ujjain, Shri Babulal Jain, Ex-Minister, Government of Madhya Pradesh and Shri Arun Jain, Local Representative of *Nai Duniya* a Hindi daily, in their Eighth Report

presented to the House on the 9th May, 1984, reported *inter alia* as follows:—

- (i) "Shri Satyanarayan Jatiya, MP, in his oral evidence before the Committee deposed that the Government version that his injuries were self-inflicted injuries, that the injuries were caused on his own; and that he had confessed that this was all done by himself, was all incorrect and contrary to the facts. When Shri Jatiya was told that the State Government in their factual note had stated that 'while climbing up the platform, Shri Jatiya fell down and sustained injuries', Shri Jatiya replied that 'this is entirely incorrect. The S.P. caught hold of both my hands and asked for lathi charge....."
 - (ii) "In reply to a specific question : 'Had any injury been inflicted on you by the S.P. himself?', Shri Jatiya stated : No. It was the police who inflicted injuries on me. But the injuries received were through his medium. The S.P. had ordered lathi charge. He caught hold of my hands and that is why I received injuries'."
 - (iii) "The Committee note that Shri H.P. Singh the then District Police Superintendent, Ujjain has denied the allegations made by Shri Satyanarayan Jatiya, M.P. against him, while Shri Jatiya alleged that Shri H.P. Singh caught hold both of his hands and ordered the policemen to lathi charge him. Shri H.P. Singh said that he did not give any such orders to his constables and had instead saved Shri Jatiya. Shri H.P. Singh, however, conceded that Shri Jatiya might have been hit once or twice by the police constables who were chasing the crowd with batons in their hands.
- Shri H.P. Singh also denied the allegation of Shri Jatiya that he had used abusive language against him."
- (iv) "The Committee find that the position stated in the factual note furnished by the

¹The Ministry of Home Affairs, while inviting the attention of all the State Governments/Union Territories Administrations to these observations of the Committee of Privileges through their letter No. 1/13014/25/83-IS(D.III); dated 24 June, 1983, issued the following instructions to them:

"It is needless to say that the law enforcing authorities should bear in mind that while discharging their duties, all due respect and consideration is shown to members of Parliament as representatives of the people and entrusted with discharge of important functions and responsibilities under the Constitution. It is requested that the observations of the Committee of Privileges may be brought to the notice of District Magistrates, District SPs and other authorities incharge of law and order for due compliance."

Government of Madhya Pradesh has been contradicted by Shri Babu Lal Jain, ex-Minister and Shri Arun Jain, local representative of *Nai Duniya* who were cited in the factual note in support of the position stated therein."

(v) "After careful consideration of the evidence and other documents before the Committee, the Committee are not impressed with the evidence given by Shri H.P. Singh and the factual note furnished by the Government of Madhya Pradesh and are of the view that they were not able to controvert the allegations made by Shri Jatiya. The Committee find no reason why Shri Jatiya should have made the allegations against Shri H.P. Singh without any basis. The Committee have come to the conclusion that Shri Satyanarayan Jatiya, M.P. was assaulted and beaten by the policemen under the orders of Shri H.P. Singh. Further Shri H.P. Singh also used abusive language in respect of Shri Satyanarayan Jatiya which was highly derogatory against a Member of Parliament."

(vi) "The Committee decided that Shri H.P. Singh be called again before the Committee and given an opportunity to explain, what he had to say in the matter in view of the above finding of the Committee.

When Shri H.P. Singh was apprised of the findings of the Committee, he promptly submitted:

"In view of the finding of the Committee I express my sincere regrets and tender unconditional and unqualified apology for lapse on my part."

(vii) "In view of the unconditional and unqualified apology tendered by Shri H.P. Singh, the then Superintendent of Police, Ujjain, the Committee are of opinion that no further action need be taken in the matter."

(viii) "The Committee are however, distressed that of late there have been several cases of assault on members of Parliament and use of insulting language and abusive remarks against them by police authorities. The Committee are constrained to express their unhappiness over such repeated incidents of assault and abuses on the elected representatives of the people by police personnel."

(ix) "The Committee urge that the Ministry of Home Affairs should take appropriate steps to curb the growing tendency on the part of law enforcing authorities of assaulting and ill-treating members of Parliament and other elected representatives of the people, and of using abusive language in respect of them. The Committee desire that the Ministry of Home Affairs be asked to issue necessary instructions¹ to all the authorities concerned to ensure that such incidents may not recur and if any officer acts in that manner serious action should be taken against him."

(x) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

5. No further action was taken by the House in the matter.

56
LOK SABHA
(1982)

Point of privilege

Alleged man-handling of a member by some people and inaction on the part of police authorities

Facts of the case and reference to the Committee of Privileges

On 5th November, 1982 Dr. Golam Yazdani, a member, made¹ the following statement under rule 377 of the Rules of Procedure and Conduct of Business in Lok Sabha, regarding his alleged

¹The Ministry of Home Affairs, while inviting the attention of all the State Governments/Union Territories Administrations to these observations of the Committee of Privileges, vide their letter No. 1/13014/28/84-IS(D.III); dated 21 July, 1984, issued the following instructions to them:

"All the State Governments/Union Territories Administrations are therefore, requested to impress upon all the law enforcing authorities in the States/Union Territories to take due note of the observations made by the Committee of Privileges. It may also be made clear to all concerned to ensure that such instances of improper behaviour towards members of Parliament do not occur in future and that serious action would be taken against those contravening these instructions."

alleged man-handling by some people at Malda and inaction on the part of police authorities on 8th October, 1982:—

"I miraculously escaped from an attempt on my life at about 9.15 p.m. on the 8th October, 1982. On that night, I was coming from the northern side of Chanchal P.S. of Malda district in West Bengal by a motor cycle, after some party work. Another person was driving it. As we reached Chanchal proper and were entering the bazar, I saw an assembly of many people at the 'Sukanto Mor', a notorious spot with many shop belonging to the ruling party men. The motor cycle was stopped by a man. I got down, and saw a crowd with lathis, etc. advancing towards me. Some people warned me that there was a great danger in my staying there and that I must not go forward. While I was running across the field I could hear some people shouting 'there goes the doctor; catch hold of him.' I ran and approached a house on the southern side of the field, where two persons were standing in front of the door. I begged them for giving me shelter, and they took me inside through the front door and closed it. After a few minutes, one man entered again and told me that the police was informed and also told me that he was a ruling party man, and he searched my pockets and bag; and finding that I was not having any arms whatsoever, he went out and closed the door again. Then again after some time, one of the two men who gave me shelter entered the room, and said that his house was gheraoed by my followers, and he was facing great danger; and he, therefore, asked me to go away. He physically dragged me towards another door which was on the roadside, and where the miscreant were on the look out for me. He pushed me out of the door and closed it. Immediately, the door through which I was thrown out opened and a ruling party man with a lathi came near me and hit me twice. I tried to defend myself but failed and I sustained severe injuries in both of my hands and head. In the meantime one wellwisher of mine came near the door and asked me to go inside. I went inside the same room. On entering the room I found a policeman standing at the entrance of the other door of the room. Police asked me to accompany him. When I was brought out in the field and asked by police to ride on the jeep I found other policemen there. Only at that time

I saw my clothes were all wet with blood. I then got on the jeep. I was taken to the Chanchal Hospital where stiches were given to my head injury and other injuries were attended to. On 10.10.82 I was removed to District Hospital of Malda where stiches from my head were removed on 15.10.1982 and I was discharged on 16.10.82 with advice to take rest for three weeks. I went home but all along I had a feeling of insecurity and apprehending that I would be risking my life if I stay there, I decided to come back to Delhi and therefore I came to Delhi with my family on 20.10.82 and as per the advice of the C.G.H.S. Doctor of South Avenue, I was admitted to the Nursing Home of Dr. Ram Manohar Lohia Hospital where investigations are still being carried out and from where I have come with the permission of the doctor to make a statement today. This incident occurred by the ruling party men and with the knowledge of the police. So, I request you and through you the Hon. Home Minister to make a thorough investigation into this particular case by the C.B.I. I also request you that the matter may kindly be referred to the Privileges Committee as I feel that I am unable to discharge my duties as MP from that areas unless the situation improves. I, therefore, seek your protection as my life is in threat."

2. After taking the sense of the House, the Speaker (Dr. Bal Ram Jakhar) referred the matter to the Committee of Privileges.

Findings and recommendation of the Committee

3. The Committee of Privileges, after examining Dr. Golam Yazdani, in their Seventh Report, presented to the House on 20th December, 1983, reported *inter alia* as follows:—

(i) "Dr. Golam Yazdani, M.P. in his evidence before the Committee deposed:

'On the 8th October, I was at home in my constituency. On that very day, I had a programme to start for Delhi to attend the Parliament Session. I had my railway booking also at Malda Station to catch Tinsukia Mail on 9.10.82 at 4.21 early in the morning.... On that very day, in the afternoon, I went to the northern part of my constituency, because I was coming to Parliament and I wanted to find out the people's grievances, problems etc.—whatever they may be so that I might raise them in Parliament. So, I went in the

afternoon on a motorcycle. I did not drive the motorcycle; it was driven by a man named Sanaulah. I went there and I returned to Chanchal at about 9 P.M., which is about 1 km. from my home...Some people from there told me: "Doctor Sahib, C.P.M. people have conspired to finish you. Don't proceed further. You run backward to save yourself." So, I was confused and sensing danger I did not go forward, I started running backwards.'

When Dr. Golam Yazdani was asked that 'your grievances are against some members of a particular party. Will you kindly explain how and due to what reasons do you think that breach of privilege has occurred?' He stated: 'they just did this injury to me fully knowing well that I had to come to Parliament'. To a specific question: 'On that day were you on your way to Parliament', Dr. Yazdani replied: 'I had to come home which was 1 kilometre away and at that night I had to come to Malda Station to catch Tinsukia Mail.'

(ii) "When Dr. Golam Yazdani was asked to identify and give names of persons who had allegedly assaulted him, he stated: 'the fellow who just assaulted me I can recognise him but I cannot tell you the name immediately.'

(iii) "The Committee find that cases relating to the alleged assault on Dr. Golam Yazdani are pending in Court of law. The Committee considered the precedents in which the Committee had postponed consideration of a question of privilege when a case based on the same facts was pending in a Court of law. The Committee are, however, of the view that the jurisdiction of the Committee of Privileges and of the Courts of law are quite different even where the facts are the same; the issue to be decided by the Court are absolutely different from the issue that are to be decided by the Committee of Privileges. The Court cannot decide on privilege, and the right to privilege is not subject to fundamental right and that the rule of *sub judice* does not apply to privilege

matters. The Committee have, therefore, considered the matter on its merits without waiting for any decision of any Court."

(iv) "The Committee note that Dr. Golam Yazdani, M.P. has not been able to mention the names of any of his assailants either in his statement in the House or during the course of his oral evidence before the Committee. The Committee, therefore, feel that it is not possible for them to proceed further in the matter."

(v) "The Committee are of the opinion that taking into account the facts and circumstances of the case, no question of breach of privilege or contempt of the House is involved in the matter."

(vi) "The Committee however deprecate such incident of assaults on the elected representatives of the people."

(vii) "The Committee desire that as requested by Dr. Golam Yazdani, the Ministry of Home Affairs should arrange with the State Government of West Bengal to provide suitable protection to his life and property, who apprehends danger to his life."¹

(viii) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

4. No further action was taken by the House in the matter.

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LOK SABHA (1985)

Point of privilege

Assaulting of an ex-member by a member of Rajya Sabha in the Central Hall

Facts of the case and action taken by the House

On 8th August, 1985, Chaudhary Mohammed Shafi, an ex-member of Lok Sabha was assaulted by Shri Ghulam Rasool Mattoo, a member of Rajya Sabha, in the Central Hall.

¹The Ministry of Home Affairs intimated vide their Office Memorandum No. L/13012/81/E2-15 (D.III) dated 17th January, 1984, that the Government of West Bengal have since reported that in compliance with the orders of the Committee of Privileges, an armed police guard has already been provided at the residence of Dr. Golam Yazdani, M.P. at Malda and personal security guard has also been provided.

2. On 9th August, 1985, when several members sought to raise the matter in the House, the Speaker (Dr. Bal Ram Jakhar) observed as follows:—

“Mr. Mattoo will himself apologise and regret in the Upper House and here on his behalf and on behalf of his party Mr. Kabuli will apologise to the House.”

3. Shri Abdul Rashid Kabuli, a member, then stated *inter alia* as follows:—

“..The incident that took place in the Central Hall yesterday is very painful and regrettable. Our party, National Conference, does not agree with whatever was done by its member Shri Ghulam Rasool Mattoo. It was not correct. We should maintain the dignity of the Central Hall and the Parliament at all cost. We regret for the excess committed by our member. So far as Shri Mattoo is concerned his is a member of Parliament and he and Chaudhary Mohammed Shafi both belong to our State. Chaudhary Sahib is an old freedom fighter and we have great respect for him..I think he should not be sentimental about the unfortunate incident..I think this matter should be closed now. I on behalf of Shri Mattoo and on behalf of my party, express target and anguish on the incident. This matter may now be treated as closed.”

The matter was then treated as closed.

4. On the same day, Shri Ghulam Rasool Mattoo, expressed regrets on the incident in Rajya Sabha as follows:—

“Mr. Vice-Chairman, members of this House must have read in today's newspapers about an incident that took place in which I and another former member of Parliament Chaudhary Mohammed Shafi was involved. Chaudhary Shafi made certain remarks—very objectionable remarks—at which I was provoked. However, the matter stands closed and I express my regrets for the same.”

5. The Chairman (Shri R. Venkataraman) then observed as follows:—

“In the highest tradition of this House of Elders, the matter is closed.”

Point of privilege

Alleged assault on a member inside the jail

Facts of the case and reference to the Committee of Privileges

On the 16th March, 1990 Shri P.R. Kumaramangalam, a member, gave notice of a question of privilege regarding alleged assault on Shri Era Anbarasu, M.P., in Central Jail, Madras. The member was allegedly “beaten up by convicts and thrown out of jail”, which according to Shri Kumaramangalam amounted to a breach of privilege and contempt of the House.

2. On the same day, Sarvashri P.R. Kumaramangalam, Ajit Kumar Panja, T. Basheer, D. Pandian, Piyare Lal Handoo, Dileep Singh Bhuria, Dinesh Singh, Sontosh Mohan Dev and Dr. K. Kalimuthu and Prof. N.G. Ranga, members gave a joint notice of question of privilege alleging that “in Central Jail, Madras, convicts on the direction of jail authorities assaulted our sitting member Shri Era Anbarasu and threw him out of jail.” The members contended that it amounted to “violation of the privileges of the member as well as this House.”

3. Two more notices of question of privilege were received on the 19th March, 1990 from Shri Harish Rawat and Shri Era Anbarasu, members, regarding the incident of alleged assault on Shri Era Anbarasu. Shri Harish Rawat stated in his notice of question of privilege *inter alia*, as follows:—

“The incident of assault in Central Jail, on Shri Era Anbarasu, M.P.—who is under detention in connection with the Rail Roko, Agitation demanding the naming of a railway station after freedom fighter Shri Kamaraj—is condemnable as it is a conspiracy to wilfully prevent the member from attending the House. This amounts to a contempt of the House and breach of privilege of the member.”

4. Shri Era Anbarasu stated, *inter alia* as follows in his notice of question of privilege:—

“I was arrested on 10.3.1990 at Madras Egmore Railway Station as I had participated in an agitation on public demand, in a peaceful and democratic manner, urging the Government of Tamil Nadu not to change the name of Kamaraj Nagar Railway Station. Myself, Mrs. M.

Chandrasekhar, M.P. and Mr. G. Lakshmanan, former Deputy Speaker (Lok Sabha), alongwith 4,500 workers were detained illegally in the Central Jail, Madras.

I was planning to submit a proposal in the Railway Budget discussion not to change the name of Kamaraj Nagar Railway Station in Tamil Nadu. That on 15.3.90 at 7.20 p.m. in the Central Jail, when I was discussing this subject with the inmates of jail, suddenly the lights were switched off. Nearly 10 convict prisoners surrounded me and suddenly beat me on my neck, back and left hand shoulder with lathis. I sustained injuries on my back, on my left shoulder and had bleeding injury on my last toe of my left foot. The Jail Superintendent also caught hold of my shirt and necked me out. Some unknown goondas supposed to be from the DMK Party have also beaten me and manhandled me and threw me out of the prison...

I got treatment from Devaki Hospital, Madras, for the injuries I sustained due to lathi charge and manhandling in the Jail..."

5. On the 22nd March, 1990, when Shri Era Anbarasu sought to raise the matter in the House, the Speaker observed *inter alia* as follows:—

"It is under my active consideration... Mr. Era Anbarasu, I have referred it to the Home Minister to get the facts...As soon as I get the facts, I will let you know."

When several other members also sought to raise the matter requesting the Speaker to refer the matter to the Committee of Privileges, the Speaker observed as follows:—

"I feel that the entire House wants that this matter should be referred to the Privileges Committee. I refer it to the Privileges Committee."

Findings and recommendation of the Committee

6. The Committee of Privileges after examining Sarvasri P.R. Kumaramangalam, Era Anbarasu, Smt. M. Chandrasekhar, members, Shri G. Lakshmanan, ex-member and Shri K. Chelladurai, Superintendent, Central jail, Madras, and also after considering all the relevant documents, in their First

Report presented to the House on 11th March, 1991, reported *inter alia* as follows:—

(i) "The Committee considered the following points which arose out of the matter for the purpose of arriving at their conclusions:—

(a) whether Shri Era Anbarasu was deliberately kept in the Central Jail, Madras, to prevent him from coming to the House;

(b) whether there was a breach of privilege involved; and

(c) the effect of the apology or regret expressed by the Superintendent, Central Jail, Madras."

(ii) "After a careful analysis of the evidence, both written and oral, especially the submissions made by Shri Era Anbarasu, Shrimati M. Chandrasekhar, MP, and Shri G. Lakshmanan, ex-MP, who were also lodged in the jail at the relevant time and Shri K. Chelladurai, Superintendent, Central Jail, Madras the well-established precedents and the rulings of the Presiding Officers in both the Houses on cases of a similar nature, the Committee have arrived at the following conclusions:—

(1) So far as the allegation made by Shri Era Anbarasu that he was deliberately kept in jail to prevent him from coming to the House is concerned, the Committee note from the evidence on record that on 11 March, 1990, he was requested by the Superintendent, Central Jail, Madras, to go out of the jail as his release order had been received from the competent authority, but he insisted on remaining in jail till all the agitators were released and until 15 March, 1990, he did not go out. The Committee are of the opinion that in the present case, they cannot come to the conclusion that Shri Anbarasu was deliberately prevented from coming to the House particularly when he himself refused to come out of the jail.

(2) As regards the second point, the Committee note that it is well-established that it is a breach of privilege and contempt of the House to obstruct or molest a member while in the execution of his duties, that is while he is attending the House or when he is coming to, or going from the House. In the instant case, Shri Anbarasu has admitted that he participated in the agitation while he was 'under summons from the President of India to

attend the Parliament session' and he refused to go out of jail even when his release order was received by the jail Superintendent and he was duly informed about it. It is, therefore, clearly established that he wanted to remain in prison with other agitators and was not interested in being released for attending the session unless his co-agitators were also released with him. The Committee are, therefore, of the opinion that no question of breach of privilege is involved in this case as Shri Era Anbarasu was not performing his duties as a member of Parliament while taking part in the Rail Roko agitation on 10 March, 1990.

- (3) In view of the regrets expressed by Shri K. Chelladurai, Superintendent, Central Jail, Madras, for the incident which took place on 15 March, 1990, the Committee are of the view that the dignity of the House would be best served by taking no further action in the matter.
- (4) The Committee, however, note that of late there have been several cases of assault on members of Parliament by police and other authorities and in the instant case, a member of Parliament was assaulted by person or persons who have not been identified, within the precincts of the Central Jail, Madras, which is highly reprehensible. The Committee are not satisfied with the evidence given by the Superintendent whose duty was to see that no such incident took place and as such there was dereliction of duty on the part of jail authorities. The Committee are constrained to express their distress and unhappiness over such repeated incidents of assault on the elected representatives of the people.
- (5) The Committee would like the Ministry of Home Affairs to take appropriate steps immediately to curb the growing tendency on the part of law enforcing authorities of assaulting and illtreating members of

Parliament and other elected representatives of the people. The Committee desire in particular that the Ministry of Home Affairs issue necessary instructions¹ to all the authorities concerned to ensure that such incidents may not recur and members of Parliament are shown due respect and regard while dealing with them. If any Government officer acts in a manner unbecoming of his position and status, serious action should be taken against him.

- (6) The Committee hope that the Ministry of Home Affairs would keep a constant watch to ensure that the above recommendation made by the Committee is observed by the authorities concerned in letter and spirit."
- (iii) "The Committee recommend that in view of their findings mentioned above, no further action need be taken by the House in the matter and it may be dropped."

Action taken by the House.

7. No further action was taken by the House in the matter.

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LOK SABHA
(1995)

Point of privilege

- (i) *Alleged non-implementation of member's proposals under the Member of Parliament Local Area Development Scheme by the State Government officers*
- (ii) *Alleged misbehaviour with a member by a Government officer*
- (iii) *Alleged delay in furnishing requisite information to the Speaker, Lok Sabha, by the concerned Ministry of Government of India/officer of the Government of Bihar*

Facts of the case and reference to the Committee of Privileges

"On 26 April, 1995, a letter addressed to the Hon'ble Speaker, Lok Sabha, was received from

¹The Ministry of Home Affairs, while inviting the attention of all the State Governments/Union Territories, Administration to these observations of the Committee of Privileges, vide their letter No. L/16012/1/90-IS (D-III) dated 8 April, 1991, issued the following instructions to them:—

"All the State Governments/Union Territories Administration are therefore, requested to impress upon all the law enforcing authorities in the States/Union Territories of take note of the observations made by the Committee of Privileges. It may also be made clear to all concerned to ensure that such instances of improper behaviour towards Members of Parliament do not occur in future and that serious action would be taken against those contravening the instructions in this regard. It may be emphasised to all concerned that the instructions be complied with, in letter and spirit."

Prof. (Smt.) Rita Verma, a member, wherein she *inter alia* alleged that the Member of Parliament Local Area Development Scheme was being deliberately thwarted in her constituency "due to calculated and active non-cooperation of the district authorities, particularly the Deputy Development Commissioner, Dhanbad." The member made a number of complaints in her letter against the Deputy Development Commissioner, Dhanbad, for allegedly misappropriating and diverting funds allocated for Member of Parliament Local Area Development Scheme in her constituency. Prof. Verma also complained that she was threatened and misbehaved with by the said Deputy Development Commissioner, who allegedly said "Now that the elections are going to take place shortly, I will show you." The member added that the DDC "has been deliberately sabotaging all my efforts towards timely and proper utilisation of the Member of Parliament Local Area Development Scheme." In the process, he is both in contempt and breach of privilege, as he is obstructing my proper functioning as an MP."

Prof. (Smt.) Rita Verma, MP requested that a detailed inquiry in the matter might be ordered immediately.

2. As directed by the Speaker, on 28 April, 1995, a copy of the complaint of Prof. (Smt.) Rita Verma, MP, alongwith its enclosures, was forwarded to the Minister/Ministry of Planning and Programme Implementation for furnishing a factual reply of the concerned officer within two weeks time.

3. On 26 May, 1995, a D.O. letter dated 26 May, 1995 was received from the Additional Secretary to the Government of India, Ministry of Planning and Programme Implementation, stating that the matter was being pursued with the Government of Bihar and the Speaker, Lok Sabha might be persuaded to allow them some more time to obtain the report.

4. On 29 May, 1995, Prof. (Smt.) Rita Verma, MP, raised the matter on the floor of the House. Thereupon, the Speaker observed as follows:—

"You have asked that it should be referred to the Committee of Privileges. I am allowing it....."

I have gone through the matter minutely. The officer against whom complaint or charges were levelled, was given time to reply in that regard, but even then he did not bother. He has not replied even after the extended time. So, I am referring this matter to the Committee of Privileges. The Committee would see what action

can be taken in this regard. Because if things continue like this, it would be difficult to implement the Scheme effectively."

5. Subsequently, the same day a copy of the report dated 26 May, 1995 from Secretary to the Government of Bihar in the matter was received from the Ministry of Planning and Programme Implementation, Government of India.

6. On 31st May, 1995 the Ministry of Planning and Programme Implementation, Department of Programme Implementation *vide* their U.O. note dated 30 May, 1995, issued with the approval of Minister of State of the Ministry of Planning and Programme Implementation, forwarded a copy each of the following reports:—

- (i) Report from Shri Mahavir Prasad, Deputy Commissioner, Dhanbad, Bihar; and
- (ii) Report from Shri N.K. Aggarwal, Commissioner & Secretary, Department of Rural Development, Government of Bihar.

7. The Ministry stated in their U.O. note that the Department of Programme Implementation on receipt of the complaint from Prof. (Smt.) Rita Verma, MP, had directed the District Collector concerned to provide a factual report. In the meantime, the Additional Secretary, Department of Programme Implementation, Ministry of Planning and Programme Implementation; Government of India also met the Chief Secretary, Government of Bihar and personally handed over a letter with request that a report may be sent by 20 May, 1995 positively. The Department also continuously remained in touch with the Secretary, Department of Rural Development that Department being in charge of implementation of Member of Parliament Local Area Development Scheme. The reports from the State Government as well as from the District Collector were available only on 29 May, 1995.

Findings and Recommendation of the Committee

8. The Committee of Privileges after examining in person Prof. (Smt.) Rita Verma, MP, Shri Sunil Barthwal, Deputy Development Commissioner, Dhanbad, Shri Sudhir Kumar, the then Deputy Commissioner, Dhanbad, Shri Mahavir Prasad, Deputy Commissioner, Dhanbad, Bihar, Shri Ravi Mittal, the then Deputy Commissioner, Bokaro, Shri Sukhdeo Singh, Deputy Commissioner, Bokaro, Shri N. K. Aggarwal, Commissioner & Secretary, Department of Rural Development, Government of Bihar, Shri Chandra Dev Singh, Sub-Divisional

Officer, Dhanbad, Shri Lal Babu Paswan, Deputy Superintendent of Police, Dhanbad, Shri A.K. Basak, Chief Secretary, Government of Bihar, Smt. Shanta Shastri, Additional Secretary, Department of Programme Implementation, Government of India and after considering all the relevant documents, in their Fifth Report presented to the House on 8 March, 1996, reported *inter-alia* as follows:—

- (i) "The Committee felt that the following three issues were broadly involved in the case:—
- (a) Whether the schemes suggested by Prof. (Smt.) Rita Verma, MP, under the Member of Parliament Local Area Development Scheme, were not implemented by Shri Sunil Barthwal, Deputy Development Commissioner, Dhanbad? If so, whether non-implementation of Member of Parliament Local Area Development Scheme by a Government officer amounted to breach of privilege or contempt of the House?
- (b) Whether Shri Sunil Barthwal, Deputy Development Commissioner, Dhanbad misbehaved with Prof. (Smt.) Rita Verma, MP when the latter went to his residence on 7 and 11 April, 1995 to seek certain clarifications regarding implementation of her schemes under the Member of Parliament Local Area Development Scheme? If so, does it amount to breach of privilege or contempt of the House?
- (c) Whether delay in furnishing information to the Speaker, Lok Sabha by the Ministry concerned/Deputy Development Commissioner, Dhanbad, Bihar regarding the complaint of the Member amounted to breach of privilege or contempt of the House?"
- (ii) "Committee decided to deal with the issues separately".

Issue Number (a)

The Committee observe that the D.C. and D.C.C., Dhanbad and D.C., Bokaro, pleaded their helplessness in implementing Prof. (Smt.) Rita Verma, MP's proposals under the MPLADS owing to extenuating circumstances beyond their control, viz., the coming into force of the model code of conduct for the State Assembly Elections in Bihar which prohibited

sanctioning/implementation of new development schemes during the pendency of the election process. In this context, the Committee gave very careful consideration to (i) letter dated 31 January, 1995, addressed by Shri N.K. Aggarwal, Secretary, Department of Rural Development, Government of Bihar, to all D.C.s in Bihar, directing them to defer implementation of various development schemes during the Assembly elections in Bihar, and (ii) the communication dated 23 May, 1994, issued by the Election Commission of India directing the Chief Electoral Officer, Bihar "to defer" implementation of development schemes until after the elections were completed."

(iii) "The Committee find that neither of the above communication refers specifically to MPLADS. Nevertheless, the directions of the Election Commission of India in the second of the above said communications that "it is not the mode of sanction which is material but its impact" and it must be ensured that "undertaking these works at this juncture does not influence the electors", seem to have clinched the issue by persuading the officers concerned into believing that sanctioning or implementing of any development work, even under MPLADS, during the elections in Bihar was barred under the model code of conduct."

(iv) "The Committee have also given careful consideration to the clarification given by the Ministry of Law, Justice and Company Affairs, Government of India that making internal examination evaluation etc. does not appeal to be barred during the currency of model code of conduct and to the explanation given by the concerned officers in this regard that they felt that evaluation etc. would have entailed a visit to the site by the staff thereby giving an impression to the people at large that some development work was being taken up. The officers were apprehensive that it might have been construed a violation of model code of conduct."

(v) "The Committee are of the view that the contention of the officers concerned does not appeal to be convincing. The Committee feel that the officers should have at least carried out technical evaluation and prepared estimates of the proposals of Prof. (Smt.) Rita Verma, MP under MPLADS, during the operation of the Model Code of Conduct so that the work

thereon could have been started in right earnest immediately after the election process was over.

The Committee are constrained to observe that the Model Code of Conduct was nothing more than a convenient *alibi* for inaction and the officers concerned delayed the implementation of Prof. (Smt.) Rita Verma's proposals."

(vi) "The Committee, however, observe that a typical bureaucratic indifference and apathy has been discernible right through this whole episode. There can otherwise be no explanation behind the delay in initiating at least some tangible action on Prof. (Smt.) Rita Verma's proposals on two occasions when opportunity for doing the same was very much available—first, between 30 November and 7 December, 1994, i.e., after Prof. (Smt.) Rita Verma had submitted her proposals but before the Model Code of Conduct came into operation and again after 16 April, 1995 when the election process had been completed."

(vii) "The Committee are constrained to observe that there was apathetic lack of coordination at all levels of executive machinery—Centre, State and District. This is more than manifest from the fact that the D.D.C. Dhanbad, D.C., Dhanbad and D.C., Bokaro, were not aware of the revised guidelines regarding MPLADS which were issued by the Department of Programme Implementation, Government of India in December, 1994, and sent to all D.C.s in January, 1995 even on 27 June, 1995, when they appeared before the Committee. The officers confessed before the Committee that they were ignorant about the revised guidelines and had been following the old guidelines. Either the officers at the District level were too busy and unconcerned to even go through all the papers received in their offices or there was such a serious break in communication channel that papers sent by a Central Government Department were not reaching their destination. In any event this, to say the least, is a serious reflection on the efficiency of the administrative machinery and needs to be looked into seriously by all concerned, for taking suitable remedial action."

(viii) "The Committee are convinced that there was also a lack of proper appreciation of significance and true import of the MPLADS.

The scheme was taken to be another of the like of many development schemes already in existence. No serious thought appears to have gone into chalking out any strategy for proper implementation of the scheme. No system of feed back review or monitoring existed. The Committee were shocked to observe that there were instances where even after members of Parliament having submitted their proposal, not even single rupee had been spent under the scheme. The Committee are pained at this sorry state of affairs where Government money to the tune of more than rupees seven hundred crores granted for development work under the MPLADS for the benefit of the society at large is either not being properly utilised or, in some cases, not being utilised at all."

(ix) "In the backdrop of such a disheartening scenario, the Committee feel that corrective measures are called for in right earnest. The Committee are of the view that periodic meetings should be held between the member of Parliament and the District Level officers of his or her constituency to review the progress of development work proposed by the member under the scheme. There should also be a system for monitoring the scheme at two levels—at the State headquarters level and at the Central level, to ensure that the scheme is being implemented in letter and more importantly, in true spirit. The persons directly responsible for implementing the scheme, i.e., the officers at District level, should be made accountable and asked to explain any undue delay in taking up proposals of an MP or the reasons for not spending money granted under the MPLADS. The Committee hope that the Department of Programme Implementation, Government of India, would after carefully considering the matter take necessary corrective measures and devise proper and adequate monitoring mechanism.

The Committee also desire that to ensure proper implementation and monitoring of the scheme, their recommendations be brought to the notice of all Deputy Commissioners/District Magistrates in the country."

(x) "The Committee also feel that it would be in the fitness of things if a Standing Committee of the House were to be constituted to monitor the proper implementation of the MPLAD Scheme and to go into the complaints of the members in that regard."

Issue No. (b)

(xi) "The Committee after taking into consideration the totality of the facts and circumstances of the case, have come to the conclusion that Shri Sunil Barthwal, Deputy Development Commissioner, Dhanbad did not behave properly with Prof. (Smt.) Rita Verma, MP when she had gone to meet him with prior appointment, in connection with her proposals under the MPLADS."

(xii) "However, in view of the unconditional and unqualified apology tendered by Shri Sunil Barthwal, Deputy Development Commissioner, Dhanbad and also by Shri A.K. Basak, Chief Secretary, Bihar, the Committee are of the view that the dignity of the House would be best served by taking no further action in the matter."

(xiii) "The Committee, however, lament that time and again they have to perform the distasteful duty of reporting upon matters of misbehaviour by Government officers with Members of Parliament. This becomes all the more lamentable in view of the fact that the Government of India have laid down clear guidelines for official dealings between the Administration and Members of Parliament. It seems to the Committee that these guidelines are observed more in their breach rather than in their compliance. In a democratic set up like ours everybody must realise that it is the people who are sovereign. The bureaucrats and the peoples' representatives have to strive together for the uplift of the masses. With this commonality of purpose, there should hardly be an occasion for any confrontation between the peoples' representatives and the bureaucrats. The Committee feel that there is a great need to train officers at all levels of administration so that they show a little more tact and circumspection while dealing with MPs. After almost fifty years of independence, there is no place for colonial hangovers and an ethos needs to be developed where nobody fights shy of extending unhesitating respect and courtesy to the peoples' representatives."

Issue No. (c)

(xiv) "The Committee note that the Department of Planning and Programme Implementation, Government of India were requested as per directions of the Speaker, Lok Sabha, on 28 April, 1995, to furnish within two weeks time, the reply of DDC, Dhanbad, Bihar on the notice of question of privilege of Prof. (Smt.) Rita Verma, MP. The DDC, Dhanbad's reply was, however, furnished as late as

29 May, 1995, after the matter had already been referred to the Committee of Privileges by the Speaker, Lok Sabha."

(xv) "The Committee observe that while Smt. Shanta Shastry, Additional Secretary, Department of Planning and Programme Implementation, stated that she had addressed a letter to the D.C., Dhanbad on 29 May, 1995 seeking a factual note in the matter, the D.C. Dhanbad stated that he received the said letter after about a fortnight and this resulted in delay in furnishing the requisite reply to Lok Sabha."

(xvi) "Smt. Shanta Shastry, during her evidence before the Committee admitted that despatching her letter dated 2 May, 1995 by ordinary post was a mistake which resulted in inordinate delay. She felt that the delay could have been avoided had the letter been sent by speed post."

(xvii) "The Committee are of the view that there was undue and avoidable delay in furnishing the requisite information to Lok Sabha and express their displeasure at this casual approach. However, in view of the regret expressed by Smt. Shanta Shastry, the Committee feel that the matter need not be pursued further. The Committee wish that more promptitude and alacrity is shown by all concerned when information is called for by the Lok Sabha."

(xviii) "The Committee recommend that in view of their findings mentioned above no further action need be taken in the matter subject to the following—

- (i) that their recommendations (Para 107^o *supra*) be brought to the notice of all Deputy Commissioners/District Magistrates in the country; and
- (ii) that a Standing Committee of the House be constituted to monitor the MPLAD Scheme."

Action taken by the House

9. No further action was taken by the House in the matter.

Subsequent Developments

In pursuance of recommendation made in the Report that a Standing Committee of a House be constituted to monitor the MPLAD Schemes, during Eleventh Lok Sabha, Hon'ble Speaker (11LS) entrusted the work of examining the complaints regarding non-implementation and irregularities in the implementation of members' projects under the MPLADS to the Committee on Finance. Finally

during Twelfth Lok Sabha. Speaker constituted a Committee to monitor and implement the projects under MPLAD Scheme and to also look into the complaints of members in regard thereto [Para No. 1023 dated 22.2.1999.]

60
LOK SABHA
(1998)

Point of Privilege

Alleged misbehaviour with Smt. Rama Devi, MP by Deputy Superintendent of Police, Central Bureau of Investigation, Patna, Bihar and alleged derogatory remarks made against her and members of Parliament by him.

Facts of the case and reference to the Committee of Privileges

On 28 April, 1998 a notice of question of privilege was given by Smt. Rama Devi, MP alleging that she was misbehaved with and derogatory remarks were made against her and members of Parliament by the Deputy Superintendent of Police, Central Bureau of Investigation, Patna, Bihar.

2. Smt. Rama Devi alleged in her notice that on 4 April, 1998, a Central Bureau of Investigation team led by Shri R.K. Singh, Deputy Superintendent of Police came to her residence with a search warrant in connection with a Special Case No. 23 of 1997 corresponding to R.C. case no. 43 of 1997, in which her husband (Shri Brij Bihari Prasad) a former Minister of Science and Technology, Government of Bihar, was made an accused. At that point of time, according to Smt. Rama Devi her husband was seriously indisposed and the doctor who was attending on him had advised his immediate hospitalisation, but the Deputy Superintendent of Police prevented the same. When she sought to intervene, the DSP humiliated her by saying that "Tumhara Husband chor hai aur tum bhi chor ho, (your husband is a thief and so are you).

3. It was further alleged by Smt. Rama Devi that on disclosing her identity as a member of Parliament, the Deputy Superintendent of Police retorted by saying 'Tumhare aise aise kitne saansad ko hum hathkari pahna chuke hain aur tumko bhi hathkari laga denge. Tum bogus vote se jiti hui saansad ho' (We have handcuffed many MPs like you and would handcuff you too. You have been elected to Parliament on bogus votes).

4. Smt. Rama Devi further alleged that her husband was later forcibly taken to the Central

Bureau of Investigation Headquarters at Patna and from there to Incharge Court of the Special Judge, North Bihar, Patna. When she protested against the maltreatment meted out to her husband, she was slighted and even 'crudely pushed aside' by the Deputy Superintendent of Police.

5. On 5 May, 1998 a copy of the notice given by Smt. Rama Devi was forwarded to the Ministry of Personnel, Public Grievances and Pensions for furnishing a factual note in the matter for consideration of the Hon'ble Speaker.

6. A factual note in the matter was received from the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) on 26 May, 1998. In their factual note the Ministry *inter alia* stated that on 4 April, 1998, when Shri Brij Bihari Prasad was arrested and produced before the Special Judge, he did not complaint of any ill-treatment by Shri R.K. Singh, Deputy Superintendent of Police and Inquiry Officer of the case. This fact had also been specifically mentioned in the order sheet dated 4 April, 1998 of the said Court. No such complaint of harassment as alleged by member was brought to the notice of Hon'ble Patna High Court. It was asserted that the complaint made against the Inquiry Officer and Deputy Superintendent of Police Shri R.K. Singh, is an afterthought, the purpose of which is to demoralise and to divert the attention of the investigating agency. Hence, the allegation that Shri R.K. Singh, Deputy Superintendent of Police and Inquiry Officer, humiliated or misbehaved with the member Smt. Rama Devi is not substantiated.

7. On 8 June, 1998 a copy of the factual note furnished by the Ministry was given to Smt. Rama Devi, Disagreeing with the facts furnished by the Ministry, Smt. Rama Devi stated that she would raise the matter in the House on that very day i.e. 8 June, 1998. The member wrote to the Speaker seeking permission to raise the matter in the House.

8. On the same day the member raised the matter in the House. After some time, Speaker observed "I have sent it (the matter) to the Committee of Privileges."

9. The matter thus stood referred to the Committee of Privileges for examination, investigation and report.

Findings and Recommendations of the Committee

10. The Committee of Privileges after examining in person Smt. Rama Devi, MP; Shri R.K. Singh,

Deputy Superintendent of Police, Central Bureau of Investigation, Patna, Bihar; Prof. (Dr.) Gopal Prasad Sinha of Patna Medical College and Hospital, Patna, Bihar; Dr. M.P. Singh of Central Government Health Scheme, Patna, Bihar; Shri Dharmendra Kumar Singh, Escort guard to late Shri Brij Bihari Prasad (husband of Smt. Rama Devi and former Minister of Science & Technology, Government of Bihar), Sarvashri Jai Prakash Pandey & Bhola Prasad Premi (Two persons stated by the member to have witnessed the alleged incident of misbehaviour with her by the DSP, CBI, Patna) and after considering and written comments of Shri R.K. Singh, DSP, CBI, Patna on the notice of question of privilege given by Smt. Rama Devi MP; against him and all other relevant documents on record, in their First Report presented to the House on 22 December, 1998, reported *inter alia* as follows:—

- (i) Out of the witnesses examined by the Committee, the evidence of Shri Dharmendra Kumar Singh is totally untrustworthy and unreliable. He, of his own admission before the Committee, committed perjury in the Court of Judicial Magistrate, Patna at the time of giving his evidence in the complaint case filed by Smt. Rama Devi regarding alleged misbehaviour with her by Shri R.K. Singh. He stated before the Committee that he had deposed in the Court that he had witnessed Shri R.K. Singh misbehaving with Smt. Rama Devi on being directed to do so by Shri Lakshmeshwar Saha, while, in fact, he was not present there at that time. He also stated that his evidence before the Committee—that he had not witnessed the incident of misbehaviour with Smt. Rama Devi was the truth.

The Committee feel that a person who can tell lies in Court after being on oath was capable of doing the same before the Committee. The Committee are, therefore, not inclined to give any credence to his testimony.

- (ii) The Committee note that the evidence tendered by Dr. Gopal Prasad Sinha is not capable of shedding any light on the main point at issue, viz. whether Smt. Rama Devi was misbehaved with by Shri R.K. Singh or not since according to him, he was not present in the room at the relevant time and had been asked to wait in a room downstairs.
- (iii) His evidence is, however, relevant and material for the purpose of testing the

veracity of the other two witnesses who were said to be present at the time of the incident, viz., Shri Jai Prakash Pandey and Shri Bhola Prasad Premi.

- (iv) According to Dr. Gopal Prasad Sinha, he received a telephone call from Smt. Rama Devi's residence at about 8.30 A.M. but as he was busy seeing his patients, he did not immediately proceed for her residence. After some time, he received another telephone call—this time from Smt. Rama Devi herself—requesting him to come immediately whereupon he left for her residence. This means that Dr. Sinha must have reached Smt. Rama Devi's residence earliest by 9.30 A.M.

According to Shri Jai Prakash Pandey, he reached Smt. Rama Devi's residence at about 7.15 A.M. and when he went to the room of Smt. Rama Devi's husband, she was pleading with some persons present there to allow her to hospitalise her husband "as per doctor's advice".

- (v) It can, therefore, be concluded from his evidence that Dr. Sinha was already there at 7.15 A.M. and had already advise the hospitalisation of Shri B.B. Prasad after duly examining him. This is, however, belied by Dr. Sinha's testimony who says he reached there at about 9.30 A.M.

- (vi) Likewise, Shri Bhola Prasad Premi stated that he reached the room of Shri B.B. Prasad at 6.30 A.M. According to him doctor arrived there about 5 to 10 minutes after his reaching there.

Permitting the margin of error in a laymen's estimate of time, according to Shri Premi, the doctor must have reached there latest by 7.30 A.M. It is very difficult to reconcile this statement with Dr. Sinha's evidence according to which he must have reached there around 9.30 A.M.

- (vii) This raises serious doubts about the veracity of the testimonies of Shri Jai Prakash Pandey and Shri Bhola Prasad Premi and the Committee have grave doubts whether these two actually witnessed the incident of alleged misbehaviour with Smt. Rama Devi.

- (viii) This leaves the Committee with the statement of Smt. Rama Devi, MP; against that of Shri R.K. Singh, Deputy

Superintendent of Police, Central Bureau of Investigation.

- (ix) The facts that Shri Brij Bihari Prasad, husband of Smt. Rama Devi, MP was running high fever and that Dr. Sinha had advised his hospitalisation are uncontroverted. It is also established that Shri R.K. Singh, Deputy Superintendent of Police, Central Bureau of Investigation, had clear orders to arrest Shri Prasad and he had gone to his residence on 4 April, 1998 with intention to arrest him.
- (x) Under these circumstances, The Committee feel, the insistence by Smt. Rama Devi to get her husband hospitalised and the adamance of Shri R.K. Singh to arrest him must have resulted in some heated exchanges between the two.
- (xi) The Committee feel that Shri R.K. Singh should have been more careful while dealing with a member of Parliament.
- (xii) The Committee, however, note that Shri R.K. Singh, during his evidence before the Committee, had tendered his apologies for having in any manner hurt the feelings of the member.
- (xiii) In view of the apologies tendered by Shri R.K. Singh, the Committee are of the view that the dignity of the House would be best served by taking no further action in the matter *vis a vis* allegations of derogatory remarks made by him against Smt. Rama Devi.
- (xiv) The Committee feel that it is expected of law enforcing authorities to exercise discretion and restraint in sensitive situations while in performance of their official duties, the Committee are constrained to observe that Shri R.K. Singh was found wanting of these attributes in the instant case. The Committee find that Shri R.K. Singh was so keen on arresting Shri B.B. Prasad that he did not care to give any serious consideration to the condition of Shri B.B. Prasad and the advice by a qualified doctor for his hospitalisation.
- (xv) The Committee observe that the illness of Shri B.B. Prasad and the consequent request for his hospitalisation are key factors in the matter under consideration. The Committee find that had Shri R.K. Singh been more tactful in the matter, the differences which

cropped up between him and Smt. Rama Devi could have been well avoided.

- (xvi) The Committee are of the view that given the condition of Shri B.B. Prasad, he should have been straightaway hospitalised and thereafter Shri R.K. Singh could have moved the court in the matter. The subsequent hospitalisation of Shri B.B. Prasad by Jail authorities underscores his critical condition at the time of his arrest.
- (xvii) The Committee express their unhappiness on the conduct of Shri R.K. Singh in disregarding the advice of a qualified medical doctor and insisting upon arrest of Shri B.B. Prasad thereby complicating the entire matter.
- (xviii) The Committee recommend that in view of their findings mentioned above (Paras 77—80¹ *Supra*) their displeasure over the conduct of Shri R.K. Singh may be conveyed to the Director, Central Bureau of Investigation for such action as he deems fit in the matter.
- (xix) The Committee also recommend that this apart, no other action need be taken in matter.

Action taken by the House

11. No further action was taken by the House in the matter.

Subsequent Development

12. Ministry of Personnel, PG and Pensions intimated that CBI had served a cautionary memo to the concerned DSP, CBI, Patna directing him to be more careful in future while dealing with Members of Parliament.

61

RAJYA SABHA
(1967)

Point of privilege

Alleged molestation of members of Parliament by police.

Facts of the case and ruling by the Chairman

On the 31st July, 1967 Sarvashri Bhupesh Gupta and Rajnarain, members sought to raise a question of privilege on the ground that on the 29th and 30th July, 1967, Delhi Police obstructed without authority, molested and abused the members of Parliament, who had gone to the Prime Minister's House to protest against the action of the Government

¹ See para 10 (xiv)—(xvii) of the summary.

regarding inadequate allotment of foodgrains to Kerala. This they felt, constituted a breach of privilege of the members.

2. The Minister of Home Affairs (Shri Y. B. Chavan) explained the position as follows:—

“Sir, the facts are the police have got certain responsibility under the Act itself. It is not necessary that on each and every occasion the police have to be instructed and there is no question of their taking any order from the Home Minister or Prime Minister or anybody. Certain duties are obligatory under the Act.

In this matter the facts are that they came to know that—and the word used by the members who went there in their previous statements etc., and in the news item that appeared in the papers was picketing—there was going to be picketing at the Prime Minister's House. The word picketing was there and naturally it was the duty of the police to see that the entrance and the exit of the Prime Minister's House are not blocked. It is the legal responsibility not because it was Prime Minister's House, Even if it was Mr. Bhupesh Gupta's house, they would have done that.....

It was estimated that about 70 to 80 persons also would go along with the members of Parliament. Naturally they were going to represent a popular cause and it is quite possible that the Members of Parliament might be accompanied by some more people. Therefore, some 200 policemen were employed and in this matter I must bring this particular fact to the notice of the House that they did not carry any weapons with them, not even their usual batons which they carry in their hands. They just went there to put up a human wall if any attempt was made to block the entrance and exit of the house of the Prime Minister.

It is the normal arrangement for security purposes. When the members of Parliament reached there, the police officer approached them and wanted to find out from them whether they wanted to meet the Prime Minister. They said, no. Then the Prime Minister sent one of her Private Secretaries or somebody from her personal staff to meet the members of Parliament and ask them whether they wanted to see the Prime Minister and he was told that they met the

Prime Minister every day in Parliament. They said, 'We do not; want to see her'.

....Then, Sir, the Prime Minister herself came out and she tried to find out from them what they would like. Later, on, they were offered coffee. They said, “We do not want coffee, we want rice.” Naturally they had gone there for it. There was nothing wrong. Then they were offered a *duree* on which they could sit but they said, 'No, we do not want it'. That way water was offered, coffee was offered; whatever can be done by any hospitable person in this country was done by the Prime Minister and the Prime Minister's staff. What more consideration could be expected in these circumstances...Whatever they wanted to do, at one stage the in-gate was blocked. They were on the approach road itself and at one stage when the Prime Minister went out of the residence she had to take her car not through the approach road but on the foot path...

I am only mentioning that it was the duty of the police to function and under the Act they had made the preparations as it was their duty to make preparations in the discharge of their duties. If we interfere with them simply because somebody has some special status somewhere else, certainly it will be foolish. This House really speaking is supposed to safeguard the legitimate functioning of the Government and the legitimate implementation of all the Acts. If we say that somebody is an hon. member of the House and therefore he is privileged to see that the legal machinery does not function, that is the end of the functioning of Parliament itself. As I understand the facts, Sir there is therefore no question of any privilege.”

3. The Chairman reserved his ruling.

4. On the 2nd August, 1967, the Chairman (Shri V.V. Giri), disallowing the question of privilege, observed:

“I have carefully considered the points raised by Shri Bhupesh Gupta and Shri Rajnarain and some other members in the matter of the alleged breach of privilege arising out of certain incidents that took place in front of the Prime Minister's House involving some members of Parliament on July 29th and 30th. The Main point of complaint of

Shri Bhupesh Gupta and Shri Rajnarain seems to be directed against the conduct of the police. The Home Minister in his statement before the House made it clear that the members of Parliament were shown all consideration and the police were performing only their normal duties in the present instance.

I have no doubt that the members of Parliament from Kerala went to the Prime Minister's House pursuant to a cause which is most vital to the people of Kerala and I am happy that they met the Prime Minister and received satisfactory assurances from her. It is needless to reiterate that members of Parliament are entitled to the utmost consideration and respect and the police or other authorities should not do anything which is likely to impede them in the proper discharge of their duties.

I do not think there is any need to pursue this matter further as in any case I am satisfied after hearing all concerned that there is no breach of privilege involved in this case."

62

RAJYA SABHA
(1974)

Point of privilege

Alleged assault on a member by police

Facts of the case and ruling by the Chair

On the 19th February, 1974, Shri Niren Ghosh, a member, complained that the police had assaulted him while he was visiting a labour colony in West Bengal, on the 2nd February, 1974. Shri Niren Ghosh also stated *inter alia* as follows:—

During the jute strike when Section 144 was imposed in vast areas of the industrial belt, I was touring the residential areas of the workers because I could not hold public meetings. these residential quarters are private places. On the 2nd February, in such a residential quarter of Jute Mill when I was talking to the workers in their residential quarters, suddenly the police swooped down on us. I told them who I was; they also knew who I was. I told them I am Niren Ghosh, member of Parliament. . . . I stood stock still, but they physically assaulted me with lathies. I would like to know whether they can do it and whether the privileges of members of Parliament are not affected. . . . Is it not the

duty of the Chairman of the House as well to secure an unconditional apology from the Government of West Bengal?....A Circle Inspector of that area said to certain other arrested persons: 'If I can beat an M.P., who are you?' that is the attitude...."

2. The Deputy Chairman (Shri Godey Mūrahari), who was then in the Chair, observed *inter alia* as follows:—

"We have already sent a telegram to the Government of West Bengal. From the Home Minister here, we are getting information."

3. On the 14th May, 1974, when some members sought to raise the matter again, the Chairman (Shri G. S. Pathak) disallowed the question of privilege and ruled *inter alia* as follows:—

"Now, so far as Mr. Niren Ghosh's matter is concerned it was raised during the last session. He was arrested and whatever action was taken against him was in connection with some criminal matter..... Mr. Niren Ghosh was informed that no action was being taken by me because it was not a matter connected with the privileges of this House."

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RAJYA SABHA
(1974)

Point of privilege

Alleged assault on a member by Police

Facts of the case and reference to the Committee of Privileges

On the 19th February, 1974, Shri Niren Ghosh, a member, sought to raise a question of privilege in the House alleging that he was assaulted by the police during the course of his arrest on the 2nd February, 1974 from the Alliance Jute Mills Labour Lines, Jagatdal.

2. On the 14th May, 1974, Dr. K. Mathew Kurian and some other members again raised the matter in the House. The Chairman observed that relevant extracts from the proceedings of the House would be sent to the Minister of State in the Ministry of Home Affairs for factual comments.

3. The Minister of State in the Ministry of Home Affairs made a statement in the House on August 26, 1974 wherein he stated *inter alia* that the allegation that Shri Niren Ghosh was assaulted by the Police on February 2, 1974 had been denied by the West Bengal Government.

4. The Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendations of the Committee

5. The Committee of Privileges, after considering the factual report received from the Government of West Bengal and after taking oral evidence of the concerned Officers of the Government of West Bengal and Shri Niren Ghosh, M.P., in their Sixteenth Report presented to the House on the 14th May, 1975, reported *inter alia* as follows:—

- (i) "The Committee after careful consideration formulated the following two issues for its examination:—
- (1) Whether an assault on Shri Niren Ghosh, member, Rajya Sabha on February 2, 1974, when he was 'talking to the workers' of the Alliance Jute Mills in Jagatdal area, constituted a breach of privilege of the member and of the House?
 - (2) Whether the report on the incident received from the West Bengal Government was factually incorrect and if so, whether the same was sent to the Rajya Sabha Secretariat with the knowledge that it was so and with the intention of misleading the House and the Committee of Privileges?"
- (ii) "The privilege is available to a member only when he is obstructed or in any way molested while discharging his duties as a member of Parliament. Thus, it would be a breach of privilege and contempt of the House to obstruct or molest a member while in the execution of his duties as a member, *i.e.*, while he is attending the House or any of its Committees or when he is coming to, or going from the House or any of its Committees. The privilege, however, is not available in a case when the member is not performing any parliamentary duty."
- (iii) "On the evidence adduced before the Committee it is clear that the alleged incident took place when Shri Niren Ghosh was talking to the workers near the Alliance Jute Mills, Labour Lines in Jagatdal area. It cannot, therefore, be said that Shri Niren Ghosh was performing any Parliamentary duty at the time of the incident and as such, his arrest and the alleged assault on him in these circumstances

do not involve any breach of privilege or contempt of the House or of the member."

- (iv) "While considering the second issue, the Committee noted the following facts which emerged from the evidence recorded by it:
- (a) The Jute Mill workers were on strike and an order under section 144 Cr. P.C. prohibiting an assembly of 5 or more persons within the area of Jagatdal Police Station was in force at this relevant point of time.
 - (b) The police authorities knew that a member of Parliament and a trade union leader of eminence was going to address the jute mill workers in the Jagatdal area.
 - (c) When the police party rushed to the spot and found an assembly of 300/400 persons, they got down from the police van, chased the mob brandishing lathis to disperse them.
 - (d) In spite of the categorical denial by the West Bengal Government in their report and by the officers in their evidence before the Committee, Shri Niren Ghosh reiterated that one blow from a *lathi* was struck against him by a police man."
- (v) "On the basis of the evidence before it, the Committee was of the view that in the *melee* described above, it is quite possible that Shri Niren Ghosh might have received a *lathi* blow from a policeman. The Committee sees no reason to disbelieve the testimony of Shri Niren Ghosh on this point and finds that he did receive a *lathi* blow from a policeman when the police approached him brandishing their lathis to disperse the mob."
- (vi) The Committee then considered whether the West Bengal Government sent their report in the matter with the knowledge that it was incorrect and with the intention of misleading the House or the Committee. Acts which mislead or tend to mislead, must be done wilfully with the intention to mislead or deceive and that the element of deliberateness is an essential ingredient of the offence.....In the present case it is difficult to hold that the West Bengal Government had forwarded the report of the District Magistrate in the matter with the knowledge that it was incorrect or with the intention to mislead the House or the

Committee on Privileges. So, on this score, the Committee came to the conclusion that no breach of privilege or contempt of the House was involved."

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RAJYA SABHA
(1989)

(vii) "The Committee, however, took note of the fact that the District Magistrate, 24 Parganas while conducting the inquiry relied completely on the statements of the police officials concerned and did not make any independent inquiry into the matter....Again, the officials in the Secretariat of the West Bengal Government did not exercise due care and caution in the matter.....The Committee takes serious view that a matter concerning a member of Parliament and raised more than once in the Rajya Sabha was not treated by the State Government with the gravity that it deserved."

(viii) "However, unwarranted and open to censure the action of the police authorities may be, the Committee finds it difficult to spell out any breach of privilege from the findings arrived at in this case. The Committee, however, considers it necessary to emphasise that members of Parliament are entitled to the utmost consideration and respect at the hands of the public servants and as such the police or any other authority should not do anything or act in a manner as will hamper them in their functioning as publicmen. The authorities, when dealing with members of Parliament, should act with great restraint and circumspection and show all courtesies which is legitimately due to the representatives of the people."

(ix) "In the view taken by the Committee and in the circumstances of the case, the Committee recommends that no further action be taken by the House in the matter."

Action taken by the House

7. No further action was taken by the House in the matter.

Point of privilege

Alleged misbehaviour with a member by police officials

Facts of the case and reference to the Committee of Privileges

On the 28th February, 1989, Shri Ram Awadhesh Singh, a member, gave notice of a question of privilege against the officials of Central Jail, Buxar, Bihar, for allegedly ill-treating him during his detention in that jail from February 5 to 25, 1989.

2. Shri Ram Awadhesh Singh in his notice of question of privilege *inter alia* stated that he was not only treated dis-respectfully in utter disregard of his position as a member of Parliament but was also denied food and was not even allowed to have a bath for ten days. According to Shri Singh, the jail Superintendent said, "You are a prisoner locked up in jail....Your 'MP-Tem-Pec' status is worth nothing here. You can do whatever you like to do after going out from here. I will see the Parliament and of course, you too."

3. On the 12th May, 1989, the Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and Recommendation of the Committee

4. The Committee of Privileges after considering the Report of the Government of Bihar in this regard and all other relevant documents in their Thirtieth Report presented to the House on 16 July, 1992 reported *inter alia* as follows:—

(i) "The Report *inter alia* contained findings of an inquiry conducted by the Director of Probation Services, Government of Bihar into all the allegations levelled by Shri Singh not only in his notice of breach of privilege but also in some of the letters addressed by him from jail to the then Chief Minister of Bihar and to the Inspector General of Prisons, made in person. While most of the allegations of the member had been found to be unsubstantiated by the Inquiry Officer, some of the problems were stated to be of member's own making, as he refused to cooperate with the jail staff."

(ii) "The Committee feels that though the Government of Bihar had taken steps to look into the complaints made by Shri Ram

Awadhesh Singh, much of what he complained in his notice of breach of privilege could have been avoided had the jail authorities paid due and timely attention to Shri Singh's complaints."

- (iii) "The Committee takes a serious view of the perfunctory and casual manner in which the authorities dealt with Shri Singh's complaint sent to them through the Ministry of Home Affairs. The Committee views with concern that the Bihar Government took about three months to respond to Shri Singh's notice of breach of privilege. The Committee will, therefore, like to emphasise that as and when members' complaints are referred to the various State Authorities they should be dealt with promptly and replies there to be sent by them without delay. When the authorities feel that some more time is required to collect information or to conduct an inquiry, an interim reply should invariably be sent explaining the position."
- (iv) "In the absence of any response from Shri Ram Awadhesh Singh rebutting the version of Government of Bihar as contained in the Inquiry Report mentioned above, the Committee feels that no useful purpose will be served by pursuing the matter."
- (v) "The Committee, therefore, recommends that the matter be allowed to rest there."

Action taken by the House

5. No further action was taken by the House in the matter.

65
RAJYA SABHA
(1990)

Point of privilege

Alleged misbehaviour with members by policemen

Facts of the cases and reference to the Committee of Privileges

On 21 August, 1990, Shri Viren J. Shah, a member, gave notice of a question of privilege against two Delhi Police personnel stating that on 17 August, 1990, at around 1.00 P.M. when he wanted to leave the Parliament House through its Gate No. 9, the person posted at that gate, belonging to the Delhi Police prevented him from doing so. Similarly, on 20 August, 1990, at around 10.30 A.M. he was prevented at Gate No. 7, by another person

also belonging to the Delhi Police from entering the Parliament House from there. On both the occasions, it was only with the intervention of Watch & Ward staff that he could leave and enter the Parliament House. Shri Shah also raised the matter in the House the same day. This matter again came up before the House alongwith other privilege issues on 23 August, 1990.

2. On 21 August, 1990, Shrimati Jayanthi Natarajan, a member, raised a matter in the House complaining that she was stopped at her residence at Pandara Road and was not allowed to go the Airport to see her child by the police personnel as the Prime Minister was passing through that way. On 23 August, 1990, she raised another matter that when she was coming to Parliament House after lunch from her house to initiate the discussion on the National Commission for Women Bill, the police personnel stopped her car near Vijay Chowk, behaved very badly with her and did not allow her to go till the Prime Minister had crossed the road despite disclosure of her identity that she was a member of Parliament and was going to attend the House.

3. On 23 August, 1990, Shri Santosh Bagrodia, a member, gave notice of a question of privilege complaining that he was manhandled by some students of the Delhi University at around 10.00 P.M. on 22 August, 1990, near the University Hostel and that the police personnel on duty there failed to provide protection to him. Shri Bagrodia also raised the matter in the House the same day in the course of which he stated that the students agitating against the implementation of the Mandal Commission Report, tore his Kurta and punctured the tyres of his car but police personnel on duty there did not protect him from being manhandled by the students.

4. The same day, another member, Shri Mohammed Afzal *alias* Meeq Afzal, gave a notice of a question of privilege complaining about the harassment caused to him by the security personnel attached to the VIP security at Andhra Pradesh Bhavan when he had gone there to attend an award distribution function organised by the Delhi Urdu Academy. Shri Afzal alleged that his car was stopped by the security personnel and they, particularly Inspector S.S. Dahiya misbehaved with him and used abusive and threatening language even after being told that he was a member of Parliament. The Assistant Commissioner of Police (Security) also joined his junior colleague. Even when the General Secretary of the Urdu Academy and some journalists

and photographers, who were present there, tried to intervene and pacify Shri Dahiya, he continued to misbehave in the presence of Assistant Commissioner of Police (Security) and other police personnel.

Shri Afzal raised this matter in the House the same day.

5. On 23 August, 1990 the above matters were referred to the Committee of Privileges for examination, investigation and report.

Findings and Recommendations of the Committee

6. The Committee of Privileges after deliberating upon the various aspects arising out of the complaints of the members and conduct of police *vis-a-vis* members in their Thirtieth Report presented to the House on 16 July, 1992 reported *inter alia* as follows:—

- (i) "The Committee expresses its anguish and concern over the manner in which the members of Parliament were treated by the police and strongly feels that members being the representatives of the people in the Parliament—the highest institution in our democratic polity, should be treated with utmost courtesy and circumspection by the law enforcing authorities, since any disrespect or discourtesy shown to a member of Parliament impinges upon the dignity of the Parliament, besides causing personal affront and discomfiture to members."
- (ii) "The Committee notes that the Minister of Home Affairs who, as requested, met the Committee informally on 27 March, 1992, shared the concern of the Committee on such incidents and assured to take appropriate steps to avoid recurrence of such incidents."
- (iii) "The Committee thus recommends that Government should frame detailed guidelines¹ for dealings (i) between the Administration and Legislators and (ii) Police and Legislators, consistent with the dignity of members to avoid complaints. The Committee trusts that stern action will be taken by the Government against erring persons—whether in administration or police, on this score. The Committee hopes that appropriate guidelines if implemented in letter and spirit will help reduce such complaints in future."

Action taken by the House

7. No further action was taken by the House in the matters.

66

RAJYA SABHA
(1990)

Point of privilege

Alleged assault on a member by police

Facts of the case and reference to the Committee of Privileges

On 23 May, 1990, Shri Suresh Pachouri and several other members raised in the House a matter regarding alleged brutal lathi-charge on and arrest and ill-treatment of Kumari Sushila Tiria, a member by the Delhi Police on 22 May, 1990, while she was going in a rally organised by the NSUI workers to protest against the police lathi-charge on Congress(I) Youth workers near the then Prime Minister's residence.

2. The same day, the intimation regarding the arrest and release of Kumari Sushila Tiria on personal bond was received from the Additional Deputy Commissioner of Police, New Delhi District, and was communicated to the House by the Chair.

3. The same day, the Minister of State in the Ministry of Home Affairs made a statement in the House in this regard.

4. The same day, the House referred the matter to the Committee of privileges for examination, investigation and report.

5. On 24 May, 1990, Kumari Sushila Tiria made a personal explanation in the House in the course of which she clarified that she was about to come to Parliament House and was not directly participating in the rally and the unprovoked lathi-charge on her and registration of cases under various sections of the Indian Penal Code was without any justification. She had absolutely no intention to assault any policeman. Rather the lathi-charge on the rallyists including women was made by the policemen and the two or three women police constables who were present just stood aside. She added that she was first taken to the Mandir Marg Police Station along with some arrested persons and from there to the Tilak Marg Police Station. During her transfer to the

¹The Ministry of Personnel, P.G. & Pensions (Department of Personnel & Training), Government of India have since issued the revised guidelines regarding official dealings between the Administration and Members of Parliament and State Legislatures.

Tilak Marg Police Station, no lady police constable accompanied her.

Findings and recommendation of the Committee

6. The Committee of Privileges after deliberating upon the matter in their Thirtieth Report presented to the House on 16 July, 1992 reported *inter alia* as follows:—

- (i) "The Chairman of the Committee informed the Committee that immediately after the matter was raised in the House on May 23, 1990, the Additional Commissioner of Police, New Delhi Range (Shri R. K. Niyogi and the Deputy Commissioner of Police, New Delhi (Shrimati Kanwaljit Deol) were called by her in her Chamber to ascertain the facts. They had apprised her of the factual position and also tendered an apology in the matter".
- (ii) "In view of the apology tendered by the concerned police officials before the Deputy Chairman (Chairman of the Committee), the Committee felt that the matter be not pursued further. The Committee recommends accordingly."

Action taken by the House

7. No further action was taken by the House in the matter.

67

RAJYA SABHA
(1991)

Point of Privilege

- (i) *Alleged a assault on a member by the police.*
- (ii) *Alleged premature publication of the proceedings of the Committee by some newspapers.*

Facts of the case and reference to the Committee of Privileges

On the 1st February, 1991, Shri T. R. Balu, a member, gave notice of a question of privilege against the Commissioner of Police, Madras. Shri K. K. Rajasekharan Nair, and Sub-Inspectors, Shri Sivaprakasam and Shri Thiyagarajan for allegedly assaulting him on the 31st January, 1991 in Madras.

2. On the 22nd February, 1991, while raising the matter in the House, Shri Balu stated that on the 31st January, 1991 some women volunteers of the DMK Party who gathered near the party office in Madras were agitating against the dismissal of the DMK

Government. The police tried to clear the mob. When he requested the police not to lathi charge the women as their demonstration was peaceful, some five or six policemen suddenly pounced upon him and charged him brutally with lathis and rifle-butts causing severe and serious injuries on his back, neck and spial cord. Even though he had shown his identity card, the police did not stop the charge on him. Shri Balu further stated that the whole episode occurred in the very presence of the Commissioner of Police, Madras who gave him neither any protection from the lathi charge nor proper medical aid.

3. On the 26th February, 1991, the Chairman while referring the matter to the Committee of Privileges for examination, investigation and report observed *inter-alia* as follows:—

"The House may recall that at its sitting held on Friday, the 22nd February, 1991, the matter regarding assault on Shri T. R. Balu, M. P. in Madras was raised. I had then informed the House that I would get the report from Government and decide the matter of privilege arising therefrom. I have received a report of the Tamil Nadu Government through the Union Ministry of Home Affairs yesterday (25.2.1991). The Tamil Nadu Government have denied that Shri Balu was assaulted in the presence of Police Commissioner or that medical aid was denied to him. There are thus conflicting versions of the incident. I am, therefore, remitting the matter to the Committee of Privileges for examination, investigation and report."

Findings and recommendation of the Committee

4. The Committee of Privileges, after examining in person Shri K.K. Rajasekharan Nair, Commissioner of Police, Madras and Shri Thiyagarajan. Sub-inspector and considering all the relevant documents, in their Twenty-ninth Report presented to the House on July 26, 1991 reported *inter-alia* as follows:—

- (i) "The Committee find that the Police Commissioner was not present at the scene of the incident. The Committee have no doubt that had he been present, the ugly situation in which Shri Balu was assaulted could have been averted. The Committee, note that the Police Commissioner had *suo motu* ordered an enquiry into the incident and transferred the police officials accused of the assault the same day. The Committee also note that the Police Commissioner has expressed regrets for the incident. In view thereof, the Committee

recommend that no further action be taken by the House in the matter."

- (ii) "Subsequent to the evidence tendered by the Commissioner of Police, Madras, before the Committee on April 8, 1991, Shri M. Vincent, Member of Rajya Sabha brought to the notice of the Committee that the fact of the Police Commissioner having apologised to the Committee was published in the Madras edition of the *Indian Express* and three Tamil Dailies, namely, *Dinakaran*, *Murasoli* and *Malai Murasu* on 9th and 10th April, 1991. Shri Vincent contended that by publishing prematurely the proceedings of the Committee before they were reported to the House, the newspapers concerned had committed breach of privilege as also 'breach of secrecy and faith'. The Police Commissioner in a separate communication also invited our attention to such publication in the *Indian Express*. Notices were therefore issued to these newspapers asking for their explanation in the matter."
- (iii) "In their explanations the Tamil Dailies mentioned above stated that the news about the apology of the Commissioner of Police published in their newspapers was merely a reproduction of what had already appeared in the *Indian Express* of April 9, 1991. The editors pleaded ignorance about the implication of their conduct, but stated that it was not their intention to commit breach of privilege of the House or its Committee. They expressed unqualified apology and prayed for dropping further action against them. The editor of the *Indian Express* in his letter stated that the news was published in good faith and in public interest without any intention to cause any breach of privilege. Without disclosing the source of information, he stated that the reporter who sent the news item as well as the printer/publisher of the newspaper were not aware of consequences of its publication. The editor has, however, expressed unqualified regret."
- (iv) "It is well established that the proceedings of a Parliamentary Committee are confidential and what transpired in the meeting of the Committee should not be disclosed or give any publicity unless the same is presented to the House or is otherwise treated as not confidential. It has always been held that

premature publication of proceedings of a Committee or evidence tendered before it constitutes a breach of privilege. The Committee are of the opinion that the publication of its proceedings of April 8, 1991 in the above mentioned newspapers does constitute a breach of privilege and contempt of the House. It is regrettable that the person who has disclosed the proceedings to the Press has done so in a surreptitious manner. But having regard to the regret expressed and apology offered by the newspapers concerned, the Committee recommend that no further action be taken in the instant case. However, the Committee wish to caution all concerned that any premature publication or disclosure of the proceedings of the Committee will be dealt with seriously and the Committee will not hesitate to recommend to the House appropriate action if such occasions arise in future."

Action taken by the House

5. No further action was taken by the House in the matter.

68

RAJYA SABHA
(1991)

Point of privilege

Alleged assault on a member by a policeman

Facts of the case and reference to the Committee of Privileges

On 13 September, 1991, Shri Sukomal Sen, a member, gave notice of a question of privilege regarding alleged assault on him by a policeman on 13 September, 1991 when he was coming out of Parliament House Annex to proceed to Parliament House to attend the sitting of the House.

2. Shri Sukomal Sen, in his notice of question of privilege, stated that on 13 September, 1991 when he was coming to Parliament House from Parliament House Annex to attend the sitting of the House, a policeman came towards him and despite being told that he was a member of Parliament and was going to attend the sitting of the House, caught hold of him by his right arm and virtually forced him to stand in a corner until everything was clear. Shri Sen contended in his notice that this type of uncivilised behaviour was an onslaught on the privileges of members and requested immediate action to protect the dignity and honour of the

members by referring the matter to the Committee of Privileges.

3. The same day, Shri Sen raised this matter in the House. Several members demanded that the matter should be referred to Privileges Committee.

4. On 14 September, 1991, the Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

5. The Committee of Privileges after deliberating upon the matter and considering all relevant documents in their Thirtieth Report presented to the House on 16 July, 1992 reported *inter alia* as follows:—

- (i) "The Committee directed that the concerned Deputy Commissioner of Police be asked to assist Shri Sukomal Sen to identify the policeman who misbehaved with him (Shri Sukomal Sen), so that the policeman could be called before the Committee."
- (ii) "The Deputy Commissioner of Police informed that the policeman who had misbehaved with Shri Sukomal Sen had been identified as Constable Satish Kumar (No. 1475) of the Delhi Armed Police, and that he had been placed under suspension and a departmental enquiry had also been ordered against him. The Deputy Commissioner of Police also tendered unqualified apology for the misbehaviour of the policeman to Shri Sukomal Sen. Subsequently, the Deputy Commissioner of Police also sent copies of the Communications sent by the Police department to Ministry of Home Affairs indicating the action taken in the matter."
- (iii) "The Committee feels that in view of the action taken against the erring police Constable by the Police authorities, the matter need not be pursued further. The Committee recommends accordingly."

Action taken by the House

6. No action was taken by the House in the matter.

69

RAJYA SABHA
(1992)

Point of Privilege

- (i) *Alleged arrest of a member and non-intimation thereof to the Chairman, Rajya Sabha by the authority concerned.*

- (ii) *Alleged misbehaviour with a member by the police.*

Facts of the case and reference to the Committee of Privileges

On 7 July, 1992, Shri Bhupinder Singh Mann, a member, gave notice of a question of privilege against certain officials of the Punjab Police for allegedly arresting him alongwith some other farmers on 20 June, 1992, at Dera Bassi Police Station and for keeping him in custody for about 25 hours without informing him of the reasons of his arrest. According to the member, the next day the police officials took him and others to Fatehgarh Sahib in a truck on the pretext of producing them before the Duty Magistrate. However, on reaching there, the officials asked them to get down from the truck to take meals. As soon as they got down and started taking meals, the police party ran away in that truck leaving them behind. However, according to member, the intimation regarding his arrest was not furnished to the Chairman, Rajya Sabha, by the authority concerned.

2. On 2 December, 1992, Shri Bhupinder Singh Mann gave another notice of question of privilege against the police authorities of Batala Town in Punjab and the SDO (Civil) at Batala for allegedly illegally arresting him in Batala on 10 October, 1992 and deliberately keeping him in 'C' Class jail as against his entitlement of 'B' Class as an M.P. and for causing harassment and humiliation to him.

3. The Chairman referred the matters to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

4. The Committee of Privileges after considering the comments of Shri Bhupinder Singh Mann, Member of Parliament and after examining in person Shri Kulchinder Singh, the then Office-in-Charge of Dera Bassi Police Station, Punjab, Shri Suresh Arora, the then Senior Superintendent of Police, Patiala, Punjab, Shri K.P.S. Gill, Director-General of Police, Punjab, and Shri Ajit Kumar, Principal Secretary, the Department of Home Affairs and Justice, Government of Punjab, in their Thirty-fourth Report presented to the House on 30 December, 1993, reported *inter alia* as follows:—

- (i) "Shri Kulchinder Singh, Officer-in-Charge of police station at Dera Bassi submitted before the Committee that on June 20, 1993 the police had received information from the

headquarters that some BKU (Mann), workers would carry a tractor-trolley loaded with wheat to Haryana through Lalru Barrier on that day in protest against the ban order on the carriage of wheat from Punjab to other States. When the police party reached there they saw a tractor-trolley with some people coming in that direction. Seeing the police, these people slipped away in different directions leaving the trolley full of wheat there. As there were no documents on the trolley, it was taken into custody. After some time Shri Mann came to the Police Station along with his supporters and demanded the release of the trolley. On his refusing to do so Shri Mann insisted that he be arrested and sat on a *dharna* along with others at the Police Station. The police official tried to persuade Shri Mann not to sit on *dharna*, but failed. Shri Singh denied the allegation that Shri Mann was arrested but admitted that the next day, to get rid of him, he told him a lie that he (Shri Mann) had been arrested and was being taken to Fatchgarh Sahib for being produced before the SDM. However, on reaching Fatchgarh when Shri Mann went to a Gurudwara to take his meals, the police party as per his instructions came back leaving him there."

- (ii) "In his oral evidence, Shri Suresh Arora, Senior Superintendent of Police, Patiala denied that he or any of his subordinate officers had advised Shri Kulchinder Singh to do so (*i.e.*, tell a lie)."
- (iii) "During the examination of these officials the Committee learnt that there was no ban on movement of wheat from Punjab to other States, as was stated in the report of the State Government. However, both the officials *i. e.* Shri Kulchinder Singh, Officer-in-Charge of Police Station Dera Bassi and Shri Suresh Arora, Senior Superintendent of Police, Patiala expressed regret and tendered unconditional apology in the matter."
- (iv) "Shri K.P.S. Gill, Director-General of Police, Punjab, tendered an unconditional apology and assured that he would instruct his staff suitably to prevent the recurrence of such incidents in future."
- (v) "Shri Ajit Kumar, the Principal Secretary admitted that the State Government did not check the veracity of the facts contained in the

report sent to the Committee as a result of which there were contradictions in the report *vis-a-vis* the statements given by the police officials before the Committee. He expressed regret for the same. He also assured to issue necessary instructions to all District Magistrates and District Police Chiefs to ensure that such kind of incidents did not happen in future and that he would apprise the Chief Minister of the correct position."

- (vi) "The Committee note that the Chief Minister of Punjab in his letter to the Chairman of the Committee has assured that Members of Parliament are treated with utmost respect and courtesy by the State administration. He has also stated that if any harassment has been caused to any member and the treatment which has been meted out is not in accordance with the standards of courtesy and politeness, it was a matter of great regret. He has also admitted that there was a lacunae in the instructions on the subject of providing appropriate class in jail to those who were entitled to it and stated that the concerned Superintendent of Jail had been warned."
- (vii) "The Committee note from the letter of the Chief Secretary of the Government of Punjab, that instructions have been issued to all the District Magistrates and Senior Superintendents of Police in the State to extend utmost respect and courtesy to Members of Parliament, Members of Legislative Assemblies, etc. and that they have been advised to convey the message right upto the lowest level functionaries of Government that extreme caution and care should be exercised while dealing with MPs, MLAs etc. so that their privileges and prerogatives are properly respected."
- (viii) "The Committee are constrained to observe that the concerned police officials had not treated Shri Mann with the courtesy and dignity which was due to him as a Member of Parliament. The Committee also expressed its displeasure over the casual and perfunctory manner in which the State Government had sent the report to the Committee without verifying the facts."
- (ix) "However, in view of the steps taken by the State Government to check the recurrence of such incidents in future and the regrets

expressed and unconditional apologies tendered by all concerned, the Committee recommend that the matter need not be pursued further."

- (x) "Nonetheless, the Committee desired that the Government of Punjab should take appropriate steps to familiarise its officials with the relevant instructions so that all the functionaries in the field follow the correct procedure with respect to Members of Parliament and are made fully aware of the penalties incumbent upon any breach of privilege."

Action taken by the House

5. No further action was taken by the House in the matter.

70

RAJYA SABHA (1992)

Point of Privilege

- (i) *Alleged arrest of a member and non-intimation thereof to the Chairman, Rajya Sabha by the concerned authority.*
- (ii) *Alleged misbehaviour with the member by the Police Officers.*

Facts of the case and reference to the Committee of Privileges

On 25 November, 1992, Shri Ish Dutt Yadav, a member, gave notice of a question of privilege against the District Magistrate, Deoria, Uttar Pradesh (Shri Manoj Kumar), the Deputy Collector, Deoria (Shri Devnarayanan Tripathi), the Deputy Superintendent of Police, Deoria (Shri Ranbir Singh Rathi) and the Station House Officer, Police Station, Ghoshi, District Mau, Uttar Pradesh (Shri Banwari Lal) for allegedly arresting him without assigning any reasons, on the night of 7 and 8 October, 1992, at the PWD Inspection Bungalow in Deoria and also for misbehaving with him while being taken away from Deoria to the Central Jail, Varanasi, Uttar Pradesh. The member also alleged that the intimations regarding his arrest and release were not sent to the Chairman, Rajya Sabha by the concerned authority.

2. In his notice of question of privilege, Shri Yadav stated *inter alia* that on 7 October, 1992, he was in Deoria, Uttar Pradesh, together information about the police firing on sugarcane growers at Ramkola Sugar Mill. On the night of 7 October, 1992, when he

was sleeping in the Dak Bungalow of PWD at Deoria, the District Magistrate, Deoria arrived at Dak Bungalow alongwith few other subordinate officers and arrested him without assigning any reasons. According to member, he was also misbehaved with by the said officer who ordered his subordinate officers to take him to Central Jail, Varanasi in the night itself. The member further alleged that when he was being taken to Varanasi Jail he was insulted and humiliated by the Deputy Collector, Deoria, the Deputy Superintendent of Police, Deoria, the Station House Officer, Police Station, Ghoshi, District Mau, Uttar Pradesh. The member was lodged in the Central Jail, Varanasi, Uttar Pradesh on 8 October, 1992, and released on 14 October, 1992. Shri Yadav stated in his notice that the intimations regarding his arrest and release were not sent to the Chairman, Rajya Sabha by the District Magistrate, Deoria which according to member amounted to breach of privilege.

The matter was also raised in the House by Shri Ish Dutt Yadav and some other members on 1 and 22 December, 1992.

3. On 23 December, 1992, the Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

4. The Committee on Privileges after considering all relevant documents and examining in person Shri Manoj Kumar, District Magistrate, Deoria, Shri Vinod Shankar Srivastava, Executive Magistrate, Deoria, Shri Devnarayanan Tripathi, Deputy Collector, Deoria, Shri Ranbir Singh Rathi, Deputy Superintendent of Police, Deoria and Shri Banwari Lal, Station House Officer, Police Station, Ghoshi, District Mau, Uttar Pradesh, in their Thirty-sixth Report presented to the House on 30 December, 1993, reported *inter-alia* as follows:—

- (i) "Shri Manoj Kumar, District Magistrate, Deoria gave more or less the same version of the incident as was contained in the report of the State Government and denied any kind of misbehaviour with Shri Yadav. He submitted that the information regarding the arrest of Shri Yadav was sent to the Chairman, Rajya Sabha, through the police wireless system on the night of 7-8 October, 1992 itself. However, due to some confusion and misunderstanding, the information about his release could not be sent."
- (ii) "Shri Vinod Shankar Srivastava, Executive

Magistrate, Deoria, who had issued the orders of Shri Yadav's arrest and release, also denied misbehaviour with Shri Yadav but admitted his failure to intimate the release of Shri Yadav."

- (iii) "The Deoria Magistrate and the Executive Magistrate, Deoria, as well as other officials (Shri Devnarayanan Tripathi, Deputy Collector, Deoria, Shri Ranbir Singh Rathi, Deputy Superintendent of Police, Deoria and Shri Banwari Lal Sharma, Station House Officer, Ghoshi) who appeared before the Committee expressed regrets and tendered unequivocal apologies for the lapse on their part and any discourtesy or inconvenience that may, even unintentionally, have been caused to Shri Yadav."
- (iv) "Shri Ish Dutt Yadav's complaint has raised two issues—one, regarding non-intimation of his arrest and release and the other regarding misbehaviour towards him by the concerned officials. On the first issue, the Committee, on perusal of relevant documents, find that though the information about the arrest of Shri Yadav was sent to the Chairman, Rajya Sabha, by the District Magistrate, Deoria, through a radiogram, the same did not appear

to have reached its destination. The loss of the message appears to have occurred due to its being passed through several hands. The Committee noticed that the District Magistrate and the Executive Magistrate, Deoria failed to intimate the release of Shri Yadav from the Central Prison, Varanasi to the Chairman, Rajya Sabha."

- (v) "As regards the complaint of misbehaviour towards Shri Yadav, in view of the regrets expressed and unconditional apologies tendered by all concerned, the Committee recommend that the matter need not be pursued further."
- (vi) "Nonetheless, the Committee desire that the Government of Uttar Pradesh should take appropriate steps to ensure due compliance with the instructions issued by the Central Government from time to time in respect of modalities of official interaction with Members of Parliament, so that complaints of the nature dealt with in this report do not recur."

Action taken by the House

5. No further action was taken by the House in the matter.

**ASSOCIATION OF RAJYA SABHA MEMBERS
WITH LOK SABHA COMMITTEES**

71

LOK SABHA
(1982)

Point of privilege

Association of members of Rajya Sabha with Committee on Public Accounts and Committee on Public Undertakings

Facts of the case and ruling by the Speaker

On 28th July, 1982, the Speaker (Dr. Bal Ram Jakhar) observed as follows:—

“Hon. members from Rajya Sabha have been associated with the Committee on Public Accounts and Committee on Public Undertakings since 1954 and 1964 respectively. As is well known, the Hon. members from Rajya Sabha have been a source of great strength to the Financial Committees and have contributed greatly to the quality of their deliberations. The Hon. members from Rajya Sabha have always enjoyed great respect and esteem and have been appointed as Conveners of the Sub-Committees/Study Groups of these Financial Committees which are charged with the onerous responsibility of detailed examination of important subjects.

It has been our ceaseless endeavour that the sagacious counsel of Pandit Jawaharlal Nehru, the chief architect and consolidator of the Parliamentary Institutions in India when he spoke on 13th May, 1953, in support of the Motion for association of members of Rajya Sabha with the Public Accounts Committee should be lived up to in letter and spirit. Pandit Jawaharlal Nehru had *inter alia* observed:

‘Something has been said about associate members. Who are these associate members?if they come to the Committee, as the major function of the Committee is scrutinising, there is no question of two grades of members. They have the same grade and status.... it should be the desire of the House to cultivate to the fullest extent possible cooperation and friendly relations with the other House; the conception of the Constitution is that Parliament is an integrated whole;we are joined together in Parliament shouldering the burden of Parliament’.

72

RAJYA SABHA
(1982)

Point of privilege

(i) *Laying of allegedly distorted minutes of Committee on Public Undertakings on the Table of the House;*

(ii) *Request of the Chairman to reconsider his earlier ruling on a question of privilege; and*

(iii) *Status of members of Rajya Sabha on Committee on Public Undertakings.*

Facts of the case and ruling by the Chairman

On 26th July, 1982, the Chairman (Shri M. Hidayatullah) observed in the House as follows:—

“Shri Sadashiv Bagaikar, Shri Ramakrishna Hegde and Shri Surendra Mohan have given notices of breach of privilege against Shri Mahendra Mohan Mishra, a member of our House who laid on the Table of the House a copy of the minutes of the sittings of the Committee on Public Undertakings relating to its 47th Report on 14th July, 1982. The ground urged is that the minutes are not true to facts and do not faithfully reflect what transpired at the meeting of the Committee relating to the HSD deal. Shri Ramakrishna Hegde and Shri Surendra Mohan have stated that the minutes as laid on the Table of the House are a complete distortion and suppression of vital and critical information given to the Committee. Shri Ramakrishna Hegde and Shri Surendra Mohan have since forwarded to me a copy of an alleged verbatim record of the sitting of the Committee of April 2, 1982 regarding the file pertaining to the deal. Shri Piloo Mody and others also dumped copies of the alleged verbatim record on the Table of the House on 21-7-1982. Shri Sadashiv Bagaikar has also sought permission to move a breach of privilege motion against Shri Vairale, the Chairman of the Committee on Public Undertakings as well.

Shri Mahendra Mohan Mishra as a member of our House serving on the Committee on Public Undertakings laid on the Table of the House a copy of the Minutes of the sitting relating to its 47th Report on July 14, 1982. This was a purely ministerial function which he performed on behalf of the Committee in this House. The

minutes have been authenticated by the Chairman of the Committee and Shri Mishra cannot be personally held responsible for inaccuracies, if any, in the minutes. No action for breach of privilege is called for.

Shri Ramakrishna Hegde and others have sent to me what is stated to be a verbatim record of the sitting of the Committee held on April 2, 1982. The minutes of the proceedings of a sitting of a Committee and the verbatim record of the evidence taken by the Committee are not the same thing. The verbatim records have not been authorised to be laid by the Committee. Therefore, no case of breach of privilege arises.

I therefore withhold my consent to the raising of the question of privilege against Shri Mahendra Mohan Mishra or the Chairman of the Committee on Public Undertakings.

Shri Jha's notice says that he wants to raise privilege question against the 'person manipulating file No. 20 of the Ministry of Petroleum and Chemicals'. This notice, to say the least, is vague and lacks in materia respects. It is inadmissible.

There are three letters from Hon'ble members which may be taken up separately.

MR. MORARKA by his letter dated July 15, 1982, questions the authenticity of the Minutes which according to him, do not 'reflect what transpired at those meetings'. His charge is that the minutes are not only 'not competent' but are 'deliberately drafted in such a way so as to shield some transactions and certain individuals'. He has asked me to institute an inquiry and direct preparation of true minutes. He has also asked me to take steps to examine how such things may be avoided in the future. In a companion file I have ruled that the Rajya Sabha and its Chairman are incompetent to meddle in the affairs of the Committee on Public Undertakings which is constituted under Rules 312A and 312B of the Rules of Procedure and Conduct of Business in Lok Sabha. I have explained in detail the extent of the connection which this House has with the Committee and in what circumstances. The letter of Mr. Morarka seeks to impose on me a duty which, I regret, I cannot perform as I am incompetent. However, I can only send a copy of the letter to the Hon'ble Speaker for such action as he may deem necessary.

MR. ADVANI has complained by his letter of July 20, 1982, that he was denied access to the record of the proceedings of the Committee on Public Undertakings for a day on which he had participated in the work of the Committee. He says that the Hon'ble Speaker has ruled that Mr. Advani is not now entitled to see the record because he is no longer a member of the Committee. I have not seen the ruling but accept what Mr. Advani has said on that score. In view of the Ruling which the Speaker has given read with my ruling delivered today, I express my inability to intervene. It would be nothing short of sitting in appeal over the Hon'ble Speaker. The comity between the two Houses demands that the Chairman and the Speaker between them must respect the views of the other, otherwise things would go round. However, in this case also I can only send a copy of the letter to the Hon'ble Speaker to inform him of the complaint of a former member of the Committee. The matter is governed by Rules 273(vi), 275(1) and (2). They are within his jurisdiction.

MR. J.P. MATHUR by his letter of July 20, 1982, has asked me to reconsider my earlier ruling withholding consent to his moving a privilege motion against Mr. Arun Shourie. He has asked me to examine the proceedings of the Committee on Public Undertakings to see whether Mr. Shourie has published proceedings of the Committee which are confidential. He has also referred to the letter of Mr. Morarka considered here. He has also asked me to give an opportunity to representatives of the Opposition parties to examine the records of the proceedings of the Committee. I regret that I am incompetent to order the Chairman of the Committee to allow access to the records. As to the privilege motion against Mr. Shourie, the matter is rightly before the Hon'ble Speaker by another request in the other House. I can only act under Rule 187 and that does not afford any scope. My attention has been drawn to a ruling of the Speaker in Lok Sabha Debates dated 12-8-1966 Col. 4544. I am sure the Hon'ble Speaker's attention will be drawn to it by his Secretariat.

Since I gave my ruling on the notices for breach of privilege in the Oil Case, I have received a number of letters asking me to reconsider the whole question. There is first, a

fairly long and argumentative one from Mr. Dinesh Goswami, and next there are two others from Mr. A.G. Kulkarni and Mr. Shiv Chandra Jha. Mr. Jha only asks me to reconsider my earlier ruling and his letter does not require any separate treatment. Mr. Kulkarni has relied on some earlier Rajya Sabha debates of 1963 where statements regarding the status of Hon'ble members on some Committees of Parliament were made. Mr. Goswami has also drawn my attention to them I shall deal with them presently. Mr. Kulkarni has also relied upon a statement in Kaul and Shakhder but Mr. Kulkarni's paraphrase is inaccurate. What is stated there is not what Mr. Kulkarni says. Mr. Kulkarni has also requested me to take action against Mr. Shourie of the Indian Express. I have dealt with this matter in another ruling today. I have nothing further to add to what is said there. Finally Mr. Kulkarni has said that 'since this involves a vital question of status of Hon'ble members of Rajya Sabha in comparison to the Hon'ble members of Lok Sabha, a review should be taken...'. This is what I am about to do now.

The claim is to raise questions of privilege under Rule 187 of the Rules of Procedure and Conduct of Business of the Council of States. That rule is in Chapter XVI which deals with questions of privilege. The rule reads:

'187. *Question of Privilege:* Subject to the provisions of these rules, a member may, with the consent of the Chairman raise a question involving a breach of privilege either of a member, or of the Council or of a Committee thereof.'

This rule is so plainly worded that it hardly requires a deep knowledge of the constructions of laws. It is more a question of grammatical construction which is the golden rule. Remembering that there are two disjunctive 'ors' in the rule, we notice that there are only three separate occasions when a question of privilege may be raised. They are first a breach of the privilege of a member. It need hardly be said that if a personal privilege of a member be breached, the right to raise a proper question will always be upheld by me. But the breach must be real and not imaginative. Here no one asserts that his personal privilege has been breached. Secondly a question of the breach of the Council will have my special attention, but it must be the privilege of the Council. Lastly the breach may be 'of a

Committee thereof'. The word 'thereof' points only to the Council mentioned earlier in the rule and it means the Committee of the Rajya Sabha.

It should be remembered that the rules of both the Lok Sabha and the Rajya Sabha define certain terms identically. The definitions of the words 'Council', 'House' and 'Houses' are uniform. 'Council' means the Council of States, 'House' in the singular means the Lok Sabha and the word 'Houses' means the Lok Sabha and the Rajya Sabha. So according to the rule the breach must be of a Committee of the Rajya Sabha. After carefully considering these with the rules of the House (which hereafter shall mean only the Lok Sabha) I had ruled that the Committee on Public Undertakings, not being a Committee of the Council, did not entitle members, of the Council to raise questions of privilege concerning the Committee. It did not give any right to members of the Council because the Committee is not of the Council.

This is not a question of sentiment nor of imagination but of going by the language of the rules. Following the scheme of the rules of the Houses, I shall use the words 'Council', 'House' and 'Houses' in the sense explained above.

To begin with we may put aside the rules of the Council because they do not even name the Committee on Public Undertakings. We go to the rules of the House, and see if the Committee can be said to be a Committee of the Council remembering the force of the word 'thereof' which restricts the area. The Committee is one of the Committees named and formed under Chapter XXVI of the Rules of the House. That Chapter is headed 'Parliamentary Committees'. At first blush I felt that the Committee on Public Undertakings being a Parliamentary Committee may be accepted to be as much of the House as of the Council because members of the Council sit on it. But this idea was dispelled. Ordinarily headings of chapters and marginal notes are not used to interpret the words of the sections or the rules unless they have the same legal foundation as the black letter. The draftsman took no chances that a bright person may induct the heading as an aid to construction. What the draftsman did was to make the word 'Committee' and the expression 'Parliamentary Committee'

mean the same thing as defined in sub-rule (i) of Rule 2. This is rule 253. That definition may be read here:

'Parliamentary Committee means a Committee which is appointed or elected by the House or nominated by the Speaker and which works under the direction of the Speaker and presents its report to the House or to the Speaker and the Secretariat for which is provided by the Lok Sabha Secretariat'.

Remember that the word 'House' means only the Lok Sabha. Thus by this definition read with the heading to Chapter XXVI and Rule 253 the inclusion of a reference to the Council is completely excluded.

Now let us see the provisions regarding the Committee on Public Undertakings. Rule 312A deals with the functions and is not relevant here. Rule 312B(1) needs to be read here:

312B (1) : The Committee shall consist of not more than fifteen members who shall be elected by the House every year from amongst its members according to the principle of proportional representation by means of the single transferable vote.
(Proviso omitted).

The important words are 'not more than fifteen members who shall be elected by the House', and we must remember that House means only the Lok Sabha. Therefore, in so far as the written rules are concerned, the net effect is that there is really no place for members of the Council on the Committee under the rules of the Houses. This result must be accepted because the first requisite for construction of the rules is a freedom from desire to reach a desired conclusion and then to begin reading in and reading out the words. Indeed if the House were to abrogate the rules 312A and 312B, the Committee will disappear without a trace notwithstanding its so called members from the Council on it.

This leads us to see how the Council members get on to the Committee. The House has published on the Committee on Public Undertakings a handbook named an Introductory Guide. Section II paragraph 13 reads:

'The Public Undertakings Committee consists of 22 members, fifteen elected by the Lok Sabha and seven elected by Rajya Sabha, according to

the principle of proportional representation by means of single transferable vote.'

This is not an accurate statement. What really happens is that the House adopts a motion in two parts. Last time the first part dealt with the members of the Committee from the House and the second part read:

'That this House do recommend to Rajya Sabha that Rajya Sabha do agree to nominate seven members from Rajya Sabha to associate with the Committee on Public Undertakings of the House for the term beginning on the 1st May, 1982 and ending on 30th April, 1983 and do communicate to this House the names of the members so nominated by Rajya Sabha'.

It is to be noticed that the members of the Council are not even described as members but are associated with the Committee. When the Council passes a motion in furtherance of the motion it says *inter alia*?

'...the Rajya Sabha do agree to nominate seven members from the Rajya Sabha to associate with the Committee on Public Undertakings of the Lok Sabha...'

The description in the handbook of the Committee on Public Undertakings as a Committee of Parliament (page 1) is supportable only if the definition of 'Parliamentary Committee' in the Rules of the House is also incorporated. Therefore my earlier ruling that the Committee is a Committee of Lok Sabha was right in all the circumstances of the case and therefore rule 187 gave no right to move a privilege motion in the Council.

Certain statements by Mr. Jawaharlal Nehru, Mr. A.K. Sen and Mr. Kanungo on the status of members of the Council associated in this and other Committees were referred to by Mr. Dinesh Goswami and Mr. Kulkarni. Panditji said that the members of the Council have the 'same grade and status'. Mr. Kanungo said that they 'carry the same rights and duties'. These refer to their position in the Committee but not in the House or the Council. If rights are claimed in the Committee by reason of association with the members of the House (Lok Sabha) these statements may be called in aid for what they are worth. But outside, the right to move the Council for breach of their privileges is not possible, except marginally in very clear cases of breach from outside sources or even

more remotely within the Committee itself.

If as a result of the force of the rules, such as they are, the members of Rajya Sabha, who sit with elected members of the Lok Sabha, do not have equal rights under rule 187 of our rules, it is just unfortunate. It is no use saying that thereby they become second class member of the Committee or of Parliament. What is really not open to them is to bring matters which are the concern of the Lok Sabha into the Council on the tenuous connection they enjoy. The Council has nothing to do with these matters which the members of this Council can bring to the notice of the Chairman of the Committee and through him to the Speaker. Mr. A.K. Sen's advice may be borne in mind:

'It will not be a good day when this House starts any conflict over these common matters of interest between itself and the other House.'

Finally I am asked to suggest a course.

I look at this suggestion sympathetically. Perhaps the Committee can be included as a Committee of both Houses in the rules of the Houses with special provision for breach of privilege which will have to be framed with deliberation. At present the position is what the Speaker said as far back as 1954 of the Public Accounts Committee:

'It is not a Joint Committee. It is a Committee of the House of the People under the control of the Speaker. So far as the deliberations and voting and other things are concerned, they are of the same status, they are Members after all. The only difference will be that they will be under the control of the Speaker of the House of the People and not under the control of the Chairman of the Council of States so far as their functioning in the Public Accounts Committee is concerned....

I regret I cannot allow any of the new motions and see no reason to change my opinion in the earlier ruling.' "

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RAJYA SABHA

(1982)

Point of privilege

- (i) *Association of members of Rajya Sabha with Committee on Public Undertakings*

- (ii) *Alleged criticism of the ruling of the Chairman in an editorial and an article published in two newspapers*

Facts of the case and ruling by the Chairman

On 2nd August, 1982, the Chairman (Shri M. Hidayatullah) observed in the House as follows:—

"On July 29, 1982 immediately after the Question Hour Shri Sankar Prasad Mitra mentioned about a notice of breach of privilege given by him against the authors of an article and an editorial respectively published in the *Indian Express* and the *Times of India*. Shri U.R. Krishnan had also signed the notice. A third notice on the same lines was given by Shri Gulam Mohiud-din Shawl. Since I gave my ruling rejecting diverse notices for breach of privilege for action against an honourable member of this House the Chairman of the Committee on Public Undertakings, and the complaint of Shri Advani that he was held not entitled to peruse the records although he was a former member of the said Committee, many things have happened.

What I considered as the basis of my decision was the fact whether the Committee on Public Undertakings can fit in Rule 187 of our rules as a Committee of our House. After considering the matter with great care and attention I came to the conclusion that it did not. Perhaps, my meaning was not appreciated and it has led to all kinds of misunderstandings. I reached the conclusion without meaning any reflection upon the members of my House. I have always been very zealous of the honour and rights of the hon. members of my House. On more than one occasion I have said so. This anomalous position that some of those who work in the Committee should be able to raise every issue of privilege while the members of this House can not except in some cases mentioned by me troubled me not a little. It was only out of solicitude for the rights of this House in such Committees where they sit with Lok Sabha members but are not full members themselves that I said what I felt was necessary. It seems that this question troubled this House earlier also. The very fact that Pandit Nehru and Mr. Kanungo had to assure of 'equal status and grade' shows that this did not arise as of right.

I am glad that the Hon'ble Speaker on his part has again given this assurance. I never doubted that this was so. But whatever the assurances in the past and today, they fall short of the requirements of rule 187 because they cannot convert a Committee of the

Lok Sabha into one of this House. I am, however happy that the hon'ble Speaker and the Committee treat members of this House equally and with the same regard. The anomaly arise because our members cannot raise the issue in the other House and by reason of our own rule cannot raise it in our House. I have already shown the slender opening for action in this House. For these reasons I had to decline the motions which were moved before me even as I decline to allow revival of them again. I cannot by any valid reasoning hold that this Committee is of our Council. I am glad that the hon. members who had resigned because they thought I was denigrating them now feel reassured that they are happy. This ends, this event happily.

Remains now the motions for privilege against the two newspapers. These are raised because I have been attacked in these articles. They are based on a misunderstanding of my ruling. I was not considering the status and grade of our members. I was considering whether association made the Committee a Committee of our House. Personally I value the independence of the newspapers whom I have called the eyes and ears of the public and whom I have shown considerable latitude in the performance of their tasks. It was not so very long ago that I had to deal with these two newspapers. Their views on this issue are contradicted by some other newspapers.

Hon. members will recall that one of these same newspapers described *inter alia* the hon. members of Parliament as 'dacoits, smugglers and bootleggers' and although I cautioned the editor for his generalisation and scurrility, I treated the whole thing as unworthy of notice by us. I had then said what I say again with your permission. And I am quoting: 'It is only when a point is reached and the writing ceases to be journalistic vapouring and becomes an improper obstruction to the functioning of Parliament—and its members by patent falsehood or otherwise, that action to the extent of punishment is called for.'

This time the scurrility is my personal share. As a Judge I have been subjected to worse criticisms over the years for my judgments, one of which had already led to an amendment of the Constitution and in three others the views contrary to mine will soon be considered by you in constitutional amendments. Therefore, I do not find it necessary to take action. Calm reflection without sentiment will show that I was right in my views. I therefore have withheld my consent to the privilege motion against the newspapers. I am sorry to take so much of your time but my dignity is your dignity also.

Otherwise I would have let the matter pass without such long comment. I am the custodian of the dignity of the House as a whole, including myself."

ASSURANCES—NON-FULFILMENT OF

LOK SABHA
(1965)

Point of privilege

Delay in furnishing information to the House by Ministers

Facts of the case and ruling by the Speaker

On the 2nd December, 1965, Shri Homi F. Daji, a member, sought to raise a question of privilege against the Minister of Finance (Shri T.T. Krishnamachari) that an assurance given to the House for furnishing information regarding the foreign exchange spent by the Ministers and officers on tours abroad had not been fulfilled despite the fact that more than two years had elapsed. The member contended that the inordinate delay in furnishing the information to the Committee of the House despite requests from Secretariat of the House amounted to disobedience of the orders of the House and of the Committee of the House and, therefore, the Minister of Finance, who was responsible to the House for his department, had, committed a breach of privilege of the House.

2. The Minister of Finance, offering his unconditional apologies for the seeming neglect of his duties and apparent lack of respect to the House which was not true explained that although his responsibility was undoubtedly real, it was also vicarious because his Ministry was not dealing with it alone and that information from 46 other concerned Ministries and Departments was also to be collected and despite repeated reminders, six Ministries and Departments had not till then sent the information. The Minister of Finance promised that as and when the information was received from those Ministries and Departments, he would place the information on the Table of the House.

Ruling by the Speaker

3. The Speaker (S. Hukam Singh) then observed *inter-alia* as follows:—

"In view of the statement made by the Finance Minister, I agree that his responsibility is at least vicarious in all respects; he is not directly responsible. He has to ask other Ministries to send the information..... I would suggest that at least some particular steps must be taken against those Departments that have delayed matters, because there is no doubt about the

deliberate delay in supplying information that has been asked for would constitute a breach of privilege, not against the Finance Minister, as I said. Therefore, I would say that certain special measures must be taken to get that information as early as possible and that should be placed on the Table of the House..... The Finance Minister has just offered that apology. We should accept that. The question was about the breach of privilege. Under these circumstances, there is nothing that I can subscribe."

LOK SABHA
(1974)

Point of privilege

Alleged non-fulfilment of assurances given and misleading statements made by Ministers in the House and misconduct of a member in connection with the Pondicherry Import Licence case.

Facts of the case and ruling by the Speaker

On the 12th, 20th, 21st, 22nd, 25th, 26th and 27th November, 1974, Sarvashri Madhu Limaye, Jyotirmoy Bosu, Shyamnandan Mishra and Atal Bihari Vajpayee, members sought to raise questions of privilege against the Minister without Portfolio (Shri Umashankar Dikshit), Minister of Law, Justice and Company Affairs (Shri H.R. Gokhale), Minister of Home Affairs (Shri K. Brahmananda Reddy) and Minister of Commerce (Shri D.P. Chattopadhyaya) for alleged non-fulfilment of assurances given by them to the House and for allegedly misleading the House by their statements in connection with the Pondicherry import licence case. They also sought to raise a question of privilege against Shri Tulmohan Ram, another member, for alleged misconduct involving bribery and forgery by him in the Pondicherry import licence case.

2. On the 27th November, 1974, the Speaker (Dr. G. S. Dhillon) reserved his ruling.

3. On the 2nd December, 1974 the Speaker, disallowed the questions of privilege and ruled as follows:—

"Sarvashri Madhu Limaye, Jyotirmoy Bosu, Shyamnandan Mishra and Atal Bihari Vajpayee tabled notices of questions of privilege regarding what has come to be known as the import licence case. They made their submission in the House on

the 20th November, 1974 and on subsequent days on the admissibility of their notices. Their contention is:

(1) that Shri Umashankar Dikshit and Shri H. R. Gokhale have committed breach of privilege because they have not fulfilled their promises and assurance given by them to the House on the 9th September, 1974;

(2) that Shri K. Brahmananda Reddy, has committed a breach of privilege by not fulfilling the promise and assurance given by his predecessor in office Shri Umashankar Dikshit, and by misleading the House by his statement in the House on the 12th November, 1974;

(3) that Prof. D.P. Chattopadhyaya has committed a breach of privilege by making inaccurate and misleading statement in the House on 9 September, 1974; and

(4) that Shri Tulmohan Ram, M. P. has committed breach of privilege and is guilty of misconduct as a member of Parliament, for alleged bribery and forgery as concluded by CBI after investigating in the matter.

I have heard the members who gave the above notices as also some other members who took part on points of order on the question of the admissibility of these notices as also the Ministers—Shri Brahmananda Reddy, Shri H.R. Gokhale and Prof. D. P. Chattopadhyaya who made several statements in response to points raised by the members.

Shri Umashankar Dikshit, the then Home Minister, stated as follows in the House on 9 September, 1974:—

"I am making a promise, I am giving an assurance, that, after this investigation is over, the first thing that we will do is to come to Parliament and say, 'This is where we have arrived; please tell us what we should do'. It is only after that, according to the wishes of Parliament, that we will proceed. We are not closing the door for further investigation by Parliament. There can be one remote possibility when the matter can go to a Committee. As it is, today, my request is that the matter should not be pressed."

Shri H.R. Gokhale as Law Minister made the following statement:—

'Please refer to my remarks on the subsequent occasion. I have said at that time that we shall take the House into confidence after the investigation

report was available. After the results of investigation are available we shall take the House into confidence, the whole matter is open to the House to consider at that time.'

It is known that on the 10th October, 1974, Shri Umashankar Dikshit relinquished charge of the office of Minister of Home Affairs and became a Minister without portfolio. The CBI investigation was completed after that date and the CBI charge sheet was submitted to the Court on 11th November, 1974. Obviously, the statement that he made in the House on the 9th September, 1974, was on behalf of the Government and not in his personal capacity. He cannot be said to be personally responsible for non-fulfilment of the assurance given by him since he had relinquished charge of that Ministry before the investigation was concluded.

Similarly the Law Minister had made a statement on behalf of the Government. He, however, explained the circumstances in which the assurance was given. I give below an extract from his statement made on the 25th November, 1974:

'I have said that the House will be taken into confidence on the results of the investigation. Now, that has been done...I emphasized that if crimes are seen to have been committed, found to have been committed, and if the offenders are identified, the Government is of the opinion that the proper forum is the court of law. I said that the Government will take the House into confidence, which meant that the results of the investigations will be intimated to the House which, I submit, has been done... I have given no such assurance that the CBI report would be placed on the Table of the House'.

Shri Brahmananda Reddy, Minister of Home Affairs has explained in detail to the House in his statement on the 12th November, 1974, as to the legal obligations and circumstances under which the CBI had to rush to the court before the Government could come to the House in the matter after the CBI enquiry was over.

As I stated in the House on 12th November, 1974, the assurances given by the Home Minister and the Law Minister were categorical and the Government were bound by them. However, it is not the case of the Ministers that they would not fulfil them. Indeed they have come to the House though a little later and have placed before the House, the gist of the enquiry held by the CBI. the charge-sheet filed in the court against the

accused and have explained the manner in which the assurances have been fulfilled. There is therefore, no question that the Government have deliberately declined to implement the assurance. There may be a dispute that the assurance was not implemented fully or in due time, and it can only be resolved by a debate in the House. House knows that it has various remedies available to it to call the Government to account and secure compliance with its directions, but inadequate compliance of an assurance or delay in its fulfilment will not constitute a breach of privilege.

Nevertheless I should say that: propriety demanded that the Government should have made a statement in the House on the 11th November when the present Session commenced and taken the matter to the court thereafter particularly when the case was instituted in the Court on that very day, the 11th November.

Another point of privilege raised against Shri Brahmananda Reddy is that he made an allegedly misleading statement in the House on 12 November, 1974 wherein he said:

'The investigations did not disclose that any of the officers who dealt with the matter were involved in the commission of the offence.'

In a subsequent statement made by him on 21st November, 1974, Shri Brahmananda Reddy said in the House:

'In the course of investigation no evidence became available to corroborate the statement of Shri S.N. Pillai. It was this intention which I had communicated in my statement and nothing more should be read into my observations.'

In order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House. In this connection, I may refer to a ruling given on 18th April, 1966 by the then Speaker, Sardar Hukum Singh. The ruling was as follows:—

'If there is any discrepancy or a statement is not correct, there is no question of any privilege motion unless it is proved that a wrong statement has been made deliberately, knowing the true position.'

It cannot be said that Shri Brahmananda Reddy has made any misleading statement deliberately in this regard. So, there is no question of any breach of privilege or contempt of the House on this score.

As regards Shri D.P. Chattopadhyaya, Minister of Commerce, the members' complaint against him is that he misled the House by his statement made in the House on the 9th September, 1974, when he said:

'After the writ petitions were withdrawn the Ministry re-examined the matter from a point of view whether the denial of these licences was consistent with the principle of equity and justice... I would like to submit here Sir, that these firms were not blacklisted, debarred or non-existent... Nothing to our knowledge has been brought raising or warranting any doubt that these licences have been trafficked into.'

It was stated by some members that the reported impounding of the licences in this case indicated that the above statement made by the Minister of Commerce in the House was incorrect and misleading.

On the 26th November, 1974, Shri Chattopadhyaya made a statement in the House in which he *inter-alia* said:

"This has reference to the privilege motion against me, which, to my mind deals with the following points: Firstly, if the licences were issued according to the rules, why they have been impounded since? During the course of the CBI investigation, trafficking in licences was suspected. The Chief Controller of Imports and Exports issued a show-cause notice on the licences asking them to explain why their licences could not be cancelled and during the pendency, the licences have been rendered inoperative. The act of rendering the licences inoperative is on the ground of suspected trafficking and not on the eligibility or otherwise of the licences.... I also said then and I would reiterate now: 'If it is brought to our knowledge we will look into it and this is precisely what is being done...' Available records show that these firms are established quota holders, do not figure in the list of firms debarred or kept in abeyance by the Chief Controller of Imports and Exports, and their income-tax verifications either in respect of payment or exemption, were duly ascertained before the grant of licences."

In view of the above explanation, I do not think that his earlier statement was made deliberately to mislead the House. So, there is no question of breach of privilege or contempt of the House involved on

the part of Shri Chattopadhyaya.

Now, I come to Shri Tulmohan Ram, M.P. It has been stated by members in the House that he received bribe for furthering the cause of some import licence applicants in taking up the matter with the Government and forged the signatures of some members of Parliament. The CBI have also after investigation come to that conclusion.

Shri Tulmohan Ram, in his letter dated the 14th November, 1974 to me, which I read out in the House on the 20th November, 1974 has pleaded that since the matter has become *sub judice* it should not be discussed in the House at this stage.

It is a well established law that the rule of *sub judice* does not apply to matters of privilege or in matters where disciplinary jurisdiction of the House with respect to its own members is concerned. However, in order to constitute a breach of privilege or contempt of the House, the misconduct of a member should relate to business in the House. In the present case the member has allegedly abused his position as a member of Parliament in sponsoring an application to Government for money and also after forging signatures of other members. These allegations of bribery or forgery which have been *prima facie* established by the CBI are certainly very serious and unbecoming of a member of Parliament, and he may be held guilty of lowering the dignity of the House.

I, therefore hold that the House is free to discuss any motion relating to the conduct of Shri Tulmohan Ram and the rule of *sub judice* does not come in the way."

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RAJYA SABHA
(1964)

Point of privilege

Alleged disregard of an assurance given to the House by a Minister

Facts of the case and ruling by the Deputy Chairman

On the 12th February, 1964, Shri M.N. Govindan Nair, a member sought to raise a question of privilege that in the formation of the Company Law Board, the Finance Minister had shown disregard to the assurances given by him to the House. Shri Govindan Nair stated that during the previous Session, on the 19th December, 1963, the Finance Minister had stated in the House that the Board, strong, well-knit and efficient, with three or four members, with a judicial member in it would be formed. But the notification constituting the Company Law Board, issued on the 1st February, 1964, the member contended, did not give any additional responsibility to the Board and no judicial person was put on it.

2. The Deputy Chairman (Shrimati Voilet Alva) refusing permission to raise the matter in the House observed *inter-alia* as follows:—

"I called for the proceedings and I went through it in great detail, into what the Finance Minister had said, and after having analysed everything and having examined the matter, I have rejected the permission."

ATTORNEY-GENERAL

LOK SABHA
(1973)

Point of Privilege

Alleged statement by the Attorney-General of India before the Supreme Court that an Act would be amended within ten days

Facts of the case and ruling by the Speaker

On the 2nd April, 1973, the Speaker (Dr. G.S. Dhillon) informed the House that he had received notices of question of privilege, adjournment motion, calling attention etc. in respect of the statement reported¹ to have been made by the Attorney-General of India (Shri Niren De) before the Supreme Court about amendment of the Maintenance of Internal Security Act, 1971.

Some members contended that it was improper for the Attorney-General of India to make such statements before the Supreme Court as it was a clear breach of privilege and contempt of the House to take the House for granted and assure the Court that a certain Act would be amended within a certain period.

2. Adjournment motion on the subject was admitted and during the discussion thereon, the Minister of Law, Justice and Company Affairs (Shri H.R. Gokhale) stated *inter alia* as follows:—

"I had a discussion with the Attorney-General myself and the Attorney-General felt, as I felt, that it was necessary to point out to the Court that all the actions taken by the Government were in good faith and were taken under the law which was valid, and indeed was valid according to the earlier pronouncement of the Supreme Court. Therefore, the Government would have to take into consideration what would be the consequences of the decision or otherwise, if Section 17A particularly was struck down. Therefore, I am assured by the Attorney-General authentically that he has not given

any assurance to the court that the law will be amended. He has not told the court that the Government also is considering the amendment of the law. All that he has told the court is that in view of the fact that the consequences of an adverse view taken by the Supreme Court can be serious, the Government would like to consider the position, to consider as to what steps they should take; and also consider as to whether or not it is necessary to amend the Act and then amend the Act if considered necessary. Therefore, all the argument that Parliament was taken for granted, that an assurance was given that the law will be amended, implying thereby that not only the Attorney-General's feeling but on the basis of the Government decision, the law will be amended—that he has already said so before the court—is, in my humble submission, without foundation.

What the Attorney-General said, after he discussed it with me, before the court was this. Since the judgement was given a long time back, in Gopalan's case, and if that judgement is likely to be overruled, as it appeared to him from the reaction of the judges when the case was going on, he requested for some time, about a week or 10 days's time.

And he said that the Government would consider the matter in the meantime including an amendment of the Maintenance of Internal Security Act if considered necessary. The gist of the matter is, he did not say that the Act would be amended or that the Government had decided to amend the Act. No assurance was given that the Act would be amended. He only said that Government would consider whether any amendment was necessary. I respectfully submit that there is no substance in the submission that Parliament was taken for granted or that any assurance was given about the amendment. For that matter, Government has not taken any decision. The

¹The Times of India, New Delhi, had reported in its issue dt. 31-3-1973 as follows:

"UNI adds: "The Attorney-General, Mr. Niren De, gave the assurance before the Supreme Court that Section 17A of the Maintenance of Internal Security Act would be suitably amended within 10 days in the light of the arguments pressed by Mr. Narayanan Gooptu and Mr. R.K. Garg, counsels respectively for Mr. Subhanath Sarkar, one of the detainees in West Bengal and two others similarly held under the Act.

Mr. De said the Act would be so amended as to define the circumstances and classes of cases in which a citizen could be held in detention for more than three months without reference to an advisory board, as was now possible under Section 17A."

Attorney-General could not have said that it was the Government's intention to amend it. He could not have told the court that we were going to amend it. On this basis, I submit the entire discussion is without any foundation."

3. The adjournment motion, after discussion, was negatived.

4. On the 4th April, 1973, some members sought to raise a question of privilege against the Minister of Law, Justice and Company Affairs (Shri H.R. Gokhale) for allegedly misleading the House on the 2nd April, 1973, by making a wrong statement in the House, denying that the Attorney-General had told the Supreme Court that "the Government will have the law amended in ten days' time". They pointed out that two advocates, who appeared in the Supreme Court on behalf of the parties, had stated in a written statement that the Attorney-General did make the impugned statement before the Supreme Court.

5. After some discussion, the Speaker disallowed the question of privilege and ruled *inter alia* as follows:—

"...You gave four types of Motions the other day, and you based your Motions on the newspaper report...For three hours you had been

discussing it. And, the House gave a decision on it.

Today, I received the letter from two honourable lawyers. References were made to that letter... After quoting the Attorney-General, this is what the lawyers have stated:

'The newspaper reports referred to in this not are correct and statements attributed to the Attorney-General in the newspaper set out the position absolutely correctly.'

Now, that Motion which I allowed, was based on the newspaper report. It is again on the same newspaper report that the lawyers are now basing their claim, which report, they say, is correct. There is no question of saying that the lawyers are right or wrong or that the Attorney-General is right or wrong. The basis of the whole discussion was the same newspaper report which these lawyers are quoting now. On that basis the discussion was allowed. The subject-matter was discussed for three hours. The House gave its finding, its decision. An identical matter cannot be discussed now in the House once again. It is an identical matter and, therefore, there is no question of raising the same matter in any other form, in any other motion. I am not allowing it."

BRIBERY

78

LOK SABHA

(1970)

Point of Privilege

Allegations by a member in Rajya Sabha of bribery of members for voting against a Bill in Lok Sabha

Facts of the case and action taken by the House

On the 2nd September, 1970, Shri Bhupesh Gupta, a member of Rajya Sabha, made the following remarks during the course of a debate in Rajya Sabha—

"I have definite information and personal information and I can produce the evidence through witnesses. Last night several M.Ps. were taken to the houses of some Princes and Maharajas and I know in one case where a member of a certain party was taken to the residence of one Maharaja, the Rajmata offered him bribe. I am ready to present him to you. I can ask him to come and tell you...

What guarantee we have and what is the Central Government doing. The whole night it went on and poor Adivasi members were picked up and then they were told: 'You can take as much money as you like'."

2. On the 3rd September, 1970, Shri Ram Charan, a member of Lok Sabha, sought to raise a question of privilege in Lok Sabha against Shri Bhupesh Gupta, on the ground that in his above remarks made in Rajya Sabha, as reported in the *Nav Bharat Times*, in its issue dated the 3rd September, 1970 Shri Bhupesh Gupta had alleged that four Adivasi and other M.Ps. had voted in Lok Sabha against the Constitution (24th Amendment) Bill, 1970, because they had been bribed.

3. After some discussion, the Speaker (Dr. G.S. Dhillon) observed that he would take up the matter with the Chairman of Rajya Sabha. Accordingly, the Speaker addressed a letter to the Chairman, Rajya Sabha, inviting his attention to and eliciting his views in the matter.

4. In his reply, addressed to the Speaker, the Chairman (Shri G.S. Pathak), Rajya Sabha, observed *inter alia* as follows:—

"The allegations by Shri Bhupesh Gupta to which Shri Ram Charan, M.P., apparently refers, did not relate to any particular member of either the Lok Sabha or the Rajya Sabha... You would

thus see that Shri Bhupesh Gupta did not refer personally to any member of either house.

I have always held the view that members of one House should not make allegations or cast reflections on the floor of the House, or outside, on the members of the other House. In the Rajya Sabha, the Chair has invariably deprecated such conduct on the part of any member. In the present instance also, the Deputy Chairman, Shri Khobragade, who was in the Chair at the time Shri Gupta said this, made the following observations:—

'Members of Parliament of both Houses are very responsible persons and at the time of voting they will surely use their judgement and vote according to their conscience. I do not think they will be swayed by any other consideration'."

The matter was, thereafter, treated as closed.

79

LOK SABHA

(1996)

Point of Privilege

Alleged payment of large sums of money to some members of Jharkhand Mukti Morcha in Lok Sabha for voting against the Motion of No-Confidence in the Council of Ministers in July, 1993

Facts of the case and ruling by the Speaker

Shri Jaswant Singh, Shri Indrajit Gupta, Shri Arjun Singh and Shri Jagmeet Singh Brar, members, gave four notices of questions of privilege regarding alleged payment of large sums of money to some members of Jharkhand Mukti Morcha in Lok Sabha for voting against the Motion of No-Confidence in the Council of Ministers in July, 1993. The notices dated 26 & 27 February, 1996 received from Shri Jaswant Singh and Shri Indrajit Gupta, members, respectively were against the Prime Minister. Notice dated 27 February, 1996, given by Shri Arjun Singh, member, was against the Prime Minister and Sarvashri Shibu Soren, Suraj Mandal, Simon Marandi and Shailendra Mahto, members, belonging to JMM in Lok Sabha (who were said to be beneficiaries of the alleged pay-off).

2. All the said four notices, in support of the contention made therein, relied upon a press statement issued by Shri Shailendra Mahto, member. The Press statement, a copy of which was

enclosed by Shri Jaswant Singh with his notice, stated that a meeting of the said four members of Jharkhand Mukti Morcha in Lok Sabha was held with the Prime Minister in the presence of Shri Buta Singh, member, two days before the voting on the Motion of No-Confidence on 28 July, 1993. On the basis of an agreement allegedly reached at the said meeting, the members voted against the Motion of No-Confidence and large sums of money were subsequently paid into various bank accounts of the said members.

3. The main contention of the members in their notices was that the Prime Minister was in contempt of the House by allegedly offering inducements to the said four members of Jharkhand Mukti Morcha and by trying to influence them in their parliamentary conduct. Shri Arjun Singh further contended that the Prime Minister had aided and abetted the conduct of the said four members. Shri Arjun Singh and Shri Jagmeet Singh Brar, also contended in addition that the said four members of the Jharkhand Mukti Morcha by accepting the "improper gratification in matter of voting" had committed a breach of privilege and contempt of the House.

4. Copies of all the four notices were forwarded to the Prime Minister for furnishing his comments. Copies of Shri Arjun Singh and Shri Jagmeet Singh Brar's notice were also forwarded to the said four members of JMM for furnishing their comments in the matter.

5. Prime Minister's comments on the notice of Shri Jaswant Singh, member, were received on 28 February, 1996. In his comments, the Prime Minister *inter alia* stated as follows:

"The news item appearing in a section of Press release by Shri Shailendra Mahto, MP, are baseless and false. Neither any payments of money were made or arranged to be paid by me to any Member of Parliament, nor was any Member of Parliament influenced through improper means in his Parliamentary conduct, nor was any Member of Parliament offered any inducements, fee or reward on the occasion of the Motion of No-Confidence moved against the Council of Ministers in July, 1993.

It is to submit further that no attempt whatsoever has been made to prevent the will of the House and never was there any question of violation of the oath of office under the Constitution.

I would therefore submit to the Hon'ble Speaker that no breach of privilege has been committed."

The same day, comments of Prime Minister on the notice of Shri Indrajit Gupta were received. In his comments, the Prime Minister stated *inter alia* as follows:—

"The allegations in the published statement of Shri Shailendra Mahto are false and baseless and hence denied. In view of this, the question of denigration of Parliament does not arise.

I would, therefore, submit to the Hon'ble Speaker that no breach of privilege has been committed."

On 6 March, 1996, the comments of Prime Minister on the notices of Shri Arjun Singh and Shri Jagmeet Singh Brar, Members, were received. The Prime Minister in his comments stated *inter alia* as under:—

"The allegation that I have aided and abetted the alleged conduct of the MPs mentioned in the aforesaid notice is false and baseless and hence denied.

I would therefore submit to the Hon'ble Speaker that no breach of privilege or contempt of the House has been committed."

6. Shri Buta Singh, member, also addressed a letter to the Hon'ble Speaker in which he denied the allegations, stating *inter alia* that "I totally deny the consideration of any financial dealing. At no stage any money was offered or given to anybody either by me or through me." He also made a personal explanation in this regard during the debate in the House on 28 February, 1996.

7. Shri Suraj Mandal, member, while speaking in the House on 28 February, 1996 during the discussion on Motion under Rule 184 regarding Government's failure to answer charges relating to hawala case and illegal pay-offs to some members of Parliament also categorically denied the allegation.

8. On 29 February, 1996, Shri Shailendra Mahto, Member, during his personal explanation in the House, also denied the allegation in respect of acceptance of improper gratification by him for not voting in favour of the No-Confidence Motion against the Council of Ministers of 28 July, 1993.

9. On 11 March, 1996 Shri Arjun Singh, member, raised the matter in the House with the permission of

Hon'ble Speaker. After a prolonged discussion, during which members of all parties expressed their views, Hon'ble Speaker disallowing Shri Arjun Singh's notice of question of privilege, observed as follows:—

"...The matter is before the Court¹ which may take a proper decision on the basis of evidence that may be produced before it. Three years back some allegations were voiced about the illegal payments. At that time itself, the House could have been asked

to look into it. On the basis of other kinds of inducements, the matter could have been asked to be looked into by the House. In view of these facts and the available evidence, I find it very difficult to give the consent.."

10. The notices of question of privilege given by Sarvashri Jaswant Singh, Indrajit Gupta and Shri Jagmeet Singh Brar, members, were disallowed by Hon'ble Speaker on 12 March, 1996 in view of his ruling in the House on 11 March, 1996.

¹Supreme Court of India delivered its judgement in JMM case on 17 April, 1998. Summary of case included in Privileges Digest Vol. XLIII, December, 1998.

BUDGET

LOK SABHA
(1956)

Point of privilege

Leakage of Budget proposals

Facts of the case and ruling by the Speaker

On the 3rd March, 1956, the Deputy Speaker (Shri M.A. Ayyangar) informed the House that he had received notices of the following adjournment motions from Shri A.K. Gopalan and Dr. Lanka Sundaram, members, respectively:—

- (i) "The alleged leakage of budget proposals in Bombay before it was formally presented to the Parliament. It is reported in the Press that cyclostyled copies of the budget proposals were sold in Bombay and these copies tallied word to word with the proposals presented to the Parliament by the Finance Minister. It is also learnt that the Government of Bombay received information of this leakage prior to the presentation."
- (ii) "To discuss a specific matter of urgent public importance, namely, serious allegation of leakage of the Finance Bill proposals in Bombay and other places in India."

2. Dr. Lanka Sundaram also contended that it constituted an express breach of privilege of the House and that it might be referred to the Committee of Privileges.

3. The Prime Minister (Shri Jawaharlal Nehru) observed *inter alia* as follows:—

"I entirely agree with the hon. member that any kind of leakage, more especially any leakage of the budget proposals, is a serious matter, and ever since this has come to our notice, we have been exercised and concerned about these matters. But I would submit that the first step to be taken is to enquire into it exactly, in so far as we can enquire into it, and report to this House and then it would be for this House to consider how else to deal with it. In making this statement, I may mention on behalf of the Home Minister, that he has already taken some action to enquire into this matter as fully as can be done... I would like the Home Minister to make a fuller statement after enquiry."

4. The Deputy Speaker disallowed the adjournment motions on the ground that the Government had already taken steps to investigate the matter and that after enquiry the report would be placed before the House and the House could then consider what further steps had to be taken.

5. On the 12th March, 1956, the Prime Minister informed the House *inter alia* as follows:

".....As a result of the investigations carried out by the Central Intelligence Bureau and the Bombay and Delhi Police, it is now known exactly how the leakage occurred. We also know a great deal about the distribution of this information in Bombay and other places.

It has been established that the leakage occurred from the Government Press situated in Rashtrapati Bhawan where the budget papers had been given for printing. Copies of the draft which had been sent for printing had been passed without authority to certain persons, two of whom have already been arrested. The person who passed this information has also been arrested. Investigation is still proceeding to find out if any other persons had been guilty of this leakage or use of secret Government documents, and could be proceeded against. As the case against the three arrested persons will soon be put before the court and further investigations are proceeding, it would not be advisable for me to give at this stage further detailed information which is in the Government's possession. Meanwhile, I can assure the House that everything possible will be done to punish those who have been guilty of this offence. In view of this leakage, Government are giving consideration to the improvement of procedure in this regard in order to prevent such occurrences in future...

I do not understand, Sir, how a Committee of the House is to be associated with the police investigations. The question of leakage is being enquired into by the police and the Intelligence Department. The question of privilege is perhaps a slightly different type of thing. How the two things can be mixed up. I do not know."

6. Shri H.V. Kamath stated *inter alia* as follows:—

"..... Now that the Prime Minister has made a fairly full report—not, perhaps the final report on this matter, it may be that later on the plea might be taken that the whole matter is *sub-judice* if it goes to court, and Parliament's jurisdiction may be ousted on account of that. Therefore at this early stage, I submit that this matter be taken up by the Privileges Committee at once, and I would earnestly appeal to you to give your ruling on this matter today or, latest tomorrow."

7. Dr. Lanka Sundaram said *inter alia*:—

"....There is no disposition on the part of any Member in this House to impede Government investigation nor to interfere with the process of law. But the thing which I would like the Chair to clinch is this, and that is the question of privilege of the whole House which arises from these things... The leakage of the budget and avoidance of taxation are matters of privilege of the whole House and the House must go into them... This was the question which was raised on Monday last. I would like to know the reply of the Speaker on this point as to the rights and privileges of the House on this essential matter, namely, the breach of privilege of the whole House in respect of leakage of the budget proposals and avoidance of taxation, separate from the enquiry of the Central Intelligence Bureau and the legal process."

8. The Speaker (Shri M.A. Ayyangar) reserved his ruling.

Ruling by the Speaker

9. On the 19th March, 1956, the Speaker gave the following ruling:—

"In the matter of determination of the privileges of the House, we are governed by the provisions of Article 105(3) of our Constitution which states that the powers, privileges and immunities of the House are such as were enjoyed by the House of Commons in the United Kingdom at the commencement of our Constitution. The precedents of the United Kingdom should guide us in determining whether any breach of privilege was in fact committed in the present case. So far as I can gather, only two cases

occurred in which the House of Commons took notice of the leakage of the budget proposals. They are known as the Thomas case and the Dalton case. In neither of these cases was the leakage treated as a breach of privileges of the House nor were the cases sent to the Committee of privileges for enquiry. The prevailing view in the House of Commons is that until the financial proposals are placed before the House of Commons, they are an official secret. A reference of the present leakage to the Committee of Privileges does not, therefore arise.

Though the leakage of budget proposals may not constitute a breach of privilege of the House, the Parliament has ample power to enquire into the conduct of a Minister in suitable proceedings in relation to the leakage and the circumstances in which the leakage occurred. In the two English cases aforesaid reports were brought to the notice of the House of Commons by a resolution or a motion for appointment of special committees or tribunals to enquire into the matter and report the facts thereon to the House.

In the Dalton case, Mr. Dalton, who was the Chancellor of the Exchequer admitted that he did not think of the consequences at the time of the disclosure and in the Thomas case, it was alleged that he disclosed the budget secrets, which he got to know as a Cabinet Minister. It is neither alleged nor even suggested in the case before us that the Finance Minister was himself responsible for any unauthorised disclosure of the financial proposals. Regarding other persons, the Government have already taken steps to investigate into the matter and it is stated that persons have also been arrested and that prosecutions are being launched against them. In the circumstances, it is not clear as to what special advantage would be gained by appointing a special committee which to a large extent, will go over the same ground which had been previously covered during investigation by the Government.

However, I consider it desirable that while the matter is still fresh, the House should have an early opportunity to discuss the matter. Dr. Lanka Sundaram has given a notice of his intention to raise a discussion

under Rule 212 of the Rules of Procedure on the statements made by Government spokesmen on Budget leakage and matters pertaining to secrecy of Budget and Budgetary Reform.

I have admitted the notice and am allowing a discussion on the 20th, that is tomorrow, between 4 to 6-30 P.M."

81

LOK SABHA

(1959)

Point of privilege

Alleged leakage of Budget proposals

Facts of the case and ruling by the Speaker

On the 10th March, 1959 Shri S.M. Banerjee, a member drew the attention of the House to a photostat copy of the following letter stated to have been written by a Delhi cigarette firm to its branch office at Bangalore on the 21st February, 1959:—

"I have come to know that there are chances of enhancement of excise duty on Players & Gold Flakes. As such, please make arrangements to keep stocks for 2/3 months."

Shri Banerjee added that:—

"This particular letter is clear proof that they knew that the excise duty was going to be increased after the placing of this Budget here. I feel that while the Budget is kept so secret from us and we knew it only at about 6.30 p.m. on 28-12-1959; these speculators and hoarders knew it on 21-2-1959. I want that there should be a judicial enquiry into the conduct of these hoarders who are actually anti-national. I feel that this is not only a case of a question of privilege, but question of anti-social activity. I submit that there is a clear case of leakage and the hon. Speaker should give a ruling or allow an investigation to be made by the Home Minister."

2. Minister of Finance (Shri Morarji Desai) observed *inter alia* that:—

"The letter says, 'I have come to know that there are chances' that there will be an enhanced duty on two brands of cigarettes. It does not say how much enhancement there will be. If he had come to know of anything particularly he would have stated it; there could be any intelligent anticipation of many excise duties.

Then again.... he mentioned only two brands. As a matter of fact, it is on all brand that the duty has been enhanced. He is wrong."

3. The Speaker observed *inter alia*, as follows:—

"I have heard the hon. member and also the hon. Finance Minister. Some time ago in 1956, as the hon. members may be aware, some cyclostyled or typed copies of the provisions in the Budget or the proposals in the Finance Bill were circulated to various institutions and businessmen in Bombay. The matter was brought up here, when Shri C.D. Deshmukh was the Finance Minister. We went into that question elaborately, and this was my ruling then:

"In the matter of determination of the privileges of the House we are governed by the provisions of article 105(3) of our Constitution, which state that the powers, privileges and immunities of the House are such as were enjoyed by the House of Commons in the United Kingdom at the commencement of our Constitution. The precedents of the United Kingdom should guide us in determining whether any breach of privilege was in fact committed in the present case. So far as I can gather, only two cases occurred in which the House of Commons took notice of the leakage of the Budget proposals. They are known as the Thomas case and the Dalton case. In neither of these cases was the leakage treated as a breach of privilege of the House nor were the cases sent to the Committee of Privileges for enquiry. The prevailing view in the House of Commons is that until the financial proposals are placed before the House of Commons, they are an official secret. A reference of the present leakage to the Committee of Privilege does not therefore arise.

Though the leakage of Budget proposals may not constitute a breach of privilege of the House, the Parliament has ample power to enquire into the conduct of a Minister in suitable proceedings in relation to the leakage and the circumstances in which the leakage occurred. In the two English cases aforesaid, matters were brought to the notice of the House of Commons by a resolution or a motion for appointment of special committees or tribunal to enquire into the matter and report the facts thereon to the House."

So far as the other matters are concerned—the appointment of a committee, etc.—there is no proper resolution here as was the case in the House of Commons. It is unnecessary for me to proceed further. Not a word has been alleged that there is any default on the part of the Hon. Minister. Various persons get into speculation. Possibly this may be or may not be a case of speculation. It is not necessary for me to pronounce one way or the other. So far as the breach of privilege motion is concerned, I withhold my consent to raising the matter as there is no breach of privilege.”

82

LOK SABHA
(1959)

Point of privilege

Alleged leakage of Budget figures for 1959-60 relating to Manipur

Facts of the case and ruling by the Speaker

On the 10th March, 1959 Shri L. Achaw Singh, a member, seeking to raise a question of privilege stated as follows:—

“A local daily called *Simanta Patrika* published the detailed Budget figures for the Union Territory of Manipur under the Ministry of Home Affairs in its issues of 24th and 25th February, 1959. Generally, these figures cannot be given out in the Press before the Budget is actually presented to the House. The article had actually a heading like this: ‘Rs. 3.50 crores Budget for Manipur passed for this year.’ The same paper gives details of a Press Conference where the Chief Commissioner of Manipur announced these details. Further the paper says that the Budget estimates had been approved by the Manipur Advisory Committee which met recently.

..... the publication of these figures under the different heads of expenditure, such as land revenue, excise, registration, forest, veterinary, co-operation, and Scheduled Castes and Scheduled Tribes, is deliberate and intentional and is meant for lowering the dignity and prestige and the authority of this House.

..... The Budget estimates were discussed in the meeting of the Manipur Advisory Committee which consists of the Chief Commissioner and

Members of Parliament and the Committee.... approved them. But the meetings of the Committee are secret and confidential and no detail can be given out in the Press without the consent of the Central Government or the Home Ministry. It is unfortunate that these estimates are published under the very nose of the Home Ministry.

It has been held by *May*, the authority on Parliamentary procedure, that the publication of proceedings of committees conducted within closed doors or draft reports of committees before they have been reported to the House, will constitute a breach of privilege. So, I humbly submit that the act of the Chief Commissioner of Manipur is a clear case of a breach of parliamentary privilege.”

2. The Minister of Home Affairs (Shri G.B. Pant) observed *inter alia* that:—

“.... I am utterly at a loss to understand how a question of privilege can arise in a case of this type. The Chief Commissioner, I believe has even now no idea of the Union Budget or even of its salient features. He never saw the Budget and he cannot possibly have disclosed the Budget. So, the question of his disclosing the Union Budget is inconceivable.....

So far as this particular matter is concerned, the Central territories have not got any legislatures of their own, and the entire executive authority is vested in the President. So an advisory committee has been appointed for each one of the Central territories. Matters of policy and matters relating to legislation and others concerning these territories are placed before these consultative committees which consist mostly of members of Parliament and representatives of the Territorial Council... so that they may be able to consider matters of common interest among themselves.

..... no one has revealed the Budget figures. Before any figures are placed in the Budget there is a lot of discussion among the Ministries between the Finance Ministry, between the Administration and so on. They are the subject of scrutiny and examination for a long time. We feel that whenever any changes are called for in the Budget they ought to be communicated to the Finance Ministry; but it is their right to accept them or not accept them, we cannot force them”.

The Home Minister also cited a few instances to illustrate the difference between the figures published in the *Simanta Patrika* and the actual Budget figures presented to the House.

3. The Speaker observed as follows:—

“Two things have been raised. One is that there is a breach of privilege because these are Budget figures. As soon as the hon. Member gave me notice of this motion I asked him to give a tabular statement showing the Budget figures and also those figures that have been made public by the Chief Commissioner in his Press Conference. He gave me the statement. The hon. Minister has already referred to those figures. There has been substantial change. So far as ‘Home’ is concerned, Rs. 59 lakhs were sought to be asked for by the Commissioner or that Council, but Rs. 54 lakhs alone were given. As a matter of fact, so far as ‘Public Health’ is concerned, Rs. 9,000 was asked for and Rs. 10 lakhs have been provided. The respective figures for ‘Education’ are: Rs. 30 lakhs and Rs. 31 lakhs. Thus there have been very substantial differences. After all, it is open to the Council to give its demands. The Council’s opinion is invited. The Commissioner and the various departments first of all make up their mind as to what amount ought to be asked for. It is for the Home Ministry in this particular case, and finally the Finance Ministry to decide, taking all these matters into consideration, as to what amount ought to be provided. The proposals themselves do not constitute the Budget.

Now, I would only advise for future consideration by the Commissioner, that he need not hold a Press Conference a few days before the Presentation of the Budget.

Except for this matter of indiscretion, I do not think there is any question of privilege here.

The other question that he raised was that the proceedings of the Council were secret. If it is intended to be secret, it is right that it is kept so. But any absence of secrecy, so far as that matter is concerned, is not a breach of privilege of this House. The Council is not a committee of this House.

I am sorry I am not able to agree with the hon. member that there is any question of privilege involved. I have nothing more to say except to

add that on such questions a wise practice may be adopted in future by the Commissioner.”

83

LOK SABHA

(1964)

Point of privilege

Alleged leakage of Budget concessions

Facts of the case and action taken by the House

On the 18 April, 1964, the Speaker (Sardar Hukam Singh) informed the House as under:—

“I have received a notice from Shri S.M. Banerjee where he complains that there has been a leakage of the budget concessions announced by the Finance Minister yesterday. He brought to me a copy of the *Economic Times* and said that those concessions had appeared in that paper which has reached here from Bombay. It is not a breach of privilege under which I can take it up, but I will allow him to raise it during the debate.”

2. Later on that day, during the debate on the Finance Bill, 1964, Shri Banerjee referred to the matter in his speech.

3. During his reply, the Finance Minister (Shri T.T. Krishnamachari) denied the leakage and explained that notice of amendments incorporating the concessions was sent to the Lok Sabha Secretariat on the 14 April and circulated to the members on the 16th morning. Apparently, some reporter of the *Economic Times* had been busy collecting the information from the amendments.

The matter was, thereafter, treated as closed.

84

LOK SABHA

(1974)

Point of privilege

Alleged disclosure of Supplementary Budget before presentation to the House.

Facts of the case and reference to Committee of Privileges

On the 25 July, 1974, Shri Jyotirmoy Bosu, a member raised a question of privilege against Shri Jasjit Singh, Chairman, Central Board of Excise and Customs, regarding a reference made by him at the meeting of the Customs and Central Excise

Advisory Council about raising of rates of indirect taxes in the Supplementary Budget, before its presentation to the House as reported in the following news-item published in the *Hindustan Times*, New Delhi, dated 25th July, 1974:—

"Indirect taxes may fetch 218 cr. more. *Hindustan Times* Correspondent.

New Delhi, July 24—With the Supplementary Budget yet to come, the revenue from indirect taxes this year is expected to record a substantial increase over the Budget Estimates.

As against the estimated figure of Rs. 3,772 crores for the financial year 1974-75, actual revenue expected to be of the order of nearly Rs. 3,990 crores, of which Central excise would contribute Rs. 3,045 crores.

As the Supplementary Budget will definitely raise the rates of indirect taxation, the revenue from customs and excise duties during 1974-75 will be much higher than the present estimates.

The Chairman of the Central Board of Excise and Customs Mr. Jasjit Singh, today told the Customs and Central Excise Advisory Council that the Share of indirect taxes in the total tax revenue has risen to 72.4 per cent...."

2. While raising the question of privilege, Shri Jyotirmoy Bosu stated *inter alia* as follows:—

"The Parliament is sitting, Sir, the Supplementary Budget is coming on the 31st.... In this case which concerns the Supplementary Budget, no less a person than the Chairman of the Central Board of Excise and Customs himself goes and tells, in the presence of business tycoons and profiteers as reported in the press, that there would be a big dose of indirect taxation.

There is a clear case of breach of privilege. My request is that the matter should be sent to the Privileges Committee."

3. During the discussion on the matter in the House, the Minister of State in the Ministry of Finance (Shri K.R. Ganesh) stated *inter alia* that according to his information the Chairman, Central Board of Excise and Customs, did not say anything about the Supplementary Budget, as reported in the Press.

4. After some discussion, the Speaker (Dr. G. S. Dhillon) ruled *inter alia* as follows:—

"I think it is much better if it is sent to the Privileges Committee to examine it, instead of this

controversy being allowed that he said this or he did not say this. I will ask them to examine it also in the light of the denial on behalf of the officer by the Minister..... Let the Privileges Committee examine it."

Findings and recommendations of the Committee

5. The Committee of Privileges, after having perused various newspapers and documents called for from the Central Board of Excise and Customs, and also having examined Shri M.K. Dhar, the concerned Correspondent of the *Hindustan Times*, New Delhi, and Shri Jasjit Singh, Chairman, Central Board of Excise and Customs, in their Twelfth Report, presented to the House on the 27th August, 1974, reported *inter alia* as follows:—

"The Committee, on the basis of the material before them, have come to the conclusion that there is no evidence to show that Shri Jasjit Singh, Chairman, Central Board of Excise and Customs, had made any disclosure about the Supplementary Budget, at the meeting of the Customs and Central Excise Advisory Council held on the 24th July, 1974.

The Committee are of the view that no question of privilege is involved in this matter.

The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

6. No further action was taken by the House in the matter.

85

LOK SABHA

(1974)

Point of privilege

Alleged leakage of Budget proposals by a Minister

Facts of the Case and ruling by the Speaker

On the 29th July, 1974, Sarvashri Jyotirmoy Bosu, Era Sezhiyan, Shyamnandan Mishra and G. Viswanathan, members, sought to raise a question of privilege against the Minister of External Affairs (Sardar Swaran Singh), for reportedly leading out the Budget proposals contained in the Finance (No. 2) Bill, 1974 which was yet to be presented to the House on the 31st July, 1974. The members alleged that while inaugurating a meeting organised by

the National Building Organisation on the 27th July, 1974, the Minister of External Affairs made the following statement as reported in the *Sunday Standard* and the *Patriot* dated 28th July, 1974:—

(1) "The Minister for External Affairs, Mr. Swarn Singh said today that there would be further restrictions 'within one week' in the supply of cement and steel for building."

(*Sunday Standard*, July 28, 1974).

(2) "In an obvious reference to the supplementary budget to be presented to Parliament next week, he said engineers and building contractors should take into account the present economic conditions in the country."

(*Patriot*, July, 28, 1974)

Similar reports had also appeared in some other newspapers.

2. The Minister of External Affairs thereupon stated *inter alia* as follows:—

"This was a technical organisation one of whose functions is that they should find alternative materials to costly materials. There is no question of my saying either about the budget or upon pricing or upon taxation.... Even from what the hon. leader of the DMK said, he will notice that my statement is different from what the reporter had said. He has apparently mixed up my statement with the comment of the reporter. What is mentioned is, 'In an obvious reference to the supplementary Budget.....' This is his comment, not my statement—to be presented to Parliament next week, he said.....' What I said was that engineers, technicians and architects should take into consideration the present economic conditions in the country.... We have said in the All India Congress Committee Resolution on economic conditions in the country that scarce materials like cement and steel should be used for buildings which are functional and their use for prestigious buildings or buildings where it can be avoided, should be avoided. I did not at all talk anything either about the budget or about taxation or of prices. I should appeal to the hon. members to consider seriously whether there is any question of breach of privilege..... I should like to say that I did not say anything at all for which I should be held responsible..... It is nothing but a reiteration of a well known policy. While

explaining the policy stress and emphasis can always be laid, and if we are always hauled up, even hauled up for contempt.... I feel that this a very drastic curtailment of our right to explain to the people in the country what is our policy."

3. Shri Atal Bihari Vajpayee, another member, suggested that as a similar case against an Officer of the Government (Chairman, Central Board of Excise and Customs) had already been referred to the Committee of Privileges, the Complaint against the Minister of External Affairs might also be referred to the Committee of Privileges.

4. The Speaker (Dr. G.S. Dhillon) thereupon observed *inter alia*, as follows:—

"...I will have to go through the proceedings....I will give my ruling after seeing that."

5. On the 30th July, 1974 the Speaker disallowed the question of privilege and observed *inter alia* as follows:—

"The House will recall that in regard to that previous case I had categorically stated that there was no question of privilege involved in the statement alleged to have been made by the Chairman of the Central Board of Excise and Customs. I quote below my decision which I gave that day. This is what I at the very out-set said:

'Mr. Jyotirmoy Bosu, I have seen your privilege motion. No question of privilege is involved.' And again later I reiterated:

'No question of privilege is involved... I have studied this very carefully this morning, and, before the Minister replied, I had my views definitely on it. After the Minister's reply, even if I ignore it, and take the position as it existed before his reply, in my view though this cannot be a subject of privilege it is definitely a case of impropriety. It is highly improper...'

This officer is sitting in his official advisory Committee... He did not make a public statement. But he might have been discussing with his advisory Committee, and they might have been replying.... The Minister is denying it on behalf of the officer saying that the officer did not say that.... When I said it is not a privilege, I was about to say something. Now after this denial, much confusion has arisen... I think it is much better if it is sent to the Privileges Committee to examine it, instead of this controversy being allowed that he said this or he did not say this. I will ask them to

examine it also in the light of the denial on behalf of the officer by the Minister'.

It will thus be seen that the matters complained of in both the cases, in my opinion, do not involve a question of privilege. As there was a conflict of version, the matter was referred to the Committee of Privileges under Rule 227 to find out what the facts were.

In the present case, the Minister has not denied the facts. He has explained the circumstances in which he made the statement. Therefore, as I said previously, on the basis of the facts, there is no question of privilege and I, therefore, hold that no breach of privilege has been committed by the Minister of External Affairs".

86

LOK SABHA

(1979)

Point of privilege

Alleged leakage of Budget proposed for 1979-80 before their presentation to Parliament

Facts of the case and ruling by the Speaker

On the 7th, March, 1979, the Speaker, (Shri K.S. Hegde) informed the House as follows:—

"Sarvashri Vayalar Ravi and Vasant Sathe, MPs., gave notices of question of privilege against the Deputy Prime Minister and Minister of Finance (Shri Charan Singh) regarding alleged leakage of Budget proposals for 1979-80 before their presentation to Parliament, as published in the Sunday Northern India Patrika, Allahabad, and Morning Echo, New Delhi.

When Sarvashri Vayalar Ravi and Vasant Sathe sought to raise the matter in the House on the 5th March, 1979, I had said that I would call for the comments of the Deputy Prime Minister and the Minister of Finance.

The Ministry of Finance has sent two detailed factual notes in respect of the two notices with the approval of the Deputy Prime Minister and Minister of Finance, in which they have concluded that the reports appearing in the newspapers concerned were purely in the nature of speculation and guess-work and were not based on any knowledge of the content of the Budget. They have also stated that it is not unusual for economic analysts and newspapers

to make such forecasts of the likely features of a forthcoming Budget particularly after the publication of Economic Survey and that the reports published in the Northern India Patrika and the Morning Echo could not possibly be based on any leakage of Budget proposals. There is also wide discrepancy between the speculations made in those papers and the actual budget proposals in major respects.

I have compared all that. There is wide divergence between the two.

I am not satisfied even *prima facie* that there has been any leakage of the Budget proposals. In this view, it is not necessary to go into the question whether the leakage of a budget is a matter coming under Rule 222.

In fact, my predecessor had been given a ruling that the leakage of budget does not come under rule 222. But I am not pronouncing on it, because the matter requires further examination.

I do not, therefore, give my consent for raising the matter in the House as a question of privilege under Rule 222."

2. The matter was, thereafter, closed.

87

LOK SABHA

(1981)

Point of privilege

Alleged leakage of the Railway Budget before its presentation to Parliament

Facts of the case and ruling by the Speaker

On 23rd February, 1981, the Speaker (Shri Bal Ram Jakhari) informed the House as follows:—

"I have to inform the House that Shri George Fernandes, M.P., gave notice of a question of privilege on 20 February, 1981, against the Minister of Railways (Shri Kedar Pande) regarding alleged leakage of the Railway Budget presented to the House on 19 February, 1981. According to Shri Fernandes the Railway Budget was leaked out and the main features of the budget proposals were 'produced near verbatim' in the *Business Standard* of Calcutta, in its issue dated 19 February, 1981, with a date line of 18 February, 1981.

The matter was referred to the Minister of Railways under my directions. The Ministry of Railway in their reply dated 20 February, 1981, which has the approval of the Minister of Railways, have stated *inter alia* that "The indication given is that a flat 15 per cent. surcharge is likely on the existing fare and freight rates. It will be noted from the Budget speech that, insofar as passenger traffic is concerned, this 15 per cent. surcharge is proposed to be levied only on travel by air-conditioned first class and not on travel by other classes for which lower scale of surcharge, on varying scale has been proposed. For first class this is 12.5 per cent. and for A.C. Chair Car and Second Class it is 10 per cent. with exemption for journeys upto 150 Kms. in Second Class ordinary. Insofar as freight traffic is concerned, the Budget proposal does propose a flat 15 per cent. surcharge. However, it is pertinent to mention here that in the 1980-81 Budget speech, delivered on 16th June, 1980 also the levy of a flat 15 per cent. surcharge had been proposed. As such, the indication, under comment, can at best be termed as an intelligent guess... the fare structure for suburban traffic has already been revised upwards in the immediately preceding two years *i.e.* 1980-81 and 1979-80. These upward revisions evoked considerable amount of unrest among suburban commuters and a press correspondent would not be very wrong in guessing that at least this year there will be no upward revision.

Against the news item's figure of Rs. 375 crores that correct figure as per Budget proposals is Rs. 356.26 crores. Against the two figures of 20 million tonnes and a revenue loss of about Rs. 100 crores the correct figures as given in the Budget speech, are 19.5 million tonnes and Rs. 30.12. crores'.

In view of the above, I am not satisfied that there has been any leakage of the Railway Budget proposals.

In fact, my predecessors had given ruling that leakage of Budget proposals or official secrets does not form any basis for a breach of privilege.

In this connection I would like to quote the

following ruling given by my distinguished predecessor Mr. Speaker M.A. Ayyangar on 19 March, 1956:—

'In the matter of determination of the privileges of the House, we are governed by the provisions of Article 105(3) of our Constitution, which states that the powers, privileges and immunities of the House are such as were enjoyed by the House of Commons in the United Kingdom at the commencement of our Constitution. The precedents of the United Kingdom should guide us in determining whether any breach of privilege was in fact committed in the present case. So far as I can gather, only two cases occurred in which the House of Commons took notice of the leakage of the budget proposals. They are known as the Thomas case and the Dalton case. In neither of these cases was the leakage treated as breach of privileges of the House nor were the cases sent to the Committee of Privileges for enquiry. The prevailing view in the House of Commons is that until the financial proposals were placed before the House of Commons, they are an official secret. A reference of the present leakage to the Committee of Privileges does not therefore arise'.

I do not, therefore, give my consent for raising the matter in the House as a question of privilege under Rule 222".

The matter was, thereafter, closed.

88

LOK SABHA
(1982)

Point of privilege

Alleged leakage of Railway budget before its presentation to Parliament and certain remarks made by the Chairman, Railway Board in a press conference

Facts of the case and ruling by the Speaker

On 25th February, 1982, the Speaker observed in the Houses as follows:—

"Hon. members Sarvashri Atal Bihari Vajpayee George Fernandes and A. Neelakothidasan Nadar have given notices of question of alleged leakage of the Railway Budget before its presentation to the House.

Dr. Subramaniam Swamy yesterday gave 'notice

under rule 222 against the Railways Board Chairman for saying that suburban rail fare will be raised'.

The notices of the members alleging leakage of Budget were sent to the Minister of Railways. I also sent yesterday the notice of Dr. Subramaniam Swamy together with the proceedings of the House of 24th February, 1982 to the Minister of Railways.

I have received from him detailed note in which the Minister has denied that there was any leakage of the Railway Budget and has given a detailed factual statement in support thereof.

As regards the statement made by the Chairman, Railway Board, Shri M.S. Gujral, in the Press Conference held on 23 February, 1982, after the presentation of Railway Budget, the Minister of Railways has *inter alia* stated in his communication dated 25th February, 1982 that:

'Regarding the privilege motion against the Chairman of the Railway Board, I would like to further stress that the intention of the Chairman was only to highlight the recommendations of the Rail Tariff Enquiry Committee. He had neither the authority for, nor the intention of announcing any hike in the suburban fares. I would also like to say that there is no intention, whatsoever, on the part of the Government to have any such increase and I stand by my statement on this subject in the Budget speech'.

As regards the question of leakage of Railway Budget, it has been held by my predecessors that Budget before presentation is a document the custody of which remains with the Government.

Therefore, the question of any breach of privilege would not arise. But there is certainly the question of propriety. While it is not unusual for economic analysts and newspapers to make intelligent forecasts of the likely features of a forthcoming budget, it is evidently in Government's own interest to see that the Budget proposals proper are revealed only first in Parliament and no ground or cause is given for raising the question of leakage.

As regards Shri Gujral, Chairman, Railway Board, in view of the clarification given by the Railway Minister and his categorical assurance that suburban railway fares would not be enhanced, the matter may not be pressed further.

However, it need hardly be emphasised, that if a Press Conference is to be held after the presentation of the Budget in Parliament, it would obviously be more appropriate for the Minister concerned to hold it himself, where top functionaries could be present, as necessary.

I need hardly emphasise that every care should be taken to ensure that at the Press Conference nothing is revealed which is not consistent with the statements made earlier in the House and that in important matters of policy it is but proper that the information is first given inside the House to the members and not revealed outside in any other forum."

89

LOK SABHA
(1986)

Point of privilege

Alleged releasing to the Press estimates of the projected revenue and expenditure of the Central Government for 1986-87 by the Finance Minister

Facts of the case and ruling by the Speaker

On 28th February, 1986, the Speaker (Dr. B.R. Jajhar) observed as follows:—

"Shri S.M. Bhattam, Prof. Madhu Dandavate, Sarvashri V. Sobhanadreeswara Rao, Thampan Thomas and M. Raghuma Reddy gave separate notices of question of privilege against Shri Vishwanath Pratap Singh, Minister of Finance for allegedly releasing to the Press on 10th February, 1986 estimates of the projected revenue and expenditure of the Central Government for 1986-87, while addressing a 'Press Conference.

The members in their notices have referred to the following news report published in the *Hindustan Times* dated 11th February, 1986, under the heading '86-87 revenue estimates released':—

'Breaking all conventions, Union Finance Minister V.P. Singh today released ahead of the Budget, estimates of the projected revenue and expenditure of the Central Government for 1986-87 as per the long-term fiscal policy, which place the revenue to be raised from public enterprises at Rs. 4,704 crore more than the current year's Rs. 6,753 crore to finance the Annual Plan of Rs. 19,845 crore.

Mr. Singh made it plain at a Press Conference that there was hardly any escape from increase in administered prices as a resource raising measure. The other alternative was to cut down the plan itself. He did not say what will be his own preference which will be known when he presents the budget'.

The members have contended that by releasing these figures to the Press before presenting the budget to the House, the Finance Minister has violated all established norms and conventions and has committed contempt of the House.

The notices of the members were sent to the Minister of Finance for his comments. The Minister of Finance in his reply dated 20th February, 1986, has denied that the figures relating to the 1986-87 Budget were released to the Press. He has stated *inter alia*:

'It is not a fact that the revenue estimates for 1986-87 were released to the Press. The figures furnished to the Press were the results of a shadow exercise presented to the members of the Consultative Committee to estimate the receipts and expenditure for 1986-87 on the basis of a Central Plan outlay of Rs. 19,845 crores equivalent to Rs. 18,000 crores at 1984-85 prices as projected for the year in the long term fiscal policy. These figures are based on the Seventh Plan, which has already been released to the public. The exercise was to work out the various estimates of receipts and expenditure, including the contributions required to be made by the public enterprises, on the basis of the relative percentages of different resources and plan and non-plan expenditures assumed in the Seventh Plan document.

In view of the resource requirements for financing the Seventh Plan, it is useful to have a wider debate in the Press and the public on the avenues of raising resources, the priorities in allocating resources and the efficiency levels which are required to be achieved by all, including the public enterprises...such a debate will go to strengthen the democratic institutions in the country....no figures relating to the 1986-87 Budget were given either to the Consultative Committee or to the Press'.

Now, first according to the categorical statement of the Finance Minister, the newspaper report has

no factual basis and there has been no release of the revenue estimate for 1986-87 to the Press.

Secondly, it is well established and has been held repeatedly by me and by my distinguished predecessors that leakage of budget proposals cannot form any basis for a breach of privilege. Until the financial proposals are placed before the House, they are an official secret.

I do not, therefore, give my consent for raising the matter in the House as a question of privilege under rule 222".

90

LOK SABHA
(1986)

Point of privilege

Announcing exemptions from customs duty on certain luxury goods a week before presentation of the budget by the Minister of State in the Ministry of Finance

Fact of the case and ruling by the Speaker

On 28th February, 1986, the Speaker (Dr. B.R. Jajhar) observed as follows:—

"On 27th February, 1986, Prof. Madhu Dandavate gave notice of a question of privilege against Shri Janardhana Poojary, Minister of State in the Ministry of Finance for allegedly announcing exemptions from customs duty on certain luxury goods a week before the presentation of the budget by issuing certain notifications under the Customs Act, 1962.

Prof. Dandavate contended that 'to announce these exemptions from customs duties only a week before the presentation of budget is a mockery of the budgetary process and contempt of the House and a breach of privilege of the House'.

On a perusal of these notifications, which were laid on the Table of the House on 21st February, 1986, I find that most of the notifications have been issued under subsection (1) of section 25 of the Customs Act, 1962, which provides as under:—

'If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official

Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon'.

The Central Government is thus empowered under the said Act to issue such notifications in the public interest and there is, therefore, no irregularity involved in it.

Moreover, as many as 25 of the notification referred to by Prof. Madhu Dandavate in his notice, were published in the Gazette of India on varying dates during the period 19th December, 1985 to 30th January, 1986, and one on 7th February, 1986, *i.e.*, much before the commencement of the Budget Session. In pursuance of section 159 of the Customs Act, 1962, the notifications were laid on the Table of the House at the earliest opportunity *i.e.*, on 21st February, 1986.

It is not, therefore, correct to say, as contended by Prof. Madhu Dandavate, that these exemptions were announced 'only a week before the presentation of the budget'.

No question of privilege is, therefore, involved in the matter and I do not accord my consent under rule 222 to the raising of the matter in the House as a question of privilege."

91

RAJYA SABHA
(1986)

Point of privilege

Announcing exemptions from customs duty on various items by issuing notifications on the eve of the Budget Session

Facts of the case and ruling by the Chairman

On 4th March, 1986 the Chairman (Shri R. Venkataraman) observed as follows:—

"On February 25, 1986, when a set of 42 Notifications under the Customs Act, 1962, was sought to be laid on the Table of the Rajya Sabha, Shri Lal K. Advani and others raised a matter regarding the propriety of exempting various items from payment of customs duty just on the eve of the Budget. On 27th February also, the matter was raised by the members in the context of two other

Notifications which were being laid on that day. So far as the two Notifications are concerned, the Minister of Finance had contended that one of them was for continuing the existing concession and another related to exemption of commercial samples of a certain value having no revenue implications. Two issues appear to be involved in this. First, the legality and the other one is of propriety.

So far as the legality of the matter is concerned, I do not think it has been questioned. I have already mentioned it on 27th February. Under Sections 25 and 66 of the Customs Act under which the Notifications have been issued, power has been conferred on the Central Government to exempt items from duty of customs. Under this delegation of power, the Central Government has been issuing such Notifications from time to time. This is not the first time that this has been done. In the past also, on several occasions such Notifications had been issued when Parliament was not in session. These Notifications are sensitive Notifications and under the recommendation of the Committee on Subordinate Legislation of the Lok Sabha, these are required to be laid on the Table of the House within seven days of the commencement of the session if such Notifications are issued when Parliament is not in session, and if issued when Parliament is in session, on the same day or on the next day. It is in compliance with this recommendation that many times sensitive Notifications are laid on the Table even at the very end of the day. I may also point out that these Notifications are laid on the Table under Section 159 of the Customs Act under which power has been given to Parliament to annul these Notifications or modify them in the respect as the Parliament may deem necessary.

What has agitated the member is the propriety of issuing these Notifications on the eve of the Budget. These Notifications fall into three groups. Twelve Notifications were issued in December 1985; 23 Notifications had been issued in January 1986; and the remaining 7 Notifications had been issued upto February 18, 1986. Barring the last group of 7 Notifications, all have been issued much earlier than on the eve of the Budget.

The Finance Minister has contended that some of the Notifications are merely extension and/or continuation of existing exemptions or duty

rates which would be expiring if no such notification is made. If the contention is factually correct, there would be no breach of propriety in such cases. If, on the other hand, these Notifications have revenue implications, such as increasing or decreasing the levy, such Notifications on the eve of the Budget would offend the canons of parliamentary propriety.

I, therefore, rule:

- (a) Notifications issued in pursuance of the powers vested in Government under the Customs Act are legal;
- (b) Notifications issued when the Parliament was not in session and placed on the Table of the House within seven days of the session in accordance with the recommendations of the Committee on Subordinate Legislation are both valid and proper;
- (c) Notifications of a formal nature extending the life of an existing duty rate and which do not have a fresh or new revenue implications are valid and proper; and
- (d) Notifications with revenue implications such as increasing or decreasing the duty structure on the eve of the Budget are contrary to parliamentary propriety.

The ruling in (d) above follows the observations of my predecessor Shri Hidayatullah in respect of increase in postal rates made in 1983.

At this stage, it is not possible for me to comment on the merits or the contents of particular Notifications, that is, whether the exemptions have been given properly or in normal circumstances. I feel that this is a matter which can be looked into by the Committee on Public Accounts, which I understand, had done so in 1981.

The Committee, in fact had observed as follows:—

'The Committee feel that the power to grant exemption is an unusual, extra-ordinary and exceptional power given to the executive and it is imperative that adequate safeguard should be there to ensure that the powers are used sparingly and there are no chances of their being misused. Further, the Committee expect that occasions on which powers under section 25(2) have to be exercised will be rare and stand the test of these being in the public interest and satisfy the circumstances of an exceptional nature as intended by Parliament.'

The Notifications placed on the Table of Rajya Sabha on 25th and 27th February by the Finance Minister may be gone into by the Public Accounts Committee to assess whether they stand the tests laid down by it. I, therefore, propose to forward the proceedings of the House relating to this matter to the Committee on Public Accounts for this purpose."

92

RAJYA SABHA
(1986)

Point of privilege

Propriety of Government issuing notifications having revenue implications on the eve of the Budget Session

Facts of the case and ruling by the Chairman

On 11th November, 1986, the Chairman (Shri R. Venkataraman) observed as follows:

"As the hon. Members are aware, on March 4, 1986, I had given a ruling in the House on the question of propriety of Government issuing Notifications exempting various items from payment of customs duty just on the eve of the budget. I had in my ruling mentioned *inter alia* that the question whether the exemptions had been given properly or in normal circumstances could at best be looked into by the Committee on Public Accounts. A reference was accordingly made to the PAC.

I have now received the observations of the PAC on the reference made. The PAC has recorded that while there should be strict compliance with the principle that no proposal involving taxation should be given effect to by Government unless and until Parliament has discussed, debated and approved it, a certain degree of flexibility must exist to enable Government to deal with an emergent situation in the light of public interest. The PAC has minutely examined the Notifications laid on February 25 and 27 and felt that 15 out of 49 Notifications ought to have been held back until Parliament had an opportunity to consider them. In the case of these Notifications, according to the PAC, there did not appear to have existed the necessary degree of urgency of public interest that would have justified an exception to the general rule. The amount of taxation involved was certainly not trivial.

The amount of revenue involved in the grant of exemptions was not marginal but was conspicuously large. As estimated by the PAC, exemptions granted under the Customs and Central Excise laws during the years 1983-84, 1984-85 and 1985-86 were to the tune of Rs. 1115 crores, Rs. 1283 crores and Rs. 1924 crores respectively. The PAC has, in particular, taken note of the fact that the exemptions granted in the revenue accruing from customs alone amounted to 16.62 per cent of the total revenue during 1985-86.

I will like to refer to the concluding observation of the PAC to the effect that post-notification approval by the Parliament is no substitute for a prior debate and discussion of taxation proposals specially when they depart from the approved budget.

I do hope that Government will take due note of this and endeavour to ensure that resort to issuing Notifications having revenue implications will be minimal.”

CENSORING OF MAIL OF MEMBERS

LOK SABHA
(1981)

Point of privilege

Alleged censoring of mail and tapping of telephones of members

Facts of the case and ruling by the Speaker

On 28th August, 1981, the Speaker (Dr. Bal Ram Jakhar) informed the House as follows:—

“Shri Atal Bihari Vajpayee in his communication dated 29 July, 1981, has complained to me regarding alleged censoring of his mail and tapping of his telephone. Subsequently, he has also given a notice of question of privilege on 27 August, 1981, against the Minister of Communications on this matter. Dr Subramaniam Swamy has given notice of a question of Privilege on 17 August, 1981, against the Minister of Home Affairs and the Director, Intelligence Bureau, for allegedly intercepting and tampering with his letters and Parliamentary papers. Shri George Fernandes has also given notice of a question of privilege on 19 August, 1981, against the Minister of Home Affairs, Minister of Communications, Lt. Governor of Delhi, the Police Commissioner of Delhi and others for initiating action to censor his mail.

Article 105 of the Constitution provides for the powers, privileges and immunities of each House of Parliament and of its Members and the Committees thereof. The object of Parliamentary privileges is to safeguard the freedom, the authority and the dignity of Parliament. They do not, however, exempt the Members from the obligations to the society which apply to other citizens. Privileges of Parliament do not place a Member of Parliament on a footing different from that of an ordinary citizen in the matter of the application of laws, unless there are good and sufficient reasons in the interest of Parliament itself to do so and unless so provided in the Constitution or in any law. The fundamental principle is that all citizens including Members of Parliament have to be treated equally in the eyes of law.

The question of alleged interception of letters of Members by the Police was raised in Madras

Legislative Assembly in 1954. While giving his ruling in the matter, the Speaker informed the Assembly that he had not been able to find a precedent bearing on the case either in the British House of Commons or in the Canadian Parliament. He, however, found a precedent in the Parliament of the Commonwealth of Australia where the privileges of Parliament are similar to those of our own House. The Speaker gave the following ruling:—

‘....A motion had been moved there similar to the one given notice of by Mr. Kalyanasundaram.... On February 25, 1944, in the Commonwealth House of Representatives, Mr. Cameron (Constituency of Barker) raised the question whether censorship of MP’s mail was not a breach of privilege. The hon. Members said that he had raised the question because it struck at the foundation of the privileges of the House, and moved the following motion:’

“That the opening by censors of letters addressed to members of this House at Parliament House, Canberra, or at the rooms occupied by Federal Members in a State Capital City is a breach of privileges of Parliament.

.....there should be a complete cessation of the opening of letters addressed to Members of the Parliament at this House.”

The Prime Minister of Australia (Rt. Hon. J. Curtin) quoted the Post and Telegraph Censorship Order gazetted quite early in the war, which laid down clearly that the censor might open and examine all postal articles as defined in the Post and Telegraph Act. Mr. Curtin said that his own mail was subject to censorship.

The Attorney-General (Mr. Evatt) said:
“Refer the matter to the committee”.

The Committee was constituted and submitted its Report on 30th March, 1944.

The ruling given by that Committee was:

‘that the opening by the censors of letters addressed to the members of the house is not a breach of any existing privilege of the House.’

I also wanted to find out whether there is any law

here in existence similar to the one referred to in the ruling. Here is a similar provision. Section 26 of the Post Office Act, 1898, says:

'On the occurrence of any public emergency, or in the interest of the public safety or tranquility, the Central Government or a Provincial Government or any officer specially authorised in this behalf by the Central or the Provincial Government may, by order in writing direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained, or shall be disposed of in such manner as the authority issuing the order may direct.'

"There is no *prima facie* case for referring the issue to the Committee of Privileges."

It has also been held by my distinguished predecessor Mr. Speaker Ayyangar on 29 April, 1960, that no question of breach of privilege arises out of alleged tapping of telephones of Members.

In view of the above position, I hold that no question of privilege is involved in the matter and I do not, therefore, give my consent to raise the matter as a question of privilege under Rule 222.

"I would permit myself one observation before concluding the subject and that is about communications sent by my Office including the Lok Sabha Secretariat to Members. I hope the concerned authorities realise that such communications would not attract the attention of censoring authorities."

The matter was, thereafter, closed.

94

RAJYA SABHA
(1981)

Point of Privilege

Alleged censoring of mail of members

Facts of the case and ruling by the Deputy Chairman

On 31st August, 1981, the Deputy Chairman (Shri Shyam Lal Yadav) observed in the House as follows:

"On the 26th of August, 1981, Shri L.K. Advani and Dr. Bhai Mahavir gave almost identically worded notices of breach of privilege against Shri C.M. Stephen, Minister of communications, alleging that their postal mail was being intercepted, opened and censored. It was stated in these notices that this was being done 'with' the knowledge and consent of

Shri Stephen. This was said to be an obstruction placed in the performance of parliamentary duties because much of the postal mail related to matters which people wish should be raised in Parliament. Reference was also made to an article in the *India today* (August 16—31, 1981, p. 18).

Under my order these notices were referred to the hon. Minister, who in his reply denied that any such interception or opening or censoring had taken place either with his knowledge or with his consent. He referred to section 26 of the Indian Post Office Act and stated that he would not offer any comments as to whether, in law, there was a case for breach of privilege but that he had not committed any breach of privilege against the two hon. members. He further pointed out as follows:

'In any case, it behoves me to mention that, myself being a member of Lok Sabha, I come under the exclusive jurisdiction of the Lok Sabha for any action under the Law of Parliamentary privileges, as per well-settled convention.'

Under section 26(1) of the Indian Post Office Act, 1898, on the occurrence of any public emergency, or in the interest of public safety or tranquility, the Central Government or a State Government or any officer specially authorised in this behalf by that Government may, by order in writing, direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained or shall be disposed of in such manner as the authority issuing the order may direct.

The Post Office Act was enacted more than eight decades ago but this blanket power has not been abrogated or curtailed even after nearly 35 years of our Independence. Our Constitution also did not include the right to inviolability of privacy as the American Constitution. Therefore, the power exists and has the sanction of law, depending on the occurrence of any public emergency, interests of public safety or tranquility. As the section stands, the Central Government, the State Government, and any officer specially authorised by the Central or State Government are made the judges of the occasion for the exercise of the power. Before the adaptation of the section in 1937, the authorisation could only be made by the Governor-General in Council. The section

also does not exempt any person or class of persons from the operation of the section.

A claim to special privileges as individuals does not exist and it is therefore being claimed *qua* members of this House or in other words of Parliament. It has been well-settled that members of Parliament have no special status in the application of the Laws of the land. This matter is not *res integra* and indeed, it was passed upon in similar situation before. In 1960 when an hon. member of the Lok Sabha gave a notice of breach of privilege because his telephone was being tapped, Shri M.A. Ayyangar, the then Speaker, ruled thus:

'Hon members are aware that it has been said repeatedly, both in England and here, that except in the discharge of their duties, for which they have some privileges here, members ought not to claim any special privileges outside which an ordinary citizen does not have. If the same thing had happened with respect to any ordinary citizen, it could not be brought up here as a breach of privilege these things may be taken up with the Government in other ways. Therefore, I refuse to give my consent.'

(Privileges Digest Vol. IV, p. 35)

I must say with respect that the reason that an ordinary citizen cannot move Parliament for breach of privilege was not a very apt one, but the other reason that there is no special protection to the members except in the discharge of their duties as such must be accepted.

On another occasion the Speaker disallowed a motion of breach of privilege by a member who had complained of being kept under surveillance by authorities. Dr. Dhillon then observed:

'There is no privilege involved...Whatever Government does is administrative or for other security reasons. I am not there to judge about it... So far as any obstruction to the member is concerned. I am going to inquire into but, as a privilege, I am not entertaining it... I cannot give any protection to any M.P. against any law.'

(Privileges Digest 1978 Vol. XXIII, p. 1)

The last precedent is of this month and relates to this very matter in the Lok Sabha last week. The Hon'ble the Speaker turned down a notice of breach of privilege. He quoted with approval a

precedent from the Parliament of Commonwealth of Australia in 1944 and referred to the debates of the Madras Legislative Assembly where Shri Kalyanasundram in 1954 had made a similar complaint. In Australia it was ruled by a Special Committee thus:

'that the opening by the censors of letters addressed to the members of the House is not a breach of any existing privilege of the House'.

The Speaker in the Madras Assembly therefore declined to take action. Following these precedents the Hon'ble Speaker, Shri Bal Ram Jakhar, ruled:

'In view of the above position, I hold that no question of privilege is involved in the matter and I do not therefore give my consent to raise the matter as a question of privilege under Rule 222'.

I think with this weight of authority I must hold that no question of privilege is involved in the manner the notices raise it, especially after the Speaker has ruled on it already.

I must, however say that any *malafide* action or interference with the legitimate duties of honourable members of this House, if proved, will not have the protection of this ruling. I also repeat with respect the observations of the Hon'ble the Speaker:

'I would permit myself one observation before concluding the subject and that is about communications sent by my office including the Lok Sabha Secretariat to Members. I hope the concerned authorities realise that such communications would not attract the attention of censoring authorities.'

The same will apply to this House *mutatis mutandis*.

With these words I withhold permission to the raising of the question as a breach of privilege."

The matter was, thereafter, closed.

95

RAJYA SABHA

(1984)

Point of privilege

Alleged censoring of mail of a member

Facts of the case and ruling by the Chairman

On 8th March, 1984, Shri V. Gopalasamy, a member, while seeking to raise a question of privilege, stated *inter alia* as follows:—

“Sir, I seek your indulgence for two minutes. I want to express my views on the notice of privilege given against the Chief Secretary of the Tamil Nadu Government, Special Branch CIDSP Madras, Superintendent of Police, Tirunelveli. Sir, an order was passed, and in that order it is stated that ‘in the interest of public security and tranquility, all postal articles addressed to me or emanating from me should be subjected to censorship’. When I raised it on 7th December 1983, the Deputy Chairman informed that remarks will be called from the concerned persons. I would like to know for what reasons the Tamil Nadu Government passed such orders”.

2. The Chairman (Shri M. Hidayatullah) observed as follows:—

“You remember that sometime back there was a question raised about tapping of telephones and at that time I gave a ruling... So I again reiterate what I said then. ‘I must, however, say that any *malafide* action or interference with the legitimate duties of the Hon. members of this House, if proved, will not have the protection of this ruling.

I repeat with respect the observations of the hon. the Speaker:

‘I would permit myself one observation before concluding this subject and that is about communications sent by my office including the Lok Sabha Secretariat to Members. I hope the concerned authorities realise that such communications would not attract the attention of the censoring authorities.’

“The same will apply to this House *mutatis mutandis*; I must say that in America there is a provision in the Constitution itself against such searches and investigations. We should be very reluctant to do this in our country. The Law does allow it. But I hope the law will be administered very very carefully without causing any offence to Hon. Members. I think, with these remarks, your question is over”.

CONFIDENTIAL PROCEEDING—PUBLICATION OF

96
LOK SABHA
(1974)

Point of privilege

Publication of proceedings of the meeting of the Speaker with the Leaders of Parties/Groups in Lok Sabha by newspapers.

Facts of the case and ruling by the Speaker

On the 17th December, 1974, Shri Atal Bihari Vajpayee, a member, drew the attention of the Speaker to a news-item published in certain newspapers of that date regarding the proceedings of a meeting of the Speaker with the Leaders of Parties/Groups in Lok Sabha in connection with perusal of the C.B.I. Report and connected documents in the Import Licences case by the Leaders of Parties/Groups. Shri Vajpayee stated that the said news report was not correct and he requested the Speaker to contradict the said news report.

2. The Speaker (Dr. G.S. Dhillon) thereupon observed *inter alia* as follows:—

"It is really very unfortunate that what happened inside the Committee should have come out in the press though in a wrong way and due to that the reactions should have come in this House....whatever has appeared in the press is not correct. There was no walk-out, nor did I give any ruling that this should be the condition or that should happen... I wish to point out that in case of the Leaders Committee also the same Direction (that is Direction 55¹ of the Directions by the Speaker) goes. So, I would request the members that they observe these rules in regard to whatever we do inside also.... So, I end this note with my request to both of you and also to the Press that in dealing with this matter they should be helpful to me."

¹ 1. Direction 55(1) & (1A) of the Directions by the Speaker provides as follows:—

'55(1) The Proceedings of a Committee shall be treated as confidential and it shall not be permissible for a member of the Committee or any one who has access to its proceedings to communicate, directly or indirectly, to the Press any information regarding its proceedings including its report or any conclusion arrived at, finally or tentatively before the report has been presented to the House.

[(1A) The provisions of clause (1) shall also *mutatis mutandis* apply to the proceedings of meeting held by the Speaker with the Leaders of Parties and Groups in Lok Sabha].

CONSENT OF SPEAKER

Point of privilege

Consent of the Speaker is a condition precedent to the raising of a question of privilege in the House.

Facts of the case and ruling by the Speaker

On the 28th May, 1957, Shri Anthony Pillai, a member, asked the Speaker whether he had granted him leave to raise a question of privilege in respect of which he had sent a notice to the Secretary on the previous evening. The Speaker observed that the notice had been received late on the evening of preceding day and was being looked into.

2. On the 29th May, 1957, Shri Anthony Pillai again reverted to the subject and said that he had received a brief reply saying that the Speaker had not given consent to the question being raised in the House. He wanted to know the grounds on which the leave had been refused. The Speaker observed as follows:—

“Hon. member is aware that under the Rules, I have to give consent for raising any question of privilege in the House. I did not give my consent. If the hon. member is not satisfied or wants further elucidation, he may come and see me in my Chamber.”

3. When the member referred to the House of Commons practice in support of his contention, the Speaker ruled:

“We have framed certain rules suitable to our own needs and conditions. In other respects, where this Parliament has not made any rule or passed any law, the general practice prevalent in the House of Commons before the date of commencement of the Constitution will prevail. Here there is a specific rule, that is, the Speaker has to give his consent and if he does not give consent, the matter cannot be raised. I have refused to give consent.”

4. Shrimati Renu Cuakravartty, a member, however, pointed out that according to the past practice, whenever permission was sought to raise a question to breach of privilege, the matter was at least allowed to be raised on the floor of the House.

5. The Speaker observed:

“I do not agree. Otherwise, the provision that the consent of the Speaker is necessary, will be absolutely in-effective. In many cases, I have not allowed the privilege motion to come to the House at all. There may be cases where it is not a matter of privilege at all and the infringement is so trivial that it can better be settled outside the House. In other cases of importance, the matter is brought before the House if I give consent. Therefore, discretion is vested in the Speaker.”

6. Shri A.K. Gopalan, another member said that in the past, some discussion was allowed in the House even when a privilege issue was not referred to the Committee of Privileges. Although the Speaker could reject a question of privilege, the members had a right to know the subject-matter of the privilege issue that was sought to be raised, and the reason why it was rejected. He wanted to know why a new procedure was being followed in the present case.

7. The Speaker then observed as follows:—

“The consent of the Speaker is a condition precedent to raising a question of privilege. Shri A.K. Gopalan referred to certain case. It must be, I think, there was a *prima facie* case and therefore I brought it before the House. The Speaker has the right to find out *prima facie* whether there is case to be brought before the House. If I find that there is not such *prima facie* case, I will not bring it before the House. Therefore, I have disallowed it.”

**COURTS/INVESTIGATING AGENCIES—REQUEST FOR PRODUCTION OF PARLIAMENTARY
RECORDS/DOCUMENTS**

LOK SABHA
(1956)

Procedure to be adopted for production of documents connected with the proceedings of the House before Court of Law.

Facts of the case and reference to the Committee of Privileges

The Additional Magistrate, 1st Class, Tiruchirapalli, sent a summons addressed to the Speaker, "to cause the production of letter dated the 20th December, 1956, signed by R. Govindan and addressed to Shri H.V. Kamath the then member of Lok Sabha and passed on to the Speaker on the floor of the House during discussion of Ariyahur Train Disaster", in his court on the 7th September, 1957. The document was required in connection with a defamation case filed by Shri P.K. Madhava Menon, Divisional Superintendent, Southern Railway, Tiruchirapalli, against Shri R. Govindan.

2. The Registrar, City-sessions Court, Bombay, sent a letter to the Secretary, Lok Sabha, requesting him to send a responsible officer for giving evidence in the Court, on the 9th September, 1957, supported by Register or relevant documents to show the dates of the sessions of Lok Sabha in December, 1950, January, February and March, 1951 and the dates on which Shri Damodar Swarup Bahadur Seth, attended the sessions of Lok Sabha.

3. Sarvashri A.B. Vajpayee and Shivadin Drohar, members, sent letters requesting for the supply of certified copies of answer to Unstarred Question No. 965 given on the 27th August, 1957 for production in Courts in connection with election petitions.

4. On the 7th September, 1957, the Speaker (Shri M. Ananthasayanam Ayyangar) referred the above-mentioned three cases to the Committee of Privileges for report.

Findings and recommendations of the Committee

5. The Committee of Privileges, in their First Report presented to the House on 12th September, 1957, reported *inter alia*, as follows:—

- (i) "The Committee are of the opinion that no member or officer of the House should give evidence in a Court of Law in respect of any proceedings of the House or any Committee of the House or any other document connected with the proceedings of the House

or in the custody of the Secretary of the House without the leave of the House being first obtained."

- (ii) "When the House is not in session, the Speaker may in emergent cases allow the production of the relevant documents in Courts of Law in order to prevent delays in the administration of justice and inform the House accordingly of the fact when it reassembles. In case, however, the matter involves any question of privilege, especially the privilege of a witness, or in case the production of the document appears to him to be a subject for the discretion of the House itself, he may decline to grant the required permission and refer the matter to the Committee of Privileges for examination and report."
- (iii) "The Committee recommend that whenever any document relating to the proceedings of the House or any committee thereof is required to be produced in a Court of Law, the Court or the parties to the legal proceedings should request the House stating precisely the documents required, the purpose for which they are required and the date by which they are required. It should also be specifically stated in each case whether only a certified copy of the document should be sent or an officer of the House should produce it before a Court of Law."
- (iv) "When a request is received during sessions for producing in a Court of Law, a document connected with the proceedings of the House or Committees or which was in the custody of the Secretary of the House, the case may be referred by the Speaker to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report and further action should be taken in accordance with the decision of the House."

(v) "In regard to the three cases under consideration of the Committee, the following recommendations are made:—

(a) that the Speaker may authorise the Secretary to designate an officer of the Lok Sabha Secretariat to produce the letter dated the 20th December, 1956 signed by Shri R. Govindan and addressed to Shri H.V. Kamath, in the Court of the Additional Magistrate, 1st Class, Tiruchirapalli.

(b) that the Speaker may authorise the Secretary to designate an officer of the Lok Sabha Secretariat to produce the relevant documents showing the dates of the sessions of the Provisional Parliament from December, 1950 to March, 1951 and the registers showing dates on which Shri Damodar Swarup Bahadurmal Seth, Ex-Member, attended the above-mentioned sessions of the House.

(c) that certified copies of answer given to Unstarred Question No. 965 in the Lok Sabha on the 27th August, 1957 may be supplied to Sarvashri A.B. Vajpayee and Shivadin Drohar."

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

Action taken by the House

6. On the 13th September, 1957, the Chairman of the Committee of Privileges (Sardar Hukam Singh) moved the following motion:—

"That this House agrees with the First Report of the Committee of Privileges laid on the Table on the 12th September, 1957."

7. Shri Sadhan Gupta, a member, while supporting the motion stated that when some documents in the custody of the House were to be called for in a court, it should be done by way of petitioning the House and the language used should be such as not to offend the dignity of the Legislature. He further suggested that the recommendations of the Committee together with the motion accepting those recommendations should be sent to every High

Court, District Judge and District Magistrate in the States for their information, so that they might know the procedure in respect of calling documents from the custody of the House.

8. The Minister of Law (Shri Asoke K. Sen) stated that Government had no objection to the procedure suggested by Shri Sadhan Gupta.

9. The Speaker observed that summons sent to ordinary individuals were different from summons to produce documents sent to Collectors and other high Public Officers which were sent in the form of letters of request. The same form might be followed for making request for production of documents in the custody of the House.

10. The Minister of Law, agreeing with the Speaker, suggested that the Home Ministry might be requested to publicise the privileges enjoyed by the House in the matter of production of documents to all the State Governments so that they might be circulated to different courts for information.

The motion was adopted by the House.

99

LOK SABHA
(1958)

Point of privilege

Production of certain documents in the custody of the Secretariat of the House before Election Tribunal, Calcutta.

Facts of the case and reference to the Committee of privileges

The Election Tribunal, Calcutta, in its letter No. 27, (IV Extra) E/T, dated the 10th April, 1958, addressed to the Speaker, requested the House to accord permission for production, "by a competent person of the file containing the correspondence with the Indo-German Trade Centre, Behala, Calcutta, regarding the installation of the automatic vote recording system in the Lok Sabha during 1956-57" before the Election Tribunal, Calcutta, on the 25th April, 1958.

The Election Tribunal, as an alternative, requested that if the course suggested by it did not commend itself to the House, permission for the production of the relevant papers before the Commissioner to be appointed by it, might be accorded.

2. The relevant file was required to be produced before the Election Tribunal in connection with the Election Petition No. 439 of 1957 in which Shri Biren Roy

a member, was the respondent. According to the Election Tribunal, the production of the file was relevant for the purpose of deciding the following two issues:

(i) "Whether the respondent Shri Biren Roy, is disqualified under section 7(d)¹ of the Act, for being chosen as a member of the Lok Sabha for his connection, if any, with a firm under the name and style 'Indo-German Trade Centre'—a firm which is alleged to have entered into a contract with the 'appropriate Government' for installation of automatic vote recording device in the Rajya Sabha and the Lok Sabha."

(ii) "Is the answering respondent Biren Roy disqualified for being chosen as a member of the Lok Sabha because of his connection with the firm under the name and style 'Indo-German Trade Centre'."

3. On the 14th April, 1958, the Speaker (Shri M. Ananthasayanam Ayyangar) referred the matter to the Committee of Privileges in accordance with the procedure laid down in the First Report of the Committee of Privileges, which was adopted by the Lok Sabha on the 13th September, 1957, and the Election Tribunal, Calcutta, was informed that the Committee would consider the matter shortly and submit its report to the House and that the decision of Lok Sabha in the matter would be communicated to the Tribunal in due course.

Findings and recommendations of the Committee

4. The Committee of Privileges, in their Second Report presented to the House on 24th April, 1958, reported, *Inter alia*, as follows:—

(i) "That the replies sent by the Lok Sabha Secretariat to M/s Indo-German Trade Centre in response to their letters appear to be of no material importance so far as the question of establishing facts in this particular case is concerned. The Lok Sabha Secretariat were at no time concerned with the question as to who were the partners of M/s. Indo-

German Trade Centre as such details are primarily the concern of Director General Supplies and Disposals who placed the order on M/s. Indo-German Trade Centre."

(ii) "The Committee in para 10 of their First Report, adopted by the House on the 13th September, 1957, had recommended that:

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

(iii) "That in the present case, the Speaker may authorise the Secretary to designate an officer of the Lok Sabha Secretariat to produce before the Election Tribunal, Calcutta, the correspondence with the Indo-German Trade Centre, Behala, Calcutta, regarding the installation of the automatic vote recording system in Lok Sabha during 1956-57."

Action taken by the House

5. On the 25th April, 1958, the Chairman of the Committee of Privileges (Sardar Hukam Singh) moved the following motion:—

"That this House agrees with the Second Report of the Committee of Privileges laid on the Table on the 24th April, 1958."

6. Shrimati Renu Chakravarty, a member, stated that in the unanimous opinion of the Committee there was nothing in the records of the Lok Sabha Secretariat which was relevant to the sections referred to in the proceedings of the Election Tribunal. She, therefore, suggested that the files in

¹Section 7(d) of the Representation of the People Act, 1951, reads as under:—

"Disqualifications for membership of Parliament or of a State Legislature—A person shall be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(a)	•	•	•
(b)	•	•	•
(c)	•	•	•

(d) if, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account, he has any share for interest in a contract for the supply of goods to, or for the execution of any works or the performance of any services undertaken by the appropriate Government;".

the Lok Sabha Secretariat might not be produced, and the Tribunal asked to refer the matter to the Director-General of Supplies and Disposals who probably had the relevant papers.

7. Shri Naushir Bharucha, another member, stated that it was not necessary to refer every case of request for production of documents in courts to the Committee of Privileges and the House might revise the procedure approved earlier. He thought that like any other Head of Department, the Speaker, and in his absence, the Deputy Speaker and even a Chairman on the Panel of Chairmen, should be authorised to sanction the production of documents in courts in order to avoid delay in the administration of justice and speedy disposal of election petitions.

8. Shri Mahanty, another member, stated that it would not be proper to spare officers of the Secretariat to run about from one end of India to the other with documents. He thought that it would be better if a Commission was appointed by the Tribunal to take evidence in Delhi.

9. Shri Kasliwal, another member, stated that it was not open to the Committee of Privileges to go into the question of relevancy or otherwise of the documents. It was for the Tribunal to decide the question. He thought that in accordance with the past precedent, an officer of the Secretariat might be sent to produce the documents.

10. Shri A.K. Sen, the Minister of Law, stated that on the basis of the procedure obtaining in the House of Commons, U.K., the House had already decided that in cases where records or papers in the custody of Parliament were required to be produced before any court of law or Tribunal, it was for the Speaker to nominate a person who would produce them, with the leave of the House. The procedure could not be varied in the absence of any law being made by Parliament under Article 105(3) of the Constitution.

So far as the relevancy of the document was concerned, it was for the competent authority under the Evidence Act or any other Act obtaining in the particular matter to decide it. It would also not be proper for Parliament to accept such an odious task of deciding in each particular case which document was relevant to the proceedings in a Court.

The privilege of Parliament attached to the production of the document and not in deciding whether the document was, in fact, relevant or not.

11. The Speaker, thereupon *inter alia*, observed as follows:

"Under the evidence Act, no one shall be permitted to give any evidence derived from any public official records relating to any affair of the State except with the permission of the officer or the Head of the Department concerned who shall give or withhold such permission as he thinks fit. That is according to section 123 of the Evidence Act. According to section 124, no public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interest would suffer by their disclosure.

These are matters in which some kind of discretion has to be exercised and some enquiry has to be made. Therefore, the Speaker naturally sends it, as soon as it comes up, to the Privileges Committee to examine what has to be done so far as this matter is concerned. Therefore, I do not propose taking the responsibility of saying whether this ought to be disclosed or not, whether you should claim privileges so far as this document is concerned, whether this document is in public official record or relates to an affair of the State. All these are matters in which I would certainly like to have the advice of the competent authority—the Privileges Committee of the House. It has made a report. It could have said: 'withhold'...It is for them (the Tribunal) to decide whether that particular document is relevant or not relevant, necessary or not necessary. As a matter of fact, nowhere it is stated that the Tribunal should state for what purpose it is required. The document is called for. They need not have even said that they wanted this file for examining how far it was useful. It is for them to decide.

I shall see if in future automatically the Speaker or the Deputy Speaker may take the responsibility of sending the documents except in cases where they want the advice of the Privileges Committee. That will be for the future. I will consider that. So far as this report is concerned, I shall place it before the House for its acceptance."

12. The motion was then put and agreed to.

100
LOK SABHA
 (1959)

Point of privilege

Request by the police authorities for certain documents in the custody of the Lok Sabha Secretariat in connection with investigation of a case.

Facts of the case and reference to the Committee of Privileges

On the 12th August, 1959, the Superintendent of Police, Special Police Establishment, Ministry of Home Affairs, in a D.O. letter addressed to the Lok Sabha Secretariat, made the following request:—

“We are investigating a case against Acharya R.H. Dube, who is alleged to have got a suite of rooms, allotted to himself in the Constitution House on the strength of a letter purported to have been addressed by Shri Ganpati Ram, M.P., to the Estate Officer. In course of investigation, it has transpired that a similar letter was addressed to the Chairman, Housing Committee of the Lok Sabha on 9th May, 1959, and that the Chairman had entered into correspondence with Shri Ganpati Ram in this behalf.

As these letters are alleged to have been forged, a reference has to be made to the Government Examiner of Questioned Documents. I shall be grateful if you kindly make these letters available to us for this purpose.

I further request that some documents containing the admitted writings of Shri Ganpati Ram, M.P., may also kindly be made available to us.”

In a subsequent D.O., letter dated the 24th August, 1959, the Superintendent of Police specified the following documents which were required by him:—

(i) A letter purported to have been addressed by Shri Ganpati Ram, to the Chairman, Housing Committee of the Lok Sabha, on the 9th May, 1959, regarding allotment of a suite of rooms in the Constitution House to Acharya R.H. Dube.

(ii) Arrival and departure reports submitted by Shri Ganpati Ram.

2. On the 19th August, 1959, the Speaker (Shri M.A. Ayyangar) referred the matter to the

Committee of Privileges under rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha.

Findings and recommendations of the Committee

3. The Committee of Privileges, in their Tenth Report presented to the House on the 4th September, 1959, reported, *inter alia*, as follows:—

(i) “The Committee in para 10 of their First Report, adopted by the House on the 13th September, 1959, had recommended that:—

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

(ii) “It is quite possible that the documents in question in the present case may have to be produced in a Court of Law, the Committee, therefore recommend that the following documents may, with the permission of the House, be made available to the Superintendent of Police, Special Police Establishment, Ministry of Home Affairs:—

(1) Letter dated 9th May, 1959, purported to have been addressed by Shri Ganpati Ram, M.P., to the Chairman, Housing Committee of the Lok Sabha, regarding allotment of a suite of rooms in the Constitution House to Acharya R.H. Dube.

(2) Two arrival and departure reports submitted by Shri Ganpati Ram, M.P.”

Action taken by the House

4. On the 7th September, 1959, Shri Shivram Rango Rane, a member, moved the following motion which was adopted by the House:—

“That this House agrees with the Tenth Report of the Committee of Privileges laid on the Table on 4th September, 1959.

101

LOK SABHA

(1965)

Point of privilege

Request for permission to examine an official of the House on Commission and also to examine certain records of the House in connection with a case pending in court.

Facts of the case and reference to the Committee of Privileges

Shri Om Prakash Sharma, Local Commissioner, Punjab High Court, wrote to the Lok Sabha Secretariat that he had been appointed a Local Commissioner by the District and Session Judge, Delhi, to examine the Secretary, Lok Sabha, on Commission as a witness and also to examine certain records of Lok Sabha, in a case styled as *Jagannath Bajaj Vs. Firm Jamuna Devi*, pending in the Court of the District and Sessions Judge, Bikaner.

2. The factual information regarding the case, as furnished by the Local Commissioner, in his letter dated the 6th August, 1965, is reproduced below:—

“Shri Jagannath Bajaj, Plaintiff filed a suite No. 10 of 1960 for the recovery of Rs. 27,440.35 Paise against Smt. Jamuna Devi daughter of Shri Pannalal Barupal, M.P., and others on the basis of a promissory note and a receipt dated 11th April, 1960 alleged to be executed by Smt. Jamuna Devi. Smt. Jamuna Devi filed the written statement denying the execution of the said promissory note and the receipt of money. The Plaintiff produced witnesses to prove his allegations. The witnesses stated that the promissory note and receipts were written and signed by Smt. Jamunadevi in the presence of Shri Pannalal Barupal on 11th April, 1960. One witness Shri Kodanath stated that he attested the alleged receipt on 11th April, 1960 on being called by Shri Pannalal Barupal. Smt. Jamunadevi filed an affidavit stating that Shri Pannalal was not present on 11th April, 1960 in Bikaner and he attended Lok Sabha on 11th April, 1960 and signed the attendance register maintained in the Lok

Sabha. He got daily allowance for 11th April, 1960 from Lok Sabha. In support of these allegations she filed the letters dated¹ 17th September, 1964 and 6th October, 1964 from the Deputy Secretary of the Lok Sabha. Smt. Jamunadevi wants to rebut the evidence of the plaintiff by proving that Shri Pannalal Barupal was not present in Bikaner on 11th April, 1960. In this connection she has requested the court to examine the Secretary, Lok Sabha, on Commission for the purpose as stated above and to get produced the documents.

The documents are required to be produced in rebuttal to show that Shri Pannalal Barupal was present on 11th April, 1960 in the Lok Sabha, New Delhi.”

3. From the copy of the interrogatories (issued by the District Judge, Bikaner to examine the Secretary, Lok Sabha) furnished by the Local Commissioner, it appeared that the following records of Lok Sabha were required to be produced before the Local Commissioner:—

- (1) Attendance Register of members of Lok Sabha in which the attendance of the members on 11th and 12th April, 1960 was marked and signed by the individual members of Lok Sabha.
- (2) The register and records showing the daily allowance given to Shri Pannalal Barupal, M.P., for 11th and 12th April, 1960.

4. On the 11th August, 1965, the Speaker (S. Hukam Singh) referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee

5. The Committee of Privileges, in their Second Report laid on the Table of the House on the 30th August, 1965, reported *inter alia* as follows:—

- (i) “The Committee of Privileges in para 10 of their First Report (Second Lok Sabha), adopted by the House on the 13th September, 1957, had recommended that:—
‘When a request is received during sessions for producing in a Court of Law, a document connected with the proceedings of the House or Committees or which is in the custody of

¹The letters were to the effect that Shri Barupal. Signed the Attendance Register of members on the 11th and 12th April, 1960 and that he was paid daily allowance for 10 to 12th April, 1960.

the Secretary of the House, the case may be referred by the Speaker to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report and further action should be taken in accordance with the decision of the House'."

- (ii) "The Committee recommend that in the present case, the Speaker may, with the permission of the House, authorise the Secretary to designate an Officer/Officers of the Lok Sabha Secretariat, to produce the records of Lok Sabha mentioned in para. 8 above (see para 3 above) and to give certified copies of the relevant extracts thereof, if so required, and also to answer relevant interrogatories, before the Local Commissioner appointed by the Court in the case, in a room in the Parliament House."

Action taken by the House

6. On the 1st September, 1965, the House adopted the following motion moved by the Chairman of the Committee of Privileges (Shri S.V. Krishnamoorthy Rao):—

"that this House agrees with the Second Report of the Committee of Privileges laid on the Table on the 30th August, 1965."

102

LOK SABHA (1969)

Point of privilege

Request for furnishing certain records relating to the Committee on Public Undertakings to the Trombay Fertilizer Commission of Inquiry, New Delhi.

Facts of the case and reference to the Committee of Privileges

The Secretary, Trombay Fertilizer Commission of Inquiry, New Delhi, sent a letter forwarding summons, for furnishing to the said Commission of Inquiry the following records:—

- (i) Evidence of the representatives of Government of India (Ministry of Petroleum and Chemicals and Mines and Metals) and the Fertilizer Corporation of India Limited recorded by the Committee on Public Undertakings (Fourth Lok Sabha), Twenty Sixth Report.

- (ii) Correspondence with the office of the Comptroller and Auditor General and the Committee on Public Undertakings in connection with Audit Paras contained in the Central Government Audit Report (Commercial) 1968, which ultimately gave rise to the Twenty-Sixth Report of the Committee on Public Undertakings.

2. The Commission of Inquiry was set up by the Government of India under the Commissions of Inquiry Act, 1952, in pursuance of the recommendations of the Committee on Public Undertakings contained in their Twenty-sixth Report (Fourth Lok Sabha), to determine whether the then Managing Director of the Fertilizer Corporation of India acted entirely in the interests of the Corporation, etc.

3. On the 16th September, 1969, the Speaker referred the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha.

Recommendation of the Committee

4. The Committee of Privileges, in their Ninth Report laid on the Table of the House on the 19th November, 1969, after quoting paras 8 to 10 of the First Report of the Committee of Privileges (Second Lok Sabha), recommended that:

"The Speaker may, with the permission of the House, authorise the Secretary to furnish to the Trombay Fertilizer Commission of Inquiry the records mentioned in paragraph 10 above (see para 1 above)."

Action taken by the House

5. On the 26th November, 1969, the House adopted the following motion moved by a member of the Committee of Privileges (Shri S.N. Dwivedi):

"That this House do agree with the Ninth Report of the Committee of Privileges laid on the Table of the House on the 19th November, 1969."

6. The relevant records were, accordingly, made available to the Trombay Fertilizer Commission of Inquiry.

103
LOK SABHA
(1976)

Point of privilege

Request from Central Bureau of Investigation for making available to them "admitted writings" of an ex-Member of Lok Sabha on connection with investigation of a case.

Facts of the case and reference to the Committee of Privileges

The Deputy Inspector General of Police (Inv-I), Central Bureau of Investigation, New Delhi, in his letter dated the 12th July, 1976, addressed to Secretary-General, Lok Sabha, stated as follows:—

"In connection with the investigation of the Baroda Dynamite Seizure Case [R.C. No. 276-CIU(A)] we urgently require admitted writings of Shri George Fernandes. Shri George Fernandes was a member of the Lok Sabha from 1967 to 1971. I shall be grateful if the admitted writings of Shri Fernandes could be made available to us from your records."

2. In reply, the Deputy Inspector General of Police, Central Bureau of Investigation, was informed *vide* Lok Sabha Secretariat letter dated the 14th July, 1976 of the correct procedure for making available for investigation or production in courts of documents connected with the Lok Sabha or its Committees as laid down in the First Report of the Committee of Privileges of Second Lok Sabha which was adopted by Lok Sabha on the 13th September, 1957. The Deputy Inspector General of Police, Central Bureau of Investigation, was also requested to clarify the term "admitted writings of Shri George Fernandes."

3. The Deputy Inspector General of Police (Inv-I), Special Police Establishment, Central Bureau of Investigation, in his further letter dated the 23rd July, 1976, stated *inter alia* as follows:—

"(1) The writings and (or) signatures of Shri George Fernandes, who was a member of the Lok Sabha from 1967—71, are required by us to establish the authorship of some writings and signatures of Shri George Fernandes, which have come to light during our investigation of the Baroda Dynamite Seizure Case.

- (2) The writings and (or) signatures are, at present, required for purposes of investigation and not for production in Court.
- (3) Admitted writings are writings executed in the ordinary course of business which are purported to be in the handwriting of the person concerned the authorship of which is not in dispute.
- (4) If no admitted writings are available we would like to get the original documents on which Shri George Fernandes has made his signatures in the ordinary course of business.

Field investigation of the Baroda Dynamite Seizure Case has already been completed. It is therefore, requested that the documents bearing admitted writings and (or) signatures of Shri George Fernandes may be made available to us as early as possible so as to enable us to finalise the investigation of our case."

4. On 24 July, 1976, the Speaker (Shri B.R. Bhagat) referred the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition).

Recommendations of the Committee

5. The Committee of Privileges, in their eighteenth Report, presented to the Speaker on the 12th August, 1976, and laid on the Table of Lok Sabha on the 16th August, 1976, recommended¹ *inter alia* as follows:—

- (i) "In the present case the Committee have persued two notices dated the 29th June, 1967, and the 26th March, 1969, from the files of the Lok Sabha Secretariat, purported to be in the handwriting of Shri George Fernandes, ex-M.P."
- (ii) "Although the Deputy Inspector General of Police, Central Bureau of Investigation, has stated that the writings of Shri George Fernandes, ex-M.P., are, at present, required for purposes of investigation and not for production in Court, it is quite possible that these documents may have ultimately to be produced in a Court of Law."
- (iii) "The Committee recommend that the two notices dated the 29th June, 1967 and the

¹Shri Somnath Chatterjee, a member of the Committee submitted a separate Note which was appended to the Report of the Committee.

26th March, 1969, mentioned above, purported to be in the handwriting of Shri George Fernandes, ex-M.P., and purporting to bear his signatures may, with the permission of the House, be made available to the Deputy Inspector General of Police, Special Police Establishment, Central Bureau of Investigation, Department of Personnel, Cabinet Secretariat, Government of India, New Delhi."

Action Taken by the House

6. On the 20th August, 1976, Shrimati Maya Ray, a member of the Committee moved the following motion which was adopted by the House:

"That this House do agree with the Eighteenth Report of the Committee of Privileges laid on the Table of the House on the 16th August, 1976."

7. The two notices in question were, accordingly, made available to the Central Bureau of Investigation."

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LOK SABHA
(1988)

Point of Privilege

Request from Central Bureau of Investigation for handing over original letters and telegrams addressed to the Speaker, Lok Sabha by a member of Lok Sabha and a member of Rajya Sabha.

Facts of the case and reference to the Committee of Privileges

The Deputy Inspector General of Police, Central Bureau of Investigation, Special Investigation Cell-II, New Delhi, in his letter dated 16th March, 1988, regarding investigation of CBI case RC. 1 (S)/88-SIU. II/CBI/New Delhi, under section 120-B, 342, 365, 384 IPC, stated as follows:—

"The above noted case is being investigated by Central Bureau of Investigation.

It has been alleged by the complainant Shri S. Thangaraju, MP (Lok Sabha) that two letters addressed to Honorable Speaker, Lok Sabha have been got written by him on two occasions under duress by the accused persons stating therein that he has joined the rival group of AIADMK in Lok Sabha led by Shri P. Kolandaivelu, MP and making false

allegations against S/Shri S. Jagathrakshakan and A.C. Shanmugam, members of Parliament. It has also been stated in the complaint that Shri S. Thangaraju, MP, had sent telegram to the Hon'ble Speaker on 25.2.88.

For the purpose of the investigation of the case, it is essential to know whether the aforesaid communications had been received by the Hon'ble Speaker, Lok Sabha. If the same have been received, the same may please be handed over, in original, to Shri B.N.P. Azad, Dy. Supdt. of Police, CBI/SIC. II, New Delhi."

2. The Deputy Inspector General of Police, CBI, was requested on 22nd March, 1988, to indicate the date(s) on which the impugned two letters were stated to have been written to the Speaker, Lok Sabha by Shri S. Thangaraju, MP, alongwith the subject matter thereof to enable Lok Sabha Secretariat to identify them. The Deputy Inspector General of Police, CBI, was also informed that on receipt of a reply from him, further action would be taken in accordance with the prescribed procedure which required reference to the Committee of Privileges and permission of the House for supplying the documents.

3. The Deputy Inspector General of Police, CBI, in his further letter dated 29th March, 1988, Stated *inter-alia* as follows:—

"2. Shri S. Thangaraju, MP, in his complaint dated 28.2.88 addressed to the Governor of Tamil Nadu has alleged that on 23.2.88, he was forcibly taken to Tamil Nadu House and when he was under the influence of intoxicating liquor, he was forced to sign a letter addressed to the Hon'ble Speaker of Lok Sabha stating that he has joined the rival group in Lok Sabha led by Mr. P. Kolandaivelu. The date of the said letter addressed to the Hon'ble Speaker is not yet known. About the other letter, he says in the aforesaid complaint that on 24.3.88 he alongwith his wife was forcibly taken to the residence of Miss Jayalalitha from Madras Airport and was forced to take a snap alongwith Miss Jayalalitha and then he was forced to sign a letter addressed to the Speaker of Lok Sabha stating false allegations against his colleagues S/Shri S. Jagathrakshakan and A.C. Shanmugam. In

addition, he was asked to give a statement that he had joined AIADMK Group led by Miss Jayalalitha.

3. The investigations carried out by us at Madras revealed that Shri Thangaraju, MP, had also written a letter dated 25.2.88 addressed to the Speaker, Lok Sabha with copies endorsed to the Home Minister and others mentioning therein that when he was in Delhi, Shri Kolandaivelu, MP, took him to his residence and made him to drink and forced him to sign a letter addressed to the Speaker, Lok Sabha that he had joined the Group led by Shri Kolandaivelu, M.P. It has also come to light that a phonogram dated 25.2.88 had been sent to the Speaker, Lok Sabha by Miss J. Jayalalitha, MP to the effect that Shri S. Thangaraju, MP who announced about his joining AIADMK headed by her on 23.2.88, was attempted to be abducted by S/Shri S. Jagathrakshakan and Shanmugam, MPs at Delhi and by coercive method forced him to join their group headed by Smt. Janaki Ramachandran. The phonogram also says besides other things that fearing consequences he (Shri Thangaraju) had come to Madras on 24.2.88 by evening flight and met her (Miss Jayalalitha) at her residence and conveyed support to her and he had sent a telegram followed by signed confirmation to the Speaker, Lok Sabha on 24.2.88.

4. In addition to the documents already requisitioned *vide* this office letter dated 16.3.88, we also require the documents mentioned in para 3 above. The details of the documents mentioned in para 3 are given below:

- (i) Letter dated 25.2.88 addressed to the Hon'ble Speaker, Lok Sabha.
- (ii) Phonogram dated 25.2.88 addressed to the Hon'ble Speaker by Miss Jayalalitha, MP.
- (iii) Telegram dated 24.2.88 of Shri Thangaraju, MP, addressed to the Hon'ble Speaker, Lok Sabha conveying his support to AIADMK led by Miss Jayalalitha and the signed confirmation of Shri Thangaraju, M.P.

5. It is, therefore, requested that the

documents may please be handed over to us after obtaining permission of the House."

4. On 5th April, 1988 the Speaker (Dr. B.R. Jakkhar) referred the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha (Sixth Edition).

Findings and recommendations of the Committee

5. The Committee of Privileges, in their first Report, presented to the Speaker on the 4th May, 1988 and laid on the Table of Lok Sabha on the 5th May, 1988 recommended *inter-alia* as follows:

- (i) "The Committee find that the following documents were received from Shri S. Thangaraju, MP, Lok Sabha and Miss J. Jayalalitha, MP, Rajya Sabha, addressed to the Speaker, Lok Sabha and are available in the Lok Sabha records:—
 - (a) Letter dated 24th February, 1988 addressed to the Speaker, Lok Sabha, by Shri S. Thangaraju, M.P.;
 - (b) Telegram dated 25th February, 1988, addressed to the Speaker, Lok Sabha, by Shri S. Thangaraju, M.P.; and
 - (c) Telegram dated 25th February, 1988, addressed to the Speaker, Lok Sabha, by Miss Jayalalitha, M.P. (Rajya Sabha).

No other communication except the above mentioned three communications was received from Shri S. Thangaraju or from Miss J. Jayalalitha, MPs."

- (ii) "The Committee note that the procedure for production in courts of documents connected with the Lok Sabha or its Committees had been laid down in the First Report of the Committee of Privileges of Second Lok Sabha which was adopted by Lok Sabha on the 13th September, 1957. The Committee had made the following recommendations:—

'...The Committee are of the opinion that no member or officer of the House should give evidence in a Court of Law in respect of any proceedings of the House or any Committee of the House or any other document connected with the proceedings of the House or in the custody of the Secretary of the House without the

leave of the House being first obtained.

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

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

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

(iii) "The Committee find that there is no indication in the request received from the

Deputy Inspector General of Police, Central Bureau of Investigation that the documents in question are required to be produced in a Court of Law. The procedure laid down in the First Report of the Committee of Privileges (Second Lok Sabha) relates to the documents required to be produced in a Court of Law."

(iv) "The Committee, therefore, recommend that instead of handing over the required documents in original, the Deputy Inspector General of Police, Central Bureau of Investigation, Special Investigation Cell-II, New Delhi, may, with the permission of the House, be asked to come and inspect the relevant documents as also to take photo copies thereof, if he so desires. If at a later stage, the original documents are required for production in a Court of Law, a proper request may be made in accordance with the procedure laid down in the First Report of the Committee of Privileges (Second Lok Sabha)".

Action taken by the House

6. On 6th May, 1988, Shri Braja Mohan Mohanty, a member of the Committee moved the following motion which was adopted by the House:

"That this House do agree with the First Report of the Committee of Privileges laid on the Table of the House on 5th May, 1988."

7. The Deputy Inspector General of Police, Central Bureau of Investigation, was accordingly informed that the three documents which were available in Lok Sabha records could be inspected and photo copies thereof taken, if so desired.

The Deputy Superintendent of Police, Central Bureau of Investigation, inspected the said documents on 12th May, 1988 and photo copies thereof were made available to him.

105

LOK SABHA

(1988)

Point of privilege

Requests from the Deputy Inspector General of Police and Superintendent of Police, Central Bureau of Investigation, Special Investigation Cell-II, New Delhi, for handing over of original letter dated the 24th February, 1988 addressed to

the speaker, Lok Sabha by a member and certain other documents in connection with investigation of the case.

Facts of the case and reference to the Committee of Privileges

The First Report of the Committee of privileges regarding the request received from the Deputy Inspector General of Police, Central Bureau of Investigation, Special Investigation Cell-II, New Delhi, for handing over of original letters and telegrams addressed to the Speaker, Lok Sabha by Shri S. Thangaraju, M.P., Lok Sabha and Miss J. Jayalalitha, M.P., Rajya Sabha in connection with the investigation of C.B.I. case RC 1(S)/88-SIU-III/CBI, New Delhi under sections 120-B, 342, 365, 384 IPC was laid on the Table of the House on 5th May and adopted by the House on 6th May, 1988. The Committee in their Report had *inter alia* observed as follows:—

“The Committee find that there is no indication in the request received from the Deputy Inspector General of Police, Central Bureau of Investigation that the documents in question are required to be produced in a Court of Law. The procedure laid down in the First Report of the Committee of Privileges (Second Lok Sabha) relates to the documents required to be produced in a Court of Law.”

“The Committee, therefore, recommend that instead of handing over the required documents in original, the Deputy Inspector General of Police, Central Bureau of Investigation, Special Investigation Cell-II, New Delhi, may be asked to come and inspect the relevant documents as also to take photo copies thereof, if he so desires. If at a later stage, the original documents are required for production in a Court of Law, a proper request may be made in accordance with the procedure laid down in the First Report of the Committee of Privileges (Second Lok Sabha).”

2. On 6th May, 1988, the Deputy Inspector General of Police, Central Bureau of Investigation, was informed of the recommendation made by the Committee and its adoption by Lok Sabha. He was also requested to come and inspect the documents in question and take photo copies thereof, if he so desired.

3. On 12th May, 1988, Shri B.N.P. Azad, Deputy Superintendent of Police, who was authorised by D.I.G. to inspect the documents and obtain photo copies thereof, came and inspected the documents in original. A photo copy each of the three documents available in the records was handed over to him.

4. The Deputy Inspector General of Police, Central Bureau of Investigation, Special Investigation Cell-II, New Delhi, in his further letter dated 17th May, 1988, regarding investigation of Central Bureau of Investigation case RC, 1/88-SIU-III/SIC-II, New Delhi under sections 120-B, 342, 365, 384 IPC stated *inter alia* as follows:—

“In order to proceed further with the investigation of this case it is essential that letter dated 24.2.88 addressed to the Speaker, Lok Sabha by Shri S. Thangaraju, M.P. may be made available to Shri B.N.P. Azad, Chief Investigating Officer of this criminal case. This document in original is required to be sent for expert opinion and is also required otherwise for the purpose of investigation. Without this document being made available in original, the investigation will remain in abeyance as the original document which is alleged to have been extorted has to be shown to concerned witnesses as well as complainant and also sent for expert opinion. Under these circumstances, the investigating agency may be permitted to apply for this original document in accordance with the procedure considered advisable under the circumstances.”

5. The Superintendent of Police, Central Bureau of Investigation, Special Investigation Cell-II, New Delhi, in his letter dated 14th June, 1988, regarding investigation of the above mentioned CBI case stated *inter alia* as follows:—

“2. During the course of investigation, it has come to light that a letter dated 24.2.88 has been addressed to the Speaker, Lok Sabha by Dr. S. Jagathrakshakan, MP, Lok Sabha. By this letter, the Speaker has been informed that on 24.2.88 at about 2.30 PM Sarvashri P. Kolandaivelu, Mahalingam and R.T. Gopalan, members of Parliament belonging to Jayalalitha faction of AIADMK came alongwith 15 hirelings in three cars and compelled Shri Thangaraju to go alongwith them. In order to prove that the aforesaid letter had been

delivered to the Speaker, we require the letter in original

3. The TA Bills alongwith air journey tickets of Shri Thangaraju in respect of journeys undertaken by him from 22.2.88 to 20.3.88 are required by us in order to find out the presence of Shri Thangaraju, MP in Delhi and Madras during the aforesaid period. Such bills alongwith air journey tickets of Sarvashri Jagathrakshakan, K.R. Natarajan, A.C. Shanmugam, P. Selvendran and N. Soundarajan, members of Parliament, Lok Sabha for the period from 22.2.88 to 9.3.88 are also required to find out their presence at Delhi and Madras during the aforesaid period.
4. It has been learnt that a file relating to the alleged abduction, wrongful confinement and extortion of Shri Thangaraju at the hands of accused persons is being maintained in Lok Sabha Secretariat. For the purposes of investigation of the case, inspection of the aforesaid file may be given to Dy. SP, B.N.P. Azad, Chief Investigating Officer of the case.
5. Shri Thangaraju, MP. Lok Sabha was reportedly elected whip of AIADMK (Janaki) Parliamentary Party in Lok Sabha on 18.2.88 in a meeting held in Satya Studio, Madras. In order to ascertain the names of the office bearers of Parliamentary Party of AIADMK (Janaki) in Lok Sabha, we may please be provided with a copy of the document notifying the names of the office bearers of AIADMK (Janaki) Parliamentary Party.
6. Besides, we will be required to examine one or two officers of Lok Sabha Secretariat on the point of receipt of the documents viz. letter dated 24.2.88 of Shri Thangaraju, MP, addressed to the Speaker, Lok Sabha, Telegrams dated 25.2.88 of Shri Thangaraju, MP and Miss J. Jayalalitha, MP, addressed to the Speaker, Lok Sabha, letter dated 24.2.88 addressed to the Speaker, Lok Sabha by Dr. S. Jagathrakshakan, MP and other documents (which are being requisitioned) and action taken thereon. We may have also to ascertain the effect of the aforesaid letter of Shri Thangaraju on the status of both the factions of AIADMK in the House.
7. It is, therefore, requested that the aforesaid documents/information may please be made

available to us. We may also be permitted to examine one or two officers of Lok Sabha Secretariat who are familiar with the documents and with the points mentioned above. In addition, we may also be allowed to inspect the file which is reportedly being maintained in Lok Sabha Secretariat in this regard."

6. On 31st May and 21st June, 1988 the Speaker (Dr. B.R. Jajhar) referred the requests to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha (Sixth Edition).

Findings and recommendations of the Committee

7. The Committee of Privileges, in their Second Report, presented to the Speaker on the 30th August, 1988 and laid on the Table of Lok Sabha on the 1st September, 1988, recommended *inter alia* as follows:—

- (i) "The Committee note that there is still no indication in the requests received from the Central Bureau of Investigation that the documents are required to be produced in a court of law. The Committee have, therefore, no reason to change the view expressed by them in their First Report adopted by the House on 6th May, 1988, reiterating the recommendation made by the Committee of Privileges (Second Lok Sabha) in their First Report, namely that the original documents may not be handed over unless the same were required to be produced in a court of law".
- (ii) "As regards the request received from the DIG, CBI, New Delhi, for the original letter dated 24th February, 1988, addressed to the Speaker by Shri S. Thangaraju, MP, the Committee wish to emphasise that it is not the intention of the Committee to hinder or stop any investigation; the facility of inspection and examination of the original documents— which has already been extended to and availed of by an officer of the Central Bureau of Investigation on the basis of recommendation contained in the First Report of the Committee—is still available to the investigating agency and they can depute one of their officers to come and inspect and examine the original letter dated 24th February, 1988. If at a later stage the original letter is required for production in a Court of Law and a proper request is made in

accordance with the procedure laid down in the First Report of the Committee of Privileges (Second Lok Sabha) the Committee would consider the same.”

(iii) “As regards the request received from the Superintendent of Police, Central Bureau of Investigation, New Delhi, for the letter dated 24th February, 1988, said to have been addressed by Dr. S. Jagathrakshakan, MP, to the Speaker, Lok Sabha, the Committee note that no such letter was received in the Lok Sabha Secretariat”.

(iv) “As regards TA Bills and Air Journey ticket counterfoils the Committee are of the opinion that it would not be proper to show the original TA Bills and Air Journey ticket counterfoils to any investigating agency. Attention of the Committee has also been drawn in this regard to the following decision of the Joint Committee on Salaries and Allowances of Members of Parliament:—

‘The Joint Committee noted that the counterfoils of the air ticket is retained along with the report submitted by the member in the Lok Sabha/Rajya Sabha Secretariat and the same is not required to be sent to Audit. Once the Controlling Officer in the Lok Sabha/Rajya Sabha Secretariat has satisfied himself about the claim in respect of the air journey, the counterfoil should as hitherto, form part of the report of the member and continue to remain in the custody of the Controlling Officer in the Lok Sabha/Rajya Sabha Secretariat. There was, thus, no question of the counterfoil becoming an audit document’.”

(v) “The Committee recommend that a statement showing the details of journeys undertaken by Shri S. Thangaraju during the period 22nd February to 20th March, 1988 and by Sarvashri S. Jagathrakshakan, K.R. Natarajan, A.C. Shanmugam; P. Selvendran and N. Soundararajan during the period 22nd February to 9th March, 1988 may be supplied to the investigating agency instead.”

(vi) “As regards the file ‘relating to alleged abduction, wrongful confinement and extortion of Shri S. Thangaraju’ which, according to the

letter of the Superintendent of Police, CBI, they have ‘learnt’ is ‘being maintained in the Lok Sabha Secretariat’, the Committee note that though it is usual office procedure that for every letter/communication received in the Lok Sabha Secretariat a file is opened and maintained in the Secretariat, no file as such ‘relating to alleged abduction, wrongful confinement and extortion of Shri S. Thangaraju’ is being maintained in the Lok Sabha Secretariat. The Committee are of the view that any other files relating to Shri S. Thangaraju’s case which are being maintained in the Secretariat may not be shown to the Central Bureau of Investigation.”

(vii) “As regards the document notifying the names of the office-bearers of the AIADMK Legislature Party (Janaki), the Committee recommend that a copy of the same may be supplied to the Central Bureau of Investigation.”

(viii) “As regards the permission to examine one or two officers of the Lok Sabha Secretariat, the Committee are of the opinion that the request may not be granted.”

(ix) “The Committee are unhappy over the presumptuous manner in which the communication dated 14th June, 1988, from the Superintendent of Police, CBI, New Delhi, is worded. The Committee would like the Ministry of Home Affairs to issue suitable instructions* to all concerned that their communications should be couched in polite and courteous language. The Committee would like to express their unhappiness over the practice of making requests on a day-to-day basis adopted by the Central Bureau of Investigation, New Delhi, in spite of being aware of the procedure that each such request is required to be referred to the Committee of privileges for their decisions.”

*The Ministry of Home Affairs directed the Central Bureau of Investigation vide their D.O. No. 226/1/88-AVD II, dated 14th October, 1988 “to ensure that necessary instructions in this regard as desired by the Committee, are issued to all officers of the CBI.....”

Action taken by the House

8. On 5th September, 1988, Shri Jagan Nath Kaushal, Chairman of the Committee moved the following motion which was adopted by the House:—

“That this House do agree with the Second Report of the Committee of Privileges laid on the Table of the House on 1st September, 1988.”

9. A copy of the Second Report of the Committee was forwarded to the Deputy Inspector General of Police, Central Bureau of Investigation, New Delhi. He was also requested to depute one of his officers to come and inspect and examine the original letter dated the 24th February, 1988 addressed to the Speaker, Lok Sabha by Shri S. Thangaraju, M.P. if so desired.

Subsequent Developments

Ministry of Home Affairs directed CBI on 14 October, 1998 “to ensure that necessary instructions in this regard as desired by the Committee of Privileges, are issued to all officers of the CBI...”.

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LOK SABHA

(1993)

Point of Privilege

Request received from the Station House Officer, Police Station Tughlak Road, New Delhi, for handing over of original documents in connection with a complaint from a member.

Facts of the case and reference to the Committee of Privileges

The Station House Officer, Police Station Tughlak Road, New Delhi in his letter addressed to the Secretary-General, Lok Sabha, stated as follows:—

“I have the honour to inform you that on 27.1.1993, Shri Hari Kewal Prasad, Hon'ble MP has made a complaint to Station House Officer, Tughlak Road, mentioning therein that Shri Ajit Singh, Hon'ble MP, has submitted a memorandum in Lok Sabha Secretariat in the month of August, 1992 on which his signature were forged and the same is reported still pending in Lok Sabha Secretariat. He has desired legal action on his complaint. It is, therefore, requested that if

considered necessary, the memorandum and CFSL result, if obtained (both in original) may kindly be sent to SHO, Tughlak Road, so that legal action on the complaint of Shri Hari Kewal Prasad, MP, could be initiated.”

2. The request of SHO, Police Station Tughlak Road, was placed before the Speaker for his consideration. On 28 August, 1993, the Speaker directed that (i) the SHO may be informed of the procedural points; (ii) he may take the photocopies; (iii) the case may be referred to Privileges Committee; and (iv) it may then be put up to the House alongwith the Report of the Privileges Committee for its decision and direction.

Accordingly, SHO, Police Station Tughlak Road, was informed of position on phone. On 4 November, 1993, SHO, Police Station Tughlak Road, and ACP of that area came to the office. The procedural points were explained to them and they were also informed to Speaker's order that they may take the photocopies of the documents, if they so desire. After inspecting the original documents, they stated that the photocopies would not serve their purpose and they insisted that the original documents were required by them for investigation purposes. They also stated that they did not require the photocopies of the documents at that stage.

3. The matter also stood referred to the Committee of Privileges, accordingly.

Findings and Recommendations of the Committee

4. The Committee of Privileges, in their Third Report, presented to the Speaker on 20 December, 1993 and laid on the Table of Lok Sabha on 21 December, 1993 recommended *inter alia* as follows:—

- (i) “The Committee note that the procedure for production in courts of documents connected with the proceedings of the House or its Committees had been laid down in the First Report of the Committee of Privileges of Second Lok Sabha which was adopted by Lok Sabha on the 13th September, 1957. The Committee had made the following recommendations:—

‘...The Committee are of the opinion that no member of officer of the House should give evidence in a Court of Law in respect of any proceedings of the House or any Committee of the House or any other document

connected with the proceedings of the House or in the custody of the Secretary of the House without the leave of the House being first obtained.

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

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

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

- (ii) "The Committee find that in a similar case in 1988 requests were received from the Deputy Inspector General of Police, Central Bureau of Investigation, Special Investigation Cell, for handing over of two letters in original addressed to the Speaker by Shri S. Thangaraju, MP, for the purpose of

investigation of a CBI case. The Committee of Privileges (Eighth Lok Sabha) to whom the matter was referred by the Speaker, in their First Report which was adopted by the House on 6 May, 1988 *inter-alia* observed/ recommended as follows:—

'The Committee find that there is no indication in the request received from the Deputy Inspector General of Police, Central Bureau of Investigation, that the documents in question are required to be produced in a Court of Law. The procedure laid down in the First Report of the Committee of Privileges (Second Lok Sabha) relates to the documents required to be produced in a Court of Law.

The Committee, therefore, recommend that instead of handing over the required documents in original, the Deputy Inspector General of Police, Central Bureau of Investigation, Special Investigation Cell-II, New Delhi, may be asked to come and inspect the relevant documents as also to take photocopies thereof, if he so desires. If at a later stage, the original documents are required for production in a Court of Law, a proper request may be made in accordance with the procedure laid down in the First Report of the Committee of Privileges (Second Lok Sabha).'

Subsequently, separate requests from the Deputy Inspector General of Police, CBI, Special Investigation Cell, and Superintendent of Police, CBI were again received for handing over of a letter addressed by Shri S. Thangaraju, MP, to the Speaker and certain other documents, in original, relating to Shri S. Thangaraju's letter. The Committee of Privileges (Eighth Lok Sabha) to whom the requests were again referred, in their Second Report which was adopted by the House on 5 September, 1988 *inter-alia* observed as follows:—

'The Committee note that there is still no indication in the requests received from the Central Bureau of Investigation that the documents are required to be produced in a Court of Law. The Committee have, therefore, no reason to change the view expressed by them in their First Report adopted by the House on 6 May, 1988,

reiterating the recommendation made by the Committee of Privileges (Second Lok Sabha) in their First Report, namely that the original documents may not be handed over unless the same were required to be produced in a Court of Law.....

It is not the intention of the Committee to hinder or stop any investigation; the facility of inspection and examination of the original documents which has already been extended to and availed of by an officer of the Central Bureau of Investigation on the basis of recommendation contained in the First Report of the Committee is still available to the investigating agency and they can depute one of their officers to come and inspect and examine the original letter dated 24 February, 1998'."

- (iii) "The Committee note that the present case is akin to the above case. The Committee also find that the police officers have already been afforded the opportunity of inspecting the documents in question and taking photocopies thereof and they have availed the opportunity of inspecting the documents."
- (iv) "The Committee see no reason to make a departure from the procedure laid down by the Committee of Privileges (Second Lok Sabha) in their First Report and the Committee of Privileges (Eighth Lok Sabha) in their First and Second Reports."
- (v) "The Committee are of the opinion that the original documents may not be handed over to the police unless the same are required to be produced in a Court of Law."
- (vi) "The Committee, therefore, recommend that an officer, not below the rank of Deputy Commissioner of Police, may still come and inspect the documents in question, namely, the application submitted to the Speaker by Shri Ajit Singh and 19 other MPs on 7 August, 1992 and the report of Central Forensic Science Laboratory once again and take photocopies thereof, if he so desires. If at a later stage the original documents are required for production in a Court of Law, a proper

request may be made in accordance with the procedure laid down in the First Report of the Committee of Privileges (Second Lok Sabha)."

Action taken by the House

5. On 22 December, 1993, Shri Shiv Charan Mathur, Chairman of the Committee moved the following motion which was adopted by the House:—

"That this House do agree with the Third Report of the Committee of privileges laid on the Table of the House on 21 December, 1993."

6. A copy each of the Third Report of the Committee was forwarded to the Commissioner of Police, Delhi; the Assistant Commissioner of Police, Chankypuri, New Delhi and the Station House Officer, Police Station Tughlak Road, New Delhi. The Commissioner of Police, Delhi was also requested to depute an officer, not below the rank of Deputy Commissioner of Police, to come and inspect the documents in question once again and take photocopies thereof if so desired.

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RAJYA SABHA
(1958)

Point of privilege

Production of certain documents in the custody of the Secretariat of the House before Election Tribunal, Calcutta.

Facts of the case and reference to the Committee of Privileges.

In April, 1958, the Election Tribunal, Calcutta, addressed a letter to the Secretary, Rajya Sabha, requesting him to produce before the Tribunal "by a competent person the file containing the correspondence with the Indo-German Trade Centre, Behala, Calcutta, regarding the installation of the automatic vote recording system in the Rajya Sabha during 1956-57."

2. The Chairman referred the matter to the Committee of Privileges for examination and report.

Findings and recommendations of the Committee

3. The Committee of privileges, in their First Report, presented to the House on 1st May, 1958, reported *inter alia*, as follows:

- (i) "...the general parliamentary practice is that any documents relating to the proceedings of the House or any Committee of the House or in the custody of the Officers of the House cannot be produced elsewhere by a member or officer of the House without the leave of

the House being first obtained. The leave is generally granted by the House unless the matter involves any question of privilege”.

- (ii) “The Committee are therefore of the opinion that no member or officer of the House should give evidence in respect of any proceedings of the House or any Committee thereof or any document relating to or connected with any such proceedings or in the custody of officers of the House or produce any such document, in a court of law without the leave of the House being first obtained.”
- (iii) “When the House is not in session, the Chairman may, in emergent cases in order to prevent delays in the administration of justice, permit a member or officer of the House to give evidence before a court of law in respect of any of the above matters or allow the production of the relevant documents and he will inform the House accordingly of the fact when it assembles. If however the matter involves any question of privilege, especially the privilege of a witness or should the production of the documents appear to the Chairman to be a subject for the discretion of the House itself, he may decline to grant the required permission and refer the matter to the Committee of privileges for examination and report.”
- (iv) “The Committee recommend that whenever any document relating to the proceedings of the House or any Committee thereof is required to be produced before a court of law, the court should request the House stating precisely the documents required, the purpose for which they are required and the date by which they are required. It should also specifically be stated in each case whether only a certified copy of the document should be sent or an officer of the House should produce it before the court. Similarly when the oral evidence of an officer of the House is required the court should request the House stating precisely the matters on which and the purpose for which his evidence is required and the date on which he is required to appear before the court...”
- (v) “When a request is received during a session for the production before a court of law of documents relating to or connected with the proceedings of the House or a Committee or in the custody of officers of the House or for oral examination of any member or officer of the House in respect of any such proceedings or documents the case may be referred by the Chairman to the Committee of Privileges. On a report from the Committee a motion may be moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report and further action should be taken in accordance with the decision of the House.”
- (vi) In regard to the case referred to above under consideration of the Committee, the Committee note that—
 - (a) the contract for installation of the Automatic Vote Recording Equipment in the Rajya Sabha Chamber was entered into between a firm, the Indo-German Trade Centre and the President of India represented by the Director General of Supplies and Disposals;
 - (b) the Indo-German Trade Centre are the agents of Messrs Telefonbau Und Normalzeit G.M.B.H. of Frankfurt, West Germany, who are the manufacturers of the equipment; and
 - (c) the tenders were invited and the contract was issued by the Director General, Supplies and Disposals.”
- (vii) “It appears to the Committee that the Rajya Sabha Secretariat had no hand in the matter of placement of the contract with the Indo-German Trade Centre. The Committee however note that the firm had some correspondence with the Rajya Sabha Secretariat. The Tribunal has requested for production of the file containing the correspondence with the Indo-German Trade Centre regarding the installation of the Vote Recording system in the Rajya Sabha during 1956-57. The file in question contains not only the correspondence which the firm had with the Rajya Sabha Secretariat but also other papers consisting of departmental correspondence and office notes. The Committee are of the view that the whole file need not be produced before the Tribunal. The Committee are of the opinion that it will not be proper for the Committee to decide whether any such correspondence which the firm had with the Rajya Sabha Secretariat is

relevant or material for determining the issue before the Tribunal. That is a matter for the decision of the Tribunal. The Committee consider that there should be no objection to the production of such correspondence before the Tribunal."

- (viii) "The Committee, therefore, recommend that the Secretary, Rajya Sabha may designate an officer of the Rajya Sabha Secretariat to

produce before the Election Tribunal the correspondence between the Indo-German Trade Centre and the Rajya Sabha Secretariat regarding the installation of the automatic vote recording system in the Rajya Sabha during 1956-57."

Action taken by the House

4. On 2 May, 1958, the Report of the Committee was adopted by the House.

COURT CASES

108

LOK SABHA
(1965)

Point of privilege

Request for permission to examine an official of the House on Commission and also to examine certain records of the House in connection with a case pending in court.

For details of the case please see summary No. 102 at pp. 196-97 ante.

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LOK SABHA
(1965)

Point of privilege

Attributing mala fides to the Speaker in a writ Petition filed before High Court by a member.

Facts of the case and reference to the Committee of Privileges.

Shri Madhu Limaye, a member, filed a Writ Petition¹ before the Circuit Bench of the Punjab High Court at New Delhi challenging the decision of the Speaker, Lok Sabha disallowing certain Cut Motions. In para 10 of his Writ Petition, Shri Madhu Limaye, had *inter alia* stated:—

“That the day the petitioner received the above² reply, there was a uproarious scene in the Lok Sabha and the petitioner was suspended from the service of Lok Sabha for two weeks on the motion moved by the Minister for Parliamentary Affairs, Mr. Satya Narain Sinha supported by the Leader of the House, Mr. Lal Bahadur Shastri. The action of the Speaker in naming the petitioner and of Mr. Satya Narain Sinha in moving the aforesaid motion for his suspension was not only against the Rules but *mala fide*, as he was punished for raising the question of discussing the Secretariat Demands and for his having moved Cut Motions in that connection.”

2. On the 11th May, 1965, the Speaker (Sardar Hukam Singh) informed the House that he had received notices of a question of privilege from

Shri V.C. Shukla, Sardar Amar Singh Saigal and others in respect of the allegations made by Shri Madhu Limaye, against the Speaker, Lok Sabha, in the Writ Petition filed by him before the Circuit Bench of the Punjab High Court at New Delhi. The Speaker, however, observed that he would keep the matter pending till the High Court's order on Shri Madhu Limaye's Writ Petition.

3. On the 18th August, 1965 (the Punjab High Court had dismissed Shri Madhu Limaye's Writ Petition by an order dated the 14th May, 1965), when Shri V.C. Shukla sought to raise the matter again, Shri Madhu Limaye stated that he intended to file an application for special leave to appeal in the Supreme Court against the order of the Punjab High Court. He added that the matter might be kept pending till the final disposal of his proposed application by the Supreme Court. The Speaker agreed and kept the matter pending.

The Supreme Court having dismissed on the 25th November, 1965, Shri Madhu Limaye's application for special leave to appeal against the order of the Punjab High Court, Shri V.C. Shukla raised the question of privilege against Shri Madhu Limaye in the House on the 29th November, 1965. While raising the question of privilege, Shri V.C. Shukla stated *inter alia*:—

“... In the Writ Petition filed by the hon. member he affirmed by a court affidavit on oath of personal knowledge that the disciplinary action taken against him by the Speaker was really out of malice and, therefore, *mala fide*, and he was actually punished for raising this question of discussion of the Lok Sabha Secretariat Demands and for having moved Cut Motions in that connection.”

4. After some discussion, the House referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee

5. The Committee of Privileges, after considering written statement submitted by Shri Madhu Limaye and after examining him in person, in their Fourth Report, presented to the House on the 30th March, 1966, reported *inter alia* as follows:—

(i) “Shri Madhu Limaye in his written statement submitted to the Committee had contended

¹Civil Writ Petition No. 231-D/65, dt. 30-4-1965.

²Letter intimating Shri Madhu Limaye of the disallowance of his Civil Motions.

that there was no precedent in the House of Commons where a 'statement or an affidavit made in the course of a proper legal proceeding before a Court of Law' had been considered a contempt of the House. He had, therefore, stated that the statement made by him in the Writ Petition, did not constitute a contempt of the House."

(ii) "The gravamen of the charge against Shri Madhu Limaye is that he 'committed a contempt of the House or a breach of privilege by alleging *mala fides* against the Speaker of the Lok Sabha'."

(iii) "Reflections on the character of the Speaker and accusations of partiality in the discharge of his duty is clearly a breach of privilege or contempt of the House. As stated by May:—

'As examples of speeches and writings which have been held to constitute breaches of privilege or contempts may be mentioned:

Reflections on the character of the Speaker and accusations of partiality in the discharge of his duty....'

[*May*, 17th Ed., pp. 124-25.]"

(iv) "Although, no case is available in the Lok Sabha or the House of Commons, U.K., where action for contempt of the House was taken for a statement or an affidavit filed in a court of law, there are many cases in which persons have been punished for contempt of Court on account of allegations made by them against Judges or Magistrates in their applications or affidavits filed before Courts of Law. Two such examples are given below:

(1) A person in his appeal against the decision of an Assistant Registrar of Co-operative Societies (deemed to be court for certain purposes) objected to the order of the Assistant Registrar as *mala fide*. The Patna High Court convicted him for contempt of Court and observed *inter alia*:—

'.....I have already held that the opposite party committed contempt of Court by attributing *mala fides* to the Assistant Registrar in his memorandum of appeal so much so that the Assistant Registrar was made a respondent in the appeal and cost was sought to be recovered personally against him. In this court he claimed to justify and insisted on justifying his use of *mala fide* against the

Assistant Registrar in his memorandum of appeal. Thus the contempt is a calculated one and serious notice must be taken of such a calculated contempt....'

[A.I.R. 1965 Patna 227 at page 238].

(2) A person in his application under section 528 Cr. P.C., for transfer of a case from one court of another made allegations against the Magistrate that he had joined in a conspiracy to implicate the accused in a false case of theft and that the Magistrate had taken a bribe of Rs. 500. When the matter came up before the Supreme Court, it observed *inter alia*:—

'.... We must make it clear here that at this stage we are expressing no opinion on merits, nor on the correctness or otherwise of the aspersions made. All that we are saying is that the aspersions taken at their face value amounted to what is called scandalising the court itself, manifesting itself in such an attack on the Magistrate as tended to create distrust in the popular mind and impair the confidence of the people in the courts. We are aware that confidence in courts cannot be created by stifling criticism, but there are criticisms and criticisms.

"The path of criticism," said Lord Atkin in *Abard v. Attorney General for Trinidad and Tobago*, 1936 AC 322, at p. 335; (A.I.R. 1936 PC 141 at pp. 145-146), "is a public way: The wrong headed are permitted to err therein: provided that members of the public abstain from imputing improper motives to those taking part in the administration of justice, and are genuinely exercising a right of criticism, and not acting in malice or attempting to impair the administration of justice, they are immune."

If, therefore, the respondent had merely criticised the Magistrate, no notice need have been taken of such criticism as contempt of court whatever action it might have been open to the Magistrate to take as an aggrieved individual; but if the respondent acted in malice and attempted to impair the administration of justice, the offence committed would be something more than an offence under S. 228, Indian Penal Code.

[A.I.R. 1959 S.C. 102 at page 106]

(v) "The offence of contempt of the House is

analogous to the offence of contempt of Court."

(vi) "It may also be entioned that statements made in Courts are not immune from action for defamation by the persons affected as will be seen from the following observations of the Allahabad High Court and the Supreme Court in the cases of *Gir Raj vs. Sulla and another and Basir-ul-Haq and Others Vs. The State of West Bengal respectively*:

(1) 'In this case Gir Raj was examined as a witness and he made certain statements which are the subject matter of a complaint against him filed by the opposite party under S. 500, I.P.C. (Defamation).

Learned counsel for the applicant... has argued that as the impugned statement was made by the applicant before a Court of law, the only offence which can be charged against him on its basis, if at all, was covered by S. 193 or 195 of the Indian Penal Code, cognizance of which was barred under S. 195 of the Code of Criminal Procedure on the basis of a private complaint. The second point raised by the learned counsel is that the applicant was protected under the proviso to S. 132 of the Evidence Act for having made that statement in Court. I do not find, however, any substance in these arguments.....

Even if the statement made by the applicant before the Court of the Sessions Judge comes under the purview of S. 193 or 195, I.P.C., but if it also discloses an offence under S. 500 I.P.C. there is no legal bar for the aggrieved person to seek his remedy in a Court of law against the applicant.'

[A.I.R. 1965 Allahabad, 597].

(2) '.... The allegations made in a complaint may have a double aspect, that is, on the one hand these may constitute an offence against the authority of the public servant or public justice, and on the other hand, they may also constitute the offence of defamation or some other distinct offence. The section does not *per se* bar the cognizance by the magistrate of that offence even if no action is taken by the public servant to whom the false report has been made.....

As regards the charge under S. 500, Penal Code, it seems fairly clear both on principle and authority that where the allegations made in a

false report disclose two distinct offences, one against the public servant and the other against a private individual, that other is not debarred by the provisions of S. 195 from seeking redress for the offence committed against him.....'

[A.I.R. 1953 S.C. 293]"

(vii) "Thus, when statements made in Courts or in writ petitions or affidavits filed in Courts are not immune from action for contempt of Court or even for defamation by private persons, there appears no reason why such statements should be immune from action for breach of privilege or contempt of the House."

(viii) "It may be stated that the power possessed by the House to punish for contempt or breach of privilege is in its nature discretionary. Absence of precedent will not prevent an act from being treated as a breach of privilege or contempt of the House (Parliamentary Dictionary by L.A. Abraham, page 40). As stated by *May*:

'It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.'

[*May*, 17th Ed., p. 109]"

(ix) "The Committee are of the opinion that Shri Madhu Limaye has committed a breach of privilege and contempt of the House by attributing *mala fides* to the Speaker, Lok Sabha, in the discharge of his duty in the House, in the Writ Petition filed by him before the Circuit Bench of the Punjab High Court at New Delhi."

(x) "Shri Madhu Limaye, however, made the following statement before the Committee expressing regrets for the impugned statements made by him in his Writ Petition filed before the Circuit Bench of the Punjab Court:

'I have explained at great length that my object in moving the Punjab High Court was to seek its authoritative interpretation of the Constitutional position embodied in Article 113 of the Constitution, read with Rules, 208-11 of the Lok Sabha Procedure, and not to commit contempt of the House or the Speaker. But

since my statements in the Court have caused pain to the Speaker and my other colleagues in the House. I hereby express regrets as an index of my honourable intentions in the matter’.”

- (xi) “The Committee recommend that in view of the regret expressed by Shri Madhu Limaye, in his statement before the Committee, no further action be taken by the House in the matter.”

Note of Dissent to the Report

6. Sardar Kapur Singh, Member of the Committee of Privileges, who did not agree with the findings of the Committee appended a note of dissent to the Report from which two paragraphs were omitted by the Chairman of the Committee.

Reference back of the Report to the Committee

7. On the 14th April, 1966, Dr. Ram Manohar Lohia, a member sought to raise a question in the House regarding omission of two paragraphs from the Note of Sardar Kapur Singh appended to the Fourth Report of the Committee of Privileges. During the proceedings in the House, a suggestion was made that the matter might be discussed by the Speaker at a meeting of the Leaders of various Groups in Lok Sabha. The suggestion was accepted by the Speaker.

8. A meeting of the Speaker with the Leaders of the various Groups in Lok Sabha was accordingly held¹ on the same day, viz the 14th April, 1966, which *inter alia* decided that the questions regarding the inclusion of the written statement submitted by Shri Madhu Limaye and the oral evidence given by him before the Committee in the Fourth Report of the Committee of Privileges presented to the House on the 30th March 1966 be referred back to the Committee of Privileges to consider this and also the omission of passages from the Note of Sardar Kapur Singh appended to the Report.

It was also decided that the Leader of the House should make a motion in the House on the 15th April, 1966, referring the Fourth Report of the Committee of Privileges back to the Committee.

9. On the 15th April, 1966, the House adopted the following motion moved by the Leader of the House (Shri Satya Narayan Sinha):—

“That the Fourth Report of Committee of Privileges presented to the House on the 30th March, 1966 be referred back to the Committee.”

Findings and recommendations of the Committee

10. The Committee of Privileges in their Seventh Report presented to the House on the 16th May, 1966, reported *inter alia* as follows:—

- “(i) The question whether the evidence, oral or written, given before the Committee should be appended to the Report of the Committee, is decided by the Committee in pursuance of the provisions of Rule 275(1) of the Rules of Procedure and Conduct of Business in Lok Sabha (5th Ed.) read with Direction 70(2) of the Directions by the Speaker. In the past also the Committee of Privileges have decided not to append to their Reports the evidence, oral or written, given before the Committee [for example: (i) Eighth Report (2nd Lok Sabha) Minutes dt. 18-2-1959, page 12, para 3; (ii) Eleventh Report (2nd Lok Sabha) Minutes dt. 17-11-1960, page 6, para 5].”

- (ii) “In Shri Madhu Limaye’s case (Fourth Report) the Committee, in view of the subsequent statement made by Shri Madhu Limaye, M.P., when he appeared before the Committee on the 18th March, 1966, expressing regrets for the impugned statements made by him in his writ Petition filed before the Circuit Bench of the Punjab High Court, did not consider it necessary to append his earlier lengthy written statement and the oral evidence given by him before the Committee to their Report on that case. Since Shri Madhu Limaye and some other Members have requested that the said written statement and the oral evidence of Shri Madhu Limaye should be made available to the House, the Committee have no objection to the same being reproduced in the Appendix to this Report and this may be deemed to be a part of the Fourth Report of the Committee presented to the House on the 30th March, 1966.”

- (iii) “As regards the omission of certain passages from the Note of Sardar Kapur Singh appended to the Fourth Report of the Committee, it may be stated that the Chairman of a Committee can omit or expunge words, phrases or expressions which in his opinion are unparliamentary, irrelevant

¹Seventh Report of Committee of Privileges (Third Lok Sabha), para. 6

or otherwise inappropriate, from the Note given by a member for being appended to the Report of the Committee (*vide* Direction 91 of the Directions by the Speaker.)”

- (iv) “The Committee have carefully perused the two impugned paragraphs Nos. 7 and 9 which had been omitted by the Chairman from the Note of Sardar Kapur Singh appended to the Fourth Report. The Committee, after considering the tone, tenor and content of the said paragraphs, are of the opinion that the decision of the Chairman to omit the said paragraphs from the Note of Sardar Kapur Singh was justified and in conformity with the rules and practice of the House. The Committee, therefore, feel that no further action in respect thereof is necessary.”

Action taken by the House

11. On the 17th August, 1966, the House adopted the following motion moved by Shri S.V. Krishnamoorthy Rao, Dy. Speaker and Chairman, Committee of Privileges:

“That this House agrees with the Seventh Report of the Committee of Privileges presented to the House on the 16th May, 1966.”

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LOK SABHA (1969)

Point of privilege

Institution of a suit for damages in High Court against certain members for their speeches in the House.

Facts of the case and reference to the Committee of Privileges

On the 22nd July, 1969, the Deputy Speaker (Shri R.K. Khadilkar) informed the House that on the 22nd June, 1969, the former Speaker, Shri N. Sanjiva Reddy, had received a notice from the Assistant Registrar of the High Court of Delhi in the matter of Suit No. 228 of 1969: Shri Tej Kiran Jain and others, Plaintiffs *versus* Shri N. Sanjiva Reddy, Speaker, Lok Sabha, and Sarvashri Narendra Kumar Salve, B. Shankaranand and S.M. Banerjee, members of Lok Sabha, and Shri Y.B. Chavan, Minister of Home Affairs, Defendants, requiring Shri N. Sanjiva Reddy to appear in the High Court of Delhi in person or by a Pleader duly instructed and able to answer all material questions relating to the suit, on the 24th

August, 1969. With the notice, a copy of the plaint claiming a sum of Rs. 26,000 as damages in favour of the plaintiffs and against the defendants in respect of certain observations made by the former Speaker, Shri N. Sanjiva Reddy, and other members of Parliament named above, in Lok Sabha on the 2nd April, 1969, during the proceedings on the Calling Attention Notice regarding the reported statement of Shankaracharya of Puri on untouchability and his reported insult to the National Anthem, was also enclosed.

2. Shri N. K. P. Salve, a member, then sought leave of the House to raise a question of breach of privileges against the plaintiffs who had filed the suit in the High Court of Delhi, and the Judge of the High Court who had admitted it and issued notices to the concerned members of Lok Sabha for appearance in the Court, in respect of certain statements made by them in Lok Sabha. While raising the question of privilege, Shri N.K.P. Salve stated *inter-alia* as follows:—

“In the history of this Parliament at least there has never been a case where there has been such a frontal attack and such contempt has been brought on the Speaker himself. Nor have the members been so attacked maligned, dishonoured and disrespected in this manner. The irony of the fate is that the Judge, on whose authority the notice has been issued has the authority to dismiss the suit *in limine* but he did not do so. Because article 105(2) in terms says that the immunity granted to us from all proceedings in a court of law is absolute; it is not subject either to the provisions of the Rules of Procedure or to the Constitution....I therefore, submit that the matter be referred to the Privileges Committee.”

3. Speaking on the question, the then Minister of Law and Social Welfare (Shri P. Govinda Menon) stated *inter alia* as follows:—

“The provisions of article 105(2) are absolute in their terms, and I am, therefore, in complete agreement with Shri N.K.P. Salve that this is a suit which ought to be dismissed *in limine*. I have also no doubt that the plaintiffs in this matter, by the very fact of having made these allegations and made a complaint to the court are guilty of a breach of privilege.

So far as the court is concerned, the provisions of the Code are as follows. If a plaint is filed in a court with proper court fee, then summons

issues as a matter of course and it is not necessary and it is not usual for the judge to read the plaints before summons is issued.....it is the duty of the defendants in this case to point out to the court that under article 105(2), this is a matter which should be dismissed *in limine*.....After that I have no doubt in my mind that the Privileges Committee of the House or the House itself should call the plaintiffs to order under the rules regarding privilege, and if the court also persists in that matter, we may have to consider it. I, therefore, submit that this may be kept pending."

Thereupon, the Deputy Speaker observed that, as suggested by the Minister of Law, the matter would be kept pending at that stage.

4. On the 1st August, 1969, Shri Madhu Limaye again sought to raise the matter in the House on the ground that Mr. Justice Prakash Narain of the High Court of Delhi, before whom the matter had come up for hearing on the 31st July, 1969, had instead of dismissing the suit *in limine*, suggested reference of the matter to a larger bench. Thereafter, on the 4th August, 1969, Shri P. Govinda Menon informed the House that when the matter came up for hearing before a larger bench of the High Court of Delhi earlier on that day, the Attorney-General pointed out to the High Court that under Article 105(2), no such suit could be entertained, and that, the High Court had dismissed the suit *in limine*.

5. On the 18th August, 1969 when this matter came up for further consideration before the House Shri P. Govinda Menon agreed that the matter might be referred to the Committee of Privileges. The matter was, thereupon, referred to the Committee of Privileges, by the Speaker (Shri G.S. Dhillon) with the consent of the House.

Findings and recommendations of the Committee

6. The Committee of Privileges, in their Eleventh Report, presented to the House on the 12th August, 1970, reported *inter alia* as follows:—

(i) "The High Court of Delhi, while dismissing the suit filed by Shri Tej Kiran Jain and others, in its judgement dated the 4th August, 1969 stated *inter-alia* as follows:—

"That the plaint is liable to be rejected under Order 7 Rule 11 Clause (d) of the Code of Civil Procedure according to which the plaint shall be rejected where the suit appears from the

statements in the plaint to be barred by any law. Perusal of the plaint goes to show that the defendants are being proceeded against by the plaintiffs because of what was stated by them in Lok Sabha on April 2, 1969. According to clause (2) of Article 105 of the Constitution 'no member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any Committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.' Plain reading of the above provision goes to show that as regards anything said by a member of Parliament in the Parliament or any Committee thereof, the Constitution has guaranteed full protection and provided complete immunity against any proceedings in a court of law. The protection given by the above clause is to anything said in Parliament. The words 'anything said' are of the widest amplitude and it is not permissible to read any limitation therein.....The object of the provision obviously was to secure absolute freedom of discussion in Parliament and to allay any apprehension of a legal proceeding in a court of law in respect of anything said in Parliament by a member thereof.....the present suit is barred by the provisions of clause (2) of Article 105 of the Constitution. We, therefore, reject the plaint'."

(ii) "Subsequently, the High Court of Delhi, in its order dated the 19th September, 1969, on the application filed by Shri Tej Kiran Jain and others, while granting to the plaintiffs a certificate of fitness for appeal to the Supreme Court against their judgement, stated *inter-alia* as follows.

'We are of the view that the petitioners are entitled to a certificate of fitness for appeal to the Supreme Court under Sub-clause (a) of Clause (1) of Article 133 of the Constitution.the suit, which was filed by the petitioners was for the recovery of an amount of Rs. 26,000. By the impugned order we rejected the plaint under Order 7 Rule 11 of the Code of Civil Procedure on the ground that the suit was barred by Article 105 of the Constitution. According to the definition of the word 'decree' as given in clause (2) of section 2 of the Code of Civil Procedure, decree shall be deemed to

include the rejection of a plaint. It would therefore, follow that the impugned order would fall within the definition of decree as given in the Code of Civil Procedure. In any case, the impugned order is a final order in a civil proceeding. In either view of the matter, the petitioners are entitled to a certificate of fitness for appeal to the Supreme Court. We, accordingly order that the requisite certificate may issue in favour of the petitioners'."

- (iii) "In view of the certificate of fitness for appeal to the Supreme Court in the matter granted by the High Court of Delhi to the plaintiffs, the Committee at their sitting held on the 14th November, 1969, decided to defer further consideration of the matter till the disposal of the appeal of the plaintiffs by the Supreme Court."
- (iv) "The Supreme Court in its judgement dated the 8th May, 1970, while dismissing the appeal preferred by Shri Tej Kiran Jain and others against the judgement of the High Court of Delhi, stated *inter alia* as follows:

"The article [article 105(2)] means what it says in language which could not be plainer. The article confers immunity *inter alia* in respect of 'anything said.....in Parliament'. The word 'anything' is of the widest import and is equivalent to 'everything'. The only limitation, arises from the words "in Parliament, which means during the sitting of Parliament and in the course of the business of Parliament. We are concerned only with speeches in Lok Sabha. Once it was proved that Parliament was sitting and its business was being transacted, anything said during the course of that business was immune from proceedings in any court. This immunity is not only complete but is as it should be. It is of the essence of parliamentary system of Government that people's representatives should be free to express themselves without fear of legal consequences. What they say is only subject to the discipline of the rules of Parliament, the good sense of the members and the control of proceedings by the Speaker. The Courts have no say in the matter and should really have none.

In view of the clear provisions of our Constitution we are not required to act on analogies of other legislative bodies. The decision under

appeal was thus correct. The appeal fails and is dismissed."

- (v) "The Committee observe that under Article 105(2) of the Constitution, a member of Parliament enjoys *absolute* immunity from 'any proceedings in any court in respect of anything said or any vote given by him in Parliament or any Committee thereof'. The language of this article could not be plainer and it leaves no scope for any ambiguity. It plainly and clearly says that the Courts of law have no jurisdiction in respect of *anything* said or any vote given by a member in Parliament. As observed by the Supreme Court, while dismissing the appeal of Shri Tej Kiran Jain and others, 'It is of the essence of parliamentary system of Government that people's representatives should be free to express themselves without fear of legal consequences. What they say is only subject to the discipline of the rules of Parliament, the good sense of the members and the control of proceedings by the Speaker. The Courts have no say in the matter and should really have none'."
- (vi) "The absolute privilege of statements made in Parliament and their immunity from any action outside Parliament is thus well established. As stated by *May* : 'a member may state whatever he thinks fit in debate, however, offensive it may be to the feelings' or injurious to the character of individuals; and he is protected by his privilege from any action for libel, as well as from any other question or molestation'."
- (vii) "The Committee are of the opinion that to commence proceedings in a court of law against any member of Parliament on account of anything said or any vote given by him in Parliament or any Committee thereof, constitutes a breach of privilege and contempt of the House."
- (viii) "The Committee are of the view that the action of Shri Tej Kiran Jain and others in instituting a suit for damages in the High Court of Delhi, against the former Speaker, Shri N. Sanjiva Reddy and four other members, in respect of their statements in Lok Sabha on 2 April, 1969, constitutes a breach of privilege and contempt of the House."

(ix) "The Committee, however, feel that, as this is the first case of its kind and, as the position regarding the absolute immunity enjoyed by members of Parliament, under Article 105(2) of the Constitution, from any proceedings in any court of law in respect of anything said or any vote given by them in Parliament or a Committee thereof, has been stated in clear and unambiguous terms both by the High Court of Delhi and the Supreme Court while dismissing the petitions of Shri Tej Kiran Jain and others,

it is not necessary to pursue the matter any further. Now that the legal and constitutional position in this respect has been made clear by the proceedings in this case, the Committee hope that such cases will not reoccur in future."

(x) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

7. No further action was taken by the House in the matter.

DEFAMATORY REMARKS AGAINST OUTSIDERS

111

LOK SABHA
(1980)

Point of privilege

Alleged defamatory remarks made by a Minister in the House about the people of Kerala

Facts of the case and ruling by the Speaker

On 16th December, 1980, Prof. P. J. Kurien, a member, gave notice of a question of privilege against the Minister of Tourism and Civil Aviation (Shri A. P. Sharma) for allegedly making defamatory remarks about the people of Kerala. The member in his notice of question of privilege stated *inter-alia* as follows:—

“In reply to a supplementary raised by me on starred question No. 377 on 12-12-1980, Shri Sharma said—‘the people of Kerala are also very beautiful at night. And the foreigners come to Kerala as tourists for different purposes’. By this reply, the Minister has cast aspersion on people of Kerala, particularly women. And as a member from Kerala, I feel that my privilege as a member has been breached.”

2. On 17th December, 1980, when Prof. P. J. Kurien sought to raise the matter in the House, the

Minister of Tourism and Civil Aviation stated *inter-alia* as follows:—

“As explained personally by me, if my replies to Question No. 377 on ‘International Flight from Trivandrum to West European Countries’ on 12th Decmber, 1980 are read as a whole, it would be seen that I have the highest regard for that most beautiful part of our country and the gifted people of Kerala. In reply I have also said that the foreigners come to Kerala for different purposes and this has been correctly interpreted by the member who followed soon thereafter to state that there were many attractions like the Periyar Game Sanctuary, the Kovalam Beach, which is one of the finest beach resorts in the world, etc. I am really very sorry for any misunderstanding which may have been inadvertently caused and I have corrected the copy of the proceedings.

I have done this, although I did not think that there was anything wrong in that because I never meant anything wrong to the people of Kerala; I cannot, I can tell you with all the force at my command. Therefore, I have given this explanation and, I think, this should satisfy my friend, Mr. Kurien.”

The matter was, thereafter, closed.

DELAY IN SENDING INFORMATION TO SPEAKER BY CENTRAL/STATE GOVERNMENT

112

LOK SABHA
(1995)

Point of privilege

- (i) Alleged non-implementation of member's proposals under the Member of Parliament Local Area Development Scheme by the State Government officers.

(ii) Alleged misbehaviour with a member by a Government officer.

(iii) Alleged delay in furnishing requisite information to the Speaker, Lok Sabha, by the concerned Ministry of Government of India/officer of the Government of Bihar.

For details of the case please *see* summary No. 59 at p.p. 111.

DISCLOSURE OF PROCEEDINGS OF PARLIAMENTARY COMMITTEES

LOK SABHA
(1952)

Point of privilege

Alleged disclosure of proceedings of a Parliamentary Committee

Facts of the case and reference to the Committee of Privileges

On the 12th July, 1952, Shri B. Shiva Rao, a member, raised the following question of privilege:—

“That a breach of privilege of the House has been committed by the publication of the following passage in the Delhi edition of the *Times of India* of the 5th July, 1952:—

‘About Dr. Sinha’s allegations in Parliament, Mr. Sundarayya stated that the documents in question were false, fraudulent and forged and the Privileges Committee of Parliament had now almost completed its investigations and Dr. Sinha was finding it difficult to get out of the situation.’”

Shri B. Shiva Rao stated that about two or three weeks ago, on a statement made by Shri Gopalan, the question of the authenticity of certain documents placed on the Table of the House by Dr. Satyanarain Sinha, and from which documents he had made extensive quotations in the course of his speech on the Defence Estimates, was referred to the Committee of Privileges. The Committee had not till then made any report. But in the Delhi edition of the *Times of India* dated the 5th July, 1952, there was a fairly detailed report of a speech alleged to have been made by Shri Sundarayya, Leader of the Communist Group in the Council of States, at Moga, about the proceedings of the Committee of Privileges in regard to that matter. He, therefore, suggested that appropriate action might be taken under the Rules of Procedure.

2. The Speaker (Shri G.V. Mavalankar) gave the following ruling:—

“*Prima facie*, I think this is a case which should go to the Privileges Committee, and may be considered along with the main question of privilege which they are considering. The report in the press distinctly mentions Mr. Sundarayya and it attributes to him certain statements in connection with a matter which is under investigation by the Privileges

Committee, and admittedly, the House has not yet received the report of the Privileges Committee. It is therefore, necessary, I think to investigate the facts. The Committee will investigate as to whether Mr. Sundarayya did say so as a matter of fact, and if so, it is for the Committee to consider further the circumstances in which he said so and whether his statement constitutes a breach of privilege, and state what the recommendations of the Committee are. The report will be before the House and ultimately the House will decide.”

3. On an enquiry by Shri S.S. More, another member, whether Shri Sundarayya was not outside the purview of the House, the Speaker observed as follows:—

“No one in the Indian Union is outside the jurisdiction of this House. As far as the privileges are concerned, it is not competent for any person, high or low, inside or outside the House, to act or speak in a manner which offends the dignity or interferes with the privileges of this House or any Member of this House. Let there be no misunderstanding or misapprehension that anybody, on the ground that he is not a member of this House, is entitled to say anything about this House.”

Findings and recommendations of the Committee

4. The Committee of Privileges in their Report, presented to the House on 12 December, 1952, reported, *inter-alia*, as follows:—

(i) “The *Times of India* to whom the matter was referred have forwarded several cuttings of newspapers in which references on the same subject have appeared. The *Hindustan Standard* of the 8th July, the *Tribune* of the 6th July and an Urdu daily *Sawera* of Delhi of the 7th July have carried the news in identical terms. Another cutting from *Naya Zamana* (of the 7th July), an Urdu daily of Jullundur, which was stated to be the organ of the Punjab Communist Party also carried the statement, but in somewhat different form. The words used by this Paper are somewhat as follows:—

‘Then, he (Mr. Sundarayya) while speaking about the charges made by

Dr. Sinha declared that all of them were false and now Dr. Sinha was finding himself involved in the situation'."

- (ii) "The *Times of India* while forwarding these cuttings also forwarded a statement from their correspondent at Moga, Shri Gurnam Singh Tir, who testified that the statement which appeared in the *Times of India* was in fact made by Shri Sundarayya at Moga and in support of his contention he forwarded certain written statements by three other individuals, who claimed that they were present at the meeting."
- (iii) "Shri Sundarayya to whom the matter was referred has given the following version:—
"Later on when a few of my party workers asked me what had happened to Mr. Sinha's allegations, this is what I told them:—
"The question was referred to Privileges Committee and it will be going into the whole matter. Now it will be for Mr. Sinha to prove his allegations which it will be a very hard job for him to do."

I have never said that 'the Privileges Committee' has now completed its investigations. The whole report of that correspondent from the beginning to the end is so grossly distorted and false that it was evident the basis of whole of his report was mere hearsay. So, I thought no useful purpose would be served by issuing a Press contradiction."

- (iv) "It is therefore a question of two different versions one given by Shri Sundarayya, Member, Council of States and the other by Shri Gurnam Singh Tir, the correspondent. In a case like this it is difficult for the Committee to base its decision on what was said at an informal Press Conference unless a *verbatim* and authorised record had been kept and it was absolutely conclusive about the matter."
- (v) "Although a report similar to that published in the *Times of India* appeared in some other newspapers it appears that all these reports in the different papers emanated from the same correspondent."
- (vi) "There is no evidence to show that the other correspondents who are said to have been

present at the meeting gave a similar version of Shri Sundarayya's statement. In fact it appears that they did not at all send to their papers any report of Shri Sundarayya's speech at the meeting."

- (vii) "It is in accordance with the law and practice of the privilege of Parliament that while a Committee of Parliament is holding its sittings from day to day its proceedings should not be published nor any documents or papers which may have been presented to the Committee or the conclusions to which it may have arrived at referred to in the Press."
- (viii) "In the present case, however, the situation is rather peculiar in as much as the Committee had not met to consider the matter at all when Shri Sundarayya is reported to have made the statement in question. It is, therefore, not a case of inaccurate reporting of the proceedings of the Committee but of making or publishing a factually incorrect statement."
- (ix) "The Committee must, however, point out that it is highly desirable that no person including a Member of Parliament or Press should without proper verification make or publish a statement or comment about any matter which is under consideration or investigation by a Committee of Parliament."
- (x) "In the present case the Committee recommended that no further action may be taken in the matter."

Action taken by the House

5. No further action was taken in the matter by the House.

114
LOK SABHA
(1958)

Point of privilege

Premature disclosure of the proceedings of, and casting reflections on, the Joint Committee on a Bill

Facts of the case and reference to the Committee of Privileges

1. (i) Rani Manjula Devi, a member in a notice of question of privilege dated the 5th September, 1958, drew the attention of the Speaker to an article under the title "The March of Indian Shipping", published in the name of Dr. Nagendra Singh, I.C.S., Joint Secretary and Director General of Shipping Government of India, in the Independence Day Supplement of *The Statesman*,

Privileges Digest

New Delhi, dated 15th August, 1958. The member had invited particular attention to the following passages occurring in that article:—

“Revision and consolidation which was taken up a few years ago has now been completed, and a new Merchant Shipping Bill which was introduced during the last Budget Session of Parliament is now under scrutiny by a Select Committee.

It has never been the intention of the Government to deviate from the 1947 Policy Resolution. In short, coastal shipping would continue to be reserved for vessels of companies having 75 per cent Indian capital.”

The member had contended that “The article...is clear violation and involves a breach (of privilege) of the Committee... The Joint Committee on Merchant Shipping Bill, 1958, considered the report only on August 18 and this report along with the minute of dissent was presented to this House, on August 21 but the article under question, marked portion, gives clear indication about the trend and decisions of the Select Committee.”

(ii) Shri S.A. Matin, a member in a notice of question of privilege dated 8 September, 1958, drew the attention of the Speaker to an article under the title “Story of the Merchant Shipping Bill” from Special Correspondent, published on page 4 of the *Hindustan Standard* (Calcutta Edition), dated the 15th August, 1958. The member had invited particular attention to the following passages occurring in that article:—

- (a) “a fascinating inside story of how the battle was fought out before the Select Committee has recently come to light.”
- (b) “With the help of a few Indian brokers and other stooges, they managed to get a Draft Indian Merchant Shipping Bill.”
- (c) “When the Select Committee met on July 22, a compromise plan was pushed through whereby foreigners were permitted to own and control a third of the shares of an Indian ship.”
- (d) “The Prime Minister had to personally intervene to curb the enthusiasm of those whose weakness has been the biggest factor in favour of British interests.”
- (e) “The Select Committee met again on July 24 and foreign participation was reduced to the existing level, namely to one-fourth of the Capital.”

“And let us also watch the steps of the Directorate General of Shipping.”

The member had contended that the aforesaid article was a breach of privilege of the Lok Sabha, the Joint Committee and the members of Lok Sabha, because in his opinion:

“Very sweeping allegations have been made against this sovereign body of the Indian Republic that different interests managed to get the Bill drafted in Lok Sabha, and various other allegations have been made.”

The member had also alleged that “The Joint Committee on Merchant Shipping Bill considered the report on August 18 and this report along with the minute of dissent was presented to Lok Sabha on the 21st August, 1958. The article under question gives all the decisions of the Committee taken on July 22, and July 24, 1958.”

Subsequently, Rani Manjula Devi also drew the attention of the Speaker to the above article *vide* her letter, dated 9 September, 1958 to the Speaker.

(iii) Shri Laxmi Narayan Bhanja Deo, another member in a notice of question of privilege dated the 11th September, 1958, drew the attention of the Speaker to both the articles “The March of Indian Shipping” and the “Story of the Merchant Shipping Bill” published in the *Statesman*, New Delhi, and the *Hindustan Standard*, Calcutta, respectively, dated the 15th August, 1958. The member had invited attention to the same passages to which Rani Manjula Devi and Shri S.A. Matin, had referred in their notices raising questions of breach of privilege. He also drew attention to the following observations made by Shri Harish Chandra Mathur, a member, in his Minute of Dissent to the Report of the Joint Committee on the Merchant Shipping Bill, 1958:

“This Bill as it has emerged out from the Select Committee has completely changes its complexion and also its purpose. I feel that existing Private Shipping interests have had their way.”

2. On 5th, 8th and 14th September, 1958, the Speaker (Shri M. Ananthasayanam Ayyangar), under rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha, referred the matters to the Committee of Privileges.

Findings and recommendations of the Committee

3. The Committee of Privileges, in their Seventh Report, submitted to the Speaker on 25th November, 1958, reported *inter-alia* as follows:—

Re: Publication of the article "The March of Indian Shipping" by Dr. Nagendra Singh, in the Statesman.

(i) "The Committee, after perusing the explanation of Dr. Nagendra Singh and examining him in person, are satisfied that he has not referred to the proceedings or decisions of the Joint Committee on the Merchant Shipping Bill, 1958, in his article in question. Moreover he has also expressed his sincere regret if the wording of his article has given any such impression."

Re: Publication of the Article "Story of the Merchant Shipping Bill" in the 'Hindustan Standard.'

(ii) "Under article 105(3) of the Constitution the powers, privileges and immunities of each House of Parliament and of the members and the Committees thereof have been equated, until defined by Parliament by law, to those of the House of Commons, U.K., its members and Committees, as on the 26th January, 1950. In the United Kingdom, speeches or writings reflecting on the House, its members or Committees are treated as a contempt of the House. As *May* has stated:

'In 1701 the House of Commons resolved that to print or publish any books or libels reflecting on the proceedings of the House is a high violation of the rights and privileges of the House, and indignities offered to their House by words spoken or writings published reflecting on its character or proceedings have been constantly punished by both the Lords and the Commons upon the principle that such acts tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them.

Reflections upon Members, the particular individuals not being named or otherwise indicated, are equivalent to reflections on the House'

(*May's Parliamentary Practice*, 16th Edition p. 117)

The Committee have carefully considered the passages of the article 'Story of the Merchant Shipping Bill', published in the *Hindustan Standard* dated 15 August, 1958, which are the subject matter of the complaint. The passages contain statements

which in the opinion of the Committee, are defamatory of members of the House in their capacity as members and cast reflections on the character and proceedings of the House and the Joint Committee on the Merchant Shipping Bill, 1958, and are therefore a breach of privilege."

(iii) "The article also professes to disclose the proceedings of the Joint Committee when it says: 'A fascinating inside story of how the battle was fought out before the Select Committee has recently come to light'."

(iv) "The Committee have gone through the Minutes of the sittings of the Joint Committee on the Merchant Shipping Bill held on the 22nd and 24th July, 1958, and find that the following passage occurring in the article in question involves a premature disclosure of the proceedings of the Joint Committee on the Merchant Shipping Bill:—

'...when the Select Committee met on July 22, a compromise plan was pushed through whereby foreigners were permitted to own and control a third of the shares of an Indian ship... The Select Committee met again on July 24 and foreign participation was reduced to the existing level namely, to one-fourth of the capital'."

(v) "According to the practice obtaining in the United Kingdom, a premature publication of a Parliamentary Committee's proceedings or evidence constitutes a breach of privilege. As *May* has stated:—

'By the ancient custom of Parliament 'no act done at any Committee should be divulged before the same be reported to the House.' Upon this principle the Commons, on 21 April 1837, resolved, "That the evidence taken by any Select Committee of this House, and the documents presented to such Committee, and which have not been reported to the House, ought not to be published by any member of such Committee or by any other person". Where the public are admitted this rule is usually not enforced. The publication of proceedings of Committees conducted with closed doors or of draft reports of Committees before they have been reported to the House will, however, constitute a breach of privilege.'

(*May's Parliamentary Practice*, 16th Edition p. 119).

May has further stated:

'It is a breach of privilege for any person to publish any portion of the evidence given before, or any document presented to, a Select Committee before such evidence or document, has been reported to the House....'

(*May's Parliamentary Practice*, 16th Edition, p. 627)."

(vi) "The Committee are, therefore, of the opinion that the publication of the article in question constitutes a breach of privilege in another respect also, inasmuch as it involves a premature disclosure of the proceedings of the Joint Committee on the Merchant Shipping Bill, 1958."

(vii) "The Committee note that the Editor of the *Hindustan Standard*, Calcutta, in his letter dated the 26th September, 1958, has offered his 'unqualified and sincerest apologies' and has stated *inter-alia* as under:

'I have myself re-read the article, and I must confess it contains a number of very very unfortunate improprieties, I, therefore, offer my unqualified and sincerest apologies for the publication of this article in the *Hindustan Standard*. It is my hope that the Committee of Privileges will accept my apologies with which remains on record my assurance that greater caution will be exercised in the future in regard to this particular contributor's copy. The Committee will, I hope, believe me when I say that this newspaper has the highest esteem for the Lok Sabha and would never be guilty of any deliberate contempt of Parliament or breach of privilege of any member or members thereof."

(viii) "As regards the observations of Shri Harish Chandra Mathur, in his Minute of Dissent to the Report of the Joint Committee on the Merchant Shipping Bill, 1958, the Committee feel that no notice need be taken of the Matter."

(ix) "The Committee are of the opinion that no breach of privilege is involved in the publication of the article under the title "The March of Indian Shipping" by Dr. Nagendra Singh, in the Independence Day Supplement of the *Statesman*, New Delhi."

(x) "The Committee are of the view that the publication of the article under the title 'Story of the

Merchant Shipping Bill', in the *Hindustan Standard*, Calcutta Edition, dated the 15th August, 1958, constitutes a breach of privilege and contempt of the House. But having regard to the 'unqualified and sincerest' apologies offered by the Editor of the *Hindustan Standard*, Calcutta, the Committee recommend that no further action be taken in this case."

Orders of the Speaker on the Report

6. On 29th November, 1958, the Speaker recorded the following order on the Report of the Committee.

"Seen. The Report may be laid on the Table of the House."

Action taken by the House

7. No further action was taken by the House in the matter.

115

LOK SABHA
(1966)

Point of privilege

Disclosure of substance of Government's comments on recommendations of Public Accounts Committee by a Minister before they were considered by that Committee.

Facts of the case and ruling by the Speaker

On the 2nd August, 1966, Shri Madhu Limaye, a member, complained that although Shri Sachindra Chaudhuri, the Minister of Finance, was aware of the convention that Government's comments on the recommendations of the Public Accounts Committee were required to be submitted to that Committee and should not be disclosed in public before the Committee had reported on them, he had in his statement in Rajya Sabha on the 27th July, 1966, disclosed the nature of Government's reply on the observations of the Public Accounts Committee in their 50th Report and thus 'raised unfounded expectations in the House that the Public Accounts Committee was going to consider the question of clearing Shri Boothalingam, Steel Secretary, when, in fact, no such request for such consideration had been made by Government to the Committee and that the Committee had not taken such a decision' to consider the issue. Shri Limaye contended that the Minister of Finance had not only committed a breach of the well-established convention but, by giving a good chit to Shri Boothalingam, had also indirectly tried to show that the Public Accounts Committee was wrong and

had thereby committed a breach of privilege and contempt of the House. In support of his contention, Shri Limaye cited the case of Dr. P.S. Deshmukh, when the latter was not allowed to make a personal explanation in regard to certain observations of the Public Accounts Committee in their Eighth Report on the Bharat Sewak Samaj until that Committee had considered his explanation.

2. The Speaker (S. Hukam Singh) observed that he would give his ruling after hearing the Minister of Finance.

3. On the 5th August, 1966, the Minister of Finance, while quoting extensively from the replies given by him in the House on the 27th July, 1966 in response to a calling attention notice on the 'Reported decision to Government to appoint Shri Boothalingam to EEC at Brussels' stated *inter alia*:—

"My submission is that the whole privilege motion is based on an incorrect understanding of what happened in this House. I have given in *extenso* what I had said in the House and my only submission is that there cannot be any question of anybody reading into it that I was trying to mislead the House, telling that there was a request made by Government to the PAC that there should be an inquiry into the conduct of Mr. Boothalingam and a report made to the Government on the basis of that. That is perfectly clear."

4. The Speaker reserved his ruling.

5. On the 12th August, 1966, the Speaker, while disallowing the question of privilege, observed *inter alia* as follows:—

"I have gone through the proceedings of the House on the calling attention notice on the 27th July, and the replies given by the Chairman, PAC in the House on the 28th July, 1966 in response to certain questions asked of him." The Minister of Finance had then said as follows:—

"The Government has sent its reply to the Public Accounts Committee. The Public Accounts Committee has not yet made its comments on that and, therefore, there is no question of any posting being made until that report is laid before the House...."

The Chairman, PAC stated in answer to the question that the PAC had received the comments of the Government on their 50th Report that a letter from the Ministry of Iron

and Steel requesting an early consideration of the comments of the Government had been received on the 26th July, 1966 and that the letter would be considered by the Committee in the normal course.

I do not find any contradiction in the two statements. Further, Government cannot instruct the Committee. The Committee do not consult the Government as to when and how they should report. It is left to the Committee to conduct their work as they like and to take their own time. The Committee are answerable only to the House and the Speaker and their directions alone are binding on them. I do not, therefore, see how the Minister of Finance 'deliberately raised unfounded expectations in the House that the PAC was soon going to make a special report on the Boothalingam affair. Therefore, the formal notice of privilege given by Shri Madhu Limaye is not founded on facts and I do not give my consent to this question being raised.

"As regards the other points regarding the conventions or practices to be observed with regard to the recommendations of the Public Accounts Committee...I have to say that while any departure from these practices may be regarded as a serious breach of conventions and may even provoke a motion of censure against the Government, it is not, strictly speaking, a breach of privilege as defined in Article 105 of the Constitution. While deciding a question of privilege, one has to examine the law of privilege as established in the United Kingdom prior to the coming into force of our Constitution; and no new privileges can be created. Breaches of rules, conventions and practices have to be distinguished from breaches of privilege.

I have examined the practice that has hitherto been followed in the matter of implementation of the recommendations of the Public Accounts Committee by the Government. In consonance with the well-established parliamentary practice which has been in vogue in India for over 35 years, in all cases where Government are not in a position to agree or implement a recommendation made by the Public Accounts Committee or have reasons to disagree with the

recommendations of the Committee, the Ministry concerned should place their views before the Committee which may, if it thinks fit, present a further report to the House after considering the views of Government in the matter. In this connection, I would quote the following from para 4 of the Finance Department Resolution No. D/1200-B dated the 13th June, 1930, which for the first time clearly enunciated the procedure to be followed in this behalf by the Government:—

- 'If any case should occur in regard to which there is a material difference of opinion between the executive Government and the Committee a full memorandum on the subject will be drawn up and placed before the Committee at a subsequent session and the Assembly will have an opportunity of discussing the subject later under the procedure contemplated in Para 30 of the Report (*refers to the Report of the Public Accounts Committee on the accounts of 1927-28*).'

There have, however, been one or two instances where a deviation had been made from this procedure. In the case relating to the 'Import and Sale of Japanese cloth' dealt with in Fourth Report of the Public Accounts Committee (1952-53), the then Commerce Minister laid a statement in connection with that case on the Table of the House without, in the first instance, placing Government's views before the Committee. The then Public Accounts Committee considered the various implications arising from the departure made by the Minister from the well-established procedure in not having given an opportunity to the Committee to consider the statement in question and to give their opinion thereon before it was laid on the Table of the House. The Committee came to the conclusions that since this was a matter which related to the functioning of the Public Accounts Committee and the procedure to be observed by them, the matter should be placed before the Speaker for his guidance. Speaker Mavalankar upheld the convention and directed that a circular letter should be sent to all Ministries of the Government of India laying down that in cases where Government were not in a position to implement a recommendation made by a Financial Committee of Parliament, viz, the Public

Accounts Committee or the Estimates Committee, and Government had reasons to disagree with the recommendation of the Committee, the Ministry concerned should, in consonance with the well-established procedure, place their views before the Committee who may, if they think fit, present a further report to the House after considering the views of Government in the matter. A circular was accordingly issued to all Ministries of the Government of India on the 4th December, 1953.

I also find that our convention is based on a similar convention which was established in the UK 80 years ago. In this connection, I would quote from a Government reply referred to in para 53 of the Report of the UK PAC (1885) which *iner alia* stated as below:—

'The opinion of the Committee of Public Accounts on points of Financial order ought on every occasion to receive the most respectful attention from the Departments concerned. Upon points which my Lords admit to be doubtful, they as a rule defer to the opinion of the Committee. If a question of importance arises upon which they are unable to agree with the Committee, they think it their duty to suspend decision until they have had an opportunity of laying before the Committee the reasons which lead them to differ from the Committee's opinion. If the Committee should still adhere to their 'original opinion' my Lords in ordinary cases yield, but if they held the point of difference to be sufficiently important they would endeavour to bring the question before the House of Commons in a form that will place before the House unreservedly the argument on both sides; the ultimate decision then rests with Parliament.'

I should like that this established practice should be invariably followed by Government in the case of all reports of the Parliamentary Committees.

So far as the statements made by Minister of Finance in Rajya Sabha on the 19th May and 27th July, 1966, in which he is alleged to have disclosed the nature or substance of the Government's comments or replies to the observations of the Public Accounts Committee in their Fiftieth Report are concerned, it must be pointed out that

although those statements were made by the Minister of Finance in response to the demands made by members in that House, and not *suo motu* the best tradition would have been maintained if the Minister had stuck to the earlier position taken by him on the 19th May that he could not say anything until the PAC had examined the reply of the Government and made a report thereon.

I may state in passing that when a Presiding Officer admits a notice of a question, calling attention or any other notice, he is not aware of what is happening in the Committee or at what stage the matter is. Either the Minister should represent to the Presiding Officer that the matter is under the consideration of a Parliamentary Committee or simply state this fact in an answer to a notice if admitted. In a Parliamentary system of Government, a Parliamentary Committee is an ally of Government and both should proceed on

mutual trust and respect. Therefore, the twin conventions, that normally a recommendation of the Committee should be accepted by the Government and in case of disagreement, points of difference should be resolved by discussion between the Government and the Committee. It is only in the event of an unresolved difference that the matter comes before the House ultimately in the shape of a report from the Committee when both the points of view are before the House at the same time. I trust that these traditions which have been built over the years shall be scrupulously followed in future.

I have looked up the precedents. I have not come across any case where a breach of these conventions has been regarded as a breach of privilege either in our House or in the U.K. I, therefore, do not give my consent to raise this matter as a question of breach of privilege."

DISTRIBUTION OF OBJECTIONABLE MATERIAL TO MEMBERS

116

LOK SABHA
(1974)

Point of privilege

Circulation of objectionable publicity material by an individual relating to his firm and his lobbying work in Parliament.

Facts of the case and reference to the Committee of Privileges

A number of complaints had been received by the Speaker, Lok Sabha from time to time, against one Shri M.L. Vinayak, styling himself as "Director, Public Relations Counsel of India, New Delhi" for circulating objectionable publicity material relating to his firm and his lobbying work in Parliament.

2. Later, when the following two communications were received, the Speaker referred the matter to the Committee of Privileges on the 26th February, 1974, under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report:—

- (i) From the Department of Parliamentary Affairs, forwarding a letter received by M/s. Acharya Electronics, Nagpur from Shri M.L. Vinayak; and
- (ii) From the Secretary to the Minister for Legislative Affairs, Government of Maharashtra, forwarding a letter received by the Minister of Legislative Affairs from Shri M.L. Vinayak.

These two letters were almost identical and *inter alia* read as follows:—

"The above subject had come before Parliament and it also relates to your Company, Business and Industry. The Statement as discussed in Parliament about your Company can be had against our fee Rs. 75/- cash. Please add Rs. 2/- on out-station cheque. This is not a Circular Letter and it is being sent as it contains reference about your Company. Please quote subject matter of our letter.

We can also place your point of view on this matter or any other and do lobbying work at the highest level. Our minimum fee for lobbying work is Rs. 2500/- or more according to the nature of the case strictly paid in advance. All expenses in lobbying work are paid by firms. Many Government

policies were changed or modified. Details can be dissused."

3. Similar complaints had been received against Shri Vinayak in the past also. On a Complaint made in 1960, the pass of Shri Vinayak for entry into the Central Hall of Parliament House was cancelled.

4. In 1966, the Committee of Privileges had considered the matter and reported *inter alia* as follows:—

"...Making out copies of the debates of the Lok Sabha and other Parliamentary papers and Reports and selling those copies would be unauthorised and a breach of copyright of the Lok Sabha Secretariat.

...The publicity material being circulated by Shri M.L. Vinayak regarding his firm's 'Lobbying Work' in Parliament and his activities as published by him are highly objectionable and unauthorised.

...The whole tone and tenor of Shri M.L. Vinayak's oral evidence before the Committee was, highly objectionable, apart from being circumambient.

The Committee recommend that Shri M.L. Vinayak be summoned to the Bar of the House and reprimanded for his objectionable activities in connection with his firm's 'Lobbying Work' in Parliament and for his conduct in making false statements in his evidence before the Committee while on oath, in prevaricating before the Committee and in evading his appearance before the Committee...."

5. No further action was however, then taken against Shri Vinayak as the matter lapsed on the dissolution of the Third Lok Sabha.

Findings and recommendations of the Committee

6. The Committee examined Shri Vinayak on oath at a number of sittings and also gave him the fullest opportunity to have his say before the Committee.

7. The Committee, in their Sixteenth Report presented to the Speaker on the 26th November, 1975 and laid on the Table of the House on the 20th January, 1976, reported *inter alia* as follows:

- (i) "The Committee are of the opinion that the activities of Shri M.L. Vinayak and his firm are clearly objectionable and have the effect of lowering the image and dignity of Parliament and that, therefore, those activities constitute

a breach of privilege and contempt of the House."

- (ii) "The Committee decided to give an opportunity to Shri M.L. Vinayak to appear before the Committee and that he should be directed to discontinue his objectionable lobbying and other activities as they offended against the dignity and authority of Parliament".
- (iii) "Shri M.L. Vinayak was accordingly, called before the Committee against on the 17th September, 1975 and he was informed of the following decision of the Committee:—

'The Committee have come to the conclusion that your and your firm's activities in this connection are unauthorised and highly objectionable and they have the effect of lowering the image and dignity of Parliament. Those activities constitute a breach of privilege and contempt of the House.

The Committee also feel that making out copies of the debates of Lok Sabha and of other Parliamentary papers and Reports and selling, those copies is unauthorised and a breach of the copyright of the Lok Sabha.

The Committee have taken note of the assurance given by you to the Committee during your evidence that if any of your activities were considered by the Committee as bad or objectionable, you would discontinue those activities. Now, the Committee would, therefore, like to know from you whether you are prepared to give a written undertaking to this effect so that the Committee may decide their further course of action."

- (iv) "Shri M.L. Vinayak submitted before the Committee that he was prepared to give a written undertaking to discontinue his objectionable activities about which the Speaker and the Committee had received the aforesaid complaints. Accordingly, Shri Vinayak immediately submitted the following written undertaking to the Committee:—

'I have been informed that my activities styling myself as 'Director, Public Relation Counsel of India' as evidenced from the letters which I have been sending to various individuals and parties and which have come to the notice of the Committee of Privileges of Lok Sabha in respect of my firm's lobbying work connected

with the proceedings and business of Parliament are unauthorised and highly objectionable and that they have the effect of lowering the image and dignity of Parliament. I now understand that those activities constitute a breach of privilege and contempt of the House. I also now understand that making out copies of the debates of Lok Sabha and other Parliamentary papers and Reports and selling those copies is unauthorised and a breach of the copyright of Lok Sabha.

I hereby given an undertaking that I will discontinue forthwith all my aforesaid activities which are considered objectionable and a breach of privilege and contempt of the House'."

- (v) In view of the categorical undertaking given by Shri M.L. Vinayak to discontinue his and his firm's aforesaid objectionable activities, the Committee feel that a lenient view may be taken of the breach of privilege and contempt of the House Committee by Shri M.L. Vinayak and the matter may be closed. The Committee—hope that having given the above undertaking Shri Vinayak will not indulge in those activities again.

However, the Committee recommend that if Shri Vinayak indulges in any of those activities again, a severe punishment may be given to him."

- (vi) "The Committee recommend that no further action be taken in the matter and, in view of the categorical and written undertaking give by Shri M.L. Vinayak, it may be closed."

Action taken by the House

9. No further action was taken by the House in the matter.

117
LOK SABHA
(1974)

Point of privilege

Distribution of an allegedly objectionable Calendar to members by a Public Undertaking through the Lok Sabha Secretariat.

Facts of the case and ruling by the Speaker

On the 3rd April, 1974, Shri S.A. Shamim, a member, sought to raise a question of privilege in respect of the distribution to members of Parliament

of an allegedly objectionable Calendar¹ published by M/s. Markfed, Chandigarh (Punjab Government Undertaking), having communal overtones, through the Lok Sabha Secretariat. Shri Shamim contended that the distribution of such a calendar to members by the Lok Sabha Secretariat constituted a breach of privilege of the House.

2. The Speaker (Dr. G.S. Dhillon) disallowed the question of privilege and ruled *inter alia* as follows:—

“It is not a question of breach of privilegeI am not allowing it.... so many things come and they are sent for distribution, like calendars and diaries etc.... when, of course, a Government sends these things, there is bound to be no suspicion about it.”

3. Speaking on the matter the Prime Minister (Shrimati Indira Gandhi) stated *inter alia* as follows:—

“The hon. House is quite right in being concerned about the pictures or written matters which can hurt any one community or all communities or anybody, and Government certainly is not in favour of such things. But some things are historic. I do not say that it should be done or not, but we should also see things in

perspective. I think that we should so train our children and our young people and others not to get excited about something that has happened long ago.

The State Government may be mistaken. I am not condoning these pictures at all. I have strong feelings about pictures, and I do not particularly like this type of pictures, but unfortunately in India,— I do not mean just this particular thing such pictures which are supposed to be realistic pictures, as the hon. Speaker has said, are distributed and they do exist. I am not condoning them in any way because my views happen to be different. But we have to see it in the context of what has been already happening in the country.

Now, the question is whether they should have been distributed. That is again for the hon. Speaker to decide and taken a decision for the future on such things.

So far as this particular subject is concerned, we can look into it. If the distribution has not been stopped, then it will be looked into.”

4. Thereafter, the matter was closed.

¹The Calendar depicted scenes of atrocities committed on Sikhs during the Mughal period.

ENQUIRY

118
LOK SABHA
(1970)

Point of privilege

Alleged making of enquiries by the police from a member.

Facts of the case and ruling by the Speaker

On the 11th May, 1970, Shri Janeshwar Misra, a member, raised a question of privilege against Shri Ramanand, a Sub-Inspector of Police for entering his house on 8th May, 1970, at about 9.30 A.M. without ringing the door-bell, and making enquiries from him in connection with the incidents which took place on the 6th April, 1970 at Patel Chowk, New Delhi during the S.S.P. demonstration. The member contended that as the matter was under investigation by a Judicial Commission of Inquiry, making of enquiries about that matter by a Sub-Inspector amounted to a breach of privilege of the House. He also stated that the members of Parliament should not be disturbed one or one and a-half hours before the commencement of the sitting of the House so that they could concentrate on the business of the House.

2. The Speaker (Dr. G.S. Dhillon) observed that he would consider the matter on receipt of a reply from the Minister of Home Affairs to whom the matter had been referred.

3. The Minister of Home Affairs (Shri Y. B. Chavan), thereupon, made *inter alia* the following statement:—

“The Hon. member has raised the question whether in view of the judicial inquiry that has been ordered, any investigation can take place or not. My information about this is that an officer did go to the hon. member's House. But he merely went there in the course of his duties, as he was ordered to make investigation to get some information. If the hon. member had refused to give him information, he could not have forced the hon. member to give that.

...If the hon. member had asked him to get out, then he would have gone away. How could he stay there in that case?

If there is any complaint about any threat, etc. I am prepared to look into the matter. If there is any complaint about any threat not only to a member of Parliament but even to any other citizen of India, I am prepared to look into it. But now the question has been reduced to this,

namely whether the field of privilege of a member of the House can extend to that position where normal investigation also cannot be undertaken. If hon. members want me to take that position, then I do not want to stand in their way.”

4. The matter was thereafter closed.

119
LOK SABHA
(1977)

Point of privilege

Alleged inquiry by Justice J.C. Shah, Chairman Commission of Inquiry, about proclamation of Emergency which was approved by Houses of Parliament.

Facts of the case and ruling by the Speaker

On the 5th December, 1977 Shri Vasant Sathe, a member, gave notice of a question of privilege against Justice J.C. Shah, Chairman, Commission of Inquiry, appointed under the Commissions of Inquiry Act, 1952 to inquire into excesses committed during and immediately preceding the Proclamation of Emergency in June, 1975 alleging that by starting an inquiry questioning the Proclamation of Emergency which was approved by both Houses of Parliament, Justice Shah had challenged the sovereignty and supremacy of Parliament and had thus committed contempt of the House.

On the same day, Shri Vasant Sathe also sought to rise the matter in the House and enquired about the decision of the Speaker in the matter. The Speaker said that the matter was under his consideration.

2. On the 7th December, 1977 while disallowing the question of privilege, the Speaker (Shri K.S. Hegde) ruled as follows:—

“Shri J.C. Shah has made it clear in his statement made on 5th December, 1977 that he is not inquiring into the validity of the declaration of Emergency. He has further stated that he has no competence to do so. He has also stated that he is only inquiring into the transactions which had immediately preceded and led to the declaration of Emergency.

Whether a Commission appointed under the Commissions of Inquiry Act is competent to enter into the facts and circumstances or the transaction which immediately preceded and led

to the declaration of Emergency is a matter for courts to decide.

Therefore, *prima facie* there is no contempt of Parliament or breach of privilege of Parliament. Hence, the notice given under rule 222 is not sustainable.

I decline to give my consent to the same.”

120
LOK SABHA
(1981)

Point of privilege

Alleged causing of an enquiry against a member for quoting from and laying on the Table of the House photo copies of certain files, notings and Reports of certain Ministries.

Facts of the case and ruling by the Speaker

On the 23rd December, 1980, during the course of a discussion under Rule 193 on the subject of 'Choice of Technology and Foreign Collaboration for Urea and Ammonia Fertilizer Plants to be built on the basis of Bombay High Complex', Shri K.P. Unnikrishnan, a member, quoted extensively from photo copies of certain files, notings and Reports of certain Ministries of Government of India and subsequently laid the same on the Table of the House with the permission of the Speaker.

2. Later, in the course of his reply to the discussion, the Minister of Petroleum, Chemicals and Fertilizers (Shri P.C. Sethi), stated *inter alia*, as follows:—

“Therefore, this very fact—how did he get copies—requires a CBI probe and requires a thorough investigation and enquiry into the matter. It is not only the business deal which is important. The main thing is if the secret files and documents of the Government of India are made available to people who are interested in raising such question, then it will be very difficult to save this country from the defence point of view.”

3. On 27th March, 1981, Shri Unnikrishnan gave notice of a question of privilege against the Minister of Petroleum, Chemicals and Fertilizers, Minister of Home Affairs and others for causing an enquiry into how he “came into possession of photo copies of the files, notings and Reports” which had been laid by him on the Table of the House on 23rd December, 1980.

Shri Unnikrishnan also enclosed with his notice a copy of the First Information Report lodged by the Superintendent of Police, CBI regarding leakage of certain classified documents of Ministry of Petroleum, Chemicals and Fertilizers wherein a mention of Shri K.P. Unnikrishnan and his speech in the House on 23rd December, 1980 had been made.

Later, several other members also gave similar notices of question of privilege.

4. On 30th March, 1981 the Speaker (Dr. Bal Ram Jakhar) informed the House that the matter was under his consideration.

5. On 8th May, 1981, the Speaker observed as follows:—

“On 30th March, 1981, I had informed the House that Shri K.P. Unnikrishnan and several other members had given notices of a question of privilege against Shri P.C. Sethi, Minister of Petroleum, Chemicals and Fertilizers, Giani Zail Singh, Minister of Home Affairs and others for causing an enquiry into how he ‘came into possession of photo copies of the files, notings and Reports’ which Shri K.P. Unnikrishnan had ‘quoted and laid on the Table of the House’ on 23rd December, 1980 during the discussion in Lok Sabha on 23rd December 1980 under Rule 193 on the choice of technology and foreign collaboration for the urea and ammonia fertilizers plants to be built on the basis of Bombay High Complex.

I have since received the comments from the Ministries concerned with the approval of the Minister of Petroleum, Chemicals and Fertilizers and Minister of Home Affairs. In the light of the factual information received I requested Shri Unnikrishnan to see me. He has met me alongwith some other members of Parliament who had given notices of privilege on the subject. They have raised some further points. I am looking into the matter.

I may however state that the right of a member of Parliament to function freely and without fear or favour in the House is a constitutional guarantee”.

6. On 17th December, 1981 the Speaker *inter alia* observed as follows:—

“On 8 May, I has informed the House that, in the light of the factual information received by me from the Ministries concerned, I had discussed the matter with Shri Unnikrishnan and some

other members, who had given notices of question of privilege on the subject. As they raised some further points, I had observed in the House that I would look into the matter further. I accordingly, directed that the Ministries concerned might be asked to furnish the factual information on the points raised by Shri K.P. Unnikrishnan in his letter dated 6th May, 1981.

The Ministries concerned, in their comments, approved by the Minister of Petroleum, Chemicals and Fertilizers and the Minister of Home Affairs, have stated *inter alia* that 'references, to the MP and his speech in the Lok Sabha in the FIR and the affidavits filed in the courts are only statements of facts and do not form basis of any action by the CBI in the matter. The investigations and proceedings of the CBI do not rely on the debate or the proceedings of the Lok Sabha on 23-12-80, nor has the CBI made, or propose to make, any enquiries from the hon. member or any other member of Parliament in this matter'. They have also stated that 'though investigations have been in progress for about three months, Shri Unnikrishnan has neither been contacted by the CBI, nor examined by them. Nor is it the intention of the investigating authorities to contact Shri Unnikrishnan or examine him in this context. This CBI have not collected any evidence regarding what happened in Parliament in regard to this 'incident'. They have further stated 'that some time in September, 1980, the concerned agencies of the Government made discreet inquiries regarding the alleged leakage of certain classified documents from the file of the Ministry of Petroleum, Chemicals and Fertilizers relating to the selection of consultants for the ammonia plants at Thal-Vaishat and Hazira.... The above inquiries and investigations by the authorities of the Government were prior to the disclosure made by the hon. member on the floor of the Lok Sabha on 23rd December, 1980.'

They have also clarified that 'the CBI probe and thorough investigation, which the Minister referred to, was not for the purpose of intimidating the member or for proceeding against the member, but for the purpose of maintaining secrecy of documents and material of vital importance in the larger interests of the country.'

I cannot but stress the need for every care being taken, and prudence being exercised, while speaking in the House on such sensitive matters, so as to avoid occasions for any misunderstanding whatsoever.

I have gone through the texts of the First Information Report filed by the CBI on 6th March, 1981, the affidavit filed by the Superintendent of Police, CBI, in the Court of Sessions for Greater Bombay on 25 March 1981, and the affidavit filed by the Superintendent of Police, CBI, in the Bombay High Court on 31st March, 1981, regarding the alleged leakage of 'information/documents of the classified nature, forming part of the file of the Ministry of Petroleum, Chemicals and Fertilizers' etc. I find that these documents contain references to the disclosures made by Shri K.P. Unnikrishnan in the Lok Sabha and the documents laid by him on the Table of the House, during the discussion under Rule 193 on 23 December, 1980. On reading these documents as a whole, it appears that these references are not intended to form the basis of any action by the CBI, against Shri K.P. Unnikrishnan, M.P., for what he stated in the Lok Sabha.

It would have been better if the proceedings in the House had not been mentioned in the FIR and Affidavits filed by the Investigating Agencies in the manner done. I am sure this will be taken note of by the concerned for the future purposes.

However, in view of the position stated by the Ministry of Home Affairs and the Ministry of Petroleum, Chemicals and Fertilizers, specially their categorical statement that 'Shri Unnikrishnan has neither been contacted by the CBI nor examined by them' and 'nor is it the intention of the investigating authorities to contact Shri Unnikrishnan or examine him in this context', no question of privilege is involved in the matter and I do not, therefore, give my consent to raise this matter under Rule 222.

I would, however, reiterate that nothing should be done by any agency which would impinge upon or detract from the right of a member to freely function in Parliament."

The matter was, thereafter, closed.

ENTRY INTO HOUSE/PRECINCTS

121
LOK SABHA
(1957)

Point of privilege

Posing as an elected Member of the House and taking oath.

Facts of the case and ruling by the Speaker

On the 15th July, 1957, when the Speaker called newly elected members to make the prescribed oath or affirmation, a person, who gave his name as Birendra Kumar Majumdar, came to the Table, took the prescribed oath and signed the Roll of Members. Later, on the same day, it was discovered that he had not been elected to Lok Sabha. The Speaker then observed as follows:

"A serious breach of privilege of the House occurred this morning, when a person by the name of Mr. Majumdar took the oath as a member of this House. His name was not in Secretary's list and when the Secretary pointed it out to him, he replied that he had been elected a member and that a member of Parliament, Mr. Khuda Baksh, knew him. He then immediately proceeded to shake hands with the Chair and signed the Roll of Members. Immediately an enquiry was made whether in fact he was a member and whether an intimation had been received from the Returning Officer. Meanwhile, on further questioning of the person concerned, it appeared that he was mentally not sound. An enquiry was also made from Mr. Khuda Baksh, who confirmed about his mental state and said that although Mr. Majumdar had contested the election he had lost it. A further enquiry was made by the Watch and Ward Officer in the matter and that report also confirms the same conclusion. In view of this, the name of Mr. Majumdar may be expunged from the list of members who have taken oath this morning and also his signature may be expunged from the Roll of Members.

The action of Mr. Majumdar is a serious affront to the dignity of the House and constitutes a contempt.

I suggest that the House may take cognizance of the matter and take such further action as it deems fit."

2. The Prime Minister and Leader of the House (Shri Jawaharlal Nehru) moved the following motion which was adopted by the House:

"This House is of opinion that a person who gave his name as Birendra Kumar Majumdar and posed as an elected member of this House and who signed the Roll of Members as such this morning has committed contempt of this House and the Speaker is authorised to send him to a Medical Board for examination of his mental state and to take such further action as the Speaker may think fit on receipt of the report of the Medical Board."

The Prime Minister further stated that in some foreign Parliaments there were definite rules about the presentation of credentials or introduction of a new member by two other members. It was therefore necessary to have some such rules in Lok Sabha to avoid the possibility of such a thing happening in future.

The Speaker remarked that he would consider the possibility of having rules on the Subject.

3. On the 12th August, 1957, the Speaker observed as follows:

"I want to make a statement on the person who impersonated the other day as a member of this House. He was sent to the hospital for examination. The House will recollect that on 15 July, 1957, a person who gave his name as Birendra Kumar Majumdar had committed contempt of the House by posing as an elected member of the House and signing the Roll of Members as such. I was authorised by the House to send Birendra Kumar Majumdar to a Medical Board for examination of his mental state and to take such further action as I might think fit on the advice of the Medical Board. The Medical Board has observed Shri B.K. Majumdar for a sufficiently long period, and examined him individually and collectively on two separate occasions. The Medical Board has stated that Shri B.K. Majumdar is a person of unsound mind, and his is a case of schizophrenic reaction, a type of insanity. In view of this medical report, I have decided not to take any action against Shri Majumdar."

A copy of the medical report of the said Medical Board appointed to examine Shri B.K. Majumdar is laid on the Table of the House."

4. Shri Achar, a member, enquired as to how could there be a contempt of the House if Shri Majumdar was a lunatic. The Speaker observed as follows:—

“It is, therefore, that I said no action is called for. Originally, before knowing who he was, I thought there was a contempt of the House and it authorized me to take action against him. I got him examined. In view of the medical report, there is no contempt of the House, and I have discharged him.”

122

LOK SABHA
(1979)

Point of privilege

Entry by some persons into the Lok Sabha Chamber and staying there for about four hours after the adjournment of the House without the permission of the Speaker, and behaving in an undignified way in the Chamber.

Facts of the case and ruling by the Speaker

On the 22nd February, 1979, the Speaker informed the House as follows:—

“Shri Kanwar Lal Gupta gave notice of a question of privilege against Shrimati Indira Gandhi and some other persons including certain members of the other House for entering into the Lok Sabha Chamber and staying there for about four hours after the adjournment of the House on the 19th December, 1978, without the

permission of the Speaker, and behaving in an undignified way in the Chamber.

I have made an enquiry into the matter and issued necessary directions to the Watch and Ward staff to ensure that in future no Member is allowed to escort under any circumstances, inside the Chamber of Lok Sabha any non-Member, including near relative, ex-Members or Members of the other House before or after the sitting of the House and that under no circumstances the Lok Sabha Chamber should be used by anyone for holding a press conference or for briefing the press correspondents, etc.

So far as Shrimati Indira Gandhi is concerned she had to stay in the Lok Sabha Chamber in view of the resolution adopted by the House earlier that day regarding her expulsion and imprisonment and the consequent steps required to be taken in that connection.

It would not be proper for this House to consider the alleged wrong acts by certain Members of the other House as that would be against the well-established conventions for harmonious relation between the two Houses.

Taking all circumstances into consideration, I do not think that this is an appropriate case to take action on a question of privilege under rule 222. I, therefore, do not give my consent to raise the matter under rule 222.

2. The matter was thereafter closed.

EVIDENCE BY MEMBERS BEFORE OTHER HOUSE OR COMMITTEES THEREOF

LOK SABHA
(1958)

Point of privilege

Attendance of a member of the House as a witness before the other House or a Committee thereof

Facts of the case and reference to the Committee of Privileges

On the 16th April, 1958, the Secretary of the Bombay Legislature Department requested the Speaker to permit Shri L.V. Valvi, Member, Lok Sabha, to appear as a witness before the Committee of Privileges of the Bombay Legislative Assembly at their sitting to be held on the 23rd April, 1958, at 10 A.M. in the Council Hall, Bombay.

2. The evidence of Shri L.V. Valvi was required by the Committee of Privileges of the Bombay Legislative Assembly in connection with a question of breach of privilege in that Assembly arising out of the alleged failure on the part of police authorities in Bombay State to intimate the Speaker about the fact of arrest of Dr. R.B. Chaudhri, a member on the 13th February, 1958 at Vadjai village in Dhulia Taluka of West Kandesh District.

3. The Secretary of the Bombay Legislature Department also intimated that Shri Valvi had agreed to appear before the Committee of Privileges of the Bombay Legislative Assembly to tender his evidence.

4. On the 21st April, 1958, the Speaker (Shri M. Ananthasayanam Ayyangar) referred the matter to the Committee of Privileges, and the Secretary of the Bombay Legislature Department was informed telegraphically that the decision of Lok Sabha in the matter would be communicated to him as soon as it was reached.

Findings and recommendations of the Committee

5. The Committee of Privileges in their Third Report laid on the Table of the House on the 24th April, 1958, reported, *inter alia*, as follows:—

(i) "According to *May's Parliamentary Practice*, 'attending as a witness before the other House or any Committee thereof without the leave of the House of which he is a member or officer' would be regarded as contempt of the House. (*May's 16th Edition*, p. 117)."

(ii) "In all such cases, therefore, permission of the House is necessary before a member of

the House can appear as a witness before the other House or a committee thereof."

(iii) "The procedure to be followed in such cases in the United Kingdom has been described by *May* as under:—

'If the attendance of a Peer should be desired, to give evidence before the House, or any Committee of the House of Commons, the House sends a message to the Lords, to request their lordships to give leave to the Peer in question to attend as a witness before the House or Committee, as the case may be. If the Peer, should be in his place when this message is received, and he consents, leave is immediately given for him to be examined, his lordship consenting thereto, if the Peer be not present, the House gives leave for his lordship to attend 'If he thinks fit'. Exactly the same form is observed by the Lords, when they desire the attendance of a member of the House of Commons....

'Whenever the attendance of a member of the other House is desired by a Committee, it is advisable to give him private intimation, and to learn that he is willing to attend, before a message is sent to request his attendance.'

(*May's 16th Ed.*, p. 669.)

6. The Committee recommended that as in the present case the Secretary, Privileges Committee of the Bombay Legislative Assembly, had formally requested the Speaker, Lok Sabha, to permit Shri L.V. Valvi, member, to tender evidence before the Committee of Privileges of the Bombay Legislative Assembly, Shri Valvi might be permitted to appear before that Committee if he thought fit.

Action taken by the House

7. On the 25th April, 1958, the Chairman of the Committee of Privileges (Sardar Hukam Singh) moved the following motion:—

"That this House agrees with the Third Report of the Committee of Privileges laid on the Table on the 24th April, 1958."

8. The motion was put and agreed to.

LOK SABHA
(1958)

Point of privilege

Permission of the House is necessary for giving evidence by a member before the other House or a Committee thereof or before a House of State Legislature or a Committee thereof.

Facts of the case

The Committee of Privileges while considering the request made by the Secretary, Bombay Legislative Assembly for permitting Shri L.V. Valvi, member Lok Sabha, to appear before the Committee of Privileges of Bombay Legislative Assembly to give evidence had desired that the question of evolving general procedure when a member of Lok Sabha had to appear before the other House or a Committee thereof or a Legislative Assembly or a Committee thereof should be examined in greater detail and the Opinion of the Attorney General be obtained.

Findings and recommendations of the Committee

2. The Committee of Privileges, after obtaining and considering the opinion of the Attorney General, in their Sixth Report, submitted to the Speaker on 29th November, 1958, reported, *inter alia*, as follows:—

- (i) "Under Article 105(3)/194(3) of the Constitution, the powers, privileges and immunities of each House of Parliament/State Legislature and of the members and the Committees of each House have been equated, until defined by Parliament/State Legislature by law, to those of the House of Commons, U.K. and of the members and the Committees thereof, at the commencement of the Constitution, that is, on the 26th January, 1950. Since no legislation on the subject has so far been enacted either by Parliament or by the State Legislatures, their powers, privileges and immunities continue to be equated to those of the House of Commons, U.K."
- (ii) "In the United Kingdom, 'attending as a witness before the other House or any committee thereof without the leave of the House of which he is a member of Officer' would be regarded as a contempt of the House. (*May's Parliamentary Practice*, 16th Edition, page 117)."

The following procedure has to be followed if the witness, whose attendance is required is a Member of the other House:—

"If the attendance of a Peer should be desired, to give evidence before the House or any Committee of the House of Commons, the House sends a message to the Lords, to request their lordships to give leave to the Peer in question to attend as a witness before the House or Committee, as the case may be. If the Peer should be in his place when this message is received, and he consents, leave is immediately given for him to be examined, his lordship consenting thereto; if the Peer be not present, the House gives leave for his lordship to attend 'if he thinks fit'. Exactly the same form is observed by the Lords when they desire the attendance of a Member of the House of Commons.' (*May's Parliamentary Practice*, 16th Edition, p. 669)."

'As to the extent and nature of the Privilege or immunity of the Member the practice has been summarised thus in Hatsell:—

"The result on the whole to be, collected either from the Journals or from the History of the Proceedings in the House of Commons, is, 1st, that the Lords have no right whatever, on any occasion to summon, much less to compel the attendance of, a Member of the House of Commons, 2ndly, that, in asking leave of the House of Commons for that attendance, the message ought to express clearly the 'cause' and 'purpose' for which the attendance is desired; in order that, when the Member appears before the Lords, no improper subject of examination may be tendered to him. 3rdly, the Commons, in answer to the Lords message, confine themselves to giving leave for the Member to attend, leaving him still at liberty to go or not, 'as he shall think fit'. And, 4thly, the later practice has been, to wait until the Member named in the message is present in his place and to hear his opinion whether he chooses to attend or not, before the House have proceeded even to take the message into consideration.' (*Hatsell's Precedents*, Second Edition, Vol. III, pp. 20-21)."

(iii) "The reasons for this practice in British Parliament have been described in some detail by Hatsell in the following terms:—

'. . . . the Commons have been always extremely jealous of admitting any proceeding which might seem to allow an authority in the Lords, to command the attendance of any of their Members, for any purpose whatever. They have, therefore, always required, that the Lords should in their message, express the cause for which the attendance is desired; and even then the House proceed no further than to give leave for the Member to attend; and he is still at liberty to attend or not, as he shall think fit. . . . One object of the jealousy of the House of Commons, and which has made them particularly careful that the Lords should express in their message the cause for which the Member is desired to attend, has been that the Lords might not, on any pretence, call a Member before them, to give an account either of the vote he had given in the House of Commons, or the motives that had inclined him to take a part in any Bill, or other matter, then pending in Parliament. . . . The Commons, on the 18th of May, 1675, resolved, 'That it is the undoubted right of this House, that none of their Members be summoned to attend the House of Lords, during the sitting or privilege of Parliament.'

(Hatsell's Precedents, Second Edition, Vol. III, pp. 18-19)."

(iv) "Hatsell further states:

'The leading principle, which appears to pervade all the proceedings between the two Houses of Parliament, is, that there shall subsist a perfect equality with respect to each other; and that they shall be, in every respect, totally independent one of the other. From hence it is, that neither House can claim much less exercise, any authority over a Member of the other; but it there is any ground of complaint against an act of the House itself, against any individual Member, or against any of the officers of either House, this complaint ought to be made to that House of Parliament where the offence is charged to be committed; and the nature and mode of redress, or punishment, if punishment is necessary, must be determined

upon and inflicted by them. Indeed any other proceeding would soon introduce disorder and confusion; as it appears actually to have done in those instances, where both Houses, claiming a power independent of each other have exercised that power upon the same subject, but with different views and to contrary purposes.'

(Hatsell's Precedents, Second Edition, Vol. III, p-p. 61-62)

(v) "The Committee are of the opinion that the House should not permit any one of its members to give evidence, before the other House of Parliament or a Committee thereof or before a House of State Legislature or a Committee thereof, without a request desiring his attendance and without the consent of the member whose attendance is required. Further, such requests from the other House of Parliament or a Committee thereof or by a House of State Legislature or a Committee thereof ought to express clearly the cause and purpose for which the attendance of the member is desired."

(vi) "The Committee recommend that no member of the House should give evidence before the other House or a Committee thereof or before a House of State Legislature or a Committee thereof, without the leave of the House being first obtained."

(vii) "When a request is received seeking leave of the House to a Member to give evidence before the other House or a Committee thereof or before a House of State Legislature or a Committee thereof, the matter may be referred by the Speaker to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman or a Member of the Committee to the effect that the House agreed with the report and further action should be taken in accordance with the decision of the House."

Orders of the Speaker

3. On 29th November, 1958, the Speaker recorded the following order on the Report of the Committee:

"Sen. The Report may be laid on the Table of the House."

Action taken by the House

4. On the 12th December, 1958, the Chairman of the Committee of Privileges (Sardar Hukam Singh) laid on the Table of the House the Sixth Report of the Committee of Privileges.

5. On the 17th December, 1958, Sardar Hukam Singh moved the following motion:—

“That this House agrees with the Sixth Report of the Committee of Privileges laid on the Table on the 12th December, 1958.”

The motion was put and adopted.

125

LOK SABHA

(1958)

Point of privilege

Evidence given by a member before a Select Committee of a State Legislative Assembly without the permission of the House

Facts of the case and action taken by the House

On the 19th December, 1958, the Speaker (Shri M. Ananthasayanam Ayyangar) informed the House that he had received the following letter, dated the 17th December, 1958, from Shri Liladhar Kotoki, a member:—

“Being ignorant of the rules of privileges of the House I submitted a Memorandum on the Assam Panchayat Bill, 1958 and gave evidence before the Select Committee on the Bill on 16th October last at Shillong. In both submitting the memorandum with certain amendments suggested by me and giving evidence I took the initiative and volunteered to do so, which was agreed to and accepted by the Select Committee.

From the sixth Report of the Privileges Committee of Lok Sabha circulated to us, I realised that I committed a grave mistake in omitting to seek your previous permission and referring the matter to the Privileges Committee and the House. yesterday, I approached the Deputy Speaker and told him about it and sought his advice. He was kind enough to direct me to submit a petition. In course of placing the Report in the House today both the Deputy Speaker and yourself have explained the future course to be taken in the matter of giving such evidences.

I submit I never meant any breach of privilege of the House, and all that I did was prompted by my interest in the Bill in question, and my ignorance of the rules, as submitted above.

I hereby tender my most unqualified apology to you and through you to the Privileges Committee and the House and most humbly beg that I may kindly be pardoned for this first and unintentional mistake on my part.

I assure Sir, that I shall not commit such a mistake in future.”

2. No further action was taken by the House in the matter.

126

RAJYA SABHA

(1991)

Point of privilege

Request from Chairman, Maharashtra Legislative Council to Chairman, Rajya Sabha to permit a former member of Maharashtra Legislative Council and Sitting member of Rajya Sabha to give evidence before Committee of Privilege, Maharashtra Legislative Council.

Facts of the case and reference to the Committee of Privilege

On 22 December, 1991, Shri J.S. Tilak, Chairman Maharashtra Legislative Council, addressed a letter to the Chairman, Rajya Sabha, requesting him for leave of the House to Dr. Shrikant Ramchandra Jichkar, a former member of the Maharashtra Legislative Council and presently a member of the Rajya Sabha to tender evidence before the Committee of Privileges of that Council relating to a question of alleged breach of privilege and contempt of the Chairman of the Council, as Dr. Jichkar happened to be one of the two sponsors of the privilege notice. The Chairman, Maharashtra Legislative Council, also stated that Dr. Jichkar, then as a member of Maharashtra Legislative Council, had raised the matter in the Maharashtra Legislative Council on the 17th March, 1992 and as his evidence would materially benefit the Committee, the Chairman, Committee of Privileges, requested him to request the Chairman, Rajya Sabha, for the purpose. The said request was placed before the Maharashtra Legislative Council which had given its leave for the same.

2. The details of the case, in which Dr. Jichkar's evidence was required, as informed by the Chairman, Legislative Council of Maharashtra, are as follows:—

On 6 March, 1992, the Chairman, Maharashtra Legislative Council (Shri Jayantrao Tilak), was to leave for Nagpur by the Bombay-Nagpur Flight No. IC-629 for attending the unveiling ceremony of a statue of late Shri Vasant Rao Naik arranged by the Golden Jubilee Celebration Committee of the Maharashtra Legislative Assembly and the programme for laying the foundation stone of the New Annex Building of Vidhan Bhavan by the Hon'ble Prime Minister. While collecting his boarding card at the airport, the Chairman found that a seat was allotted to him in the 7th row. It has been stated that as per the orders issued by General Administration Department, Government of Maharashtra, the Chairman of the Council is placed next to the Chief Justice of the High Court in the State's protocol. After noticing that all the first seats were allotted to Ministers, Ministers of State and Deputy Ministers, the Chairman asked the Protocol Officers Shri Deshmukh and Shri Jadhav to verify in this respect who thereupon replied 'the Chairman, Maharashtra Legislative Council is not a VIP, therefore, the question of giving him precedence does not arise'. Chairman felt that the aforesaid Protocol Officers might have given the said reply out of ignorance and misunderstanding, and hence again asked them to verify the list. But Sarvashri Deshmukh and Jadhav replied 'we know all about this, the Chairman, Maharashtra Legislative Council is not a VIP, therefore, it is not necessary to verify the list again'. Taking objection to the behaviour of the said officers of Maharashtra Government, Dr. Jichkar and Dr. Wasnik, MLCs, in their notice of question of privilege stated that the behaviour of the two officers was not only insulting and objectionable but also amounted to a contempt and a breach of privilege of Hon'ble Chairman of the Maharashtra Legislative Council. The matter was raised in the Council by Dr. Jichkar who was then a Member of the Council. Thereafter, the Deputy Chairman of the Council who was in the Chair referred, with the leave of the House, the complaint to the Committee of Privileges of the Council.

3. On 27 February, 1993, the Chairman, Rajya Sabha, referred the matter to the Committee of Privileges for laying down an appropriate procedure

for the purpose as there has not been any precedent in the Rajya Sabha where a member of the Rajya Sabha was requested to appear to tender evidence before the other House or a House of a State Legislature or a Committee thereof.

Findings and recommendation of the Committee

4. The Committee of Privileges after considering the procedure being followed in such cases in Lok Sabha and in the Parliament of U.K., in their Thirty-third Report presented on 19 March, 1993 reported *inter-alia* as follows:—

(i) "The Committee is of the opinion that the House should not permit any one of its members to give evidence, before the other House of Parliament or a Committee thereof, without receiving a specific request clearly stating the cause and purpose for which his attendance is required and without the consent of the member whose attendance is required."

(ii) "No member of the House should also give evidence before the other House or a House of a State Legislature or a Committee thereof, without the leave of the House being first obtained. Further, whenever a request is received seeking leave of the House to a member to tender evidence before the other House or before a House of a State Legislature or a Committee thereof, the matter may be referred by the Chairman to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report and further action should be taken in accordance with the decision of the House."

(iii) "The Committee notes that in the present case Dr. Jichkar has confirmed his willingness to tender evidence before the Privileges Committee of the Maharashtra Legislative Council for the purpose. The Committee, therefore, recommends that Dr. Jichkar may be permitted to appear before the Privileges Committee of the Maharashtra Legislative Council."

Action taken by the House

5. The Report of the Committee was adopted by the House on 30 March, 1993.

EXAMINATION OF OFFICIALS/RECORDS OF HOUSE

127

LOK SABHA
(1965)

Point of privilege

Request for permission to examine an official of the

House on Commission and also to examine certain records of the House in connection with a case pending in court.

For details of the case please see summary No. 101 at pp. 192 *ante*.

EXPULSION/SUSPENSION

128
RAJYA SABHA
 (1976)

Point of privilege

Expulsion of a member from the House for misconduct.

Facts of the case and reference to the Committee

On the 2nd September, 1976, Shri Om Mehta, Minister of State for Parliamentary Affairs, moved the following motion:—

“That a Committee consisting of the following members who are members of the Committee of Privileges of the Rajya Sabha namely,—

- (1) Shri Godey Murahari
 - (2) Shri Kamlapati Tripathi
 - (3) Shri A.R. Antulay
 - (4) Shri N.K. Bhatt
 - (5) Shri C.K. Daphthary
 - (6) Shri Bhupesh Gupta
 - (7) Shri Suresh Narain Mulla
 - (8) Shri Bhanu Pratap Singh
 - (9) Shri D.P. Singh, and
 - (10) Shri Om Mehta
- be appointed—

- (a) to investigate the conduct and activities of Shri Subramanian Swamy, member of the Rajya Sabha, during the past one year and more both within and outside the country, including anti-Indian propoganda calculated to bring the Parliament and the country's democratic institutions into disrepute and generally behaving in a manner unworthy of a member of this House;
- (b) to report to this House by the first week of the next session whether the conduct and activities of the member were inconsistent with, and seriously fall below, the standards which this House is entitled to expect of its members; and
- (c) to make such recommendation as the Committee may deem fit.
- (2) That Shri Godey Murahari, Deputy Chairman of the Rajya Sabha, be appointed Chairman of the Committee.
- (3) That the quorum of the Committee shall be five.
- (4) That the Committee shall have power to

hear and/or receive evidence, oral or documentary, connected with the matters referred to the Committee, or relevant to the subject matter of the inquiry, and that the Committee shall have discretion to treat any evidence tendered or material placed before it as 'secret' or 'confidential'.

- (5) That the Chairman may from time to time issue such directions to the Chairman of the Committee as he thinks necessary for regulating the procedure of the Committee and any other matter connected therewith.”

2. While moving the motion in the House, Shri Om Mehta stated *inter-alia* as follows:—

“Reports have been received from time to time that Shri Subramanian Swamy, a member of this House, has been engaging himself during the past one year and more in activities which are wholly inconsistent with the standards of conduct expected of a member of Parliament. According to these reports, he has carried on since January last a virulent and systematic anti-India campaign in countries abroad. Through this campaign, he has maligned, and has sought to bring into disrepute and contempt, the Parliament, its members, the Government of India, and generally the image of the nation, in countries abroad. He has described our Parliament as 'a captive Parliament with only 33 per cent of the members attending'. By speeches and writings, and interviews published in the foreign press, he has distorted facts and spread deliberate falsehood concerning conditions in India and actions of the Government and Parliament.....

Shri Swamy has also not spared members of this House from his foul innuendoes.

During the 95th Session, it might be recalled that when Shri Swamy's leave application was placed before the House by the Hon'ble Chairman, some members raised some doubts about the genuineness of his signatures in the attendance register kept in the Lobby. As far as could be ascertained, he has not attended the sittings or participated in the proceedings of the House from the 93rd Session until August 10 during this 97th Session. The

surreptitious manner in which he suddenly put in his appearance in the House on that day (August 10) and interrupted what was a most solemn occasion is within the knowledge of all the members of this House. The Chairman at that time was on his feet making obituary references to some of our ex-colleagues. Shri Subramanian Swamy, without any regard for decorum or decency, interrupted the solemn proceedings in order to have his presence recorded by uttering the words 'On a point of order' and literally ran away from the Chamber and from Parliament House immediately.

Sir, it is unnecessary for me to make any harsh comment on this behaviour of Shri Swamy except to say that this kind of conduct is unworthy of a member of this Hon'ble House. It was clearly an affront to the dignity of this House.... But for his appearance on August 10, the member would have completed 60 days of absence from the sittings of this House without permission on August 24, and his seat would have become liable to be declared vacant.

According to information available to me. Shri Swamy, in order to evade the law and certain legal processes, fled from the country early in January last. He has evaded the law and flouted lawful orders and he has carried on a systematic anti-India campaign to which I have already made a reference. There is also reasonable suspicion that the member has drawn TA/DA for meetings of this House and its Committees which he did not attend."

After some discussion, the motion moved by Shri Om Mehta was adopted by the House.

Points of Procedure in the Committee

3. The Committee asked Shri Om Mehta, Minister of State for Parliamentary Affairs, to furnish to the Committee a statement of particulars, regarding the objectionable activities of Shri Subramanian Swamy. Shri Om Mehta, accordingly, furnished to the Committee the statement of particulars and also certain documents in support of some of the particulars. A copy of the said statement was sent by the Committee to Shri Subramanian Swamy,

M.P. asking him to state what he had to say in the matter and whether he would like to be heard in person.

4. Shri Swamy requested for permission to "either be accompanied or be represented by a counsel as I choose to". The Committee decided that Shri Swamy should be directed to appear in person before the Committee.

Shri Swamy, however, failed to appear before the Committee on the required date. The Committee took a serious view of the failure of Shri Subramanian Swamy to comply with its directions but decided to give him yet another, and final, opportunity to appear in person before it at its next meeting. The Committee further directed that Shri Swamy should be specifically told that if he failed to appear in person before it on that date the Committee would proceed with the consideration of the matter on that day and come to its conclusions.

Shri Swamy again failed to appear before the Committee. The Committee, while deciding to proceed with consideration of the matter, expressed its displeasure at Shri Swamy's attitude in persistently defying its directions to appear before it.

Observations and Recommendations of the Committee

5. The Committee appointed to investigate the conduct and activities of Shri Subramanian Swamy, member of Rajya Sabha, in their Report presented to the House on the 12th November, 1976, made *inter alia* the following observations/recommendations:

- (i) The Committee examined all the material including the documents placed before it. The Committee was of the view that in coming to its conclusions, it was not so much concerned with abstract technical and legal niceties, but its concern was the conduct of Shri Subramanian Swamy, whether he had acted in a dishonourable manner unworthy of a member of the Rajya Sabha and his conduct was derogatory to the dignity of the House and inconsistent with the standard which Parliament is entitled to expect from its members. A number of objectionable activities of Shri Subramanian Swamy were brought to the notice of the

Committee and the Committee decided to confine its attention primarily on the following:

- (1) Attention of the Committee had been drawn to the four 'signatures of Shri Subramanian Swamy during the 93rd Session of the Rajya Sabha on the daily attendance register of the House. Shri Subramanian Swamy in his letter dated October 20, 1976 addressed to Shri Om Mehta and his subsequent letter dated November 5, 1976, addressed to the Chairman, Rajya Sabha, claimed these signatures as his. On expert examination of these signatures, however, it was found that these signatures were not his. On the basis of Shri Subramanian Swamy's statement itself these signatures could not be his, because he had categorically asserted that it was the decision of his Party to boycott that session and therefore he did not attend it. Obviously therefore he could not have signed on the register to mark his presence. The question now arises as to the purpose for which these signatures were appended. The purposes could be two—(i) He may not forfeit his seat in the House under the provisions of article 101 (4) of the Constitution due to continued absence from the sittings of the House, and therefore it was necessary for him through the agency of someone else, to have his signatures marked in the attendance registers. (ii) To support his claim for and obtain, daily allowance. Here it could be argued that if his mere presence in Delhi would have entitled him to daily allowance, then why should he have had to resort to have his signatures on the register. The fact, however, remains that these signatures are there. It was in all probability done to lend credence to his assertion that he was in Delhi during the said period. Whatever the purpose for which the said registers were signed. The Committee is satisfied that the conduct of Shri Subramanian Swamy in claiming these four forged signatures as his, is reprehensible and far below the standards expected of a member of Parliament.
- (2) On the basis of the evidence placed before it and from the letters of Shri Subramanian

Swamy received in the Secretariat, the Committee was of the view that Shri Subramanian Swamy knew about the impounding of his passport by the Government of India when he was still abroad. Instead of surrendering the impounded passport to the authorities concerned, as he was required to do, Shri Subramanian Swamy continued to travel on the strength of that passport knowing fully well that it was not a valid document for the purpose of any further travel. The conduct of Shri Swamy in this regard, in the Committee's view, was inconsistent with the standards expected of him as a member of Parliament.

- (3) The Committee considered the reported activities of Shri Subramanian Swamy in the United Kingdom, U.S.A. and Canada where it appears he gave interviews on the radio and television.... Shri Subramanian Swamy does not deny that he gave interviews especially to the 'Toronto Star' and 'Washington Star'. Moreover, what he says in his letter is also an admission that he gave some interviews and wrote articles in some other journals during his visits abroad... It would thus appear that Shri Subramanian Swamy had easy access to such mass media including radio and television. In this connection, the Committee cannot but take note of the fact that many of such journals in these countries as well as the TV and the radio were engaged in virulent anti-India propaganda after the proclamation of emergency in the country. That Shri Subramanian Swamy was feeding their propaganda would be seen from what appeared, for example, in 'Toronto Star' Wed., February 11, 1976 under four column heading 'Mrs. Gandhi could be killed Indian MP in exile says' along with a photograph of Shri Subramanian Swamy. This report states:—

'There is a fear in India that Communists will assassinate Prime Minister Indira Gandhi, blame the democratic opposition and take over Government, an Indian Parliamentarian in hiding says'.

'Harvard-educated economics professor Subramanian Swamy, 36, said,' the report further states—

'They (pro-Moscow Communists) could find a new Prime Minister among their own party or a sympathizer in Mrs. Gandhi's Congress Party'.

In his letter dated 9th October, 1976 to the Rajya Sabha Secretariat, Shri Subramanian Swamy does not repudiate this news-item but only says that 'I find the Toronto Star interview on the basis of the extracts quoted quite garbled.' He does not claim that he had sent any contradiction to what he calls 'garbled' report to the editor of 'Toronto Star'. If this report in the 'Toronto Star' was substantially wrong, Shri Subramanian Swamy could easily have said so in his letters received in the Rajya Sabha Secretariat and placed before the Committee. There is, therefore, no reason for the Committee to believe that the report in the 'Toronto Star' is untrue. The propaganda unleashed through these media by him is also in keeping with the line taken by the newspaper 'Motherland' which propagated the philosophy of the Party to which he belongs, when recently a Central Cabinet Minister was killed.

Reports and other public utterances of Shri Subramanian Swamy in U.K., U.S.A. and Canada are in tune with the anti-India propaganda carried on by certain mass media including radio and television in these countries. It is altogether inexcusable that Shri Subramanian Swamy should have carried on such activities in league with well known anti-India elements in these countries who made available to Shri Swamy the columns of some journals in the U.S.A. and Canada for running down and defaming the democratic institutions in our country."

- (ii) "Full reports of Shri Swamy's activities in the U.K., U.S.A. and Canada are of course not known to the Committee, but whatever report is available would show that Shri Swamy was virtually acting as a tool of anti-India elements during his visits abroad. It may be reasonably

presumed that these elements had a part to play not only in inspiring his anti-India campaign in foreign lands but actually organising it. This is the first ever case of a member of Parliament carrying on so blatantly his activities in collusion with anti-India elements abroad to malign our democratic institutions and to provide fuel to the fire of anti-India propaganda by the external enemies of our country. It may be noted that in the communications received from Shri Swamy in the Rajya Sabha Secretariat and otherwise, there is not a word of regret for his patently unpatriotic and anti-national activities during his above mentioned foreign tours. On the contrary there is an attempt to justify his conduct. In the opinion of the Committee, Shri Subramanian Swamy's activities in the U.K., U.S.A. and Canada which have been amply publicised are unworthy not only of a member of Parliament but of any self-respecting patriotic Indian citizen."

- (iii) "These are all acts which no member of Parliament should indulge in keeping in view the dignity of the office of such membership. These acts seriously impair a member's right to represent his constituents in Parliament and detract from the trust reposed in him as such member. It is the Committee's view that members of Parliament should observe the highest standard of rectitude in matters concerning drawal of allowances for, otherwise, they are liable to be accused of committing a fraud on public funds. There is no doubt that Shri Subramanian Swamy has deliberately violated the law by travelling on a passport which he knew was impounded and also when he drew TA/DA when he had no intention of attending the meetings of the House Committee. He also did not appear before this Committee in spite of repeated directions in that behalf. His description of Parliament as 'our captive Parliament' and the innuendoes he has made against the members show his utter disrespect to the parliamentary institutions of the country and amount to contempt of the House and its members. All these facts constitute a grave breach of the elementary standards

of conduct expected of a member of Parliament."

- (iv) "The Committee would, therefore, recommend that Shri Subramanian Swamy be expelled from the membership of the Rajya Sabha as his conduct is derogatory to the dignity of the House, its members and inconsistent with the standards which the House is entitled to expect of its members. In making this recommendation, the Committee would like to quote with approval the following observations of *May* (18th edition, p. 128):

"The purpose of expulsion is not so much disciplinary as remedial, not so much to punish members as to rid the House of persons who are unfit for membership."

- (v) "The Committee is conscious that this is the first time in the Rajya Sabha that a recommendation for expulsion of one of its members is being made to the House. However, the Committee would be failing in its duty if it overlooked serious deviations, as in the present case, from the standards of conduct which the House has a right to expect of its members."

Action taken by the House

6. On the 15th November, 1976, Shri Kamalapati Tripathi, a member of the Committee and Leader of the House, moved the following motion in the Rajya Sabha:—

"This House, having considered the report of the Committee appointed in pursuance of the Motion adopted by it at its sitting held on September 2, 1976, to investigate the conduct and activities of Shri Subramanian Swamy, member, Rajya Sabha, accepts the findings of the Committee that the conduct of Shri Swamy is derogatory to the dignity of the House and its members and inconsistent with the standards

which the House expects from its members and resolves that Shri Subramanian Swamy be expelled from the House."

7. Sarvashri Krishan Kant and O.P. Tyagi, members moved the following amendment:—

"for the words 'accepts the findings of the Committee that the conduct of Shri Swamy is derogatory to the dignity of the House and its members, and inconsistent with the standards which the House expects from its members and resolves that Shri Subramanian Swamy be expelled from the House.'

substitute the following:—

"is of the opinion that ground No. (3) in the said report for the expulsion of Shri Subramanian Swamy does not warrant any action against him and directs that Shri Subramanian Swamy be present in the House on the first day of the next session to explain his position regarding grounds Nos. 1 and 2 contained in the Report."

After a lengthy discussion, the above amendment was put to vote and negatived by the House.

8. The main motion of Shri Kamalapati Tripathi (See para 6 above) was then put to vote and adopted by the House.

9. The following Notification was thereafter published in the Rajya Sabha Bulletin Part II dated the 15th November, 1976 and the Gazette of India Extraordinary Part I—Section 1 dated the 15th November, 1976:

"Consequent on the adoption of a Motion by the Rajya Sabha on 15th November, 1976, expelling from the Rajya Sabha Shri Subramanian Swamy, a member elected to the Rajya Sabha from Uttar Pradesh, Shri Swamy has ceased to be a member of the Rajya Sabha with effect from the 15th November, 1976 afternoon."

EXPUNGED PROCEEDINGS—PUBLICATION OF LOK SABHA

129
LOK SABHA
(1959)

Point of privilege

Publication of expunged proceedings of the House by a newspaper

Facts of the case and ruling by the Speaker

On the 21st December, 1959, Shri Surendranath Dwivedy, a member, sought to raise a question of privilege stating that the *Free Press Journal* of Bombay, in its issue, dated the 17th December, 1959, had published a portion of the proceedings of the House, dated the 16th December, 1959, which had been expunged by the Speaker. Shri Dwivedy contended that the publication of the expunged proceedings appeared to be international because after publishing the expunged portion, it was added in the newspaper that it was later expunged by the Speaker.

2. The Speaker (Shri M.A. Ayyangar) observed, *inter alia*, as follows:

"I have drawn the Editor's attention to it and I have asked for an explanation... After the receipt of this reply, I will bring it before the House, for such action as it may deem proper."

3. On the 9th February, 1960, the Speaker informed the House as under:

"The Editor of the *Free Press Journal* has since expressed unconditional apology for the oversight in a letter, dated 21st December, 1959, which reached me on 23rd December, 1959, that is, after the House had adjourned *sine die* and was, therefore,

published in Bulletin¹ Part II, dated the 23rd December, 1959.

In view of this unconditional apology, the matter may be closed."

4. The House agreed and the matter was closed.

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LOK SABHA
(1966)

Point of privilege

Publication of proceedings of the House expunged by the speaker by a newspaper

Facts of the case and action taken by the House

On the 10th November, 1966, Shri K.D. Malaviya, a member, raised a question of privilege against the Editor and Publisher of *The Hindustan Times* for having published in its issue, dated the 9th November, 1966 certain remarks which had been expunged by the Speaker on the previous day.

2. The Speaker (S. Hukam Singh) then informed the House that the Editor of the newspaper had come to him in the morning and had expressed his regret but he (the Speaker) had told him that that was not enough and that he should write a letter which could be read to the House.

3. On the 22nd November, 1966, the Speaker informed the House that he had received the following letter, dated the 10th November, 1966 from the Editor of *The Hindustan Times*.

"The report of the Lok Sabha proceedings in *The Hindustan Times* dated November 9,

¹The text of the letter dated the 21st December, 1959, from the Editor, *Free Press Journal* Bombay, Published in Para 3237 of Lok Sabha Bulletin Part II dated 23 December, 1959 was as follows:

"Our Delhi Office has communicated to us late on Saturday afternoon the text of an urgent and confidential letter No. 797-CL/59, dated 18 December, 1959, addressed by the Deputy Secretary, Lok Sabha, to the Editor, *Free Press Journal*. I have not still received the said letter but I do not wish to delay my reply to it and therefore has to end this reply.

In fact, immediately my attention was drawn to the report of the Lok Sabha Proceedings in the *Free Press Journal* of 17th December 1959, I myself intended to write to you, regretting the mistake made.

I may add that I am informed that the expunging of the objectionable portion was not announced by the Hon'ble Speaker in the House but was subsequently communicated to the P.T.I., who communicated the same to the Press.

It appears that due to pressure of work, the Sub-Editor overlooked the matter. I may further add that I have taken stern action against the Sub-Editor concerned. I deeply regret the error and express my unconditional apology for the same. I can assure you that the *Free Press Journal* is, as it has always been, anxious to uphold the highest traditions of parliamentary practice and I have issued instructions to see that utmost is exercised in the sub-editing of the parliamentary proceedings.

I hope the Hon'ble Speaker will be good enough to accept my unconditional apology for the oversight."

1966, contains a sentence which you had ordered to expunged from the records. On inquiry, I am told by the Special Correspondent who covered the proceedings that he missed hearing your decision on the point owing to the uproar which was prevailing in the House. The publication of the expunged remarks, I assure you, was a genuine mistake which I sincerely regret."

4. The House then agreed to the suggestion made by Shri Malaviya that since the expunged remarks so published referred to him specifically and were printed on front page of the newspaper, the apology by the newspaper should also be printed on its front page making a specific reference to Shri Malaviya.

5. Accordingly, *The Hindustan Times* in its issue dated the 23rd November, 1966, published the following apology on its front page:—

"In *The Hindustan Times* dated November 9, 1966 the report of the Lok Sabha proceeding inadvertently included a remark about Mr. K.D. Malaviya (Cong.) which was ordered to be expunged by the Speaker. The error is regretted."

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LOK SABHA
(1982)

Point of privilege

Publication in a newspaper of certain remarks made by a Minister in the House which were kept out of record by the Chair.

Facts of the case and ruling by the Speaker

On the 25th March, 1982, Shri Atal Bihari Vajpayee and some other members raised a point in the House that certain portions of the proceedings of the House dated 24th March, 1982, were not on record as those had been expunged by the Deputy Speaker (Shri G. Lakshmanan).

2. The Speaker (Dr. Bal Ram Jakhar) then observed as follows:—

"What was done in the House yesterday, I was given to understand, was done by the Chair in the House itself with the sense of the House... There are instances when words and expressions prejudicial to national interest have been kept out of the proceedings... The Chair's ruling is final. Whosoever is in the Chair, he enjoys the power of the Speaker. This is so simple.

Whether it is the Chairman or the Deputy Speaker or myself, when he sits in the Chair, he is the Speaker."

3. The Minister of Home Affairs (Giani Zail Singh) thereafter stated *inter alia* as follows:—

"I seek to clarify about what happened yesterday during the course of my reply to the debate on Demands for Grants of Home Ministry. My extempore observation about Hitler then was only provoked by the heat and the impluse of the debate. Myself, my party and the Government have throughout fought the forces of fascism, imperialism, communalism and obscurantism and ceaselessly upheld the laudable ideals enshrined in the Constitution... The remarks and observations made by me were unintentional and off the cuff and did not mean to convey my real feelings, thoughts and sentiments. I regret for all that transpired and withdraw my expressions about Hitler. This is to explain myself and set the record straight."

4. On 31st March, 1982, the Speaker (Dr. Bal Ram Jakhar) observed *inter alia* as follows:—

"Needless to say that what was adverted to by a Senior Member of the Council of Ministers in this House on the 24th March, 1982, resulting in the creation of an uproar was regretful. In view of the clarification given by the Minister in the House on 25 March, 1982, when the pertinent point was raised by several members including Shri Atal Bihari Vajpayee, Prof. Madhu Dandavate, Shri Mani Ram Bagri, Shri Harikesh Bahadur, Shri Ram Vilas Paswan, Shri Chandrajit Yadav, Shri Satyashadan Chakraborty and Dr. Subramanian Swamy, the matter is treated as closed.

"As recalled in the House on 25 March, 1982, the relevant part of the proceedings of Lok Sabha on 24 March, 1982, was kept out with the sense of the House and I must take note of the responsiveness of the Press and Press news agencies who respected this wish of the House and did not cover the proceedings in their reports with the exception of 'Indian Express' which displayed a headline in its issue dated 25 March, 1982 purporting to give out what had been kept out of the proceedings of the House.

To say the least, this reprehensible; the Indian Express should not have disregarded the express wishes of the House in the matter. It undoubtedly adds to the dignity of this House to ignore such matters rather than take note of them.

I hope my friends Sarvashri Atal Bihari Vajpayee and Harikesh Bahadur, who have given notices of question of privilege against the Home Minister and Dr. Krupasindhu Bhoi, Sarvashri Jagdish Tytler, Harish Rawat, Xavier Arakal and Prof. K.K. Tiwari, who have given notices of question of privilege against the *Indian Express*, would not press the matter any further. I am treating the issue as closed."

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LOK SABHA
(1985)

Point of privilege

Publishing of expunged portion of proceedings of the House by a newspaper

Facts of the case and ruling by the Speaker

On 24th July, 1985, the Speaker (Dr. Bal Ram akhar) observed as follows:—

"During the last session, Prof. K.K. Tewari had given notice of a question of privilege against

the Indian Express for publishing in its Bombay issue of 10 May, 1985 a news item carrying the name of a member of Rajya Sabha which had been specifically kept out of the proceedings of the House dated 9 May, 1985 under my direction.

The editor of the newspaper to whom the matter was referred has expressed deep regret for the inadvertent and unintentional lapse and has also explained the circumstances under which the name appeared in the news item in the Bombay edition of the *Indian Express*, even though the same had been kept out from the news item published in its Delhi edition.

In view of the apology and expression of regret for the lapse, I feel that the matter may be treated as closed. I would however, like the press to be more circumspect and careful while reporting the proceedings of the House."

FALSE EVIDENCE BEFORE PARLIAMENTARY COMMITTEE(S)

LOK SABHA
(1970)

Point of privilege

Giving false evidence before a Parliamentary Committee by a Government officer.

Facts of the case and reference to the Committee of Privileges

On the 6th March, 1969, Shri Madhu Limaye, a member, moved the following motion in the House:

"That the question of privilege against Shri N. N. Wanchoo former Secretary, Department - of Iron and Steel, and Shri S. C. Mukherjee, then Deputy Iron and Steel Controller, for allegedly giving false evidence before the Public Accounts Committee, be referred to the Committee of Privileges."

2. While raising the question of privilege, Shri Madhu Limaye stated *inter-alia* as follows:

"On the basis of irrefutable evidence, I accuse the former Secretary of the Steel Ministry Mr. Wanchoo, and Mr. S. C. Mukherjee, former Deputy Controller of Iron and Steel of fabricating false and misleading briefs and giving false evidence before the most important Committee of Parliament, namely, the Public Accounts Committee."

It was during the hearing by the Public Accounts Committee in the notorious Steel Barter and pre-import cases involving Aminchand Pyarelal, Ramkrishna Kulwantrai and other allied firms, that Mr. Wanchoo, in the presence of Mr. Mukherjee gave false evidence.

The Sub-Committee of the Public Accounts Committee enquired of the Ministry of Finance as to what conditions they had laid down for the Ministry of Iron and Steel while agreeing to the proposal for the issue of pre-import licences.

The Joint Secretary of the Ministry of Finance said that they had laid down two conditions:

- (a) There should be a firm export contract and the Bank should ensure that foreign exchange realised would be actually remitted to India; and

- (b) The firms should provide 15 per cent bank guarantee.

Clarifying the expression 'firm export contract' the Joint Secretary, Finance, said that the Ministry meant 'contract' with a foreign buyer'.

On the basis of this information, the Sub-Committee of the Public Accounts Committee asked Mr. Wanchoo whether the Steel Controller understood the above conditions and their implications correctly. Mr. Wanchoo replied:

'The instructions of the Ministry left some room for different interpretations I feel the instructions of the Ministry were not as clear as they ought to have been on this particular point *viz.*, what was intended'.

(In reply to another question), Shri Wanchoo stated:

'The Ministry of Iron and Steel do not seem to have translated the instructions of the Economic Affairs Department in clear and unambiguous terms.'

It was because of this evidence that the Public Accounts Committee was misled into making the following observations in its 50th Report (para 4.35 at page 62):

'The Sub-Committee regret to observe that these views of Ministry of Finance were not communicated in clear and unambiguous terms by the Department of Iron and Steel The Sub-Committee cannot but depreciate in strongest words this failure on the part of the Iron and Steel Ministry'.

Now my contention is that the whole story weaved by Mr. Wanchoo about ambiguity, about two possible interpretations as also about not translating and conveying properly the Finance Ministry's instructions to the Steel Controller is a concoction pure and simple Mr. Wanchoo knew that there was no basis for making this observation. And yet Mr. Wanchoo, in the presence of the then Deputy Steel Controller Mr. S. C. Mukherjee and many other Officers from the Ministries of Finance, Iron and Steel and Home Affairs and Additional Auditor General of India, deliberately gave false evidence, suppressed

the true facts and misled the Public Accounts Committee and the Parliament.

Now having sought the clarification and got it in the most unambiguous and clearest possible terms, the Steel Controller violated the instructions of the Finance Ministry, properly translated and conveyed by the Steel Ministry to the Steel Controller.

Not only this. While appearing before the Public Accounts Committee they deliberately suppressed this evidence on the files and successfully misled the Public Accounts Committee into absolving the Steel Controller of all responsibility in the matter.....”

3. The Minister of Steel and Heavy Engineering (Shri C. M. Poonacha) speaking on the motion, stated as follows:

“Shri N. N. Wanchoo, ICS, former Steel Secretary, appears to have committed certain errors in furnishing information to the Public Accounts Committee about certain matters of 1960, five or six years later, it has however, to be pointed out that Shri Wanchoo took an early opportunity to bring the error to the notice of the Public Accounts Committee when the first action taken report on the recommendations of the Public Accounts Committee was sent to that Committee. During the investigation by the Committee of Inquiry on Steel Transactions, headed by Shri A. K. Sarkar, Shri Wanchoo referred again to the errors and made no attempt to conceal them. The Sarkar Committee did not draw any adverse inference against Shri Wanchoo. One of the members of the Committee, however, in his dissenting note expressed the view that Shri Wanchoo had been misled by Shri Mukherjee but even that dissenting member did not make any observation against Shri Wanchoo.

Adverse observation having been made by a dissenting member of the Sarkar Committee against Shri Mukherjee and the matter raised being one of privilege, it is in the interest of all concerned that possible doubts about Shri Mukherjee's conduct should be looked into by the Privileges Committee. The case of Shri Wanchoo does not contain even this element of doubt but since his case is closely

interlinked with that of Shri Mukherjee, Government would have no objection to the cases against both of them being referred to the Committee of Privileges.”

4. The motion moved by Shri Madhu Limaye was then adopted by the House and the matter referred to the Committee of Privileges.

5. Subsequently, on the 22nd March, 1969, Shri Madhu Limaye submitted to the Speaker, Lok Sabha, another notice on the same subject in respect of other cognate matters, which was also referred by the Speaker (Dr. G. S. Dhillon) to, and considered by, the Committee of Privileges along with the previous reference made to the Committee by the House earlier. In that notice, Shri Madhu Limaye had pointed out that false evidence had been given before the Committee on Public Accounts on the following additional counts:

(i) *The date on which the Iron and Steel Controller became aware of the omission that occurred in the matter of issue of pre-import licence to M/s. Ram Krishan Kulwant Rai, without their fulfilling the condition of having an export contract.*

According to Shri Madhu Limaye, the Public Accounts Committee had asked Shri S. C. Mukherjee as to when he came to know that M/s. Ram Krishan Kulwant Rai had been given import licences without their having any export contract. Shri S. C. Mukherjee's reply was that the mistake was brought to his notice by the Hindustan Steel Limited sometime in the month of November, 1960. Shri Madhu Limaye alleged that the 'mistake' was in fact pointed out by Hindustan Steel Limited in their two letters dated the 26th August and the 25th October, 1960, addressed to Shri S. C. Mukherjee. Thus the information given to the Public Accounts Committee by Shri S. C. Mukherjee that the 'mistake' came to his notice sometime in November, 1960 was absolutely false.

(ii) *The figures about the imports allowed after the discovery of the mistake*

According to Shri Madhu Limaye, Shri S. C. Mukherjee had told the Public Accounts Committee that Rs. 95 lakhs worth of Steel had already been imported when the 'mistake' was brought to his notice and that only Rs. 3.9 lakhs worth of steel had been imported after the 'mistake' was detected.

But taking 26 August, 1960, as the correct date on which the 'mistake' was pointed out by Hindustan Steel Limited, the value of import of steel subsequent to this date was Rs. 8994605/-. Even the value of import after 25th October, 1960 was Rs. 2694768/-. Thus, Mr. Mukherjee deliberately misled the Public Accounts Committee by saying that the imports cleared after the 'mistake' was discovered amounted to only Rs. 3.9 lakhs.

(iii) *Revision of the form of guarantee bond*

According to Shri Madhu Limaye, Shri S. C. Mukherjee, during his evidence had informed the Public Accounts Committee that :

- (a) the Central Government Solicitor at Calcutta in drafting the Bank Guarantee Form took the view that no bank would agree to give in absolute guarantee in the manner outlined by the Ministry of Steel, Mines & Fuel's letter dated the 16th February, 1960;
- (b) the form of the guarantee bond as actually drafted by the Solicitor was adopted by the Deputy Chief Controller.

The truth, however, was that the Central Government Solicitor never took the view attributed at (a) above because the form of the guarantee bond as drafted by him completely fulfilled the stipulation of the Ministry stated in their said letter.

The form of the guarantee bond as drafted by the Solicitor made the guarantee amount forfeitable simply on failure to export the specified quantity of Semis within a specified number of months from the date of the execution of the bond. It was Mr. S. C. Mukherjee who made alterations in the form of the guarantee bond secretly. The effect of these alterations was to make the guaranteed amount forfeitable only if there was failure to export within 3 months from the date of delivery of the Semis by Hindustan Steel Limited. Thus, Mr. S. C. Mukherjee made the guarantee of forfeiture dependent on settlement of all disputes concerning delivery of the quantities of requisite quality by the Hindustan Steel Limited to the barter.

6. Pursuant to a decision taken by the Committee of Privileges on the 16th July, 1960, the Chairman of the Public Accounts Committee was addressed by the then Chairman of the Committee of Privileges for the

views of the Public Accounts Committee on the question whether any false evidence had been given before the Public Accounts Committee as alleged by Shri Limaye, and if so, by whom and in what respect. The Public Accounts Committee decided to remit this matter for detailed examination by a Sub-Committee of that Committee. The said Sub-Committee examined Sarvashri N. N. Wanchoo and S. C. Mukherjee at their sitting held on the 22nd October, 1969 and submitted their Report to the Public Accounts Committee, who approved the report. A copy of that Report was then forwarded by the Chairman, Public Accounts Committee to the Chairman, Committee of Privileges.

Findings and recommendations of the Committee

7. The Committee of Privileges, in their Twelfth Report, presented to the House on 24 November, 1970, after considering the Report of the Public Accounts Committee on the question of privilege and the evidence both oral and written, given before the Sub-Committee of that Committee by Sarvashri N. N. Wanchoo and S. C. Mukherjee, reported *inter alia* as follows :

- (i) "In their Report, the Public Accounts Committee have examined in detail the following three issues raised by Shri Madhu Limaye, M.P. :
- (a) That Shri N. N. Wanchoo, the then Secretary, Ministry of Steel and Shri S. C. Mukherjee, the then Deputy Iron and Steel Controller 'gave false evidence' before the Public Accounts Committee by not appraising the Committee of the existence of certain instructions issued by the Department of Steel about the conditions on which pre-import licences could be issued under barter deals;
- (b) That in regard to a barter deal involving M/s. Ram Krishan Kulwant Rai, where the import licences were issued by mistake even though there was no export contract, Mr. Mukherjee gave 'misleading' evidence before the Committee by telling them that the mistake came to notice sometime in November and that the bulk of the imports had taken place by that time. Subsequently in certain notes, which were submitted to the Committee Shri N. P. Mathur, the then Joint Secretary, Shri T. Swaminathan, the then Secretary Department of Steel and Shri S. Sahay, the then Iron and Steel

Controller also failed to place the full facts in this regard, before the Committee; and

- (c) That in regard to guarantee bonds to be taken from firms which under-took barter deals, the Public Accounts Committee was incorrectly informed during evidence that the Central Government's Solicitor at Calcutta took the view that these bonds could not be made absolute and drafted them in a conditional manner'."
- (ii) "After a careful consideration of the documents made available to the Committee and the oral as well as written evidence given by Sarvashri N. N. Wanchoo and S. C. Mukherjee before the Sub-Committee of the Public Accounts Committee the Committee fully agree with the findings and observations of the Public Accounts Committee contained in their Report on the matter, furnished to the Chairman of the Committee of Privileges. The conclusions of the Committee on the specific issues raised by Shri Madhu Limaye, M.P., are given in the succeeding paragraphs."
- (iii) "(i) *Omission to bring to the notice of the Public Accounts Committee certain instructions issued by the Ministry of Steel, Mines and Fuel about the conditions on which pre-import licences could be issued under barter deals.*

The Committee agree with the findings of the Public Accounts Committee that although 'there was an omission on the part of Shri Wanchoo to bring to the notice of the Public Accounts Committee during his evidence before the Committee on the 10th March, 1966, certain instructions issued by the Ministry of Steel, Mines and Fuel in March, 1960, about the conditions on which pre-import licences could be issued under barter deals', yet it cannot be concluded that 'Shri Wanchoo had intended to misled the Public Accounts Committee' in view of the circumstances of the case stated in the Report of the Public Accounts Committee in this respect."

- (iv) "The Committee also agree with the Public Accounts Committee that as Shri S. C. Mukherjee had not himself given evidence on this point before the Public Accounts Committee, Shri S. C. Mukherjee cannot be

held directly responsible for the Public Accounts Committee having been misled on this point, although he could have, 'if he had been alert, corrected Shri Wanchoo when he was giving evidence before the Public Accounts Committee'.

The Committee are, therefore, of the view that no further action is called for in so far as this aspect of the matter is concerned."

- (v) "(iii) *Issue of pre-import licence in the absence of an export contract*

As regards the question of misleading the Public Accounts Committee by Sarvashri N. N. Wanchoo and S. C. Mukherjee during their evidence on the 10th March and 19th August, 1966, before that Committee, about the date on which the mistake in issuing five pre-import licences in June, 1960, in favour of M/s. Ram Krishan Kulwantrai, under a barter transaction (contract No. 28) in the absence of an export contract, came to the notice of the Deputy Iron and Steel Controller (Shri S. C. Mukherjee) and the Ministry of Steel, Mines and Fuel, the Committee agree with the findings of the Public Accounts Committee that in the circumstances of the case, Shri S. C. Mukherjee should be given the benefit of doubt and that, it cannot, therefore, be held that Shri S. C. Mukherjee misled the Public Accounts Committee in regard to the date on which the mistake came to his notice. The question of Shri N. N. Wanchoo having misled the Public Accounts Committee in regard to the date on which the mistake came to the notice of the Ministry of Steel, Mines and Fuel, and the question of the other three officers, namely, Shri T. Swaminathan, formerly Secretary, Ministry of Steel, Shri S. Sahay, Iron and Steel Controller and Shri N. P. Mathur, Joint Secretary, Ministry of Steel, having misled the Public Accounts Committee on this point, does not arise as concluded by the Public Accounts Committee."

- (vi) "As regards the question whether the Public Accounts Committee was misled about the quantum and value of imports which had taken place by the time the mistake in issuing the pre-import licence in the absence of an export contract came to notice, the

Committee agree with the view of the Public Accounts Committee that though 'there was a factual inaccuracy in the statement given to the Public Accounts Committee about the quantum and value of imports made by the party in this case after the mistake in issue of import licence came to the notice in November, 1960', and the witness (Shri S. C. Mukherjee) 'should have informed the Committee that goods valued at Rs. 26.94 lakhs were still to come into the country in November, 1960, when the mistake came to notice', but this 'did not tantamount to misleading the Committee', in view of the reasons given by the Public Accounts Committee.

The Committee are, accordingly, of the opinion that no further action is called for in the matter on this issue."

(vii) "(iii) *Changes in Bank Guarantee Form*

The Committee agree with the finding of the Public Accounts Committee that 'a material change in the form of the bank guarantee was made by Shri Mukherjee and not by the Government Solicitor', and that, therefore, a 'misrepresentation of the position to this extent' was made by Shri S. C. Mukherjee when he gave evidence before the Public Accounts Committee in March, 1966."

(viii) "The Committee have, accordingly, reached the conclusion that Shri S. C. Mukherjee did not correctly present the facts to the Public Accounts Committee during the course of his oral evidence on the question of changes made in the bank guarantee form. The Committee are, therefore, of the opinion that Shri S. C. Mukherjee has committed a breach of privilege and contempt of the House by misrepresenting the position in the matter and thereby misleading the Public Accounts Committee. The fact that such contempt has been committed by a responsible public servant of Shri S. C. Mukherjee's position, has increased the gravity of the offence.

The Committee do not, however, consider that Shri N. N. Wanchoo, who had also given evidence on this point before the Public Accounts Committee, can be held responsible for misleading the Public Accounts

Committee, in view of the reasons stated by the Public Accounts Committee."

(ix) "The Committee recommend that Shri S. C. Mukherjee deserves to be censured for the contempt of the House committed by him in misleading the Public Accounts Committee in the matter of changes made in the bank guarantee form. The Committee, however, feel that the requirements of the case would be fulfilled if the disapproval and displeasure of the House in respect of the contempt of the House committed by Shri S. C. Mukherjee is conveyed to him (Shri S. C. Mukherjee) and also to the Government of India for such disciplinary action against him as they deemed fit."

Action taken by the House

9. On the 2nd December, 1970, Shri Madhu Limaye moved and the House adopted, the following motion:

"That this House do consider the Twelfth Report of the Committee of Privileges presented to the House on the 24th November, 1970."

10. After the above motion was adopted, Shri Madhu Limaye moved the following motion:

"That this House having considered the Twelfth Report of the Committee of Privileges presented to the House on the 24th November, 1970, in which Shri S.C. Mukherjee, the then Deputy Iron & Steel Controller, has been held to have deliberately misrepresented facts and given false evidence before the Committee on Public Accounts and committed contempt of this House, do resolve that he be committed to jail custody for a week."

Dr. Ram Subhag Singh, another member, however, moved an amendment to the above motion moved by Shri Madhu Limaye to the effect that instead of committing Shri S. C. Mukherjee to jail custody for a week, he be summoned before the Bar of the House and be reprimanded and that the House might further recommend that the Government in the light of gravity of the offence should administer to Shri S.C. Mukherjee maximum punishment under the law and report the same to the House.

11. After some discussion, the above amendment moved by Dr. Ram Subhag Singh was agreed to and the motion was adopted by the House in the following amended form:

"That this House having considered the Twelfth Report of the Committee of Privileges presented to the House on the 24th November, 1970, in which Shri S.C. Mukherjee, the then Deputy Iron and Steel Controller, has been held to have deliberately misrepresented facts and given false evidence before the Committee on Public Accounts and committed contempt of this House, do resolve that he be summoned before the Bar of the House and be reprimanded and the House do further recommend that the Government in the light of gravity of the offence administer to Shri S. C. Mukherjee maximum punishment under the law and report the same to this House."

12. In pursuance of the above decision of the House on the 2nd December, 1970, the following Summons was issued by the Speaker (Dr. G.S. Dhillon) on 3rd December, 1970, to Shri S.C. Mukherjee to appear in person at the Bar of the Lok Sabha on 9 December, 1970, to receive the reprimand:

LOK SABHA

SUMMONS TO RECEIVE REPRIMAND

WHEREAS the Lok Sabha has on the 2nd December, 1970, adopted the following motion:

"That this House having considered the Twelfth Report of the Committee of Privileges presented to the House on the 24th November, 1970, in which Shri S.C. Mukherjee, the then Deputy Iron and Steel Controller has been held to have deliberately misrepresented facts and given false evidence before the Committee on Public Accounts and committed contempt of this House, do resolve that he be summoned before the Bar of the House and be reprimanded and the House do further recommend that the Government in the light of gravity of the offence administer to Shri S.C. Mukherjee maximum punishment under the law and report the same to this House'.

NOW, THEREFORE, in pursuance of the above

decision of Lok Sabha, you, Shri S.C. Mukherjee, formerly Deputy Iron and Steel Controller (at present Executive Secretary, Joint Plant Committee, Calcutta), are hereby summoned to appear in person to receive the reprimand at the Bar of Lok Sabha in the Parliament House, New Delhi, on Wednesday, the 9th December, 1970, at 12.00 hours.

Herein fail not.

Given under my hand and seal at New Delhi, this 3rd day of December, 1970.

Sd/-
Speaker, Lok Sabha
SEAL

New Delhi, dated the 3rd December, 1970".

13. On the 9th December, 1970, immediately after the Question Hour, the Speaker made the following observations:

"We will now take up the item regarding the reprimand to Shri S.C. Mukherjee, who in pursuance of the decision taken by the House on the 2nd December, 1970, has been summoned by me to appear at the Bar of this House, today, to receive the reprimand.

I need hardly remind the House that when Shri S.C. Mukherjee is being reprimanded, there should be silence, so that the dignity and authority of the House is maintained and the significance of the reprimand and the solemnity of it is emphasized."

14. Immediately thereafter, the Speaker asked the Watch and Ward Officer if Shri S.C. Mukherjee was in attendance. The Watch and Ward Officer replied in the affirmative. The Speaker then directed the Watch and Ward Officer to bring him in. Shri S.C. Mukherjee was then brought to the Bar of the House by the Watch and Ward Officer, where Shri S.C. Mukherjee bowed to the Speaker. The Speaker (seated in the Chair) then reprimanded Shri S.C. Mukherjee as follows:

"S.C. Mukherjee, this House having considered the Twelfth Report of the Committee of Privileges presented to the House on the 24th November, 1970, has adjudged you guilty of committing contempt of the House for having deliberately misrepresented facts and given false evidence before the Committee on Public Accounts. The House resolved on the 2nd December, 1970, that

you be summoned before the Bar of the House and be reprimanded therefor.

Accordingly in the name of the House, I reprimand you for having committed contempt of this House.

I now direct you to withdraw.”

Shri S.C. Mukherjee then bowed to the Speaker and withdrew as directed by him.

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LOK SABHA
(1972)

Point of privilege

Misleading the Committee on Public Undertakings by an official witness

Facts of the case and action taken by the House

On the 26th May, 1972, Shri Jyotirmoy Bosu, a member, sought to raise a question of privilege against Shri R.K. Sethi, Managing Director of the National Industrial Development Corporation Ltd., for misleading the Committee on Public Undertakings as mentioned in the Sixty-third Report of that Committee (1969-70). Shri Bosu stated *inter alia* as follows:

“Apart from other things, the Committee says that “The Committee are of the opinion that they have been misled by the statement of the Managing Director during the course of evidence held on the 28th July, 1969.....(para 1.17 of 63rd Report). It is a very serious matter that a responsible person like the Managing Director of a public sector Corporation has the courage to mislead a Parliamentary Committee which is supreme in this country in the interests of the people of this country.”

2. Thereupon, the Speaker observed as follows:

“The Committee (on Public Undertakings) was seized of this problem, but in the meanwhile the term of the Committee expired and a new Committee has been elected.....I advised you to wait so that the Committee may come up with their findings because they are the proper authority to take action on it.....”

3. On the 30th May, 1972, when Shri Bosu again sought to raise the question of privilege, the Speaker observed as follows:

“.....When such remarks are made, that Officer has a right to appeal to the Committee. The Government has a right to explain the position to the Committee. Then, after the Action Taken Report comes, we will take cognizance of it.....”

4. The Committee on Public Undertakings, in their 22nd Report (Fifth Lok Sabha) presented to the House on the 31st May, 1972, stated *inter alia* as follows:

(i) “The Committee on Public Undertakings (1969-70) were of the opinion that before recording their views in the Report, the Chairman, Committee on Public Undertakings, might call the Managing Director of the National Industrial Development Corporation Ltd., to explain the discrepancy in his statement. However, as the Managing Director was understood to be on tour abroad, the Report of the committee was presented to the House on 13th April, 1970. Thereafter Shri R.K. Sethi, Managing Director, National Industrial Development Corporation Ltd., was summoned to see the Chairman on 23rd April, 1970. The note recorded by the then Chairman (Shri M.B. Rana) on 23rd April, 1970 about this meeting is reproduced below:—

“Shri R.K. Sethi, Managing Director, N.I.D.C., was summoned to see me at 11 A.M. on 23rd April, 1970. He was asked to explain why he misled the Committee by his statement as Managing Director during the course of evidence held on 28th July, 1969. From the information supplied by the Corporation it would appear that apart from Indian Drugs and Pharmaceuticals Ltd., the Corporation did not make any appreciable contribution either in the setting up or in the execution of these projects.

Shri Sethi said that there was no intention on his part to mislead such a august Committee. It was for the first time he had appeared before the Committee and he was a bit nervous in giving evidence. He said that he was a Railway Engineer and had served there for

27 years with a good record of service. If by any chance the Committee was misled by his statement he is extremely sorry and tenders unconditional apology for it and requests that the matter may be closed.

I feel that the Committee should accept this apology and pardon him for his mistake. The matter may be closed."

Sd/- M.B. Rana.
23.4.1970."

(ii) "On the same day (23-4-1970), the Chairman reported the above to the Committee on Public Undertakings. An extract from the verbatim proceedings of the aforesaid sitting of the Committee is reproduced below:

'Mr. Chairman: Shri R.K. Sethi, Managing Director, NIDC was summoned to see me at 11.00 a.m. today. He was asked to explain why he misled the Committee by his statement as Managing Director during the course of evidence held on 28-7-69. From the information supplied by the Corporation, it would appear that apart from Indian Drugs and Pharmaceuticals Ltd., the Corporation did not make any appreciable contribution either in the setting up or in the execution of these projects.

Shri Sethi said that there was no intention on his part to mislead such a august Committee. It was for the first time he had appeared before the Committee and he was a bit nervous in giving evidence. He said that he was a

Railway Engineer, and had served there for 27 years with a good record of service. If by any chance the Committee was misled by his statement, he is extremely sorry and tenders unconditional apology for it and requests that the matter may be closed."

I feel that the Committee should accept this apology and pardon him for his mistake. The matter may be closed.

Shri Sinha: When he has tendered unconditional apology, let us close this.

Other Members: Yes'."

(iii) "At their sitting held on 27th May, 1972, the new Committee on Public Undertakings (1972-73) considered this matter in detail. The Committee decided that in view of the fact that the Committee on Public Undertakings (1969-70) which had occasion to express the opinion that 'they have been misled by the statement of the Managing Director during the course of evidence held on 28th July, 1969 had themselves accepted the unconditional apology tendered by the Managing Director, National Industrial Development Corporation Ltd., and closed the matter, the fact may be accordingly reported to the House."

Action taken by the House

5. No further action was taken by the House in the matter.

FREEDOM OF SPEECH

135
LOK SABHA
(1967)

Point of privilege

Alleged violation of the privilege of freedom of speech of members by the Prime Minister in advising her Party members not to criticise the Party on the floor of the House.

Facts of the case and ruling by the Speaker

On the 20th July, 1967, Dr. Ram Manohar Lohia, a member, sought to raise a question of privilege against the Prime Minister (Shrimati Indira Gandhi) based on a report in the newspapers dated the 20th July, 1967, wherein she was reported to have asked the members of Parliament belonging to Congress Party not to speak freely or criticise the Congress Party on the floor of the House. Dr. Lohia contended that this was a violation of the privilege of freedom of speech of the members of Parliament.

2. The Speaker (Dr. N. Sanjiva Reddy), disallowing the question of privilege, observed as follows:

"I have disallowed it.....At every party meeting, every body has a right to discuss things, whether it be the Swatantra Party or the Congress Party or the SSP. How can we say that what is discussed at a party meeting can become a matter of privilege here?"

The matter was thereafter closed.

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RAJYA SABHA
(1968)

Point of privilege

Procedure to be followed by police when a member states something on the floor of the House which may be directly relevant to investigation of a criminal case.

Facts of the case and reference to the Committee of Privileges

On the 26th March, 1968, Shri Bhupesh Gupta and some other members drew the attention of the House to a photostat copy of the Punjab Appropriation Bill, 1968. Shri Bhupesh Gupta contended that that copy showed that the Appropriation Bill had been signed by the Governor of Punjab without any certificate thereon signed

either by the Speaker or the Deputy Speaker of the Punjab Legislative Assembly.

On the 29th April and 2nd May, 1968, Shri Bhupesh Gupta stated in the House that a police officer from Chandigarh had called at his residence in connection with the investigation of a case of alleged theft of the original, the photostat copy of which he had mentioned in the House on the 26th March, 1968.

3. Shri Gupta stated *inter alia* that "a member of Parliament has been subjected to enquiry on the ground of theft of a document he had referred to in the House." He felt that such visits by a police officer would be a serious interference with the work of members of Parliament and would indeed amount to a gross breach of privilege of the House. He added, however, that he did not propose to adopt that course, but would be satisfied if the Minister of Home Affairs made a statement explaining the circumstances under which the police officer visited his house.

4. The Chairman (Shri V.V. Giri) observed that the matter be left to him.

5. On the 6th May, 1968, the Rajya Sabha Secretariat received a communication from the Ministry of Home Affairs setting out the following facts relating to the police officer's visit:

"The facts ascertained from the Chandigarh Administration are that a case under section 380 IPC and section 5 of the Official Secrets Act was registered in Police Station, Central Chandigarh, on the basis of F.I.R. filed by Shri Inder Singh, Inspector, CID, Punjab, on March 29, 1968. The F.I.R. was to the effect that a sheet of Punjab Appropriation Bill No.9 & which bore the signed off Singh, Inspector, CID, Punjab, on been stolen from the office of the Legal Remembrancer, Punjab and had been made over to some unauthorized individuals. The case was entrusted to the Chandigarh CID for investigation. Shri Kuldip Singh, Inspector, CID, was deputed to contact Shri Bhupesh Gupta, M.P., Delhi, in connection with the investigation of this case. Shri Kuldip Singh has been deputed to request Shri Bhupesh Gupta, M.P., to hand over the original sheet which was reported to

be in his possession as it was wanted in a cognizable case. Shri Gupta refused to give him the same and thereupon Shri Kuldip Singh, Inspector, CID, returned to the headquarters."

6. On receipt of the above facts from the Ministry of Home Affairs, the Chairman wrote to the Minister of Home Affairs on the 9th May, 1968, asking him to make a statement in the House.

7. On the 11th May, 1968, the Minister of Home Affairs replied to the Chairman stating that he had no objection in disclosing to the Rajya Sabha the facts of the case as reported earlier to the Rajya Sabha Secretariat. He, however, added that if the conduct of the investigation officer in this case were to be regarded as in any manner unusual, it might be useful that the police administration in general and investigating agencies in particular were to be given clear guidance as to how they should proceed in such cases.

He, therefore, suggested that if the Chairman considered it proper, the question might be referred to the Committee of Privileges "Whose findings would provide the necessary guidance to officers who have a statutory duty to perform in such matters".

8. The Chairman referred the matter to the Committee of Privileges.

Finding and recommendation of the Committee

9. The Committee of Privileges, in their Twelfth Report presented to the House on 6th December, 1968, reported *inter alia* as follows:

Issues before the Committee

- (i) "The Committee framed the following issues for examination:
1. Can a member be questioned in any court or place out of Parliament for any disclosure he makes in Parliament?
 2. Will not such questioning, if permitted, amount to impeding the member in the discharge of his duties as a member of Parliament; will it also not amount to molestation of the member?
 3. Will it not amount to interference with his freedom of speech guaranteed under Article 105 of the Constitution?

The Law and the Precedents

- (ii) "The privilege of freedom of speech contained in article 105 of the Constitution

of India had received statutory recognition in the U.K. as early as 1689 by the 19th article of the Bill of Rights:

'That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.'

It is well known, though not exactly construed by the Courts, that the term proceedings in Parliament includes everything said or done by a member in the exercise of his functions as a member in a Committee of either House, as well as everything said or done in either House in the transaction of Parliamentary business.

Clause (2) of article 105 of the Constitution specifically lays down that no member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any Committee thereof.

This secures to members of Parliament immunity from proceedings, civil or criminal, on account of anything said or done by them in their capacity as members and is a necessary corollary to the privilege of freedom of speech and debates or proceedings in Parliament."

(iii) "It is today the settled procedure in the two House of Parliament in India that—

no member or officer of the House should give evidence in respect of any proceedings of the House or any Committee thereof or any document relating to or connected with any such proceedings or in the custody of officers of the House or produce any such document, in a court of law without the leave of the House being first obtained."

(iv) "Under section 161 of that Code (Criminal Procedure Code), a police officer may, during the course of such investigation, examine orally any person supposed to be acquainted with the facts and circumstances of the case and that person is bound to answer all questions other than those the answers to which would have a tendency to expose the person to a criminal charge or to a penalty or forfeiture. It is, however, interesting to note that though section 161 enacts that such person is bound to answer questions put to him by the police officer, a refusal to answer such questions is not punishable under the Indian Penal Code. This is settled by judicial decisions which have held that a person answering questions put to

him by a police officer under section 161 of the Cr. P.C. is not bound to answer 'truly' and so he does not come within the mischief of section 179 which makes refusing to answer a public servant authorised to question penal only when the person questioned is required to answer 'truly'."

(v) "Section 160 of the Criminal Procedure Code, which precedes section 161, lays down that any police officer making an investigation under chapter XIV of the Code may, by an order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who from the information given or otherwise appears to be acquainted with the circumstances of the case; and such person shall attend as so required. If instead of proceeding under section 161, the police officer had proceeded against Shri Gupta under section 160 of the Criminal Procedure Code, and if Shri Gupta failed to attend before the police officer in answer to such order, he would have made himself liable to punishment under section 174 of the Indian Penal Code. If Shri Bhupesh Gupta had permitted the police to interrogate him, there was a possibility that he might have subsequently found himself in the dock as a result though an indirect result of what he said in the House. The prosecution of the member in such circumstances would according to the opinion of Sir Gilbert Campion be an 'accusation tending to call words spoken under the protection of the House in question before a court of justice under the pretended denomination of an offence not entitled to the privilege of the House', and consequently be a breach of privilege and contempt of the House. Furthermore, during the course of the trial of the criminal case in relation to which the member was interrogated by the police, there was a possibility of the member being called as a witness, and if during the course of his evidence before the court of law he were to say anything about the proceedings of the House, he would be violating the rule which Parliament itself has made of prohibiting a member from giving evidence elsewhere in relation to the proceeding of the House without the leave of the House."

(vi) "The right of a member to obtain information (including secret information) from any source he chooses, in the performance of his parliamentary duties, and to disclose such information in the House is today unquestioned. Both in the Rajya Sabha and the Lok Sabha there have been instances of such disclosures. In the case

relating to what was described as the C.B.I. Report concerning the affairs of a Chief Minister and certain other Ministers of Orissa, Mr. Speaker of the Lok Sabha ruled:—

(1) A member can ordinarily quote from a document that is treated by Government as secret or confidential, and which Government have not disclosed in public interest.

(6) It is a fact that a document, which is treated by the Government as secret or confidential, can be obtained through leakage or stealth or in an irregular manner, but the Chair would not compel the member to disclose the source from which copies have been obtained by the member.

(7) As I said above the member has a right to quote from such a document subject to the conditions that I have specified above. But there is an over-riding authority with the Speaker and under his inherent powers he can stop a member from quoting from a document in the national interest where security of country is involved. Such cases, I admit, shall be rare, but such a power exists in the Speaker and he can exercise it without assigning reasons.'

It is important to note that by this ruling a member may not be compelled even by the Chair to disclose the source of his information."

(vii) "The legal provisions and the precedents we have quoted above clearly establish that it would be impeding a member of Parliament in the discharge of his duties as such member if he is to be questioned in any place outside Parliament for a disclosure that he may make in Parliament. The right of a member of Parliament to function freely and without fear or favour is in India, as in the U.K., a constitutional guarantee. This guarantee is subject only to the rules of the House and ultimately to the disciplinary jurisdiction of the House itself. While we do not minimise the difficulties of the Executive in dealing with a case like the present, particularly in the course of a criminal investigation, we would like to emphasise that nothing should be done

either by the Executive or any other outside agency which would impinge upon or detract from the right of a member to freely function in relation to his parliamentary duties."

(viii) "In all the circumstances of the case, therefore, we have no hesitation in coming to the conclusion that any investigation outside Parliament of anything that a member says or does in the discharge of his duties as a member of Parliament would amount to a serious interference with the member's right to carry out his duties as such member."

(ix) "The answers to the three issues that we addressed to ourselves would thus be:

(1) No.

(2) Yes.

(3) Yes."

(x) "Having answered the issues, we would like to proceed to consider how the police should proceed in a case when it finds from disclosures made by a member on the floor of the House that he is in possession of vital information in a criminal case which is under investigation by the police. Normally, we should expect every member of Parliament to consider it his duty to assist in the due process of law. It is, however possible that a distinction may be sought to be made between a member's right to expose something in Parliament in the public interest with impunity and his duty to assist a legally constituted investigating authority on the basis of the personal knowledge of the member. We have given anxious thought to this question. We assume that no member would deliberately do anything or act in a manner against the interests of the due process of law. Keeping these factors in mind and with due regard to the special position and duties of a member of Parliament we would propose the following procedure:

If in a case a member states something on the floor of the House which may be directly relevant to a criminal investigation and is in the opinion of the

investigating authorities, of vital importance to them as positive evidence, the investigating authority may make a report to the Minister of Home Affairs accordingly. If the Minister is satisfied that the matter requires seeking the assistance of the member concerned, he would request the member to meet him. If the member agrees to meet the Home Minister and also agrees to give the required information, the Home Minister will use it in a manner which will not conflict with any parliamentary right of the member. If, however, the member refuses to respond to the Home Minister's request, the matter should be allowed to rest there."

Action taken by the House

10. On the 20th December, 1968 Shri M.C. Setalvad, member of the Committee of Privileges, moved:—

"That the Twelfth Report of the Committee of Privileges presented to the Rajya Sabha on the 6th December, 1968, be taken into consideration."

11. To the above motion, the following amendments were moved:

(i) by *Shri Raj Narain*:

"That the question which forms the subject-matter of this Report be recommitted to the Committee of Privileges."

(ii) by *Shri A.P. Jain*:

"That on page 12, for the word 'Minister of Home Affairs' wherever it occurs in the last paragraph, the word 'Chairman' may be substituted".

12. After several members had spoken, Shri M.C. Setalvad observed—

"In view of what my hon. friend, Mr. Bhupesh Gupta has said. I am suggesting the deletion of one sentence on page 3 of the Report. The sentence to be deleted will be:—

'In fact, Shri Bhupesh Gupta himself did not raise this matter in the House as a question of privilege.'

That will be deleted, and the next sentence will begin a little differently, thus:—

'Shri Bhupesh Gupta's object was to bring to the notice of the House' etc.

And in view of Mr. Ajit Prasad Jain's suggestion. I will try to meet it half way. And if I may suggest, on page 12 after this sentence 'If the Minister is satisfied that the matter requires seeking the assistance of the member concerned, he would request the member' I would add three words 'through the Chairman' so that the Chairman will request the member. The rest will be there."

13. The amendment moved by Shri Raj Narain was put to the vote of the House and was negatived.

14. Shri M.C. Setalvad then moved:

'That the House agrees with the Report subject to the following amendments:—

(i) that at page 3, in lines 29 to 31, the words, 'In fact, Shri Bhupesh Gupta himself did not raise this matter in the House as a question of privilege; be *deleted*; and in line 31, for the words 'his objection' the words 'Shri Bhupesh Gupta's object' be *substituted*.

(ii) that at page 12, in lines 35-36 after the words 'he would request the member' the words 'through the Chairman' be *inserted*."

15. The amendment moved by Shri A.P. Jain was also put to the vote of the House and negatived.

16. Thereafter, Shri M.N. Kaul, moved the following amendment—

"That for the words 'agrees with the Report' the words 'while agreeing with the Report of the Committee directs the Home Minister to prepare a set of instructions for the guidance of the police officers who are investigating a criminal case and in that connection wish to make an enquiry from a member of Parliament regarding any document divulged in or statement made in the House by him and to make a report to this House' be *substituted*".

17. Shri Vidya Charan Shukla, the Minister of State in the Ministry of Home Affairs, assured the House that:

"....we would prepare a set of instructions and

circulate them to the State Governments so that they can follow the procedure as suggested by the Committee...."

The Minister also stated that the proposed instructions would be shown to the Presiding Officers of Parliament.

18. In view of the assurance given by the Minister, Shri M.N. Kaul withdrew his amendment.

19. The motion moved by Shri M.C. Setalvad (See para 14 above) was then put to the vote of the House and adopted.

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RAJYA SABHA
(1978)

Point of privilege

Physically restraining a member from addressing the House by another member

Facts of the case and ruling by the Chairman

On the 21st February, 1978, during the course of proceedings in the House regarding alleged disrespect shown to Shri Jagjivan Ram, Minister of Defence, at Varanasi, Shri Piare Lall Kureel *urf* Piare Lall Talib, a member, went across the floor to physically restrain Shri Nageshwar Prasad Shahi, another member, who was speaking, from addressing the House.

2. Thereupon, the Deputy-Chairman (Shri Ram Niwas Mirdha) *inter alia* observed as follows:—

"I will request that the proceedings of the House should be conducted peacefully in the required manner. The scene created a short-while ago cannot but be deplored. I do not want to add anything more. The hon. member is an elderly person. I do not think it proper to say anything more nor it would be fair on my part to take any action on it. I would like to request that the gravity of the incident should be realised by the hon. member as well as by all other hon. members ... If anything is said in the House which is wrong in the opinion of the hon. members, they can raise objections and there are certain ways to raise them.... It is not proper to interrupt the proceedings of the House in such manner. You may be given an opportunity to express your unhappiness in accordance with the procedure of the House."

3. A little later, Shri Piare Lall Kureel *urf* Piare Lall Talib, while regretting the incident, stated as under:—

“Sir, I beg your pardon. I did that in the heat of the moment. I shall not repeat it in future.... I really regret it.”

4. On the 22nd February, 1978, the Chairman (Shri B.D. Jatti) informed the House as follows:—

“I have received a notice of breach of privilege from Shri Sujan Singh against Shri Piare Lall Kureel *urf* Piare Lall Talib, another Member, regarding the incident which took place in the House yesterday. Shri Talib, it appears, went across the floor to physically restrain Shri Nageshwar Prasad Shahi from addressing the House as Shri Talib objected to some observation made by the latter. This is the first time in the history of Rajya Sabha that such an

incident has taken place and I am greatly distressed by the lack of orderly conduct shown by Shri Talib which is expected from every Member of the House.

I have no doubt that Shri Talib's conduct yesterday, whatever the provocation, amounts to contempt of the House which the House could have condemned then and there. The reputation of the House is sullied by such action which cannot be tolerated. However, in view of the apology tendered by Shri Talib and the observation made by the Deputy Chairman, I will allow the matter to rest there.

I hope and trust that the House will never witness such an incident in future. This is my personal request to you all so that we can carry on the work in a very orderly manner.”

5. The matter was, thereafter, closed.

**FURNISHING OF INFORMATION TO SPEAKER BY GOVERNMENT REGARDING
PRIVILEGE ISSUES**

138
LOK SABHA
(1980)

Point of privilege

Furnishing of factual information by Ministers and officers to the Speaker in response to notices of question of privilege given by members against Ministers.

Facts of the case and ruling by the Speaker

On 30th June 1980, the Speaker (Shri Bal Ram Jakhar), disallowed a question of privilege in the House given notice of by Sarvashri Ram Vilas Paswan, Atal Behari Vajpayee, Jyotirmoy Bosu and K.A. Rajan, members, against the Minister of Education and Health and Social Welfare (Shri B. Shankaranand), for allegedly misleading the House on 18th June, 1980, while giving a reply in the House regarding the token strike of the Resident Doctors in major Hospitals of Delhi.

During the discussion, Sarvashri Ram Vilas Paswan, Chandrajit Yadav and Madhu Dandavate, members raised a point that the communication sent by the Ministry of Health and Family Welfare in reply to the notices of question of privilege had not been signed by the Minister of Education and Health and Social Welfare. When the Speaker informed the members that the communication was signed by the Joint Secretary to the Government of India and the Minister had authorised him to do that, Shri Chandrajit Yadav stated *inter alia*, as follows:—

“Should the Minister not take this much trouble to give the note himself?... You should assure this House that whenever there is a privilege motion against any Minister, he should personally give the explanation. We would not accept any explanation given by any official.”

The Speaker, thereupon, observed, “I will look into this... I will give my ruling afterwards”.

2. On 9th July, 1980, the Speaker, making an announcement regarding the communication received from the Ministry of Health and Family Welfare, observed in the House as follows:—

“In connection with a question of privilege given notice of by Sarvashri Ram Vilas Paswan, Atal Behari Vajpayee, Jyotirmoy

Bosu and K.A. Rajan against the Minister of Health and Family Welfare (Shri B. Shankaranand) for making an alleged misleading statement in the House regarding receipt of a Memorandum by the Minister from the Junior Doctors' Federation of Delhi, some members raised a point on 30th June, 1980 that the factual note furnished by the Ministry of Health and Family Welfare should have been sent by the Minister himself instead of being sent by an officer of the Ministry. I had then observed that I would look into the matter and give my decision.

A question of privilege can be raised in the House only with the consent of the Speaker under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha. While giving his consent, the Speaker has to decide whether the matter should be given precedence over the pre-arranged items of business. In order to determine whether consent should be given under Rule 222 to raise a question of privilege in the House against a member/Minister, it is a well-established practice that a factual note/comments are called for from the member/Minister and the Ministry concerned for consideration of the Speaker.

It may be useful to divide the nature of reference to Ministries/Minister under the following broad heads:

- (i) Where factual information is called for and the Minister is not directly concerned; e.g. omission or incorrect mention of a member or the party to which he belongs in the radio/television broadcast.

In such cases, the communication may be signed by an officer in the Ministry/Department not below the rank of Joint Secretary and should clearly indicate that the communication is being sent with the specific approval of the Minister.

- (ii) Where the notice of privilege relates either to a reply given by the Minister in the House or his conduct as member of the House.

In such cases, the facts may be furnished over the signatures of the Minister concerned.”

HANDCUFFING OF MEMBERS

139

LOK SABHA
(1957)

Point of privilege

Alleged attempt to handcuff a member of Lok Sabha arrested on a criminal charge by the police and withholding of his letter addressed to another member by jail authorities

For details of the case please see summary No. 8 at pp. 9—14 *ante*.

140

LOK SABHA
(1974)

Point of privilege

Handcuffing of a member by Police

Facts of the case and reference to the Committee of Privileges

On the 6th August, 1974, Shri Jagannathrao Joshi, a member, complained in Lok Sabha that according to a news report in the *Nav Bharat Times*, dated the 6th August, 1974, Shri Iswar Chaudhry, MP was handcuffed when he was taken from jail to the court on the 5th August, 1974.

2. Subsequently, on the 14th August, 1974, Shri Ishwar Chaudhry, MP, himself raised this matter in the House and stated *inter alia* as follows:—

“I was arrested along with some other *Satyagrahis* for demonstration in front of the Bihar Vidhan Sabha... After remaining in jail for two months, for the first time, I, along with other *Satyagrahis*, was produced before the Magistrate in Bihar, in handcuffs on the 5th August, 1974. The prisoners were tied with a rope. Perhaps, because there was not enough rope. I was not tied with it. We were brought back from the Court in the evening in handcuffs, in the same condition in which we had gone there. While coming out of the jail I and the Jailor glanced at each other. At this the Jailor said that he lives in the Division, he should not be handcuffed. But the handcuffs continued to be there and he continued to stare helplessly. I feel, all this was done with malice to humiliate me. I feel that when a representative of the people is handcuffed its purpose is to insult him before the

people. I was not a person to run away, nor had I gone to jail with that idea. I had gone to jail of my own violation. *Kaul and Shakdher* have stated in very clear words that only those prisoners should be handcuffed who are likely to run away. But since we had gone there of our own volition, there was no possibility of our running away. I feel it is contemptuous not only of me but of all the elected representatives.”

3. The Speaker, thereupon, observed *inter alia*, as follows:—

“I am very sorry this has happened. As I see from the previous practice, Government had issued instructions not to handcuff M.Ps. and especially *satyagrahis* who go there voluntarily. They would not run away. The man is not a thief to run away. I am really surprised at this. Besides this handcuff, what matters is the humiliation it causes. In political life, many people have their own views. They may not agree with the party which is ruling. Even partymen sometimes do not agree amongst themselves and they offer *satyagraha*. Personally, I feel so much resentment at this... So I feel that now that we have our own Government, at least we should have some code to be followed. If a member of Parliament is not handcuffed and he runs away, I do not think anybody will approve his conduct... So we must consider it... I will ask for the Home Minister's statement on it. Later on, we will sit together and see as to how to settle this affair.”

4. On the 30th August, 1974, the Deputy Minister in the Ministry of Home Affairs (Shri F H. Mohsin) made a factual statement in the matter in the House.

After some discussion in the House, the Speaker, while referring the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha observed *inter alia* as follows:—

“As far as members of Parliament are concerned, I have given my indication on the very first day. I gave my views on that. I very much hope that the Privileges Committee will take all aspects of this question into consideration. My personal view is, those days

have gone when handcuffs were used. About Members of Parliament, the position is very clear. You will examine this in all aspects, not only in regard to this particular case, so as also to lay down certain procedures for future guidance. As far as others are concerned, it is very much hoped that the views that are conveyed by you will be considered and some decision taken so that all respectable citizens who are voluntary *Satyagrahis* or who occupy good positions in public life or who are good journalists, jurists, doctors, writers or educationists are treated well. Don't introduce your own meaning to it. I have given a broad outline. They will consider it."

Findings and recommendations of the Committee

5. The Committee of Privileges, after examining in person (i) Shri Ishwar Chaudhry, M.P., (ii) Shri Bhubaneshwar Sharma, Acting Jailor of Phulwari Sharif Jail (where Shri Ishwar Chaudhry, M.P. was handcuffed), (iii) Shri Rajendra Singh, Havildar-in-charge of the escort party (which hand-cuffed Shri Ishwar Chaudhry, M.P. and (iv) Shri R. N. Dash, Secretary, Home Department, Government of Bihar, in their Nineteenth Report presented to the House on the 31st August, 1976, reported *inter alia* as follows:—

- (i) "The Committee of Privileges (Second Lok Sabha), in their Fifth Report, laid on the Table of the House on the 27th September, 1958, had recommended that the Ministry of Home Affairs might be requested 'to again bring the contents of their Circular letter No. 21357-P. IV dated the 26th July, 1957, to the notice of the State Governments and to stress upon them the desirability of strictly complying with them, especially in the case of Members of Parliament in view of their high status'. In pursuance of that recommendation, the Ministry of Home Affairs had issued necessary instructions to all State Governments/Union Territories on the 24th January, 1959, for their guidance. Subsequently, those instructions were again reiterated by the Ministry of Home Affairs to all concerned on the 21st February, 1968, urging the authorities concerned that while dealing with an arrested Member of Parliament, the fact that a person arrested is a Member of Parliament must be borne in mind by the police and by other authorities. Recently, the Ministry of Home Affairs have

issued a further Circular letter dated the 8th November, 1974, to all the State Governments and Union Territories pointing out to them that ordinarily there should be no occasion to handcuff prisoners such as *satyagrahis* persons occupying good positions in public life and professionals like journalists, jurists, doctors, writers educationists'."

- (ii) "The Committee have been informed by the Government of Bihar *vide* their letter dated the 23rd December 1975, that the substance of the above instructions regarding handcuffing of prisoners, issued by the Ministry of Home Affairs from time to time, is also incorporated in the Bihar and Orissa Police Manual. The rules and principles of handcuffing by police are contained in rules 241, 242, 562 and 563 of the Bihar and Orissa Police Manual. The underlying principle enunciated in those rules is that the restraint used in respect of prisoners under custody or under escort shall be the minimum and that prisoners classified as superior or of upper division shall be treated in a dignified way. In other words, the prisoners should not be subjected to more restraint than is necessary to prevent their escape. The Government of Bihar have also stated that prominent persons including legislators, doctors, journalists, jurists, advocates, writers, educationists, etc. referred to by the Government of India are, in normal course, classified into superior or upper divisions, and hence, they accordingly belong to the exempted categories'. Recently, the Government of Bihar have issued a Circular letter dated the 23rd December, 1975, to the authorities concerned reiterating 'the principle already contained in the Police Manual that handcuffs should be used only under exceptional circumstances as indicated in the rules, and not as a matter of routine'."
- (iii) "The Committee have noted the findings and conclusions of the inquiry instituted by the Government of Bihar on the 1st December, 1975, into the incident leading to the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974. The report of the inquiry officer has described the circumstances under which

Shri Ishwar Chaudhry, M.P., was handcuffed by the Police escort party and has fixed responsibility on six officers of the Government of Bihar involved in the incident. The Committee note that the Government of Bihar have accented the inquiry report on the subject and have ordered departmental action against the concerned six officers and staff for their alleged lapses resulting in the unfortunate incident and handcuffing of Shri Ishwar Chaudhry, M.P."

In this connection, the Government of Bihar, while forwarding the above inquiry report to the Committee, have *inter alia* stated:—

"The rules and instructions of the State Government clearly provide that the Members of Parliament, while under arrest, are to be treated as prisoners in the superior category or in upper division, as the case may be, and they are not to be handcuffed, as a matter of course. These instructions have been followed in the past and are being followed even now, but for the single isolated incident relating to Shri Ishwar Chaudhry. Although, large number of legislators including Members of Parliament have been arrested in Bihar in the past few years, we have never had any complaint of this type in the past, and this particular incident of handcuffing of Shri Ishwar Chaudhry was rather unfortunate, for which the State Government regret. Apparently, the handcuffing was not intentional but mostly due to lack of alertness and to some extent carelessness and negligence. The State Government have also issued another circular to all concerned to exercise special care in future so that no such unfortunate incident happens again."

(iv) "The Committee find that a thorough probe was made by the Government of Bihar into the facts and circumstances leading to the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, only after the Committee examined in person the Home Secretary of Government of Bihar and desired him to make a detailed inquiry into the matter. This inquiry instituted by the Government of Bihar on the 1st December, 1975, at the instances of the Committee, has revealed carelessness, negligence and lapses committed by the concerned police and jail

officials involved in this incident. The Committee regret that the thorough probe into this unfortunate incident was made by the Government of Bihar after a lapse of more than 15 months since the question of privilege was first raised in Lok Sabha on the 6th August, 1974 and only after the Committee pursued the matter with that Government. The Committee feel that this thorough inquiry should have been instituted by the Government of Bihar immediately after the question of privilege was raised in the Lok Sabha and the matter was brought to the notice of the Government of Bihar. If that had been done, it would have undoubtedly helped the Committee to arrive at their conclusions much earlier."

- (v) "After careful consideration of the facts and circumstances of the case, the Committee are of the view that it is unnecessary for purposes of this case, to go into the larger question whether handcuffing of a Member of Parliament as such constitutes a breach of privilege or contempt of the House."
- (vi) "The Committee find that the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, in the circumstances of the case, was in utter disregard and in defiance of the clearest instructions of the Ministry of Home Affairs as well as of the Government of Bihar, particularly those governing the Members of Parliament. As such, the action of the concerned officials in handcuffing Shri Ishwar Chaudhry, M.P. was highly improper and deplorable. The conduct of the officers involved in this incident, therefore, deserves to be severely censured. The Committee, however, note that necessary departmental action is being taken by the Government of Bihar against the six officers concerned. The Committee would like to be informed in due course of the action taken by the Government of Bihar against those concerned officers.

The Committee also note that clear instructions about handcuffing of Members of Parliament have already been issued to the authorised concerned both by the Ministry of Home Affairs as well as by the Government of Bihar. The Committee, therefore, are of the opinion that no

further action need be taken in the matter by the House.”

- (vii) “The Committee hope that the instructions regarding handcuffing of prisoners, issued by the Union Ministry of Home Affairs from time to time, will be strictly and scrupulously followed by all authorities concerned of the State Governments and Union Territory Administrations and there would ordinarily be no occasion to handcuff prisoners, such as Members of

Parliament, Members of State Legislatures, peaceful satyagrahis, persons occupying good positions in public life and professionals like journalists, jurists doctors, writers and educationists.”

- (viii) “The Committee recommend that no further action be taken by the House in the matter.”

Action taken by the House

6. No further action was taken by the House in the matter.

HARASSMENT

141

LOK SABHA
(1967)

Point of privilege

Alleged harassment of a member by police

Facts of the case and ruling by the Speaker

On the 3rd August, 1967, Shri Nath Pai a member, raised a matter under rule 377 that Shri Virendrakumar Shah, another member, had been called by the police at a Police Station at Bombay and questioned by the police without disclosing the purpose for which he was called and the police caused harassment to him and interference with his freedom. This he felt, constituted a breach of privilege of the member.

2. The Minister of Home Affairs (Shri Y.B. Chavan) explained as follows:—

“Certainly what has happened is a matter of regret. I must say that the behaviour of the Sub-Inspector was, to say the least, stupid. We are all sorry for it. I also express my regret. As far as we are concerned, we will see that such things are not repeated.”

3. The Speaker (Dr. N. Sanjiva Reddy) observed as follows:—

“May I also add that it is not only an hon. member, any citizen should not be asked just to come to the police station. I would also request the hon. Minister to tell us after some time if any action is taken against the concerned officer.”

4. Shri Chavan then stated:

“The Maharashtra Government have informed me that they are themselves taking action against the Sub-Inspector. I entirely agree. It is not merely a question of a member of Parliament. No citizen can be treated this way. Really speaking unfortunately our police have not come out of their old tradition.”

Thereafter, the matter was treated as closed.

142

LOK SABHA
(1971)

Point of privilege

Alleged ill-treatment of members by police

Facts of the case and ruling by the Speaker

On the 17th November, 1971, Dr. Saradish Roy, a member, sought to raise a question of privilege on the ground that on the 9th December, 1971. When he went to Kashipur village, District Birbhum (West Bengal), Where 23 families were reported to have been driven out after looting and burning of their huts, a group of Gujarat State Reserve Police abused him. He added that he was forcibly brought to the police camp at Sultanpur and prohibited from going to Kashipur. When he again went to that village, another batch of police personal approached him menacingly and he had to leave that village.

2. On the same day, Shri Bhan Singh Bhaura, another member, also sought to raise a question of privilege against the Deputy Superintendent and Inspector of Police, Muktsar, District Ferozepur (Punjab), on the ground that on the 27th August, 1971 when he went to the Government College, Muktsar, to enquire into the reported police excesses and firing on students the police misbehaved with him, forcibly dragged students from his car, broke his car's door handle and threatened him even after knowing his identity.

3. The Speaker (Dr. G.S. Dhillon) observed that according to the practice followed in such cases, these cases would first be referred to the Government for their comments and after getting a report from the Government, he would give his ruling thereon.

4. On the 22nd December, 1971, when Dr. Saradish Roy raised the matter again in the House the Speaker while reserving his ruling, observed as follows:—

“Everyday there are so many things happening in the country involving people including M.Ps. But the privileges of M.Ps. extend only to matters concerning the House. But in spite of that, whenever any such thing happens. I take that representation and send it to Government even if it concerns a matter unconnected with the functioning of the House as such. When that version comes, I give it to the member.”

5. On the 23rd December, 1971, disallowing both the above questions of privilege, the Speaker observed as follows:—

“When there are matters not connected with the House, even though the happening of such things is unfortunate the remedy is at the official level. So far as the rights of this House are concerned, the difference between an M.P. and a citizen is very narrow, so far as incidents outside the House are concerned. We have settled.... that the member could mention it, I could send it to the Minister and the reply could come. But if he thinks that it is a matter of privilege. I do not think it is a matter of privilege.... The M.Ps are not above law.... An M.P. outside the House is just an ordinary citizen like any other citizen. If he is prevented from performing his duties of the House, that is a different matter. If he is moving outside, he is subject to the law and subject to other remedies available. He can have the same remedies as are available to an ordinary citizen. If I am insulted outside and I say, ‘I am the Speaker and I can punch anybody’. I do not think I have that privilege.”

143

LOK SABHA
(1972)

Point of privilege

Shadowing of a member and his visitors by CBI personnel

Facts of the case and ruling by the Speaker

On the 31st May 1972, Shri S.A. Shamim, a member, gave the following notice of a question of privilege:—

“The intelligence people have been shadowing me for last three months. My residence in Mecna Bagh is under strict vigilance and every visitor to my place is interrogated and harassed. A journalist who visited me a fortnight ago has been harassed by intelligence people and threatened with dire consequences for having visited me. Other friends from Kashmir, who visit me occasionally, have also complained of the same treatment by the intelligence people. This has, obviously, resulted in a breach of my privilege as member of Parliament and I

want the House to take note of it. The matter may please be referred to Privileges Committee of the House.”

2. On the same day, Shri Shamim raised the matter in the House and sought the protection of the Speaker in the matter. After a brief discussion, The Speaker (Dr. G.S. Dhillon) disallowed the question for privilege and observed *inter alia* as follows:—

“There is no privilege involved.... Whatever Government does is administrative or for other security reasons. I am not there to judge about it.... So far as any obstruction to the member is concerned, I am going to inquire into it.... but, as a privilege, I am not entertaining it.... I cannot give any protection to any MP against any law.”

144

LOK SABHA
(1972)

Point of privilege

Harassment and ill-treatment meted out to a member by certain Railway Staff, Police and others while he was proceeding to attend a meeting of a Parliamentary Committee

Facts of the case and reference to the Committee of Privileges

On the 31st July, 1972, Shri Ajit Kumar Saha, a member, gave notice of a question of privilege regarding alleged harassment and ill-treatment meted out to him by certain Railway staff, Police and others at Asansol Railway Station on the 29th June, 1972. The notice read *inter alia* as follows:—

“With a view to attend the meeting of the Joint Committee on Untouchability Offences (Amendment) Bill, due to be held on 1 July, 1972, I intended to come to Delhi... I reached Asansol Railway Station on 29 June, 1972, at about noon to catch the train. While I was waiting there, in the First Class Waiting Room, a Ticket Collector repeatedly came to the waiting room and asked for the production of my Identity Card as a member of Parliament, which I showed to him and the same was verified by him more than once. The same procedure was repeated by the Head Ticket Collector on two occasions. I was greatly harassed and felt humiliated by such repeated requisition for production of my Identity Card in the presence of a

number of people in the waiting room. I protested against such treatment to both the Ticket Collector and the Head Ticket Collector and I was told by them that there was a complaint against me. I wanted to know what the complaint was but they refused to disclose the same. Soon after, a young man came to the waiting room and asked me to accompany him to the Police Station. When I demanded his identification and pointed out that he was not in uniform, the young man stated that his revolver, which he produced was his identification. I refused to go to the Police Station and instead approached the Station Master and complained to him about the harassment meted out to me.

Subsequently, I came down from the waiting room.... and I was going to board the Train.... two Constables prevented me from getting into the train and took me against my wishes to the GRP Thana in the Station. There, the Officer, Incharge forcibly took my Identity Card from my hand and tore the cover (jacket) of the card to examine it. When I asked him why I had been brought to the Police Station and what the complaint against me was, he stated that one Shri Krishna Kanta Dutta had complained that I was not a genuine M.P. It may be stated that the said Dutta is a notorious criminal of Bankura with many criminal cases pending against him. I was detained inside the Police Station for some time and was harassed on such a ridiculous charge that I was not a genuine M.P. Although the Police Officer had removed the Identity Card from my possession and had inspected it he did not allow me to board the train with full knowledge of the fact that I was to catch the train to come to Delhi to attend the meeting of Parliamentary Committee... I somehow came out of the Police Station after getting back my Identity Card... and was just able to catch the Train."

2. When the member sought to raise the question of privilege in the House on the same day the Speaker observed *inter alia* as follows:—

"I am sending it to the Minister for a report. Then I will allow the hon. member to mention it in the House."

3. On the 2nd September, 1972, the Minister of State in the Ministry of Home Affairs (Shri K. C. Pant) made a statement in the House on the matter in which he stated *inter alia* as follows:—

"According to information received from the Government of West Bengal, one Shri Krishna Kanta Dutta S/o Late Bejoy Gopal Dutta is being prosecuted under Section 182, IPC, for allegedly giving false information...."

Shri Ajit Kumar Saha has made some further observations on the reports received from the Government of West Bengal and the Ministry of Railways. Since a criminal case arising out of this matter is *sub-judice*, I would like to refrain from making any further statement on the subject."

4. After some discussion, the Speaker observed *inter alia* as follows:—

"I quite agree there are three parts to it. The whole thing started with the action of Shri Dutta. He gave an information to the police. The second is that when the police were so informed, they should have exercised a bit of their own sense also in ascertaining the fact. The third one is obstruction caused to the member. One matter concerning the first, wrong information given about the member, is already under investigation. About the other two, I will see it again. I will re-examine it and also see what is the position, when one part is already under investigation. Or if we can wait, let this matter be an open issue, no decision on it; let us see what comes out of the first part. If that judicial inquiry takes one view and your Privileges Committee takes another view. I will have to separate them...I will have to examine it."

5. On the 4th September, 1972, the Speaker informed the House that he had decided to refer the matter to the Committee of Privileges under Rule 227 and observed as follows:—

"I have decided to send it to the Privileges Committee... There are three parts of that privilege motion. One was under prosecution. Previously I had decided to refer only two but now I think they could not be separated from each other and I had referred the whole matter to the Privileges Committee—all the three parts."

Findings and recommendations of the Committee

6. The Committee of Privileges, after examining among others, Shri Ajit Kumar Saha, M.P. the three concerned Railway Officials, namely, Shri D. B. Banerjee. Head Ticket Collector, Shri R. N. Chowdhuri Senior Ticket Collector and Shri B. D. Singh, Ticket Collector, Asansol, the three concerned Railway Officials, namely, Shri S. Banerjee. Second Officer, G. R. P. S. Shri A. T. Mahapatra, ASI, G. R. P. S. and Shri A. Bhattacharjee, Officer-in-charge, G. R. P. S. and Shri Krishna Kanta Dutta who had made the alleged false complaint against Shri A. K. Saha, M.P. which led to checking and re-checking of the identity card of Shri Saha, in their Seventeenth Report presented to the House on 27 January, 1976, reported *inter alia* as follows:—

- (i) "The Committee observed that the concerned Railway officials acted in a hasty and unusual manner as no effort was made by them to contact the original complainant Shri Krishna Kanta Dutta, referred to by the waiting room bearer. No convincing reason has been given to the Committee why in the initial checking four Railway officials went together to check the identity card of Shri Saha.
- (ii) ".... The Committee find that the concerned Police officers acted in an indiscreet and high-handed manner when they proceeded against Shri A. K. Saha, M.P. on the basis of frivolous complaint. Their conduct caused harassment and humiliation to Shri A. K. Saha, M.P. The concerned officials failed to give any valid and convincing reason or explanation for their rather extra-ordinary conduct in dealing with the case involving Shri A. K. Saha, M.P."
- (iii) "In so far as Shri Krishna Kanta Dutta is concerned he denied before the Committee having filed the written complaint with the Government Railway Police authorities in the language in which the Police officials recorded it in the General Diary of the Police Station and conveyed it to the Committee. However, the Committee have gone into the matter at some length and are of the opinion that the evidence given by Shri Dutta before the Committee on this point is false. The Committee have reasons to believe from the evidence before them that Shri K. K. Dutta did file the impugned

report with the Police and in the language in which it has been recorded in the General Diary of the Police and conveyed to the Committee by the concerned Police officers although the original hand-written complaint of Shri Dutta is not now available even in the relevant case file of the Court of the Sub-Divisional Judicial Magistrate, Asansol".

- (iv) "The Committee would, however, like to record their regret and amazement.

that the original written complaint of Shri K. K. Dutta, which was the basis of his prosecution under Section 182 I. P. C. in the Court of the Sub-Divisional Judicial Magistrate, Asansol, should have been missing from the Court file of the case. The Committee hope that the Committee by the Deputy Secreprobe into this matter, as promised to the Committee by the Deputy Secretary f the Government of West Bengal during his evidence before the Committee, and take suitable action against the persons responsible therefor."

- (v) "..... the Committee find that firstly Shri Krishna Kanta Dutta deliberately made a false complaint to the Railway' officials and the G. R. P. S. Asansol, to cause harassment to Shri Ajit Kumar Saha, M.P. Secondly, he deliberately gave false evidence before this Committee by saying that he did not file the impugned complaint with the impugned complaint with the G. R. P. S. Asansol, on the 29th June, 1972."
- (vi) "In this connection, the Committee have taken note of the fact that Shri K. K. Dutta was acquitted by the Sub-Divisional Judicial Magistrate, Asansol of the charge against him under Section 182 of the Indian Penal Code for giving false information to the Police against Shri A. K. Saha, M.P. The Committee find that the learned Magistrate while acquitting Shri K. K. Dutta of the

charge against him, has stated in his judgement:—

“Learned A. P. P. has very frankly and fairly conceded that the accused Krishna Kanta Dutta had no motive and there is no evidence against him in this respect—Prosecution has also failed to prove that the allegations made by the accused in G. D. entry were false to his knowledge or at any rate, he did not believe them to be true at the time when he made these allegations.

The Committee do not wish to comment on the judgement of the learned Magistrate. However, the Committee find that although Shri A. K. Saha, M. P., was the most material witness in this case, the Prosecution did not examine him before the Court.

“The Committee have carefully considered the question whether they may find Shri K. K. Dutta guilty of breach of privilege when he has been acquitted by a Court on a criminal charge based on the facts involved in this case. The Committee are of the view that decision by a Court in respect of a criminal offence is no bar to the jurisdiction of the House to punish an offender if those facts constitute a breach of privilege or contempt of the House.”

(vii) “The Committee, after careful consideration of the entire written and oral evidence before them and all other relevant material placed before them have come to the conclusion that unprovoked and unwarranted harassment was caused to Shri Ajit Kumar Saha, M.P., at the Asansol Railway Station on the 29th June, 1972, while he was coming to Delhi to attend a sitting of a Parliamentary Committee, namely, the Joint Committee on the Untouchability (Offences) Amendment and Miscellaneous Provisions Bill, 1972, by the concerned Railway and Police Officers and by Shri Krishna Kanta Dutta, who had filed a false written complaint with the Government Railway Police Station, Asansol, against Shri Ajit Kumar Saha, M. P., on that date.”

(viii) “The Committee are of the view that checking of the identity card of Shri Ajit Kumar Saha in the waiting room of the Asansol Railway Station was under-

standable for the first time but the concerned Railway officers and the Government Railway Police Officers by making repeated checks of his identity card and taking him to the Police Station for interrogation had deliberately caused harassment to Shri Ajit Kumar Saha, M. P. This conduct on the part of the concerned Officers is reprehensible and a breach of privilege and contempt of the House.”

(ix) “The Committee are of the opinion that Shri Krishna Kanta Dutta has also committed a breach of privilege and contempt of the House as it was his false complaint to the officials of the Railway and GRPS, Asansol, which led to the harassment and ill-treatment of Shri Ajit Kumar Saha, M.P., while he was on his way to Delhi to attend a sitting of a Parliamentary Committee. Shri Krishna Kanta Dutta has further committed a breach of privilege and contempt of the House by giving false evidence before the Committee when he denied before the Committee having made the impugned written complaint against Shri Ajit Kumar Saha, M.P....”

(x) “The Committee express their displeasure on the conduct of the concerned Railway and Police Officers and recommend that suitable Departmental action be taken by the Government against them and reported to the House as early as possible.”

(xi) “In regard to Shri Krishna Kanta Dutta the Committee are of the view that they need not recommend any specific punishment for him but leave it to the House to award suitable punishment to him.”

7. The Committee of Privileges in their Twentieth Report presented to the House on the 31st August, 1976, reported the following action taken by the Ministry of Home Affairs and the Ministry of Railways on the recommendation contained in para 49 [See (x) of para 6 above] of their Seventeenth Report:—

“The Ministry of Home Affairs have on the 6th July, 1976, forwarded a copy of letter dated the 26th June, 1976 received by them from the Government of West Bengal in which the

State Government have intimated *inter alia* as follows:—

.... Sub-Inspector, A. Bhattacharjee, the then Officer Commanding of Government Railway Police Station, Asansol, has been awarded a reprimand and Sub-Inspector Satinath Banerjee (2nd Officer) and Assistant Sub-Inspector, A. T. Mahapatra of the same Government Railway Police Station have been censured for their failure to ascertain the factual basis of the complaint with directions to be very cautious in future in dealing with such incidents specially when V. I. Ps. are concerned or involved.'

The Ministry of Railways have in a communication dated the 20th August, 1976, intimated as follows:—

..... following punishments have been imposed on the Railway staff concerned in this case as a result of departmental action taken by the competent authority:”

Name

- (1) Shri D. B. Banerjee, the then acting Head Ticket Collector
- (2) Shri R. N. Chowdhury Travelling Ticket Examiner.
- (3) Shri B. D. Singh, Ticket Collector
- (4) Shri Upkar Singh, Ticket Collector

Punishment

- (1) Punished which stopage of increment for one year (non-cumulative).
- (2) Censured
- (3) and (4) The disciplinary authority having accepted the defence that they were working under the instructions of the Head Ticket Collector and had not entered the waiting room has exonerated them from the charges.”

Action taken by the House

8. On the 2nd September, 1976, Shri Dinen Bhattacharyya, a member, moved the following motion which was adopted by the House:—

“That this House do consider the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976.”

9. Thereafter, Shri Dinen Bhattacharyya moved the following motion:—

“That this House agrees with the findings and recommendations contained in the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976, and resolves that Shri Krishna Kanta Dutta be sentenced to imprisonment

till the prorogation of the Lok Sabha for the breach of privilege and contempt of the House committed by him.”

The Minister of Parliamentary Affairs (Shri K. Raghu Ramaiah) then moved the following motion:—

“That having considered the Seventeenth Report of the Committee of Privileges, this House resolves that with reference to para 50 of the Report, the matter be dropped.”

10. There was a lengthy discussion on both the above motions (*See* para 9 above) which were discussed together. During discussion, some members desired that since Shri Krishna Kanta Dutta had been found guilty of a breach of privilege and contempt of the House by the Committee of Privileges, he should be awarded some punishment by the House. They were of the view that he should either be sentenced to imprisonment or at least reprimanded at the Bar of the House. Some other members expressed the view that Shri Dutta was an insignificant person and the House might consult its own dignity and ignore him. It was urged that he had already undergone enough torture in having been hauled up before the Committee of Privileges and also having been prosecuted in a court of law, where he was acquitted. It would be enough, they felt, if the House recorded its agreement with the finding of the Committee of Privileges that Shri Dutta had committed a breach of privilege and contempt of the House and dropped the matter.

Shri K. Raghu Ramaiah then moved the following modified motion which was adopted by the House:—

“That this House agrees with the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976 that Shri Krishna Kanta Dutta has committed a breach of privilege and contempt of the House but resolves not to pursue the matter further.”

LOK SABHA
(1973)

Point of Privilege

Malreatment of and obstruction caused to a member at a Railway Station, while he was proceeding to attend Session of the House.

Facts of the case and reference to the Committee of Privileges

On the 2nd April, 1973, Shri Lalji Bhai, a member, gave notice of a question of privilege against certain officials and Railway police for the maltreatment and obstruction caused to him at Ajmer Railway Station on the 23rd March, 1973, when he was coming to Delhi to attend the Session of Lok Sabha. The notice read *inter alia* as follows:—

“On March 23, 1973, while I was coming from my Udaipur Constituency to Delhi to attend the Lok Sabha Session and when I was preparing to leave Khandwa-Ajmer train for the required train change, some persons in plain clothes surrounded me and asked me to show the ticket. I told them that they did not appear to be Railway staff and that I would prefer to show my Identity-card to the proper authority.

At this they got infuriated, snatched-off my suitcase, manhandled me and demanded Rs. 201 for letting me go free. I pleaded that I was a member of Parliament and that I had the requisite Identity-card but they dragged me into the T.T.E. room there, and called in a policeman in uniform. They all again threatened and insulted me.

When they could not extract money from me, the policeman opened my suitcase for search. Having found there my Identity-card, he whispered something into their ears and gradually each of them slipped away.”

2. On 3 April, 1973, when Shri Atal Bihari Vajpayee, another member, sought to raise the matter in the House, the Deputy Minister in the Ministry of Railways (Shri Mohd. Shafi Qureshi), while expressing regret for the incident, assured *inter alia* to look into the matter and get all the details.

3. The Ministry of Railways, to whom the matter was referred for factual comments, in a note dated the 3rd April, 1973, stated *inter alia* as follows:—

“On 23rd March, 1973, a special check was organised at Ajmer by the Railway with the help of student-volunteers. One of the student volunteers requested Shri Lalji Bhai who had arrived from Udaipur by 70 Down *en route* to Delhi to show his ticket. He did not disclose his identity either. A Railway Magistrate was available at Ajmer and hence a chargesheet was prepared against him for prosecution whereupon Shri Lalji Bhai disclosed his identity and said that he must leave for Delhi by 2 Down train. When his identity was disclosed, Shri Lalji Bhai was personally escorted by the Chief Ticket Inspector to the train and the charge-sheet was cancelled.

It is not true that anyone snatched off his suitcase or manhandled him or demanded Rs. 201 for letting him go. No insult was offered to him nor was his suitcase opened by a policeman or anyone else. The identity card was produced by Shri Lalji Bhai himself and not found by anyone else by searching his suitcase, as alleged.”

4. Shri Lalji Bhai to whom a copy of the aforesaid note was furnished, in his letter dated the 7th May, 1973, addressed to the Speaker, did not agree with the contents of the Ministry's note and stated *inter alia* as follows:—

“Mr. Speaker, will you concede that an MP will like to be forcibly taken from Railway bogie to the Inspector's room and be insulted but would not disclose that he was a member of Parliament?”

This is a fit case to be enquired by the Privileges Committee for ascertaining the facts and taking action.”

5. On the 16th May, 1973, the Speaker (Dr. G. S. Dhillon) referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee

6. The Committee of Privileges, after examining Shri Lalji Bhai, M.P. and the concerned officials of the Western Railway Ajmer, namely, Sarvashri S.G. Sopariwalla, Chief Ticket Inspector, M.L. Chaurasia, Travelling Ticket Examiner and Kalyan Singh, Astd. Security Officer, in their Ninth Report presented to

the House on 3 May, 1974, stated *inter alia* as follows:—

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LOK SABHA
(1980)

“On the basis of the evidence before the Committee, the Committee feel that the incident involving Shri Lalji Bhai, M.P., at Ajmer Railway Station on the 23rd March, 1973, which did cause harassment to him, would not have occurred if the student volunteers had been properly trained and briefed in the duties they were expected to perform and were duly accompanied by the regular Railway Checking Staff. In fact, the Committee would like the Ministry of Railways to re-examine their system of organising surprise checks with the aid of groups of students. Even if such a system is to continue, the persons detailed for this kind of duty should be thoroughly trained and properly briefed in advance so that there is no harassment of passengers.

However, in view of the apology tendered before the Committee by Sarvashri S.G. Sopariwalla, Chief Ticket Inspector, and M.L. Chaurasia, Travelling Ticket Examiner, the Committee are of the opinion that no further action need be taken by the House in the matter and it may be closed.

The Committee recommend that no further action be taken by the House in the matter and it may be dropped.”

Action taken by the House

7. No further action was taken by the House in the matter.

Point of privilege

Alleged ill-treatment meted out to a member while under arrest

Facts of the case and ruling by the Speaker

On 11th July, 1980, (Shri Bal Ram Jakhar) informed¹ the House that he had received a letter from Shri George Fernandes on 10th July, 1980, enclosing therewith a letter from Shri Rasheed Masood regarding treatment meted out to him while under arrest at Baghpat (U.P.). The matter was immediately referred to the Minister/Ministry of Home Affairs for furnishing a factual note thereon.

2. On 15th, July 1980, the Speaker (Shri Bal Ram Jakhar) informed² the House as follows:—

“On 11 July, 1980, I had informed the House that a letter received by me from Shri George Fernandes enclosing a letter dated 9 July, 1980 from Shri Rasheed Masood regarding the treatment meted out to him while under arrest, had been referred to the Ministry of Home Affairs for furnishing a factual note on the matter.

A reference was thereupon made in the House to the case of Shri N.K. Ramalingam who had brought to the notice of the House in May 1979 that he had been beaten by the Delhi Police and not given proper medical aid and asked the Speaker ‘to protect the rights and privileges of Members and, at the same time, direct the Government to hold a judicial inquiry in the regard.’

This was followed up on the same day by a notice of question of privilege given by Shri Vasant Sathe, M.P., under Rule 222. My distinguished predecessor, Mr. Speaker Hegde had made the following observations on the matter:—

‘There are two versions about the incident that took place on the 1st of May—one given by the Home Minister and another given by Shri Ramalingam. It is not the version of Shri Ramalingam that any harm was done to him when he was discharging any duty or function *qua* member of Parliament. In cases like these recourse should be had to Courts of Law. No question of privilege arises. This

position is well settled. No consent.'

In the light of the above observations, there is no question of privilege arising in the matter or consent being given under Rule 222."

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LOK SABHA
(1980)

Point of privilege

Harassment caused to a member and abusive remarks used against him by a Police official. Facts of the case and reference to the Committee of Privileges.

On 5th December, 1980, Shri Kunwar Ram, a member, sought to raise a question of privilege regarding the harassment caused to him and abusive remarks used in respect of members of Parliament by Police and Guard at New Secretariat, Patna, on 29th November, 1980. While raising the matter in the House, Shri Kunwar Ram stated *inter alia* as follows:—

"on 29th when I went to Bihar my wife told me that she was short of money for purchasing medicine....It was 10 minutes to twelve when we went to bank to withdraw money for purchasing medicine for my daughter. The bank is situated in the campus of Bihar Secretariat. All approaches to Bihar Secretariat are closed by Bihar administration and nobody is allowed entry from 10.30 A.M. to 1.30 P.M. When we reached the gate it was 10 minutes to twelve and as it was Saturday, the Bank would remain open upto 12 noon only. My son was with me. I was driving the scooter and I had kept my scooter engine running so that I could enter inside as soon as the gate opened and could withdraw the money from Bank. My son told him that I was a member of Parliament and I had to withdraw money from Bank and had no other business in the Secretariat. The person there insisted on production of identity card which was not with me at that time. I immediately rushed back to my house with my son on scooter as my house was nearby. I took my identity card and rushed back to the same gate. There my son got down from the Scooter and showed the identity card. At this the Police Constable there said that we should go by other gate. My son was shocked

by this reply and he pleaded that we had to draw money from the Bank and the Bank was open upto twelve and in fact it was already twelve and we were being directed to the other gate by the same policeman who had asked us to bring the identity card. My son said that it was quite wrong. We wanted to go to the Bank to which they were not allowing entry. At this the police Constable shouted that if he spoke loudly, he (police Constable) would pull his hair and take out his eyes. We kept standing there. Even after hearing this my son was showing the identity card. But we were shocked to hear what he had said. At this I said 'idiot, nonsense, you do not know how to talk'. Then his reply was 'Madar-chod, Behanchod M.P. I will give 35 lathi blows'. On hearing those words my heart sank. I said that I would not move from that place unless the Chief Minister came and suspended the police constable. A large number of junior employees of the Secretariat who put to a lot of inconvenience due to these restrictions also gathered around us and a crowd of nearly ten thousand was there. Slogans were raised later on. Apprehending that, it might create a law and order problem, I asked my son to go and inform the Chief Minister immediately that the matter could be settled only if the Chief Minister himself would come to the spot or depute any of his officers. But nobody from the Administration turned up. Then I myself had to go to the residence of the Chief Minister. I narrated to him the whole incident but even after knowing that such an incident had taken place with a member of Parliament, the Chief Minister strangely enough only asked me to give everything in writing and then went back to his place. Such a treatment was meted out to me but the Chief Minister had a soft attitude towards the police I was insulted. Not only the members of Parliament, but members of the Legislative Assembly and Legislative Council were also insulted in the same manner. Similar treatment was also meted out to one or two other members of Parliament.... You are requested to look into this. This amounts to breach of privilege.

2. After some discussion, the Speaker (Dr. Bal Ram Jakhar) referred the matter to the Committee of

Privileges.

Findings and recommendation of the Committee

3. The Committee of Privileges after examining in person Shri Kunwar Ram, Shri Arun Pathak, Home Commissioner, Government of Bihar, Shri A.K. Pande, Senior Superintendent of Police, Patna, Shri Shiva Das Pandey, Jamadar and Shri Abdul Sattar, Constable, in their Second Report presented to the House on 21st April, 1982, reported *inter alia* as follows:—

- (i) "After a careful consideration of the evidence given before and the documents made available to them, the Committee find that there are certain material contradictions between the evidence given before the Committee by Shri Arun Pathak, Home Commissioner Government of Bihar and Shri A.K. Pande, Senior Superintendent of Police, Patna on the one hand and by Shri Abdul Sattar, Constable on duty and Shri Shiva Das Pandey, Jamadar on the other hand."
- (ii) "The Committee find that Shri Kunwar Ram, M.P. immediately after the incident on 29 November, 1980, met the Chief Minister of Bihar and gave a written complaint to him in that connection. While narrating the sequence of events (which he later stated in the House on 5 December, 1980), Shri Kunwar Ram had stated, *inter alia*, in his written complaint to the Chief Minister that the policeman on duty reported that if I spoke in that pitch, he would take me by the hair and blind me. ...the policeman again started hurling filthy abuses at me such as.... and threatened me with fifty blows of lathi, saying that he cared a fig for my being an M.P. after some time, some Police Officers reached there and asked the policeman to behave in the same manner even if the Chief Minister happened to come."
- (iii) "The Committee also find that though a written complaint was made to the Chief Minister by Shri Kunwar Ram, M.P., on 29 November, 1980 itself, statement of the concerned police officials was recorded on 15 January, 1981, and a Report in the matter was sent by the Police Inspector,

Secretariat, Patna, on the same day, i.e. 15 January, 1981, to the City Superintendent of Police, Patna. A Report was also sent by the Senior Superintendent of Police, Patna, to the Joint Secretary to the Government of Bihar on 16 January, 1981. This indicates the lackadaisical manner in which the enquiry was conducted by concerned officials."

- (iv) "The Committee thus observe that there was undue delay in conducting the inquiry by the police and then making enquiry and submitting the inquiry report on the same day, that is 15 January, 1981 while the complaint was made in writing by Shri Kunwar Ram, M.P. immediately after the incident took place on 29 November, 1980."
- (v) "The Committee are of the view that the inquiry had been made by the police in a very casual and superficial manner and did not state the facts correctly. In this connection, the evidence given by Shri Arun Pathak, Home Commissioner of Bihar and Shri A.K. Pande, Senior Superintendent of Police, Patna before the Committee, was entirely unhelpful to the Committee in arriving at the truth."
- (vi) "The Committee are not convinced by the written statements and oral evidence given before the Committee by Shri Arun Pathak, Home Commissioner of Bihar. Shri A.K. Pande, Senior Superintendent of Police, Patna. Shri Shiva Das Pandey, Jamadar and Shri Abdul Sattar, Constable on duty."
- (vii) "The Committee feel that taking into consideration the totality of the circumstances of the case, Shri Kunwar Ram, M.P., had been ill-treated and abused in filthy language by Shri Abdul Sattar, Constable on duty, under the supervision of Shri Shiva Das Pandey, Jamadar, when he had gone to main gate of the New Secretariat, Patna, on 29 November, 1980, alongwith his son on a scooter for withdrawing some money from the Cooperative Bank, which is situated in the New Secretariat Building, Patna."

(vii) "In view of the above, the Committee decided that Shri Abdul Sattar, Constable, Shri Shiva Das Pandey, Jamadar, Shri Arun Pathak, the then Home Commissioner Government of Bihar and Shri A.K. Pande, Senior Superintendent of Patna, be called again before the Committee to give them an opportunity to have their say in the matter."

(ix) "When Shri Abdul Sattar, Constable and Shri Shiva Das Pandey, Jamadar, appeared again before the Committee on 24 October, 1981 they were apprised of the findings of the Committee. Thereupon, Shri Abdul Sattar, Constable expressed his unqualified regret in the following words:—

'Sir, while unconditionally accepting the finding of this hon. Committee. I express my unqualified regret to the Committee and also Shri Kunwar Ram, hon. member of Parliament, if by my behaviour he has felt insulted in any way. I request that I may kindly be granted pardon.'

Similarly, Shri Shiva Das Pandey, Jamadar, also expressed his unqualified regret in the following words:—

'Sir, I express my unqualified regret, if by my behaviour during the performance of my official duty, I have in any manner hurt the feelings of the hon. members.'

(x) "Shri Arun Pathak, the then Home Commissioner, Government of Bihar and Shri A.K. Pande, Senior Superintendent of Police, Patna also appeared again before the Committee on 23 January, 1982, and, they were apprised of the findings of the Committee. Thereupon, Shri Arun Pathak tendered his unqualified apology in the following words:—

'I had apologised in my previous statement also. As I said that I committed a mistake and it did not occur to me that there can also be a moral and administrative angle. I apologise for that. It was never my intention to offend the hon. member, and if he has been offended, I apologise for that.'

Similarly, Shri A. K. Pandey, also expressed his unqualified regret in the following words:—

"I tender my unqualified apology to the Committee."

(xi) "The Committee express their unhappiness over the thoughtless manner in which instructions were issued on 1 November, 1980, restricting *inter alia* the entry of members of Parliament and members of State Legislature to the building of the New Secretariat, apparently oblivious of the fact that the Cooperative Bank was situated inside the premises and those having accounts with that Bank would not be able to go to the Bank due to the restrictions for making transactions during the banking hours which are normally from 10 A.M. to 2 P.M. on week days and 10 A.M. to 12 noon on Saturdays."

(xii) "The Committee feel that in keeping with the spirit of the age and with a view to ensuring successful working of our Parliamentary democracy, the administration particularly the law and order machinery may be attuned so as to be fully responsive to the hopes and aspirations of the people."

(xiii) "However, in the present case in view of the unconditional and unqualified regrets expressed by Shri Abdul Sattar, Constable, Shri Shiva Das Pandey, Jamadar, Shri Arun Pathak, the then Home Commissioner, Government of Bihar and Shri A. K. Pandey, Senior Superintendent of Police, Patna, the Committee consider that no further action need be taken in the matter."

(xiv) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House—Reference back to the Committee of Privileges.

4. The Report of the Committee was considered by the House on 13th July, 1982 on a motion moved by Shri Ram Vilas Paswan, a member. After some discussion the following motion, moved by Dr. Subramaniam Swamy, a member was adopted by the House:—

"After consideration of the report of the Committee the House accepts the findings of the Committee but refers back to the Committee the report for a review of the quantum of punishment to be awarded."

Conclusions and recommendation of the Committee.

5. The Committee of Privileges, after considering the issues arising out of the reference back of the Second Report to them, in their Third Report presented to the House on 3rd November, 1982, reported *inter alia* as follows:—

- (i) "The Committee observe that on 5 December, 1980, Shri Kunwar Ram, M.P. had basically raised his question of privilege against the Police Constable on duty at the gate of New Secretariat, Patna, on the ground that he had harassed him and abused him in filthy language when he went there on 29 November, 1980, alongwith his son on a scooter for withdrawing some money from the Cooperative Bank situated in the New Secretariat Building, Patna. In this connection, the Committee in their Second Report presented to the House on 21 April, 1982, had observed that 'taking into consideration the totality of the circumstances of the case, Shri Kunwar Ram, M.P. had been ill-treated and abused in filthy language by Shri Abdul Sattar, Constable on duty, under the supervision of Shri Shiva Das Pandey, Jamadar, when he had gone to Main Gate of the New Secretariat, Patna, on 29 November, 1980, alongwith his son on a Scooter for withdrawing some money from the Cooperative Bank which is situated in the New Secretariat Building, Patna'."
- (ii) "Shri Kunwar Ram, M.P., did not raise any question of privilege or made any complaint against Shri A.K. Pandey, Senior Superintendent of Police, Patna, and Shri Arun Pathak, the then Home Commissioner, Government of Bihar. It was during the course of examination of the matter that the Committee observed that 'the evidence given by Shri Arun Pathak, Home Commissioner of Bihar and Shri A. K. Pandey, Superintendent of Police, Patna, before the Committee was entirely unhelpful to the Committee in arriving at the truth, and that the Committee were not convinced by the written statements and the oral evidence given by them before the Committee. When this was brought to that notice by the Committee, both of them tendered their unconditional and unqualified regrets. The Committee felt that

the regrets expressed by them were adequate and genuine and no further action was called for against them."

- (iii) "As regards the conduct of Shri Abdul Sattar, Constable on duty and Shri Shiva Das Pandey, Jamadar, the Committee observe that both of them promptly tendered their unconditional and unqualified apologies when they were apprised of the facts against them. The Committee felt that the regrets expressed by them were sincere and came from a repentant heart."

- (iv) "The question whether Sarvashri Abdul Sattar and Shiva Das Pandey, Constable and Jamadar respectively, had committed a breach of privilege and contempt of the House is a moot point as according to precedents both in India as well as in the U.K., it has been consistently held that a question of breach of privilege or contempt of the House arises only if a member is harassed or obstructed while in the discharge of his Parliamentary duties. In view of the unconditional and unqualified regrets expressed by both of them, the Committee did not consider it necessary to go into this question."

- (v) "It may be mentioned that the Select Committee on Parliamentary Privilege of House of Commons (U.K.), 1967, made the following recommendation:—

'The House should exercise its penal jurisdiction (a) in any event as sparingly as possible and (b) only when it is satisfied that to do so is essential in order to provide reasonable protection for the House, its Members or its Officers from such' improper obstruction or attempt at or threat of obstruction as is causing or is likely to cause, substantial interference with the performance of their respective functions.'

Subsequently, the Committee of Privileges of the House of Commons in their Third Report (1976-77) reiterated this recommendation, and the House of Commons, U.K. adopted it on 6 February, 1978."

- (vi) "This approach has normally been followed in matters of privilege by Lok Sabha as well as by House of Commons, U.K. Thus, the Committee of Privileges of Seventh

Lok Sabha in their First Report presented to the House on 8th May, 1981 observed *inter alia* as follows:—

'The Committee feel that it adds to the dignity of one and all if power in a democratic system is exercised with restraint; the more powerful a body or institution is, the greater restraint is called for particularly in exercising its penal jurisdiction'."

(vii) "After careful consideration of all aspects of the matter, the Committee consider that it would be consistent with the dignity of the august institution of Parliament to ignore such indiscretions committed by a Constable and a Jamadar."

(viii) "The Committee would, therefore, commend to the House that in keeping with its past high traditions, according to which unqualified and unconditional regrets sincerely expressed by the persons concerned in such cases have invariably been accepted by the House, the House would best consult its own dignity by taking no further notice of the matter."

(ix) "The Committee, therefore, recommend that no further action be taken by the House in the matter."

Action taken by the House

6. No further action was taken by the House in the matter.

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LOK SABHA
(1981)

Point of privilege

Manhandling of a member and use of abusive language in respect of members of Parliament by police personnel.

For details of the case please see Summary No. 54 at pp. 101—103 *ante*.

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LOK SABHA
(1981)

Point of privilege

Alleged assault on and use of abusive remarks against a member by police

For details of the case please see Summary No. 55 at pp. 103—106—109 *ante*.

150

LOK SABHA
(1982)

Point of privilege

Alleged manhandling of a member by some people and inaction on the part of police authorities

For details of the case please see summary No. 56 at pp. 106—108 *ante*.

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LOK SABHA
(1983)

Point of privilege

Alleged undignified and unbecoming behaviour with a member by the Vice-Chancellor of a University at a meeting of the Court of that University

Facts of the case and reference to the Committee of Privileges

On 4th April, 1983, Shri Mohd. Asrar Ahmad, a member, gave notice of a question of privilege against the Vice-Chancellor, Aligarh Muslim university for his alleged undignified and unbecoming behaviour with him at a meeting of the Court of Aligarh Muslim University held on 26th March, 1983.

2. Shri Mohd. Asrar Ahmad had, *inter alia*, stated in his notice as follows:—

".....In the course of meeting I sought permission of the Chair (Vice-Chancellor) to express my views. However, as soon as I addressed the Chairman and had not completed even the first sentence, the Vice-Chancellor interrupted me and in an extremely harsh tone asked me to lower my voice. He further said that whenever I speak he feels that his head is being hammered. I pointed out to him that my hearing capabilities are not normal I pointed to the hearing aid I use, and also explained that it is normal that such persons speak with raised

voices and even in Parliament I speak like this. On this the Vice-Chancellor told me contemptuously that this is not Parliament House and he is not hard of hearing. He further said that he will interrupt me again and again.

Because of the above mentioned behaviour of the Vice-Chancellor, I am finding it difficult to discharge my duties as a representative of this hon'ble House on the Court of Aligarh Muslim University.

I feel that by acting in this unbecoming manner the Vice-Chancellor has committed breach of privilege and contempt of the House."

3. On 29th April, 1963, Shri Mohd. Asrar Ahmad raised a question of privilege in the House and moved the following motion which was adopted by the House:—

"That the matter be referred to the Committee of Privileges with instructions to report by the first week of the next session¹."

Findings and recommendations of the Committee

4. The Committee of Privileges after examining Shri Mohd. Asrar Ahmad and Shri Saiyid Hamid, Vice-Chancellor, Aligarh Muslim University, in their Sixth Report presented to the House on 17th November, 1983, reported *inter alia* as follows:—

(i) "Shri Mohd. Asrar Ahmad, M.P., during the course of his evidence stated *inter alia* as follows:—

'I was asked there to speak slowly. "Don't speak so loudly. When you speak, it appears that someone is hammering on our ears". Then I said "I am hard of hearing. I speak loudly. I speak loudly in Parliament also", he said that it was not Parliament'.

Shri Mohd. Asrar Ahmad, M.P., added that on being pointed out by him that before him other persons had also spoken loudly, then why he was interrupting him only?, the vice-Chancellor told him 'you would be interrupted again and again.' To a question: 'You went to University Court on behalf of Lok Sabha and when you were participating in the meeting how can you say that you were obstructed by V.C. from

discharging the duties for the fulfilment of which you had gone there?', Shri Mohd. Asrar Ahmad replied: 'So far as the question of obstruction is concerned neither was I allowed to speak nor to discharge my duties'."

(ii) "Shri Saiyid Hamid, Vice-Chancellor, Aligarh Muslim University, in his evidence before the Committee deposed that 'the allegations made against me are unfounded. I have the highest respect for Parliament and I have invariably behaved with decorum and respect towards all the members of the Court including the members sent to the Court of the University by Parliament'. Shri Saiyid Hamid added that he had a span of 37 years as a civil servant and the Committee could get his entire record of service from the Department of Personnel and they would not come across any incident in which he had behaved indecorously with a member of the Central Legislature or the State Legislature."

(iii) In reply to a question: 'was there any reference to Parliament on that day?' Shri Saiyid Hamid stated: 'I did not make any reference to Parliament. I did not utter the word "Parliament" at all'. When it was pointed out to Shri Saiyid Hamid that 'have you not said this to him that "your voice falls like a hammer and this is not Parliament", he stated that 'what I said was this. It is an idiom it is a witticism: translated into English it might seem a little offensive, otherwise it is just a witticism; idiom based. "आप जोर से बोलते हैं तो सामयिन के कर्नों पर हथौड़े बनकर गिरता है।' That witticism unfortunately, which should have made him less tense was misconstrued. He appears to have felt hurt on that basis. It was an unfortunate thing that it was misconstrued. I had absolutely no intention of hurting him or saying that he was doing any damage to the ear-drums of the audience. That was never my intention'. When asked: 'you said you would interrupt him again and again', Shri Saiyid Hamid said: 'Sir, this is a highly inconceivable thing. This can only be attributed to an urchin in a street brawl who would pull up his sleeves and say I will never allow you to speak. I never adopted a menacing or intimidating sort of attitude'. In reply to another question: 'was

¹On 28th July, 1983, a motion was adopted by the House, extending the time for presentation of the Report upto the last day of first week of Thirteenth Session of Lok Sabha.

there any incident earlier where hot words or exchange of words had taken place between you and the M.P.? Shri Saiyid Hamid stated: 'No, I would not dub it as an exchange of hot words when I uttered a witticism which was unfortunately misconstrued... Never in my long career before taking over the office of a Vice-Chancellor, has anybody accused me of being indecorous or rough or short-tempered'."

- (iv) "After careful consideration of the evidence of Shri Mohd. Asrar Ahmed, M.P. and Shri Saiyid Hamid, Vice-Chancellor, Aligarh Muslim University, the Committee feel that there had been some misconception about the use of words. "आप जोर से बोलते हैं तो सामयिन के कानों पर हथौड़े बनकर गिरता है।" (when you speak loudly, your voice falls like hammers on the ears of audience), by the Vice-Chancellor while requesting Shri Mohd. Asrar Ahmad to speak in a lower tone. During the Course his evidence, Shri Saiyid Hamid clarified more than once that he had absolutely no intention of hurting the feelings of Shri Mohd. Asrar Ahmad or obstructing him from speaking at the meeting of the Court."
- (v) "The Committee feel that as a Presiding Officer of the Court, the Vice-Chancellor had certain duties and powers to conduct and regulate the proceedings of the Court and that members of the Court including the members representing Parliament are expected to extend their cooperation to the Vice-Chancellor. A member of Parliament would naturally have to discharge his functions in the meetings of the Court like other members, within the parametres of his position as a member of the Court as distinct from his duties as a member of Parliament in Parliament."
- (vi) "The Committee note that the Vice-Chancellor has categorically denied that he made any reference to Parliament at all, least of all in a contemptuous way."
- (vii) "The Committee are of the Opinion that taking into account the totality of the facts and circumstances of the case, no further notice need be taken of the matter."
- (viii) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

5. No further action was taken by the House in the matter.

152

RAJYA SABHA
(1970)

Point of privilege

Alleged ill-treatment of members in jail

For details of the case please see summary No. 19 at p. 44 ante.

153

RAJYA SABHA
(1971)

Point of privilege

Alleged harassment of a member by his Parliamentary party for asking a question in the House

Facts of the case and ruling by the Deputy Chairman

On the 3rd August, 1971, Shri A. P. Chatterjee, a member, sought to raise a question of privilege regarding alleged harassment of Shri Chandra Shekhar, another member, by the Congress party for asking a question in the House on a matter concerning the Ministry of Steel. Shri A.P. Chatterjee alleged that disparaging terms were used for Shri Chandra Shekhar in a Congress Parliamentary party meeting for his question in the House. He contended that Shri Chandra Shekhar was thus restrained in discharging his duties as a member.

2. Shri Chandra Shekhar, refuting the allegation, stated *inter-alia* as follows:—

"..... the Congress Party has never put any limitations for any member to expose corruption, inefficiency and antinational activity of anybody whosoever it may be. I assure my friend on that side that no such curb can be made on any member of our Party; it is not part and parcel of the Party Constitution, rules and regulations. I have no information. I do not go by press report. But I assure them that my privileges and my independence is as intact as it was before."

3. In view of the explanation of Shri Chandra Shekhar, the Deputy Chairman (Shri B.D. Khobragade) disallowed the question of privilege.

INCREASE IN LEVIES ON THE EVE OF BUDGET SESSION

154

LOK SABHA
(1980)

Point of privilege

Increase in prices of certain petroleum products on the eve of the Budget Session

Facts of the case and ruling by the Speaker

On 9th June, 1980 Shri Atal Bihari Vajpayee, a member, while speaking on his notice of adjournment motion regarding increase in the prices of certain petroleum products on the eve of the Session', stated *inter alia* that it was "an impropriety" on the part of the Government to have decided to increase the prices of certain petroleum products one day before the commencement of the Parliament Session. He also stated that it amounted to a "contempt of the House" and was "against the Parliamentary traditions".

2. After hearing several other members on the matter, the Speaker (Shri Bal Ram Jakhar) observed as follows:—

"Now, I have heard the members on the question of announcement made by government increasing prices of certain petroleum products. In this connection, I would draw the attention to an observation made by my predecessor on 4th March, 1974 when a similar question was raised in the House. The Speaker at that time observed—

'When Parliament is sitting and important decisions are taken..... one thing which I cannot ignore is that to take such decisions without informing the House is improper.....'

In the present case the announcement regarding increase in prices of some petroleum products has been made when the House was not in session but I would point out that it was done on the eve of the session. However, there is no infringement of Rules and Constitutional provisions, but it would have been more appropriate to announce this increase in the House.

Members know how to pursue the matter through notices under the Rules, for example Rules 184, 193 etc.; which could be considered for admission. Moreover, opportunities would also be available during discussion of the General

Budget and the Demands for Grants of the Ministry of Petroleum and Chemicals.

I have accordingly not given my consent to the adjournment motions on the subject."

155

LOK SABHA
(1983)

Point of privilege

Increase in prices of certain petroleum products on the eve of the Budget Session

Facts of the case and ruling by the Speaker

On 16th February, 1983 Prof. Madhu Dandavate, a member, gave notice of a question of privilege against the Minister of Energy and Petroleum (Shri P. Shiv Shankar) for issuing notifications increasing the prices of certain petroleum products "just 4 days before the commencement of the Budget Session of Parliament."

On 22nd February, 1983, when the Speaker (Dr. Bal Ram Jakhar) called upon the Minister of Energy and Petroleum to lay the Notifications (regarding the increase in the prices of petroleum products) on the Table of the House several members raised objections to the laying of the said Notifications on the ground that it amounted to impropriety and contempt of the House.

3. The Speaker then observed as follows:—

"Sarvashri Chitta Basu, Ram Vilas Paswan, Somnath Chatterji and Sunil Maitra have sought permission to raise certain objections in regard to papers to be laid on the Table by Shri P. Shiv Shankar.

In this connection, I would like to draw attention to Rule 305C of the Rules of Procedure and Conduct of Business in Lok Sabha which reads as under:—

'305C. A member wishing to raise any of the matters referred to in sub-rule (1) of rule 305B shall refer it to the Committee and not raise it in the House'.

I would also like to observe that Government have issued the notifications increasing the prices of petroleum products under the powers conferred on them by the relevant Act and the rules framed thereunder.

The Members, if they so wish, may write to the Committee on Papers Laid on the Table.

I share the members' feelings. It would have been more appropriate to announce the increase in prices in the House as the Lok Sabha was scheduled to sit from 18th February, 1983."

4. On 23rd February, 1963, when Prof. Madhu Dandavate sought to raise the matter again as a question of privilege, the Speaker observed that he had already observed in the House that it was "an impropriety."

The matter was, thereafter, closed.

156

RAJYA SABHA
(1982)

Point of privilege

Increase in postal tariff on the eve of the Budget Session

Facts of the case and ruling by the Chairman

On 19th February, 1982, when the Deputy Minister in the Ministry of Communications (Shri Vijay N. Patil) sought to lay certain Notifications regarding increase in the postal tariff, on the Table of the House. Shri Lal K. Advani, a member, stated *inter-alia* as follows:—

"Sir Mr. Vijay Patil is about to lay on the Table of the House copies of two Notifications issued by the Ministry of Communications in respect of the Indian Telegraph (First Amendment) Rules etc..... Sir, by these Notifications a burden of Rs. 100 crores has been imposed on the people. This burden is in respect of a hike in telephone charges, in money order charges, in registration charges and various kinds of postal tariff....

The point is that Parliament exercises control over the executive essentially by controlling the finances and therefore, the entire budgetary process has been laid down. The manner in which this Government has been going about increasing the rates just on the eve of the Budget Session makes an utter nonsense of the budgetary process. They did it last year also and they have done it in a very flagrant and unashamed manner this time..... What is this, if not a constructive contempt of Parliament? What is this is not a deliberate bypassing of

Parliament and trying to undermine the authority of Parliament *vis-a-vis* the executive"

2. The Leader of the House (Shri Pranab Kumar Mukherjee) then stated as follows:—

"I do strongly refute the allegation they have made that these are the extra-budgetary measures of mopping up the resourcesLegally and technically the Government has the competence to raise the tariff. This is just a contract between the person who is receiving the service from the owner of the service and nothing else, no taxation proposal. We have to do it and about future nobody can give any commitment that it will not be done."

3. The Chairman (Shri M. Hidayatullah) then observed as follows:—

"Before I ask the hon. Minister to lay the papers on the Table of the House in view of the long speeches that have taken place, I shall say a few words. It is true that Government has the power and the authority under the Act to raise the tariff for postal articles. No question of legality is involved. I think that has been done before also. But what is troubling the members of the opposition is that on the eve of the Budget when this kind of extra rates are imposed it takes away the right of the members to discuss it as part of the budget. It is not a question of legality; it is a question of propriety. But I take it that when the budget speeches come, much more will be said about this. I personally think that propriety demands that if there is an increase in the rates of levies of this type, it should be done not on the eve of the Budgetary Session. But well in advance so that the people will know that this is not a part of the Budget being showed in.....

..... You raise more funds by an executive order. To that extent, the budgetary levies can be reduced, that is the point. I think there is something in what the Opposition feels that these should be brought as a part of the Budgetary discussion, but I am sure in the Budgetary discussion, they will raise all these issues again. Therefore I allow the Minister to lay the papers on the Table of the House."

INFLUENCING

LOK SABHA
(1968)

Point of privilege

Attempt to influence a member in his Parliamentary conduct

Facts of the case and reference to Committee of Privileges

On the 3rd April, 1968, Shri Kanwar Lal Gupta a member, sought to raise a question of privilege against Shri B.P. Patel, Chairman, State Trading Corporation of India, for approaching Shri Baburao Patel, a member and Rajmata Vijay Raje Scindia of Gwalior with a view to influencing Shri Baburao Patel to stop speaking about the alleged irregularities and suspected malpractices by the State Trading Corporation on the floor of the House.

Shri Gupta referred in the speech of Shri Baburao Patel in the House on the previous day and the letter written by the latter to Shri B.P. Patel in which Shri Baburao Patel had stated that an attempt was made to influence him directly and through the Rajmata Vijayraje.Scindia of Gwalior, whose representative he was in Parliament, not to raise the question of alleged irregularities in S.T.C.

This he felt, constituted a breach of privilege.

2. After leave was granted by the House for raising the question of privilege, Shri Atal Bihari Vajpayee, a member, moved the following motion which was adopted by the House:—

“This House resolves that the question of Breach of privilege raised by Shri Kanwar Lal Gupta against the Chairman, State Trading Corporation he referred to the Committee of Privileges for investigation with instructions to report by the first day of the next session of the House.”

Findings and recommendations of the Committee

3. The Committee of Privileges after calling for written statements from Shri Baburao Patel, Rajmata Vijayraje Scindia of Gwalior and Shri B.P. Patel, Chairman State Trading Corporation in their Fifth

Report presented to the House on the 22nd July, 1968; reported *inter-alia* as follows:—

(i) “Shri Baburao Patel, M.P. in his written statement submitted to the Committee, had *inter-alia* stated as follows:—

‘For nearly two hours Shri B.P. Patel tried to inform me of the details of the sulphur deal.....

As Mr. B. P. Patel did not have any satisfactory explanations for many things, he completely failed to convince me. He quickly realised this and changed his tone to entreaty and earnestly requested me not to criticise the affairs of the S.T.C. in or outside Parliament.

* * * * *

Her Highness showed me my reprint of “15-crore Sulphur Scandal” and said that it was given to her by Mr. B. P. Patel who had requested her to talk to me about it.

* * * * *

In conclusion I am convinced that by approaching Her Highness the Rajmata of Gwalior, Mr. B.P. Patel the Chairman of the S.T.C. attempted to bring pressure and undue influence upon me and tried to prevent me from carrying out my duties as a member of Parliament’.”

(ii) “Rajmata Vijay Raje Scindia of Gwalior in her written statement submitted to the Committee had *inter alia* stated as follows:—

‘After talking to me about His late Highness Shri B. P. Patel produced a booklet published by Shri Baburao Patel. He requested me to ask Shri Baburao Patel to abstain from harming him by asking questions in Parliament and writing articles against him’.”

(iii) “Shri B. P. Patel in his written statement submitted to the Committee, had *inter-alia* stated as under:—

‘Right from the time I thought of meeting Her Highness Vijay Raje Scindia of Gwalior during my entire conversation with her and even thereafter nothing was further from my mind than to influence the Hon’ble Shri Baburao Patel in his freedom of speech and expression or action as an Hon’ble member of the Lok Sabha. The only thing which impelled me to see Her Highness Vijay Raje Scindia of Gwalior were the inaccuracies and insinuations

in the article of Shri Baburao Patel published by him not in his capacity as the Hon'ble member of the Parliament but as a Journalist, Editor, Printer and Publisher of MOTHER INDIA. It is also relevant to refer to what the Hon'ble Shri Baburao Patel, M.P. himself says in his speech on the floor of the Lok Sabha on April 2, 1968 namely, "when my article appeared this man tried to contact me personally and did come to my place....." But for this article, which contained patent inaccuracies, insinuations and aspersions, there would have been no occasion or necessity of my meeting Her Highness Vijay Raje Scindia of Gwalior particularly when the Report of the Committee on Public Undertakings was already laid on the Table of the House in all its details.

* * * * *

As the Chairman of the State Trading Corporation of India, I would have failed in my duty to it and its business if I had not endeavoured as I did to point out and to obviate the further propagation of the patent factual inaccuracies, insinuations and aspersions contained in the article by Shri Baburao Patel released not in his capacity as an Hon'ble member of Parliament but only as an Author, Editor, Printer and Publisher thereof. No privilege of any kind attached to this article and what is more Shri Baburao Patel had even renounced the Copyright therein. The motive behind what I did was purely and solely the safeguarding of the image reputation and business of the State Trading Corporation of India against the apprehended evil-effects of an inaccurate and misleading piece of journalism.

In the foregoing paragraph, I have respectfully submitted that I have committed no contempt or breach of privilege of the Parliament and/or of its Hon'ble member and I have prayed for a complete and honourable exoneration from the allegations made against me and referred to this Hon'ble Committee. Without prejudice to this, and in the alternative, I respectfully say and submit that should this Hon'ble Committee be pleased to come to the conclusion that in the present case there is a contempt or breach of privilege of the Parliament and/or its Hon'ble member. I respectfully say and submit that such contempt or breach is not a deliberate attempt on my part to bring the institution of Parliament into

disrespect and/or to undermine public confidence and support of Parliament and/or to commit any breach of privilege of the Hon'ble member of the House. I may assure this Hon'ble Committee that I had at no time any intention to bring the institution of Parliament into disrespect and contempt or to commit a breach of privilege of an Hon'ble member of the House and that if this has been the result produced by what I have done then I have no hesitation in expressing an unconditional and unqualified regret and I pray that taking into account the peculiar facts of this case and the totality of the circumstances this Hon'ble Committee will be pleased to recommend that no further action be taken by the House in the matter'."

- (iv) "The Committee have come to the conclusion that there is no evidence that Shri B. P. Patel had attempted to influence Shri Baburao Patel, M.P. in his conduct as a member, by threats or any other improper means which might constitute a breach of privilege and contempt of the House."
- (v) "The Committee would like to point out that it is a breach of privilege and contempt of the House to attempt by improper means to influence members in their Parliamentary Conduct. In this category of contempts *May* has mentioned two types of cases *viz.*, bribery and attempted intimidation of members."
- (vi) "The Committee are of the opinion that in the present case. Shri B. P. Patel, Chairman, State Trading Corporation of India has not committed any breach of privilege or contempt of the House."
- (vii) "The Committee however, feel that the conduct of Shri B. P. Patel in approaching Shri Baburao Patel, M.P. and Rajmata Vijay Raje Scindia of Gwalior with a view to influencing Shri Baburao Patel, M.P., to stop writing articles or speaking in Parliament about the alleged irregularities and suspected malpractices by the State Trading Corporation, was not proper. While the Committee are satisfied that Shri B. P. Patel did not employ any improper means which might technically constitute a breach of privilege, the Committee are of the view that as a public servant in a responsible position

he should have acted with more discretion.”

(viii) “The Committee recommend that no further action be taken by the House in the matter.”

Action taken by the House

5. No further action was taken by the House in the matter.

158

LOK SABHA
(1969)

Point of Privilege

Reported statement of a Chief Minister that appointment of a Parliamentary Committee to study the situation in a part of his State would amount to interference in the affairs of that State

Facts of the case and action taken by the House

On the 7th April, 1969, Shri Madhu Limaye, a member, sought leave of the House to raise a question of privilege against the Chief Minister of Andhra Pradesh (Shri Brahmananda Reddy) for the latter's reported statement that appointment of a Parliamentary Committee to study the situation in Telangana would amount to interference in the affairs of that State. As more than twenty-five members stood in support, the Speaker declared that the leave of the House was granted.

2. Shri Madhu Limaye then moved:

“That the question of privilege arising out of the reported statement of Shri Brahmananda Reddy, Chief Minister of Andhra Pradesh, made at Palam Airport, Delhi, be referred to the Committee of Privileges.”

Shri Limaye contended that the statement of Shri Brahmananda Reddy constituted an undue influence on the members of Parliament and an obstruction in the discharge of their duties. He felt that this had brought the House into disrepute and was, therefore, a contempt of Parliament. He added that the Government of Andhra Pradesh had violated the Presidential Order with regard to the functioning of Regional Committees in Andhra Pradesh, constituted by Order of the President in exercise of powers under Article 371 of the Constitution, to safeguard the interests of the people of Telangana region in that State. Shri Limaye felt that Shri Brahmananda Reddy had knowingly given a statement to frighten the members of Parliament so that they should oppose the appointment of a Parliamentary Committee.

3. Speaking on the motion, the Minister of Law (Shri P. Govinda Menon) stated *inter-alia* as follows:—

“On 2nd April, before Parliament had thought of appointing a Parliamentary Committee. Mr. Brahmananda Reddy, although Chief Minister yet a citizen thought that in his opinion if a Parliamentary Committee were appointed which had not been contemplated it would be an interference with the affairs of the State.

Let Mr. Limaye and those who think with him understand that justice is not a cloistered virtue nor is the privilege of Parliament a very tender reed which will be broken if somebody says something at some time. I would also now quote what Mr. May has said. That is the Bible by which we swear often. In the Seventeenth Edition, at page 117, he says that it is only the statements which are libellous and derogatory to the character and prestige of Parliament or any acts which tend to obstruct the proceedings of the House in the performance of their functions by diminishing the respect due to them that are considered as breach of privileges or contempt. So, that is the test—whether whatever was said by Mr. Brahmananda Reddy tended to diminish the respect due to this august House and tended to obstruct the functioning of the House or its Committee. What is our fear? If tomorrow a Committee is appointed do you think that the Committee of Parliament, of this august House, will not be permitted to go to Telangana? Will it be obstructed from discharging its duties? Why then this frequent resort to the rule regarding privileges which, by constant abuse, creates a feeling of disrespect towards this assembly in the minds of the Public. That is most important.... That privilege is there in order to enable us to discharge our functions.... I, therefore, submit that there is absolutely no basis for this motion against the Chief Minister.”

4. Shri K. Anbazhagan, a member, stated as follows:—

“This body has every right to solve the national issues, when there is a serious conflict in a State endangering the national cause. This Parliament has every right to take action. But, at the same time, in my humble view, it is also within the right of the Chief Minister or the

ected member, of a State Assembly to express their opinion about such action which the Parliament may consider necessary.

In my view, if we pursue the matter to the Privileges Committee, it may create strong resentment and reaction in the people who are holding responsible posts in the Legislatures and also shake the confidence in the authority of the Parliament. The authority of the Parliament is not saved by the members alone. Because the people support this Parliament, we have got the authority. If we make the people doubt that this Parliament is only interested in its own way and if we let down the Chief Minister or representatives of the elected bodies on the flimsy ground of breach of privileges of this body, they will lose faith in the authority of the Parliament. We cannot take action on a reply to a Reporter's question whether it would mean an interference in the internal affairs of the State..... Therefore, I think after having discussed the issue, we need not pursue the matter to the extent of reference to the Privileges Committee."

5. Shri K. Narayana Rao, another member, state:—

".....it is open to State Chief Minister to interpret the Constitution in his own way and say that the appointment of a Parliamentary Committee would constitute intervention. We may differ from him. I do not say whether he is right or not, but he is entitled to hold that interpretation of the Constitution and we may quarrel with him and, in spite of whatever the Chief Minister has stated, may still appoint a Committee..... I feel, this privilege motion may be rejected by the House."

6. After some discussion, the motion moved by Shri Limaye was negatived by the House.

159

LOK SABHA
(1978)

Point of privilege

Alleged infringement of the rights of members by Council of Ministers in seeking the advice of the Supreme Court under Article 143 (1) of the Constitution on a Bill introduced by a member in the House.

Facts of the case and ruling by the Speaker

On the 14th August, 1978 the Speaker (Shri K. S. HEGDE) informed the House that Shri C. M. Stephen, a member and Leader of the Opposition, had submitted to him on the 10th August, 1978, a notice of a question of privilege under rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, against the Council of Ministers alleging that they had committed a breach of privilege of the House by seeking the advice of the Supreme Court under Article 143(1) of the Constitution on a Bill introduced by Shri Ram Jethmalani, another member. According to Shri C.M. Stephen, the action taken by the Council of Ministers infringed the rights of the members, as any opinion given by the Supreme Court was likely to influence the opinion of the members during the discussion of the Bill in the House. The Speaker also informed the House that Shri Stephen also mentioned in the notice that in case the Speaker felt any doubt as to the sustainability of the charge, he might arrange to hear the views of the members on the floor of the House before finally deciding the question whether consent might be given under rule 222 or not, a procedure strongly objected to by Shri Stephen himself on the 12th August, 1978.

2. While disallowing the question of privilege, the Speaker ruled as follows:—

"I have carefully considered the contentions raised in the motion. As I am clear in my opinion on the question raised, I do not feel justified in encroaching upon the time of the House.

Article 143(1) says:-

'If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.'

The opinion given by the Supreme Court is advisory in character. The language of the article makes it clear that the President may seek the advice of the Supreme Court 'at any time'. This is a constitutional power conferred on the executive. It is not subject to any limitation. Naturally, Government would like to know about the legality of a provision if enacted so that it could decide

as to the stand to be taken by it before the Legislature. I see nothing wrong about it.

There is nothing wrong in the Members of Parliament knowing the opinion of the Supreme Court regarding the legality of a measure before them. It is open to them to take a different view of the matter, despite the opinion of the Supreme Court. But it is equally open to them to accept the opinion of the Supreme Court. Expression of opinion as to the legality of a measure before the House by any one cannot be considered as an undue influence on the Members of Parliament. The Members of Parliament are entitled to know, and are justified, in knowing the different views on a subject before them. The opinion of the Supreme Court does not restrict the powers of the members in any manner. It merely makes available to the members the legal opinion of the highest judicial organ of the country.

Under these circumstances I feel that I will not be justified in granting consent to the motion under rule 222."

3. The matter was thereafter closed.

160

LOK SABHA
(1978)

Point of privilege

Alleged convening of a meeting of a Parliamentary Party to bring about a Party decision regarding action to be taken on a Report of Committee of Privileges

Facts of the case and ruling by the Speaker

On the 15th December, 1978, Shri Eduardo Faleiro, a member, gave notice of a question of privilege against the Prime Minister (Shri Morarji Desai) and the office bearers of the Janata Parliamentary Party for convening a meeting of the Party to bring about a Party decision regarding action to be taken on the Third Report of the Committee of Privileges, which was under consideration of the House. Shri Faleiro in his notice of question of privilege stated *inter alia*, as follows:—

"Newspapers of 14-12-1978 carry the news of an Emergency meeting of the Janata Parliamentary Party held at the residence of Shri Morarji R. Desai, the Hon'ble Prime

Minister on the previous day to finalise the strategy of the Janata Party regarding punishment to be imposed on Mrs. Indira Gandhi and 2 others in relation to the matter of breach of privilege presently before the House....

The Statesman in a news-item under the caption 'Janata MPs. favour expulsion and jail' elaborates in the following terms:—

'Mr. Desai pointed out that whatever his personal opinion in the matter he would be guided by the Party and would present its view as his own....'

2. On the 22nd December, 1978, while disallowing the question of privilege, the Speaker (Shri K. S. Hegde) ruled as follows:—

"In his notice under Rule 222, Shri Eduardo Falciro M.P., has raised an interesting question. I have not been able to get any precedent on the point raised by Shri Falciro. Hence, it has to be decided on first principles.

According to newspaper reports, some of the parties in this House had discussed the question of privilege against Shrimati Indira Gandhi in their party meetings. It is not known whether any of them had issued any whip to their party members. Some of the parties were also reported to have taken decision as to how they should approach the question. The Prime Minister in his comments on Shri Falciro's motion has informed me that the Janata Party has not issued any whip in regard to the privilege motion before the House. But it has discussed the matter in accordance with the usual practice. The Prime Minister has further stated that his action in wanting to know of the views of the party in coming to his own judgement does not constitute any breach of privilege.

The earlier rulings in this House have established that the House will not take note of any discussion at party meetings.

When the House decides a question of breach of privilege, it functions as a quasi-judicial body. Political considerations are irrelevant. Therefore, the motion before the House cannot be viewed from a partisan angle. But even in a matter like this there is nothing wrong for a party discussing the matter so

that members may have an opportunity to convince members about the right approach to the motion before the House. That being so, I am unable to hold that the facts set out by Shri Falciro in his motion amount to any contempt of the House.

Hence, consent asked for is not accorded.”

3. The matter was, thereafter, closed.

161

RAJYA SABHA
(1992)

Point of privilege

Attempt to influence some members of a Joint Parliamentary Committee by a Minister and a Government official

Facts of the case and reference to the Committee of Privileges

On 4 September, 1992, Shri George Fernandes, a member, gave notice of a question of privilege against Shri Rameshwar Thakur, the then Minister of State for Finance, and Shri P. G. Lelc, Additional Secretary in the Ministry of Finance, for allegedly attempting to influence some members of the Joint Parliamentary Committee probing into the securities scam with a view to obstructing the work of the Committee.

2. Shri George Fernandes stated *inter alia* in his notice that the Finance Ministry resorted to a patently clandestine operation by circulating to some selected members of the Joint Parliamentary Committee, a 22 page document in an unofficial envelope without any covering note and contended that if the Government's intentions were honourable, there would have been no question of suppressing the

authorship of the note and it should have been sent to all members of the JPC through the JPC Secretariat. Shri Fernandes in his notice charged the Minister of State for Finance and the Additional Secretary (Finance) with committing gross breach of privilege by making attempts by improper means to influence members and of obstructing members in the discharge of their duties. The member further stated that a breach of privilege of a Committee of Parliament is tantamount to breach of privilege of the House. He requested the Speaker to refer the matter to Committee of Privileges.

3. On 11 September, 1992, the Speaker, in terms of the procedure laid down in the Report of the Joint Sitting of the Committees of Privileges of Lok Sabha and Rajya Sabha and adopted by both Houses of Parliament, forwarded the notice given by Shri Fernandes to the Chairman, Rajya Sabha, for "appropriate action" as Shri Rameshwar Thakur, the then Minister of State for Finance, was a member of Rajya Sabha.

4. On 16 November, 1992, the Chairman, Rajya Sabha, referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

5. The Committee of Privileges after considering the notice of question of privilege given by Shri George Fernandes, MP, and other relevant documents in their Thirty-second Report presented on 19 March, 1993, reported *inter alia* that the matter did not involve any breach of privilege.

Action taken by the House

6. No further action was taken by the House in the matter.

INTIMIDATING/THREATENING MEMBERS

162

LOK SABHA

(1965)

Point of Privilege

Alleged intimidation of the Chairman of a Parliamentary Committee by a Minister in the Lobby

Facts of the case and ruling by the Speaker

On the 21st April, 1965, Shri Ram Sewak Yadav, a member, complained that on the 19th April, 1965 Shri J.B. Kripalani, another member, said in the House that Shri G. L. Nanda, the Minister of Home Affairs, had told Shri R. R. Morarka, Chairman, Public Accounts Committee, before several members in the Lobby that the Public Accounts Committee Report on Bharat Sewak Samaj was prejudicial and that he (Shri Morarka) was working against the interest of the Congress. Shri Yadav contended that as this allegation had not been contradicted either by Shri Nanda or by Shri Morarka although both were present in the House when Shri Kripalani mentioned it. Shri Nanda's statement was a serious breach of privilege of the House and of its Committee.

2. During the discussion, Shri Khadilkar raised a question whether a private conversation between two members, overheard and reported to the House, could form a subject matter of breach of privilege.

3. The Speaker (Sardar Hukam Singh) then informed the House that Shri Nanda had written to him a letter stating:

"I had a purely private conversation with Shri R. R. Morarka in the Lobby of Lok Sabha. It could not have been my intention to say anything derogatory to the Public Accounts Committee or its Chairman. I am sorry if a contrary impression has been created."

4. Shri Morarka stated that Shri Nanda did tell him that it was a private conversation between them.

5. After some discussion the Speaker observed *inter alia* as follows:—

".....So far as this question is concerned, if any intimidation is caused, or is intended or is likely to be caused, to the Chairman of any Parliamentary Committee, certainly it is a breach of privilege....

....there is a category as has happened in the present case, of some conversation taking place in the lobbies. The other day

Shri Mukherjee, and today Shri Khadilkar, Shri Azad and Shrimati Renu Chakravartty have pleaded that if the same rules which are applied to the House are applied to the conversation that takes place in the lobbies, there would be no freedom left for any members there.

It has been said by Dr. Lohia and repeated by Shri Kripalani, that if the talk takes place between ordinary persons, that does not matter but if it is by people in authority then it should be taken in a different light.

If the language is intended or is likely to cause coercion or intimidation, or any offensive language is used, even if it is outside the House, in the lobby, certainly it is a breach of privilege, it comes under the discipline of the Speaker of this House, and this House can always take action against that. But the question boils down to this. Shri Nanda has said, as I have read now, that he wanted to convey it to a member of his own party and it cannot be said that because he is the Chairman of a Committee, he is not a party member. Shrimati Renu Chakravartty has said that the moment he becomes a Chairman he ceases to be a member of the Congress. Yet, we have to function on party lines. There might be some meetings held inside the Central Hall. There are some rooms where the parties also hold their meetings. If they sit down and criticise each other, if some member overhears it and brings it up here, of course, that would not be a subject of breach of privilege.

I am inclined to hold that if such an incident occurred in the lobby, then the person aggrieved is actually the one who has been intimidated or coerced, or against whom such language had been used, if he brings a complaint then the House should take notice of it; not if it is brought by other members who over-hear him or who happen to be present there at that time. I have to safeguard the freedom of the members to talk freely inside the lobbies. That must be reconciled with the breach of privilege that might be committed. Both things have to be taken together.

In view of what Shri Nanda has written that he is

sorry that such an impression has been created, the matter is closed and there is nothing more that is required to be done by me."

163

LOK SABHA

(1966)

Point of Privilege

Alleged intimidation of members of Parliament by an outsider

Facts of the case and reference to Committee of Privileges

On the 4th April, 1966, Shri H.C. Heda, a member, raised a question of privilege regarding the following two telegrams received by (1) Sarvashri H. C. Heda and Narendrasingh Mahida, members and (2) the Speaker, respectively from Shri George Fernandes, General Secretary, Hind Mazdoor Panchayat, Bombay:—

(1)

"People's wrath will be upon you if you persist in attacking SSP Members who are the conscience of the nation (Stop) Bastar murders by D. P. Misra's Government most dastardly act which will be avenged sooner or later (Stop) Why should you identify yourselves with worst dregs of society like Misra and his gangsters (Stop) Dignity of Lok Sabha would have been raised by open discussion of Bastar murders which violate dignity of human life".¹

(2)

"Congressmen Heda, Basappa and Mahida's suggestion to have secret session of Lok Sabha to consider the question of maintaining the dignity and decorum of the House exposes the mental degeneration of these so-called representatives of the people (Stop) Parliament must learn to defend the dignity of human life (Stop) Bastar murders are further proof that under Congress rule human beings are shot down as though they were stray dogs (Stop) Urge you as Speaker to defend the Socialist members who are

fighting in defence of people's [dignity (Stop) Tell Congressmen that dignity and decorum] of the House can be raised higher by discussion of Bastar murders by Congress Government of Madhya Pradesh."

2. Shri Heda contended that the telegrams amounted to interference in the normal working of members of Parliament and therefore constituted a breach of privilege of the House.

3. After a brief discussion, the House referred the matter to the Committee of Privileges.

Findings and recommendation of the Committee

4. The Committee of Privileges, after examining Shri George Fernandes in person and his written statement, in their Eighth Report, presented to the House on the 9th August, 1966, reported *inter alia* as follows:—

(i) "It is well established and recognised that any attempt by improper means, *e.g.*, intimidation, threats or coercion, to influence members of Parliament in their Parliamentary conduct is a breach of privilege and contempt of the House. No person has any right to seek by improper means to influence a member's activities in Parliament." It is the duty of Parliament to protect members from threats which are calculated to affect the members' course of action in Parliament so that they may discharge their duties as such independently and without fear of punishment or hope of reward."²

(ii) "Shri George Fernandes, in his oral evidence before the Committee, submitted that it was not his intention, in sending the impugned telegrams, to make any threat or to intimidate or coerce any member of Parliament in relation to his Parliamentary conduct. He stated that what he wanted to convey by the use of the words 'People's' wrath will be upon 'you' in his telegrams was that the people would not take very kindly to the position which certain Congress members of Parliament (to whom he had sent the telegrams after reading their names in the Bombay papers of that day) had

¹These words were left out in transmission in the telegram received by the Speaker but were contained in the original copy signed by Shri George Fernandes of the telegram obtained from the Posts & Telegraphs Department.

²May's *Parliamentary Practice*. 17th Ed. pp 122-123.

taken regarding the conduct of the S.S.P. members in Lok Sabha in the context of Bastar incidents and that their party (Congress) would be defeated in the forthcoming general elections."

(iii) "The Committee are of the opinion that, in view of the explanation given by Shri George Fernandes before the Committee in which he had disclaimed any intention to threaten, intimidate or coerce any member of Parliament in his telegrams sent to the Speaker and Sarvashri H.C. Heda and Narendrasingh Mahida, M.Ps., no breach of privilege or contempt of the House is involved in the matter."

(iv) "The Committee, however, feel that the wording of the impugned telegrams was improper. But this appears to have been done in the heat of the moment and political controversy aroused in the country in the wake of the Baster incidents. The Committee are mindful that in the ardour of political contest and in the heat of the moment, strong and undesirable words are some-times used which a person, thinking more coolly could not say."

In this connection the Committee might quote the following observations made by the Committee of Privileges of the House of Commons, U.K., in the *Daily Mail Case* (1948):—

"Whilst recognising that it is the duty of Parliament to intervene in the case of attacks which may tend to undermine public confidence in and support of the institution of Parliament itself, your Committee think it important that, on the one hand, the law of Parliamentary privilege should not be administered in a way which would fetter or discourage the free expression of opinion or criticism, however prejudiced or exaggerated such opinions or criticisms may be, and that, on the other hand, the process of Parliamentary investigation should not be used in a way which would give importance to irresponsible statements."

[H.C. 112 (1948), p. iv]

(v) "In this context, the Committee noted that the Committee of Privilege of Second Lok Sabha, in their Eleventh Report on Bhowmick's case, even while holding that a breach of privilege and contempt of the House had been committed by Shri Bhowmick in casting aspersions on the Speaker and the House and

using strong and objectionable language, recommended that the house would best consult its own dignity by taking no further notice of the matter."

(vi) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

5. No further action was taken by the House in the matter.

164

LOK SABHA
(1970)

Point of Privilege

Alleged making of enquiries by police from a member

For details of the case please see summary No. 118 at p. 233 *ante*.

165

LOK SABHA
(1970)

Point of Privilege

Alleged threat by a Minister at the Congress Parliamentary Party Meeting

Facts of the case and action taken by the House

On the 1st September, 1970, Shri R.K. Amin, a member, sought to raised a question of privilege in respect of the following news-item published in the *Indian Express* and some other newspapers of Delhi, in their issue dated that 1st September, 1970.—

"There were reports today that the Parliamentary Affairs Minister Shri Raghuramaiah had indicated at the meeting of the Executive of the New Congress Parliamentary Party this morning that the Government might go in for a mid term poll if the Bill [Constitution (24th Amendment) Bill, 1970] was rejected but the Minister, when contacted later denied having said any such thing."

2. S'ri R.K. Amin and some other members contended that the threat of the mid-term poll, allegedly given by the Minister of Parliamentary Affairs at a meeting of the Congress Parliamentary Party Executive, constituted a breach of privilege.

3. After some discussion, the Speaker (Dr. G.S. Dhillon) observed *inter-alia* as follows:—

"We should have some proportion of things. Something happened inside their executive committee meeting; it was a party meeting. Do hon. members want to develop a convention that I should take

notice of whatever is reported about what happened inside any party's meeting?I am not going to take notice of what is said inside a party."

4. The matter was thereafter, closed.

166

LOK SABHA
(1973)

Point of Privilege

Alleged directive by a Parliamentary Party to its members not to hobnob with members of other Parties

Facts of the case and ruling by the Speaker

On the 1st August, 1973, Sarvashri Shyamnandan Mishra, Jyotirmoy Bosu and Madhu Limaye, members, sought to raise a question of privilege on the ground that the Congress Parliamentary party Executive Committee was reported to have issued a directive to its party members not to hobnob with members of Opposition parties. They contended that the Central Hall and Lobbies of Parliament were places meant for free exchange of ideas among members and any hinderance imposed in this respect amounted to curtailment of rights and privileges of the members.

2. Disallowing the question of privilege, the Speaker (Dr. G.S. Dhillon) ruled as follows:—

"How can you bring it up as a privilege motion? If something happened inside the party executive meeting it is a party affair.....I do not allow it... Every party has right to issue direction to its members. A privilege motion should not arise unless a member comes to me and says to me that due to this he is obstructed from the discharge of his duties. That direction is meant only for Congress members... If any Congress member comes to me and says that he is obstructed... or if anybody else comes to me and says that this statement is causing obstruction in the performance of his duties as a member of Parliament, that is understandable. Why should you worry? It is another party. They have a right to discuss everything in their party meetings, in their party executive committee meetings and they have the right to issue directions to their partymen. If any of their partymen resents it and comes to me and says: this is not a mere direction, it is an obstruction in the performance of my duties as a member then I shall consider it. So far there is not such thing."

167

LOK SABHA
(1974)

Point of Privilege

Alleged intimidation of a member by his Party Leader

Facts of the case and ruling by the Speaker

On the 8th August, 1974, Shri Jyotirmoy Bosu, a member, sought to raise, a question of privilege against the Prime Minister (Shrimati Indira Gandhi) for allegedly reprimanding a member of the House (Shri S.N. Misra) for suggesting that Shri Fakharudin Ali Ahmed, the Congress candidate in the Presidential Election should declare his assets.

2. The Speaker (Dr. G.S. Dhillon) disallowed the question of privilege and observed *inter alia* as follows:—

"What is said in the party meeting cannot be brought in here....I do not think it is a privilege matter. It is a matter within their party...Every party has a right to give directions to its members. This has come up in the House on a number of times. I have taken the same view."

3. When some members stated that the members should not be subjected to certain regulations by any outside authority, in respect of the performance of their functions in the House, the Speaker observed *inter alia* as follows:—

"If somebody thinks that his Party Leader is obstructing him, he can come to meI have not thought it proper to intervene in a matter between the Party and the Leader. I basically recognise the working of a party system. It is the right of the Leader to keep discipline and to issue directions."

168

LOK SABHA
(1977)

Point of Privilege

Alleged threat to murder a member

Facts of the case and reference to the Committee of Privileges

On the 28th February, 1979, Shri Mani Ram Bagri, a member, gave notice of question of privileges under rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, stating that Shri Raj Narain, another member had received a letter dated the 23rd February 1979, containing a

threat to murder him, which read, *inter alia*, as follows:—

“Now I want to warn you through this letter that whatever propaganda you might have done so far against the R.S.S., let it be there. But if you dare open your mouth against the R.S.S. from now onwards, your voice will be stopped for ever....

I had come to Delhi. I went to your Kothi, but unfortunately you were not there...I did not have much time, otherwise, I could have settled the scores with you there and then.”

2. On the 1st March, 1979, when Shri Mani Ram Bagri sought to raise the matter in the House, the Speaker (Shri K.S. Hegde) ruled as follows:—

“...Mr. Bagri brought to my notice a letter said to have been written by one Mr. Mittal to Mr. Raj Narain saying that, because he was carrying on a campaign against R.S.S., his mouth would be shut.That is a very serious matter. I have found a *prima facie* case, and I have referred the matter to the Privileges Committee...”

3. Shri Ajay Kumar Mittal, in letter dated the 4th March, 1979, addressed to the Speaker disowned the authorship of the impugned letter and stated, *inter alia*, as follows:—

“I have come to know that the said letter was written in my name. I want to inform you that I have nothing to do with the letter and I did not write this letter. I feel that a person having enmity with me has played this mischief just to harass me. I humbly submit that this matter may be looked into and the person found guilty be punished...”

Findings and recommendation of the Committee of Privileges

4. The Committee, after examining Sarvashri Raj Narain and Mani Ram Bagri, members, Shri Ajay Kumar Mittal, alleged author of the impugned letter and Shri S.L. Mukhi, handwriting expert in their Fifth Report, presented to the Speaker on the 31st May, 1979 and laid on the Table of the House on the 9th July, 1979, reported *inter alia*, as follows:—

(i) “The Committee considered the written opinion of the handwriting expert a copy of which was furnished by the Ministry of Home Affairs, on the question whether the handwriting and the signature of the impugned letter tallied with specimen handwriting and the specimen signatures of Shri Ajay Kumar Mittal. In the opinion of

the handwriting expert, while the signature of Shri Ajay Kumar Mittal on the cyclostyled letter dated the 4th March, 1979, addressed by him to the Speaker, Lok Sabha, tallied with his specimen signatures, the handwriting and signature in the letter dated the 23rd February, 1979, alleged to have been written by Shri Ajay Kumar Mittal to Shri Raj Narain, M.P., did not tally with his specimen handwriting and specimen signatures.”

(ii) “The Ministry of Home Affairs have also informed the Committee that ‘As for the investigations made with regard to the threatening letter alleged to have been written by Shri Ajay Kumar Mittal to Shri Raj Narain, the inquiries made in the matter did not confirm that Shri Mittal had sent any such letter to Shri Raj Narain.’”

(iii) “After careful consideration of all the facts and circumstances, the Committee have reached the conclusion that as the handwriting and signature in the letter dated the 23rd February, 1979, alleged to have been written by Shri Ajay Kumar Mittal to Shri Raj Narain, M.P. do not tally with his specimen handwriting and specimen signatures, the impugned letter dated the 23rd February, 1979, addressed to Shri Raj Narain, M.P., was *not* written by Shri Ajay Kumar Mittal, 96-Khandak, Meerut (U.P.).”

(iv) “In view of the above, the Committee are of the opinion that the matter calls for no further action and so it may be dropped.”

(v) “The Committee recommend that no further action be taken by the House in the matter.”

Action taken by the House

5. No further action was taken by the House in the matter.

169

LOK SABHA
(1981)

Point of Privilege

Alleged causing of an enquiry against a member for quoting from and laying on the Table of the House photo-copies of certain files, notings and Reports of certain Ministries

For details of the case please see summary No. 120 at p. 234 *ante*.

Point of Privilege

Alleged attempt by a Minister to intimidate members and suppress their freedom of speech by issuing a whip to them in the House

Facts of the case and ruling by the Speaker

On 17th November, 1987 Shri Dinesh Goswamy sought to raise a matter in the House regarding setting up of polling booths by Government of Nagaland within the territorial jurisdiction of Assam which led to interruptions by several members in the House. There were sharp exchanges between Shri Ram Dhan and Prof. K.K. Tewari which was inaudible due to noisy scenes in the House. Prof. K.K. Tewari also left his seat and proceeded towards Shri Ram Dhan. To this some members took objections and the Speaker observed "I could not hear what he was saying. But I was seeing that there was menacing step towards him". Due to continuous interruptions and noisy scenes in the House, the Speaker adjourned the House. When the House reassembled in the afternoon, the Speaker allowed Shri Ram Dhan and Prof. K.K. Tewari to make personal explanations. Thereafter, the Speaker observed as follows:—

"I have heard the two explanations, both from Shri Ram Dhan and Prof. K.K. Tewari and find that there were some misgivings. No, I think, as the Hon. Members have said neither of them had any bad intention; neither Shri Ram Dhan, because he had completely gone by the hon. members' regard to the House and to other members; he did not want to say anythingOnce he advanced towards that, I said, he was advancing menacingly.....I did say and that is why I asked for his personal explanation; and that is why, in the meantime, I had also postponed it. I wanted to clarify the position. Prof. Tewari, in all good faith said that he did not mean anything. In view of all this, let us close this and let the matter rest here".

2. Shri Ram Dhan and Shri Raj Kumar Rai were, however, persistently defying the Chair and obstructing the proceedings of the House. When both the members continued to stand and argue with the Speaker about his ruling, the Minister of Parliamentary Affairs (Shri H.K.L. Bhagat) sent a handwritten whip in his capacity as the Chief Whip of

the Congress (I) Party in Lok Sabha to both of them asking them to obey the ruling of the Chair and not to obstruct the proceedings of the House; Shri Bhagat also stated as follows:—

"I want to make one thing clear. He is not obeying the ruling of the Chair. I, as the Chief Whip of the Congress Party, have issued a Whip to him and to Mr. Rai—to both of them—to obey the Congress Party Whip and not to challenge the ruling of the Chair. If they want to disobey the Whip, let them do it knowingly...I have issued the whip and I am entitled to issue this whip to both of them."

3. Subsequently, Sarvashri Ram Dhan, K.P. Unnikrishnan, S. Jaipal Reddy, Prof. Madhu Dandavate and Shri Vidyacharan Shukla, gave notices of question of privilege against Shri H.K.L. Bhagat, Minister of Parliamentary Affairs for allegedly intimidating Sarvashri Ram Dhan and Raj Kumar Rai and suppressing their freedom of speech in the House by issuing whip to them. The Speaker referred all the notices to the Minister of Parliamentary Affairs for his comments.

4. On 14th December, 1987, the Speaker (Dr. B.R. Jajhar) informed the House as follows:—

"Sarvashri Ram Dhan, K.P. Unnikrishnan, S. Jaipal Reddy, Prof. Madhu Dandavate and Shri Vidyacharan Shukla gave notices of question of breach of privilege against Shri H.K.L. Bhagat, Minister of Parliamentary Affairs, for allegedly intimidating Sarvashri Ram Dhan and Raj Kumar Rai and suppressing their freedom of Speech in the House by issuing a whip to them in the House on 17th November, 1987, seeking my consent under rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha to raise the matter in the House.

Having considered the points raised by the members and the comments of the Minister of Parliamentary Affairs thereon, I give my consent to the raising of the question of privilege under rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha.

Shri Ram Dhan may now ask for leave of the House."

5. Shri Ram Dhan then sought leave of the

House. The leave was granted and Shri Ram Dhan raised the question of privilege.

6. While raising the matter, Shri Ram Dhan stated *inter alia* as follows:—

- “(i) Is there anything in the Constitution and Rules of Procedure which gives Party Whips the right to curb members’ freedom of speech? No. There is nothing in the Constitution and the rules which give such a right to Chief Whips of Parties. On the contrary article 105 ensures members’ right of freedom of speech.
- (ii) There is no mention of the words “Party” and “Whip” in the Constitution. The 52nd Amendment and the Tenth Schedule which it added, define the words “House” “legislature party”, “original whip”. It speaks of any person or authority authorised by the party “in this behalf”, that is, in relation to issuing direction about voting or abstaining from voting. Even if it is conceded that the Whips are the aforesaid authorities, their jurisdiction is limited to voting in a division and cannot be extended to an undefined power to encroach on rights conferred on members by the Constitution and Rules of Procedure.
- (iii) Shri H.K.L. Bhagat has not stated in relation to what division he had issued the whip. There was no motion before the House and no division in the offing. On matters of privileges, contempt and discipline, there are no whips.
- (iv) The power of disciplining members is vested in the Speaker. The Leader of the House or Chief Whip cannot *even move a motion* for a member’s suspension till the Speaker had named a member for disorderly behaviour.
- (v) Shri H.K.L. Bhagat has mentioned lists of members given by whips to the Chair to help him regulate the debate. This is for convenience only. This does not give the whips right to shut out dissenting opinions. In fact, this is what is being done since the previous session. We should follow the example of the House of Commons. Winston Churchill often dissented from the Tory Party line. Yet, when he and his fellow dissidents wished to speak, they could easily “catch the Speaker’s eye”. Here, members of the Ruling party, who do not agree with the official line

on any Bill or motion, are being denied the opportunity to speak by the Chief Whip. There is no warrant for the exercise of such a dictatorship in the House.

- (vi) Since the whips are issued to ensure the presence of members *at divisions* which are likely to materialise, the whips are necessarily directed to all the members of the party without exception. To issue whips to a few individuals on a matter, which does not involve vote or division, is to reduce the whips to mockery.
- (vii) Shri H.K.L. Bhagat has given quotations torn out of context. Thus, he had deliberately skipped over the key exchange involving Shri K.K. Tewari and the Speaker, Shri Arif Mohammad Khan and some of us heard some unprintable remarks uttered by Shri K.K. Tewari about me and also saw the menacing steps he took in my direction. The Speaker did not hear the words spoken by Shri K.K. Tewari about me because of the noise, but he saw Shri K.K. Tewari’s action...Shri H.K.L. Bhagat could have intervened and administered rebuke to Shri K.K. Tewari. Instead of doing this he issued his ridiculous whip in the House and announced it himself.
- (viii) The entire record will show that I was not defying the Chair. I got up to offer an explanation with the permission of the Speaker...In fact, after I spoke, the Chair accepted my contention that I had used no unparliamentary expressions in the House....The Speaker had also admitted he did observe that Shri K.K. Tewari had ‘advanced menacingly’ in my direction. Later he accepted Shri K.K. Tewari’s explanation that he did not mean to threaten anybody.....”

7. The Speaker then allowed 14 other members including Shri H.K.L. Bhagat, Minister of Parliamentary Affairs to speak on the question of privilege raised by Shri Ram Dhan.

8. Replying to the points raised by Shri Ram Dhan and others Shri H.K.L. Bhagat, the Minister of Parliamentary Affairs stated *inter alia* as follows:—

“There is absolutely no two opinions that it is your privilege, your prerogative and your right and responsibility to maintain decorum in the House. There are no two opinions about it. It is absolutely your responsibility. The only

question is, whether it is the responsibility of all of us or not? And, secondly, whether it is the responsibility of the leaders and whips of the House to assist or not?Now, Indrajit Guptaji said, 'whether it was a ruling or not'?....Even Shri Ram Dhan has considered it as a ruling. He is accepting it as a ruling. But the law goes a bit further. I am quoting from Kaul and Shakhder, page 96:

'Speaker's ruling, as already stated, cannot be questioned except on a substantive motion. A member who protests against the ruling of the Speaker commits contempt of the House and the Speaker. Speaker is not bound to give reasons for his decision. Members cannot criticise directly or indirectly, inside and outside the House any ruling even, opinion expressed or statement made by the Speaker'.

....I agree that a member has a right to request the Speaker to clarify or reconsider certain thing. He has such a right. The question is that in the given circumstances was that done or something else was done? ...One point is that the whip is issued to the entire party and why to an individual member. Only these two suspended members from the Congress (I) Party were violating the Rules of Procedure and clearly disobeying the Chair, defying the Chair's ruling by speaking without your permission by criticising your ruling, by not obeying your ruling and casting aspersions on the Chair as also obstructing the proceedings of the House for a long time and thus it is they who have committed contempt of the House. Should I at that time issue a whip to all my members....It is not correct to say that they were seeking mere clarification about your ruling; they were clearly disobeying it and criticising it....It is at this stage, when in spite of your repeated appeals, the situation had reached a point where the two Hon'ble members, viz., Shri Ram Dhan and Shri Raj Kumar Rai, alongwith other members belonging to the opposition, were persistently defying the Chair, obstructing the proceedings and thus committing contempt of the House, that I sent a written whip to the two Hon'ble members of the Congress (I) Party to accept the ruling of the Chair. I also said that on the floor of the House...I fully believe in the freedom of speech of Hon. members in accordance with the provisions of article 105 of the Constitution. The language of the whip is very clear. The whip was issued only to ask them to desist from further

questioning the ruling of the Chair so that decorum of the House could be maintained. That was the only reason for issuance of the whip. There was no question of any other motivation. In my oral observations also I emphasised the same thing....I would like to submit that it is the privilege and responsibility of the Chair to maintain decorum, dignity and discipline of the House....In fact, asking my members to obey your ruling. I am assisting you. I am strengthening the decency and decorum of the House. It is my responsibility....The question of maintenance of decorum and dignity of the House has been discussed in various All India Whips Conferences and many recommendations were adopted. In December, 1966, (it was recommended):

'The conference considered the different aspects of the problem of maintaining decorum and discipline in the Legislatures and recommends that in the interest of maintaining the prestige of our representative institutions at a very high level, legislators and members of Parliament should always endeavour to promote an atmosphere of decorum and discipline which adds to the sobriety and dignity of the deliberations of the representative institutions'.

Then they say in October, 1967:

'Those members who indulge persistently and deliberately disobeying the Chair and create disorder by scenes should be discouraged'.

At the 7th All India Whips Conference held in Madras in September, 1969, they say:

'Those members who indulge persistently and deliberately in disobeying the Chair and create disorderly scenes, should be discouraged'.

'Members should also raise matters in the House only with the permission of the Presiding Officer'.

'The rulings of the Chair must be respected and not challenged on the floor of the House.'

...The responsibility of the whips is, therefore, not only to ensure the attendance of the members and to ask them for voting and sporting the stand of the party but also to assist the Chair in maintaining the decorum and dignity of the House by members of the concerned parties. The whips are a functioning institution in the House. It is they who send the names of speakers on various issues to the Chair for participation in the debates. To this extent others

cannot complain that their right to freedom of speech is violated under article 105 of the Constitution if their names are not furnished in the list and debarred from speaking. This procedural approach is necessary for the smooth functioning of the House. It is the whips who indicate to the party members to vote in a particular way. It is they who approach the party members to cooperate with the Chair and ask them not to commit any breach of privilege.... As to whether a whip can be issued in the House, I am of the opinion that there is nothing that could prevent the Chief Whip/Whips from issuing a whip to his party members in the House. It is borne out by the practice that when divisions take place in the House, or when some issues are unexpectedly raised on the floor of the House, the Chief Whip/Whips clearly indicates to his party members the line of action and it is within his competence to take a decision and direct the members of his party accordingly. If it is contended that the whip cannot be issued in the House, it will be difficult to meet such situations which occur quite often. In fact, party members seek such directions from the Chief Whip....

It is not correct to say that the whips can issue instructions only to entire party members and not to any individual members. In the case of erring members who are committing breach of privilege, decorum and discipline of the House by persistently questioning the ruling of the Speaker and so on... Dignity of the Chair is the dignity of the House and dignity of the nation. It should be maintained. I tried to assist in the same. If this concept of responsibility of the party leaders and whips to assist the Chair in maintaining decorum, dignity and discipline is not accepted, with respect I submit, it can have disastrous consequences for the smooth functioning of democracy in the country.

I would reiterate with all humility that I fully believe in the freedom of speech of members as enshrined in article 105 of the Constitution and in the instant facts of the case there was no question of intimidating them or obstructing them in discharge of their duties as member of Parliament. There was no other motive in me except that I asked them not to proceed further in defiance of the Chair in pursuit of maintaining the decorum and discipline in the House. I bear no ill-will whatsoever towards the hon. members. My intention was only to maintain high standards of discipline, decorum and dignity of the august House....".

9. At the end of the debate the Speaker observed as follows:

"I invite the attention of the House to Rule 226. It says:

'If leave under rule 225 is granted, the House may consider the question and come to a decision or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member'.

It is thus for the House now (a) to take a decision on the matter or (b) to refer the matter to the Privileges Committee. (a) or (b) can be done on a motion made by any member. I would like to know if any member will like to move a motion thereto... I have given you my consent. There is no option for me but to put it to the House.... if you do not move it, then I am going to the next item".

None of the members, however, moved any motion either for a decision by the House or for reference of the matter to the Committee of Privileges. The Speaker, therefore, moved on to the next item of business in the agenda.

171

RAJYA SABHA
(1967)

Point of Privilege

Alleged misuse of powers and threat to members of Madhya Pradesh Assembly by the Prime Minister

Facts of the case and ruling by the Chairman

On the 31st July, 1967 Shri Rajnarain, a member sought to raise a question of privilege on the ground that the Prime Minister (Shrimati Indira Gandhi) had, on the 28th July, 1967 by making a public statement regarding the right of the Chief Minister to advise the Governor to dissolve the Madhya Pradesh Assembly and threatening the members of the Assembly that there would be mid-term election if they left the Congress Party misused her powers. This, he felt, constituted a breach of privilege of the House.

2. On the 2nd August, 1967 the Chairman (Shri V.V. Giri) disallowing the question of privilege observed as follows:

"After giving my careful consideration to the matter I have come to the conclusion that no breach of privilege of the House is involved in this case and I hold accordingly".

172

RAJYA SABHA
(1967)

Point of privilege

Alleged intimidation of members of Parliament by Ministers/members in Congress Parliamentary Party Executive meeting

Facts of the case and ruling by the Chairman

On the 21st December, 1967, Shri Bhupesh Gupta, a member, drew the attention of the House to a report in the newspapers of the same day indicating that two Congress members of Parliament, Shri M.P. Bhargava and Kumari Shanta Vasistha, were taken to task and intimidated for their speeches attacking the Government in the House, by the Prime Minister (Shrimati Indira Gandhi), Deputy Prime Minister (Shri Morarji Desai), Minister of Commerce (Shri Dinesh Singh) and another member (Shrimati Tarkeshwari Sinha).

This he felt, amounted to interference with the normal parliamentary functions of the members and, therefore, constituted a breach of privilege.

2. The Chairman (Shri V.V.Giri), disallowing the question of Privilege, observed as follows:

"...I do not think that normal happenings in a party meeting can be made the subject-matter of a question of breach of privilege. In any case, I am satisfied that there is no breach of privilege involved in this."

173

RAJYA SABHA
(1969)

Point of Privilege

Reported proposal of a parliamentary Party to take disciplinary action against a member for certain observations made in the House

Facts of the case and ruling by the Chairman

On the 14th March, 1969, Shri G. Murahari, a member, sought to raise a question of privilege on

the reported proposal to take disciplinary action against Shri Chandra Shekhar another member, by the Congress Party for certain observations made by Shri Chandra Shekhar in the House criticising the Deputy Prime Minister in connection with the debate on the affairs of the Birla group of companies. Shri Murahari also stated that he had received a letter signed by the Secretary of the House informing him that "the Chairman has withheld his consent to you to raise this matter in the House".

2. After a brief discussion, the Deputy Chairman (Shrimati Violet Alva) observed as follows:

"I have been informed that the Chairman has disallowed it. I am not going to allow any further comments on this. Now I have been apprised of the situation. It went to the Chairman and the Chairman has given a decision. Therefore, no comments arise out of this."

174

RAJYA SABHA
(1969)

Point of Privilege

Alleged threat of disciplinary action by Congress President to a member who announced his intention not to vote for his Party candidate in Presidential election

Facts of the case and ruling by the Deputy Chairman

On the 13th August, 1969 Shri Bhupesh Gupta a member sought to raise a question of privilege against the President of the Congress Party (Shri S. Nijalingappa) and its General Secretary (Shri Sadiq Ali), for writing intimidating letters to Shri Arjun Arora, another member, in connection with the voting in the Presidential election after Shri Arora had publicly announced his intention to vote according to his conscience at that election.

2. The Deputy Chairman (Shrimati Violet Alva), however, disallowed the question of privilege.

175

RAJYA SABHA
(1972)

Point of privilege

Eviction of a member from the Parliament House Estate

Facts of the case and ruling by the Chairman

On the 28th August, 1972, Shri Sita Ram Singh, a member who was on a hunger strike within the

Parliament House Estate was evicted after 22.00 hours in the night by the Watch and Ward Staff of the Rajya Sabha Secretariat, under orders of the Chairman.

2. On the 29th August, 1972, when some members sought to raise the question of eviction of Shri Sita Ram Singh from the Parliament House Estate the Chairman (Shri G.S. Pathak) observed as follows:

"I want to make it quite clear that Parliament is not intended for members of Parliament to remain here during the night or to make demonstrations or *Bhuk Hartals* or for any such activities. There was one member of Lok Sabha and one member of this House. They did not want to leave the Parliament's precincts and the Parliament Estate because they said that they wanted to stay here for the night and they wanted to have some political demonstration or *Bhuk Hartal*. Now, under my orders, when they refused to leave they were made to leave. I want to make it clear that this has never happened in the history of Parliament, that anyone was allowed to remain here during the night. This Parliament, the Parliament's precincts and Estate and intended for parliamentary work and members are entitled to remain here when the work is going on. After that they have no right to remain here."

3. When it was stated by some members that Shri Sita Ram Singh was shifted from the Lobby to Gate No. 1 after a compromise with the Minister of Parliamentary Affairs with the understanding that he would be permitted to remain there and would be allowed to make use of the necessary facilities available there, the Chairman observed:

"No such compromise was brought to my notice. There cannot be any such compromise even at the instance of the Government."

4. When Shri Sasankasekhar Sanyal, a member, stated that the members had a right to come to Parliament House and to remain there for a reasonable time the Chairman observed:

"I am the judge of what is a reasonable time."

The matter was thereafter closed.

176

RAJYA SABHA
(1979)

Point of Privilege

Reported statement by Prime Minister about abolition of the House

Facts of the case and ruling by the Chairman

On the 5th March, 1979, Shri Anant Prasad Sharma, a member sought to raise a question of privilege against the Prime Minister (Shri Morarji Desai) for making a statement that he was not in favour of continuance of the Rajya Sabha. While raising the matter, Shri Anant Prasad Sharma stated *inter alia*, as follows:

"Sir, on the 15th of January, a news-item appeared, datelined Bhopal, wherein the Prime Minister is reported to have made a statement that he is not in favour of the continuance of the Rajya Sabha. I would like to quote:

The Prime Minister said, we have no majority in Rajya Sabha; when we get majority the party will think about it; there are some members in my party who want to keep the Rajya Sabha, he added.'

...I have already given notice of a privilege motion against the Prime Minister. Was it proper for the Prime Minister to have made this public statement outside Parliament when Rajya Sabha and Lok Sabha were both conceived as the Parliament of India? Can the Prime Minister talk about Rajya Sabha like this? Therefore, I have raised this and I would like to seek your permission...."

2. The Chairman (Shri B.D. Jatti) while disallowing the question of privilege ruled as follows:

"...I have disallowed this notice and have informed all Members who had raised this. It is not the practice that when once a thing is disallowed the same thing is repeated like this..."

3. The matter was thereafter, closed.

Point of Privilege

Alleged intimidation of a member by an outsider

Facts of the case and reference to the Committee of Privileges

On the 24th March, 1992, Shri Viren J. Shah, a member, gave notice of a question of privilege against Shri Bharat Vora, Managing Director, P.J. Pipes & Vessels Ltd., Bombay for allegedly intimidating him from performing his parliamentary duties. In his notice of question of privilege Shri Shah stated that on the 22nd March, 1992 Shri Bharat Vora had made two telephone calls on him and had also written a letter dated 21 March, 1992 to him in connection with a matter involving Shri Vora's company raised by Shri Shah in the House on 17 March, 1992 through Special Mention. Shri Shah contended that these telephone calls and the letter reflected an intention on the part of Shri Vora to intimidate and discourage him from performing his Constitutional duties as a member of Parliament.

2. On the 26th March, 1992 Shri Shah raised the matter in the House and the Chairman referred it to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee

3. The Committee of privileges after examining in person Shri Bharat Vora, Managing Director, P.J. Pipes & Vessels Ltd., Bombay, and after considering the written explanation of Shri Bharat Vora and letter dated 27 March, 1992 from Shri Viren J. Shah, MP, addressed to the Chairman, Committee of Privileges in their thirty-first Report presented to the House on 16 July, 1992 reported *inter alia* as follows:—

- (i) "Shri Shah *inter alia* mentioned in his letter (dated 24 March, 1992) that in the course of his second telephone call on March 22, 1992 Shri Bharat Vora told him that having been disturbed by his statements in Parliament, he wanted to see him and that he should be careful about making such statements in Parliament. According to Shri Shah, he told Shri Vora that there was no point in meeting him and if there were any factual

inaccuracies he could approach the Minister of Petroleum and Natural Gas to offer clarifications in Parliament, but Shri Vora not only kept on insisting on meeting him, his tone and tenor were also certainly intimidating"

- (ii) "Shri Bharat Vora (in his reply dated 9 April, 1992) clarified that the telephone calls were made by him only for obtaining an appointment with Shri Viren J. Shah for the purpose of bringing facts to his notice, much as he was concerned that any incorrect impression should not be created about his company and that the letter was written by him with sole aim of seeking particulars of the charges made by Shri Shah against his company. He denied having made any attempt to intimidate or discourage Shri Shah from performing his parliamentary duties and affirmed that he had always held the Rajya Sabha and its members in high esteem and if, in his anxiety to save his company's reputation, he had made the Hon'ble Member feel that any breach of privilege was committed, he would offer sincere and unconditional apology for the same."
- (iii) "Shri Viren J. Shah expressed his dissatisfaction with the explanation given by Shri Vora, reiterated his charges against him and asserted that the language in which Shri Vora expressed the regrets was highly objectionable and in fact further aggravated the matter."
- (iv) "The Committee has noted that in the course of his submissions before it on May 5, 1992 as well as in his letter of May 5, Shri Bharat Vora has disclaimed any intention on his part to intimidate or discourage Shri Viren J. Shah from performing his parliamentary duties and tendered an unconditional and unqualified apology."
- (v) "In view of the apology tendered by Shri Bharat Vora, the Committee recommends that the matter not be pursued any further."

Action taken by the House

4. No further action was taken by the House in the matter.

LAYING OF DOCUMENTS

Point of Privilege

Statement by a Minister expressing inability to lay on the Table of the House a document claimed to be confidential

Facts of the case and ruling by the Speaker

On the 7th August, 1959, the Speaker (Shri M. A. Ayyangar) informed the House that he had received notice of a question of privilege from Shri V. P. Nayar, a member, regarding the statement made by the Minister of Home Affairs in the House on 3rd August, 1959, expressing his inability to lay on the Table of the House a copy of the Governor's Report to the President on the situation in Kerala, claiming it to be confidential. The Speaker added that he would like to hear Shri V.P. Nayar and representatives of various Groups in the House, before deciding the admissibility of the question of privilege.

2. Shri V.P. Nayar said that the Home Minister's statement that he was not prepared to lay on the Table of the House a copy of the Governor's report constituted a breach of privilege of the House. He contended that the Governor's Report was necessary for the due discharge of the functions of Parliament, in as much as the President's Proclamation in respect of Kerala, which was before the House and was required to be approved by Parliament, could not be properly considered without knowing the contents of the Governor's Report. He added that according to May's *Parliamentary Practice*:-

"The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are 'absolutely necessary for the due execution of its powers.'"

"Parliament is invested with the power of ordering all documents to be laid before it which are necessary for its information."

He contended that a similar right must necessarily accrue to Lok Sabha by virtue of Article 105(3) of the Constitution.

Shri Nayar said that the matter might be referred to the Committee of Privileges for investigation and report.

3. After hearing several members and the Minister of Law (Shri A.K. Sen) on the matter the Speaker *inter alia*, observed as follows:-

"I have been anxious to see whether a *prima facie* case has been made out. Therefore, at the outset, I said that it must be known to me first of all that there is an obligation cast upon the Home Minister to place the document on the Table of the House whether an individual member asks for it or whether the whole House collectively asks for it... If the hon. Minister cannot withhold it and if he is bound to place it on the Table of the House then if he refuses to do so, certainly, there would be a breach of privilege.

Shri Nayar who tabled this motion mentioned Rule 368 of our Rules of Procedure which lays down that even in cases where a Minister refers to a particular document and reads it out in the House, ultimately, when the House insists upon its being placed on the Table of the House, it is open to the Minister to say that in public interest he is not placing it on the Table of the House. That is the clear wording of Rule 368. It does not admit of any doubt so far as that matter is concerned.

Therefore, Shri Nayar, at the outset wanted to say that this rule is *ultra vires* of the Constitution and referred to Article 105(3) of the Constitution which says that in other respect our privileges will be those of the House of Commons until a law has been made by Parliament relating to privileges.

It is true that no Bill or Act has been passed by Parliament. But Rules have been framed. Therefore, he wanted to say that the rules which are in conflict with or are inconsistent with the general provisions of the Constitution are to that extent not valid. He referred to Article 105(3) and said that it must be read along with the procedure in the House of Commons as laid down in *May's Parliamentary Practice* or otherwise. He referred to page 270 of *May's Parliamentary Practice* and said that in general it is open to Parliament to call for any papers. Then, on page 460 something is said specifically in relation to documents which are referred to in the House under the heading 'Citing' documents not before the House. There it is said that it has also been admitted that a document which has been cited ought to be laid on the Table of the House if it can be done

without injury to the public interest. Now, therefore, he admits that this is proper. The provision which has been made under Rule 368 imports the substance contained in *May's Parliamentary Practice* under the heading 'Citing documents not before the House.' Even if the Minister cited some documents, he may say: 'No, no; in the public interest I am not going to place them on the Table of the House.' There is nothing *ultra vires* in these rules. Reading *May's Parliamentary Practice* and rule 368 together, it is open, even in a case where the Minister refers to a particular document, for him to say a *fortiori*: 'I am not going to place it on the Table of the House.' A *fortiori*, when the Minister does not refer to a document at all, I cannot compel nor can the House compel him to place on the Table of the House that document. I do not see how a Minister refuses to discharge the duty imposed upon him or how it is open to the House to call upon him to produce such document.

There is absolutely no breach from the point of view of privilege. So far as law is concerned, I am not satisfied that there is *prima facie* a case of breach of privilege for which I should give consent."

179

LOK SABHA

(1973)

Point of Privilege

Failure to lay the Reports of the Tariff Commission on the Table of the House

Facts of the case and ruling by the Speaker

On the 16th May, 1973, Shri Madhu Limaye, a member, raised a question of privilege against the Minister of Commerce for not having laid on the Table of the House certain Reports of the Tariff Commission as required under section 16(2) of the Tariff Commission Act, 1951. Shri Madhu Limaye alleged that the Minister of Commerce had deliberately violated the rights of the House by not laying eight Reports of the Tariff Commission on various subjects on the Table of the House and had, therefore, committed a contempt of the House.

2. The Minister of Commerce (Shri D.P. Chattopadhyaya) stated as follows:—

"I would submit what he had stated is absolutely correct as a matter of record. It is also true that as per the provisions of the Tariff

Commission Act, the reports of the Commission had to be laid on the Table of the House within three months failing which the reasons for non-compliance have to be submitted. I am sorry to say that it has not been done, and it could not be done in some cases. But I also like to add that of the seven reports submitted by the Tariff Commission in the period referred to by the hon. member, four reports have already been laid on the Table of the House and only three could not... The Reports of the Commission deserve a look in depth. As you will find, the different reports submitted by the Commission pertain to different Ministries. So, they have to be looked into not by one Ministry, they have to be decided upon in consultation with various Ministries. So, time has been taken and it has been found that because of the passage of time some new factors have emerged. These factors have to be taken into account for recalculation and re-fixation of rational prices.

I can only say that the provisions of the law could not be complied with and we are extremely sorry for that.

I must express my unqualified regret for that before the House."

3. The Speaker (Dr. G.S. Dhillon), thereupon, observed as follows:—

"...I think we should accept his regret... So far as the procedural, technical or legal point of not laying it on the Table within allotted time is concerned, he has expressed regret... I strongly disapprove of it. The Minister has now expressed his regret. I accept it. I am not going to tolerate it in future... I am not holding it in order. I am not giving my consent."

4. The matter was thereafter closed.

180

LOK SABHA

(1973)

Point of Privilege

(i) *Alleged delay, in laying answers to certain Unstarred Questions on the Table of the House by a Minister; and (ii) alleged suppression of answers to certain questions by Press Information Bureau from the Press.*

Facts of the case and ruling by the Speaker

On the 31st August, 1973, Shri Madhu Limaye, a member, raised a point of order regarding delay in laying on the Table of the House answer to his Unstarred Question Nos. 5121 and 5231 of the day by the Minister of Finance. Shri Limaye also alleged that the replies to those questions were also not supplied to the press by the Press Information Bureau alongwith other Parliamentary papers and thereby suppressed the answer thereto.

While raising the point of order Shri Limaye stated *inter-alia* as follows:—

“It is the bounden duty of the Press to report proceedings of Parliament faithfully and fairly. But if important documents and papers are withheld from them, a breach of privilege and contempt is committed and in this case it must be the Ministry/Minister or Ministries/Ministers concerned who should be held responsible for this breach, for this contempt... At the movement I am not raising a question of privilege but only raising a point of order about the violation of rules”.

2. The Deputy Speaker (Shri G.G. Swell), who was in the Chair, observed as follows:—

“It is a little unfortunate that the answers to these Questions to which you referred were received rather late this morning. But they have been received and sent to the Library at 12 Noon... Our Secretariat has taken up the matter with the Ministry of Finance about this (As regards PIB), the position is this that the P.I.B. itself collects these answers. Either the Information Officer of a particular Ministry hands over these to the P.I.B. or the P.I.B. itself collects these answers and circulates to press people. That is the position. Our Secretariat does not give out the papers... The answers have been placed in the Library. If they have not collected them, they should do it now. The P.I.B. is in the know of the matter. They should collect these answers and circulate them to the press.”

3. On the 1st September, 1973, Shri Madhu Limaye sought to raise a question of privilege against the Ministry of Information and Broadcasting and the Press Information Bureau for not supplying copies of answers to those questions to the press correspondents. Shri Limaye stated that there was no fault on the part of Parliament Secretariat and the

Finance Ministry also sent copies of the replies to those questions in time. But the Press Information Bureau had not included those replies in the bunch of papers supplied by them to the Press.

4. The Speaker (Dr. G.S. Dhillon) observed that he would look into the matter.

5. On the 4th September, 1973, the Deputy Minister in the Ministry of Information and Broadcasting (Shri Dharam Bir Sinha) made the following statement in the House:—

“With reference to Unstarred Question Nos. 5121 and 5231 dated 31st August, 1973, the cyclostyled copies of the answers to the above Questions were made available at the P.I.B. Desk of the Press Room in Parliament House for the use of the accredited Press Correspondents and reporters around 12.10 p.m. as soon as they were received from the Ministry of Finance.

The answers to all the other Questions of the day were received earlier and were made available as usual when the Question Hour was over. The answers to Question Nos. 5121 and 5231 of 31st August, 1973 were made available as soon as they were received. There was no delay on P.I.B.'s part in making them available to the Press.

It is not correct to say that the answers were not supplied to the Press Room. In fact, the News Agencies carried the answers in the services and many newspapers have also published the answers.

Answers to Parliament Questions are supplied to the Parliament Library direct by the Lok Sabha/Rajya Sabha Secretariat, and not by the P.I.B.

To summarise, Answers to Question Nos. 5121 and 5231 were, in fact, made available to the Press in due time and there was no question of any attempt at suppression of any proceedings of Parliament by the Press Information Bureau.”

6. After the statement made by the Deputy Minister, the Speaker disallowed the question of privilege and observed *inter-alia* as follows:—

“.....all the answers come to the Secretariat. Some of them are laid in the Notice Office and some of them in the Library..... This is not a matter of privilege. They (The P.I.B.) are not bound to perform this function (circulation of answers etc. to the Press) as part of their duty to the House..... On the other

hand I would tell the Minister, that, if they perform this social function voluntarily, that should be complete..... If the replies are placed later on, some procedure may be evolved to inform me the reason as to why the replies were given later on."

7. When Shri H.N. Mukherjee, another member sought a clarification whether the Press Information Bureau or similar organisations could discriminate amongst the various items of proceedings of the House, the Speaker observed as follows:—

"I very much hope that the Minister will take it as an advice from me that there should be a complete service. Nothing like pick and choose, if they want, Either may do not do it—we do not mind if they do not do it.....but if they do it, it should be a complete picture."

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LOK SABHA
(1973)

Point of privilege

Failure to lay the Reports of the Monopolies and Restrictive Trade Practices Commission on the Table of the House

Facts of the case and ruling by the Speaker

On the 15th May, 1973, Shri Madhu Dandavate a member raised a question of privilege against the Minister of Law, Justice and Company Affairs for not having laid on the Table of the House all the Reports of the Monopolies and Restrictive Trade Practices Commission as required under Section 62 of the Monopolies and Restrictive Trade Practices Act, 1969. While raising the matter, Shri Dandavate stated, *inter-alia*, as follows:—

"I have received a copy of the note put up by the Department of Company Affairs on the issue raised by me. In this note it has been stated that the Commission had placed before the Lok Sabha on December 1, 1972, the Annual Report on the Working and Administration of the MRTP Act, 1969, for the period ending the 31st December, 1971, together with the annual Administrative Report on the working and administration of the MRTP Commission for the period ending 31st December, 1971. The note of the Department of Company Affairs states:—

'Copies of the Reports of the Commission in individual cases preferred to it by the

Government for inquiry and report under sections 21, 22 and 23 of MRTP Act in which Government has taken final decision are being placed in the Library of Parliament for the information of hon'ble members.'

My contention is that the Parliament Library cannot be considered a substitute for both the Houses of Parliament. Placing the Reports of the MRTP Commission in individual cases in the Library without placing them before both Houses of Parliament does not fulfil the requirements of the provisions of section 62 of the MRTP Act.

Chapter VI of the MRTP Act deals with awards and not Reports, whereas section 61 of the Act deals with the occasional Reports. However, the most important Reports are those concerning the subject matter of Chapter III on 'Concentration of Economic Power' and Chapter IV on 'Monopolistic Trade Practices'. On these matters, the Commission gives advice to the Government and, therefore, the concerned Reports are of great significance to assess whether the objectives of curbing the monopolies and preventing the concentration of economic power have been fulfilled by the recommendations of the Commission and by the implementation of these recommendations by Government.

The Joint Committee of both Houses of Parliament which has processed and finalised the Bill has specifically stated in its Reports that the provision of section 62 of the Act was to ensure that all Reports of the Commission were placed before the House. The former Chairman of the Commission had also recommended that all Reports of the Commission should be published."

Shri Dandavate contended that the failure of the Government to lay the Reports of the Commission on the Table of the House constituted a serious breach of privilege of the House.

2. Thereupon the Minister of Law, Justice and Company Affairs (Shri H.R. Gokhale) made the following statement:—

"If the hon. member had heard me, perhaps, all this would not have been necessary.

I regret to say that on the basis of advice given by the Department of Company Affairs, Reports of the Commission in each individual case were

not laid on the Table of the two Houses. There was no intention to keep back the Reports from House, as will be seen from the fact that copies were made available to the Library of Parliament. Sometime back the hon. Chairman of the Rajya Sabha discussed this matter with me. I personally looked into the matter.....

In view of the different opinion expressed earlier, I requested the Attorney-General to give his opinion. He having given his opinion that all Reports including those given in individual cases have to be placed before the House. Government will now place these Reports on the Table of the House. This would be done expeditiously. I submit that in the circumstances no breach of privilege is committed.

I am sorry for the lapse due to a misunderstanding caused by incorrect appreciation of the law."

3. The Speaker (Dr. G.S. Dhillon), thereupon disallowed the question of privilege and ruled as follows:—

"There are two points in which the Minister has already owned his mistake. He has already expressed his regrets for that. What has happened is that instead of coming before the House, they have been laying them on the table of the Library. There is a lot of difference between the Library and this House.

The Reports did come when they came to the Library. They thought they were only to be given to the Library which was wrong. He has owned the mistake. In view of that I drop this matter."

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LOK SABHA
(1973)

Point of Privilege

Failure to lay the Reports of the Tariff Commission on the Table of the House

Facts of the case and ruling by the Speaker

On the 23rd July, 1973, Shri Madhu Limaye, a member, sought to raise a question of privilege against the Minister of Industrial Development and Science and Technology and the Minister of Petroleum and Chemicals for not having laid on the Table of the House certain Reports of the Tariff Commission as required under Section 16(2) of the Tariff Commission Act, 1951.

2. The Speaker (Dr. G.S. Dhillon) observed as follows:—

"I shall ask the Minister to explain it either today or whenever he is in a position to give some information about it."

3. On the 27th July, 1973, Shri Madhu Limaye, again raised the issue under Rule 377. While raising the matter Shri Limaye stated that it was a clear breach of privilege and a contempt of the House and urged that the concerned Ministers should not only tender apologies to the House but should also hold enquiries against those who were responsible for it.

4. Thereupon, the Minister of Industrial Development and Science and Technology (Shri C. Subramaniam) made the following statement:—

"I wish to submit to the House that there has been a failure on our part to place a copy of the report of the Tariff Commission on Fair Prices of Jute-based and Felt-based Linoleum, within the period stipulated in sub-section (2) of Section 16 of the Tariff Commission Act, 1951. The report was received by the Government in June, 1971. It had suggested a set of fair selling prices for various types of linoleum products. Two questions had to be examined in my Ministry. One was the legal question of the feasibility of issuing a normal price control order either under the Industries Development Regulation Act or under the Essential Commodities Act. The second question was whether in the even of a formal price control not being possible, purchases by Government could be brought within a price control arrangement on a voluntary basis. The matter was being examined in consultation with various Ministries and came to my personal notice only when I called for the papers on receipt of the notice from the Hon'ble member Shri Madhu Limaye.

I would like to submit without any qualification that there has been a lapse on our part in not taking the decisions on the recommendation of the Report quickly and placing the Tariff Commission's report along with Government's decision within a reasonable period on the Table of the House. I would like to express my deepest regret to you, Sir, and to the House for this delay. I have already issued instructions for completing the further processing of the case with the top-most priority. I would also like to assure the House that the report with the

Government's decision thereon will be placed before Parliament during the current session.

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LOK SABHA
(1974)

I have already asked for the explanation of the officers concerned for the inordinate delay in processing this case. I may be permitted to submit that no dis-respect to the House or infringement of the rights of the Hon'ble members was in the least intended. I would request that on the basis of this explanation and the assurance given by me the matter may kindly be not pursued at this stage."

5. The Speaker then observed as follows:—

"I very much appreciate that you have owned it and accepted it. I greatly appreciate the spirit with which you have given the reply."

6. The Minister of Petroleum and Chemicals (Shri D.K. Borooah) thereafter stated *inter-alia* as follows:—

"I am grateful to Mr. Madhu Limaye for bringing it to the notice of the House. In fact, it came to my notice somewhat earlier and I immediately took action in the sense that I got it examined, and I placed it before the Cabinet Committee and the Cabinet Committee has come to certain decision, on the basis of which orders are being issued.

I quite see that there has been a very grave lapse on our part, and I sincerely apologise to this House for this.

I am today placing on the Table the report of the Tariff Commission on the fair selling prices of synthetic rubber along with a note which I have prepared on this giving the details of the delay, the reasons why there has been delay and so on. But I can say that it will be sorted out certainly in this Session.

In the meanwhile, I have asked the Ministry to find out the person or persons who were responsible for this delay, and I think that we shall be able to take some measures in this behalf."

7. The matter was, thereafter, closed.

Point of Privilege

Alleged failure to lay on the Table of the House copy of Report of an Inquiry Commission and memorandum showing action taken thereon by Government within the prescribed time

Facts of the case and ruling by the Speaker

On the 20th August, 1974, Shri Madhu Dandavate, a member, sought to raise a question of privilege against the Minister of Agriculture (Shri C. Subramaniam) for not laying on the Table of the House, copy of the Report of the Bhargava Commission on Nationalisation of Sugar Industry, within a period of six months of the submission of the Report by the Commission to the Government as required under Section 3(4) of the Commissions of Inquiry Act, 1952. In this connection, Shri Dandavate, stated *inter-alia* as follows:—

"As far as the Bhargava Commission's Report on nationalisation is concerned, it had been submitted to the Government on the 15th May, 1973. On the 16th May, the former Agriculture Minister, Shri F.A. Ahmed, had admitted that only the previous day, that is, the 15th May 1973, he had received the Report of the Commission of Nationalisation of the Sugar Industry..... though the Report was submitted on 15th May, 1973, and it has appeared in the press that almost all the members of the Commission had expressed themselves in favour either of creating a Sugar Authority or nationalisation of the sugar industry, because of the pressure of these recommendations deliberately the Reports are being withheld from this House.

This is a breach of privilege of the House and, therefore, I suggest that I should be permitted to move a privilege motion against the Minister."

2. The Speaker (Dr. G.S. Dhillon) reserved his ruling.

3. On the 21st August, 1974, when Shri Madhu

Dandavate again sought to raise this matter, the Minister of Agriculture (Shri C. Subramaniam) stated *inter-alia* as follows:—

“The final Report was submitted on 27th February, 1974, the interim Report was submitted in May, 1973. He said about some breach having been committed under the Commissions of Inquiry Act, 1952. Now, I submit that it relates to the final Report and not to any interim Report whatsoever. Therefore, I have not committed any breach of privilege with reference to the provisions of the Commissions of Inquiry Act, because the final Report was submitted only in February, 1974.

Since the final Report has already been submitted and it is in the hands of the Government and Government are considering it, is it necessary that we should merely bring the interim Report for consideration, even though we have got the final Report, which we are still considering. It would have been premature after having received the final report to bring only the interim Report and have a discussion on that base. So far as the final report is concerned, we are considering it and I wish to assure you, before 27th August, 1974, we will try to place the Report on the Table of the House... The Bhargava Commission have said while forwarding the Report.

‘I have great pleasure in presenting the Report of the Sugar Inquiry Commission. It includes the two interim Reports of the Commission as parts I and II of the Report.’

Therefore, the Report as in the Act, refers only to this final report which has been submitted on February 27, 1974. This is in the letter of the Commission itself.”

4. Disallowing the question of privilege, the Speaker ruled *inter-alia* as follows:—

“...As I understand it, the Report of the Commission is in the three parts.... I think in the case of interim reports when they are part of the final report, the final presentation counts. I think this Report should be counted from the date of its final presentation. The Minister has quoted the Commission itself to say that there were two interim Reports and included in the final Report. It is very clear. I have to take it from the last day when it

was finally presented...I am sorry I cannot admit the privilege motion.”

5. On the 27th August, 1974, Shri Madhu Dandavate stated that the Minister of Agriculture had laid on the Table of the House on the 26th August, 1974, the final Report of the Sugar Industry Inquiry Commission together with an action-taken Memorandum as required under Section 3(4) of the Commissions of Inquiry Act, 1952. But, instead of indicating the action taken by Government on the recommendations of the Inquiry Commission, the action taken Memorandum read *inter-alia*: “In view of the sizeable financial outlay and complex administrative issues involved, Government would need some more time to examine the matter in detail and arrive at a decision.”

Shri Dandavate contended that the action taken Memorandum did not show the action taken by Government but through it, the Government was seeking more time to examine the Report of the Commission regarding nationalisation of Sugar Industry through more than one year had already lapsed when the Report on this matter was presented by the Commission to the Government. In view of it, Shri Dandavate added, the said Memorandum could not be taken as a Memorandum of action taken as required under the Commission of Inquiry Act. This involved a contempt and breach of privilege of the House.

6. The Speaker then observed as follows:—

“In my own opinion also, this is not a memorandum... Please do not come under privilege every time. I fully appreciate your point. I have seen this. When the Government fails to fulfil certain legal or constitutional obligations, it is not always a matter of privilege. It can be the subject of censure or other discussion, not a ‘privilege.’”

7. On the 2nd September, 1974, When Shri Madhu Dandavate again raised the matter in the House, the Minister of Agriculture (Shri C. Subramaniam) made *inter-alia* the following statement:—

“Two points arise out of this. One is with reference to the content of the Memorandum. Certainly the Memorandum can give only facts and not fiction. Therefore, whatever, action has been taken or has not been taken, has been stated in the Memorandum and therefore, is factually correct... Therefore, I respectfully submit that I have complied with the provisions of the Act. In the

memorandum I have stated what is the present state of affairs with reference to this Commission's Report, and there is no question of misleading the House by giving any wrong facts there. If there is a failure on the part of the Government, the hon. member is entitled to raise it in any form he likes, but certainly not as a matter of privilege".

8. The Speaker then ruled as follows:—

"I appreciate it. I tried to know how it is a question of privilege. Because privilege is something you cannot make by farfetched means. It is on failure of the Government. Now, he has taken the interpretation in his own way and you have taken it in your own way. According to the Action taken Report this should have been included in the memorandum, and he says, it included whatever up to that stage was there about the action taken."

The matter was thereafter closed.

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LOK SABHA
(1981)

Point of privilege

Alleged causing of an enquiry against a member for quoting from and laying on the Table of the House photo-copies of certain files, notings and Reports of certain Ministries

For details of the case please see summary No. 120 at pp. 234-35 ante.

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LOK SABHA
(1982)

Point of privilege

Alleged failure of the Government to lay on the Table Action Taken Report on the Report of Backward Classes Commission, 1980

Facts of the case and ruling by the Speaker

On 30th April, 1982, the last day of the Budget Session, the Minister of State in the Ministry of Home Affairs (Shri P. Venkatasubbaiah) laid on the Table of the House Report of the Second Backward Classes Commission alongwith a "Memorandum explainning Action Taken on the Report of the Second Backward Classes Commission", in which it was stated *inter-alia* that "the recommendations made by the Commission raise important and complex issues

which have wide and deep implications for the country as a whole" and that "the Central Government have forwarded the Report of the Commission to the various State Governments for obtaining their views". It was also stated that "on receipt of their replies the Central Government will give further consideration to the Report."

2. Immediately after the Report was laid, several members sought to raise points of order that what was said to be the Action Taken Report, could, in no way, be interpreted to be an action taken report. Shri Venkatasubbaiah then stated as follows:—

"I must tell the hon. members that the Action Taken is different from the decision taken.... So, the Central Government, has taken this action."

3. On the same day Shri Ram Vilas Paswan and Shri Jaipal Singh Kashyap and on 22 May 1982, Prof. Madhu Dandavate, members gave notices of a question of privilege against the Minister of State in the Ministry of Home Affairs, Prof. Dandavate had contended that the Minister had tried to mislead the House by deliberately giving the incorrect interpretation to the Action Taken Report. Shri Paswan who gave another notice on 16 June, 1982, had contended that the Minister had tried to mislead the House.

4. On 11th August, 1982, when a discussion on the Second Report of the Backward Classes Commission was initiated under Rule 193 and some members raised the above point again, the Deputy Speaker (Shri G. Lakshmanan) read out in the House the Speaker's ruling as follows:—

"Prof. Madhu Dandavate and Shri Ram Vilas Paswan have given notices of question of privilege against Shri P. Venkatasubbaiah, Minister of State in the Ministry of Home Affairs for stating in the House on 30 April, 1982, that he was laying on the Table of the House the Report of Backward Classes Commission, 1980 along with Action Taken Report thereon, but Action Taken Report was not attached with the Report. Prof. Madhu Dandavate has contended that Minister's statement constitutes a breach of privilege of the House. Shri Ram Vilas Paswan has contended that the Minister had tried to mislead the House.

Similar notices were given by Sarvashri

Ram Vilas Paswan and Jaipal Singh Kashyap during the last session.

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LOK SABHA
(1982)

On 30 April, 1982, Shri P. Venkatasubbaiah laid on the Table of the House a 'Memorandum explaining action taken on the Report of the Second Backward Classes Commission' in which it was stated *inter-alia* that 'the recommendations made by the Commission raise important and complex issues which have wide and deep implications for the country as a whole' and that 'the Central Government have forwarded the Report of the Commission to the various State Governments for obtaining their views. On receipt of their replies the Central Government will give further consideration to the Report...'

A similar question of privilege was raised in 1974 when the Report of the Sugar Industry Inquiry Commission together with an action-taken Memorandum was laid on the Table of the House in August 1974. Prof. Madhu Dandavate had then stated that 'instead of indicating the action taken by Government on the recommendations of the Inquiry Commission, the action-taken Memorandum read *inter-alia*: "In view of the sizeable financial outlay and complex administrative issues involved, Government would need some more time to examine the matter in detail and arrive at a decision".'

In that case, my distinguished predecessor Mr. Speaker G.S. Dhillon did not give his consent to raise the matter in the House.

I agree with my distinguished predecessor. No question of privilege is involved. Consent under rule 222 is not given."

Point of Privilege

Seeking permission of the Speaker by a member to lay on the Table of the House verbatim record of the meeting of Committee on Public Undertakings

Facts of the case and ruling by the Speaker

On 21st July, 1982, Prof. Madhu Dandavate, a member, sought the permission of the Speaker to lay on the Table of the House what he described as the verbatim record of the meeting of the Committee on Public Undertakings of 2nd April, 1982.

Earlier on 15th July, 1982, the Speaker (Dr. Bal Ram Jakhar) had in a ruling turned down the request made by several members to make available to them the verbatim records of certain meetings of the Committee on Public Undertakings.

2. On 28th July, 1982, the Speaker observed as follows:—

"Prof. Madhu Dandavate in his letter dated 21st July, 1982, has sought permission to lay what he describes as the verbatim record of the meeting of the Committee on Public Undertakings of 2nd April, 1982, so as to provide the background about the oil deal with Kuo Oil and the missing file P. 20.

Since under the rules the verbatim proceedings containing evidence before the Committee shall not be published by any member of the Committee, or by any person, until it has been laid on the Table by the Committee itself, I wanted to study the matter in depth and look up the past practice, precedents and rulings given by my distinguished predecessors.

I have found that, with the exception of one solitary instance in 1966, there has been not a single case, where the Speaker has given directions for laying on the Table of the House such verbatim proceedings of the Committee containing evidence which the Committee have not chosen to place on the Table. The solitary exception, as members may recall, relates to the evidence which was given by the then Minister of Food, Agriculture, Community Development and Co-operation, Shri C. Subramaniam, to the Public Accounts Committee of his own

accord. It is significant that even at that time the two Chairmen of the Financial Committees, namely, Shri A.C. Guha and Shri R.R. Morarka, had contended that the freedom with which the officers spoke before the Committee would be affected if it became a normal procedure that the verbatim record of the evidence tendered before the Committee come to be laid on the Table and publicised.

The question of making available proceedings of the Financial Committee where evidence has been tendered has been considered a number of times; not only once.

In 1956, the Department of Parliamentary Affairs suggested that the copies of the evidence tendered by the officials before the Public Accounts Committee and Estimates Committee might be made available to Government. The matter was considered by the then Speaker in consultation with the Chairmen of the Committees, and it was decided that no departure from the existing practice should be made.

In February, 1958, the question of laying on the Table the evidence tendered before the Public Accounts Committee and the Estimates Committee was raised in a meeting of the Speaker with the Deputy Speaker, and members of Panel of Chairmen and was referred to the Chairmen of these Committees. The Chairmen of Public Accounts Committee and Estimates Committee at a joint meeting held on 21st March, 1958 decided that, while the existing practice of printing and laying on the Table verbatim proceedings, whenever the Committee deemed it necessary, should be continued, the proceedings of the Committee, which had not been laid on the Table of the House, should not be made available to any person other than the members of the Committee concerned.

In February, 1969, a member of Lok Sabha, Shri Madhu Limaye, requested that the verbatim proceedings containing the evidence tendered before the Public Accounts Committee regarding steel transactions might be made available to him in connection with his motion regarding breach of privilege against certain officers for giving false

evidence before the Committee. The member also suggested that the verbatim proceedings of the Committee should in future be laid on the Table. The matter was referred by Mr. Speaker Reddy to the then Chairman, Public Accounts Committee, Shri M.R. Masani, who recorded a detailed minute on 1st March, 1969 to the following effect:

'I find myself in agreement with the decision taken in March, 1958 at the meeting of the Chairmen of the Public Accounts Committee and the Estimates Committee that proceedings of the Committee which had not been laid on the Table of the House should not be made available to any persons other than the members of the Committee concerned. The existing practice has made for frank expression of views by the representatives of Government and it has been our experience that the Secretaries of Ministries/Departments do not hesitate to admit a shortcoming or a lapse when it is brought to their notice. If, however, Government representatives get the feeling that the verbatim proceedings are not only open to inspection but are also liable to be discussed on the floor of Parliament, they could not be expected to be so frank and forthright in their evidence before the Committee.

I, therefore, consider that the existing practice, by which only Minutes of the sitting of the Public Accounts Committee are laid on the Table of the House, should be adhered to.'

Mr. Speaker Reddy declined to accede to the request of Shri Madhu Limaye.

We have on record several other instances, where requests from members and Government for making available the verbatim proceedings of the Financial Committees where evidence was tendered were not acceded to.

I would appeal to hon. members that in the interest of preserving this well-established practice, which has made for effective functioning of the Committees, particularly the Financial Committees, no departure be made. I am, therefore, unable to accede to the request of the hon. member, Prof. Madhu Dandavate.

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RAJYA SABHA

(1982)

Point of Privilege

(i) *Laying of allegedly distorted minutes of Committee on Public Undertakings on the Table of the House;*

(ii) *Request to the Chairman to reconsider his earlier ruling on a question of privilege; and*

(iii) *Status of members of Rajya Sabha on Committee on Public Undertakings.*

For details of the case please see summary No. 72 at p. 132 *ante*.

LEAKAGE OF REPORT

LOK SABHA
(1955)

Point of Privilege

Leakage of Bank Award Commission Report before presentation to House.

Facts of the case and ruling by the Speaker

On the 22nd August, 1955, when the Minister of Labour (Shri Khandubhai Desai) was about to lay on the Table of the House a copy of the Report of the Bank Award Commission, the Speaker (Shri G. V. Mavalankar) observed:—

“Before I call upon the hon Minister of Labour to lay on the Table a copy of the Report of the Bank Award Commission, I want to enquire about one thing. I saw in the Press a summary of this Report and I was just wondering how it could go to the Press before it was laid on the Table of the House.”

2. The Minister of Labour (Shri Khandubhai Desai) said that he would get the whole question enquired into.

3. Shri H.V. Kamath, a member, said that it was a breach of privilege of the House.

4. The Speaker observed:—

“That we shall consider later on. I may only point out that whenever a report is to be presented to Parliament, Government have to be very particular to see that a summary of it or information therefrom is not published in the Press before the Report is presented in the Parliament. What has happened now is a very irregular practice and I do not know who is responsible for it. The Minister has promised to enquire and let us await the results of his enquiry.”

5. On the 5th September, 1955, Shri Khandubhai Desai said that he had made enquiries to find out how the leakage had occurred but he was unable to locate the source from which the report or extracts from it had reached the representative of the newspaper concerned. He, however, expressed regret that such a leakage should have occurred.

6. Shri H.V. Kamath stated that he was not satisfied with the statement of the Minister of Labour. He added that since the matter concerned the privileges of the House, a Committee might be appointed for investigation into the matter and finding out how the leakage occurred.

7. Shri T. B. Vittal Rao, another member, urged for reference of the case to the Committee of Privileges.

8. The Speaker observed *inter alia* as follows:—

“... it is equally the duty of the Press to help observance of parliamentary conventions; it is a wrong practice to obtain information in that manner and give publicity to it before a particular matter is placed before the Parliament. I trust and hope that the Press will follow this kind of convention and help the House in that direction.

... As regard the question of breach of privilege, we are not quite so sure as to whether it is a breach of privilege. If I was quite so sure of that cent per cent, the question could be straightaway put before the Privileges Committee instead of requesting the Minister to enquire and report. After all, parliamentary conventions have to grow; therefore we shall require the co-operation of all concerned, including the Press. I do not propose to appoint a Committee for this purpose. it was doubtful to my mind whether this was a question of privilege or not. It was undoubtedly improper for that paper to do so, but impropriety is one thing and breach of privilege another thing.”

LEGAL PROCESS

189

LOK SABHA
(1974)

Point of privilege

Notice received by the Speaker from the Supreme Court in the matter of Special Reference under Article 143 of the Constitution regarding Presidential Election.

Facts of the case and ruling by the Speaker

On the 2nd May, 1974, some members raised the question of Notice reportedly issued to the Speaker by the Supreme Court in the matter of Special Reference under Article 143 of the Constitution regarding the Presidential Election. The Speaker (Dr. G. S. Dhillon), while informing the House that he had not till then received any such notice, observed *inter alia* as follows:—

“When it comes. I will take the General Purposes Committee into confidence and whatever they decide, I will follow it. It is not an individual matter. I am the Speaker and, as the Speaker, I will not do anything unless I consult you.”

2. On the 9th May, 1974, the Speaker informed the House *inter alia* as under:—

“I received the Notice dated May, 1974 from the Supreme Court on the evening of the 2nd May 1974. The notice states *inter alia* as follows:—

‘Whereas under Article 143 of the Constitution, the President of India has been pleased to refer to this Court the following questions of law for consideration and report.’

After reproducing the questions referred by the President to the Supreme Court and stating certain facts, the Notice states further:—

‘Notice is hereby given to you so that you may, if so advised, enter appearance in the above matter and file 100 copies of the written arguments . . . by 12 noon on the 20th day of May, 1974.

Take further notice that the above Special Reference will be listed for hearing before the Court on Monday, the 27th day of May, 1974. . . . when you may appear before the Court by an Advocate of the Court and take such part in the proceedings before this Court as you may deem fit.’

I placed the matter before the General Purposes Committee on the 7th May, 1974. The General Purposes Committee advised that neither the Lok Sabha, nor the Speaker, should enter appearance in this matter.

If the House agrees, the Supreme Court may be informed accordingly.”

3. The House agreed and the Supreme Court was informed accordingly.

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LOK SABHA
(1975)

Point of Privilege

Summons to the Chairman, Committee on Public Accounts, from a Court regarding certain observations made in a Report of that Committee

Facts of the case and ruling by the Speaker

On the 1st August, 1975, the Speaker (Dr. G. S. Dhillon), informed the House *inter alia* as follows:—

“ on the 30th July, 1975, a summons has been received from the City Civil Court, Registrar Branch, Calcutta, addressed to the Committee on Public Accounts of Lok Sabha represented by its Chairman in Title Suit No. 1428 of 1973 filed in that Court by one Shri Gobinda Ram Sinha, Preventive Officer, Grade I, attached to the Calcutta Customs under the Government of India, for declaration and mandatory injunction as consequential relief valued at Rs. 25/- in respect of certain observations made in the seventy-first Report of the Committee on Public Accounts (Fifth Lok Sabha).

The constitutional position that no such suit or proceedings is maintainable in any court of law is quite clear as provided in Article 105(2) of the Constitution which reads as follows:—

‘No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any Committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.’

Since this matter relates to the proceedings of a Parliamentary Committee and the powers, privileges and immunities of members and Committees of Parliament, I am placing this matter before the House. As has been the practice of this House, I am asking the Chairman, Committee on Public Accounts, to ignore this summons and not to put in any appearance in the court.

I am, however, passing on the relevant papers to the Minister of Law for taking such action¹ as he may deem fit to apprise the court of the correct constitutional position in this regard.”

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LOK SABHA
(1979)

Point of Privilege

Notice received from the High Court of Karnataka in the matter of a Writ Petition requiring the appearance of the Secretary, Lok Sabha, before the High Court.

Facts of the case and ruling by the Speaker

On the 12th April, 1979, the Speaker (Shri K.S. Hegde) informed the House as follows:—

“I have to inform the House that on 11 April, 1979, a notice has been received from the Assistant Registrar of the High Court of Karnataka in the matter of Writ Petition No. 2865 of 1979, requiring the Secretary, Lok Sabha, to appear in the High Court in person or through an Advocate duly instructed or through some one authorised by law to act for him in the case on the 17th April, 1979. With the notice, a copy of the writ petition filed by Shri C. Nanjappa, a voter of Chikmagalur Parliamentary Constituency, challenging the validity of the resolution passed by Lok Sabha on the 19th December, 1978, and the subsequent notification of that date issued by the Lok Sabha Secretariat, regarding expulsion of Shrimati Indira Nehru Gandhi from Lok Sabha has also been enclosed.

As per past practice of the House, the Secretary, Lok Sabha, has been asked not to respond to the notice. The Minister of Law is being requested to apprise the High Court of Karnataka of the correct constitutional position in this regard.”

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LOK SABHA
(1982)

Point of Privilege

Notice to the Chairman of a Parliamentary Committee from a High Court in connection with a Writ Petition filed in that Court.

Facts of the case and ruling by the Speaker

On 5th April, 1982, the Speaker (Dr. Bal Ram Jakhar) informed the House *inter alia* as follows:—

“I have to inform the House that on 1 April, 1982, a notice has been received from the Deputy Registrar of the Patna High Court (Civil Writ Jurisdiction) in the matter of Writ Petition C.W. J.C. No. 221 of 1982, requiring the Chairman, Parliamentary Committee on Scheduled Castes and Scheduled Tribes, to appear before the High Court on 30 April, 1982, to show cause why the said Writ Petition be not allowed or why a stay order be not issued by the Court as it may consider proper. With the notice, a copy of the Writ Petition filed by the Bihar Nuniya Mahasangh *versus* the Union of India and others has been enclosed which, *inter alia* prays for the issue of a writ of Mandamus to the respondents to give recognition to Nuniya community in the State of Bihar as Scheduled Tribe.

As per past practice of the House, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes has been asked not to respond to the notice. The Minister of Law, Justice and Company Affairs is being requested to apprise the Patna High Court of the correct constitutional position in this regard.²”

¹The Ministry of Law intimated in their communication No. 25777/75-Adv. B. dated 26 September, 1975 that the title Suit No. 1428/73 in the City Civil Court at Calcutta Gobindaram Sinha vs. Chairman, Public Accounts Committee of Parliament was *dismissed* by the Second Judge City Civil Court, Calcutta, on 23 September, 1975 as it was not maintainable.

²The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) intimated *vide* their D.O. No. 22590/82/Adv. (B), dated 19th May, 1982 that the writ petition filed by the Bihar Nuniya Mahasangh was taken up for hearing and it was ordered by the Court that name of the third respondent namely, the Chairman, Parliamentary Committee on Scheduled Castes and Scheduled Tribes should be deleted.

193

LOK SABHA
(1987)

Point of Privilege

Notice to the Speaker from the Supreme Court in connection with a transfer Petition

Facts of the case and ruling by the Speaker

On 6th November, 1987, The Speaker (Dr. B.R. Jakkhar) observed as follows:—

"I have to inform the House that on 20th October, 1987, a notice was received from the Assistant Registrar of the Supreme Court of India requiring my appearance before the Supreme Court on 9th November, 1987, at 10.30 A.M. in connection with a Transfer Petition (Civil) No. 461 of 1987 and Civil Miscellaneous Petition No. 20825 of 1987. The Transfer Petition seeks to transfer from the High Court of Delhi to the Supreme Court of India, the Civil Writ No. 2470 of 1987 filed by Shri Ram Dhan and Shri Satpal Malik, MPs, against the Union of India and others challenging the validity and constitutionality of the Constitution (Fifty-Second Amendment) Act, 1985 and the Tenth Schedule added to the Constitution by the said Act.

As per well established practice and convention of Lok Sabha, I have decided not to respond to the notice. I have passed on the relevant papers to the Minister of State in the Ministry of Law and Justice for taking such action as he may deem fit to apprise the court of the correct constitutional position and the well established conventions of the House."

194

LOK SABHA
(1988)

Point of Privilege

Notices to the Speaker from the High Court of Bombay in connection with two Writ Petitions

Facts of the case and ruling by the Speaker

On 27th July, 1988, The Speaker (Dr. B.R. Jakkhar) observed as follows:—

"I have to inform the House that on 11th July, 1988, two notices were received from the Deputy Registrar, High Court, Appellate Side, Bombay, requiring my appearance before the Bombay High Court on 19th July, 1988, for

filing of an affidavit by me or the Secretary-General Lok Sabha, within three weeks from 28th June, 1988, in connection with two Writ Petitions No. 6157/87 and 1299/88 alleging that there was "a variance between the Bill (The Central Excise Tariff Bill, 1985), as passed and gazetted with regard to the rate of the excise duty on the goods-cranes-Chapter sub-heading No. 8426-00."

As per well established practice and convention of Lok Sabha, I have decided not to respond to the notices. I have passed on the relevant papers to the Minister of Law and Justice for taking such action as he may deem fit to apprise the court of the correct constitutional position and the well established conventions of the House."

195

LOK SABHA
(1988)

Point of Privilege

Notice to the Speaker from the High Court of Bombay in connection with two Writ Petitions

Facts of the case and ruling by the Speaker

On 2nd November, 1988, The Speaker (Dr. B.R. Jakkhar) observed¹ as follows:—

"I have to inform the House that on the 27th July, 1988, I informed the House about the receipt of two notices from the Deputy Registrar, High Court, Appellate Side, Bombay, requiring my appearance before the Bombay High Court on 19th July, 1988, for filing of an affidavit by me or the Secretary-General Lok Sabha, within three weeks from 28th June, 1988, in connection with the Writ Petitions No. 6157/88 and 1299/88 alleging that there was "a variance between the Bill (The Central Excise Tariff Bill, 1985), as passed and gazetted, with regard to the rate of the excise duty on the goods — cranes — Chapter sub-heading No. 2426-00."

The relevant papers were passed on to the Minister of Law and Justice for taking such action as he may deem fit to apprise the court of the correct constitutional position and the well established conventions of the House.

Subsequently, the Additional Registrar, High Court, Appellate Side, Bombay, in his letter dated 6th August, 1988, expressed deep regrets

for the two notices addressed to me by his office reproducing the language of the usual notice addressed to the parties and requested that these be treated as cancelled."

196

LOK SABHA
(1988)

Point of Privilege

Notice to the Speaker from the High Court of Delhi in connection with two Petitions

Facts of the case and ruling by the Speaker

On 2nd November, 1988, the Speaker (Dr. B.R. Jakhar) observed as follows:—

"...On 23rd September, 1988, a notice was received from the Registrar of the High Court of Delhi requiring me to arrange to show cause in connection with Civil Miscellaneous Petition No. 4374/88 and Civil Writ Petition No. 1991/88 filed by Shri Ude Singh Dalal against the Union of India, the Speaker, Lok Sabha and Shri Hardwari Lal, M.P.

As per well established practice and convention of Lok Sabha, I have decided not to respond to the notice. I have passed on the relevant papers to the Minister of State in the Ministry of Law and Justice for taking such action as he may deem fit to apprise the court of the correct constitutional position and the well established conventions of the House."

197

LOK SABHA
(1990)

Point of Privilege

Notice to the Speaker from the High Court of Delhi in connection with a Writ Petition

Facts of the case and ruling by the Speaker

On the 27th December, 1990, the Speaker (Shri Rabi Ray) observed as follows:—

"I have to inform the House that on the 7th December, 1990, a notice was received from the Registrar of the High Court of Delhi requiring me to arrange to show cause in connection with Civil Writ Petition No. 3871 of 1990. The Writ Petition, *inter alia* seeks to challenge the validity and constitutionality of paragraph 6 and 7 of the Tenth Schedule to the Constitution (Fifty-second Amendment) Act, 1985.

As per well established practice and convention of the House, I have decided not to respond to the notice. I have passed on the relevant papers to the Minister of Law and Justice for taking such action as he may deem fit to apprise the High Court of the correct constitutional position and the well established conventions of the House."

2. On the 8th January, 1991, the Speaker observed as follows:—

"...I had informed the House on 27th December, 1990 about the receipt of a notice from the Registrar of the High Court of Delhi requiring me to arrange to show cause in connection with Civil Writ Petition No. 3871 of 1990.

I had also informed the House that as per well-established practice and convention of the House, I had decided not to respond to the notice. I had passed on the relevant papers to the Minister of Law and Justice for taking such action as he might deem fit to apprise the High Court of the correct constitutional position and the well-established conventions of the House.

I have received today a letter from the Registrar of the High Court of Delhi forwarding therewith a copy of an order dated 8th January, 1991 passed by the Division Bench of the High Court of Delhi. The Division Bench has passed the following orders on the arguments on stay application in Civil Writ Petition No. 3871 of 1990:—

"The arguments on the stay application are in progress. It would be in the fitness of things that an order of *status quo* may be passed as the hearing of the arguments on the stay application is likely to take time.

Therefore, we order that all the petitions presented before respondent No. 2 under the 10th Schedule of the Constitution shall not be proceeded with or pursued by the petitioners before the Speaker and we further order that *status quo* as it exists today shall be maintained by the parties;'

Adjourned to 9th January, 1991.

A copy of this order may be sent to the Speaker immediately."

3. On the 9th January, 1991, the Speaker further observed as follows:—

"I had informed the House yesterday about the order passed by the High Court of Delhi on the stay application in Civil Writ Petition No. 3871 of 1990 directing that all the petitions presented before me under the Tenth Schedule of the Constitution 'shall

not be proceeded with or pursued by the petitioners' before me.

I have discussed the matter with the Leaders of Parties and Groups this morning and it was unanimously agreed upon that the orders of the High Court be ignored. Accordingly, I am ignoring the order of Delhi High Court."

4. On the 11th January, 1991, the Speaker again observed as follows:—

"...I had informed the House on 8 January, 1991 about the receipt of a letter from the Registrar of the High Court of Delhi forwarding therewith a copy of an interim order passed by the Division Bench of the High Court of Delhi on 8 January, 1991 directing that all the petitions presented before me under the Tenth Schedule to the Constitution shall not be proceeded with or pursued by the petitioners.

I have received today another letter from the Registrar of the High Court of Delhi, forwarding therewith a copy of an order passed by the Full Bench of the High Court of Delhi on 11 January, 1991. The Full Bench has passed the following orders:

'We are *prima facie* of the opinion that the Speaker has jurisdiction to decide the question of disqualification of members of Lok Sabha under paragraph 6 of the 10th Schedule and the rules framed thereunder on the petitions presented to him. So we vacate the interim order passed by us on 8th January, 1991'."

198

LOK SABHA
(1991)

Point of Privilege

Notice to the Speaker from the Supreme Court in connection with a Transfer Petition

Facts of the case and ruling by the Speaker

On the 26th February, 1991, the Deputy-Speaker (Shri Shivraj V. Patil) observed as follows:—

"I have to inform the House that on 25 February, 1991, a notice was received from the Assistant Registrar of the Supreme Court of India requiring the Speaker to show cause in connection with Transfer Petition (Civil) No. 105 of 1991. The Transfer Petition has been filed under article 139A (1) of the Constitution of India seeking to withdraw the case filed in the Delhi High Court *vide* Writ Petition No. 537/91 to the Supreme Court for disposal in which the

validity and constitutionality of paragraphs 6 and 7 of the Tenth Schedule to the Constitution have been challenged.

As per well-established practice and convention of the House, the Speaker has decided not to respond to the notice. The Speaker has passed on the relevant papers to the Minister of Law and Justice for taking such action as he may deem fit to apprise the Supreme Court of the correct constitutional position and the well-established conventions of the House."

199

LOK SABHA
(1991)

Point of privilege

Notice to the Speaker from the High Court of Delhi in connection with a Writ Petition

Facts of the case and ruling by the Speaker

On the 10th January, 1991, the Speaker (Shri Rabi Ray) observed as follows:—

"I have to inform the House that on 4 January, 1991, a notice has been received from the Registrar of the High Court of Delhi, in the matter of Civil Writ Petition No. 3323 of 1990, regarding the Sixty-first Report of the Public Accounts Committee (1986-87), requiring the Secretary-General, Lok Sabha to appear before the High Court personally or through counsel to show cause against the admission of the Writ Petition.

As per well-established practice and convention of the House, the Secretary-General, Lok Sabha, has been asked not to respond to the notice. The Minister of Law and Justice is being requested to take such action as he may deem fit to apprise the High Court of the correct constitutional position and the well-established conventions of the House."

LOK SABHA
(1992)

Point of Privilege

Notice to a member who was former Speaker of Lok Sabha from the Supreme Court of India in connection with a Writ Petition

Facts of the case and ruling by the Speaker

On the 4th March, 1992, a notice was received by Shri Rabi Ray, member and former Speaker of Lok Sabha from the Assistant Registrar of the Supreme Court of India in the matter of Writ Petition No. 149 of 1992 requiring him to appear before the Supreme Court in person or through counsel on 10 March, 1992 to show cause to the Court as to why Rule Nisi in terms of the prayer of the Writ Petition be not issued.

2. On the same day, the said notice, in original, was forwarded to the Speaker, Lok Sabha by Shri Rabi Ray for his advice in the matter.

3. On the 9th March, 1992 the Speaker (Shri Shivraj V. Patil) observed as follows:—

“There is one more matter which I would like to bring to your notice. You know that there is an Impeachment matter pending with the Committee. Against that matter one more case has been filed in the Supreme Court. Shri Rabi Rayji, who happens to be our former Speaker, has received a notice from the Supreme Court. Shri Rabi Rayji has written to me asking for my views and asking for the suggestions from the present Speaker. Some days back, the hon. leaders of different parties and Shri Rabi Rayji had met me and we had discussed this matter. They asked for my views on this matter. I had explained to them that we had organised a meeting of the Presiding Officers of India and in that meeting nearly unanimously it was decided that the judgement given by the Supreme Court should be respected until the law is amended. We had also said in that meeting that the hon. Presiding Officers may not subject themselves to the jurisdiction of the judiciary. We, as a very responsible institution, like to protect the prestige and dignity of the judiciary as well as the prestige and dignity of the Legislature. Now here we have to strike a balance and that is very very important.

We have said that we would make the relevant papers, which can be given to the

court, available to the court for going through the papers and taking the decision. And whatever the decision given by them will be respected by the Presiding Officers and the legislatures. There were one or two dissenting views on that point. But ultimately everybody agreed to that. I had expressed this point of view to the hon. leaders and to Shri Rabi Rayji also. And I have said that the Speaker may not appear in the court. The papers may be given to the court and court can decide in whatever fashion they want to. This matter can be brought to the notice of the Law Ministry also and the point of view of the legislature can be presented to the judiciary through the Law Ministry if it is necessary.

But on the one hand, we will give the papers and we would accept and respect the decision, but on the other hand, we would not expect the Presiding Officers to go to the court and subject themselves to the jurisdiction of the court. That was the view I had expressed. And at the same time, I had said that I would bring this matter to the notice of this August House and with their agreement only we would come to a conclusion. So, I have brought this view to your notice. And, I think, if it is agreeable to us, we will follow this.”

The House agreed.

The Ministry of Law was informed accordingly.

201

LOK SABHA
(1992)

Point of Privilege

Notice to the Secretary-General, Lok Sabha, from the High Court of Delhi in connection with a Writ Petition

Facts of the case and ruling by the Speaker

On the 24th November, 1992, the Speaker (Shri Shivraj V. Patil) observed as follows:—

“I have to inform the House that on 7 September, 1992 a notice was received from the Registrar of the High Court of Delhi, in the matter of Civil Miscellaneous Petition No. 4794 of 1992 in Civil Writ Petition No. 3323 of 1990 regarding the Sixty-first Report of the Public Accounts Committee (1986-87), requiring the Secretary-General, Lok Sabha, to appear before

the High Court personally or through counsel to show cause against the admission of the Writ Petition.

As per well established practice and convention of the House, the Secretary-General, Lok Sabha, was asked not to respond to the notice. I had passed on the relevant papers to the Minister of Law & Justice for taking such action as he might deem fit to apprise the High Court of the correct constitutional position and well established conventions of the House."

202
LOK SABHA
(1993)

Point of Privilege

Notice to the Chairman, Standing Committee on External Affairs from the High Court of Madhya Pradesh in connection with a Miscellaneous Petition

Facts of the case and ruling by the Speaker

On the 26th July, 1993, the Speaker (Shri Shivraj V. Patil) observed as follows:—

"I have to inform the House that on 8 June, 1993 a notice was received from the Deputy Registrar of the High Court of Madhya Pradesh, in the matter of Miscellaneous Petition No. 1132 of 1993, requiring the Chairman, Standing Committee on External Affairs, to appear before the High Court to show cause why an application seeking *ad interim* relief filed by the petitioner be not granted.

As per well established practice and convention of the House, the Chairman, Standing Committee on External Affairs, was asked not to respond to the notice. I had passed on the relevant papers to the Minister of Law, Justice and Company Affairs for taking such action as he might deem fit to apprise the High Court of the correct constitutional position and well established conventions of the House.

Subsequently, on 19 July, 1993, another notice was received from the Deputy Registrar of the High Court of Madhya Pradesh, in the matter of Miscellaneous Petition No. 1132, of 1993, requiring the Chairman, Standing Committee on External Affairs, to appear before the High

Court to show cause why the petition be not admitted for hearing.

A copy of this notice together with other relevant papers was also forwarded to the Minister of Law, Justice and Company Affairs for taking such action as he might deem fit to apprise the High Court of the correct constitutional position and well established conventions of the House."

203
LOK SABHA
(1994)

Point of Privilege

Notice to a Secretary-General, Lok Sabha, from the Supreme Court of India, in connection with a Writ Petition (Civil) No. 246 of 1993

Facts of the case and ruling by the Speaker

On the 17th March, 1994, the Speaker (Shri Shivraj V. Patil) observed as follows:—

"I have to inform the House that on 9th March, 1994, a notice has been received from the Assistant Registrar of the Supreme Court of India in the matter of Writ Petition (Civil) No. 246 of 1993, requiring the Secretary-General, Lok Sabha, to appear before the Supreme Court personally or through counsel to show cause against the admission of the Writ Petition. The Writ Petition seeks to challenge, *inter alia*, the Constitutional validity of Section 8A of the Salary, Allowances and Pensions of Members of Parliament Act, 1954 as amended till 1982 *vide* the Salary, Allowances and Pensions of Members of Parliament (Amendment) Act. 1982.

As per well-established practice and convention of the House, the Secretary-General, Lok Sabha, has been asked not to respond to the notice. The Minister of State in the Ministry of Law, Justice and Company Affairs is being requested to take such action as he may deem fit to apprise the Supreme Court of India of the correct constitutional position and the well-established conventions of the House."

204

LOK SABHA
(1994)

Point of Privilege

Notice to the Speaker, Lok Sabha, from the Supreme Court of India, in connection with a Writ Petition No. 860/94

Facts of the case and ruling by the Speaker

On 30 March, 1994, the Speaker (Shri Shivraj V. Patil) observed as follows:—

"I have to inform the House that on 18th March, 1994, a notice has been received from the Assistant Registrar of the Supreme Court of India (Civil Original Jurisdiction) requiring me to show cause in connection with Case No. 6 of 1994, arising out of Writ Petition No. 860/94 filed before the Jodhpur Bench of Rajasthan High Court and withdrawn to the Supreme Court, seeking to challenge the method of transfer of Judges of High Courts and appointments of Judges of the Supreme Court and High Courts.

As per well-established practice and convention of the House, I have decided not to respond to the notice. The Minister of State in the Ministry of Law, Justice and Company Affairs is being requested to take such action as he may deem fit to apprise the Supreme Court of India of the correct constitutional position and the well-established conventional of the House. And that the Speaker is not responsible for the transfer of Judges."

205

LOK SABHA
(1995)

Point of Privilege

Notice to the Speaker, Lok Sabha, from the High Court of Delhi, in connection with a Civil Writ Petition No. 1569/95

Facts of the case and ruling by the Speaker

On 28 November, 1995, the Speaker (Shri Shivraj V. Patil) observed as follows:—

"I have to inform the House that on 2 November, 1995, a notice was received from the Registrar, Delhi High Court requiring me to show cause as to why *rule nisi* be not issued in connection with the Civil Writ Petition No. 1569/95 under Articles 226 & 227 of the Constitution

of India praying *inter-alia*, for declaring constitution of the committee under section 5 (2) of the Press Council Act as *ultra vires*.

As per well-established practice and convention of the House, I decided not to respond to the notice. The Minister of State in the Ministry of Law, Justice & Company Affairs was requested to take such action as he might deem fit to apprise the High Court of Delhi of the correct constitutional position and the well-established conventions of the House."

206

RAJYA SABHA
(1974)

Point of Privilege

Notice received by the Chairman from the Supreme Court in the matter of Special Reference under Article 143 of the Constitution regarding Presidential Election

Facts of the case and ruling by the Chairman

On the 9th May, 1974, the Chairman (Shri G. S. Pathak), informed the House as under:—

"A notice was received by me from the Supreme Court in the matter of the Special Reference (No. 1 of 1974) under article 143 of the Constitution relating to Presidential election.

I placed the Notice before the General Purposes Committee at a meeting held yesterday to which Leaders of various Groups were invited to consider the action if any to be taken on the Notice. The consensus in the meeting was that no action need be taken by me on the Notice. I hope the House agrees with this."

The House agreed and no action was taken in the matter.

207

RAJYA SABHA
(1987)

Point of Privilege

Notice to the Chairman from the Supreme Court in connection with a Transfer Petition

Facts of the case and ruling by the Chairman

On 6th November, 1987, the Chairman (Shri R. Venkataraman) observed as follows:—

"I have to inform the House that I have received a notice from the Supreme Court of India in connection with the transfer petition filed by the Union of India seeking transfer of a writ petition filed by Shri Ram Dhan, member, Lok Sabha

and Shri Satya Pal Malik, member, Rajya Sabha, wherein they have challenged the validity of the Constitution (Fifty-Second Amendment) Act, 1985, from the Delhi High Court to the Supreme Court.

As per our practice, we do not propose to respond to the notice or put in an appearance in

the Court. I am passing on the relevant papers to the Minister of Law and Justice for taking such action as he may deem fit in the matter.

I hope the House agrees with this view".

The House agreed and the matter was treated as closed.

MEMBERS' LETTERS TO MINISTERS

208

LOK SABHA
(1959)

Facts of Point of privilege by Speaker

Private member's Bill seeking to include members' letters to Ministers within the meaning of the term "Proceedings in Parliament" rejected by Lok Sabha

Facts of the case and action taken by the House

On the 20th February, 1959, Lok Sabha debated "The Parliamentary Privilege Bill" sponsored by a private member, Shri Naushir Bharucha. The Bill sought to provide that:

"Without prejudice to the generality of powers contained in article 105 of the Constitution of India, the following shall be deemed to be a proceeding in Parliament:—

- (a) Letters addressed by a member of Parliament to the Presiding Officer or the Secretaries of either House of Parliament or a Minister on a public matter in the course of discharge of his duties as such member.
- (b) Communication of such letter by a Minister to any person or body of persons or an institution in course of discharge of his duties as a Minister.
- (c) Any reply addressed by the Minister to such letter in the course of discharge of his duties as such Minister."

The Bill also contained a provision that "no member shall be liable to any proceeding in any court

in respect of anything said, communicated or done with reference to any matter contained in such letter."

Explaining the object of the Bill, Shri Naushir Bharucha stated that on the 8th July, 1958, the House of Commons, (U.K.) had decided in the Strauss case that Mr. Strauss' letter to a Minister containing certain remarks about the London Electricity Board was not a "proceeding in Parliament". Since, Shri Bharucha added, under Article 105 of the Constitution, the powers, privileges and immunities of the Indian Parliament were the same as those of the House of Commons (U.K.) "the net effect is that any member of Lok Sabha and Rajya Sabha writing a letter to a Minister, making a complaint against any aspect of the administration, say, against an autonomous Corporation, exposes himself to serious threat of a criminal action on a charge of defamation. This is tantamount to impeaching or questioning the freedom of speech of a member of Parliament, making it impossible for him to ventilate public grievances. The Bill aims at removing the threat of criminal or civil action which a member of Parliament would face in bona fide discharge of his duties".

4. After a debate lasting about two and a half hours, in which three members (including Shri Bharucha) supported the Bill and six members (including the Minister of Law, Shri Asoke K. Sen and the Minister of Parliamentary Affairs, Shri Satya Narayan Sinha) opposed it, the House rejected the Bill by a voice vote.

MINISTERS

209

LOK SABHA
(1963)

Point of Privilege

Announcement regarding resignation of certain Ministers by the Prime Minister outside the House when the House was in Session

Facts of the case and ruling by the Speaker

On the 27th August, 1963, the Speaker (Sardar Hukam Singh) informed the House as follows:—

“Yesterday I had received a notice of breach of privilege from Shri Kapur Singh and Shri Ram Sewak Yadav to the effect that the Prime Minister had publicly announced his acceptance of the resignation of six members of the Cabinet without first making a statement on the floor of the House about this matter of specific, urgent and public importance, particularly when Parliament is in session. I told them yesterday that I had not allowed it..... The same notice has been repeated today by Dr. Singhvi.....”

2. After hearing the members who had tabled notices, the Speaker disallowed the question of privilege and observed *inter alia*:—

“Under the Constitution this House has no powers to interfere in the appointment, removal or dismissal of Ministers by the Prime Minister. The Council of Ministers was appointed by the President on the recommendation of the Prime Minister.....it was entirely in the Prime Minister's discretion to retain a Minister or remove him. So far as the question of courtesy is concerned, it is again for the Prime Minister to decide whether this information should first be given in Parliament.”

210

LOK SABHA
(1966)

Point of Privilege

Reported seeking of agreement by a Minister from World Bank authorities about a statement he was to make in the House

Facts of the case and ruling by the Speaker

On the 11th May, 1966, Shrimati Renu Chakravartty, Sarvashri S.M. Banerjee and Madhu

Limaye, members sought to raise a question of privilege against Shri Ashoka Mehta, Minister of Planning, regarding a news report circulated by the Press Trust of India about the talks of Minister of Planning with the President of the World Bank in Washington. The P.T.I. news report, as stated to have been broadcast by the All India Radio, reads as below:—

“The PTI report from Washington says that the Minister of Planning Mr. Ashoka Mehta has been given assurances of support by the World Bank and the U.S. in India's development. Before leaving Washington for home, Mr. Mehta had a final meeting with the World Bank President, Mr. Woods. They are reported to have agreed on the statement which Mr. Mehta will make in Parliament on the Bank's share of assistance to India.”

2. The members contended that seeking agreement from the World Bank authorities about a statement going to be made in Parliament by the Planning Minister lowered the dignity of Parliament and thus the Minister had committed breach of privilege.

3. The Speaker (S. Hukam Singh) then observed that he would give his ruling after hearing the Minister on the next day.

4. On the 12th May, 1966, the Minister of Planning, (Shri Ashoka Mehta) denied that the statement he proposed to make next day had been agreed upon with the President of the World Bank or that he was waiting to get clearance to the statement from Washington. He explained that owing to the important nature of those discussions, it was necessary to seek confirmation from them for that part of the record of the discussions which represented the views and the statements made by the World Bank President and the U.S. authorities. Therefore it was necessary to do so in order that there should be no misunderstanding later as to the precise indications given to him by the World Bank President and the U.S. authorities.

5. Disallowing the question of privilege, the Speaker observed *inter alia* as follows:—

“The hon. Minister has explained that because the talks had been going on, therefore, he had to get this much just approved in regard to whatever impressions he had gathered about the talks that they had and about what had been said by the other side, whether he had got the correct impressions in his mind

about what had been conveyed by the World Bank President or by the President of the U.S.A. That is ordinary courtesy."

When two statesmen have a conversation or have some discussion, and they have to arrive at a decision, then it is customary to find out from the other party before releasing what impression one has carried, saying "This is what I am carrying in my brain or in my mind about the talks that we two have had, Have you any objection to it? Or have you to say anything about it? Or is this the correct impression that I have gathered? Or is there anything that you want to object to? That is always done.

It is no wonder, therefore, that the Planning Minister also wanted just to make sure that whatever impressions he had gathered about the talks that he had with two dignitaries must be confirmed and just got approved of by them so that those impressions are the correct ones. Therefore, no breach of privilege arises on the matter."

211

LOK SABHA
(1966)

Point of Privilege

Announcement of a Minister's resignation and statement by the resigning Minister outside the House

Facts of the case and ruling by the Speaker

On the 10th November, 1966, Sarvashri S.M. Banerjee and U.M. Trivedi, members sought to raise a question of privilege on the ground that the resignation of Shri G.L. Nanda as Minister of Home Affairs was announced outside the House when the House was in session and also that he had released the statement about his resignation to the Press before it was made in House. Shri Trivedi contended that a Minister who resigned from the office of a Minister was entitled to make a statement only inside the House and not outside.

2. Disallowing the question of privilege, the Speaker (S. Hukam Singh) ruled that no reference to Lok Sabha regarding resignation of a Minister was needed and there was no question of any breach of privilege. As regards the resigning Minister's statement outside the House, the Speaker observed:

"It is a special privilege given to the Minister that he can make a statement here, inside the House. By that his other rights are not restricted. Whether it is proper for him to make a statement outside or not, it is for him to decide. Therefore, there is no breach of privilege."

212

LOK SABHA
(1981)

Point of Privilege

Direction by a Minister to the departments under his Ministry to supply briefs to Ruling Party members

Facts of the case and ruling by the Speaker

On 3rd March, 1981, the Speaker (Shri Bal Ram Jakhar) informed the House as follows:—

"I received this morning several notices drawing attention to the Press reports appearing today to the effect that the Home Minister is reported to have given directions for some briefs to be provided to some Members of the Ruling Party through the Party Office. This matter caused me concern and I took it up immediately with the Government. I have

received a few minutes ago a letter from the Home Minister which is self-explanatory. The Home Minister has stated in his letter:

'On receipt of a letter from Shri Prakash Mehrotra, Secretary, Congress (I), dated the 9th February, 1981 asking for supply of background material for the use of Members on issues concerning my Ministry likely to come up in the Parliament. I had issued instructions to the Departments under my Ministry for necessary action in the matter.

At that time I had thought that this would enable the Hon'ble Members to make useful contribution to discussions and debates in the Parliament on those issues. As a matter of fact if a similar request had been received from the Opposition parties I might have given the same directions to the Departments.

However, on careful consideration of the matter I found that this would lead to complications. Accordingly, I have since withdrawn these instructions. I may add that no such material has been supplied so far. Anticipating that the Hon. Members may raise this issue consequent upon a news-item appearing in a section of the Press, I am bringing these facts to 'your kind notice'.

I need hardly stress that in such matters which affect the interest of Members, every care should be taken to see that Parliamentary conventions are duly observed."

The matter was, thereafter, closed.

213

RAJYA SABHA
(1978)

Point of Privilege

Alleged disrespect shown to the House by a Minister by leaving in the midst of a discussion on a matter relating to his Ministry.

Facts of the case and action taken by the House

On the 21st March, 1978, during the course of discussion on a Calling Attention matter regarding the reported ruthless lathi charge and use of tear-gas by the police on demonstrators at the Prime

Minister's residence in New Delhi on the 19th March, 1978, the Minister of Home Affairs (Shri Charan Singh), who had intervened in the discussion, left the House while the matter was still being discussed. Shri Bhupesh Gupta, a member, while bringing it to the notice of the Chair, stated, *inter alia* as follows:—

"....Sir, the matter is under discussion. The Home Minister was replying to the questions that were being put to him. He has partly replied and suddenly I found that he got up in the midst of the discussion and left the House even without seeking your permission. Sir, this is a very arrogant attitude, May be he has got some urgent business, but he could have sought your permission. It is an insult to the House. Sir, I would like to have your observations on the conduct of the Home Minister in regard to this matter."

Some other members also supported Shri Bhupesh Gupta and sought to move a motion of censure against the Minister of Home Affairs.

2. The Leader of the House (Shri Lal K. Advani), while apologising to the House stated *inter alia* as follows:—

".....practically all the members who were to speak from the various parties had spoken and the Home Minister himself had replied to all the points that had been raised. It was only when Mr. Shahi was speaking at that stage he said that Mr. Patil (Minister of State in the Ministry of Home Affairs) was there, he had been dealing with it right from the start, and from that point of view he went away. And if this is sought to be made issue, I feel, as the Leader of the House and also as member of the Government, it is my duty to see the something that has been done is without any disrespect to the House without the slightest disregard, disrespect or discourtesy. If there were any questions left, I am sure he would have been here. It would be fair for me to say that there is not the slightest intention of giving any disrespect to the House or to the Chair.....Nevertheless, if the members feel that disrespect has been committed, I on behalf of my Government and party apologise and express my regrets."

3. The matter was, thereafter, closed.

MISCONDUCT

LOK SABHA
(1963)

Point of Privilege

Interruption and walk-out by certain members during the President's Address

Facts of the Case and reference to the Committee

On the 18th February, 1963, when the President started reading his address under Article 87 of the Constitution of India to both Houses of Parliament assembled together, in English, some members interrupted the proceedings and staged a walk-out.

2. Later, on the same day, when Lok Sabha assembled in its Chamber, some members raised the matter and the House authorised the Speaker to appoint a Committee to investigate the conduct of the concerned members.

3. On the 19th February, 1963, the Speaker (Sardar Hukam Singh) informed the House that he had nominated a Parliamentary Committee consisting of 15 members:

"To investigate the conduct of Sarvashri Ram Sewak Yadav, Mani Ram Bagri, B. Singh Utiya and B.N. Mandal and Swami Rameshwaranand in connection with the disorder created by them at the time of the President's Address to both Houses of Parliament assembled together under Article 87 of the Constitution on 18 February, 1963 and to consider and report whether such conduct of the said members was contrary to the usage or derogatory to the dignity of the occasion or inconsistent with the standards which Parliament is entitled to expect from its members and to make such recommendations as the Committee may deem fit."

Findings and recommendations of the Committee

4. The Committee, after examining the five members involved in the incident in their Report presented to the House on the 12th March, 1963, reported *inter alia* as follows:—

- (i) "As this is the first case of its kind in our Parliament which not only affects the dignity of the President, Parliament and its members, but also raises the wider issue of laying firm foundations for the successful

working of the Constitution and the Parliament, the Committee examined the constitutional position and the parliamentary precedents and conventions obtaining in India and the United Kingdom."

- (ii) "It would be seen that the provisions of Article 87 are mandatory in so far as the President has to address both Houses of Parliament assembled together and inform Parliament of the causes of its summons. It is a constitutional obligation for the President and he delivers his Address in his capacity as the Head of the State. The President's Address is a statement of the Government policy of which as the constitutional Head he is the mouthpiece. It would be clear that where the Head of the State viz. the President, acts in exercise of a constitutional provision and requires the attendance of members of both the Houses of Parliament to hear his Address, solemnity and dignity are of the utmost importance. The President represents not only the executive authority; he is in a sense a symbol of the Constitution. It is noteworthy that following the practice in the Parliament to U.K., in so far as it is practicable under our conditions, the occasion is treated as a solemn one. The President comes in State. He is received by the Presiding Officers, conducted in a formal procession and announcement is made by fanfare, and the proceedings begin after national anthem is played. In fact, the President's Address to Parliament is the most solemn and formal act under the Constitution. This solemn occasion should therefore, be marked by dignity and decorum.

It is important, from the point of view of showing proper respect to the Constitution, that every member should maintain utmost dignity and decorum. It is as much a constitutional obligation on the part of the members to listen to the President's Address with decorum and dignity as it is on the part of the President to address Parliament. Any action on the part of a member which mars the occasion of the President's Address or creates disturbance is thus unbecoming of him as a member of Parliament.

Further, according to Article 79, Parliament

consists of the President and the two Houses. A member must show due respect to the President while he is discharging his duties under Article 87, in order to uphold the dignity of Parliament itself."

(iii) "In this connection, the Committee would like to quote the following observations made by Mr. Speaker Ayyangar in his address to the Presiding Officers' Conference at Darjeeling in October, 1958, while speaking on the question of maintaining decorum and dignity on the occasion of President's Address and Governor's Address:—

'A Governor is the constitutional Head of the State and is above party politics. His Address is a statement of Government policy and he delivers it under statutory provision embodied in the Constitution itself. Solemnity and dignity on this occasion are of the utmost importance. Moreover, under the oath taken by him, the member affirms his allegiance to the Constitution. Any untoward incident on his part is not only unbecoming of him and at variance with the oath taken by him but also a calculated injury to the conception of the unity of the State.

The House of Commons in the United Kingdom—to which the powers, privileges and immunities of Parliament and the State Legislatures have for the time being been equated—has always exercised powers in regard to the conduct of its members who are expected to maintain a standard of behaviour consistent with the traditions and practice of the House.

Hence, it is open to the Legislature to take action regarding the conduct of a member at the time of the Governor's Address on the ground that the member has not shown proper respect to the Constitution and that his action has been below the dignity of a member and contrary to the oath taken by him.' "

(iv) "In Lok Sabha, the convention that no member should leave the House while the President is delivering his Address is well established. In fact, members are informed through a paragraph in Lok Sabha Bulletin Part II published before the President's Address, about the ceremonies and the rules

to be observed on that occasion. Members are specifically requested 'not to leave the Central Hall when the President is addressing' (vide L.S. Bulletin Part II, dated the 15th February, 1963, Para No. 502; 'Handbook for Members' p. 3).

Except in 1952, there has been no incident of a member leaving the Central Hall or of any other form of disorder during the President's Address. In 1952, when the President was addressing the Provisional Parliament, a member, Pandit Govind Malviya, left the House in the middle of the Address. But next day he sent a letter of apology to Mr. Speaker Mavalankar."

(v) "The House of Commons, U.K. has disciplinary powers in regard to the conduct of its members. The extent and amplitude of the words 'conduct of a member' has not been defined exhaustively and it is within the powers of the House of Commons in each case to determine whether a member has acted in an unbecoming manner or has acted in a manner unworthy of a member. Under the term 'conduct of a member' action can be taken against a member even though the acts of a particular case do not come within any of the recognised heads of breach of privilege or contempt of House.

It may also be mentioned that the House exercises its jurisdiction of scrutiny over its members for their conduct whether it takes place inside or outside the House.

Thus in the Allighan and Walkden Cases where two members had disclosed the proceedings of private party meetings for payment, the House of Commons held that the members concerned were guilty of a dishonourable conduct which deserved to be severely punished as tending to lower the House in the estimation of the people. Mr. Allighan was accordingly expelled from the House while Mr. Walkden was reprimanded by the Speaker."

[H.C. Deb. (1947-48) 443, cc. 1094-1228]

(vi) "The position in this regard is described in the following passage from *May's Parliamentary Practice*:—

'Members have been expelled as being in open rebellion; as having been guilty of forgery; or perjury; of frauds and breaches of trust; of

misappropriation of public money; of conspiracy to defraud; of fraudulent conversion of property; of fraudulent conversion of property; of corruption in the administration of justice or in public offices, or in the execution of their duties as members of the House; of conduct unbecoming the character of an officer and a gentleman; and of contempts, libels and other offences committed against the House itself.'

(*May, 16th Ed., pp. 105-106.*)"

(vii) "As regards the right and duty of the House to maintain order and decorum both in the House as well as in its precincts, the following passage from the Memorandum submitted by the Clerk of the House of Commons to the Committee of Privileges in Piratin's Case (1947) may be quoted:—

'It is equally well established in law that the House has the right and duty to maintain order both in the House itself and in the precincts. Any misbehaviour in the precincts, whether the offender be a member or a stranger, has always been treated by the House as a breach of privilege.'

(H.C. 36 (1947). p. 63).

According to Direction 124(1) of the Directions by the Speaker in Lok Sabha, the term 'Precincts of the House' includes 'the Central Hall and its Lobbies'."

(viii) "The Committee have no doubt that the action of Sarvashri Ram Sewak Yadav, Mani Ram Bagri and B. N. Mandal in interrupting the President during his Address to members of Parliament was deliberate, premeditated and preconceived. This is evident not only from the evidence they tendered before the Committee but also from the correspondence exchanged between Shri Ram Sewak Yadav, M.P. (Leader of the Socialist Group in Lok Sabha) and the President and the Prime Minister, in which Shri Ram Sewak Yadav had been informed that the President's Address would be read both in English as well as in Hindi, Sarvashri Mani Ram Bagri and B. N. Mandal were also aware of this position, as admitted by them in their statements submitted to the Committee.

From the statements submitted by Sarvashri Ram Sewak Yadav, Mani Ram Bagri and B. N. Mandal and the evidence given by them, it is clear that they had decided from the very beginning to

demand that the President should speak in Hindi when he rose to address the two Houses assembled together and to obstruct him if he did otherwise. Their statements and evidence have failed to disclose any defence of their conduct. While professing to serve the cause of Hindi, the Committee feel that they have done the greatest disservice to that cause and the promotion of that language as laid down in the Constitution."

(ix) "The offence of Sarvashri Ram Sewak Yadav, Mani Ram Bagri and B. N. Mandal has been further aggravated by the nature of the statements they have chosen to submit to the Committee, in which they cast serious reflections on the President and the Committee. Even after the Speaker had clarified in Lok Sabha on the 25th February, 1963 that the purpose of the President in asking him to take some action was only to ask him to do something so that he could continue his Address without interruptions, Sarvashri Ram Sewak Yadav, Mani Ram Bagri and B. N. Mandal have alleged in their statements that the President had encroached upon the rights of Lok Sabha or committed a contempt of Lok Sabha by asking the Speaker to take some action against certain members. The Committee take a grave view of such conduct of the members."

(x) "The Committee consider that the conduct of Sarvashri Ram Sewak Yadav, Mani Ram Bagri, B. Singh Utiya and B. N. Mandal and Swami Rameshwaranand, M.Ps., during the President's Address on the 18th February, 1963, was undesirable, undignified and unbecoming of a member of Parliament. Their conduct was contrary to the usage and derogatory to the dignity of the occasion."

(xi) "The Committee, however, note that Swami Rameshwaranand did not do anything in a premeditated or deliberate manner. The moment he was assured that the President's Address would also be read in Hindi, he sat down quietly. He also did not join the others in walking out of the Central Hall. He assured the Committee that he meant no disrespect to the President and that had he known that his action would be considered improper he would not have done it.

From the evidence of Shri B. Singh Utiya also it appears that his conduct was not premeditated. The

Committee accept his statement that he did not know what had passed between Shri Ram Sewak Yadav and the President or the Prime Minister. He said that if he had known that his conduct would be construed as disrespectful to the President he would not have joined the walk-out.

Having regard to these statements the Committee have taken a lenient view of the conduct of Swami Rameshwaranand and Shri B. Singh Utiya."

(xii) "The Committee record their emphatic disapproval of the manner in which the President's office has been dragged into this unseemly controversy and express their profound regret that any member of Parliament should have indulged in any action which should even remotely reflect on the dignity of the President."

(xiii) "The Committee recommend that Sarvashri Ram Sewak Yadav, Mani Ram Bagri and B. N. Mandal be reprimanded for their undesirable, undignified and unbecoming conduct during the President's Address on 18 February, 1963, and for aggravating their offence by their evidence before the Committee subsequently."

(xiv) "As regards Shri B. Singh Utiya and Swami Rameshwaranand, the Committee feel that the ends of justice will be adequately met by expressing disapproval of their conduct."

(xv) "The Committee recommend that if in future any member of Lok Sabha interrupts or obstructs the President's Address to both Houses of Parliament assembled together either before, during or after the Address, while the President is in the Hall, with any speech or point of order or a walk-out or in any other

manner, such interruption, obstruction or show of disrespect may be considered as a grossly disorderly conduct on the part of the offending member and dealt with by the House subsequently on a motion moved by a member.

The Committee recommend that, in future, for any disorderly conduct, during the President's Address committed by a member, he may be suspended from the service of the House for a period which may extend upto one year."

Action taken by the House

5. On the 19th March, 1963, Shri S.V. Krishnamoorthy Rao, the Chairman of the Committee, moved the following motion:—

"That this House agrees with the recommendations contained in paragraphs 20 and 27 of the Report of the Committee on the conduct of certain Members during the President's Address, presented to the House on 12 March, 1963."

At the outset, some members requested the Speaker to allow the members, about whose conduct the Report had been made, to remain¹ in the House during discussion on the motion. The Speaker took the sense of the House and allowed the concerned members to remain in the Chamber during the discussion.

6. While moving his motion Shri V.S. Krishnamoorthy Rao stated that he had not included reference to para 28² of the Report of the Committee in his motion because he did not wish to restrict the powers of the House for future and the House should decide each case on its merits.

7. After the motion was moved, all the five concerned members made statements in their defence. The House then, after discussion, adopted the motion and the Speaker reprimanded³

¹The following procedure based on the practice in the House of Commons, U.K. was earlier prescribed by the Speaker for being followed when the motion re-Report of Committee was taken up in the House:—

"(i) After the mover of the motion has made his speech and the motion has been placed before the House by the Speaker, the member concerned about whose conduct the Report has been made shall be asked by the Speaker one by one, to make statement, in their defence, if they so desire. As soon as a member has finished his statement, he will be directed by the Speaker to withdraw from the House and to wait in the Lobby, and the member concerned shall do so forthwith.

(ii) The members concerned will then wait in the Lobby till they are asked to attend in their places.

(iii) After the House has taken a decision on the matter the members concerned will be asked to attend in their places.

(iv) If the House takes a decision to reprimand the members concerned, they will be asked to stand in their places when the Speaker will deliver the reprimand."

[L.S. Bn. (II) 15-3-1963, para. 541]

²See para 4 (xv) above.

³While reprimanding the Speaker did not ask the members being reprimanded to stand in their places. They remained seated.

Sarvashri Ram Sewak Yadav, Mani Ram Bagri and B. N. Mandal as follows:—

“Ram Sewak Yadav, Mani Ram Bagri and B. N. Mandal. The House has adjudged your conduct during the President's Address to both Houses of Parliament assembled together under Article 87 of the Constitution on the 18 February, 1963 as undesirable, undignified and unbecoming of a member of Parliament and contrary to the usage and derogatory to the dignity of the occasion. This offence of yours was further aggravated by the nature of the statements you chose to submit to the Committee appointed to investigate your conduct.

In the name of the House, I reprimand you for this undesirable, undignified and unbecoming conduct during the President's Address and for subsequently aggravating your offence by your evidence before the Committee appointed to investigate your conduct.”

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LOK SABHA

(1967)

Point of Privilege

Display of a shoe in the House

Facts of the case and ruling by the Speaker

On the 28th July, 1967, Shri Nath Pai, a member, drew the attention of the House, under rule 377, to the fact that on the previous day when the House was discussing the question of excise duties on shoes as proposed in the Finance Bill, Shri N. N. Patel took out his shoe and said ‘this is the shoe....., and subsequently Shri S. M. Banerjee also took out his *chapal* and said ‘this is the *chapal*’.

Shri Nath Pai contended that even though the members might not have meant any disrespect to the House, the practice of display of shoes was dangerous and against the dignity of the House.

2. Shri N. N. Patel then apologised as follows:

“I respectfully submit to you that it was not my bad intention. If the feeling is hurt,.....I offer my apologies.”

3. Shri S. M. Banerjee also regretting the incident stated as follows:—

“I wish to say that what happened yesterday was bad and was not in the interest of the House. There was nothing in it like that. Believe it, I have great respect for this House. I respect it so

much that I consider it to be temple and we to be its *Pujaries*.”

4. The Deputy Prime Minister (Shri Morarji Desai), intervening, observed:

“May I say that while the intention of both the hon. members was not to create any ugly scene in the House I agree entirely with my hon. friend Shri Nath Pai that such practices are not good and are reprehensible and, therefore, they should never be tolerated by the House, I on my part immediately censured Mr. Patel because I could do. I could not do it to Mr. Banerjee.”

5. The Speaker (Dr. N. Sanjiva Reddy), treating the matter as closed, observed:

“The point is this, Not only *chapals* but so many times in this House things are shown. Some papers can be placed on the Table of the House; some letters can be placed; I could understand: that can be handed over to the Speaker. But so many other articles, torn clothes and other things were shown here last year; I have seen that practice. We should give up that practice and set up healthy conventions so that the Assemblies may copy us; what we do here is done ten-fold in the Assemblies and we will not be in a position to say anything against them. I am sure the whole House is one with me and Mr. Nath Pai when we say this.”

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LOK SABHA

(1967)

Point of Privilege

Alleged disorderly conduct of a member within the precincts of the House

Facts of the case and action taken by the House

on the 18th December, 1967, Shri Madhu Limaye, a member, sought to raise a question of privilege on the ground that on the 16th December, 1967, when lobbies were cleared and the doors were closed for a division on the official Languages (Amendment) bill, Shri N. Sreekantan Nair, another member, tried to go out of the House and when he (Shri Nair) found the doors closed, he knocked against the doors with his foot as a result of which three glasspanes of the Lobby doors were broken.

This sort of conduct by a member, he felt was against the dignity of the House and requested that he be permitted to raise the matter for reference to the Committee of Privileges.

2. Shri N. Sreekantan Nair (to whom a copy of Shri Madhu Limaye's notice had been sent earlier) then explained the position as follows:

'On Saturday, after polls were taken on the amendments Nos. 102—118 to the Languages Bill, I felt disgusted and wanted to get out and breath fresh air. I found the doors of the Lok Sabha lobby locked, even after the announcement of the results of the division and at the time when the hon. member, Shri Surendranath Dwivedy, was pleading to get his amendment No. 132 accepted. I explained to the Watch and Ward Officer that the result had been announced and that he had to open the door. He replied that he had orders not to open the door, I told him nobody had a right to keep me as a prisoner in a locked room. Yet he refused to open the door.'

So I came back and told you:

'Sir, in between voting I have got a right to go out. Why should they lock it?'

You then said:

'If anybody wants to go out, he may go out. The doors may be opened. Nobody can be prevented.'

When I went back, I still found the door closed. So I knocked against the door. Then another officer came and let me out.

I had no altercation with the Watch and Ward staff whose predicament I could very well appreciate and sympathise with. But I was also not prepared to concede to anybody, including you, the hon. Speaker, the right to restrain me within locked doors when no division is being recorded in the House. The proceedings of the House would substantiate the fact that I attempted to go out only between divisions.

3. The Minister of Parliamentary Affairs and Communications (Dr. Ram Subhag Singh) intervening stated:

"Sir, the seriousness of the matter is there. What we have heard from Mr. Sreekantan Nair and the point that he made out are perhaps enough to drop this matter, I therefore, suggest that the matter may be dropped."

4. The Speaker (Dr. N. Sanjiva Reddy), on the request of Shri A. B. Vajpayee, a member, postponed the matter till the next day.

5. On the 19th December, 1967, Shri Madhu Limaye stated that he did not wish to press the issue.

6. Shri N. Sreekantan Nair expressing regret stated as follows:

"Sir, may I submit, that I did not mean any disrespect either to you or to this sovereign House."

7. The matter was then closed.

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LOK SABHA
(1967)

Point of Privilege

Sale of cars by certain members of Parliament before expiry of statutory period of two years

Facts of the case and action taken by the House

On the 8th December, 1967, the Minister of Industrial Development and Company Affairs (Shri Fakhruddin Ali Ahmed), in answer to Unstarred Question No. 3466, stated *inter alia* that it had been reported by the Central Bureau of Investigation that certain members of Parliament had sold or transferred their cars within the statutory period of 2 years, without obtaining the prior written approval of the competent authority.

2. On the 25th March, 1968, the Prime Minister (Shrimati Indira Gandhi) made the following statement in response to notice of a motion of privilege given by Shri Madhu Limaye, a member, on the subject:—

"Sir, the hon. Speaker was pleased to refer to me the notice of a motion from the hon. member, Shri Limaye, relating to the alleged sale by some members of Parliament of cars allotted to them from the Central Government quota in contravention of the statutory orders governing such allotment. I have had enquiries made from the Central Bureau of Investigation which is handling the cases.

In his notice, the hon. member, Shri Limaye, mentioned the names of five members of

Parliament. The House will naturally, be concerned only with the conduct of the members of this House namely, Shri Pannalal Barupal, Shri Krishnadev Tripathi, Shri Lalit Sen and Shri S. C. Besra.

The case against Shri Krishnadev Tripathi was prosecuted in Court. Shri Tripathi pleaded guilty before the court and the court imposed a fine of Rs. 1,000 on him. Shri Tripathi did not file any appeal against his conviction. He has sent a letter in which he observes as follows, and I quote:

"All this time I have been tormented by the thought that in a moment of weakness, I should have departed from standards of rectitude expected of me as a member of Parliament and been party to the sale of my car contrary to the statutory orders.

As I have explained to you earlier, I have, from the very beginning admitted my lapse. During the investigations as also during the trial I told nothing but the truth.

I do not know how to make amends for it except once again to express my unqualified regret. I do hope in your capacity as Leader of the House you will convey to the House my sentiments of deep regret and also my sincere apologies at the appropriate stage.

In view of the finding of the court and the punishment imposed by it, and in view of Shri Tripathi's own admission and expression of unqualified regret. I suggest, after having consulted the hon. Speaker, that the House accept his unqualified apologies and treat this matter as closed.

The case relating to Shri Pannalal Barupal is still pending decision in court. Investigations in the case relating to Shri Lalit Sen have been completed and the case has been submitted to court for trial. Therefore, so far as these two cases are concerned, after consulting the hon. Speaker, I suggest that in accordance with the conventions and practice of the House, we await the verdicts of the courts.

Lastly, in regard to the case relating to Shri S. C. Besra, I understand that the C.B.I. has

completed investigations, and a chargesheet is being filed in court against two other persons. According to the chargesheet the case against Shri Besra is not being prosecuted, since the opinion of the Legal Adviser is that it is not possible to sustain the prosecution in court.

Members of Parliament are accorded special consideration in the matter of allotment of cars on the basis of priority. Any action on the part of an hon. member which amounts to an abuse of this facility, and which lowers the dignity of this hon. House is deplorable. I sincerely hope that no such lapse will recur."

3. The matter was, thereafter treated as closed.

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LOK SABHA
(1968)

Point of Privilege

Disorderly conduct by members at the time of President's Address to both Houses of Parliament assembled together

Facts of the case and action taken by the House

On the 20th February, 1968, Shri P. Venkata Subbaiah, a member moved the following motion:—

"That this House strongly disapproves of the conduct of Sarvashri Maulana Ishaq Sambhali and H.N. Mukherjee who created obstruction and showed disrespect to the President at the time of his Address to both the Houses of Parliament assembled together under Article 87 of the Constitution on the 12th February, 1968, and reprimands them for their undesirable, undignified and unbecoming behaviour."

2. Shri S.M. Banerjee, a member, raised a point of order that there was no rule under which such a motion could be moved and that therefore, the motion was not admissible and should not be allowed to be discussed. The Speaker (Dr. N. Sanjiva Reddy), however, ruled out the point of order and observed that the motion was admissible.

3. Shri Madhu Limaye, a member, argued on a point of order that the factual basis of the motion that Shri H. N. Mukherjee had showed disrespect to the President was incorrect and that there was no record of the proceedings of the Joint sitting of the Houses of Parliament when the incident took place.

He further stated that even if the facts stated in the motion were correct, it was a matter involving a breach of privilege and contempt of the House and the motion was, therefore, barred under Rule 186 (v) of the Rules of Procedure of Lok Sabha. The Deputy Speaker (Shri R.K. Khadilkar), who was then in the Chair however, ruled out the point of order and observed that it was not a matter involving a breach of privilege or contempt of the House but was one of conduct of members and maintaining decorum and dignity by the members.

4. Speaking on his motion, Shri P. Venkatasubbaiah stated as follows:—

“Article 87 of the Constitution clearly says that the President has got a constitutional responsibility to address both the Houses of Parliament assembled together and inform the members of Parliament of the causes of the summons. Under this provision, it is mandatory on the part of the President to address the members of both Houses of Parliament. It is clear that when the Head of the State, namely the President acts in exercise of the constitutional provisions requiring the attendance of members of both Houses of Parliament, the solemnity and dignity of the occasion are of the utmost importance. The President represents not only the executive authority; he is also in a sense the symbol of our Constitution. Any disrespect shown to the President is disrespect shown to the Constitution. Mr. Limaye said that Mr. Mukherjee did not show any disrespect and did not obstruct the proceedings. What is meant by the words ‘Disrespect and obstruction?’ It is disrespect to interrupt when the President rises in his seat to speak in the discharge of his constitutional responsibilities....

The President’s address to Parliament is a most solemn and formal act under the Constitution. This solemn occasion should therefore be marked by dignity and decorum. So, it is in the context of these things that proper respect to the Constitution should be shown, and every member should maintain the utmost dignity and decorum.

I may recall to you and also to the hon.

members that every time the President addresses both Houses of Parliament—it is intimated to the members of Parliament that hon. members are required to be in their seats by such and such a time and nobody should leave the House till the President’s address is over. Here, they have showed disrespect by leaving the House when the President was addressing the Houses of Parliament. The commission of these two acts—showing disrespect by obstructing the President while he started addressing the House and by leaving the Central Hall while the President was speaking—constitutes utter disregard to the Constitution and also to the President and it constitutes misconduct and disorderly behaviour.

...in 1963, a similar incident happened. Then, Mr. Jaipal Singh raised the matter in the House. The Speaker in his wisdom constituted a Committee...

I would only say that this matter is brought before the House in view of the previous Committee’s report in which they have not taken any action about such things which may happen in future. I, therefore, thought it my duty to bring this matter before the House so that they may take serious note of it and deal with it in whatever manner they thought it fit.”

5. Shri Madhu Limaye moved the following amendment to the motion moved by Shri P. Venkatasubbaiah:—

for

“Strongly disapproves of the conduct of Sarvashri Maulana Ishaq Sambhali and H. N. Mukherjee who created obstruction and showed disrespect to the President at the time of his Address to both the Houses of Parliament assembled together under article 87 of the Constitution on the 12th February, 1968 and reprimands them for their undesirable, undignified and unbecoming behaviour”,

substitute—

“after taking into consideration the happenings at the time of the President’s Address to members of Parliament on the 12th February, 1968, is of opinion that the

Rules of Parliament should provide for the ventilation of grievances by members of Parliament at the joint opening session of Parliament every year".

Shri A.B. Vajpayee, another member, moved the following amendment to the motion:—

for

"and reprimands them for their undesirable, undignified and unbecoming behaviour",

substitute—

"and resolves and a Committee of Lok Sabha be constituted to examine thoroughly all aspects of the question and make recommendations with a view to ensure that such unbecoming events are not repeated".

Shri S.M. Banerjee then moved the following amendments to the motion:—

(i) for "strongly disapproves of",

substitute—

"having considered".

(ii) *Omit* "who created obstruction and showed disrespect to the President" and for "his" substitute "President's".

(iii) for "and reprimands them for their undesirable, undignified and unbecoming behaviour".

substitute—

"recommends that no action be taken against them."

6. Supporting the motion of Shri P. Venkatasubbaiah, Shri C.C. Desai said that the "unpardonable conduct on the part of those members of the House who staged a demonstration, made noisy interruptions and marred the solemnity of that particular occasion" could not be condoned. He added that there were constitutional ways of ventilating grievances and that "creating disorder by scenes, unseemly scenes in the presence of the President is not a decent democratic way of ventilating the grievances of the people".

7. Opposing the motion of Shri P. Venkatasubbaiah, Shri P. Ramamurti stated:—

"...When the President came, Mr. Mukerjee got up and then told him, in as polite a language as possible—there is nothing impolite about the language used; there is

nothing derogatory in that 'Mr. President—we are pained at the doings of your Government with regard to a number of these things. We do not think that much useful purpose will be served by our participating in this august ceremonial function. Therefore, we are going out.' The reasons for our walking out were told to the President. He was not interrupted. There was no unseemly scene; there was no attempt to prevent him from making the speech. He sat down and heard the whole thing....

....This question of passing strictures or something on the members of Parliament is not something which has got to be trifled with or taken lightly. After all, when a member of Parliament has got to be reprimanded, if that thing has got to be done seriously by the people of this country, that reprimand must be given with the unanimous support of Parliament. Otherwise, it will lose its significance whatsoever. If a reprimand is carried by a majority, simply because they have a majority, if this issue is treated as a party issue, if, on that basis, reprimands are given, I would say, respectfully, that the people of this country are not going to tolerate it and they will not respect it also."

8. Shri Hem Barua said that what shocked him most was not the conduct of Shri H. N. Mukerjee but the remarks made by Maulana Ishaq Sambhali which tarnished the fair name of the country. He suggested that there should be a Committee of the leaders of the different political parties to see that such incidents are not repeated either here or on the floor of the State Assemblies.

9. Explaining his position, Shri H.N. Mukerjee, who was present throughout the proceedings, stated:

"I should begin by saying that not only on behalf of myself but also on behalf of Maulana Ishaq Sambhali and the rest of us, some 80 or so members of Parliament who walked out together, on behalf of all of us, I deny the charge of undignified and unbecoming conduct....

The head and front of my offending appears to be that I have a reputation for being somewhat mild-mannered in spite of the

language which quite frequently I am constrained to apply in regard to the policies of Government over there, and that I was signatory to a report of a Committee set up in 1963. I did happen to have been a member of that Committee.

... And we ought to realise that this is a Parliament where the voice of the people has got to be heard, and that is the idea with which every member is permeated, and the functioning of this Parliament cannot be dominated and dictated by whatever conventional or regulatory processes that have been laid down at an earlier period.

I was not present at some of these meetings, and so were some other members absent from certain meetings, because we wanted to register our difference with the decisions ultimately reported.

We used to have a convention, but conventions are today in the melting pot, that as far as these parliamentary Committees are concerned, we do not put in notes of dissent.

I am not making a point of it, but in regard to this report I say that some of us did not want to associate ourselves with the recommendations of this report. Even so, even if this report is to be considered as something very important and all that sort of thing, we have to remember, that things have changed.

... when I remember the difficulties and the emotional atmosphere in which Parliament was summoned on the 12th of this month, I am astonished at my own moderation and at the fact that I insisted on a certain kind of dignity of behaviour. I have always believed that one could be effective in a parliamentary forum if one combined dignity with power and that is why we did it with dignity and, I hope, with a certain amount of effectiveness. I have no regrets about it at all.

...As a matter of fact the President himself never took it amiss. In this report, you will find a reference to the fact that in 1963 the President himself felt somewhat disturbed and he spoke to the then Speaker about it. That is why the Speaker came to this

House and suggested the appointment of a Committee as the President felt disturbed on that occasion. My feeling is that the President should not have felt disturbed but then he did feel so. It was not so on this occasion. I have to defend myself in this House; this House has known me for nearly fifteen years. But I must say that the President never took amiss whatever we did. As a matter of fact he strained his ears to listen to what I was going to say.

...The newspapers also insisted that it was done in a dignified manner. They stressed what I said there specifically without disrespect to you and your office, we are doing what we were doing; we were unable to participate in the ceremonial occasion. That is exactly what I said. If this comes under the mischief of some kind of privilege matter, I cannot help it.

....And that is why I say that we repudiate entirely the allegation of undignified and unbecoming conduct on that occasion. On the contrary, we did that with as much dignity as was possible. We discovered that the President accepted it in good part. There is no reason why we should be under obliquy either in Parliament or in the country."

10. Shri J.B. Kripalani, a member, said that the purpose of the mover of the motion had been served by the discussion that had taken place and everybody had understood what should be done on such occasion. He therefore suggested that the matter might be treated as having been talked out in order to avoid bitterness in case the motion was put to vote and carried in the House. Shri C.C. Desai also supported this suggestion.

11. Some members objected to the House taking a decision on the matter in the absence of Maulana Ishaq Sambhali, the other member named in the motion. They felt that justice demanded that he should be given an opportunity to defend himself. The Speaker observed that Maulana Ishaq Sambhali was not present in the House although he had been given notice of the motion. The Speaker, however, agreed with the objection and suggested that voting on the motion might be postponed in order to provide another opportunity to Maulana Ishaq Sambhali to explain his conduct. The House agreed.

12. On the 28th February, 1968, Maulana Ishaq Sambhali made a statement explaining his conduct. He stated that he had great regard for the President and there was no question of showing disrespect to him. He added that he had not interrupted the President as he had spoken before the President had started his Address. He, however, justified his conduct.

13. Shri Atal Bihari Vajpayee said that he had been greatly hurt by the statement of Maulana Ishaq Sambhali. He added that he would not, therefore, press his amendment and would support the motion of Shri P. Venkatasubbaiah.

14. The amendments moved by Sarvashri Madhu Limaye and S.M. Banerjee were then put to the vote of the House and negatived. The motion moved by Shri P. Venkatasubbaiah (See para 1 above) was then adopted by the House.

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LOK SABHA
(1971)

Point of Privilege

Interruption and walk out by a member during President's Address

Facts of the case and reference to the Committee

On the 23rd March, 1971, when the President started reading his Address in English, to both Houses of Parliament assembled together under Article 87 of the Constitution, in the Central Hall of Parliament House, Shri Ram Deo Singh, a member of Lok Sabha, interrupted the President and said in Hindi: "I had written a letter to you. I want to submit that you should read your Address in Hindi or in your mother tongue." The President, thereupon, said that a Hindi version of his Address would be rendered by the Vice-President. A member of Rajya Sabha also urged the President to speak in his mother tongue. The President asked the concerned member "to show due respect to this House" and sit down, or otherwise "kindly walk out".

The interruptions, however, continued and the President repeatedly asked the members, who were interrupting him, either to sit down or to walk out. After some time, Shri Ram Deo Singh and some members of Rajya Sabha left the Central Hall.

2. On the 2nd April, 1971, Shri Inder J. Malhotra a member moved the following motion in Lok Sabha:—

"That this House strongly disapproves of the conduct of Shri Ram Deo Singh who created obstruction and showed disrespect to the President on the solemn occasion of his Address to both Houses of Parliament assembled together under Article 87 of the Constitution on the 23rd March, 1971, and condemns his undesirable, undignified and unbecoming behaviour."

After some discussion, an amendment moved by Shri Mohan Dharia, another member, was adopted and the motion was adopted by the House in the following amended form:—

"That this House is deeply concerned at the conduct of Shri Ram Deo Singh who is alleged to have created obstruction and showed disrespect to the President on the solemn occasion of his Address to both the Houses of Parliament assembled together under Article 87 of the Constitution on the 23rd March, 1971 and therefore, resolves that a Committee consisting of 15 members of this House be constituted by the Hon'ble Speaker to go into the matter in all details and to suggest suitable action and also guidelines for the future by the first week of the next session".

3. During the discussion on the motion, the Speaker (Dr. G.S. Dhillon) observed *inter alia* as follows:—

"Personally I also believe that there is some lacuna. This matter was discussed in the Presiding Officers' Conference and I happened to be the Presiding Officer of a State Legislature at that time. Later on, we had to face certain situations elsewhere also. Nobody knew as to who presides over such kind of sittings. Actually I was not sure as to what is the position. Sometimes we evolved a formula that, if a member of the Lower House created disorderly scenes, it is for the Speaker to go into it, and if it is in respect of a member of the Upper House, the Chairman. But when we got it examined by the legal experts, this was not found as a correct procedure as to who is presiding—leave aside what is the proper procedure for punishing such a conduct. This

position is not known, as to who actually is presiding over that session... Let us get the whole matter examined by a Committee as to who presides, what is the constitutional lacuna, what type of conduct we expect from members when the Head of the State is addressing the Joint sitting, etc. All these matters have been examined of and on by State Legislatures and even in this House in 1963 and 1968, but so many views have been expressed on it. It is much better the amendment is such as would enable us to re-examine the whole issue. Even if there is a need for a Constitutional amendment, we should not shriek it. Let us finish with it once and for all. What can the President do? There is no authority either of the Speaker or of the Chairman of the Rajya Sabha. Should we allow ourselves to be held to ransom and keep on watching the disorderly scene? The President has patience, but there is a limit to it. Let us get it examined."

Findings and recommendations of the Committee

4. The Committee on the Conduct of a member during President's Address (1971) which was appointed by the Speaker on the 5th April, 1971 in pursuance of the above decision of the House, after considering written statements and oral evidence of Shri Ram Deo Singh, M.P., in their First Report¹ on the conduct of Shri Ram Deo Singh presented to the House on the 15th November, 1971, reported *inter alia* as follows:—

- (i) "Shri Ram Deo Singh M.P., in his oral evidence before the Committee on the 18th May, 1971 stated that when he interrupted the President during his Address on the 23rd March, 1971, and requested him to read his Address in Hindi or in his mother tongue, he did not know that the Hindi version of the President's Address would be subsequently read out by the Vice-President. Shri Ram Deo Singh added that he left the Central Hall when the President asked the members who were interrupting him to hear him or to go out."
- (ii) "As stated by the Committee on the Conduct of certain members during President's Address (1963), "the President's Address to

Parliament is the most solemn and formal act under the Constitution. This solemn occasion should, therefore, be marked by dignity and decorum. The Committee reiterate, the following observations of the Committee on the Conduct of certain members during President's Address (1963):—

It is important, from the point of view of showing proper respect to the Constitution, that every member should maintain utmost dignity and decorum. It is as much a constitutional obligation on the part of the members to listen to the President's Address with decorum and dignity as it is on the part of the President to address Parliament. Any action on the part of a member which mars the occasion of the President's Address or creates disturbance is thus unbecoming of him as a member of Parliament.

Further, according to Article 79, Parliament consists of the President and the two Houses. A member must show due respect to the President while he is discharging his duties under Article 87, in order to uphold the dignity of Parliament itself."

- (iii) "As stated by the Committee on the Conduct of certain members during President's Address (1963), the House has 'disciplinary powers in regard to the conduct of its Member's and the House exercise its jurisdiction of scrutiny over its members for their conduct whether it takes place inside or outside the House'. The House can punish a member if in its opinion a member has acted in unbecoming manner or 'has acted in a manner unworthy of a member'. There have been a number of cases in recent years both in Parliament as well as in State Legislatures in India, where members who made interruptions and created disturbances or staged walk-outs during the Address of the President/Governor to members of Parliament/State Legislature assembled together under Article 87/176 of the Constitution, were punished by the House for their misconduct."
- (iv) "After considering the facts of the present case and the evidence before the Committee,

¹As regards guidelines for members on the occasion of the President's Address to members of Parliament the Committee stated that it proposed to present separately their Second Report thereon.

the Committee are of the opinion that the conduct of Shri Ram Deo Singh, M.P., during the President's Address to both Houses of Parliament assembled together on the 23rd March, 1971, under Article 87 of the Constitution, was improper and inconsistent with the dignity of the occasion and the standards of conduct which the House expects from its members. The Committee are of the view that the conduct of Shri Ram Deo Singh, M.P., on that occasion should be viewed with disapproval.

The Committee, however, suggest that in view of what is stated in paragraph 14¹ above, a lenient view may be taken in this case and the matter may be dropped."

- (v) "The Committee hope that there would be no occasion in future for any member of the House to do anything which would mar the dignity of the occasion of the President's Address in any manner."

Action taken by the House

5. No further action was taken by the House on the above Report of the Committee.

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LOK SABHA
(1972)

Point of Privilege

Alleged gross disorderly conduct of a member in throwing a bundle of papers towards the Chair and his contemptuous defiance of the Speaker

Facts of the case and action taken by the House

On the 28th August, 1972, when the Speaker withheld his consent to the moving of an adjournment motion tabled by Shri Jyotirmoy Bosu, a member, to discuss the alleged curtailment of the freedom of the press in West Bengal, the latter sought to make a mention of the matter in the House and when he was not permitted to do so, he threw a bundle of half burnt newspapers in the House.

2. On the 29th August, 1972, Shri C.M. Stephen, another member, sought to raise a question of privilege against Shri Jyotirmoy Bosu "for his grossly disorderly conduct in throwing a bundle of papers towards the Chair and his contemptuous defiance of the Speaker on the 28th August, 1972". After some discussion, Shri Stephen asked for leave of the House to raise the question of privilege. On objection being taken, the Speaker asked those members who were in

favour of leave being granted to rise in their places. As not less than twenty-five members rose, the Speaker informed the House that the leave was granted.

Shri Stephen then moved that the matter be referred to the Committee of Privileges.

3. Shri M. Kalyanasundaram, a member, moved that the matter be considered by the House.

4. The Speaker (Dr. G.S. Dhillon) observed *inter alia* as follows:—

"It is a contempt of the House so far as this matter is concerned. I don't think this practice should be approved of and tolerated upon by this House at all. At least I do not advise you to go for defence of such an action...the only course, the *via media* is that the gentleman should express his regrets. After his regrets I can put it to the House whether it can be withdrawn and whether his regrets can be accepted".

5. The motion moved by Shri M. Kalyanasundaram that the matter be considered by the House was negatived.

6. During the debate, Shri Jyotirmoy Bosu denied that he had thrown the papers towards the Chair and explained his position.

7. After a lengthy debate and at the suggestion of some members, the Speaker adjourned the House for an hour to enable the members to consider the matter among themselves.

8. When the House reassembled, Shri Jyotirmoy Bosu state *inter alia* as follows:—

"....It caused provocation in my mind which was reflected in my action, that I had to express my resentment by throwing a small bundle of half burnt newspapers in the well of the House...I had never thrown the bundle of papers towards the Chair and I had not gesticulated in contemptuous defiance of the Chair and the House. All the Delhi newspapers will corroborate this.

I, had not the slightest intention of showing disregard to the Chair or to the House. I had no intention of showing disrespect either to the Chair or to the House."

9. Shri C.M. Stephen then withdrew his motion for reference of the matter to the Committee of

¹Sub para (i) of para in this summary.

Privileges, by leave of the House, and the matter was closed.

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LOK SABHA
(1974)

Point of Privilege

Alleged non-fulfilment of assurances given and misleading statements made by Ministers in the House and misconduct of a member in connection with Pondicherry Import Licence case.

For details of the case please see summary No. 75 at pp. 139—142 ante.

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LOK SABHA
(1974)

Point of Privilege

Alleged misconduct of a member involving reported criminal charges against him.

Facts of the case and ruling by the Speaker

On the 13th and 16th December, 1974, Sarvashri Priya Ranjan Das Munsi, Bhogendra Jha, S.M. Banerjee, K.P. Unnikrishnan, Dinesh Chandra Goswami, Darbara Singh and Shashi Bhushan, members, sought to raise a question of privilege against Shri R.N. Goenka, another member, for alleged misconduct involving charges of cheating, forgery and criminal conspiracy against him in respect of certain transactions made by him in 1968 as reported in the *Patriot*, New Delhi, dated the 4th December, 1974. The members contended that the conduct of Shri R.N. Goenka, as reported in the said newsreport, was derogatory to the dignity of the House and inconsistent with the standards expected of a member of Parliament.

2. On the 18th December, 1974, Shri R.N. Goenka made a statement in the House refuting the allegations and explaining the position.

3. The Speaker (Dr. G.S. Dhillon) reserved his ruling in the matter.

4. On the 20th December, 1974, the Speaker disallowed the question of privilege and observed as follows:—

“Sarvashri Priya Ranjan Das Munsi, Bhogendra Jha, Indrajit Gupta, S.M. Banerjee, Ramavatar Shastri, K.P. Unnikrishnan, D.C. Goswami, Darbara Singh, Shashi Bhushan and Vayalar Ravi gave notices

of question of privilege against Shri R.N. Goenka, MP, arising *inter alia* the following newsreport published in the *Patriot* dated the 4th December, 1974:—

‘Three directors of the Indian Express group are to stand trial for cheating, forgery and criminal conspiracy. Besides the Directors—Mr. R.N. Goenka, his son, Mr. B.D. Goenka and Mr. B.D. Goenka’s wife, Mrs. Saroj Goenka—two other employees of the Express group of companies will stand trial on similar charges.

The case was committed for trial by the Special Metropolitan Magistrate of Madras to the court of the Chief Metropolitan Magistrate, New Delhi on Saturday....

The prosecution case was that the accused entered into a criminal conspiracy in 1968 to cheat the bank, commit forgeries and falsify the account books and stock records of the companies with a view to obtaining excess cash credit facilities from the bank.’

Sarvashri Priya Ranjan Das Munsi, Bhogendra Jha, S.M. Banerjee, K.P. Unnikrishnan, D.C. Goswami, Darbara Singh and Shashi Bhushan made their submissions in the House on the 13th and 16th December, 1974, regarding the admissibility of their notices. The members referred to the alleged charges against Shri Goenka and contended that the impugned conduct of Shri Goenka was derogatory to the dignity of the House and inconsistent with the high standards expected from members of Parliament.

Shri R.N. Goenka made his submission in the House on the 18th December, 1974. He stated that these allegations related to a period when he was not a member of the House. He added that he was not in a position to go into the merits of the case since the matter was pending in a court of law and that he would present his rebuttal in the court. He also submitted that the allegations and charges made by some members against him should not have been permitted to be made and pleaded that a question of privilege against a member could arise only if the member had been guilty of misconduct or misdemeanour as a member of the House.

As I stated in my ruling in the House on the 2nd December, 1974, in order to constitute a breach of privilege or contempt of the House, the misconduct of a member should relate to business in the House.

In the present case, as the impugned conduct of Shri R.N. Goenka does not relate to business in the House, I do not give my consent to the notices of question of privilege.

The Chair shall in future disallow notices of questions of privilege in *limine* where it is not clearly shown that the alleged breach of privilege is connected with the business of the House.

There may, however, be cases where it may be alleged that a member's conduct involves moral turpitude and to that extent the member may be deemed to be guilty of lowering the dignity of the House. In such cases, appropriate procedure should be followed and the matter should *not* be brought as a question of privilege. I have already ruled in my ruling of 2nd December, 1974, that the rule of *sub judice* does not come in the way of disciplinary jurisdiction of the House. But the Chair and the House will have to consider each case on its merit."

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LOK SABHA
(1977)

Point of Privilege

Alleged misconduct of a member of Rajya Sabha (former Defence Minister) for acquiring assets disproportionate to his known sources of income.

Facts of the case and ruling by the Speaker

On the 2nd August, 1977, Shri Jyotirmoy Bosu, a member, sought to raise a matter under Rule 377 of the Rules of Procedure and Conduct of Business in Lok Sabha, against Shri Bansi Lal, a member of

Rajya Sabha (former Defence Minister) for alleged misconduct in acquiring assets disproportionate to his known sources of income, as reported in the press, and urged that a message might be sent to Rajya Sabha for constituting a Committee of 15 members, in which Lok Sabha might also be associated, for enquiring into his conduct and submit a report to both the Houses of Parliament.

2. While disallowing the matter, the Speaker (Shri K.S. Hegde) ruled as follows:—

"I have gone through the whole thing. I do not want to raise a controversy between this House and the other House. So far as the conduct of the Members of each House is concerned, the House itself is the fullest authority. I do not propose to make any reference to the other House. If any Member is interested, they may raise it in the other House because no controversy should ever arise between Lok Sabha and Rajya Sabha."

3. The matter was, thereafter, closed.

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RAJYA SABHA
(1976)

Point of Privilege

Expulsion of a member from the House for misconduct

For details of the case please see summary No. 128 at pp. 248—252 *ante*.