

THE MINISTER OF STATE IN
THE MINISTRY OF COMMERCE
(SHRI KHURSHED ALAM KHAN):

(a) A proposal to bring finished leather under the purview of compulsory quality control and pre-shipment inspection has been under consideration of Government. However, no final decision has yet been taken.

(b) and (c). Both the Institutions are making useful contribution in respect of leather trade.

12 hrs.

RULINGS RE. QUESTIONS OF PRIVILEGE

(i) ALLEGED CENSORING OF MAIL AND
TAPPING OF TELEPHONES OF MEMBERS OF
PARLIAMENT

MR. SPEAKER: Shri Atal Bihari Vajpayee in his communication dated 29th 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 27th August, 1981, against the Minister of Communications on this matter. Dr. Subramaniam Swamy has given notice of a question of privilege on 17th 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 19th August, 1981, against the Minister of Home Affairs, Minister of Communications, Lt. Governor of Delhi the Police Commissioner of Delhi and other for initiating action to censor his mail.

श्री रामविलास पासवान (हाजीपुर): मैंने भी इसके संबंध में दिया है।

MR. SPEAKER: Also Shri Ram Vilas Paswan, I stand corrected.

श्री रामविलास पासवान : फस्ट बाफ बाल, सबसे पहले मैंने दिया है।
(व्यवधान)

PROF. MADHU DANDAVATE
(Rajapur): He gave before the mail was intercepted.

MR. SPEAKER: I think that was something general! Not his.

श्री रामविलास पासवान : आप अपने ऑफिस से चेक करवाइए, सबसे पहले मैंने दिया था। (व्यवधान) हमको खबर दी गई कि रद्द कर दिया गया है। मैंने अखबार का हवाला भी दिया था।

MR. SPEAKER: I have got it. That was something else. I will tell you later on. That was general, not about yourself. I may explain the position like this that what he alleged was that the mail was being intercepted of the Members. It was not his personal thing. That is why I did not say that.

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....

SHRI JYOTIRMOY BOSU (Diamond Harbour): How laudable!

MR. SPEAKER: 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. Member 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:...."

SHRI INDRAJIT GUPTA (Basirhat): 1898? Such an old Act? (*Interruptions*)

SHRI JYOTIRMOY BOSU: Very recent!

AN HON. MEMBER: It is a very old Act.

SHRI SATYASADAN CHAKRABORTY (Calcutta South): You are entering into the colonial era or colonial period? (*Interruptions*)

MR. SPEAKER: "...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.....'

(*Interruptions*)

MR. SPEAKER: It is up to you to annul it.

"....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 of 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."

[Mr. Speaker]

It has also been held by my distinguished predecessor Mr. Speaker Ayyangar on 29th April, 1960, that no question of privilege arises out of alleged tapping of telephones of Members.

(Interruptions)

In view of the above position, I hold that no question of privilege is involved in the matter....

(Interruptions)

SOME HON. MEMBERS: **

MR. SPEAKER: It is not mine. Order, please.

(Interruptions)

MR. SPEAKER: 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.

(Interruptions)

MR. SPEAKER: Please sit down. I am on my legs.

SHRI JYOTIRMOY BOSU: On a point of order.

(Interruptions)*

MR. SPEAKER: Nothing is going on record, of what is said without my permission.

(Interruptions)

MR. SPEAKER: What are derogatory to the Chair or to the House shall be expunged.

DR. SUBRAMANIAM SWAMY (Bombay North-East): Sir, may I say something? (Interruptions)

MR. SPEAKER: No clarification now. My ruling is not to be discussed.

DR. SUBRAMANIAM SWAMY: I have not understood your point. I would like to know this. You have not answered my question of privilege.

MR. SPEAKER: You come to me.

DR. SUBRAMANIAM SWAMY: You have not answered my question of breach of privilege. I did not talk about my mail. I talked about my parliamentary correspondence. That was what I said.

MR. SPEAKER: I am helpless. I have said it.

DR. SUBRAMANIAM SWAMY: What have you said?

MR. SPEAKER: You please read it. You read my ruling and then come to me.

DR. SUBRAMANIAM SWAMY: My submission is this.....

MR. SPEAKER: I don't want any discussion after I have given my ruling. Nothing now.

DR. SUBRAMANIAM SWAMY: Sir, you have not quoted all the parliamentary precedents. Mr. Moraji Desai gave an assurance in Parliament that nobody can censor the letters of Members...

MR. SPEAKER: That is not an assurance.... Any Minister can give an assurance; that is not binding on this Government.

DR. SUBRAMANIAM SWAMY: What do you mean by that, Sir?

MR. SPEAKER: I cannot change it. No question now.

*Not recorded.

**Expunged as ordered by the Chair.

DR. SUBRAMANIAM SWAMY: An assurance was given in Parliament by Mr. Morarji Desai....

MR. SPEAKER: Hon. Members, Shri R. N. Rakesh has given notice of a question of privilege....

(Interruptions)

MR. SPEAKER: Please sit down. No question of discussion here. Nothing doing.

SHRI RAM VILAS PASWAN: You are the guardian of the House.

MR. SPEAKER: I am quoting to you according to the rules and the precedents laid down in this House and in this Book.

श्री रामविलास पासवान : आपके रहते क्या नया प्रेसीडेंट नहीं बन सकता है...

(Interruptions)

MR. SPEAKER: It is for the House, not me.

(Interruptions)

MR. SPEAKER: Look here. Hon. Members....

(Interruptions)

MR. SPEAKER: You cannot question the ruling. Whatever this House decides and lays down, for me that is the law. I will uphold what you have laid down to me. I can't create laws on my own and I can't create rules on my own. No, I will not do it. (Interruptions)

PROF. MADHU DANDAVATE: Mr. Speaker, Sir, you have the right to create new precedents. Please do not allow your powers to be eroded.

MR. SPEAKER: I do not.

PROF. MADHU DANDAVATE: Every Speaker has the right to create new traditions and precedents. Please do not allow them to be eroded.

(Interruptions)

MR. SPEAKER: No discussion is allowed. Shri R. N. Rakesh has given notice of a question of privilege

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against the Prime Minister on the ground that she allegedly misled...

(Interruptions)

SHRI SATYASADHAN CHAKRABORTY: Mr. Speaker, Sir,....

(Interruptions)

MR. SPEAKER: I cannot do without rules. My hands are tied down. I am not a super-star. I am just a servant of this House who rules according to the rules laid down by you.

(Interruptions)

MR. SPEAKER: I am a servant of the House. I am to regulate and abide by the rules laid down by this august House

(Interruptions)

MR. SPEAKER: I am going to give my ruling. Nothing can be discussed.

(Interruptions)

SHRI INDRAJIT GUPTA: Sir, I am not challenging your ruling. The ruling which you have quoted and the Act which you have referred to is applicable in all cases. In spite of that, you quite correctly have made a comment that the mail which is sent from your Secretariat. (Interruptions).

MR. SPEAKER: This House is supreme.

(Interruptions)

SHRI INDRAJIT GUPTA: You have quite correctly thought fit to make that comment in spite of the technical position that the law applies to your mail also. Therefore, I want to ask whether you have got any comment to make or not on the fact that we have been governed by the statute of 1898.

(Interruptions)

MR. SPEAKER: It is for the House to change that. You tell the House to do that, not me. Bring a motion. I cannot do anything.

(Interruptions)

SHRI INDRAJIT GUPTA: But you should make some comment so that the Government should pay some attention to this.

(Interruptions)

MR. SPEAKER: I cannot do anything. I cannot allow any discussion, and if the House wants to amend the statute, they can change it, they can change the rules, and I will follow it.

SHRI SATISH AGARWAL (Jaipur): I am not challenging your ruling, Sir. But you have assured the House that you are collecting the fact. Is that being done or not?

MR. SPEAKER: I have already collected the facts.

SHRI SATISH AGARWAL: I want to know whether you are collecting facts, whether that is being done or not, and whether it can be presumed that it has been done.

(Interruptions)

MR. SPEAKER: I have collected the facts and I have given my ruling. Nothing is going to be discussed now.

(Interruptions)

MR. SPEAKER: I do not discuss my ruling. There is no question. I am not going to allow discussion of my ruling.

SHRI SATISH AGARWAL: I am not challenging your ruling. I am asking about the factual position.

MR. SPEAKER: I am tied down by the rules. I can't go beyond the rules. My hands are tied down. It is you who have done that.

(Interruptions)

MR. SPEAKER: I can't. That is beyond me.

(Interruptions)

PROF. MADHU DANDAVATE: Sir, I want to raise one point regarding your promise because that will guide

all the coming sessions of Parliament. While giving your observations, you said "I don't want to create any precedent". I wish to point out to you that right from the first Lok Sabha, if you go through the various precedents created by the previous Speakers, sometimes without any previous precedent, they created precedents.

MR. SPEAKER: I might create precedents, but I cannot break rules.

PROF. MADHU DANDAVATE: Please don't surrender your powers.

MR. SPEAKER: I don't. I have not said that I have surrendered the powers.

(Interruptions)

SHRI SATISH AGARWAL: Nothing is going to be discussed. You can come to me and tell me where I have gone wrong.

(Interruptions)

MR. SPEAKER: My ruling cannot be challenged.

(Interruptions)

SHRI JANARDHANA POOJARY (Mangalore): Sir, they have committed contempt of the House and also contempt of the Speaker. (Interruptions) You cannot do like that. (Interruptions)

MR. SPEAKER: I do not listen to anything on this. You can come to me and talk to me.

(Interruptions)

SHRI JYOTIRMOY BOSU: On a point of order, Sir, You have made certain observations and in your observations and ruling...

MR. SPEAKER: If it is regarding my ruling, it is not to be discussed here.

SHRI JYOTIRMOY BOSU: I will not cast any aspersions on your ruling. You have, in your wisdom, preferred to quote a Statute legislated during the colonial era...

MR. SPEAKER: And that is continuing; you change it.

SHRI JYOTIRMOY BOSU: This Government even today is intercepting the mail of the Ministers....and they will continue to do so....(Interruptions)

MR. SPEAKER: The House can change it. Nothing doing.

SHRI SATISH AGARWAL: I wanted to know whether you are collecting facts, whether that is being done or not. You have explained the legal position; I have nothing to say about that.
(Interruptions)

MR. SPEAKER: I got facts so as to give the correct ruling. that is what I did. I tried my best. I have gone through the earlier proceedings, precedents, law books, Constitution and everything and after that I gave my ruling.

SHRI SATISH AGARWAL: The mail is being intercepted and the telephones are being tapped....(Interruptions).

MR. SPEAKER: You cannot challenge this.
(Interruptions)

MR. SPEAKER: If you are going to talk about my ruling. I am not going to allow it. Anything else except my ruling?

श्री राम विलास पासवान : अध्यक्ष महोदय, मेरा आपसे सिर्फ इतना ही आग्रह है, मेरा किसी पर एसपर्शन नहीं है, मैं यह कहना चाहता हूँ कि मेम्बर्स के राइट को सुरक्षित रखना आपका काम है।

अध्यक्ष महोदय : मेरा काम है, लेकिन कानून के अधीन, बगैर कानून के नहीं। जो अधिकार आप मुझे देंगे, उससे बढ़कर नहीं।

(व्यवधान)

अध्यक्ष महोदय : मैं तो हूँ, मेरे पास अधिकार नहीं है*।

श्री रामविलास पासवान : अपनी रूलिंग पर पुनर्विचार कीजिये और भविष्य में कम-से कम ऐसी व्यवस्था कीजिये।

अध्यक्ष महोदय : यह हाउस कर सकता है, मैं नहीं कर सकता हूँ।

This is upto the House, I cannot do anything.

PROF. K. K. TEWARY (Buxar): Sir, we have been reassured many times by the hon Members that they are concerned with the dignity of the House and the future of parliamentary democracy in the country, but when in a chorus they shout** to the chair, it is not....(Interruptions)*

MR. SPEAKER: I have already ruled about that.

अध्यक्ष महोदय : भाई, आप सुनते नहीं तो उसका मेरे पास क्या इलाज है, तिवारी जी, उसपर तो मैं रूलिंग दे चुका हूँ।

(व्यवधान)

MR. SPEAKER: Nothing is going on record. Whatever has been said without my permission shall not form part of the record.

(Interruptions)

MR. SPEAKER: I have given my ruling.

DR. SUBRAMANIAM SWAMY: You have observed that your letters to us should not be intercepted.

MR. SPEAKER: This is just my observation. I cannot force them.

DR. SUBRAMANIAM SWAMY: My original notice was precisely about that. Therefore, did you find any evidence.

MR. SPEAKER: They fall in that category. Unless and until, you change this Statute and bring a constitutional amendment, there is no remedy.

*Not recorded.

**Expunged as ordered by the Chair.

DR. SUBBAMANIAM SWAMY: I am asking you whether you have found evidence that parliamentary mail is being intercepted and it is established..

MR. SPEAKER: Now, I am giving my ruling. . .

SHRI BIJU PATNAIK (Kendra-para): I would like to know whether the Speaker of the Sovereign Parliament of India having given his ruling as the Speaker, has any opinion on this or not?

MR. SPEAKER: I interpret what you have entrusted to me. I have already given my observations.

(Interruptions)

MR. SPEAKER: You have to change that.

SHRI BIJU PATNAIK: I say that the sovereign Parliament of this House.

MR. SPEAKER: This Parliament is sovereign. The Members here are the representatives of the people, and they can legislate and I am to be guided by that. That is all.

SHRI BIJU PATNAIK: This is a democratic country. You are the Speaker of this sovereign Parliament.. *(Interruptions)*

MR. SPEAKER: You are in Parliament. You have to change it.

*(Interruptions)***

MR. SPEAKER: Nothing is going on record.

SHRI BIJU PATNAIK: What will not go on record?

MR. SPEAKER: What is now said without my permission. What is said without my permission is off the record.

SHRI SATYASADHAN CHAKRABORTY: I am on a point of order.

MR. SPEAKER: What is your point of order?

SHRI SATYASADHAN CHAKRABORTY: My point of order is that our Constitution specifically mentions that the rights and duties enjoyed by the Members of Parliament will be...

MR. SPEAKER: I have read that. Over-ruled. I am going according to the Constitution. Come to me, and let me know.

SHRI SATYASADHAN CHAKRABORTY: Kindly listen to me.

MR. SPEAKER: You cannot discuss the ruling. I have gone through that. I know that.

SHRI SATYASADHAN CHAKRABORTY: . . . those of the Members of the House of Commons of the UK. . .

MR. SPEAKER: If you have not read that, what can I do about it?

SHRI SATYASADHAN CHAKRABORTY: Why can't you hear me?

MR. SPEAKER: You are unnecessarily taking me for a ride. It cannot be raised.

(ii) ABOUT REPORTED STATEMENT BY
PRIME MINISTER

MR. SPEAKER: Shri R. N. Rakesh has given notice of a question of privilege against the Prime Minister on the ground that she allegedly misled the House on 26 August 1981, by denying that she had made a statement that if the people in Garhwal would not vote for her party in the by-election, there would be no progress in that area. In this connection, he has cited a news bulletin broadcast by All India Radio and a news report published in the newspapers.

I find that both the news bulletin broadcast by AIR as well as the news report published in the newspapers are different from what Shri Rakesh has alleged. Moreover, it is well established practice that when a Minister or a Member denies a statement reported in the newspapers etc., a de-

**Not recorded.