

PRESS

526. Press: Press reports can be taken notice of when these are brought to the notice of the Chair

On 7 March 1986, opposition parties demanded a ruling from the Chair regarding press reports about the Governor's rule in Jammu and Kashmir.

The Chairman observed:

I will tell you, whatever appears in the PTI and UNI is not official. Therefore, it is that you are entitled to raise it when the matter comes before you...

The Chair cannot take notice of what appears in the PTI and UNI. I will take notice of it when it is brought to me. You have raised it and you have the opportunity.

(R.S. deb. dt. 7.3.1986, Cols. 148-49)

527. Press: Reporting of proceedings: The press should report the proceedings of the House correctly

On 25 July 1952, Prof. N. G. Ranga stated in the House that the press while reporting on the proceedings of the House of the previous day had mentioned only the Minister for Law and Minority Affairs by name while giving a summary of his speech. With regard to the other speakers who had preceded him, it was only reported that such and such points were mentioned without naming the speakers. He said that it was as important for the speeches of the ordinary members of the House to reach the public as the speeches of the Ministers of Government. He emphasized the importance of a true account of the proceedings of the House being provided for the benefit of the public.

The Chairman observed:

We are aware that it is not right for us to interfere with the discretion of the press in any manner, but I have no doubt the press will continue to give adequate accounts of parliamentary proceedings.

(R.S. deb. dt. 25.7.1952, Cols. 1963-65)

528. Press: Reporting of proceedings: In reporting the proceedings of the House the press owes a great responsibility to the House

Shri Bhupesh Gupta in referring to the reporting of the proceedings of the Council in *The Times of India*, alleged that with regard to the discussion the previous day about the Durgapur Plant, by giving such headlines as "Sabotage by Reds in Durgapur Confirmed" and "Uproar in Rajya Sabha", the paper was guilty of deliberately misleading, with malicious intention, the readers against a particular party in Parliament, as if even the Government had confirmed the allegation made against the Reds. Shri Gupta requested the Chairman to refer the matter to the Committee of Privileges. Shri Rajnarain supported this point of view. Shri A. D. Mani, while conceding that the headline was unfortunate and was not borne out by what happened in the Council, requested the members to bear in mind that the journalists worked under great pressure and it was possible that an error might have occurred. He also requested the Chairman to ask the Editor for his explanation before the matter was sent to the Committee of Privileges. Shri Chandra Shekhar supporting Shri A. D. Mani, objected to the matter being referred to the Committee of Privileges and said that if the Editor apologised to the Chairman in writing the matter should rest there.

The Chairman said:

I had allowed Mr. Gupta to raise this point. I had not given my consent to it as a privilege motion. That is a different matter. I had allowed him to raise the point because as I had done before, it facilitates matters if I ask one or two members of the House to express their views about certain matter and then it makes it easy for me to come to a decision. I had, therefore, allowed him to raise that point and he has raised that point. Now my view about this matter is that the headline of *The Times of India* does not conform to the report that *The Times of India* has given and there was no confirmation of anything that was said.. Therefore that headline, in my opinion, is not justified. Of course, I do not want to take a serious view of it but I only want to point out to the press that they owe a great responsibility to this House and in giving headlines they should not do anything which can be taken as partisanship or any such thing.

(R.S. deb. dt. 12.8.1966, Cols. 2483-91)

529. Press: Reporting of proceedings: In reporting the proceedings of the House the press must be absolutely objective

On 29 March 1967, Shri Bhupesh Gupta submitted that in the *Indian Express* of that day, there was a report of the proceedings of the Council of the previous day. The sentence in it, "The now-familiar pastime of baiting Generals Kaul and Chaudhuri occupied half of the question hour in the Rajya Sabha" was a very malicious and unfair way of reporting the proceedings of Parliament and said that even though it was a clear breach of privilege, he thought that a warning from the Chairman would suffice to meet the situation.

The Chairman observed:

We in this House are very anxious not to have differences with the press, and we leave many things unnoticed which otherwise we may have noticed. But this in my opinion is absolutely unfair and the press also owes this House a duty. In reporting the proceedings, the reporting must be absolutely objective and opinions, suggestions and insinuations should not be brought in. Otherwise this House will have to take a serious view of the matter...I would be very happy if the press realises its duty towards this House and in reporting discussions it does it as objectively as possible and does not bring in its opinion... The reporting should be as objective as is humanly possible. If it is not so, this House will have to take notice of it.

(R.S. deb. dt. 29.3.1967, Cols. 1152-54)

530. Press: Reporting of proceeding: Press should be careful while reporting the proceedings of the House

Shri Bhupesh Gupta drew the attention of the Chair to a report in *The Statesman* about a discussion in the House on Orissa floods and said that the report mentioned that he had suggested that the Government of Orissa should be toppled. Shri Gupta said that while the Editor had the freedom to comment in whatever way he liked about the happenings in Parliament, factual report of parliamentary proceedings should be fair and accurate. The line of distinction between

editorial comment and factual reporting should be clearly maintained and what happened in Parliament should not be distorted to inject the Editor's ideas and views and assessment into it.

The Deputy Chairman observed:

I have gone through the report of *The Statesman* and I think newspaper reporting should be more careful not to put anything in the mouth of members. To make fair comments about members' speeches is of course within the jurisdiction of the press. They can comment in any manner they like but to make quotation and to say that a particular member has said this when he has not said it is wrong. I think the paper should be more careful in this respect.

(R.S. deb. dt. 1.6.1972, Cols. 55-58)

531. Press: Reporting of proceedings: Press should be careful while reporting the proceedings of the House

On 19 February 1982, a notice of breach of privilege was given by some members against the Editor, Printer and Publisher of the *Gujarat Samachar*, for publishing a distorted version of the Chairman's direction to the Minister of Home Affairs to make statement on the fire tragedy at the Himalaya Exhibition in Ahmedabad.

The Chairman ruled:

On December 7, 1981 when some members raised a matter in the House about the fire tragedy at the Himalaya Exhibition in Ahmedabad and demanded a statement from the Home Minister, I had directed that the Home Minister should make a statement in the House on the tragedy cutting across all red-tape or rules and everything else. The *Gujarat Samachar* of December 8, 1981 published a report to the effect that I had criticised Shri Yogendra Makwana, the then Minister of State for Home Affairs, in severe terms. Prof. N. M. Kamble, Shri Golandaz M. Husain, Shri Ibrahim Kalaniya and Shri Kishore Mehta gave notice of breach of privilege against the Editor, Printer and Publisher of the *Gujarat Samachar* for distorting the proceedings of the House. Under my direction an explanation of the Editor of the newspaper was sought in the matter.

The Editor of the newspaper by his letter of January 4, 1982 has expressed regret for the distortion which took place on account of some misunderstanding on his part. He has also published the regret in the issue of the paper of January 28, 1982 in the same column where the impugned news-item had appeared.

In view of the publication of regret and the disclaimer of any intention on the part of the newspaper to attribute any motive to the Minister, if the House agrees, the matter may be treated as closed. I reiterate that newspapers should report the proceedings accurately so that misunderstandings are avoided.

(R.S. deb. dt. 19.2.1982, Col. 191)

532. Press: Reporting of proceedings: Media: Mediamen should be careful in reporting the proceedings of the House

On 12 August 1985, the Chairman gave the following ruling regarding a breach of privilege motion against the Minister of State in the Ministry of Information and Broadcasting, and Directors of AIR and Doordarshan, the notice of which was given by Shri Satya Prakash Malaviya:

Hon'ble members, on July 29, 1985, Shri Satya Prakash Malaviya gave notice of breach of privilege against the Minister of State in the Ministry of Information and Broadcasting and Directors of AIR and Doordarshan for allegedly distorting the proceedings of the House of July 25, 1985 wherein the Prime Minister had referred to the support given by Shri Charan Singh to the emergency. Shri Satya Prakash Malaviya averred that even though the Prime Minister did not refer to any letter having been written by Shri Charan Singh in support of the emergency, the AIR and Doordarshan in their transmissions at 9 and 10 p.m. respectively stated that Shri Charan Singh had also sent a letter supporting the emergency. This, according to Shri Malaviya, was done with the intention of deliberately misleading the public regarding Shri Charan Singh.

After verification of the facts, the matter was taken up with the Minister of State in the Ministry of Information and Broadcasting, Shri Vithal N. Gadgil. Shri Gadgil in his comments admitted that the AIR and Doordarshan misconstrued the Prime Minister's

observations on July 25, 1985 and that Shri Charan Singh's name was inadvertently included amongst those who had written letters to the former Prime Minister supporting the emergency. Shri Gadgil has, however, disclaimed any intention to lower the prestige of Shri Charan Singh. Shri Gadgil also drew attention to the fact that in the very same English and Hindi news bulletins the media broadcast Shri Charan Singh's denial. In view of this, I think that no further action is necessary. I am sure, the House will agree with me that the whole matter should now be closed with the observation that media men should be careful in reporting the proceedings of the House.

(R.S. deb. dt. 12.8.1985, Cols. 235-36)

PRIME MINISTER

533. Prime Minister: The Prime Minister should normally be present in the capital during the session of Parliament

On 18 November 1985, Shri Lal K. Advani raised the issue of the Prime Minister's tour to the Sultanate of Oman at the start of the Parliament session.

After listening to the views of some members including the Leader of the House, Shri Vishwanath Pratap Singh, the Chairman observed:

As the custodian of the privileges of the House I have to say a few words. The principle that the Prime Minister of India stays in the Capital during the session of Parliament is unassailable, it has been accepted and it has not been questioned or challenged. But this is not an inflexible rule. There have been occasions when exigencies of Government and administration have necessitated the Prime Minister and some Ministers going out for the purpose of furthering the interests of the country. In this case the Prime Minister has been good enough to write to me as the Chairman of the House. He has said that he is one of the six Heads of State who have been invited and that there are going to be very fruitful discussions amongst the Heads of State whom he is going to meet. Moreover, as the Leader of the House has said, more than 200,000 Indians are employed there and a measure of goodwill has got to be maintained with that country. I, therefore, do not think any breach of propriety has been done in this case. I certainly endorse the view that the Prime Minister should normally be present in the Capital during the session of Parliament.

(R.S. deb. dt. 18.11.1985, Cols. 349-57)

534. Prime Minister: Reference made about the children of the Prime Minister and the photographs, published in newspapers, should be deleted

On 21 February 1986, the Chairman permitted some members, on their request, to make personal explanations regarding espionage case involving Shri Ram Swarup. Shri Parvathaneni Upendra while offering a personal explanation made some references

regarding an article and two photographs published in *The Hindustan Times* and *The Weekend Review*. This was objected by a few members and then the Chairman observed:

I propose to direct that reference made by Shri Upendra in respect of the children of the Prime Minister and the photograph be deleted from proceedings and it shall not be reported in the press also.

(R.S. deb. dt. 21.2.1986, Cols. 179-200)

535. Prime Minister: The Prime Minister is entitled to express opinion within the limits of parliamentary procedure

On 5 March 1986, giving a reply on the Motion of Thanks on the President's Address, the Prime Minister, Shri Rajiv Gandhi, referring to the anti-poverty programme said that the opposition parties had vested interest to see that the condition of the poor in this country did not improve.

In reply to the objections raised by the opposition members, the Chairman observed:

Please sit down. Look here, the Prime Minister is entitled to say, within the limits of parliamentary procedure, his opinion, and you cannot object to his opinion. You may not agree with it, but you cannot say that he should not say it.

(R.S. deb. dt. 5.3.1986, Col. 209)

PRIVATE MEMBERS' BUSINESS

BILLS

536. Private members' Bills: When a member replies to the debate on his (private member's) Bill he should not bring in any new points not raised earlier by him

On 21 April 1961, when Shri P. N. Rajabhoj was replying to the debate on the Abolition of State Patronage to Religious Institutions Bill, 1960, he brought in some points not raised by him while moving the Bill for consideration or raised by other members during the debate.

The Deputy Chairman said:

You are replying to the debate... You should not bring in new points.

(R.S. deb. dt. 21.4.1961, Col. 403)

537. Private members' Bills: Discussion on a private member's Bill may be continued even in the absence of the mover of the Bill

On 1 February 1980, when the discussion on a private member's Bill was in progress and the mover of the Bill, Shri Bhupesh Gupta, was absent from the House, Dr. Ramkripal Sinha raised the question whether the House could proceed with the discussion when the mover of the Bill was not present in the House. He stated that the members participating in the debate had the right of a reply from the mover of the Bill and since he was not present in the House, he could not reply to the member. He sought the Chair's ruling on the question whether the House could proceed with the Bill.

The Deputy Chairman observed:

I think a very clear point has been raised. I think the point is whether in the absence of the person who has introduced the Bill or the member in-charge of the Bill, we can proceed with the discussion. Well, one way would be that since the House is seized of the Bill, the only way in which it could be disposed of is

by a vote of the House and a motion. Even if the Minister or the member is not there, the House has to say that the Bill is rejected or the motion in regard to the Bill at this stage is accepted or not accepted. So, we have two courses open before us. One is to immediately proceed with those questions and put those questions and decide the fate of the Bill at this stage. Another course is that since the House is seized of the Bill and there are some members who are interested in speaking, we hear them and then proceed on with what the procedural requirements are.

The debate on the Bill was continued.

(R.S. deb. dt. 1.2.1980, Cols. 160-61)

538. Private members' Bills: A private member's Bill can be discussed in the absence of the mover, if the Bill had already been moved

On 17 August 1995, when further discussion on a private member's Bill was in progress, Shri V. Narayanasamy raised a point of order and questioned the validity of taking up a Bill for discussion in the absence of the mover of the Bill. Shri V. Narayanasamy contended that the member was not present to reply to the questions raised by other members and that the Minister could speak only after the mover had replied to them.

Ruling out the point of order raised by Shri V. Narayanasamy, the Vice-Chairman gave the following ruling:

So far as the discussion on the Bill is concerned, it is not essential under the Rules, for the member moving the Bill to be present in the House. Once the Bill is moved in the House and it is under discussion, it becomes the property of the House. So the House is competent to discuss the matter further. This discussion is valid and your point of order is hereby ruled out..

(R.S. deb. dt. 17.8.1995, Col. 316)

539. Private members' Bills: The mover can move for leave to withdraw the Bill at any stage of the Bill

On 16 April 1987, Dr. Bapu Kaldate wanted to withdraw the Constitution (Amendment) Bill, 1985 which was to amend article 311

of the Constitution. It was a private member's Bill. At this point Shri P. N. Sukul charged Dr. Bapu Kaldate that he was withdrawing the Bill at the instance of Shri Gopalsamy.

Dismissing the charge of Shri P. N. Sukul, the Vice-Chairman observed:

I have gone through rule 118 which has been referred to by Dr. Bapu Kaldate. I have gone into the procedure also. The rule is very clear. The member in-charge of a Bill may at any stage of the Bill move for leave to withdraw the Bill.

(R.S. deb. dt. 16.4.1987, Cols. 161-62)

GENERAL

540. Private members' business: Time for private members' business may also be allotted by the Business Advisory Committee

On 2 March 1979, Shri Shyam Lal Yadav and Shri Shiv Chandra Jha raised the matter of unlimited time being taken for consideration of private members' Bills and resolutions with the result that other private members' business was not taken up.

On this, the Deputy Chairman observed:

The problem raised by the hon'ble members is really a genuine one. The practice in our House is that we do not fix time so far as non-official business is concerned, whether they are Bills or resolutions. But this idea of having some limit for resolutions and other private members' Bills has been discussed in the Business Advisory Committee; today also it was discussed and I think leaders of the various parties are seized of the problem and I am sure from next meeting onwards - I cannot say exactly but whenever the next Business Advisory Committee meets - this point will be taken into account.

As regards the present Bill, well, I have with me a list of..in addition to Shrimati Hamida Habibullah..four other names. I am sure we would be able to finish at least these four speeches

and then the next procedural step will be taken so far as the next Bills are concerned.

(R.S. deb. dt. 2.3.1979, Cols. 175-78)

541. Private members' business: Private members' business should be given priority on private members' day

On 1 February 1980, a private members' day, the calling attention had not concluded when the House rose for lunch. As the House reassembled, Shri Khurshed Alam Khan suggested that the day being a private members' day, the private members' business should be given priority.

Then, the Deputy Chairman observed:

I agree with the hon'ble member. This is non-official time. And if the House so chooses, after the non-official business or after five o'clock, we can take up the rest of the business. Otherwise, the whole time will be taken by this. There is only one non-official day in the whole week.

Shri Arvind Ganesh Kulkarni pointed out that the Chairman before adjourning the House for lunch had said that the calling attention would continue.

Thereupon, the Deputy Chairman observed:

We will continue after five o'clock if the House so chooses. I do not think the Chairman could have meant that the non-official business should not be taken up. The issue was not before him. He said that he would continue. I also say that it will continue. We have the tendency in the House to cut non-official time. This has been going on for a long time here, and the hon'ble members have protested against it. Our rules specifically say this.

When some members wanted the calling attention matter to be resumed first, the Deputy Chairman further observed:

Members have objected to this kind of eroding into non-official time...I have only decided that we will now proceed with the non-official business. If the House so wishes, we can take up calling attention after 5 p.m. or after the non-official business is over, whichever is earlier.

(R.S. deb. dt. 1.2.1980, Cols. 146-50)

MOTIONS

542. Private members' motion: When a private member's motion and an identical motion of the Government are both admitted by the Chairman, the Government motion would have precedence on a Government business day

Shri Bhupesh Gupta rising on a point of order, asked how the Government's motion relating to the railway accidents was to be taken up by the Council, when a similar motion given notice of by two private members had already been admitted by the Chairman under rule 152* as a no-day-yet-named motion. He contended that even though the Minister's motion might be concurrent, the private members who had given notice of the motion previously could not be deprived of their right to move the motion.

The Vice-Chairman said:

The rules relating to motions in Chapter X do not make any distinction between a Government motion and a private member's motion. So, all the rules apply to both the motions. That is number one. Number two is, I would ask the member to refer to rule 22*, that is, regarding Government business. If it had been a private members' day, it would have been a different thing. As it is, today is Government business day. So, I hold that in such cases where there are two motions from members as well as from the Government on a Government business day, the Government's motion will have precedence.

(R.S. deb. dt. 21.8.1962, Cols. 2613-35)

RESOLUTIONS

543. Private members' resolution: Discussion need not be reopened after the mover of a private member's resolution had replied to the discussion

On 24 March 1995, after the discussion on a private member's resolution regarding measures for tackling increasing crimes in the country, particularly against women, the mover of the resolution, Shri Viren J. Shah replied to the debate. Soon after that,

* Old rule

Shri V. Narayanasamy rose to speak on the resolution. But the Vice-Chairman said that the member could not make a speech after the resolution had been replied to. Even as the member insisted on speaking, the Vice-Chairman said that it was not the convention of the House to reopen discussion at the time of putting the resolution to vote. But the member insisted on his right to speak and referred to rules 154 to 166.

Ruling out his argument, the Vice-Chairman observed:

I have already ruled..that after the mover of the resolution has replied I have not allowed. I will not allow anybody. No rule permits me to reopen the issue. The rule is clear.

(R.S. deb. dt. 24.3.1995, Cols. 525-27)

PRIVILEGES

544. Privileges: Privilege issues should not be raised regarding the arrest of members of Lok Sabha

Shri S. Mahanty wanted to move a motion for papers regarding the arrest of Dr. Syama Prasad Mookerjee and certain other Members of Parliament. The Chairman did not disallow it but wanted to get correct information from the Minister concerned, as specified in the rules. Later in the day, the Minister of Home Affairs made a statement on the subject.

After ascertaining that the Members of Parliament arrested were members of the House of the People, the Deputy Chairman ruled:

After hearing the speech of the hon'ble member who has brought the motion, I consider that as admittedly none of the members who have been arrested are members of this House, this is not the proper forum where any question of privilege is to be considered and after hearing the statement made by the Minister concerned; I feel that there is no case for admission, and the motion is ruled out.

(R.S. deb. dt. 7.3.1953, Cols. 1960, 2013-19)

545. Privileges: Procedure is required to be followed when a complaint is made in one House of Parliament against a member of the other House

On 11 May 1954, Shri P. S. Rajagopal Naidu referred to a speech made by Shri N. C. Chatterjee, a member of the House of the People and President of the Hindu Mahasabha, at Hyderabad on 10 May 1954, wherein he was reported to have said, "The Upper House which was supposed to be a body of elders, seemed to be behaving irresponsibly like a pack of urchins," while making a reference to the passing of the Special Marriage Bill by the Council of States. Shri Naidu contended that it was a reflection on the Council and was a violation of the rights and privileges of the Council. The Chairman agreed to look into the matter.

On 14 May 1954, the question was again raised by Shri P. Sundarayya. He referred to the proceedings of the House of the People on 13 May 1954, relating to Shri N. C. Chatterjee's case, where objection had been taken to the letter written by the Secretary of Rajya Sabha to Shri N. C. Chatterjee asking for correct information about the statement attributed to him, and said that what the Council of States had done was exactly identical to what the House of the People had done in relation to a case against himself (Shri P. Sundarayya) in connection with an alleged breach of privilege by him against the House of the People.

Shri B. C. Ghose stated that what the Council had done, in the absence of a definite procedure laid down in the matter, was in accordance with the convention and procedure of the British House of Commons.

Shri Rajagopal Naidu requested the Chairman to refer the matter to the Privileges Committee, since for more than three days no reply had been received from Shri N. C. Chatterjee.

Shri H. N. Kunzru said that while he would welcome such questions to be decided amicably by the Committees of Privileges of both the Houses, if the matter was regarded as one of privileges, the Council would have to see whether it was not entitled to receive a reply direct from the member of the other House concerned who *prima facie* appeared to have committed a breach of privilege of the Council. He also wanted to know whether the Speaker had forwarded to the Chairman any explanation given by Shri N. C. Chatterjee in that connection.

The Chairman said that the procedure followed by the House was perfectly in consonance with the practice in the British Parliament and that he had not received any letter in that connection from the Speaker. On 15 May 1954, the Chairman announced that he had received a letter from the Speaker enclosing a statement by Shri N. C. Chatterjee which, on the Chairman's order, the Secretary read out to the Council. The Chairman referred to the suggestion made by the Speaker in his covering letter that the Privileges Committees of both

the Houses should evolve an agreed common procedure in such matters and said:

I want the House to be cooperative and friendly to this suggestion. I, therefore, request the Privileges Committee of the Council to evolve in consultation with the Privileges Committee of the Lok Sabha, an agreed procedure by mutual consent to be followed in matters when any complaint regarding breach of privilege is made against a member of either House of Parliament. I am anxious that this Committee should come to a decision by agreement and consent at a very early date*.

(R.S. deb. dt. 11.5.1954, Cols. 5999-6000; 14.5.1954, Cols. 6424-32;
15.5.1954, Cols. 6539-42)

*The Privileges Committees of the two Houses after three joint sittings on 15, 18 and 21 May 1954, recommended that the following procedure should be followed in a case where a member or officer or servant of one House is alleged to have committed a breach of privilege or contempt of the other House:

- (i) When a question of breach of privilege is raised in any House in which a member, officer or servant of the other House is involved, the Presiding Officer shall refer the case to the Presiding Officer of the other House, unless on hearing the member who raises the question or perusing any document, where the complaint is based on a document, he is satisfied that no breach of privilege has been committed or the matter is too trivial to be taken notice of, in which case he may disallow the motion for breach of privilege.
- (ii) Upon the case being so referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a case of breach of privilege of that House or of a member thereof.
- (iii) The Presiding Officer shall thereafter communicate to the Presiding Officer of the House, where the question of privilege was originally raised, a Report about the enquiry, if any, and the action taken on the reference.

The Committees also expressed their intention that if the offending member, officer or servant tendered an apology to the Presiding Officer of the House in which the question of privilege was raised or the Presiding Officer of the other House, to which the reference was made, no further action in the matter might be taken after such apology was tendered.

(File CS. 21(2)/54-L of 1954)

546. Privileges: Notice of breach of privilege against a member of the other House shall be referred to the Presiding Officer of that House

On 24 August 1987, the Deputy Chairman informed the members about the following communications, dated 17 August 1987, received from the Speaker, Lok Sabha :

On 11th May 1987, Shri Somnath Chatterjee, MP, gave notice of a question of privilege against Shri Arun Singh, former Minister of State in the Department of Defence Research and Development in the Ministry of Defence for allegedly, deliberately and knowingly misleading the House while making a statement in Lok Sabha on 15 April 1987, on the "inquiry ordered by the former Minister of Defence into payment of commission by the supplier to an Indian agent in a defence deal." A copy of the said statement is enclosed.

The matter was referred to Shri Arun Singh for his comment. A copy of his reply dated 2 June 1987, was handed over to Shri Somnath Chatterjee. Commenting upon Shri Arun Singh's reply, the member has, in his letter dated 12 August 1987 addressed to me raised certain issues which need to be clarified by the former. As Shri Arun Singh is a member of your House, I am enclosing a copy of the said notice for disposal in accordance with the procedure laid down in the Report of the Joint Sitting of the Committees of Privileges of Lok Sabha and Rajya Sabha, adopted by them on 2 and 6 December 1954 respectively. I also enclose a copy of the announcement made by me in the Lok Sabha on 17 August 1987 in this regard.

According to the procedure laid down in the Report of the Joint Sitting of Committees of Privileges of Lok Sabha and Rajya Sabha adopted by our House on 6 December 1954, when a question of breach of privilege is raised in any House in which a member of the other House is involved, the Presiding Officers shall refer the case to the Presiding Officer of the other House. Upon the case being so referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a case of breach of privilege of that House or of a member thereof.

Accordingly, I will examine the matter contained in the Speaker's communication.

The Chairman observed:

Hon'ble members may recall that on August 24, 1987, the Deputy Chairman had informed the House about a communication received from the Speaker, Lok Sabha, referring a question of breach of privilege given notice of by Shri Somnath Chatterjee, Member, Lok Sabha against Shri Arun Singh, former Minister of State in the Department of Defence Research and Development in the Ministry of Defence and now a member of Rajya Sabha for allegedly, deliberately and knowingly misleading the House while making a statement in Lok Sabha on 15th April, 1987 on the "inquiry ordered by the former Minister of Defence into payment of commission by the supplier to an Indian agent in a defence deal." She had then said that the matter would be examined in accordance with the established procedure which is that when a question of breach of privilege is raised in any House in which a member of the other House is involved then on the case being referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a breach of privilege of that House.

The circumstances which gave rise to this reference to us may be summed up briefly.

On 15th April 1987, Shri Arun Singh, the then Minister of State in the Department of Defence Research and Development made a statement in the Lok Sabha regarding inquiry into payment of commission by the supplier to an Indian agent in a defence deal, in his statement he, *inter alia*, stated:

On assuming office, the Prime Minister, reiterated the existing instructions that the Department of Defence should not deal with any non-Governmental agent of a foreign supplier in respect of any commercial negotiations. The Prime Minister also directed that foreign Governments and suppliers be told unequivocally about the decision. This policy directive has been enforced rigorously by the Department of Defence with satisfactory results.

On the basis of a news report appearing in *The Statesman* of 9 May 1987, were mentioned certain deals involving middlemen, Shri Somnath Chatterjee, Member, Lok Sabha questioned the Minister's statement and charged him with intentionally misleading the House by supplying incorrect information.

In his comments to the Speaker, Lok Sabha, the Minister denied the member's charge by arguing that the letters cited in the newspaper report did not originate from the Department of Defence and prohibition on dealing with non-Governmental agents was only in respect of commercial negotiations.

Shri Somnath Chatterjee, in his reaction to the comments of the Minister, impugned the Minister's version and contended that the Minister's attempt to draw a distinction between Defence Department and Defence establishments and commercial negotiations and transactions was untenable.

By the time the Speaker could decide the case, Shri Arun Singh ceased to be a Minister and remained only a member of Rajya Sabha. Accordingly, the Speaker referred Shri Somnath Chatterjee's complaint and other relevant papers to us. Thereafter, the matter was again referred to Shri Arun Singh for comments on Shri Somnath Chatterjee's second letter.

Shri Arun Singh, in his comments, has reiterated his initial stand by drawing a distinction between commercial negotiations and commercial transactions on the one hand and defence department and defence establishments on the other. The defence establishments, during the technical evaluation stage deal with representatives of the principal companies, whereas it is the defence department or Ministry which comes into the picture and ensures exclusion of agents at the negotiation stage. Shri Arun Singh also stated that he made this position clear not only in the Lok Sabha on April 16, 1987, but also in the Rajya Sabha on April 20, 1987 wherein he had stated:

The Government will only transact business with the supplier. The supplier may be a company and the supplier may be a Government. Similarly, in the defence business you have buyers, sellers and pushers except that the agents are called pushers. Therefore, if anybody says or lays a claim to the theory that a Government or a Minister can categorically remove from the surface of this earth all such people, then I am afraid that that claim has no relationship to fact. Therefore, what must be done is to find a method of how to control it.

I have carefully gone through all the papers including the relevant statements of Shri Arun Singh in the Lok Sabha and the Rajya Sabha connected with the issue. It appears to me that

Shri Arun Singh had consistently treated commercial negotiations and commercial transactions as distinct propositions and defence establishments and Defence Ministry as distinct entities.

Considering Shri Arun Singh's explanation in the context of the debates and his statements in both Houses of Parliament, I am of the opinion that Shri Arun Singh has not made any statement which could be construed as deliberately misleading the Lok Sabha and committing a breach of privilege of that House. I, therefore, feel that the matter need not be pursued further. I am informing the hon'ble Speaker, Lok Sabha, accordingly and am also forwarding to him the subsequent comments received by me from Shri Arun Singh.

(R.S. deb. dt. 24.8.1987, Cols. 241-42; 25.3.1988, Cols. 274-77)

547. Privileges: There is no breach of privilege of the House by the police in discharging their normal duties in a situation where members may be involved but the police should not do anything which is likely to impede them in the discharge of their duties

On 31 July 1967, Shri Bhupesh Gupta, Shri A. P. Chatterjee, Shri Rajnarain and Shri Mulka Govinda Reddy submitted to the House that on 29 and 30 July certain members of Rajya Sabha, along with certain members of Lok Sabha, were prevented illegally and forcibly by the police from going into the Prime Minister's House, in the absence of specific orders to that effect either from the Government or from the Delhi Administration. They contended that this was a breach of privilege of the House and as such, should be referred to the Committee of Privileges. They also alleged rude behaviour on the part of the police to the Members of Parliament concerned.

Shri Chandra Shekhar submitted that those Members of Parliament, according to the press, went there to picket the Prime Minister's house and that, if Members of Parliament indulged in unlawful acts, the police were justified in carrying out their normal responsibilities.

Shri Balachandra Menon, one of the members of the House who went to the Prime Minister's house on the days mentioned, said that they went there to protest against the decision of the Government regarding the distribution of foodgrains to Kerala and not for any *gherao* or other illegal act.

The Home Minister, Shri Y. B. Chavan, intervened to say that the members who went there, in their previous statements and also according to the newspaper reports, had talked of picketing the Prime Minister's house. The Minister stated that the police were only doing their duties under the Police Act to see that the entrance and exit of the Prime Minister's house were not blocked and that, if any member said that he had the privilege to see that the legal machinery did not function, then it would be the end of Parliament itself. According to him, there was no question of breach of privilege.

The Chairman said that he would look into the matter and give his decision later on.

On 2 August 1967, the Chairman, in ruling that there was no question of breach of privilege in the matter, 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.

(R.S. deb. dt. 31.7.1967, Cols. 1402-35; 2.8.1967, Cols. 1849-50)

548. Privileges: Happenings in a party meeting cannot be made the subject-matter of a question of breach of privilege of the House

Shri Bhupesh Gupta submitted that according to newspaper reports, in a meeting of the Congress Parliamentary Party Executive, Shri M. P. Bhargava and Kumari Shanta Vasisht, two members of Rajya Sabha, had been taken to task for attacking the Government and some Ministers of the Government during the discussion on the British India Corporation on 14 December 1967 and that, as this amounted to intimidation of two members of the House from properly discharging their duties as Members of Parliament, it constituted a breach of privilege of the House.

The Chairman observed:

I have heard Mr. Bhupesh Gupta. Unless I give permission for the privilege motion to be discussed no others can discuss it. And my ruling is, 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.

(R.S. deb. dt. 21.12.1967, Cols. 5078-84)

549. Privileges: Privilege issues should not be raised without prior permission of the Chairman

Shri A. P. Chatterjee wanted to raise a point of privilege. He alleged that Shri Chandra Shekhar had been 'harassed and harried' at a party meeting for raising a parliamentary question relating to the conduct of the Minister of Steel.

The Deputy Chairman ruled:

You cannot raise this question in the House like this..There is a certain procedure prescribed for it. You must follow the procedure...You could have met the Chairman in the morning and discussed it with him.

(R.S. deb. dt. 3.8.1971, Cols. 181-82)

550. Privileges: A matter of privilege, which is being considered by the Chairman, should not be raised in the House

On 25 March 1992, Shri Pramod Mahajan rose to speak on a matter of privilege for which notice was submitted to the Chairman. The Deputy Chairman did not permit the member to raise the issue on the ground that the matter was being considered by the Chairman. As Shri Pramod Mahajan insisted on being allowed to speak on the subject, Shri N. K. P. Salve said that if it was a question of contempt of the House, the House would not be divided at all, but the Rules did not permit any member to raise a matter of privilege in the House without the consent of the Chairman. The member also pointed out that as per the Rules it was for the Chairman to determine whether or not there was a question of privilege and the mode and manner in which the question of privilege had to be raised. Responding to the point of order made by the member, the Deputy Chairman said that in such a situation the members could only say "I raised a privilege issue on such and such matter." On being asked whether one could take that as a ruling from the Chair, the Deputy Chairman observed that there had also been such practice. At this point some members intervened to make their points. Shri Yashwant Sinha said that he was trying to clarify his point as a ruling from the Chair had long term implications.

At this stage, the Deputy Chairman ruled as follows:

I want to make it very clear..I said, the procedure and the practice in this House is, anybody who gives a notice of privilege, rises in the House and says, "I have given a notice of privilege on certain issue." I said that this matter, whatever the Chairman has told me, is before the Chairman for consideration. When he will tell me, I will inform the House. Beyond that I have never allowed anything.

(R.S. deb. dt. 25.3.1992, Cols. 313-33)

551. Privileges: Chairman: It is for the Chairman to decide whether there is privilege matter or not

On 19 March 1993, Shri Jagdish Prasad Mathur sought to raise a matter of breach of privilege against the police for attacking some Members of Parliament belonging to the Bharatiya Janata Party.

Shri Subramanian Swamy objected to this issue by saying that the member is treating the House as "grievances platform". He went on to add that by merely giving a notice, the member cannot automatically raise the issue in the House.

The Deputy Chairman rejected the arguments of Shri Swamy by giving the following ruling in favour of Shri J. P. Mathur:

That is a matter of privilege. It is not a matter of argument in the House. He has raised a matter of privilege before the Chairman and the Chairman has asked for a report. He is enquiring about it. Whatever other matters you want to discuss or object you can do, but not on this issue..

Please. That is for the Chairman to decide whether there is privilege or not. If he accepts it, it is for the Privileges Committee to decide whether it is right or wrong. I do not think the members have a right to obstruct his question.

(R.S. deb. dt. 19.3.1993, Cols. 211-12)

552. Privileges: The Chair is not required to give reasons for rejecting a privilege notice

On 1 March 1982, Shri Shiva Chandra Jha raised a point of order under rule 190 and wanted to know the reasons for disallowing his privilege motion against Shri M. S. Gujral, Chairman, Railway Board, in the House. He sought the ruling of the Deputy Chairman in this regard.

The Deputy Chairman ruled:

The Chairman gives his consent or does not give his consent and, therefore, it is always said that consent is withdrawn under rule 187. So far as rule 190 is concerned it is quite clear under the proviso which you have read that it is not obligatory on the Chairman to do so in the House. It says -

Provided that where the Chairman has refused his consent under rule 187 or is of opinion that the matter proposed to be discussed is not in order, he may, if he thinks it necessary, read the notice of question of privilege and state that he refuses consent..

If he thinks it necessary he may do so. So it is not necessary for him to do it always.

(R.S. deb. dt. 1.3.1982, Cols. 278-80)

553. Privileges: Only those members who give notice for raising a question of privilege may be allowed to make observations before the notices are considered by the Chairman

On 30 January 1980, when some members, other than those who had given notices of breach of privilege against the Home Minister, Giani Zail Singh, and the Minister of State for Home Affairs, Shri Yogendra Makwana, wanted to make certain observations, the Deputy Chairman, while saying that he would not allow any debate on the subject, observed:

As I said earlier, only the members who had given notice for privilege motions had been allowed to make certain observations. I would say that all the motions are under the consideration of the Chairman and due action will be taken on them.

(R.S. deb. dt. 30.1.1980, Cols. 131-47)

554. Privileges: Question of privilege is not involved, if statement is made by the Minister after due inquiry

On 29 January 1980, several members alleged that Shri N. K. Singh, DIG of the CBI and the Chief Investigating Officer in the *Kissa Kursi Ka* case had been arrested that day and taken away to Gurgaon. They all strongly condemned the action and called it a 'vindictive act'.

The Minister of State in the Ministry of Home Affairs, Shri Yogendra Makwana, denying the charge said that the Government had contacted the Chief Minister of Haryana and ascertained from him that Shri N. K. Singh was not arrested.

Later on, when many members wanted the senior Minister to say something on the subject, the Minister of Home Affairs, Giani Zail Singh, also denied that Shri N. K. Singh had been arrested. He stated that Haryana Government had told him that Shri N. K. Singh had not been arrested but was summoned in order to obtain some information from him.

The next day, details of the incident appeared in several newspapers. The purport of the news-items was that Shri N. K. Singh had been arrested on the basis of a complaint filed before the Gurgaon Police in May 1977. The news-item went on to say that Mr. Singh, after being detained at Gurgaon Police Station House for over two and

half hours, was released on a personal bond of rupees two thousand after his statement was recorded.

The same day, a number of notices, purporting to be made under rules 187, 188, etc., of the Rules of Procedure of the House were sent to the Chairman seeking to raise the issue of privilege against the two Ministers, on the ground that the earlier statements of the Ministers were deliberately misleading and the Ministers were guilty of a breach of the privilege of the House.

On 2 February 1980, giving a ruling on the above issue, the Chairman observed:

Hon'ble members, you have had, for two or three days, a question of privilege raised in this House. I took time to consider it, and having carefully considered it from all angles and in view of the law such as I found, I am now going to deliver my ruling.

On 29 January 1980, news-items appeared in several newspapers of the arrest of Mr. N. K. Singh, DIG of the CBI and the Chief Investigating Officer in the *Kissa Kursi Ka* case. The purport of the news-items was that this arrest was made on the basis of complaint filed before the Gurgaon Police in May 1977. The news-items went on to say that Mr. Singh, after being detained at Gurgaon Police Station House for over two and half hours, was released on a personal bond of Rs. 2,000 after his statement was recorded. On the same day, Mr. Rabi Ray, Mr. L. K. Advani and some others raised in Rajya Sabha, through special mention procedure, the subject of this arrest. Present in the House, at the time, was Mr. Yogendra Makwana, Minister of State in the Ministry of Home Affairs. A number of members spoke on the subject. When Mr. Makwana began his reply, the Home Minister, Giani Zail Singh was also present, though not earlier. Mr. Makwana began his reply by saying that although there was no practice of replying to the special mention in the House, he wished to get the record straight. His statement was:

What has been stated by Mr. Rabi Ray, Mr. Advani and others, is far from facts. Mr. N. K. Singh is not arrested as they have stated in this House...

This concerns the State of Haryana. Nowhere are we involved. But when we came to know that Mr. N. K. Singh has been arrested, we immediately contacted the Chief Minister of Haryana and ascertained that he is not arrested.

So, whatever is stated by Mr. Rabi Ray and Mr. Advani is not correct...

The hon'ble members at this stage interjected, "Let the senior Minister say something." Before the Minister of State could say anything, the Minister of Home Affairs took on himself to make a statement. He said, *inter alia*, although he was in the House in the latter part only, he wished to say this:

Hon'ble Chairman, Sir, when this question was raised, I was not present in the House, hence, as the Minister of State had heard all the points which were raised, it was considered appropriate that only he should answer them. I appreciate the feelings of the hon'ble members and I agree that since the Minister in-charge himself was present in the House, he should reply and the other Ministers need not reply to them. However, it should be borne in mind that the question was raised in my absence and thereafter supplementary questions were also raised. One half of which were heard by me and other half I could not hear, therefore, I did not rise to reply to them. I had clarified this question.*

However, this question relates to the arrest of an officer. This question has nothing to do with the Central Government, nevertheless, when we came to know that some officer was going to be arrested, we sought information from the State Government in this regard and they have stated that they had not arrested the officer. The officer was summoned for getting some information and it was absolutely wrong to say that he was placed under arrest. The officer was not arrested.*

Hon'ble Chairman, Sir, hon'ble member Shri Jagjit Singh has also mentioned this matter. This is Rajya Sabha, the House of elders. The people have to learn from this body as to how Parliament functions. But I want to reply to him also. Just now he has brought to our notice that some damage was caused to a factory in Bangalore owned by the brother of hon'ble member Ambika. We shall collect information in this regard, however, it must be borne in mind that there is no need to waste the time of this House by raising questions relating to a State subject or any subject falling under the purview of a State Government. Nevertheless, in deference to wishes of the hon'ble members, I shall collect information as to what had happened.*

* Spoke in Hindi

After a lot of cross-questioning on other than this subject, to a reply to the Chairman's query whether the Minister has concluded his statement, the Minister replied:

I have completed my statement.

Mr. Advani then said:

I used my words very carefully. I said that he has been apprehended and physically taken to Gurgaon against his will. He has not gone voluntarily. And I do not know whether this is a case of illegal confinement if it is not arrest. But what I would have expected is, here is a senior official of the IPS of the Central Government - not of Haryana Government - and, in that case, when the Minister makes a statement, he would also let the House know as to in what connection the Haryana Government has taken him there. Unless the Government comes out with the full facts, this House is not going to be satisfied..

The Chairman then observed:

As the hon'ble Minister was not present during a part of the mention and had not heard what had been said by Mr. Advani, Mr. Advani is entitled to explain to him. And will he kindly answer, if he wishes, what is the distinction between arrest, apprehension and taking away?

Many interruptions followed and the Chairman twice said - "I have said quite clearly to the hon'ble Minister that 'if he chooses' he could make a statement and that 'the matter was left fairly and squarely in his hands'."

The Home Minister then made the following final statement:

Mr. Chairman, Sir, there is no need to reply to what has been stated earlier in the House by hon'ble member, Advaniji. He may read the Cr. P. C. and see for himself what difference there is between arrest, summoning and collecting information and I may also state that there is no need for the State Government to ask us in this regard. The matter pertains to law and order or some legal case which is a State subject. Such matters are not discussed after asking us every time, howsoever senior or junior an officer may be. I had categorically stated that we were given the information as he was a senior officer. We immediately contacted the State Government which told

us that they had not arrested the officer. He was merely summoned to obtain some information.*

The matter did not end there. On the next day more details of the incident followed in the newspapers and they were directed to establish that there was in fact an arrest and release on a recognisance. On the same day a number of notices purporting to be made under rules 187, 188, etc. of the Rules of Procedure of the House were sent seeking to raise the issue of privilege against the two Ministers, on the grounds that the earlier statements of the Ministers were deliberately misleading and the Ministers were guilty of a breach of the privilege of the House.

On receipt of these notices of a privilege motion I ordered that they be brought to the notice of the Ministers. The Ministers have sent explanations which are *ipsissima verba*. They claim that first on phone, next by a demi-official letter and lastly by wireless message they were assured by the Chief Secretary that there was no arrest as reported in the newspapers. As enclosures to their own copies, they sent the other communications to me. It was pointed out that "...from the perusal of these enclosures it would be seen that the information furnished by the Government of Haryana has consistently been that Shri N. K. Singh has not been arrested. The statement made by me in the House was merely on the basis of information furnished by the Government of Haryana."

The Chief Minister of Haryana, Shri Bhajan Lal, in his D.O. letter to the Home Minister wrote, *inter alia*, as follows:

...immediately after receiving these telephone calls I contacted the Senior Superintendent of Police, Gurgaon to enquire the facts. He has informed me that Shri N. K. Singh and some other CBI officials had to be interrogated in connection with some inquiries/cases pending with the Gurgaon Police and that, therefore, these officials had been contacted by his subordinates and asked to make themselves available at Gurgaon. He has denied that any of these officials had been arrested by the Gurgaon Police. The interrogation in the matter will proceed strictly in accordance with the law and procedure.

Since the matter is reported to have been raised in Parliament this morning, I have separately issued a Press Release (copy enclosed) clearly indicating therein that

* Spoke in Hindi

the CBI officials concerned had been called to Gurgaon for purposes of interrogation in some matter and that none of them had been arrested I thought that I should keep you informed in this matter...

A press item was also issued dated 29 January 1980, by the Joint Director, Public Relations, Haryana. In it, it is stated that the Chief Minister Haryana, Shri Bhajan Lal, denied the rumour that three officials of CBI including Shri N. K. Singh, Superintendent of Police, had been arrested in Gurgaon. Some persons, including a few M.Ps. also met him here in this connection. He said that he had already contacted the Senior Superintendent of Police, Gurgaon, and was told that some CBI officials had been called only for interrogation in connection with some pending enquiries cases. A special radio message was also received from the Home Secretary, Haryana, on 31 January 1980. That was after his statement in Rajya Sabha. It is not necessary to refer to it. It only added that a report of abduction was lodged at the Police Station by a certain Ramchander of Gurgaon on 27 January, 1980 against Shri N. K. Singh and others. The incident was said to be of 26 May 1977 and a previous report was lodged by his nephew, Raj Kapur the same day, which is First Information Report 129 dated 26 May 1977. Mr. N. K. Singh was asked to go with the police party to Gurgaon for questioning and he went voluntarily to Gurgaon where his statement was recorded. Later, he was provided transport for his return. It was emphasized that - I quote:

In this connection it may be mentioned that his allegation that he was forced to give a personal bond of Rs. 2,000/- before being allowed to leave the Police Station is absolutely incorrect and misleading. The question of taking bond does not arise because Shri N. K. Singh was never put under arrest. It is reiterated that he had accompanied the Haryana Police officials to Gurgaon voluntarily.

This is all the material at present before me. I am not concerned with the truth or falsity of any statement emanating from the Haryana authorities, the Chief Minister of Haryana downwards.

I am concerned only with the question whether the Home Minister and/or the Minister of State in the Home Ministry can be said to be guilty of a breach of privilege and to see whether a *prima*

facie case exists to grant leave under rule 190 to refer the matter to the Committee of Privileges on the motion of the members.

The law appears to be well-settled that the making of a deliberately misleading statement may be treated as a contempt of the House. In England in 1963, the affair of Profumo and Christine Keller was inquired into by the Lord Denning M. R. and Profumo, who had made a statement in the House which he later admitted was not true, had to resign. He was held by Lord Denning to have committed a breach of privileges of the House by deliberately misleading it. The question arises before me if I can say that there was a deliberate misleading of this august House by the two Ministers when they made their statements.

The subject seems to have been given scant attention in defining the circumstances in which an inference of misleading by uttering a falsehood would constitute the gravamen of contempt of the House. Perhaps this is because the text books deal with only cases which have actually arisen. I hope to clear the field.

'Mislead' in this connection must mean only that the Ministers drew the House into error by falsely stating that Shri N. K. Singh was not arrested and this was contrary to fact. The test to apply is not a general one but in relation to the conduct of the maker of the statement. A person may know, believe or suspect that what he is saying is false. The responsibility increases in proportion to the increase of knowledge and belief. The test to apply is: Does the maker of the statement know that the statement he is making is false or again that the maker is making the statement which he does not believe to be true. In either case, there would be deliberate misleading. A third or borderline case also exists when the maker is utterly indifferent whether what he is saying is true or false. Here any person, without ascertaining for himself the truth of the matter, asserts something as true and he must take the consequences if it turns out that it was false. No person is expected to make a statement about a fact as to which he made no inquiry to ascertain its truth or falsehood. If he is so foolhardy as to maintain that what he is saying is true without any evidence in his possession, he must pay the price for his negligence and indiscretion, should it later turn out that what he asserted was false and thus misled others. This last proposition does not apply if the person after making due inquiry in proper quarters where he must make inquiries and approaching those

who are likely to know the facts makes a statement believing it to be true, he is then saved even if he was himself misled by others from whom he inquired. The gravamen of the charge is a deliberate misrepresentation of a fact knowing it to be false or not believing it to be true or being so indifferent to truth as not to care what is said is false or true.

Judged from this standard it is clear that the Ministers cannot be said to have acted without due care and attention. They had in their hands the statement repeated twice and even confirmed after the event in radio version. They had no reason to think that what they were being told was perhaps not true. Coming as it did from the highest authority - the State - on a matter which is essentially a State subject they did not go beyond the bounds of truth or propriety when they relayed the information to this august House. As situated on the morning of the 29th of this month the Ministers were assured of the truth of what they relayed to the House. In these circumstances, no question of privilege arises and I refuse my consent to raise it.

(R.S. deb. dt. 2.2.1980, Cols. 46-55)

555. Privileges: The Minister concerned may be asked to furnish information before taking a decision on the admissibility of a notice of privilege

On 4 August 1980, Shri Satya Pal Malik, supported by some other members, pressed the Chair for a decision on the notice of privilege motion given by him. The Deputy Chairman informed the House that the said notice of privilege motion had been sent by the Chairman to the Home Minister and that the Home Minister had replied that he was trying to get detailed information from the State Government. Shri Bhupesh Gupta objected to the Chairman making a reference to the Home Minister and stated that the Chairman was competent to decide its admissibility on his own, or, at best, could have sought the opinion of the Privileges Committee or the House about its admissibility.

Thereupon, the Deputy Chairman observed:

The Chairman has referred the matter not for any decision to anybody. He has only sought information on the notice which had been given by the hon'ble member to satisfy himself whether

there is a breach of privilege or not. For this purpose, he sought information from the Home Minister and the Home Minister has written to him that he has sought information from the State Governments in this matter. As soon as the information comes here, it will be sent to the Chairman. Hence, he has to decide on this. On the issue of privilege, first of all, the Chairman will give his consent. Only then, the matter can be brought into the House. Before that, we cannot refer it to anybody.

(R.S. deb. dt. 4.8.1980, Cols. 140-47)

556. Privileges: Willful misleading of the House may constitute a privilege issue

A notice of privilege motion was given by Shri Satya Pal Malik on 23 July 1980 regarding a statement made on 8 July 1980 by the Home Minister, which averred that the statement was false and deliberately misleading.

On 6 August 1980 after examining the whole matter in detail, the Chairman, *inter alia*, observed:

Whatever may be the later developments after 8 July 1980, the question for me to consider is whether the Home Minister willfully misled the House on that date. It is clear from the records that what the Minister stated in the House was based on the information in his possession which had been supplied to him by the Government of Uttar Pradesh and which did not mention about the rape and he had no reason to doubt it. Thus, he had not misled the House willfully or otherwise. I have fully explained the reasons for the decision because of the tension this unfortunate incident has evoked in the House and outside. I am not concerned with the facts as they later emerged or may further emerge. I am only concerned with the statement of the Home Minister on 8 July 1980.

Basing myself on this fact I withhold consent to Shri Malik to raise the matter as a matter of privilege or contempt of the House as in my opinion not even a *prima facie* case has been established.

(R.S. deb. dt. 6.8.1980, Cols. 263-70)

557. Privileges: Question of breach of privilege arising in connection with the Committee on Public Undertakings need not be taken up in Rajya Sabha

In connection with the import of high speed diesel and kerosene from Hong Kong involving the Public Undertakings Committee, the Chairman ruled:

Yesterday, I informed the House that I had received notices of breach of privilege from Shri A.G. Kulkarni and some other members in connection with the import of high speed diesel and kerosene from Hong Kong which was the subject-matter of the 47th Report of the Committee on Public Undertakings that was submitted to Parliament on April 30, 1982. These notices have been received from the following members. I read out the names for their satisfaction.

1. Shri A.G. Kulkarni
2. Shri Shiva Chandra Jha
3. Syed Shahabuddin
4. Shri Surendra Mohan
5. Shri Satya Pal Malik
6. Shri Rameshwar Singh
7. Shri Hukmdeo Narayan Yadav
8. Shri Ladli Mohan Nigam
9. Dr. Bhai Mahavir
10. Shri Sadashiv Bagaitkar

They are directed against the Prime Minister and her office, Shri Veerendra Patil, Shri P. C. Sethi and Shri P. Shiv Shanker who are or have been Ministers of Petroleum and Chemicals at one time or another, Shri Lavraj Kumar, the Secretary in the Ministry of Petroleum and Chemicals and Shri Arun Shourie, the Executive Editor of *The Indian Express*. The gravamen of the charge against the Prime Minister, Ministers and Secretary of the Ministry of Petroleum and Chemicals is that they did not make available to the Committee on Public Undertakings the relevant file pertaining to the deal; have caused loss of crores of

rupees to the public exchequer and have also obstructed the Committee in the performance of its functions in examining the transaction. The charge against Shri Arun Shourie is that by his article under the caption "The case of the missing file" published in *The Indian Express* of July 10, 1982, Shri Shourie has cast reflections on the Committee and lowered its prestige in the esteem of the public and has disclosed proceedings of the Committee which are of a confidential character.

The notices purport to raise a question of privilege under rule 187 of our Rules which provides that 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 a Committee thereof. Stated briefly a question of breach of privilege has to be restricted only to a matter affecting the Committee of our House. Now the Committee on Public Undertakings is a Committee set up under rule 312A of the Rules of Procedure and Conduct of Business of Lok Sabha. It functions under the direction and control of the Speaker, Lok Sabha. Although 7 members of our House are nominated to associate with the Committee and have equal rights with the members of Lok Sabha to vote and take part in the proceedings of that Committee, the fact remains that this Committee is essentially and primarily a Committee of Lok Sabha. Under rule 187 which has been referred to earlier, a question of breach of privilege can only arise in respect of our Committee. Rajya Sabha does not have any jurisdiction in respect of the Committee of Lok Sabha in the matter of its privileges. The appropriate forum to raise a matter of breach of privilege on ground of withholding information or any file from the Committee or casting any reflection thereon can only be Lok Sabha.

I understand from the proceedings of Lok Sabha that some notices of breach of privilege have been given there by the members of the other House. The Speaker is *in seisin* of the matter. The notices given by Shri A. G. Kulkarni and other members are, therefore, not admissible. I am fortified in my view by an earlier precedent where aspersions were cast on the then Chairman of the Committee on Public Undertakings by Shri J. R. D. Tata wherein a similar view was taken in disposing of notices of breach of privilege of the Committee directed against Shri J. R. D. Tata. I understand that the Committee aforesaid has reserved to itself a further inquiry and will seek explanation.

In view of what has been stated above, I withhold my consent to the raising of the matter as a question of privilege against the Prime Minister, other Ministers, the Secretary of the Ministry of Petroleum and Shri Arun Shourie, in this House.

(R.S. deb. dt.14.7.1982, Cols. 200-02)

558. Privileges: Question of breach of privilege arising in connection with the Committee on Public Undertakings shall not be taken up in Rajya Sabha

Ruling on the questions of privilege, regarding (i) Minutes of the sittings of the Committee on Public Undertakings relating to its 47th Report, (ii) Denial of access to the records of the proceedings of the Committee on Public Undertakings, and (iii) Reconsideration by the Chairman of earlier ruling on the notices of breach of privilege in the Kud Oil deal.

The Chairman ruled:

Wait and hear; it might enlighten you. I am making three announcements, one after the other. Two are consequential which can be communicated to the hon'ble members.

Shri Sadashiv Bagaitkar, 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 the 47th Report on 14 July 1982. The ground urged is that the minutes are not true to facts and do not faithfully reflect what transpired at the meetings 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 sittings of the Committee on April 2, 1982, regarding the file pertaining to the deal. Shri Piloo Mody and others have also dumped copies of the alleged verbatim records..

Shri Sadashiv Bagaitkar had also sought permission to move a breach of privilege motion against Shri Vairale, 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 14 July 1982. This was 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...I do not know, my feelings are nil. I am like an icicle.

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 2 April 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 a privilege question against the 'persons manipulating file no. 20 of the Ministry of Petroleum and Chemicals'. This notice, to say the least, is vague and lacks in material respects. It is inadmissible.

At this point, Shri Shiva Chandra Jha said that all the documents and everything was supplied and it was a kind of reminder.

The Chairman stated thus:

There are three letters from hon'ble members which may be taken up separately.

Mr. Morarka by his letter dated 15 July 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 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 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 20 July, 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) of the Rules of Lok Sabha. They are within his jurisdiction. Mr. J. P. Mathur, by his letter of 20 July 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 the 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 the 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 these 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 the ruling of the Speaker in the Lok Sabha debates dated 12 August 1966, column 4544. I am sure, the hon'ble Speaker's attention will be drawn to it by his Secretariat. This is the important thing.

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. Shiva 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 on a statement in Kaul and Shakdher 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 question 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, please pay attention:

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 construction 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 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 Rajya Sabha.

It should be remembered that the Rules of both Lok Sabha and 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 Lok Sabha and the word 'Houses' means Lok Sabha and Rajya Sabha. So, according to the rule, the breach must be of a Committee of Rajya Sabha. After carefully considering these with the Rules of the House (which hereafter shall mean only 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 schemes 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 (1) 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 Lok Sabha. Thus by this definition read with the heading to Chapter XXVI and rule 253 the inclusion of any 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.

The important words are "not more than fifteen members who shall be elected by the House", and we must remember that House means only Lok Sabha. Therefore, in so far as the written rules are concerned, the net effect is that there is really no place for member of the Council on the Committee under the Rules of the House which means there is no mention and they have made this.

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, *i.e.* Lok Sabha, 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 Lok Sabha and seven elected by Rajya Sabha, according to the principle of proportional representation by means of a single transferable vote.

This is not an accurate statement. What really happens is that the House, *i.e.*, Lok Sabha adopts a motion in two parts. Last time the first part dealt with the members of the Committee from their 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 the 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 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*:

Rajya Sabha do agree to nominate seven members from Rajya Sabha to associate with the Committee on Public Undertakings of 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, *i.e.*, Lok Sabha, or the Council. If rights are claimed in the Committee by reason of association with the members of the House, *i.e.*, 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 and 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 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 members of the Committee or of Parliament. What is really not open to them is to bring matters which are the concern of 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 both 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. I am quoting:

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 function in the Public Accounts Committee is concerned.

I regret I cannot allow any of these motions and see no reason to change my opinion in the earlier ruling.

(R.S. deb. dt. 26.7.1982, Cols. 159-70)

559. Privileges: Regarding notice of breach of privilege against the Government of Orissa

On 9 August 1983, Shri S. S. Mohapatra and several other members raised a matter regarding exclusion of members of Rajya Sabha from certain Committees of the Government of Orissa. Earlier, Shri Mohapatra, Dr. Mallick, Shri Satya Pal Malik and other members had given notices of breach of privilege in the matter. On the basis of Shri Mohapatra's letter the Chairman had directed that the comments of the Government of Orissa be obtained. The Chairman had received the comments of the Chief Secretary to the Government of Orissa on 12 August 1983. The Chief Secretary had pointed out that it was not a fact that members of Rajya Sabha had been excluded from the various Government District Committees and that they continued be members of such Committees along with members of Lok Sabha. He had further stated that the State Government had the highest respect and regard for members of Rajya Sabha and it had always treated them *at par* with members of Lok Sabha in the matter of giving representation on State Level Committees/Sub-Committees and District Level Committee. It was only in respect of the Works Supervision Committees at the Block Level that provision had been made for members of Lok Sabha who had territorial constituencies to have a local nominee as a member in these Block Level Works Supervision Committees. This had been done purely from functional point of view as members of Rajya Sabha do not have any territorial constituency and that no disrespect and discriminations whatsoever, was intended. However, the State Government had since taken a decision to include the nominees of each member of Rajya Sabha as a member in the Works Supervision Committee of the Block in which he or she had permanent residence.

The Chairman observed:

It is quite apparent that there was no intention on the part of the Government of Orissa to discriminate against the members of

our House. The misunderstanding arises because of vague and confusing wording of the letter to which Shri Mohapatra and others had objected. Now in view of the clarification offered that members of Rajya Sabha can also send their nominees to those Committees, I do not think the House should occupy itself any further with this matter. Nonetheless, I am directing that the proceedings of the House of August 9, 1983 be forwarded to the Government of Orissa.

(R.S. deb. dt. 16.8.1983, Cols. 232-33)

560. Privileges: Question of privilege can be raised on the floor of the House and then the reply follows

On 14 December 1993, Shri Pragada Kotaiah raised a question of privilege against the Finance Minister for giving a wrong answer to his question no. 507 on 27 March 1992, thereby attempting to mislead the House. The Minister refused to acknowledge the representation made to him.

Thereupon, the Deputy Chairman gave the following ruling:

Mr. Kotaiah, you don't read out the whole thing. The procedure is that whatever question of privilege you have raised against whoever the Minister is, you can raise it on the floor of the House and then I will give you the reply to it. The office has received your privilege notice. It will be presented to the Chairman and the Chairman will look into the matter and then decide. I will come back to you and let you know.

(R.S. deb. dt.14.12.1993, Col. 323)

561. Privileges: Committee of Privileges: Matter regarding insult to and injury sustained by a member of the House is referred to the Privileges Committee of the House

On 9 December 1991, Shri Gurudas Das Gupta raised a matter regarding an insult and injury sustained by Shri M. A. Baby, at the hands of the Kerala Police in Trivandrum. A few other members also expressed their regret and supported Shri Gurudas Das Gupta.

Thereafter, the Deputy Chairman observed:

Hon'ble members, the House was adjourned twice because it was a very serious incident which had taken place about our Member of Parliament. The matter was referred to the Chairman,

and the Chairman has authorized me to say that according to rule 203, the matter of insult and injury to Mr. M. A. Baby, member of Rajya Sabha from Kerala, is referred hereby to the Privileges Committee of the House.

(R.S. deb. dt. 9.12.1991, Cols. 184-95)

562. Privileges: Contempt: There is no contempt of Rajya Sabha if Lok Sabha mentions in its order paper a Bill conferring on the President the legislative powers of a State, even before the Proclamation in that regard has been approved by Rajya Sabha

Shri Bhupesh Gupta, rising on a question of privilege, contended that the Lok Sabha Secretariat in issuing a notice that the Andhra State Legislature (Delegation of Powers) Bill, 1954, would be introduced in Lok Sabha before the Council of States had approved the Proclamation by the President in that regard, had committed contempt of the Council and a breach of privilege.

The Chairman ruled:

Every Proclamation issued under clause (1) of article 356 has to be approved by both Houses of Parliament, but the Bill in question is sought to be introduced in Lok Sabha in pursuance of the provision contained in article 357(1). This article says: "Where by a Proclamation issued under clause (1) of article 356..." it does not say, "Where by a Proclamation issued by the President and approved by the two Houses"... It merely says: "Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent for Parliament to confer on the President the power of the Legislature of the State to make laws, etc. etc." It will be seen from this article that the approval of the Proclamation by Parliament is not a necessary pre-requisite to the conferring of the legislative power on the President. This is further apparent from the fact that a Proclamation may remain in force under article 356(3) of the Constitution for two months even without the approval by Parliament. The Proclamation was issued on November 15, and so till January 15 it can be held in force even without the approval of Parliament, and the right to confer power

to legislate may be exercised even though the approval of the Legislature to the Proclamation has not been obtained during this period. Thus there is no violation of the Constitution when this Bill is proposed to be introduced in Parliament even before the approval of the Proclamation by both Houses. All the same, it may be argued that though it is legal, it may not be expedient, and a convention could be set up. It may be said that it will be constitutionally more appropriate to wait until the Proclamation has been approved and then introduce the Bill contemplated. I do not think that even of this constitutional propriety there has been a violation.

I sent for the notice of the Lok Sabha. It does not specify the hour when it is to be introduced. It is out of consideration for the resolution approving the Proclamation to be passed by this House that the hour has not been specified. So, what the Home Minister proposes to do is to move for leave to introduce the Bill today in the fond hope and expectation that he had that our House would get the resolution through as soon as possible and not have a very long and elaborate discussion. But we always take a long time. All the same, he has not specified the hour when it is to be introduced there.

Therefore, I feel that the motion for the introduction of the Bill included in the list of business of Lok Sabha does not involve any disrespect to Rajya Sabha, and there is no violation of the Constitution and no violation of any propriety in the matter.

(R.S. deb. dt. 30.11.1954, Cols. 348-51)

563. Privileges: Contempt: If the Government denies the existence of a proposal in the Council but happens to come to a positive conclusion on it later, no charge of having misled the House can be levelled against the Government nor can a question of a breach of privilege and contempt of the House be raised

On 25 July 1966, Shri Bhupesh Gupta referring to his notice of a motion of privilege against the Minister of State in the Ministry of Finance, Shri B. R. Bhagat, and against the Government, charged that the Minister and the Government had misled the Council and had committed contempt of the Council by denying on 30 March 1966 that

there was any proposal from the World Bank and other international agencies for the devaluation of the Indian Rupee while as a matter of fact the proposal seemed to have been under consideration all along since the Government had announced the devaluation of the Rupee on 6 June 1966. In this connection, he referred to starred question no. 853 on 30 March 1966, as to whether it was a fact that the World Bank and other international agencies had proposed to the Government for the devaluation of the Indian Rupee and the Minister's answer was 'No, Sir', and also to the categorical statement given by the Minister of State in the Ministry of Finance, while replying to the debate on the Appropriation Bill that there was no question of devaluation as far as the Government was concerned. The member's contention was that the Minister had given such replies in spite of his positive knowledge that the proposal to devalue the Rupee was under the active consideration of the Government. Shri G. Murahari supported that point of view. The Leader of the Council, Shri M. C. Chagla, asked the House to take into consideration the relevant dates namely, 28 March 1966 when Shri B. R. Bhagat had given his reply and 6 June 1966 when the announcement of the devaluation of the Indian Rupee was actually made and asked whether it was not open to the Government, on re-consideration, to change its policy between 28 March and 6 June. He also requested the Council to bear in mind the very important distinction between a proposal and a suggestion or advice. While no foreign agency had any business to propose to the Government of India as to what their economic policy should be, it was not precluded from making a suggestion or giving an advice. He submitted that the Finance Minister was completely justified in having denied that there was any proposal from the World Bank or other international agencies to the Government of India for the devaluation of the Indian Rupee. The Chairman said that he would study the question and give his ruling later on.

On 26 July 1966 the Chairman, reverting to this subject, said:

At the sitting of the Rajya Sabha yesterday (July 25, 1966) Shri Bhupesh Gupta and Shri Godey Murahari sought my permission to raise a question involving a breach of privilege and contempt of the House. I allowed the two members to make their submissions in the House in order to satisfy me that there was a *prima facie* case for giving consent. I allowed

also the Leader of the House and Shri B.R. Bhagat, Minister of State in the Ministry of Finance, to explain their point of view on the question of alleged breach of privilege. After a careful consideration of the points raised and views expressed, and having regard to the precedents and practice in this behalf, I have come to the conclusion that no *prima facie* case involving a question of breach of privilege or contempt of the House has been made out. I accordingly withhold consent to raising the question.

(R.S. deb. dt. 25.7.1966, Cols. 95-111;
26.7.1966, Cols. 266-67)

564. Privileges: Contempt: If a Minister claims that he made a statement in the Council on the basis of information he had at the time; a mere allegation that he made a wrong statement, cannot amount to contempt of the House

Shri Bhupesh Gupta wanted to enquire about his calling attention notice regarding a report in *The Statesman* about the so-called plan of the Left Communist Party. The Minister of State in the Ministry of Home Affairs, Shri Jaisukhlal Hathi, said that he was very much surprised to see the report that it should claim to be based on information supplied by the Ministry of Home Affairs. He categorically denied that any such information as was mentioned in the report had ever been given by the Ministry of Home Affairs.

The Statesman of New Delhi in its issue of 26 August 1966, under the heading "Home Truth" repudiated the statement made by Shri Jaisukhlal Hathi and continued to claim that its report of 11 August was indeed based on information given by the Ministry of Home Affairs.

Shri Bhupesh Gupta and Shri Rajnarain gave notice of a question of breach of privilege against Shri Jaisukhlal Hathi for his alleged wrong statement in the Council on 11 August 1966.

On 27 August 1966 the Chairman, reverting to this, ruled:

Shri Bhupesh Gupta and Shri Rajnarain gave notice of a question of breach of privilege against Shri Jaisukhlal Hathi, Minister of State in the Ministry of Home Affairs, in relation to a statement made by him in the Rajya Sabha on August 11, 1966, concerning

a report which appeared in *The Statesman* of New Delhi, dated August 10, 1966, under the caption "Sabotage plans by C.P.I. claimed". In the notice they drew my attention to an editorial appearing in the same paper of August 26, 1966 under the heading "Home Truth" which, according to the two members, "virtually repudiates the statement made on behalf of the Ministry of Home Affairs on August 11, by Shri Jaisukhlal Hathi." The Notice further added that the issue should be referred to the Privileges Committee so that "the Committee can find out the truth or otherwise of the statement of Shri Hathi made in the House on the 11th."

At the sitting of the House yesterday (26.8.66) I permitted Shri Bhupesh Gupta, Shri Rajnarain and some other members to make their submissions on the question whether I should give my consent to raising the matter in the House as a question of breach of privilege. I also permitted Shri Gulzarilal Nanda, Minister of Home Affairs, and Shri Jaisukhlal Hathi, Minister of State in the Ministry of Home Affairs, to make their submissions in the matter.

In coming to a decision on the question whether I should give my consent in this matter, the test I have to apply is whether by his statement in Rajya Sabha on August 11, in respect of the particular report in *The Statesman*, Shri Hathi had said anything which he knew to be untrue and thereby misled the House. The exact words used by Shri Hathi on that occasion were as follows:

Sir, so far as the first subject raised by Shri Bhupesh Gupta is concerned, namely, the report that appeared yesterday, I may say that I was surprised to see the report that it should claim to be based on information supplied by the Ministry of Home Affairs. I state categorically that no such information as is mentioned in the report has been given by the Ministry of Home Affairs.

Shri Bhupesh Gupta and some other members in the course of their submissions in the House on 26 August 1966, referred to certain details given in the editorial of *The Statesman* of the same date concerning the publication of the impugned report in the paper on August 10. For the purpose of dealing with the breach of privilege charge against Shri Hathi, they do not seem to be strictly relevant.

I asked Shri Hathi on August 26 whether he wished to say anything in regard to the matter, in view of the editorial of *The Statesman* and in the light of the submissions made in the House. Shri Hathi reiterated the stand that he had taken earlier and said:

So far as I am concerned, Sir, I may say that at the time I made the statement I had made it according to my knowledge, that the Home Ministry or none from the Home Ministry had given this information outside. That is what I knew. As regards the subsequent letter and other news, I am not concerned at this time. When the statement was made I knew what I said and I said what I knew.

On the submissions made before me, I am unable to hold that a case has been made out to prove that Shri Hathi made any statement in this House which he believed to be untrue of August 11, 1966, and that he attempted to mislead the House. I accordingly withhold my consent for raising the question of breach of privilege.

In the normal course, a matter like this would not have probably come before Parliament. In the present case, since the report made certain serious allegations against a political party and the source of the report was alleged to be the Ministry of Home Affairs, the matter was raised in Parliament. The precise source of the information, one may say, still remains somewhat obscure. Government should, I feel, therefore, inquire as to how and under what circumstances the newspaper gave the source of its information as the Ministry of Home Affairs.

(R.S. deb. dt. 10.8.1966, Cols. 2147-48; 11.8.1966, Col. 2316; 26.8.1966, Cols. 4252-70; 27.8.1966, Cols. 4353-55)

565. Privileges: Contempt: Members should not do anything which may amount to contempt of the House

On 22 February 1978, while Shri Nageshwar Prasad Shahi was speaking about the disrespect shown to Shri Jagjivan Ram earlier at Varanasi, some of the observations that he made were not to the liking of Shri Piare Lall Kureel *urf* Piare Lall Talib who, in a fit of emotion, went across the floor and physically restrained Shri Shahi from speaking. Many members objected to this kind of behaviour on the part of Shri Kureel who later apologised to the House and the matter was left

at that. But the following day, Shri Sujan Singh, another member of the House, wanted to give notice of a breach of privilege against Shri Kureel for his unparliamentary conduct in the House the previous day. The Chairman disposed of the notice saying that since Shri Kureel had expressed his apology to the House, the matter should be treated as closed and, in the process, the Chairman observed:

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.

(R.S. deb. dt. 22.2.1978, Cols. 108-09)

566. Privileges: Contempt: Reaction should be given in response to a discussion held in the House with care and caution

Shri A. G. Kulkarni raised a question of breach of privilege under rule 187. The matter arose out of a motion passed by the Pune Municipal Corporation for the censure of Shri Harkishan Singh Surjeet. In that motion, the Corporation referred to a discussion in which Shri Surjeet had earlier participated in the House. Shri Kulkarni said that in that discussion Shri Surjeet had asked, "Why was the Pune Municipal Corporation allowed to participate in the procession?" The Minister of State in the Ministry of Home Affairs and the Department of Parliamentary Affairs, Shri P. Venkatasubbaiah, while replying, referred to the participation of an elephant. That was what Shri Surjeet had meant or Shri Venkatasubbaiah had understood. In Marathi, *Hathi* meant an elephant and *Hath* meant hand. *Hath* would mean he had something to do with that work. He further stated that the whole mischief seemed to have started out of a wrong interpretation of PTI news and further information provided by the daily *Sakal* of Pune. Shri Surjeet then requested the Chairman not to take the matter lightly as free discussion in the House would be made difficult if an elected body, on the basis of press reports, passed a resolution casting aspersions on the House as well as individual member.

The Chairman gave the following ruling:

It appears that the Municipal Corporation of Pune acted in haste without ascertaining the facts and adopted the adjournment motion on the basis of a news agency report. It is expected of the Municipal Corporation to take proper care before they proceed to criticise this House or any of our members. That is not only a matter of caution but also of courtesy. I do not think that at this stage this House should be troubled to take action. I am sending the proceedings of both the days to the Corporation so that they will make suitable amends.

I hope the House will agree with me.

(R.S. deb. dt. 25.3.1982, Cols. 163-69)

567. Privileges: Contempt: Vague charges against members without imputing any *mala fide* are not treated by the House as a contempt or breach of privilege

Members gave notices of breach of privilege saying that since the Ram Swaroop espionage case had been given wide publicity, their public image had been tarnished and as such they had been deterred from discharging their duties as Members of Parliament.

The Chairman observed:

Just before the current session commenced, I had received privilege notices given by Shri P. Upendra, Shri M.S. Gurupadaswamy, Shri Pyarelal Khandelwal and Shri S.P. Malaviya pointing out that their names were mentioned in the charge-sheet in the Ram Swaroop espionage case which had been given wide publicity thereby tarnishing their public image and deterring them from discharging their duties as Members of Parliament. Referring to certain excerpts from the charge-sheet, Shri Khandelwal and Shri Malaviya stated that their conduct as members was sought to be questioned by implying in the charge-sheet that they have been putting questions in Parliament at the behest of certain foreign powers and had thus succumbed to extraneous influences in the discharge of their parliamentary duties. Shri Upendra and Shri Gurupadaswamy contended that there was "a clear motive to defame and bring down their reputation" and this had "adversely affected their rights and

privileges". Prof. C. Lakshman and Shri B. Satyanarayan Reddy also supported the contention of these members in their separate notices.

I have given most anxious consideration to the matter. It is well settled that in order to constitute a breach of privilege any libel or charge against a Member of Parliament must concern his character or conduct in his capacity as a member of the House and must be "based on matters arising in the actual transaction of the business of the House". Similarly, vague charges against members without imputing any *mala fides* are not treated by the House as a contempt or breach of privilege. In this context, I feel that the mere mention of names of members in the charge-sheet in the Ram Swaroop espionage case explaining the *modus operandi* adopted by the accused Ram Swaroop for establishing contacts for furtherance of his dubious pursuits, *per se* does not involve any *mala fides* on the part of the members concerned.

Moreover, these members have neither been implicated as co-accused persons nor even cited as witnesses.

The Prime Minister himself is reported to have stated on this issue as follows:

One point to bear in mind regarding...(I am omitting reference to members of the other House) all those whose names have been mentioned in the case - is that none of these people have been charged with anything. There is no charge as such.

The Home Minister, in a communication addressed to me has confirmed that in the relevant case the only accused persons are Shri Ram Swaroop Sabharwal and Shri Javed Siddiqui and no charges have been laid against any other person.

Since it is apparent that no charges have been made against the members of this House, no question of breach of privilege arises and I withhold my consent for raising the matter as an issue of breach of privilege either of the House or of its members.

I wish, however, to add that though I have withheld my consent to the raising of the issue either as a privilege or otherwise, I am not oblivious to the feelings of the concerned members in the matter. As public men and political leaders, they are quite naturally exercised and concerned over the newspaper reports about them. I, therefore, afforded them an opportunity to make

personal explanations in the House which is the highest forum available to its members. The members concerned have clarified their positions before Parliament and the country. I feel that the matter should be allowed to rest with these remarks.

(R.S. deb. dt. 18.3.1986, Cols. 210-12)

568. Privileges: Contempt: To constitute a breach of privilege or contempt of the House it has to be proved that the statement was not only wrong and misleading but it was made deliberately to mislead the House

On 12 May 1987, the attention of the Chairman was drawn in the House to a notice of breach of privilege given by Shri L. K. Advani and others against the Prime Minister. The notice was in respect of a statement made by the Prime Minister in Rajya Sabha on 28 April 1987, to the effect that while finalising the deal relating to Swedish Howitzer guns, the Government had secured a confirmation from the Bofors Arms Company as well as from the Swedish Government that there would be no middlemen in the same deal. The members objected to the statements saying that these were misleading on the basis of remarks purported to have been made by the Minister of Foreign Trade, Government of Sweden on 29 April 1987, in a press conference.

The Chairman made an indepth study of the grounds given in the notice of breach of privilege by Shri Advani and consulted Kaul and Shakher, third edition, page 234, where it is written that—

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 and, misleading but it was made deliberately to mislead the House. A breach of privilege can arise only when the member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly.

The Chairman later observed:

In view of the fact that the first part of the Prime Minister's statement is based on the *Aide Memorie*, an official document from the Swedish Embassy and the second part that "Prime Minister Olof Palme told me that there are no middlemen" has

not been contradicted by any one with personal knowledge of these talks, the Prime Minister's statement is neither incorrect nor deliberately made to mislead the House.

I, therefore, hold that the charge of breach of privilege against the Prime Minister is not sustainable. I withhold my consent to raising the question as a breach of privilege.

(R.S. deb. dt. 12.5.1987, Cols. 15-18)

569. Privileges: Members: If a member thinks that he is impeded in the performance of his duties, he can bring it to the notice of the Chairman, either in his Chamber or by writing to him

Shri Rajnarain alleged that a member of the Council had been harassed by the Delhi Police. Shri I. K. Gujral, rising on a point of order, submitted that members should not be allowed to use the Council as a forum for ventilating their personal propaganda, thus getting a place for it in the press. He said that anything which was not mentioned in the order paper should not be allowed to be brought on the floor of the Council, as it would amount to an infringement of the rights of other members.

The Chairman observed:

I do not think so. If a member has a grievance and thinks that he is impeded in the performance of his duties, he has to bring it to my notice. He can bring it to my notice in my Chamber or by writing to me.

(R.S. deb. dt. 15.11.1966, Cols. 1194-96)

570. Privileges: Members: The privilege of freedom from arrest is limited to civil cases only and does not extend to cases of arrest and detention under the criminal law. In cases of arrest of a member, the concerned authorities must promptly intimate the Presiding Officer of the House stating the reason for the arrest, detention or conviction as also the place of detention or imprisonment

On 23 November 1966, Shri G. Murahari and Shri Rajnarain gave separate notices seeking the Chairman's consent to raise questions involving a breach of privilege arising out of their arrest in New Delhi

under certain provisions of the Criminal Procedure Code. The Chairman permitted both members to explain their cases in the Council at the sitting held on the same day. Both members also charged that the statement of the Home Minister, Shri Y. B. Chavan, on 21 November 1966 that both of them were in judicial custody was incorrect and, therefore, he had also committed a breach of privilege by misleading the Council. The Home Minister made a statement on 25 November 1966 clarifying his earlier statement regarding the two members being in judicial custody.

On 5 December 1966, the Chairman, reverting to this subject, ruled:

On November 23, 1966, Shri Gaure Murahari and Shri Rajnarain gave separate notices seeking my consent to raise questions involving breach of privilege arising out of their recent arrest in New Delhi under certain provisions of the Criminal Procedure Code.

I permitted both the members to explain their case in the House at its sitting held on the same day. On November 25, 1966, I permitted Shri Chavan, Minister of Home Affairs, against whom also the two members had made charges of breach of privilege, to make a statement on the subject.

On November 21, 1966, in reply to a query, Shri Chavan, the Home Minister, had informed the House that the two members were in judicial custody. This statement that the members were in judicial custody, it has been contended, was incorrect and that the Home Minister had, therefore, committed a breach of privilege by misleading the House. 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 communication 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.

Shri Gaure Murahari has further contended in his notice that while the Sub-Divisional Magistrate in his communication stated that the arrest was under section 114 of the Criminal Procedure Code, he (the Sub-Divisional Magistrate) had not mentioned section 107, and, therefore, had not "conformed to the requirement of the Constitution and Rules of Procedure of the Rajya Sabha." It is not clear as to what Shri Gaure Murahari seeks to make out of this complaint. 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 breach of privilege when the reason for the arrest has been clearly stated in the communication. I, therefore, hold that on this point also there is no breach of privilege involved.

Shri Rajnarain has complained that the Government got him "arrested in an illegal and unlawful manner out of nothing but malice" against him. He has contended that there was no due compliance with law in the matter of his arrest and detention. He has further contended that he had applied for release on bail on November 16, 1966, but the action taken on the bail application was not made known to him. The intimation sent by the Magistrate to the House, according to Shri Rajnarain, was misleading as it failed to give correct information, and, therefore, "derogatory to the prestige, and an insult to the members and a breach of privilege of the House." 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.

(R.S. deb. dt. 23.11.1966, Cols. 2466-83; 24.11.1966, Cols. 2652-53; 25.11.1966, Cols. 2867-76; 5.12.1966, Cols. 4134-37)

571. Privileges: Members: Censoring letters addressed to members does not constitute a breach of privilege of the House. This, however, should not involve any *mala fide* action or interference with the legitimate duties of members

On 31 August 1981, the Deputy Chairman gave the following ruling regarding the notices of breach of privilege given by Shri Lal K. Advani and Dr. Bhai Mahavir against Shri C. M. Stephen, the Minister of Communications:

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'ble 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'ble 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 authorized 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 in 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 officers specially authorized 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 authorization 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 privilege 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 situations before. In 1960, when an hon'ble 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'ble 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 of 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. (*Privilege 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 it.. but, as a privilege, I am not entertaining it.. I cannot give any protection to any M.P. against any law. (*Privilege 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 Speaker turned down a notice of breach of privilege. He quoted with approval of precedent from the Parliament of Commonwealth of Australia in 1944 and referred to the debates of the Madras Legislative Assembly where Shri Kalyanasundaram in 1954 had made a similar complaint. In Australia it was ruled by a Special Committee thus:

That the opening by the censor 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 Jakhra, 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 *mala fide* action or interference with the legitimate duties of hon'ble 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 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 realize 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.

(R.S. deb. dt. 31.8.1981, Cols. 164-68)

572. Privileges: Members: There should be no *mala fide* action or interference with the legitimate duties of the members

On 8 March 1984, during zero hour, Shri V. Gopalsamy raised a matter regarding a notice of privilege given by him against the Chief Secretary of the Tamil Nadu Government, Special Branch CID SP, Madras and the Superintendent of Police, Tirunelveli for passing an order which stated that in the interest of public security and tranquility, all postal articles addressed to Shri V. Gopalsamy or emanating from him should be subjected to censorship. In this connection, when the member was referring to the ruling given by the Chairman on 31 August 1981, wherein an Australian precedent was quoted by him, the Chairman intervened and observed as under:

You remember that sometime back there was a question raised about tapping of telephones and at that time I gave a ruling. I knew that you are going to mention this. So I again reiterate what I said then. I must, however, say that any *mala fide* action or, interference with the legitimate duties of the hon'ble members of this House, if proved, will not have the protection of this ruling. I repeat with respect the observations of the hon'ble Speaker:

I would permit myself one observation before concluding this subject that this is about communications sent by my office including the Lok Sabha Secretariat to members. I hope the concerned authorities realize that such communications would not attract the attention of the censoring authorities.

The same will apply to this House *mutatis mutandis*.

(R.S. deb. dt. 8.3.1984, Cols. 209-10)

573. Privileges: Members: A member has the privilege to express his views freely in the House

On 4 December 1987, Shri N. K. P. Salve was speaking on the reported remark of the Home Minister against the Chief Minister of

Andhra Pradesh. Shri B. Satyanarayan Reddy objected to certain remarks made by Shri Salve.

Thereupon, the Deputy Chairman observed:

Everybody please sit down. Mr. Reddy, please sit down. One minute. I would like to request the hon'ble members that if you try to raise objection to each and every word that is uttered, this is not...may be his view, and your view may not be the same but he has a right to express his views unless and until it is unparliamentary. He should not say anything which is unparliamentary or against the Rules. But then he has a right to express his views. You cannot take objection to each and every word. You cannot carry on a discussion in this manner. So bear with him. If some different views are expressed, you have to be tolerant. You may not agree with those views. So please. I once again request all the hon'ble members to carry on the business smoothly.

(R.S. deb. dt. 4.12.1987, Col. 211)

574. Privileges: Policy announcements: Policy announcement to the press before it is placed in the House does not constitute a breach of privilege or contempt of the House

On 18 August 1970, when the Minister of Industrial Development and Internal Trade, Shri Dinesh Singh, was about to make a statement regarding the scooter project in the public sector, Shri Lokanath Misra and Shri Lal K. Advani interrupted to point out certain news item in the *Statesman* which contained leakage of the Union Cabinet decision in respect of manufacturing scooters in the public sector. Shri Lal K. Advani said that the leakage to the press amounted to a contempt of the House and requested that the case be referred to the Privileges Committee. The Vice-Chairman replied that he would reserve his judgement for the next day.

Thereafter, on 19 August 1970, the Vice-Chairman gave his ruling:

As I promised yesterday, I will give my ruling.

Some hon'ble members raised a question about the publication of a news item in yesterday's *Statesman* and *Times of India*

regarding the scooter project. The objection was that it was an important matter of policy and that it should have been placed in Parliament before it was released to the press. They further contended that it was a breach of privilege and contempt of the House. I have looked into the facts of the case. The contention of the hon'ble Minister for Industrial Development is that the policy matter had already been decided in October 1969 and that this is, however, an amplification of certain details. He further stated that the news was not released from his Ministry. I have gone through the cases regarding breach of privilege and contempt of the House. It is true that the policy declaration was made in October 1969 and the statement given yesterday is an explanation of further details regarding the same matter. But it contains certain important details. I think this publication is due to the intelligent guesses that appear in newspapers which are always alert and imaginative. Though it does not constitute a breach of privilege or contempt of the House, yet, I think it would be proper if further vigilance is kept so that such things do not recur and the Government is more careful in such matters.

(R.S. deb. dt.18.8.1970, Cols. 251-58; 19.8.1970, Col. 170)

575. Privileges: Policy statements: Not to be made outside the House when the House is in session

On 25 March 1980, while referring to the Presidential Order dissolving the Delhi Metropolitan Council, the Leader of the Opposition, Shri Lal K. Advani objected to the Government announcing its decision to this effect, outside the House when it was in session. He added that it was invariably accepted in all legislatures in India as well as in the House of Commons that if the House was in session, no major policy pronouncement or no important decision of the Government was announced outside the House. He sought the Chairman's ruling on this.

Shri Advani also quoted the following passage from the *Practice and Procedure of Parliament* by Kaul and Shukdher in support of his contention:

According to the parliamentary practice, usage and convention, it is improper, although technically not *prima facie* contempt of the House...

The Chairman observed:

A point of order has been raised. It is not necessary for me to elaborate on it. But I entirely subscribe to that passage in the book. If the House is in session, it should be informed as early as possible, about any such matters, and it should not be delayed. I only hope that in future if the House is in session, the earliest opportunity shall be taken for making a policy statement so that members do not have to read that in the newspapers, to know that.

(R.S. deb. dt. 25.3.1980, Cols. 193-99)

576. Privileges: Policy statements: Not to be made outside the House when the House is in session

Shri Lal K. Advani had on an earlier occasion raised the question of an announcement having been made outside about the Press Commission while Parliament was in session and stated that the House should have been taken into confidence over that matter.

On this, the Chairman observed on 19 June 1980 as follows:

I have on a previous occasion said that if there is any important announcement to be made by the Government, they should make it in the House when the House is in session, as early as possible. I hope this will be followed in future.

The ruling is that if there is a policy statement, Minister should not make it outside the House.

Later, when Shri Lal K. Advani further raised the question that the papers be laid on the Table of the House so that, the House could have an occasion to discuss the announcement made outside the House.

The Chairman observed:

The hon'ble Prime Minister will probably see to it that this is laid on the Table of the House.

(R.S. deb. dt. 19.6.1980, Cols. 146-47)

577. Privileges: Policy statements: Not to be made outside the House when the House is in session

On 18 August 2000, Shri Nilotpal Basu drew the attention of the House to an article published in *The Economic Times*

dated 14 August 2000, wherein details of the National Telecom Policy were given. The member stated that when there was an approved National Telecom Policy why a departure was made and that too outside the House when the session was going on. He raised an issue of privilege. The Chairman agreed to consider the matter and give his ruling later.

On 25 August 2000, the Chairman gave the following ruling:

Hon'ble members may recall that on 18 August 2000, a matter of privilege involving issues related to the National Telecom Policy, 1999, was raised by Shri Nilotpal Basu. Shri Basu, quoting a news report, stated that the Government had announced the guidelines for National Long Distance Service outside the House, when it was in session and that, in these guidelines, the Government had departed from the approved National Telecom Policy, 1999, in particular, in para 3.5. Shri Suresh Pachouri also lent support to the contention of Shri Basu in this behalf. The Minister for Communications stated that there was no departure from the policy and that the guidelines prescribed a procedure. The Minister stated that he had also received a calling attention notice in response to which he had forwarded a copy of the guidelines. I had reserved my ruling on the issue raised by Shri Basu. Subsequently, a notice under rule 187 for breach of privilege of the House has been received from Shri Basu on the subject on 21 August 2000.

I have seen the news-item cited by Shri Basu in the House and also referred to in his notice. I have also seen para 3.5 of the New Telecom Policy 1999 and the copy of the guidelines sent by the Minister in his reply to the calling attention notice. The wording in the news item in question varies from the provisions actually given in the guidelines. The guidelines appear to be in the nature of an operational, rather than a policy document. Also para 3.5 of the New Telecom Policy does not explicitly say that intra-circle SID will be only reserved for fixed service providers. As such, the provisions in the guidelines do not appear to be a violation or alteration of the New Telecom Policy, 1999.

Hon'ble members, it has been held by the Presiding Officers of both the Houses on a number of occasions, including on 10 August 1970, 19 August 1970 and 19 August 1985, in this House that no privilege of the House is involved if statements on matters of public interest are not made first in the House. Normally,

it is the practice that when Parliament is in session, the Government should make all policy statements in the House and not doing so would be highly improper. However, in the present case, the statement made by the Minister to the press, though a matter of public interest, is not a policy statement, it would seem that the impression in this regard is based on a newspaper report, which does not exactly reproduce faithfully the text of the guidelines. Therefore, I find that the announcement of the guidelines for a National Long Distance Service by the Government outside the House does not appear to constitute a breach of privilege of the House, and the matter may be treated as closed.

(R.S. deb. dt. 18.8.2000, pp. 234-38; 25.8.2000, pp. 426-27)

578. Privileges: Press: The matter can be dropped if the Editor publishes his apology and expression of regret prominently in his newspaper, in case he commits no *suppressio veri* or *suggestio falsi*

On 26 June 1980, Shri Bipinpal Das had sought to raise a question of privilege against the Editor of *The Assam Tribune*, Gauhati, for misreporting his speech in Rajya Sabha delivered on the 9 June 1980. The matter was referred to the Editor who stated in his reply that he had already published the summary of the speech of the member, as delivered in the House, under the caption 'Not Actually Reported'. While regretting the discrepancies in the member's speech as earlier reported, the Editor assured that there had been no deliberate attempt to malign or tarnish the member's political image. The Chairman further asked for an unqualified apology from the Editor to be printed in an issue of *The Assam Tribune* at a prominent place.

Against the above background, on 24 July 1980, the Chairman observed as follows:

The Editor has since published his apology and expression of regret in the issue of *The Assam Tribune* dated the 13 July 1980. In view of the publication of the expression of regret and apology by the Editor, if the House agrees, the matter may be treated as closed.

In this connection, I would like to observe that the press should be circumspect in reporting the proceedings of the House. In

another case, during the last session the name of an hon'ble member was wrongly reported when another hon'ble member had spoken. If there is editing with a view to *suppressio veri* or *suggestio falsi*, then in my sole judgement I shall take appropriate action. I hope that misreporting and such other things will not occur in future.

(R.S. deb. dt. 24.7.1980, Cols. 85-86)

579. Privileges: Press: Misreporting by the press may be taken as unworthy of notice by the House

Ruling on the privilege motions against the authors of an article and Editorial published on 29 July 1982 in *The Indian Express* and *The Times of India*, respectively, the Chairman said:

I have an announcement to make. On 29 July 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 Mohi-ud-din Shawl. Since I gave my ruling rejecting diverse notices for breach of privilege for action against an hon'ble 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'ble 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 cannot except in some cases mentioned by me, troubled me not a little. It was only out of solicitude for the rights of members 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 arises 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'ble members who had resigned because they thought I was denigrating them now feel reassured and are happy. This ends this event happily.

Remain 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 the present issue are contradicted by some other newspapers. Hon'ble members will recall that one of these same newspapers described, *inter alia*, the hon'ble 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 judgements, one of which has 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.

Shri Pilloo Mody was not satisfied with the ruling of the Chair. He asked the Chair, "If you find that there is some anomaly, that anomaly has to be removed".

On this the Chairman further observed:

In my previous ruling I had said that I am sympathetic and that this anomaly must be removed. Today, I have received a letter from Mr. Morarka, which says that if we have to work on the Committees, we should have the same rights of privileges and on motions as the members of the other House have. That is something which I am prepared to consider in consultation with the Speaker and other members and the Leader of the House. That is a matter which we will have to do with deliberation. But you precipitated matters, if I may say so, by looking at my opinion or ruling as if I was trying to belittle you. I was not. I never do.

(R.S. deb. dt. 2.8.1982, Cols. 145-48)

580. Privileges: Press: Question of privilege raised against a journalist for his write-up regarding Parliament; the observations of the writer may be ignored

Shri Vithalbhai M. Patel had given a notice of breach of privilege against Shri Kuldip Nayar for his write-up under the heading "Parliament

must be given back its dignity", published in the weekly magazine *Sunday* of July 24-30, 1983. Among other things, Shri Kuldip Nayar had made the following observations in that write-up:

But in India, the Lok Sabha Speaker and the Rajya Sabha Chairman behave as if they have to carry the Government on their shoulders. Both, more loyal than the queen, come to the rescue of the Government whenever it is driven to a corner.

The Chairman observed on the notice:

I do not see why this statement should worry the hon'ble member when it does not worry me. I thank God that he did not endow me with the brand of impartiality which journalists, like the present one, probably profess. I have the brand of impartiality which a person having to decide conflicting claims must have. Mr. Justice A.N. Sen of the Supreme Court is reported to have observed recently:

We have to do justice. We do not have to please Editors.

I say the same in this context, and having said it, I suggest to the hon'ble member to ignore it as I do.

(R.S. deb. dt. 29.7.1983, Col. 204)

581. Privileges: Press: Writings of journalists appearing in newspapers, criticizing the Members of Parliament with deliberate intent, are not worth the serious note and do not constitute breach of privilege

A number of members had given notice of breach of privilege against Shri Khushwant Singh, a member of the House and a professional journalist in respect of his well known column headed "With Malice Towards One and All", appearing in *The Hindustan Times* of 6 August 1983. The first gravamen of this charge was that in that column, Shri Khushwant Singh had extracted, and indirectly applied to Members of Indian Parliament, certain passages from the writing of an English author. That author had criticised politicians generally and in particular the Members of Parliament for voting in their own favour to raise their own emoluments.

On this matter the Chairman observed:

That there has been criticism in England over the move of Members of the British Parliament to vote increases in their pay packets is a fact well-known. The English author described them as overpaid and over-privileged. The English author had used very strong language, but the impugned writing, after quoting the passages, asked whether anyone in India could use the same language about the Members of the Indian Parliament and get away with it. The impugned writing avers here that Indians also do not hold politicians in esteem and although people speak of them as a bunch of thieves, none dare say that in writing or in print. After quoting some very sizzling passages from the English author, the impugned writing goes on to promise that the writer would himself vote against the proposed increase in the emoluments of the members.

Thus Shri Khushwant Singh has used another writer's words but described the original context in which they were used and in this clever manner not exposed himself. As he is a Member of Parliament and thus potentially a politician, what he says applies to him also. He is careful enough not to say anything directly about any member and has only drawn a parallel. He reminds one of Dr. Johnson who wishing to criticise a lawyer said, "Sir, I could say many things about him but I must not forget that he is an attorney." Shri Khushwant Singh is aware of the privileges of this House and thus merits the description of Addition by Pope, "Willing to wound but afraid to strike". He may be left to his wishes and also to his fears. If politics is bad and membership of Parliament is not to be commended, it is good for him to remember that a man is known by the company he keeps.

Next, the impugned writing goes on to discuss another topic which is headed "What is dogsbody?" It is explained by him that this expression was applied first to a midshipman, the junior most officer on a naval ship, and it was next applied to a new Member of Parliament. I have not looked into the etymology of the word. I accept what he says. The writer is himself a Member of Parliament and a new member to boot, so presumably he is himself a dogsbody. But the hon'ble member goes on to give an account of what he calls *homo sapiens ambitionicus*. As there is no such expression in Latin, I take it that a dogsbody may be

entitled to use dog Latin. What he perhaps means is ambitious. That word is almost never used in the finer sense of ambition namely, eagerness for praise, power, glory, etc. but is used to describe the low character of a person who obsequiously and often illegally courts public favour. Those who canvas for praise, etc. are described by the word *ambitio*. Then follows a description of *Chamchas*, that is flatterers and this confirms that Shri Khushwant Singh is attacking those who obsequiously and illegally seek public favours. He, however, generalises and tars all members with the same brush.

As I do not sit in the House after 12 noon, I have not been privileged to see the behaviour of *Chamchas*, if any and equally I have not seen the hon'ble member in operation. But it is certainly wrong to label dogmatically every member of a party as dogsbody and describe his behaviour as canine fawning for favour.

A dog is a dog whether he be shaggy or smooth because as Macbeth said, they are all 'clept by the name dog'. Therefore, for one dogsbody to call another dogsbody names savours of a mild case of Dogberryism. Indeed, there are many doggerels and lampoons written on Members of Parliament. One such is very famous but I will not recite it here. Such writings are not worth serious notice and I have, therefore, decided to drop this matter with these remarks.

(R.S. deb. dt. 16.8.1983, Cols. 233-36)

582. Privileges: Press: Contempt: General and sweeping remarks are beneath notice and to be treated with contempt

On 7 December 1981, Shri Arvind Ganesh Kulkarni had given notice of breach of privilege against Shri Prem Shankar Jha in respect of a signed article entitled "Black Money and Crime" which was published that day in *The Times of India*. The article commenced with the sentence, "Dacoits, smugglers and bootleggers are now honoured members of the Legislatures."

On 22 December 1981, the Chairman observed as under:

In accordance with the practice of the House, I directed that the writer may be asked to explain. The Editor, Shri Girilal Jain, has

chosen to reply. The Editor has made the point that as there is no reference at all to Rajya Sabha, the matter cannot be raised here. This is disingenuous in the extreme. General statements of this type may not escape only because, when examined piecemeal, none of the Houses of Parliament or Legislatures can be held to be directly referred to although the statement must be held to cast a slur on all of them. It is then not a libel of any particular member or of any particular House but a libel in gross.

One does not know what the writer or the Editor seeks to achieve by such a sweeping calumny. It is purposely made general to afford shelter to the writer against action from a member of a House of Legislature and also from individual Houses of Legislatures. Indeed, the Editor gives himself away when he says:

As you know the country's libel laws as they stand expose a newspaper to the risk of inviting the charge of defamation and the harassment it causes (if) it names any legislator. If we do not name anyone it does not follow that the newspaper is impugning the integrity of all legislators in the country. The English language does not admit of any such interpretation.

Therefore, if you are afraid to charge a newspaper for being in the pay of a foreign country, you have only to say that all of them are in the pay! The wording has been cleverly chosen not out of one's strength of conviction but out of fear of another kind of conviction. When Shri Kulkarni spoke of the "permissive atmosphere" in the country, the Editor protested that it implied that the description was applicable to *The Times of India*. The impugned sentence mentions "dacoits", "smugglers", "boot-leggers" and "legislators"... This profuse employment of the plural number discloses an intention to traduce legislative institutions generally and it may well have been deliberately employed to show that legislators are universally tainted. This construction, the English language does admit.

The question, however, remains whether the custom and usage of this and other Parliaments allow that notice be taken of such scurrility. On the whole, all agree that such writings are beneath notice and may be treated with contempt. I accept this conclusion in this case.

Shri Kulkarni also referred to some observations I made in another case. I had then said: "Newspapers always look into things closely and critically."

I held that the writer there was "doing a journalistic duty according to his lights". That writer had interpreted the evidence in a way which was not acceptable on a proper examination of facts. His fault was that while reaching a conclusion, he used intemperate language and I deprecated this. I left him free to hold his own views while he did his journalistic duty, only pointing out that evidence did not really lead to his conclusion. This case has not even this saving grace but as its generality is destructive of its own purpose, I have chosen not to take action. 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. Then the House will never hesitate to do its duty towards itself. This is not that case and what I have said is sufficient and I let the matter stand.

(R.S. deb. dt. 22.12.1981, Cols. 202-04)

583. Privileges: Press: Leakage of information: It does not constitute breach of privilege, unless proved that the information was officially given

On 10 August 1970, while the Deputy Minister in the Ministry of Industrial Development and Internal Trade was making a statement regarding manufacture of cars in the public sector, Shri Rajnarain interrupted to say that the information had already appeared in the press and as such the Deputy Minister was wasting the time of the House.

Shri A. D. Mani protested against Ministers talking to correspondents of papers and getting news published while Parliament was in session.

Shri R. T. Parthasarathy maintained that this was a breach of privilege of the House. The Leader of the Opposition, Shri S. N. Mishra

and Shri Lal K. Advani also took serious objection to the leakage of cabinet decisions and discussions.

The Deputy Chairman observed:

The main question is whether there was any official statement issued by the hon'ble Minister. If it is, then it is definitely a question of privilege..There is nothing to show that the statement was officially issued to the press by the Minister or the Ministry..But I can only say that it is really the responsibility of the Government to see that such important decisions do not appear in the press and I hope the Government would take every precaution to maintain the secrecy of such important documents and decisions..There is no definite information given by any hon'ble member to show how this information leaked out and how it was published..According to the decisions previously taken in this House as well as in the House of Commons, which have been reported in the book on parliamentary procedure, it could be a highly improper thing..It may amount to breach of courtesy but not to breach of privilege. Therefore, no question of breach of privilege is involved.

(R.S. deb. dt. 10.8.1970, Cols. 136-63)