

COMMITTEE OF PRIVILEGES

(FIFTH LOK SABHA)

SEVENTH REPORT

(Presented on the 5th April, 1974)



**LOK SABHA SECRETARIAT
NEW DELHI**

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Corrigenda to the Seventh Report
of the Committee of Privileges
(Fifth Lok Sabha)

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12	6	"grounds" to the Speaker, Lok Sabha, simultaneously when those	grounds are supplied to the detenu under the relevant law providing for preventive detention.

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PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(1973-74)

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Frank Anthony
3. Shri H. K. L. Bhagat
4. Shri Somnath Chatterjee
5. Shri Darbara Singh
6. Shri H. R. Gokhale
7. Shri Nihar Laskar
8. Shri B. P. Maurya
9. Shri H. N. Mukerjee
10. Shri K. Raghuramaiah
11. Shri Vasant Sathe
12. Dr. Shankar Dayal Sharma
13. Shri Maddi Sudarsanam
14. Shri R. P. Ulaganambi
15. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri B. K. Mukherjee—*Deputy-Secretary.*

Shri J. R. Kapur—*Under Secretary.*

**SEVENTH REPORT OF THE COMMITTEE OF PRIVILEGES
(FIFTH LOK SABHA)**

I. Introduction and procedure

I, the Chairman of the Committee of Privileges, having been authorised by the Committee to submit the Report on their behalf, present this their Seventh Report to the House on the question of privilege raised¹ by Sarvashri Birender Singh Rao and Madhu Limaye, M.Ps., regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P., on the 25th April, 1973, and referred² to the Committee by the House on the 15th May, 1973.

2. The Committee held nine sittings. The relevant minutes of these sittings form part of the Report and are appended thereto.

3. At the first sitting held on the 20th June, 1973, the Committee directed that the Posts and Telegraphs Department be asked to furnish to the Committee a copy of the telegram stated to have been sent to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur on the 26th April, 1973, regarding the arrest of Shri Jambuwant Dhote, M.P., together with the time of receipt of the message at Nagpur Telegraph Office and the time of its transmission to Delhi. The Committee also decided that it was not necessary to call Sarvashri Birender Singh Rao and Madhu Limaye, M.Ps., who had raised the question of privilege in the House, before the Committee for oral evidence.

4. At the second sitting held on the 9th August, 1973, the Committee directed that the Commissioner of Police, Nagpur, be asked to explain the delay of about 21 hours between the time of arrest of Shri Dhote and the sending of the telegram intimating his arrest and detention to the Speaker, Lok Sabha.

5. At the third sitting held on the 12th September, 1973, the Committee decided that Shri H. R. Gokhale, Minister of Law, Justice and Company Affairs and a member of the Committee, might be requested to give to the Committee a note containing his considered views on the implications of the words "indicating the reasons for arrest, detention or conviction" used in Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha. The Committee also decided that the Commissioner of Police, Nagpur, be called to appear before the Committee in person for oral examination.

1. L.S. Deb., dt. 15-5-1973. cc. 6-18.

2. Ibid.

6. At the fourth and fifth sittings held on the 31st October, 1973, the Committee deliberated on the matter and examined Shri V. V. Naik, Commissioner of Police, Nagpur, in person.

7. At the sixth sitting held on the 19th December, 1973, the Committee deliberated on the matter and arrived at their conclusions.

8. At the seventh, eighth and ninth sittings held on the 19th December, 1973 and 24th January and 13th and 25th March, 1974, the Committee considered their draft Report and adopted it.

II. Facts of the Case

9. On the 27th April, 1973, Shri Dinen Bhattacharyya sought to raise³ a question of privilege in respect of the detention of Shri Jambuwant Dhote, M.P., under the provisions⁴ of the Maintenance of Internal Security Act, 1971. While raising the matter, Shri Bhattacharyya stated as follows:—

“One of the hon. Members of this House, Shri Dhote, was arrested on the 25th under the Maintenance of Internal Security Act which has been struck down by the Supreme Court. It has appeared in all the papers. In spite of all this, it is a matter of shame that the police authorities have not given any information to the Speaker. It is a question of privilege of the Members of the House. Sir, you should ask for the reaction of the Government immediately. Let them make a statement. If Members of Parliament can be detained at any time by any police officer, what is the protection for us?”

10. Shri S. M. Banerjee, M.P., stated⁵ as follows:—

“Upto 1.30 P.M., you (Speaker) have not received any intimation from the police authorities. This is a gross breach of privilege. The police officers are treating the House with contempt. No intimation has been received from the police authorities.... I would request you to kindly treat it as a privilege motion so that the police authorities are brought to book.”

11. The Speaker observed⁶ as follows:—

“I have not received any information about his arrest so far. The Home Minister will make a statement on this subject.”

12. On the 28th April, 1973, the following wireless message, dated the 27th April, 1973, regarding the detention of Shri Jambuwant Dhote,

3. L.S. Deb., dt. 27-4-1973, cc. 256-57.

4. See Appendix-I.

5. L.S. Deb., dt. 27-4-1973, cc. 256-57.

6. *Ibid.*

M.P., addressed to the Speaker, Lok Sabha, was received from the Commissioner of Police, Nagpur, and published in Lok Sabha Bulletin Part-II, dated the 28th April, 1973, *vide* para No. 1145:—

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

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

13. The following communication dated the 26 April, 1973, regarding the detention of Shri Dhote was received from the Commissioner of Police, Nagpur, on the 28th April, 1973; since the wireless message, reproduced in para 12 above, intimating the detention of Shri Dhote received earlier had already been published in Bulletin Part II, this communication was not published in the Bulletin:—

“I have the honour to inform you that I have found it my duty, in exercise of my powers under sub-clause (ii) of clause (a) of sub-section (1) read with clause (c) of sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971 (26 of 1971) to direct that Shri Jambuwant Dhote, Member of the Lok Sabha, be detained with a view to preventing him from acting in any manner prejudicial to the maintenance of public order in Nagpur City.

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

Another substantially identical communication dated the 27th April, 1973, regarding the detention of Shri Dhote was received on the 2nd May, 1973, from the Superintendent, Central Prison, Yeravada.

14. On the 15th May, 1973, Sarvashri Madhu Limaye and Birender Singh Rao, M.Ps., raised a question of privilege in respect of the intimation sent to the Speaker, Lok Sabha, by the concerned authorities, regarding the detention of Shri Jambuwant Dhote, M.P., under the provisions of the Maintenance of Internal Security Act, 1971.

While raising the question of privilege, Shri Madhu Limaye M.P. stated⁸ *inter alia* as follows:—

“I want to draw your attention to two or three things. According to *May's Parliamentary Practice*, when the House is in session, no Member can be arrested; but there is an exception to it. The exception is that if the arrest has been made in accordance with the law, the Parliamentary privilege is not violated. But according to our rule (Rule 229 of Rules of Procedure and Conduct of Business in Lok Sabha), in such a case, they will have to intimate the reason of arrest. When a Member is detained and is not put to trial, it becomes all the more necessary to intimate the reason of arrest. The rule has thus been violated. Since he is in detention, you (Speaker) must take proper note of it.

Secondly, the executive has the right to make arrests in accordance with the law. But when I was twice arrested illegally in 1968 and 1970 and the decision of the Supreme Court came, the matter was referred to the Committee of Privileges. The executive has no right whatsoever to arrest or detain a Member illegally. Then, when a Member is arrested or detained, the Speaker should be intimated not only this fact, but also the reasons thereof. There are decisions of the High Courts of Punjab and Allahabad that reasons mean details of the reasons and it is not sufficient to say that a Member has been arrested under a particular Section of Maintenance of Internal Security Act, or of the Criminal Law (Amendment) Act. Full details must be sent.”

15. Shri Birender Singh Rao, M.P. stated⁹ *inter alia* as follows:—

“Mr. Dhote was arrested on the 25th of last month (April, 1973). On 26th April, 1973. I and another hon. member raised the issue under rule 377. You were pleased to say that you had no information about Mr. Dhote's arrest. That was on 26th. On 27th also you had no information about his arrest. On 28th, we came to know from the Lok Sabha papers (Bulletin Part-II, dated 28th April, 1973) that the Lok Sabha had been informed the same day that Mr. Dhote had been arrested on the 25th but the Lok Sabha never received any such message . . .

On 28th you received the information wherein the State authorities said that they had sent information on the 25th, and that they had sent a wireless message on the 26th, but somehow Lok Sabha never received those messages. Now it is nearly 20 days. The Minister should have come forward with a statement, but no statement has been made. Within 10 days of the

8. Original in Hindi *Ibid*.

9. L.S. Deb., dt. 15-5-1973, cc. 6—18.

arrest, the case was to be reviewed by a Board. That review also must have taken place. But the Lok Sabha has no information about what the case is or what the result of the review is, under what section or for what offence he has been arrested, etc. All this makes it very strange. Therefore, I request that a privilege motion should be allowed."

16. After some discussion, the Speaker, while referring the matter to the Committee of Privileges, observed¹⁰ *inter alia* as follows:—

"I have seen this intimation¹¹ sent to me by the Police Commissioner of Nagpur. This was sent by wireless message addressed to the Speaker, Lok Sabha, and it was received on the 28th April, whereas the message is dated 27th April. Shri Birender Singh Rao brought this motion on 26th morning. It means, it was much earlier to that. In my opinion, this is highly improper. The information should have been immediately conveyed to the Speaker. No lapse of time should have been allowed on it.

Besides this wireless message which, I think, he must have sent to reiterate it, there is a previous letter written by the Police Commissioner, that is, dated 26th. This was received on the 28th by ordinary mail . . .

So, these are the two intimations. This letter which is sent by ordinary mail, is dated 26th. This letter reaches us just by ordinary mail. He also sends along with it a wireless message. . . Personally speaking, I am not myself happy with the way things have been done, so far as Shri Dhote is concerned. So far as giving information is concerned, many things are involved about the type of intimation that should be given by the State Government. I wish that the Committee examines the question of what should be the point at which the information should be sent to the Speaker, at what time it should start and, secondly, what is the type of information that should be sent. Of course, we have been receiving it by all means, wireless, telegram and mail and sometimes both processes also. It is for the Speaker to be satisfied whether it is in time. In this case, when an M.P., is arrested under the Maintenance of Internal Security Act, in my opinion, the telegram should have come immediately afterwards and the details could have followed later. If I allow this motion, the Committee will examine how much information should be given and in what form in case of arrest under Maintenance of Internal Security.

10. L.S. Deb., dt. 15-5-1973, cc. 6—18.

11. Published in Lok Sabha Bulletin Part-II, dated the 28th April. 1973, vide para 1145.

Act... This is not an ordinary case. The papers themselves are before me. You cannot make up for that statement which should have been in the letter itself. In my own opinion, there was not full information in the intimation given to me by the Commissioner of Police. He has just mentioned the law under which he was arrested and where he is detained, and at the end he says that it is to restrain him from certain activities. What activities? In every case we have been receiving information that so and so was arrested under Section 144 or for this crime or for that crime or that he was found leading a procession or that he was obstructed by the police and he defied. In this case there is nothing. So, I give my consent to this privilege motion and, if you like, I can straightway send it to the Privileges Committee. We will refer the privilege motion, given by the members the other day, by Sarvashri Birender Singh Rao and Madhu Limaye."

III. Findings of the Committee

17. The Committee are not concerned with the question of justification or otherwise of the detention of Shri Jambuwant Dhote, M.P., under the Maintenance of Internal Security Act, 1971, howsoever undesirable it may be to arrest and detain a Member of Parliament, or, as a matter of that, any citizen, without trial. The Committee, therefore, formulated the following two issues for their examination:—

- (i) Whether there was any delay on the part of the Commissioner of Police, Nagpur, in sending intimation to the Speaker, Lok Sabha, regarding the arrest and detention of Shri Jambuwant Dhote M.P., on the 25th April, 1973; and
- (ii) whether the information furnished to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur, indicating the reasons for the arrest and detention of Shri Jambuwant Dhote, M.P., was adequate in accordance with the requirements of Rule 229 on the Rules of Procedure and Conduct of Business in Lok Sabha.

18. As regards the question of delay in sending intimation to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur, the Committee note that according to the intimation received from the Commissioner of Police, Nagpur, Shri Jambuwant Dhote was arrested on 25th April, 1973, at 18.15 hours. But according to an enquiry¹² made from the Superintendent, Central Telegraph Office, Nagpur, and as intimated by the Commissioner of Police, Nagpur, himself, the telegram sent by the letter to the Speaker, Lok Sabha, regarding the arrest and detention of Shri Jambuwant Dhote was booked at the Central Telegraph Office, Nagpur, at 15.00 hours on the 26th April, 1973. This telegram was copied

12. See Appendix-II.

and posted to New Delhi at 21.20 hours the same day by night plane service. According to the Superintendent, Central Telegraph Office, Nagpur, "the posting of the telegram was unavoidable in view of the 'Work to rule' agitation of the telegraphists during the period from 10th April, 1973 to 26th April, 1973 and stoppage on the circuit from 15.30 to 19.20 hours."

19. The Committee thus find that there was a delay of about 21 hours between the time of arrest of Shri Dhote and the sending of the telegram intimating his arrest and detention to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur.

The Committee, therefore, directed that the Commissioner of Police, Nagpur, be asked to explain the delay of about 21 hours between the time of arrest of Shri Dhote and the sending of the telegram intimating his arrest and detention to the Speaker, Lok Sabha.

20. In his written explanation¹³ the Commissioner of Police, Nagpur (Shri V. V. Naik), stated *inter alia* as follows:—

"He (Shri Jambuwant Dhote, M.P.) was arrested at 6.15 p.m. on 25th April, 1973 on Yeotmall—Darwah road in Ghat Section and was escorted directly to Aurangabad Jail. The information about his arrest was received by me at about 7.30 p.m. The police party along with Shri Dhote reached Aurangabad Jail at 4.30 a.m. on 26th April, 1973, but the Jail Superintendent informed them that there was no suitable arrangement for lodging Shri Dhote there. Shri Dhote, therefore, was taken to Yeravada Central Prison, Poona, at about 09.00 a.m. after contacting me and obtaining my orders at about 8.00 a.m. and after giving him about one hour at Aurangabad to complete morning ablutions, etc. Shri Dhote reached Yeravda Central Prison, Poona, at about 2.00 p.m. on 26th April, 1973 and was admitted into that prison.

Under paragraph 7 of the Pamphlet of Instructions forwarded by the Government of India to all State Governments under the Ministry of Home Affairs letter No. 12|2|67-PV dated 21st February, 1968, an intimation of arrest|detention|conviction is required to be sent to the Speaker by telegram and this first intimation should also contain the essential information, namely, in the case of arrest, the place of arrest, the law and the section under which the arrest was made, where the member is lodged, the name and designation of the authority which ordered the arrest, etc. As there was difficulty of the Hon'ble Member's lodging as stated above, the intimation was delayed.

13. See Appendix-III.

It would probably have been better if I had sent the intimation of his arrest by telegram immediately on receipt of information about it at about 7.30 p.m. on 25th April, 1973 and then sent a further telegram about his place of lodging. But since para 7 of the Instructions appeared to me categorical, the delay occurred inadvertently for which I would like to apologise to the Lok Sabha and to the Privileges Committee of the Lok Sabha."

21. The Committee also examined Shri V. V. Naik, Commissioner of Police, Nagpur, in person. During the course of his oral evidence before the Committee Shri V. V. Naik stated *inter alia* as follows.

"... A wireless message should have been sent earlier and the telegram could have been sent subsequently. We could have sent two or three messages instead of waiting to send only one... I will issue instructions that in future such intimation should be by wireless, because wireless works round the clock...."

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

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

23. As regards the question of adequacy of the information sent to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur, indicating the reasons for the arrest and detention of Shri Dhote, Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha provides as follows:

"229. *Intimation to Speaker by Magistrate of arrest, detention, etc. of a Member.*—When a member is arrested on a criminal

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

The Committee have given deep consideration to the implications of the words "indicating the reasons for the arrest, detention or conviction", used in Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha.

24. The Committee also sought the views of the Minister of Law, Justice and Company Affairs on this aspect of the matter. The Minister of Law, Justice and Company Affairs has, in his considered written note¹⁴ stated *inter alia* as follows:

"Section 3 of the Maintenance of Internal Security Act, 1971 makes a dichotomy between persons in general on the one hand and foreigners on the other as respects the action that can be taken by the Central or State Government. In the case for the former, the action to be prevented could be such as is prejudicial to (a) the defence of India, the relations of India with foreign powers or the security of India; or (b) the security of the State or the maintenance of public order; or (c) the maintenance of supplies of and services essential to the community. Regarding foreigners the action can be predicated upon (a) regulating his continued presence in India, or (b) with a view to making arrangements for his expulsion from India.

Consequently, a mere statement that a person has been detained under Section 3 of the Maintenance of Internal Security Act, 1971 may not amount to a compliance of Rule 229 supra but the Commissioner of Police, Nagpur, has pinpointed only one reason, namely, 'maintenance of public order', out of the several upon which he could have acted and that may be held to be sufficient compliance with the rule.

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

14. See Appendix-IV.

It may be noted that a maximum period of fifteen days from the date of detention has been allowed by Section 8(1) to the authority making the order to communicate the grounds and sub-section (2) of Section 8 makes it clear that the authority need not disclose the facts which it considers to be against the public interest to disclose. As the intimation of arrest or detention under Rule 229 *supra* has to be given immediately, the authority making the order of detention will be left with little time to weigh the potential gravity of each fact constituting the ground and take a decision whether it would be against the public interest to disclose the same.

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

The precise question for consideration is how much information should be given and in what form in case of arrest under the Maintenance of Internal Security Act, 1971. In view of the observations herein it appears reasonable to take a view that it would be sufficient for the detaining authority to indicate the broad reasons as set out in Section 3(1) (a) (i), (ii) or (iii) as the case may be."

25. The Minister of Law, Justice and Company Affairs also elucidated his views contained in his above note at the sitting of the Committee held on the 13th March, 1974. After examining the implications of the words "indicating the reasons for the arrest, detention or conviction" used in rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha, the Committee feel that the language of Rule 229 does not clearly imply that the detailed "grounds" on which the order of detention has been made in respect of a Member of Parliament should be communicated to the Speaker, Lok Sabha.

26. The Committee also note that sub-sections (1) and (2) of Section 8 of the Maintenance of Internal Security Act, 1971, provides as follows:—

"8. (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not

later than fifteen days, from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government:

- (2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose."

27. After careful consideration of all aspects of the matter, the Committee are of the opinion that in the case of detention of a Member of Parliament under the Maintenance of Internal Security Act, 1971, or under any other law providing for preventive detention, it would be desirable that, in addition to citing the relevant section of the Act and giving merely the reasons for the detention as specified in that section, detailed "grounds" of detention required to be furnished to the detenu under that law should also be communicated to the Speaker, Lok Sabha, by the detaining authority. The contents of such communications, when received by the Speaker, may be conveyed to the Members of Lok Sabha in such manner as the Speaker may deem fit.

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

28. The Committee are of the opinion that in order to make the above position clear, a suitable provision may be made in the relevant rules and necessary instructions be issued by the Government of India to all the concerned authorities of State Governments and Union Territory Administrations to the above effect.

IV. Recommendations of the Committee

29. The Committee recommend that no further action be taken by the House in the present case of question of privilege regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P.

30. The Committee also recommend that a suitable provision be made in the relevant rules and necessary instructions be issued by the Government of India to all the concerned authorities of State Governments and Union Territory Administrations that when a Member of Lok Sabha is arrested and detained under the Maintenance of Internal Security Act,

1971, or under any other law providing for preventive detention the concerned authorities should, besides sending to the Speaker immediate information regarding the arrest and detention of the Member together with the reasons for his arrest and detention, send a copy of the detailed "grounds" to the Speaker, Lok Sabha, simultaneously when those "grounds" to the Speaker, Lok Sabha, simultaneously when those

NEW DELHI;
The 25th March, 1974.

HENRY AUSTIN,
Chairman,
Committee of Privileges.

MINUTES

I

First sitting

New Delhi, Wednesday, the 30th June, 1973.

The Committee sat from 10.00 to 13.45 hours.

PRESENT

Dr. Henry Austin—*Chairman*.

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Darbara Singh
5. Shri Nihar Laskar
6. Shri H. N. Mukerjee
7. Dr. Shankar Dayal Sharma
8. Shri R. P. Ulaganambi
9. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri J. R. Kapur—*Under Secretary*.

9. The Committee then took up consideration of the question of privilege raised by Sarvashri Birendra Singh Rao and Madhu Limaye, M.Ps., regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P.

The Committee decided that the P&T Department might be asked to furnish copy of the telegram stated to have been sent to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur, on the 26th April, 1973, from Nagpur, regarding the arrest of Shri Jambuwant Dhote, M.P., together with the time of receipt of the message at Nagpur Telegraph Office and the time of its transmission to Delhi.

The Committee also pursued* the letter† dated the 6th June, 1973, received from Shri Madhu Limaye, M.P.

***Paras 2 to 8 and 10 relate to other cases and have accordingly been omitted.

*See Appendix V.

The Committee decided that it was not necessary to call Sarvashri Birendra Singh Rao and Madhu Limaye, M.Ps., who had raised the question of privilege in the House, before the Committee for oral evidence.

The Committee decided to defer further consideration of the matter to a later sitting.

The Committee then adjourned.

II

Second sitting

New Delhi, Thursday, the 9th August, 1973.

The Committee sat from 16.00 to 17.10 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri B. P. Maurya
4. Shri H. N. Mukerjee
5. Shri Maddi Sudarsanam
6. Shri Atal Bihari Vajpayee.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary*

Shri J. R. Kapur—*Under Secretary*

4. The Committee then took up further consideration of the question of privilege raised by Sarvashri Birender Singh Rao and Madhu Limaye, M.Ps., regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P.

The Committee observed that according to the intimation received from the Commissioner of Police, Nagpur, Shri Jambuwant Dhote was arrested on the 25th April, 1973, at 18.15 hours, while the telegram addressed to the Speaker, Lok Sabha, regarding the arrest and detention of Shri Jambuwant Dhote, M.P., was sent on the 26th April, 1973 at 15.00 hours from the Central Telegraph Office, Nagpur.

The Committee directed that the Commissioner of Police, Nagpur, might be asked to explain the delay of about 21 hours between the time

***Paras 2 and 3 and 5 to 7 relate to other cases and have accordingly been omitted.

of arrest of Shri Dhote and sending of the telegram intimating his arrest and detention to the Speaker, Lok Sabha.

The Committee also desired that the Government of Maharashtra might be requested to intimate the date on which the grounds of detention of Shri Jambuwant Dhote were furnished to Shri Dhote, as required under section 8(1) of the Maintenance of Internal Security Act, 1971. The Committee directed that a copy of the grounds of detention Communicated to Shri Dhote by Government of Maharashtra might also be obtained for the information of the Committee.

The Committee then adjourned.

III

Third sitting

New Delhi, Wednesday, the 12th September, 1973

The Committee sat from 16.00 to 17.15 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Darbara Singh
5. Shri H. R. Gokhale
6. Shri Nihar Laskar
7. Shri B. P. Maurya
8. Shri H. N. Mukerjee
9. Shri K. Raghuramaiah
10. Shri Vasant Sathé
11. Dr. Shankar Dayal Sharma
12. Shri Maddi Sudarsanam.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary*

Shri J. R. Kapur—*Under Secretary*

5. The Committee then took up further consideration of the question of privilege raised by Sarvashri Birender Singh Rao and Madhu Limaye,

M.Ps., regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P. The Committee considered the explanation received from the Commissioner of Police, Nagpur, regarding the delay in intimating the arrest and detention of Shri Jambuwant Dhote, M.P., to the Speaker Lok Sabha. The Committee also perused the grounds of detention of Shri Jambuwant Dhote, M.P. communicated to him by the Commissioner of Police, Nagpur under Section 8(1) of the Maintenance of Internal Security Act, 1971, furnished to the Committee by the Government of Maharashtra through the Ministry of Home Affairs.

The Committee decided that the Minister of Law, Justice and Company Affairs might be requested to give to the Committee a note containing his considered views on the implications of the words "indicating the reasons for the arrest, detention or conviction" used in Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha. The Committee also decided that the Commissioner of Police, Nagpur, be called to appear before the Committee for oral examination.

The Committee then adjourned.

IV

Fourth sitting

New Delhi, Wednesday, the 31st October, 1973.

The Committee sat from 11.00 to 13.00 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri H. R. Gokhale
5. Shri B. P. Maurya
6. Shri H. N. Mukerjee
7. Shri K. Raghuramaiah
8. Dr. Shankar Dayal Sharma
9. Shri Maddi Sudarsanam
10. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

2. The Committee took up further consideration of the question of privilege raised by Sarvashri Birendra Singh Rao and Madhu Limaye,

M.Ps., regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwont Dhote, M.P.

The Committee deferred further consideration of the matter of their next sitting to hear the considered views of Shri H R. Gokhale, Minister of Law, Justice and Company Affairs, in the matter.

9. The Committee then adjourned to meet again at 15.30 hours on the 31st October, 1973.

V

Fifth sitting

New Delhi, Wednesday, the 31st October, 1973.

The Committee sat from 15.30 to 17.00 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Darbara Singh
3. Shri Nihar Laskar
4. Shri H. N. Mukerjee
5. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

WITNESSES

Shri V. V. Naik, Commissioner of Police, Nagpur.

2. The Committee took up consideration of the question of privilege raised by Sarvashri Birdendra Singh Rao and Madhu Limaye, M.Ps., regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P.

3. Shri V. V. Naik, Commissioner of Police, Nagpur, was called in and examined by the Committee on oath (verbatim record was kept).

(The witness then withdrew)

4. The Committee deferred further consideration of the matter till a note containing the considered views of the Minister of Law, Justice and Company Affairs on the matter, was received and considered by the Committee.

The Committee then adjourned.

VI

Sixth sitting

New Delhi, Wednesday, the 19th December, 1973.

The Committee sat from 16.00 to 16.50 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Darbara Singh
5. Shri H. N. Mukerjee
6. Shri Vasant Sathe
7. Dr. Shankar Dayal Sharma
8. Shri Maddi Sudarsanam

SECRETARIAT

Shri J. R. Kapur—*Under Secretary*.

2. The Committee took up further consideration of the question of privilege raised by Sarvashri Birender Singh Rao and Madhu Limaye, M.Ps., regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P. As regards the question of adequacy of the information sent to the Speaker, Lok Sabha, by the Commissioner of Police, Nagpur, indicating the reasons of arrest and detention of Shri Dhote, the Committee perused the note containing the views of Shri H. R. Gokhale, Minister of Law, Justice and Company Affairs and a member of the Committee, on the implications of the words "indicating the reasons for the arrest, detention or conviction" used in Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha, as applicable to this case. The Committee agreed with the views of the Minister of Law, Justice and Company Affairs that the requirements of Rule 229 had been complied with in this case.

The Committee were not, however, satisfied with the explanation of the Commissioner of Police, Nagpur, regarding the reasons for the delay of about 21 hours between the time of arrest of Shri Jambuwant Dhote and sending of the telegram intimating his arrest and detention to the Speaker, Lok Sabha. The Committee, however, decided that in view of the apology tendered by Shri V. V. Naik, Commissioner of Police,

Nagpur during his oral evidence before the Committee; the matter might be dropped.

* * * * *

4. The Committee decided to hold their next sittings to consider the matters pending before them on the 24th and 25th January, 1974.

The Committee then adjourned.

VII

Seventh sitting

New Delhi, Thursday the 24th January, 1974

The Committee sat from 14.30 to 15.30 hours.

PRESENT

Shri H. N. Mukerjee—*In the Chair.*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Darbara Singh
5. Shri Nihar Laskar
6. Shri Vasant Sathe
7. Dr. Shankar Dayal Sharma
8. Shri Maddi Sudarsanam
9. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri J. R. Kapur—*Under Secretary.*

2. In the absence of the Chairman, the Committee chose Shri H. N. Mukerjee to act as Chairman.

3. The Committee considered their draft Seventh Report on the question of privilege regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P. The Committee decided that the following sentence be deleted from paragraph 17 of the Draft Report:—

“Arrest and detention under the Maintenance of Internal Security Act, 1971, is in the nature of preventive arrest and preventive

***Para 3 relates to other case and have accordingly been omitted.

arrest under statutory authority by executive order is not within the principle of the cases to which the privilege of freedom from arrest extends."

The Committee deliberated on paragraph 25 of the Draft Report and decided to postpone further consideration of the matter to a sitting when the Chairman and the Minister of Law and Justice would be present.

* * * * *

The Committee then adjourned.

VIII

Eighth sitting

New Delhi, Wednesday, the 13th March, 1974.

The Committee sat from 16.00 to 17.30 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Darbara Singh
4. Shri H. R. Gokhale
5. Shri H. N. Mukerjee

SECRETARIAT

Shri J. R. Kapur—*Under Secretary.*

2. The Committee took up further consideration of their draft **Seventh Report** on the question of privilege regarding the intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant **Dhote**, M.P. The Committee deliberated on the implications of the words "indicating the reasons for the arrest, detention or conviction" used in **Rule 229** of the Rules of Procedure and Conduct of Business in Lok Sabha. In this connection, Shri H. R. Gokhale, Minister of Law, Justice and Company Affairs, and a member of the Committee, elucidated his views contained in his note dated the 3rd December, 1973, furnished to the Committee earlier.

3. The Committee felt that in the case of detention of a member of Parliament under the Maintenance of Internal Security Act or any other

***Para 4 relates to another case and has accordingly been omitted.

law providing for preventive detention, it was desirable that in addition to citing the relevant section of the Act giving the reasons for the detention, the detailed grounds of detention should also be intimated to the Speaker, Lok Sabha by the detaining authority.

4. After some discussion, the Committee agreed with a suggestion of the Minister of Law, Justice and Company Affairs that when the detaining authority supplied the "grounds" of detention of a Member of Lok Sabha to him, as required under Section 8 of the Maintenance of Internal Security Act, 1971 or any other law providing for preventive detention, within the time prescribed for the purpose in the relevant Act, a copy of those "grounds" should also be sent simultaneously to the Speaker, Lok Sabha, by the concerned authority, for the information of the members of Lok Sabha.

The Committee decided to recommend that a suitable provision might be made in the relevant rules and that necessary instructions be issued to all the authorities concerned of States and Union Territories in this respect.

5. The Committee decided that paragraphs 25 and 26 of the draft Seventh Report might be suitably revised in the light of the above observations, for the approval of the Committee.

* * * * *

7. The Committee decided to hold their next sitting on Friday, the 22nd March, 1974.

The Committee then adjourned.

IX

Ninth sitting

New Delhi, Monday, the 25th March, 1974

The Committee sat from 16.00 to 17.05 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

- 2 Shri H. K. L. Bhagat
- 3 Shri Darbara Singh
- 4 Shri H. N. Mukerjee

***Para 6 relates to another case and has accordingly been omitted.

5. Shri Maddi Sudarsanam
6. Dr. Shankar Dayal Sharma
7. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri J. R. Kapur—*Under Secretary.*

2. The Committee took up further consideration of the Draft Seventh Report on the question of privilege raised by Sarvashri Birender Singh Rao and Madhu Limaye, M.Ps., regarding intimation sent to the Speaker, Lok Sabha, relating to the detention of Shri Jambuwant Dhote, M.P., and adopted it after considering revised paragraphs 25 to 30 (in place of original paras 25 and 26), in the light of the decisions taken by the Committee at their sitting held on the 13th March, 1974.

The Committee authorised the Chairman to present their Seventh Report to the House on a convenient date.

* * * * *

The Committee then adjourned

***Paras 3 to 6 relate to other cases and have accordingly been omitted.

MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE OF
PRIVILEGES

New Delhi, Wednesday, the 31st October, 1973

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Darbara Singh
3. Shri Nihar Laskar
4. Shri H. N. Mukerjee
5. Shri Atal Bihari Vajpayee.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

WITNESS

Shri V. V. Naik, Commissioner of Police, Nagpur.

(The Committee met at 15.30 hours).

Evidence of Shri V. V. Naik, Commissioner of Police, Nagpur.

(The witness took the Oath)

Mr. Chairman: Mr. Naik, you are the Commissioner of Police, Nagpur.

Shri V. V. Naik: Yes, Sir.

Mr. Chairman: Were you holding that office on 25 April 1973?

Shri V. V. Naik: Yes, Sir.

Mr. Chairman: You had taken Mr. Jambuwant Dhote, MP, into custody under the MISA?

Shri V. V. Naik: Yes, Sir.

Mr. Chairman: You gave notice or intimation of that arrest to the hon. Speaker?

Shri V. V. Naik: Yes, Sir.

Mr. Chairman: I hope you are aware of the relevant rules or instructions for sending intimation regarding detention of MPs to the Speaker.

Shri V. V. Naik: Yes, Sir.

Mr. Chairman: Under what instructions?

Shri V. V. Naik: Instructions have been issued by the Government of Maharashtra to us. In the explanation I have tendered on the subject, I have mentioned the rules under which we sent the intimation and explained the circumstances in which the delay took place. I have sincerely apologised saying that no disrespect was meant.

Mr. Chairman: I am not at the moment going into that aspect. Just now I expect you to tell me the specific points you kept in mind while sending that intimation to the hon. Speaker so that I could know whether you conformed or were attempting to conform to the specific instructions on this matter.

Shri V. V. Naik: Yes. In my explanation, I referred to paragraph 7 of the Instructions, according to which the report or intimation to the Speaker was sent.

Mr. Chairman: How far do you think you conformed to the instructions with respect, for instance, to the time element or the requirement that the reasons should be stated?

Shri V. V. Naik: In paragraph 7, it is mentioned that intimation should be sent at the earliest, the name of the jail in which the detinue is lodged should be mentioned.

Mr. Chairman: Besides looking into para 7 of the instructions, have you gone through the original law on the matter? I am referring in the rules of procedure and conduct of business in Lok Sabha. Have you, as a high-ranking Officer, done that?

Shri V. V. Naik: No, Sir. I saw only these instructions. That is why I said that in any case it is a slip on our part. We had delay in sending the intimation. There is no doubt about it. I apologise for that.

Mr. Chairman: As a high-ranking police officer, do you think there is any practical difficulty in complying with the existing rules under para 7 of the instructions or the rules of procedure and conduct of business in Lok Sabha.

Shri V. V. Naik: No, Sir. I saw only these instructions. That is why who arrests, that will solve the problem, because what happens is that sometimes arrests are made at odd hours of the night, they are made, as in this case, at places far away from headquarters. For example, I was at Nagpur. The arrest was made far away, about 190 miles or so from there. So as for example, in the case of the report of a murder, we give this responsibility to the investigating officer, similarly, in these cases, if we give the responsibility of intimation of arrest to the person who happens to arrest, that will solve the problem.

Shri Atal Bihari Vajpayee: You put the arrest of an MP and reporting of a murder in the same category?

Shri V. V. Naik: No, no. That was not the idea.

Mr. Chairman: What is the objection in conforming to rule 229?

Shri Atal Bihari Vajpayee: The rule does not specify which officer.

Mr. Chairman: I will read the rule:

“When a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under executive order, the committing judge, magistrate or executive authority”....

which applies to your case—

“as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member in the appropriate form set out in the Third Schedule”.

‘Executive authority’ means you could authorise.

Shri V. V. Naik: Yes. I will do it. For example, the person who arrests, should immediately intimate. Then we will not wait for lodging the detinue in jail, we will intimate immediately.

Mr. Chairman: You have not been able to do that in this particular case?

Shri V. V. Naik: No.

Mr. Chairman: In your intimation, did you state the reasons for the arrest? You have generally stated ‘to prevent the hon. member from involving himself in acts prejudicial to the maintenance of law and order’. You could have specified the section and the reasons for the arrest. In your telegram you had said:

“Mr. Jambuwant Dhote, M.P. from Nagpur constituency is detained under the provisions of the Maintenance of Internal Security Act 1971. He was taken into custody at about 18.15 hours on 25th instant and lodged in the Yeravda Central Prison, Poona. A regular intimation to this effect sent by post at about 11.30 hrs....”

You have not given any reasons.

In that telegram you could have stated the reasons for this, particularly when it is enjoined on you to indicate the reasons for the arrest or detention. No doubt in the letter that you had posted in confirmation of this telegram you have stated that he was detained with a view to

preventing him from acting in any manner prejudicial to the maintenance of public order in the Nagpur city. Even that is a general statement. Anybody can be arrested on such vague charges, but you should have specified the reasons.

Shri Naik: Yes.

Mr. Chairman: In this case, have you sent any intimation specifying the circumstances and the reasons for the arrest?

Shri Naik. We thought we need mention the section under which he was arrested and thought that was probably enough.

Mr. Chairman. You thought that it was enough.

Shri Naik: Yes.

Mr. Chairman: Have you got a copy of the instructions and, if so, what do those instructions say?

Shri Naik: The first intimation by telegram should also contain the essential information, namely, the date and the place of arrest, the law and the section under which the arrest was made; where the Member is lodged, and the name and the designation of the authority which ordered the arrest.

Mr. Chairman: The instructions called for the detailed information and the reasons for the arrest. Do you think that in this case you have conformed to the specific instructions on the subject?

Shri Naik: We thought that a reference to the section of the law, etc., was alone necessary. If more is necessary, in future we will give that.

Mr. Chairman: I think you have got the police wireless network.

Shri Naik: Yes.

Mr. Chairman: You said earlier that the place of arrest was remote and further I am told it was in the ghat area or something like that. In almost all the ghat sections you have got the wireless network.

Shri Naik: No, Sir.

Mr. Chairman: At what point of time did you get the information at Nagpur?

Shri Naik: On the 25th evening.

Mr. Chairman: You were aware that there was a stay-in-strike or something like that in the telegraph department. Were you aware of it, as a senior police officer?

Shri Naik: No. Sir. But it had nothing to do with the strike in the telegraph department or something. The point was that the office thought, some of us thought, that probably the name of the jail has also to be mentioned. I agree that there was delay.

Mr. Chairman: We want specific answers. From the place of the arrest, you got the information on the evening of the 25th.

Shri Naik: Yes.

Mr. Chairman: You, as the Commissioner of Police, should know, and I am sure you are aware that it is obligatory on your part to intimate to the Lok Sabha Secretariat as early as possible.

Shri Naik: Yes.

Mr. Chairman: In evidence, I see there was some stay-in-strike in the telegraph department. You had sent a telegram. You should presume—and you have sufficient resourcefulness to see—that there was some chance of the telegram being delayed in view of the strike of which a police officer should be aware. You have your wireless system at Nagpur; you should have used the wireless system to intimate this, at least as a matter of abundant precaution. Why did you not think of it in that light?

Shri Naik: Yes; I agree.

Mr. Chairman: That, you have not done. However, after that, you have tried to use the wireless network. Have you? Page 509 shows an entry on the 28th April, 1973; “the following wireless message dated 27th April regarding the detention of Shri Dhote was given.” So, you had a wireless network system at your disposal from Nagpur. And you are aware that under the law you are enjoined to intimate to the Speaker as early as possible. You have not thought it your duty to inform the Lok Sabha Secretariat on the 25th itself by wireless message.

Shri Naik: Yes.

Mr. Chairman: There was some work-to-rule agitation there.

Shri Atul Bihari Vajpayee: The witness says that it has nothing to do with the delay in sending the message.

Mr. Chairman: He says he was waiting for the final lodging of the detainee. What I am saying is, he should have sent a further communication later. If the wireless network was available, in view of the strike there he should have sent an intimation by wireless, that so and so, was detained, that there is a strike in the telegraph department and so “I am sending a wireless message.” He has not done so.

Shri Atal Bihari Vajpayee: Mr. Dhote was arrested at 6.15 p.m. on the 25th. But those who had arrested him did not know where the hon. M.P. was to be lodged. They took him to Aurangabad jail which they reached at about 4.30 a.m. He had to travel through the night, and when he reached Aurangabad jail, the Superintendent of the Jail informed them that there was no suitable arrangement for lodging Shri Dhote there. I would like to know from Mr. Naik, when it was decided to-

arrest Mr. Dhote, whether you considered the question as to the jail in which Mr. Dhote would be lodged.

Shri Naik: Yes, Sir. We did think of it, and we thought that Aurangabad would be nearer to Yeotmal, and that Aurangabad would have suitable arrangements, but then it was found, when the Deputy Commissioner took Mr. Dhote to Aurangabad, that suitable arrangements were not there. Poona being only 150 miles away, for suitable arrangements for the detenu he was taken to Poona.

Shri Atal Bihari Vajpayee: When you decided about Aurangabad, you did not contact the Superintendent of the jail at Aurangabad and you did not ask him whether there were arrangements or not. You decided at Nagpur that he should be lodged at Aurangabad, but you did not inform the Aurangabad jail officials. He was taken to the jail, and then he was asked to go somewhere else.

Shri Naik: They were informed that they were bringing so and so, but the fact whether the type of accommodation needed was available there or not was not ascertained before.

Shri Atal Bihari Vajpayee: That should have been done.

Shri Naik: In any case, one comes from Yeotmal to Aurangabad and then to Poona.

Mr. Chairman: What is the distance?

Shri Naik: Aurangabad to Poona is about 140 to 150 miles.

Shri Darbara Singh: When he was arrested, from Yeotmal to Poona he had to travel two nights over a distance of 290 miles. Is it not so?

Shri Naik: Yes.

Shri Darbara Singh: As the Commissioner of Police, you know how the police works. When you pass an order for the arrest of a person you are supposed to make arrangements for him in a certain jail. What was the necessity of taking him from Aurangabad jail to Poona?

Shri Naik: Because there were not adequate arrangements.

Shri Darbara Singh: How is it? Was it adequate for the police to take him 150 miles from Aurangabad at midnight to Poona?

Shri Naik: He was taken from Aurangabad in the morning at 9 O' clock.

Shri Darbara Singh: Where was he kept from 4.30 a.m. till 9 a.m.?

Shri Naik: With the police officers in Aurangabad. The exact place, I do not know.

Shri H. N. Mukerjee: As Commissioner of Police, Nagpur you must be well aware that Mr. Dhote is a prominent public worker and from the

grounds of detention furnished to him you had very well satisfied yourself with reference to what he had been doing for the last few months. You also knew that parliament was in session when you arrested him. Could you give us a rational explanation why you delayed intimation being sent to the hon. Speaker?

Shri Naik: In my written explanation I had explained the circumstances; I have admitted there was delay and I had also explained the circumstances under which the delay took place. We thought that the name of the jail has also to be incorporated in the telegram. There was no disrespect meant; nor was it intentional.

Shri H. N. Mukerjee: Supposing you arrested somebody in Assam on the instructions of the Government of Kerala and you transported the arrested person from Assam to Kerala during all that period of railway journey would you not tell the Speaker, especially when Parliament was in session about the whereabouts of the Member? You should certainly inform Parliament.

Shri Naik: Yes Sir.

Shri H. N. Mukerjee: The rules are very clear that 'immediate' intimation has to be given. As Commissioner of Police you would have certainly noticed it?

Shri Naik: That is right.

Shri Vajpayee: You arrested Mr. Dhote to prevent him from acting in any manner prejudicial to public order. Could not that action be taken under the ordinary law? Was there need to use the Maintenance of Internal Security Act? Could not action be taken under the Criminal Procedure Code, sections 107, 115, etc.?

Shri Naik: No, Sir. We did apply our mind and we thought that the normal law would not serve the purpose and that action would have been taken under the MISA.

Shri A. B. Vajpayee: You would like MISA to be on the statute-book permanently? We would like to know the circumstances.

Mr. Chairman: They have given the grounds.

Shri A. B. Vajpayee: He has been arrested again under MISA and he is behind the bar.

Mr. Chairman: In this case, you had a special responsibility to intimate it to the Speaker. We are concerned about the freedom of movement of MPs. When Parliament is in session, some important matter may have to be raised by the concerned Member. So, the Speaker should know it. In this case, I think you had sufficient time to intimate it to the Speaker. You should have known that there was a strike in the telegraph department.

Shri Naik: I will issue instructions that in future such intimation should be by wireless, because wireless works round the clock. I also request that at your end also you might issue instructions that the wireless should be used for intimation.

Mr. Chairman: Before you arrest a person, you should be well informed with facts as to where he should be lodged, whether adequate accommodation facilities are there commensurate with his status etc. In this case, you arrested him 150 miles away and made him travel to Aurangabad to be told that there is no facility there. It is a big insult to him. All this harassment at night could have been avoided if you had ascertained the position about the availability of accommodation facilities there.

Shri Naik: I deputed a very senior officer—Deputy Commissioner of Police—who knew Mr. Dhote personally. The DCP was with him all through. It was seen that no inconvenience was caused to the best of their ability because we are well aware that a Member of Parliament must be given due respect and proper facilities.

Mr. Chairman: When the DCP was told by the Aurangabad jail authorities that there was no proper place to accommodate the M.P., did the DCP inform you and seek further instructions?

Shri Naik: Yes. He contacted me at about 7.30 or 8 in the morning and told me. Then Poona jail had to be informed to keep everything ready for receiving the Member of Parliament. As far as I remember, it was in one of the bungalows of a colleague of the DCP that the MP stayed along with the DCP. I do not exactly remember the address of the bungalow where the DCP had taken him.

Shri H. N. Mukerjee: Did Mr. Dhote himself object to the undesirable living conditions in Aurangabad jail or was it that the jail authorities thought that the accommodation was not suitable?

Shri Naik: The jail superintendent said that the accommodation was not suitable for such a high class prisoner.

Shri H. N. Mukerjee: This information was not available to you before you had decided to take him to Aurangabad?

Shri Naik: It was not available.

Shri H. N. Mukerjee: In Aurangabad he must have been lodged somewhere between 4.30 A.M. and 9 A.M. That is to say, he was not only in transit but he was in the custody of some jail officer or police officer. This rule came into operation at least at that point of time when he reached Aurangabad and lodged in a place which was not a moving automobile. Even assuming that you could not send the intimation till you knew the place of lodging, at least when this temporary lodgement was found in Aurangabad, you should have informed the Speaker by

wireless or telegram on the morning of 26th.

Shri Naik: I have clearly admitted that we should have informed earlier. There is no doubt about it. I have said it in writing also. A wireless message should have been sent earlier and the telegram could have been sent subsequently. We could have sent two or three messages instead of waiting to send only one. But he was with the DCP. It was not that he was in some police station or something.

Shri H. N. Mukerjee: After all it is a serious matter. You arrested him and you were going to use MISA against him. That is for what you consider to be serious charges against him. You did not know what is happening about his whereabouts. You did not know.

Shri V. V. Naik: First intimation was from Aurangabad that he was there. Next from Poona. It says he is now properly accommodated in Poona jail.

Shri H. N. Mukerjee: Is not the obligation there on the part of the executive authority, whoever it is, the Chief Executive Authority Committing judge or magistrate, etc. that it should be immediately intimated? Why was anything necessary to go via you involving such amount of avoidable delay and all that, so far as Speaker's information is concerned?

Shri V. V. Naik: I agree Sir. That was the point I was going to suggest and was trying to suggest. If it is made clear that the officer arresting such person immediately has to do it, this unfortunate mistake will not occur in future. So far as we are concerned we will of course be very careful in future.

Shri Darbara Singh: You have rearrested Mr. Dhote?

Shri V. V. Naik: I have not.

Shri Darbara Singh: Government has arrested him. For the second time.

Shri V. V. Naik: I am not concerned.

Shri Darbara Singh: District Superintendent of Police has informed the Speaker that he is arrested on 5th October and the information was immediately given to the Speaker, saying, he has been arrested and he has been arrested from village Kupti. How far it is from Yeotmal?

Shri V. V. Naik: I do not know. I have not served in that district. That district is not under me. I am Commissioner, Nagpur only.

Shri Darbara Singh: Did the officer not have any information about the district near about, that is, from the place from where you arrested Mr. Dhote? That is, which was the nearest police station? District Headquarters.

Shri V. V. Naik: In the case of previous arrest, Yeotmal was the district h.q. near the place of the arrest.

Shri Darbara Singh: He has been put in the jail for the second arrest. District Superintendent of Police Yeotmal was there. Could you not have kept him there? This was nearest place from the place of arrest at that time.

Shri V. V. Naik: He kept him in Yeotmal jail.

Shri Darbara Singh: Yes. (*Interruption*) I am sorry; it is Poona Central Jail....

Shri V. V. Naik: Those places are not under my charge.

Shri Darbara Singh: May not be under your charge directly, but you must be knowing about this.

Shri V. V. Naik: I have not served in Yeotmal.

Shri H. N. Mukerjee: As a very responsible officer of the Maharashtra cadre, do you think you are so unfamiliar as not to know the distance roughly between these places?

Shri V. V. Naik: Distance from that place is not known exactly....

Shri Darbara Singh: Was it not possible to detain him in the nearest jail from place of arrest? Roughly you may say.

Shri V. V. Naik: Akola from Yeotmal must be about 140 or 150 miles.

Shri Darbara Singh: Aurangabad is a divisional h.q. Should there not be facilities for lodging persons of various categories?

Shri V. V. Naik: That was really what we thought....

Mr. Chairman: How Aurangabad which is divisional headquarters did not have such facilities? Why is it that they can't accommodate an A class prisoner? How could you tolerate such a situation? It is a divisional headquarters of Maharashtra. How is it there no facility for accommodating a prisoner or detinue of that category?

Shri V. V. Naik: Aurangabad belongs to former Hyderabad State; probably their jail rules may have been somewhat different; that is why the jail rooms are of a different type.

Shri Darbara Singh: Did you get intimation that because of shortage of space he is shifted from that place to Poona?

Shri V. V. Naik: DCP was himself with the MP and he himself informed.

Shri Darbara Singh: Is there anything on record to show that the officers in charge approached the jail authorities to find out whether there is suitable class for Mr. Dhote or not?

Shri V. V. Naik: Yes.

Shri Darbara Singh: Was he along with the officer?

Shri V. V. Naik: Yes.

Shri Darbara Singh: Is there anything on record saying because of lack of accommodation he is not accommodated there?

Shri V. V. Naik: Jail authorities must have written it.

Mr. Chairman: You did not give full information which is incumbent on you to supply. Why did you not give full detailed reasons for the arrest? You prevented him from certain activities which you have not specified at all. As Mr. Speaker himself has stated, in every case they say he is arrested under section so and so. In this case no such thing was mentioned. You are not giving full information.

Shri V. V. Naik: In the subsequent wireless message we had elaborated all that.

Mr. Chairman: Have you anything more to say?

Shri V. V. Naik: As I said in my written explanation right in the beginning, Sir, there was no intention of showing any disrespect to the Member of Parliament. As I said, it is a mistake and the circumstances have been explained. We will do our best and so far as I am concerned, I will see that such a mistake does not occur again. I have asked my people to send a wireless message straightway; they may send the telegrams later, but the wireless should be used immediately; since the wireless works throughout the 24 hours of the day, the wireless message would come immediately; the wireless office does not stick to normal office hours and they deliver all the wireless messages immediately.

(The witness then withdrew)

The Committee then adjourned.

APPENDIX I

(See para 9 of the Report)

Extracts from the Maintenance of Internal Security Act, 1971.

Power to make orders detaining certain persons

3. (1) The Central Government or the State Government may,—
- (a) if satisfied with respect of any person (including a foreigner) that with a view to preventing him from acting in any manner prejudicial to—
 - (i) the defence of India, the relations of India with foreign powers, or the security of India, or
 - (ii) the security of the State or the maintenance of public order, or
 - (iii) the maintenance of supplies and services essential to the community.
 - (b) if satisfied with respect to any foreigner that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India.

it is necessary so to do, make an order directing that such person be detained.

(2) Any of the following officers, namely:—

- (a) district magistrates,
- (b) additional district magistrates specially empowered in this behalf by the State Government,
- (c) Commissioners of Police, wherever they have been appointed, may also, if satisfied as provided in sub-section (1) exercise the power conferred by the said sub-Section.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the State Government:

Provided that where under section 8 the grounds of detention are communicated by the authority making the order after five days but

not later than fifteen days from the date of detention, this sub-Section shall apply subject to the modification that for the words "twelve days", the words "twenty-two days" shall be substituted.

* * * * *

Grounds of order of detention to be disclosed to persons affected by the order

8. (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days, from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

* * * * *

Reference to Advisory Boards

10. Save as otherwise, expressly provided in this Act, in every case where a detention order has been made under this Act, the appropriate Government shall, within thirty days from the date of detention under the order, place before the Advisory Board constituted by it under Section 9 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report by such officer under sub-section (3) of section 3.

APPENDIX II

(See para 18 of the Report)

Copy of letter No. CR/6/22/5084, dated the 23rd June, 1973, received from the Superintendent, Central Telegraph Office, Nagpur.

With reference to your letter No. 15/CI/73, dated 20-6-73/Jyaistha 30, 1895 (Saka), I have to inform you that a certified copy of the state express telegram booked by the Commissioner of Police on 26th April, 1973, addressed to Speaker, Lok Sabha, New Delhi intimating the arrest and detention etc. of Shri Jambuwant Dhote is enclosed herewith as directed by you (See Annexure).

The investigation reveals that the said telegram was booked at 15.00 hours on 26th April, 1973 from this office. The same was copied and posted to New Delhi at 21.20 hours same day by night plane service, and acknowledged by New Delhi, Central Telegraph Office at 14.00 on 27th April, 1973.

The posting was unavoidable in view of the "Work to rule" agitation of the telegraphist during the period from 10-4-73 to 26-4-73 and stoppage on the circuit from 15.30 to 19.20 hours.

Further it is also humbly intimated that the sender of the telegram was apprised of the delay that is likely to be caused to his telegram on account of work to rule agitation.

However the Central Telegraph Office, New Delhi has been intimated to forward you further particulars regarding delivery of the telegram.

Encls: One.

ANNEXURE

(See para 1 of Appendix II)

X 1500 DA-7 NAGPUR 26 STATE DI 55
SPEAKER LOKSABHA NEW DELHI

SHRI JAMBUWANTRAO DHOTE, A MEMBER OF THE PARLIAMENT FROM NAGPUR CONSTITUENCY, DETAINED UNDER PROVISIONS OF MAINTENANCE OF INTERNAL SECURITY ACT 26 of 1971. HE WAS TAKEN INTO CUSTODY AT ABOUT 1815 HRS ON

25th INSTANT BEING DETAINED IN YERAVDA CENTRAL PRISON
POONA REGULAR INTIMATION FOLLOWS....COMMISSIONER OF
POLICE NAGPUR.....

The certified true copy of the DA 7 booked at Nagpur CTO on 26-4-73.

Sd|- dt. 23-6-1973.

Additional Superintendent

Central Telegraph Office,

Nagpur-440001..

APPENDIX III

(See para 20 of the Report)

GOVERNMENT OF MAHARASHTRA

No. SBII/ISAO273,
Home Department (Special),
Sachivalaya, Bombay, August, 1973.

From:

Shri I. S. Ramrakhiani,
Under Secretary to the Government of Maharashtra,
Home Department.

To

The Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.

SUBJECT:—Detention of Shri J. B. Dhote M.P.—Delay in sending
intimation to the Speaker of Lok Sabha.

Sir,

With reference to your wireless message No. 25/21/73-Poll(I), dated the 18th August, 1973, on the subject noted above, I am directed to forward herewith the explanation (See Annexure I) of the Commissioner of Police, Nagpur (In duplicate) in the matter for submission to the Committee of Privileges.

2. The notice of grounds of detention issued by the Commissioner of Police, Nagpur was served on Shri Dhote, in the Yeravda Central Prison, Poona, on the 29th April, 1973, as required under section 8(1) of the Maintenance of Internal Security Act, 1971. The State Government is not required under law to communicate any grounds of detention to a letenu who is detained by any of the officers mentioned in section 3(2) of the Act and hence no separate grounds of detention were communicated to Shri Dhote by the State Government. A copy of the notice of grounds of detention served on Shri Dhote by the Commissioner of Police is, however, enclosed (See Annexure II).

Yours faithfully,

Sd/-

(I. S. Ramrakhiani)

Under Secretary to the Government of Maharashtra,
Home Department.

Accompaniment: Explanation of Commissioner
of Police, Nagpur (in duplicate).

ANNEXURE I TO APPENDIX III

No. Sr. P.P. | OW | Q73- (622) | T100
Office of the Commissioner of Police,
Nagpur.

August 22, 1973.

To

The Chief Secretary to the Government of Maharashtra,
General Administration Department,
Sachivalaya,
Bombay-32 BR.

SUBJECT:—Detention of Shri J. B. Dhote, M.P.—Delay in sending intimation to the Speaker of Lok Sabha.

Sir,

I have to refer to the wireless message No. 25|21|73-Poll(I) dated the 18th August, 1973 from the Government of India, Ministry of Home Affairs, calling for my explanation in connection with the subject noted above and to submit as follows:—

2. Shri J. B. Dhote, M.P. was ordered to be detained under the provisions of the Maintenance of Internal Security Act, 1971 by my order No. S.T.-I|1973(666), dated the 24th April, 1973. He was arrested at 6.15 p.m. on 25th April, 1973 on Yeotmal-Darwha road in Ghat Section and was escorted directly to Aurangabad Jail. The information about his arrest was received by me at about 7-30 p.m. The Police party along with Shri Dhote reached Aurangabad Jail at 4.30 p.m. on 26-4-1973, but the Jail Superintendent informed them that there was no suitable arrangement for lodging Shri Dhote there. Shri Dhote, therefore, was taken to Yeravda Central Prison, Poona, at about 9.00 a.m. after contacting me and obtaining my orders at about 8.00 a.m. and after giving him about one hour at Aurangabad to complete morning ablutions, etc. Shri Dhote reached Yeravda Central Prison, Poona, at about 2.00 p.m. on 26-4-1973 and was admitted into that prison.

3. Under paragraph 7 of the Pamphlet of Instructions forwarded by the Government of India to all State Governments under the Ministry of Home Affairs letter No. 12|2|67-PV dated 21st February, 1968, an intimation of arrest|detention|conviction is required to be sent to the Speaker by telegram and this first intimation should also contain the essential information, namely, in the case of arrest, the place of arrest, the law and the section under which the arrest was made, *where the Member is lodged*, the name and designation of the authority which ordered the arrest, etc. As there was difficulty of the Hon'ble Member's

lodging as stated above, the intimation was delayed. It would probably have been better if I had sent the intimation of his arrest by telegram immediately on receipt of information about it at about 7-30 p.m. on 25th April, 1973, and then sent a further telegram about his place of lodging. But since para 7 of the Instructions appeared to me categorical, the delay occurred inadvertently for which I would like to apologise to the Lok Sabha and to the Privileges Committee of the Lok Sabha.

Yours faithfully,

Sd/-

Commissioner of Police, Nagpur.

ANNEXURE II TO APPENDIX III

No. OW/Sr. P.P.-544

Office of the Commissioner of Police,
Nagpur, Dated the 27th April, 1973.

To

Shri Jambuwanttrao Bapuji Dhote,
aged about 40 years, resident of Nagpur.

In pursuance of Section 8 of the Maintenance of Internal Security Act 1971 (26 of 1971) you are informed that the grounds on which detention order No. ST.I/1973-666, dated 24th April, 1973 has been made against you by me under clause (ii) of clause (1) of Section 3 of the said Act are as under:—

Grounds

Recently there have been serious disturbances in Andhra Pradesh leading to acts of violence, arson, loot and destruction of public property and creating general lawlessness for demand of separate State of Andhra and Telengana. You and your associates of Maha Vidarbha Rajya Sangharsha Samiti and Nag Vidarbha Andolan Samiti have taken a cue and planned, in between December, 1972 and April, 1973, to mobilise public opinion and to lead a mass agitation by violent means and by creating general lawlessness affecting the maintenance of public order in Vidarbha region in general and City of Nagpur in particular for achieving your demand for separate State of Vidarbha by unlawful and violent means. For that and some of your activities found to be prejudicial to the maintenance of public order are as under—

(i) On 26th January, 1973 at Bharatmata Chowk, Jagnath Budhwari Nagpur in a public meeting of Nag Vidarbha Andolan Samiti you gave a provocative speech inciting people to violence by drawing the attention of the people to what is going on in Andhra and threatened that

if your demand was not conceded, you would not hesitate to adopt means adopted in Telengana. You also directed people to obtain Vidarbha State by resorting to whatever means possible. In this context you said in your speech as follows:—

(xxx)

(ii) On 26th January, 1973 at about 3.30 p.m. you inaugurated the installation of Vidarbha Chandika at Shahid Chowk in Itwari locality, Nagpur, under the Presidentship of Shri Keshaorao Gadekar, President of Nagpur Branch of Nag Vidarbha Andolan Samiti. In your speech you incited the people to violence against Shri S. M. Joshi. You also incited people and gave threat which created danger to personal safety of Shri Gadgil, Editor of daily 'Lokmat' of Nagpur and also danger to the property, i.e., the Press of Daily 'Lokmat'. You instigated the people to violence by saying that because your agitation is not on the lines of Andhra and Telengana, a state of separate Vidarbha has not been created. Your utterances also endangered the personal safety of Ministers, M.L.A. and MPs. You said in your speech as under:—

(xxx)

(iii) On 4th February, 1973, at about 9.45 p.m. in a meeting under the presidentship of Shri Keshaorao Gadekar, President of Nagpur Nagar Nag Vidarbha Andolan Samiti, you again gave a provocative speech warning the Government that in case wishes of people are not considered, a grave and huge agitations on the lines similar to those in Telengana and Andhra would take place in Vidarbha. Your speech was calculated to incite people to lawlessness and acts of violence. You said in your speech as under:—

(xxx)

(iv) On 5th February, 1973, at about 9 p.m. a public meeting of Nagvidarbha Andolan Samiti and Maha Vidarbha Rajya Sangharsha Samiti at Shahid Chowk, Itwara, Nagpur held under the presidentship of Shri Keshaorao Gadekar, President of Nagvidarbha Andolan Samiti, you, in your speech, invoke of goddess Chandika for use of her weapon like "Trishul" and other weapons and fire to bring the Government to senses. You threatened 'Gherao' launching of fast and sacrifice of lives if Vidarbha state was not created. You threatened establishment of parallel government and dire consequences to Central Government, State Government, MLAs. and MPs. You said in your speech as under:—

(xxx)

(v) On 9th February, 1973, you addressed a public meeting of Maha-vidarbha Rajya Sangharsha Samiti under the presidentship of Shri Shamraoji Khapre at Town Hall, Nagpur. In your speech you incited

(xxx) In Marathi—Not reproduced.

the people for use of fire, i.e., Mashal' and threatened personal safety of the Prime Minister of India Mrs. Indira Gandhi by challenging that Vidarbha Chandika would not allow her to enter Vidarbha. You said in your speech as under:—

(xxx)

(vi) On 25th February, 1973, in a public meeting of Maha Vidarbha Rajya Sangharsha Samiti under the presidentship of Shri N. L. Rao at Chitnis Park, Nagpur, you instigated the people to resort to burning of public property and condemned the President of India and the Prime Minister by saying that they were guilty of violence. You threatened creating a situation of anarchism in the country and upsurge of revolution. You again threatened the personal safety of Prime Minister Mrs. Indira Gandhi by challenging that if separate State of Vidarbha was not created the people of Nagpur and Vidarbha would not allow her to enter Vidarbha. You said in your speech as under:—

(xxx)

(vii) On 13th March, 1973, at Shehid square Itwara at about 9 p.m. in a public meeting by M.V.R.S.S. Nagpur presided over by Shri Kesharao Gadekar, you instigated people for violence and to commit arson of public property by quoting the advice of Pro. Gora of Andhra Pradesh who was present in the meeting and who also addressed the meeting. You said in your speech that:—

(xxx)

(viii) You addressed a public meeting at Shehid Chauk Itwara Nagpur on 16th April, 1973 which was convened by M.V.R.S.S. under the presidentship of Shri Kesharao Gadekar President of Nagpur Nag Vidarbha Andolan Samiti at 9-30 p.m. You announced programme of Nagpur Bundh and Satyagraha on 18th April, 1973, you have a provocative speech stating that the Army of Vidarbha is ready and people of Vidarbha are ready for fight. You incited people for fighting by giving analogy of a fight in fort, and saying that every house of common man is ready to fight for demand of separate of State of Vidarbha. You incited the people for violence by declaring that those, attempting to commit treachery with Vidarbha agitation by accepting money, would be crushed on spot. You while supporting the looting of certain shops in Nagpur, justified and incited the looting of yarn and grain shops. You further instigated the people for indulging in violence by giving a slogan to burn Maharashtra Government. You further threatened, establishing parallel Government. You said in your speech as under:—

(xxx)

Such speeches of yours created an atmosphere of violence, inciting people at large to resort to acts of violence. Subsequent to this climate of violence created by your speeches, the people resorted to rampage,

(xxx) In Marathis—Not reproduced.

acts of violence and looting. On the night between 16th April, 1973 and 17th April, 1973, 32 shops of yarn, grain 'grocery' etc. were broken open and looted in many areas of Nagpur city. By the evening of 17th April, 1973, 8 further incidents of looting of shops occurred.

(ix) That on 17th April, 1973 you addressed a public meeting at Chitnis Park Nagpur convened by M.V.R.S.S. Nagpur at 8.15 p.m. under the presidentship of Raje Visheveshwarrao M.L.A. Ahiri. You in the said meeting gave incitement to the people for looting of grain and yarn shops and attending the meeting actually pelted stones at Hari Vijay Hotel and looted a fruit thela of water-melons and broke wooden stand of traffic police at Chitnis Park Square. You said in your speech:—

(xxx)

(x) In the private meeting of leaders of M.V.R.S.S. held at the Forward Block office near Chitnis Park on 27th March, 1973 under your presidentship decisions were taken to give a call for Nagpur Bandh on 18th April, 1973 and a call for Vidarbha Bandh on 1st March, 1973, In spite of disturbed conditions in many areas in Nagpur City, after 16th April, 1973 you pressed your call of Nagpur Bandhs and went on to implement it with the result that on the day of Nagpur Bandh, i.e., on 18th April, 1973 as many as 64 incidents of arson and looting of shops and business concerns of various commodities, such as grain, yarn, grocery, cloth, Dal, Oil etc. occurred in Nagpur City. The incidents continued to occur on 19th, 20th and 1st April, 1973.

(xi) On 19th April, 1973, you addressed a press conference between 5.15 p.m. to 6 p.m. in the Forward Block office at Chitnis Park in which you stated that Nagpur Bandh programme of 18th April, 1973, was the rehearsal of the ensuing Vidarbha Bandh programme of 1st May, 1973. By taking advantage of yarn and foodgrains scarcity conditions, in the state in general and Nagpur City in particular. You are thus mobilising public opinion by preaching acts of violence, arson, loot etc. by inciting the people to resort to unlawful and violent acts, under the garb of 'Nagpur Bandh' and 'Vidarbha Bandh'.

(xii) On 23rd April, 1973, in a private meeting of the workers of Maha Vidarbha Rajya Sangharsha Samiti held at Gandhibagh garden Nagpur between 17.30 to 20.00 hours under the presidentship of Shri Kesharao Gadekar, you pleaded for immediate release of the members of M.V.R.S.S. arrested by the police during disturbances and you simultaneously warned that if such a release is not made, the Samiti will have to consider if the police stations should be kept in existence or not. Your utterances in this connection were as under:—

(xxx)

From the above facts and circumstances it is gathered that you, positively showed your determination to instigate the people to take

(xxx) In Marathi—Not reproduced.

recourse to lawlessness and acts of violence, such as loot and arson, and by 'Gherao' and launching of fast etc., calculated to jeopardise the maintenance of public order in Nagpur City. You are thus acting in a manner prejudicial to the maintenance of public order in Nagpur.

Each of the grounds, individually and collectively was germane and enough to satisfy me to come to the conclusion that with a view to preventing you from acting in any manner prejudicial to the maintenance of public order, it is necessary to detain you.

If you wish to make a representation against the detention order, you should address your representation to the Government of Maharashtra and forward to the Government through the Superintendent of the Yeravda Central Prison, Poona.

Sd/- V. V. NAIK,
Commissioner of Police, Nagpur.

APPENDIX IV

(See para 24 of the Report)

Note received from the Minister of Law, Justice and Company Affairs

Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha reads as follows:—

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

2. The Speaker, Lok Sabha, received the following communication dated 26th April, 1973 from the Commissioner of Police, Nagpur, regarding the detention of Shri Jambuwant Dhote, Member of the Lok Sabha:—

“I have the honour to inform you that I have found it my duty, in exercise of my powers under sub-clause (ii) of clause (a) of sub-section (1) read with clause (c) of sub-section (2) of section 3 of the Maintenance of Internal Security Act, 1971 (26 of 1971) to direct that Shri Jambuwant Dhote, Member of the Lok Sabha, *be detained with a view to preventing him from acting in any manner prejudicial to the maintenance of public order in Nagpur City.*

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

(emphasis supplied)

3. In the wake of arrest of the Member, a discussion ensued in the Lok Sabha in which a reference was made to Rule 229 supra and in particular to a situation of detention when the participants felt that it becomes all the more necessary to intimate the reasons of arrest when a Member is detained and is not put to trial. While referring the matter to the Committee of Privileges, the Speaker observed *inter alia*—

“I wish that the Committee examines the question... what is the type of information that should be sent. The Committee will

examine how much information should be given and in what form in case of arrest under the Maintenance of Internal Security Act, 1971”.

4. That brings us to the question as to what is the true import and scope of the expression “indicating the reasons for the arrest, detention or conviction” appearing in rule 229 supra. The Concise Oxford Dictionary defines ‘reason’ as a fact adduced or serving as argument, motive, cause or justification. *Corpus Juris Secundum*, Vol. 75, at pp. 633-634 explains the meaning of ‘reason’:

“The word ‘reason’ has several shades of meaning, and in one sense it signifies a statement offered as an explanation of an act; any expression or statement offered as an explanation of a belief or assertion or as a justification of an act or procedure; any sufficient ground of explanation or of logical defence; that which is supposed or affirmed to support or justify any conclusion, belief or plan of action: a fact, truth, or end to be attained, which drives the mind as a rational ground or motive; proof for an opinion, judgment, or resolution, principle of thought or action.”

5. Section 3 of the Maintenance of Internal Security Act, 1971 makes a dichotomy between persons in general on the one hand and foreigners on the other as respects the action that can be taken by the Central or State Government. In the case for the former, the action to be prevented could be such as is prejudicial to (a) the defence of India, the relations of India with foreign powers or the security of India; or (b) the security of the State or the maintenance of public order; or (c) the maintenance of supplies of and services essential to the community. Regarding foreigners the action can be predicated upon (a) regulating his continued presence in India, or (b) with a view to making arrangements for his expulsion from India.

6. Consequently, a mere statement that a person has been detained under Section 3 of the Maintenance of Internal Security Act, 1971 may not amount to a compliance of rule 229 supra, but the Commissioner of Police, Nagpur, has pinpointed only one reason, namely, ‘maintenance of public order’, out of the several upon which he could have acted and that may be held to be sufficient compliance with the rule.

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

8. It may be noted that a maximum period of fifteen days from the date of detention has been allowed by Section 8(1) to the authority

making the order to communicate the grounds and sub-section (2) of Section 8 makes it clear that the authority need not disclose the facts which it consider to be against the public interest to disclose. As the intimation of arrest or detention under rule 229 supra has to be given immediately, the authority making the order of detention will be left with little time to weigh the potential gravity of each fact constituting the ground and take a decision whether it would be against the public interest to disclose the same.

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

10. The precise question for consideration is how much information should be given and in what form in case of arrest under the Maintenance of Internal Security Act, 1971. In view of the observations herein it appears reasonable to take a view that it would be sufficient for the detaining authority to indicate the broad reasons as set out in Section 3(1) (a) (i), (ii) or (iii) as the case may be.

Sd/-

H. R. GOKHALE,

Minister of Law, Justice and Company Affairs.

3-12-1973.

APPENDIX V

(See Minutes of First Sitting, dated 20-6-1973)

(Letter dated 6-6-1973, received from Shri Madhu Limaye, M.P. relating to the case of Shri Jambuwant Dhote, M.P.)

MADHU LIMAYE
(MEMBER OF PARLIAMENT)
LOK SABHA.

Temporary Address:
21, Western Court,
Janpath,
NEW DELHI-1.

To 6th June, 1973.

The Secretary,
Privileges Committee,
Lok Sabha, New Delhi.

Dear Sir,

MEMO ON PRIVILEGE QUESTIONS

**

**

**

2. In the Dhote matter the issue is very simple. It is true that no Member of Parliament is above the law; and if an ordinary citizen can be lawfully held in detention so can a Member of Parliament.

2.1. But if a Member is confined without the authority of law then it would mean that his privilege of immunity from arrest is attracted, and the Committee must inflict the severest punishment on those who violate this privilege without the justification of law (Of course this can be decided only by competent judicial tribunals).

2.2. Similarly, if the conditions in Rule 229 are not complied, if the intimation does not come immediately, and more impartially, if the reasons or the grounds for the detention are not stated, if the form given in the Third Schedule is not properly filled, then that also is a breach of privilege and contempt of the whole House. The Committee must make an example of the officers/authorities who are being vindictive, negligent and arrogant in their dealings with Mr. J. Dhote, M.P.

2.3. It is not enough to give merely Sections of an Act. Sufficient particulars must be given to enable the House to understand the reasons that led to the arrest. The Punjab and Allahabad High Courts have also held that merely citing Sections is not compliance with Article 22 (which is similar to the provision of Rule 229).

Yours sincerely,
Sd/-
MADHU LIMAYE.

**Omitted. This portion relates to another case.

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