

COMMITTEE OF PRIVILEGES

(EIGHTH LOK SABHA)

FOURTH REPORT

(Presented on 7th March, 1989)



**LOK SABHA SECRETARIAT
NEW DELHI**

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Corrigenda to the Fourth Report of the
Committee of Privileges
(Eighth Lok Sabha)

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CONTENTS

	PAGE
1. Personnel of the Committee of Privileges	(iii)
2. Report	1
3. Note by Sarvaashri Somnath Chatterjee, V. S. Krishna Iyer and K. Ramachandra Reddy	32
4. Committee's Note	42
5. Minutes of sittings of Committee	45
6. Minutes of evidence	95
7. Appendices	207

PERSONNEL OF THE COMMITTEE OF PRIVILEGES*
(1988-89)

Shri Jagan Nath Kaushal—Chairman

MEMBERS

2. **Shri H. K. L. Bhagat.**
3. **Shri Somnath Chatterjee.**
4. **Shri Bipin Pal Das.**
5. **Shri Sharad Dighe.**
6. **Shrimati Sheila Dikshit.**
7. **Shri Bhishma Deo Dube.**
8. **Shri V. N. Gadgil.**
9. **Shri V. S. Krishna Iyer.**
- **10. **Shri Kammodilal Jatav.**
11. **Shri Jujhar Singh.**
12. **Dr. Prabhat Kumar Mishra.**
13. **Shri Braja Mohan Mohanty.**
14. **Shri K. Ramachandra Reddy.**
15. **Shri Bholanath Sen.**

SECRETARIAT

Dr. Subhasin C. Kashyap—Secretary-General.

Shri K. C. Rastogi—Joint Secretary.

Shri T. S. Ahluwalia—Deputy Secretary.

Shri J. P. Ratnesh—Senior Table Officer.

*The Committee of Privileges was nominated by the Speaker on 20th June, 1988.

**Nominated with effect from 5th September, 1988.

FOURTH REPORT OF THE COMMITTEE OF PRIVILEGES (EIGHTH LOK SABHA)

I. INTRODUCTION

1. I, the Chairman of the Committee of Privileges, having been authorised by the Committee to submit the Report on their behalf, present this their Fourth Report to the House on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M. P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988 and referred¹ to the Committee by the House on 22nd March, 1988.

2. The Committee held twenty one sittings in connection with this case. Minutes of these sittings form part of the Report and are appended hereto. The Committee considered and adopted the Report at their sitting held on 6th December, 1988.

II. FACTS OF THE CASE

3. On 14th March, 1988, Prof. Madhu Dandavate, M.P., sought to raise² in the House the matter regarding publication of an article in the Press involving Shri Kamal Nath, MP and stated that "a very serious situation has developed. One member of this House, Mr. Kamal Nath is alleged to have two illegal accounts". Shri Kamal Nath then stated, *inter alia* as follows :—

"Sir, the *Indian Express* today has carried an article making grave charges of violation of the law against me. I would like to uphold the highest traditions of public life and would request this august house, everybody sitting here—it is not a question of this side or that side—to appoint a Committee of only three members of the Opposition to be appointed by the opposition themselves in consultation with you to find out about the veracity and the illegalities contained in the article of the *Indian Express* today and to give a finding on the charges against me. . . .(interruptions). This has been raised. After all, it is not a question involving me. It is a question involving every member of this House. It is not a charge against me; it is charge against a member of Parliament. I am willing to

¹L.S. Deb., dt. 22-3-1988.

²L.S. Deb., dt. 14-3-1988.

submit myself to an enquiry by three members of the Opposition. Let there be a Committee of three members of the Opposition only. . . . (interruptions).”

The Speaker, thereupon, observed that “you have to come under some rule, under some motion and then I will consider it”.

4. On 15th March, 1988, Sarvashri Harish Rawat, Satyendra Narayan Sinha, Prof. N. G. Ranga and Prof. K. V. Thomas, MPs, gave separate but identical notices³ of question of privilege against *Indian Express*, *Financial Express* and *Jansatta* for publishing in their issues of 14th March, 1988, an article by Shri Arun Shourie, captioned “An M.P. and two Accounts” which was allegedly tendentious, misleading, false and derogatory.

5. The impugned article⁴ captioned “AN MP AND TWO ACCOUNTS” by Shri Arun Shourie reads as follows:—

“Among Rajiv Gandhi’s acquaintances the media focusses on the Bachchans. But there are others too. Among them the one from Doon School; the low profile Kamal Nath. A businessman, he shot into prominence during the emergency as one of Sanjay Gandhi’s hatchetmen. When Mrs. Gandhi usurped the board of this newspaper, Kamal Nath was Sanjay’s bully on the board. Till Sanjay’s death Kamal Nath was much on display as a factotum in the inner-most circles. He was one of the select who could ‘get things done’. He could, for instance, persuade the Government to hand a contract of one hundred and seventy-five million dollars for the purchase of 500,000 tonnes of High Speed Diesel and 300,000 tonnes of kerosene to a ‘firm’—you won’t mind my reminding you of the Kuo Oil Company—which was nothing but a signboard in Hong Kong and had a paid up capital of fifty dollars only, because of which ‘mistake’, as the Government eventually acknowledged in Parliament, the country lost between Rs. 9 and 12 crore!

Such was his justly fabled clout. With Sanjay’s death he fell a bit from grace. There were suggestions about accounts not having been rendered to the satisfaction of the powers that then were.

The misunderstandings, were obviously cleared up. Since 1980 Kamal Nath has continued to represent Chindwara, Madhya Pradesh, in the Lok Sabha. But this time round he has studiously kept a low profile. And has busied himself with constructive tasks in what he has specified as his

³See Appendices I to IV.

⁴The article was also published in *Financial Express* dated 14th March, 1988 and its Hindi version was published in *Jansatta* dated 14th March, 1988 (See Appendix V).

'special interest' in the Lok Sabha's Who's Who, that is 'rural development. In pursuit of which he has been instrumental in setting up the country's second Doon School in Chindwara, the poverty stricken district he represents.

The Dubai Account.—It now turns out that as long ago as 1981 and 1982 the Government got to know at least two of the foreign accounts that one of his firms—E.M.C. Steelal Ltd—was even their maintaining illegally abroad.

On September 23, 1981, the Government got to know that E.M.C. Steelal Ltd. maintained an account in Dubai at the Algemene Bank Nederland N.V. (P.O. Box 2567, Dubai). The Government also got to know the number of the account: Number 9528.3. And also that on September 9, 1981, this account received six million seven hundred fifty thousand thirty-four dinars—that is about Rs. 2 crore at the then prevailing rate of exchange—from the Chartered Bank in Dubai.

On October 13, 1981, the Enforcement Directorate asked the Reserve Bank whether E.M.C. Steelal Ltd. had been permitted to maintain any account abroad. The Reserve Bank replied on November 10, 1981. It told the Directorate that it had not given any permission to EMC Steelal to maintain any foreign currency account abroad. It also told the Directorate that the company had not informed the Reserve Bank that it was maintaining any foreign account.

But Kamal Nath was involved—not just a member of Parliament, but one known to be the hatchetman of the ruling family. The Calcutta Office of the Directorate was therefore not the one to move without arming itself with a directive from Delhi.

Accordingly, on January 2, 1982, A. K. Roy Chowdhury, the Deputy Director, Enforcement, stationed at Calcutta sent all the information to his head office in Delhi seeking directions on what should be done in the matter.

In his letter to N. S. Bindra, the Director of Enforcement Chowdhury made it a point to mention not just that E.M.C. Steelal Ltd. was maintaining the foreign account, not just that the Reserve Bank had stated that 'captioned company have not been given any permission to maintain such foreign currency account', but in addition that 'our enquiry reveals that company belong to (sic.) Sri O.M. Khosla and Mahendra Nath. Sri Mahendra Nath is the father of Sri Kamal Nath, MP. They reside at Robinson Street Calcutta'.

But the head office knew Who's Who as well as Calcutta and so it too acceded the query.

This is how A.K. Banerjee, the Special Assistant to the Director of Enforcement, phrased the reply in his letter of February 2, 1982: 'I am directed to refer to your letter . . . and to say that the matter was placed before the Director of Enforcement who desires that you being officer on the spot may take a decision after taking into consideration all facts, circumstances and material available, including the original intelligence with you'.

How zealous are our enforcers. The man, in Calcutta instead of acting asks the boss in Delhi. The boss does not reply himself. He asks his special Assistant to do so. That hapless man also shakes off the responsibility, "I am directed to . . . and to say that . . ." And the directive puts the matter back to Calcutta.

All that Calcutta thought prudent, to do therefore was to initiate an inquiry to establish what it already knew. The 'Enquiry Report' of March 12, 1982, stated that Kamal Nath was a director of the company, and his father, Mahendra Nath, was its Chairman.

Twice warned, the Calcutta Office, 'taking into account', as directed, 'all facts, circumstances', shut the file tight.

The Saudi Account.—Unfortunately that very month—that is in February 1982—the Government learnt of the second foreign account that this company of Kamal Nath was maintaining abroad. It obtained proof of the fact that Kamal Nath's E.M.C. Steelal Ltd. had account number 12.84.037 in the Albank Alsaudi Alhollandi in Riyadh, Saudi Arabia. In fact, the Government later obtained the bank statement regarding this account which showed that the account had at that time a credit balance of seven million seven hundred and eighty-nine thousand four hundred and fifty-four riyals—that is, of about Rs. 3 crore at the then prevailing exchange rate.

Further information too became available, details about the actual devices—underinvoicing and the lot—which were being adopted by Kamal Nath's company to accumulate foreign exchange abroad. But Calcutta took all of two years to muster courage to do anything about it.

And what did it do ?

On September 22, 1984, it forwarded the bank statement, etc. and the inquiry report to the head office in Delhi.

A fair proposal.—But times changed. Information suggests that eventually action was in fact initiated. The decisive and ultimate action. And the same information suggests that it was nipped in the bud. And at the intervention of Delhi.

The charge here is as grave as it can be : a company of a member of Parliament has had foreign accounts; the Government has had knowledge of the accounts and of the fact that the accounts were illegal; and by what we are told the decisive action that was commenced was called off, the evidence handed back and destroyed mid-stream at the intervention of the man's Patrons.

If the charge is true the conduct of a member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry Licences case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privilege.

'But what is the use of your producing these things again and again? Those are shameless fellows. They will just shrug this one off too.'

But sometimes even the shameless have to at least pretend to be a little ashamed. Remember Amitabh Bachchan? He had to resign merely because of a fact about his brother. A fact involving at that time no more than Rs. 60 lakhs to 85 lakhs. Now we have amounts going far beyond Rs. 5 crore. Will Kamal Nath be less honourable than even Amitabh Bachchan? The outcome thus will depend not on what this member of Parliament does as against what that one did. It will depend upon what Parliament itself does.

Will it set up a Committee of the House to examine the matter; a matter involving sums far in excess of the ones involved in the Tulmohan Ram Case?

'But what is the use of another Committee?'

The Committee will discover not just the conduct of one member of Parliament. By examining the deposits into and withdrawals from these two accounts it will discover other, even more vital accounts. Of a party?

'But that's just another pie-in-the-sky. Even if the documents were in existence at any time, they must all have been destroyed by now.'

Not true. As of day before yesterday all the relevant documents existed in Calcutta. Moreover, the facts are within the knowledge not just of at least six Members of Parliament, but of 50 to 60 officers who were involved in the follow-up action.

'But what is the use? Even if the documents exist today, they will be destroyed the moment your article comes out. Who will give the committee a shred of paper to establish anything?' I will, if Parliament so directs. Documents that establish :

- (i) the existence of the accounts;
- (ii) the deposit of about Rs. 2 crore into the Algemene Bank Nederland, Dubai;

- (iii) the balance of about Rs. 3 crore in the Albank Alsaudi Alhol-landi, Riyadh;
- (iv) the fact that the Government knew that the accounts existed and that they were illegal;
- (v) the fact of the inquiries to get the truth;
- (vi) the sorts of things that were being found as a result of the inquiries; and
- (vii) and the abrupt end to the chase on orders from Delhi.

A fair proposal ?

6. The members have *inter alia* alleged in their notices that the said article is "tendentious, misleading, false and derogatory. The article is a contempt of the member of Parliament and the Lok Sabha of which the member is a part. The article brings down the reputation of the Lok Sabha in as much as it falsely depicts the character of its member making the people to look down upon the institution."

7. On 16th March, 1988, Shri Kamal Nath also gave a notice⁵ of question of privilege against Shri Arun Shourie, author of the article and stated, *inter alia* that "the allegation contained in the said article is false and is a pernicious attempt to bring me down in the estimation of the public at large. This constitutes a breach of privilege and contempt of the whole House".

8. On 21st March, 1988, Shri Kamal Nath handed over to the Speaker, a copy each of two letters⁶ dated 26th November, 1980 and 22nd August, 1981, issued by the Reserve Bank of India, Calcutta (duly authenticated by him) wherein it had agreed to the opening of two bank accounts by M/s. E.M.C. Steelal Ltd., Calcutta—one in Riyadh, Saudi Arabia and another in Dubai, for smooth execution of the contract subject to certain conditions laid down in the letters. As per directions of the Speaker, a copy each of the said letters was forwarded to the Ministry of Finance (Department of Economic Affairs) on 21st March, 1988, for furnishing a factual note thereon. The Ministry of Finance (Department of Economic Affairs) confirmed, *vide* their note⁷ dated 21st March, 1988, that the two letters from the Reserve Bank of India (Exchange Control Department), Calcutta to M/s. E.M.C. Steelal, Calcutta were authentic.

9. On 22nd March, 1988, when Prof. Madhu Dandavate, Sarvashri Satyendra Narayan Sinha and Kamal Nath sought to raise⁸ the matter, the Speaker, with the consent of the House referred the matter to the Committee of Privileges for examination and report.

⁵See Appendix VI.

⁶See Appendices VII and VIII.

⁷See Appendix IX.

Deb., dt. 22-3-1988.

III. SITTINGS HELD/EVIDENCE RECORDED BY THE COMMITTEE

10. At their first sitting held on 29th March, 1988, the Committee decided that, in the first instance, Sarvashri Harish Rawat, Satyendra Narayan Sinha, Prof. K. V. Thomas, Prof. N. G. Ranga and Shri Kamal Nath, MPs, who had given notices of question of privilege be requested to appear before the Committee for oral examination on 6th April, 1988.

11. At their second sitting held on 6th April, 1988, the Committee examined on oath Shri Harish Rawat, Prof. K. V. Thomas, Shri Satyendra Narayan Sinha and Shri Kamal Nath, MPs.

12. The Committee requested Shri Kamal Nath, M.P., to furnish a copy each of the following documents :—

- (i) Letter No. Fex. As. 131480 dated 12th November, 1980, from the Joint Manager, New Bank of India, Calcutta, to the Reserve Bank of India, Exchange Control Department, Calcutta;
- (ii) Letter No. Fex. As. 132080 dated 15th November, 1980, from the Joint Manager, New Bank of India, Calcutta, to the Reserve Bank of India, Exchange Control Department, Calcutta;
- (iii) Letter No. INT/6C-4, dated 12th November, 1980, from M/s. EMC Steelial Ltd., 3A, Auckland Place, Calcutta, referred to in endorsement No. CA.EC.PX 288/X. 38 (TK) (S-23)-80, dated 26th November, 1980, from the Reserve Bank of India, Calcutta; and
- (iv) Letter No. INT/8C-4, dated 12th August, 1981, from M/s. EMC Steelial Ltd., Calcutta and the endorsement dated 13th August, 1981, thereon by the Manager, Allahabad Bank, Calcutta.

13. The Committee also decided that the Editors of *Indian Express*, *Financial Express* and *Jansatta* be asked to appear before them for oral examination on 20th April, 1988.

14. At their third sitting held on 20th April, 1988, the Chairman informed the Committee that Sarvashri Arun Shourie and N. S. Jagannathan, Editors of *Indian Express* and *Financial Express* who had been asked to appear before the Committee for oral evidence, had in their identical letters dated 11th April, 1988, stated that Sarvashri Ram Jethmalani and Arun Jaitley, Advocates, who would be representing them in the matter, would also accompany them at the time of their appearance before the Committee. They had also requested that as they would like to summon a number of documents as well as witnesses, procedure therefor might be intimated to them.

15. The Chairman further informed the Committee that a reply had been sent to them on 13th April, 1988, stating that the question of allowing them to be accompanied by two advocates would be placed before the Committee of Privileges for their decision. As regards summoning of documents/witnesses, they had been informed that they might submit a list of documents/witnesses to the Committee when they appear before them and that their request in that regard would be considered by the Committee.

16. The Committee considered the matter at length and noted that though rule 271 of the Rules of Procedure provided that a Committee might, under the direction of the Speaker, permit a witness to be heard by a counsel appointed by him and approved by the Committee, there had been no instance in Lok Sabha when a counsel appeared before the Committee of Privileges on behalf of a witness.

17. The Committee decided that the Editors might be examined first on facts and if, during the course of their evidence, any legal points arose, necessitating the assistance of a counsel to the witnesses, the Committee would consider their request and proceed further in the matter in accordance with the provisions contained in rule 271 of the Rules of Procedure.

18. Shri Arun Shourie, Editor, *Indian Express*, was examined by the Committee on oath.

Shri Arun Shourie, with the permission of the Committee, read out a statement^a and also handed over a signed copy thereof to the Chairman. In his statement, Shri Arun Shourie, raised several legal and procedural issues which might affect him adversely in the event of a suit being instituted in a court if he was compelled to proceed with his oral evidence before the Committee and disclose his defence which he would like to reserve for the courts.

Shri Arun Shourie was thereupon asked to withdraw to enable the Committee to deliberate on the matter.

19. After some discussion, Shri Arun Shourie was called in again and informed by the Chairman that the Committee had decided that (i) copies of two letters issued by the Reserve Bank of India, Calcutta (which were shown to him) and handed over by Shri Kamal Nath to the Speaker, Lok Sabha, would be supplied* to him; (ii) a copy of verbatim proceedings of the Committee of Privileges containing the oral evidence of Prof. K. V. Thomas and Sarvashri Harish Rawat, Satyendra Narayan Sinha and Kamal Nath, MPs, would also be Supplied* to him; and (iii) full protection would be afforded^b to him by the Committee insofar as the procedural and legal

^aSee Minutes of evidence dt. 20-4-1988.

^bSupplied to Shri Arun Shourie on 22-4-1988.

points raised by him were concerned, as and when required. The question of allowing him to be represented by a counsel would be considered as per rules as and when any legal issues arose necessitating such assistance.

Shri Arun Shourie was further examined by the Committee.

20. The Committee also examined on oath Shri N. S. Jagannathan, Editor, *Financial Express*.

21. At their fourth sitting held on 28th April, 1988, the Committee considered the letter dated 24th April, 1988, received from Shri Arun Shourie, Editor of *Indian Express* requesting that the decisions of the Committee on the points which he had raised in his written submission on 20th April, 1988, be communicated to him in writing so that he could take proper legal advice thereon. He had also requested that his counsel and he himself might be permitted to ask questions from the members who had given evidence, before his own evidence was recorded.

22. The Committee felt that there was no need to change their earlier decision taken on 20th April, 1988 and decided that Shri Arun Shourie, Editor, *Indian Express* and Shri Prabhask Joshi, Editor, *Jansatta*, be asked to appear before them on 10th May, 1988, for oral evidence.

23. At their fifth sitting held on 6th May, 1988, the Committee perused the letters dated 20th April, 24th April and 5th May, 1988, received from Shri Arun Shourie, Editor of *Indian Express* in which he had raised almost the same points which he had made in his submission to the Committee during the course of his oral evidence on 20th April, 1988. The Committee again deliberated on the matter and came to the conclusion that there was no need to review their earlier decision taken on 20th April, 1988.

24. At their sixth sitting held on 10th May, 1988, the Committee examined on oath Sarvashri Arun Shourie and Prabhask Joshi.

Shri Shourie handed over a letter to the Chairman containing, *inter alia*, a list of documents and requested the Committee to summon them from the Directorate of Enforcement Zonal Office, Calcutta and Head Office at Delhi and the Reserve Bank of India, Exchange Control Department, Calcutta and Bombay, to enable him to substantiate the contents of his article.

25. At their seventh sitting held on 11th May, 1988, the Committee considered the above and decided that the matter might be deliberated upon further at their next sitting.

26. At their eighth sitting held on 13th May, 1988, the Committee further deliberated on the matter and decided that the Ministry of Finance

be directed to furnish a photo copy each of the following seven documents, duly authenticated, for their perusal :—

- (i) Letter No. T-1/531/CAL/81/9363, dated 13th October, 1981, from the Assistant Director, Enforcement Directorate, FERA, Calcutta Zonal Office to the Controller, Exchange Control Department, Central Office, RBI, Bombay;
- (ii) Letter No. ECCO. FAS/402/E/81, dated 10th November, 1981, from the Controller, Exchange Control Department, Central Office, RBI, Bombay to the Assistant Director, Enforcement Directorate, FERA, Calcutta Zonal Office;
- (iii) Letter No. T-1/531/CAL/81/46, dated 2nd January, 1982, from Shri A. K. Roy Chowdhury, Deputy Director, Enforcement Directorate, Calcutta Zonal Office to Shri H. S. Bindra, Director, Enforcement Directorate, New Delhi;
- (iv) Letter No. FC/ON/1/82/SA, dated 9th February, 1982, from Shri A. K. Banerjee, SA to Director, Enforcement Directorate to Shri A. K. Roy Chowdhury, Deputy Director, Enforcement Directorate, Zonal Office, Calcutta;
- (v) Enquiry report prepared on EMC Steal Limited by the Assistant Enforcement Officer, Calcutta Zonal Office on 12th March, 1982;
- (vi) Letter No. T-1/531/CAL/81/7579, dated 22nd September, 1984, from Shri B. P. Jana, Deputy Director, Enforcement Directorate, Calcutta Zonal Office to Shri D. C. Mandal, Special Director, Enforcement Directorate, New Delhi; and
- (vii) Report No. T-1/531/Cal/81/5637, dated 1st June, 1985, prepared by Shri M. N. Bapat, Deputy Director, Enforcement Directorate, FERA, Calcutta, for the Enforcement Directorate, Head Office, Delhi.

27. The Committee also decided that the Ministry of Finance be directed to state in writing—

- (i) Whether any Bank accounts were opened in Riyadh, Saudi Arabia and Dubai by M/s. EMC Steal Ltd., Calcutta, in pursuance of the permission granted by the Reserve Bank of India, Exchange Control Department, Calcutta, *vide* their Letters No. CA.EC.PX.287/X.38(TK)(S-23)-80, dated 26th November, 1980 and CA.EC.PX/38/X.38(T.K.)(S-27)-81, dated 22nd August, 1981, and if so, the numbers thereof; and

- (ii) Whether the Reserve Bank of India, Exchange Control Department, Calcutta, was empowered in 1980 to grant permission to firms to open foreign accounts.

28. At their ninth sitting held on 9th June, 1988, the Chairman informed the Committee about the receipt of seven documents and relevant information regarding foreign bank accounts of Shri Kamal Nath's firm M/s. EMC Steelal Ltd., from the Ministry of Finance. The Committee deliberated upon the matter and noted that the Government of India, Ministry of Finance had categorically stated that "the Reserve Bank of India has informed that M/s. EMC Steelal Ltd., Calcutta, had in pursuance of the permission granted by R.B.I., Calcutta, *vide* Letters No. CA.EC. PX.287/X.38(TK)(S-23)-80, dated 26th November, 1980 and CA.EC. PX/138/X.38(T.K.)(S-27)-81, dated 22nd August, 1981 had actually opened accounts in Riyadh and Dubai; the numbers of these accounts were 12.84.037 and 9528 respectively. The Reserve Bank of India has further confirmed that the RBI, Exchange Control Department, Calcutta, was empowered in the year 1980 to grant permission to firms to open foreign accounts". The Committee were therefore of the view that the documents which had been called for from the Ministry of Finance in pursuance of the request of Shri Arun Shourie were no longer relevant to the issue and it was not necessary for the Committee to peruse/examine them. The Committee decided that Shri Arun Shourie be asked to appear again before the Committee on 30th June, 1988, to explain what he had to say in the matter in view of the findings of the Committee.

29. At their tenth sitting held on 29th June, 1988, the Chairman observed that as the Committee of Privileges had since been reconstituted and there were four new members in the Committee, it would be better if the matter was re-deliberated upon before Shri Arun Shourie was asked to appear before the Committee, so that the new members might also get an opportunity to express their views in the matter. The suggestion was agreed to. The Committee decided that pending such deliberations, Shri Arun Shourie who was to appear before them on 30th June, 1988, might be asked not to appear on that day.

30. At their eleventh sitting held on 30th June, 1988, the Committee reviewed the decisions taken at their sitting held on 9th June, 1988. The Committee decided that Shri Arun Shourie be asked to appear before them on 14th July, 1988 and confronted with the information furnished by the Ministry of Finance to the effect that the Reserve Bank of India, Calcutta had granted permission to M/s. EMC Steelal Ltd., Calcutta in 1980 to open foreign bank accounts; that the Calcutta Branch of Reserve Bank of India was empowered to grant such permission in 1980; and that the accounts opened by the firm in pursuance of the said permission were the same which had been referred to as "illegal accounts" by Shri Shourie in

his article. The Committee decided to consider the whole issue in the light of explanations/submissions of Shri Arun Shourie thereon.

31. On a point being raised by a member regarding the decision taken by the Committee at their sitting held on 9th June, 1988, that the seven secret documents called for from the Ministry of Finance were no longer relevant to the issue and it was not necessary for the Committee to peruse/examine them, the Committee deliberated upon the matter and directed that in the light of well established convention the Minister of Finance might be asked to state if he would have any objection to the Chairman showing to the members of the Committee the seven documents furnished by the Finance Ministry or he would like to certify that the documents could not be made available to the members of the Committee on the ground that their disclosure would be prejudicial to the safety or interest of the State.

32. At their twelfth sitting held on 14th July, 1988, the Chairman read out the communication dated 13th July, 1988, received from the Ministry of Finance in which they had stated *inter alia*, that "the concerned documents are classified as 'secret'. However, these are not considered prejudicial to the safety or interest of the State". Since the Committee had been reconstituted, the matter was placed before the Committee for re-consideration.

As some members were of the view that the documents be shown to the Committee, the same were perused by members and returned to Chairman.

33. The Committee then examined Shri Arun Shourie on oath. During the course of his evidence when Shri Shourie started reading from a document dated 1st June, 1985 (marked 'Top Secret') and said to be from the Deputy Director, Enforcement Directorate (Foreign Exchange Regulation Act), Calcutta, to the Director, Enforcement Directorate (Foreign Exchange Regulation Act), New Delhi, he was restrained by the Chairman from doing so as the document from which Shri Shourie was reading appeared to be different from the document furnished by the Ministry of Finance to the Committee. A photo copy of this document was handed over by Shri Shourie to the Committee.

At this stage, Shri Arun Shourie was asked to withdraw to enable the Committee to deliberate upon the matter.

34. The Committee noted that the document furnished by the Ministry of Finance was not the one called for by them and that the contents of the two documents, i.e., the document furnished by the Ministry of Finance and the one handed over by Shri Shourie to the Committee differed from each other though they bore the same date albeit in a different form.

The Committee decided that the Ministry of Finance be asked to explain why the document numbered T-1/531/Cal/81/5637 was not furnished by them and some other document was furnished instead. The Committee also decided that the Ministry of Finance be asked to state whether the original of the document furnished by Shri Shourie to the Committee existed in the relevant files of the Enforcement Directorate, New Delhi, or the Enforcement Directorate, Calcutta, and if so, to furnish an authenticated copy thereof for consideration of the Committee.

35. Shri Arun Shourie was called in again and informed by the Chairman that cognizance of the document bearing D.O. No. T-1/531/Cal/81/5637, dated the 1st June, 1985, handed over by him to the Committee would be taken only if he took responsibility for its authenticity. Shri Shourie replied in the affirmative and handed over a copy of the said document duly authenticated by him for consideration by the Committee.

Shri Shourie was further examined by the Committee.

36. The Committee further deliberated upon the matter and noted that on the basis of the information furnished by the Central Office, Reserve Bank of India, Bombay, *vide* their letter No. ECCO.FAS./402/E/81, dated 10th November, 1981, searches were conducted by the Enforcement Directorate, Calcutta, at several places. The Committee decided that in view of the Ministry's assertion that the Reserve Bank of India, Calcutta Branch was empowered in 1980 to grant permission for opening the said accounts, the Ministry of Finance be asked to seek a clarification in writing from the Reserve Bank of India, Bombay, for consideration of the Committee, as to whether they had made any enquiries from the Reserve Bank of India, Calcutta, in the matter before informing the Assistant Director, Enforcement Directorate, Calcutta, that they did not appear to have given permission to the company to maintain foreign currency account abroad.

37. At their thirteenth sitting held on 23rd August, 1988, the Committee considered the communication dated 19th August, 1988, received from the Ministry of Finance (Department of Economic Affairs) in which they had stated *inter alia*, that "the original of the document stated to be the one bearing No. 'D.O. No. T-1/531/Cal/81/5637' (the photo copy of which has been furnished by Shri Arun Shourie) does not exist in the relevant files of the Enforcement Directorate, New Delhi, or the Enforcement Directorate, Calcutta". The Ministry had further stated that "the Reserve Bank of India, Bombay, have confirmed in writing, that they had not made any enquiries from the Reserve Bank of India, Calcutta, in the matter before informing the Assistant Director, Enforcement Directorate, Calcutta, on 10th November, 1981, that they did not appear to have given permission to the company (EMC Stealal Ltd., Calcutta) to maintain foreign currency account abroad. . . .".

38. The Committee then considered the letter dated 5th August, 1988, received from Shri Shourie in which he had referred to the 'Top Secret' report and stated *inter alia* that "I have since obtained the carbon copy of the report. It has on it entries in the hand of Mr. M. N. Bapat himself. In addition, it has his signatures. I will be honoured to present the document to the Committee at any time convenient to it. . . .". The Committee decided that it was not necessary to ask Shri Shourie to produce the carbon copy of the 'Top Secret' document, as it was not relevant for the purpose of determining whether breach of privilege had been committed by Shri Shourie.

39. The Committee then deliberated upon the issues involved in the case and arrived at their conclusions.

40. At their fourteenth sitting held on 13th October, 1988, the draft Fourth Report was circulated to the members as directed by the Chairman. The Committee decided to consider the draft Report at their sitting to be held on 14th October, 1988.

41. At their fifteenth sitting held on 14th October, 1988, the Committee considered the draft Report. As the discussion was inconclusive, the Committee decided to resume their deliberations on the case at a subsequent sitting.

42. At their sixteenth and seventeenth sittings held on 3rd and 4th November, 1988, the Committee considered the draft Report and also the letter dated 31st October, 1988, received from Shri Arun Shourie, in which he had commented upon certain portions of the draft Report. The Committee deliberated upon the matter in detail and were of the view that since Shri Shourie had categorically stated that he had not expressed any regrets for the articles he had written, but had only 'regretted the constructions which they (some members) were foisting on what the articles had said', it was necessary to take cognizance of the letter in spite of the impropriety on Shri Shourie's part in addressing the same to the members of the Committee individually.

The Committee decided to resume their deliberations on the case at a subsequent sitting.

43. At their eighteenth sitting held on 22nd November, 1988, the Committee decided to defer further consideration of the draft Report to their next sitting.

44. At their nineteenth sitting held on 6th December, 1988, the Committee considered and adopted the draft Report.

45. At their twentieth and twenty first sittings held on 14th and 16th December, 1988, the Committee considered the Note submitted by Sarvasbri Somnath Chatterjee, V. S. Krishna Iyer and K. Ramachandra Reddy, MPs, for being appended to the Report of the Committee. The Committee decided that no case had been made out necessitating any modification in the Report as already adopted by them and authorised the Chairman to append alongwith the Note submitted by the three members another note on behalf of the Committee giving their views in the matter.

46. Shri Harish Rawat, MP, in his oral evidence¹⁰ before the Committee stated *inter alia* that the impugned article published in the *Indian Express*, *Financial Express* and *Jansatta*, dated 14th March, 1988 had made a serious allegation against Sh. Kamal Nath, M.P. of maintaining two illegal accounts in foreign banks. He also drew the attention of the Committee to the following three passages of the article, which were highly objectionable :—

- (i) "If the charge is true, the conduct of a member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry Licences case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privilege."
- (ii) "But what is the use of your producing these things again and again? Those are shameless fellows....."
- (iii) "They will just shrug this one off..... But sometimes even the shameless have to at least pretend to be a little ashamed... It will depend upon what Parliament itself does."

47. Shri Rawat pointed out that in his statement made on the floor of the House Shri Kamal Nath had categorically stated that the allegations were baseless. The article was therefore malicious and written deliberately to malign and defame Shri Kamal Nath. Besides, the whole tone and tenor of the impugned article was such as to bring not only the members of Parliament, but the very institution of Parliament and its Committees into ridicule. By publishing such an article Shri Shourie had therefore committed not only a breach of privilege of the members but also contempt of the House and its Committees.

48. On his attention being drawn by a member to the following passage in the article—

"Will it set-up a Committee of the House to examine the matter...
But what is the use of another Committee?",

¹⁰. See Minutes of evidence (original in Hindi) dt. 6-4-1988.

Shri Rawat stated : "...the words are objectionable".

49. Prof. K. V. Thomas, MP, in his oral evidence¹¹ before the Committee stated as follows :—

"I feel that this article has been purposefully written to malign Mr. Kamal Nath not as an individual but as an M.P. I can read out one or two sentences concerning Mr. Kamal Nath as an M.P. In the beginning he says 'A businessman, he shot into prominence during the emergency as one of Sanjay Gandhi's hatchetmen'. Secondly he says 'he was one of the select who could get things done.'

In one of the paragraphs he says 'If the charge is true, the conduct of a member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry Licences case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privilege. But what is the use of your producing these things again and again ? Those are shameless fellows. They will just shrug this one off too.'

So this is against the entire members of Parliament and not against Mr. Kamal Nath alone.

In another paragraph, he says 'It will depend upon what Parliament itself does. Will it set up a Committee of the House to examine the matter, a matter involving sums far in the excess of the ones involved in the Tulmohan Ram case? But what is the use of another Committee?'

You see how contemptuous he calls the Parliamentary Committee?"

50. In reply to a further question, Prof. Thomas stated : "My impression, after reading the article, is that it is a deliberate attempt not only to malign the MP, but also the entire Parliament or its Committees."

51. Shri Satyendra Narayan Sinha, MP, in his evidence¹² before the Committee stated as follows :—

"After reading this article and hearing Mr. Kamal Nath—nine allegations are made in this article—I felt that the allegations made by him and certain insinuations made by Shri Arun Shourie are derogatory to the dignity not only of the member concerned but also of Parliament. In a way, he has thrown a

¹¹. See Minutes of evidence.

¹². See Minutes of evidence, dated 6-4-1988.

challenge to all the members of Parliament as being more or less shameless and not bothering to take any steps, . . . Therefore, I felt that, in the eyes of general people as well as I myself felt, he has cast aspersions in his article and made allegations against Mr. Kamal Nath as a Member of Parliament. Secondly, he has gone on to say that even the Committee, as formed, will not do anything. He has also gone on to say that 'If the charge is true, the conduct of a member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry Licences case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privilege.' He further goes on to say, 'what is the use of your producing these things again and again. Those are shameless fellows. They will just shrug this one off too' etc. In my opinion, this has brought Parliament into disrepute in the estimation of the people. He further goes on to say that it will depend upon what Parliament itself does. The outcome thus will depend not on what this member of Parliament does as against what that one did. This in my opinion, is an insinuation against Parliament or a challenge to Parliament. Therefore, I felt aggrieved by this article and gave notice of my intention to move this privilege motion."

52. In reply to a question : whether irrespective of what had been stated against Mr. Kamal Nath and the two accounts allegedly maintained by him illegally, and irrespective of what Mr. Kamal Nath himself had said on the floor of the House, there was anything else in the article that could be considered objectionable, Shri Sinha stated :

"Whatever the allegations, this article contained, it says that Parliament could not take action. 'Those are shameless fellows, they will not take any action.' This is one conclusion I draw,

Secondly, irrespective of whatever Shri Kamal Nath does, whether the Parliament will act or not, will it not go against him ? That is another thing which is an insinuation against Parliament.

Thirdly, he says, 'what is the use of another Committee ?' which again means that the Committees of Parliament are nothing, that they do not do anything, that they do not take any action. These are the three allegations, they are against Parliament itself."

53. Shri Kamal Nath, MP, in his oral evidence¹³ before the Committee deposed *inter alia* as follows :—

"I saw the Hon. Speaker in his Chamber and produced before him photo copies of two letters from the Reserve Bank of India

¹³ See Minutes of evidence, dated 6-4-1988.

to the Company. They signified the Reserve Bank of India's permission to the two accounts which were alleged to be illegally held by the Company, in which I am a Director . . . I authenticated the letters myself.....Hon. Speaker in the House said that he had verified the facts. Mr. Speaker has said, 'I have got the facts from the Government'."

54. In reply to a question whether there were any other objectionable features in the article, Shri Kamal Nath replied in the affirmative and added that the entire tone and tenor of the article was malicious. "It lowers my dignity in the eyes of the people. The allegation that I am a Director of the Company which has illegal accounts is false. . .the accounts are not illegal."

55. In reply to a further question Shri Kamal Nath stated that the observations : 'These are shameless fellows', 'what is the use of any Committee ?' etc. were not only derogatory to him as a member of Parliament but to every member of Parliament and Parliament as a whole.

56. When asked whether Mr. Arun Shourie or any one else on behalf of the *Indian Express*, *Jansatta* or *Financial Express* had made any enquiries from him or contacted him to ascertain the truth or otherwise of the statement that the company in which he was a Director was holding the two accounts illegally in foreign banks, Shri Kamal Nath replied in the negative.

57. Asked whether it could be inferred that the article when read as a whole, denigrated him as a member of Parliament and not just as an individual, Shri Kamal Nath replied in the affirmative. He agreed with the view expressed by other members who had deposed before the Committee that the whole tenor and tone of the article gave an impression that it was a deliberate and wilful contempt of Parliament and of its Committees.

In reply to a question whether the RBI, Bombay, alone could give the clearance, Shri Kamal Nath stated :

"I am told that the RBI, Calcutta, is the authority which gives permission."

58. In view of the above depositions, the Committee came to the conclusion that there were basically only two points before them for consideration, namely :—

- (1) whether the two accounts referred to by Shri Arun Shourie in his article were 'illegal' as alleged by him, i.e., whether they were opened without the prior permission of the Reserve Bank of India; and

- (ii) whether Shri Arun Shourie had cast reflections on Shri Kamal Nath *qua* an MP in particular and on Parliament, its Committees and members in general in the impugned article and thereby committed breach of privilege and contempt of the House.

59. Accordingly, the Committee called for the following information from the Ministry of Finance for their consideration in the first instance :—

- (i) whether any Bank Accounts were opened in Riyadh, Saudi Arabia and Dubai by M/s. EMC Steelal Ltd., Calcutta, in pursuance of the permission granted by the Reserve Bank of India, Exchange Control Department, Calcutta, *vide* their letters No. CA.EC. PX.287/X.38(1K) (S-23)-80, dated 26th November, 1980 and CA.EC.PX/38/X.38(1.K.) (S-27)-81, dated 22nd August, 1981, and if so, the numbers thereof; and
- (ii) whether the Reserve Bank of India, Exchange Control Department, Calcutta, was empowered in 1980 to grant permission to firms to open foreign accounts.

60. The Ministry of Finance in their communication dated 2nd June, 1988, stated *inter alia* as follows :—

“The Reserve Bank of India has informed that M/s. E.M.C. Steelal Ltd., Calcutta, had in pursuance of the permission granted by R.B.I. Calcutta, *vide* letters No. CA.EC.PX.287/X.38(TK) (S-23)-80, dated 26th November, 1980 and CA.EC.PX/138/X.38(T.K.) (S-27)-81, dated 22nd August, 1981, had actually opened accounts in Riyadh and Dubai; the numbers of these accounts were 12.84.037 and 9528 respectively. The Reserve Bank of India has further confirmed that the R.B.I., Exchange Control Department, Calcutta, was empowered in the year 1980 to grant permission to firms to open foreign accounts.”

61. Shri Arun Shourie, during his evidence before the Committee on 14th July, 1988, was informed of the above communication received from the Ministry of Finance and was asked to state what he had to say about the legality of two foreign accounts opened by M/s. EMC Steelal Ltd., and referred to by him in his article in the light of the information since furnished by the Ministry. Shri Arun Shourie stated that he did not accept the position which the Reserve Bank of India, Bombay, had conveyed to the Committee through the Ministry of Finance. According to him, the power to give permission to open the foreign accounts was vested with the Reserve Bank of India, Bombay and not with the Reserve Bank of India, Calcutta. He contended that the Reserve Bank of India, Bombay, had not given permission to open the two accounts in 1980 to the said firm. He pointed out that in their communication dated 10th November, 1981, the

Reserve Bank of India, Central Office, Exchange Control Department, Bombay, had stated *inter alia* : “. . . we do not appear to have given permission to the captioned company to maintain foreign currency account abroad, nor do they appear to have declared the same to us. . . .”.

62. Shri Arun Shourie further drew the attention of the Committee to the letter dated 2nd January, 1982, from the Deputy Director, Enforcement Directorate, Calcutta Zonal Office to the Director, Enforcement Directorate, Delhi, in which he had stated : “. . . We have ascertained from Reserve Bank of India, Bombay that captioned company have not been given any permission to maintain such foreign accounts.” Shri Arun Shourie added :

“. . . this letter (communication from the Ministry of Finance) has been given retrospectively. Especially their assertion that they had authorised these accounts is a retrospective absolution. Why that does not hold true in my view is because of the two letters I have already read”.

63. Asked to state whether the article about two illegal accounts was based on his personal knowledge or he had written it on the basis of what he had gathered from the official documents, Shri Arun Shourie replied that he had written the article on the basis of the documents obtained by him from the two concerned agencies, viz., the Reserve Bank of India and the Enforcement Directorate and he had already placed them before the Committee.

64. The Committee enquired from Shri Arun Shourie whether before publishing the article he had made any inquiries from Mr. Kamal Nath himself. Shri Shourie stated on 10th May, 1988, as follows :

“This was not done because I knew that when the Kuo Oil case came up and he was involved what did he do with the evidence. May I add that the first information about this came to me from senior employees of his organisation. When I met them, they expressed their apprehension saying that I am being watched by the security guards and, so I may please send somebody else. One of my most senior colleagues was then sent. They led us to the Accounts. We then followed it up with each of the three authorities.”

65. During the course of further evidence on 14th July, 1988, he stated that there were three reasons for not making any enquiry from Shri Kamal Nath first, the official record which he had gathered was clear and unambiguous; secondly, he knew from his own past experience that when Shri Kamal Nath came to know about this, he might destroy all the evidence; and thirdly, Shri Kamal Nath was so influential that he had got him dismissed from his job.

66. The Committee pointed out that normal journalistic norms and ethics required that before publishing the article which he knew would affect the reputation of a person, he should have at least enquired from the person against whom the allegations were being made. Shri Arun Shourie replied that he was not aware of any such rule or norm. In this case there was every possibility of the evidence being destroyed specially because the employees and associates of Shri Kamal Nath themselves had given it to him.

67. In reply to a question whether in his view his article did not contain any scurrilous matter, Shri Arun Shourie replied : "No, Sir. On the contrary, everything I have stated is based on official documents, as those secret communications and top secret letters will show."

68. Asked whether all the information contained in his articles was based on official documents only, Shri Shourie replied : "There are four types of things. One is official documents, second is our conversations with the employees of the firm--as I mentioned, they did not want to meet me directly, but my senior colleagues met them. The third is documents of the Bank; fourth is what I have been told by the Reserve Bank officials in Bombay, precisely in the Foreign Exchange section. I suppose the point was made whether due care was taken or not. Yes, due care was taken."

69. During the course of his preliminary submissions before the Committee in the first hearing on 20th April, 1988, Shri Arun Shourie stated *inter alia* :—

"The articles in question were written out of the deepest regard for Parliament that I have, a regard which is manifest from these articles as it is from what I have written on such matters for over a decade. The articles concerned the conduct of Mr. Kamal Nath and his associates as business men. The facts dealt in them did not arise in the transaction of the business of the House. Moreover, the statements of facts are manifestly based on records of the concerned agencies. The motions therefore are entirely misconceived."

70. Shri Shourie therefore submitted that the complainants should be directed to first establish that his article *prima facie* constituted a libel upon Shri Kamal Nath in his capacity as a member of the House or in discharge of his duties in regard to matters arising from business transacted by the House. He also informed the Committee that Shri Kamal Nath had reportedly stated that his company was likely to file a suit for defamation against him and claim Rs. five crores as damages. He contended that where a remedy was available in a Court, the penal powers of the House should not be invoked.

71. In this connection, he referred to the following recommendation of the Select Committee on Parliamentary Privilege appointed by the House of Commons (U.K.) :—

“In general, where a Member’s complaint is of such a nature that if justified it could give rise to an action in the courts, whether or not the defendant would be able to rely on any defence available in the courts, it ought not to be the subject of a request to the House to invoke its penal powers. In particular, those powers should not be invoked in respect of a statement alleged to be defamatory, whether or not a defence of justification, fair comment, etc., would lie.”

[H.C. (1966-67)34, Report, para 48]

72. Shri Arun Shourie further drew the attention of the Committee to the following passage from Kaul & Shakhder’s book on the Practice & Procedure of Parliament :

“It is a breach of privilege and contempt of the House to make speeches, or to print or publish any libels reflecting on the character or proceedings of the House or its Committees, or any member of the House for or relating to his character or conduct as a Member of Parliament.”

“In order to constitute a breach of privilege, however, a libel upon a member of Parliament must concern his character or conduct in his capacity as a member of the House and must be ‘based on matters arising in the actual transaction of the business of the House’.”

(3rd Edition, pp. 223-24)

73. In reply to a question whether he had given an impression to the readers that he had written the article only because Shri Kamal Nath was a member of Parliament, Shri Arun Shourie emphatically denied having had any such intent and stated :—

“Everything in the charge was based on declaration/document of that time. Secondly, if subsequently enquiries like this show that an error has been committed, let us assume for the time being that this is true, even then it does not amount to a breach of privilege of Parliament because on a very specific point if reasonable care has been taken it would not be deemed to be a charge.”

74. Shri Shourie's attention was drawn to certain passages in the article which were printed in bold letters, particularly the following to which objections had been taken by Members in their deposition before the Committee, viz.—

“But what is the use of your producing these things again and again. Those are shameless fellows. They will just shrug this one off too.”

“If the charge is true, the conduct of a Member of Parliament scandalizes Parliament no less than that of Tulmohan Ram did in the Pondicherry licences case. If it is untrue, I am guilty of scandalizing the institution and thereby breaching its privilege.”

75. Asked what he had to say in the matter, Shri Shourie replied :—

“I have learnt it—I am sorry to say—from the Upanishad in which there is a dialogue—a reader asks a question and I reply. The manner of this bold letters is just like a reader asks a question and I give a reply. This has absolutely got nothing to do with Members of Parliament. For two years I am writing articles about coterie which is ruling our country. This is how I am talking with the readers. I am so sorry; I do not mean anything else. It is a description of the coterie. There are three articles and in each of the articles I have pleaded with the Parliament to examine them. If I had been so foolish as to refer to Members of Parliament as shameless fellows, then in my three successive articles I would not have pleaded for setting up of a committee to examine this illegality. In each one of those articles, I have said, if you examine this illegality my paper and I will assist you. How can a person pleading for the setting up of a Committee of those people, say that they are shameless person ? On that point I can give it in writing but let this misapprehension be dispelled first.”

76. In reply to a further question whether references to Members of Parliament, the Committees of Parliament and to the very institution of Parliament, were not likely to create misapprehensions, Shri Shourie replied :—

“I can state that twenty times on oath, whatever it is, I will certainly give you in writing, so that this complete reading—if not misrepresentation—of what I have written, is wrong. What I wrote is about the coterie. . . . this sentence has absolutely nothing to do with Members of Parliament. These sentences were about the coterie around the Prime Minister. I have

many times written; I affirm that their conduct shows that they are shameless. The decisive reasons show that this is a misreading. I am sure it is unintended and I am sorry, I do not have the three articles with me. I can show you. They talk again and again about the coterie only. Each one of them pleads for the setting up of a Parliamentary Committee to examine these matters, the web of illegalities. How is it at all possible that while asking for a committee of Members of Parliament to be set up, these articles say that they are shameless? If the person writing it pleads that they are shameless, how can he ask for a committee to be set up consisting of them? I can go on record and confirm in writing."

77. Shri Arun Shourie added :—

"This is because of the regard which I have for Members of Parliament which leads me to say that there should be a Committee."

78. In reply to a further question whether the very heading of the article "An MP and Two Accounts" did not convey the impression that all MPs were doing dishonest business, Shri Shourie stated : "The answer is, most certainly, not. On the contrary, I am pointing out the exceptional feature. If I believe that all Members of Parliament are doing it, am I going to those very members of Parliament with folded hands 'please set up a committee and examine this matter' which just did not make sense."

79. Further elucidating the point, Shri Arun Shourie stated in his evidence on 10th May, 1988, as follows :—

"I have said it relates only to the coterie around the Prime Minister. . . Three quarters of the first column describes Mr. Kamal Nath in the context of the coterie around the Prime Minister. When Mr. Kamal Nath is described and the reader says 'shameless', I respond to it and say, 'No, it is the coterie that we are just wanting to. . . .' When the Committee goes into this matter, it will come to the vital truth. The second point, which I had suggested was that if I had been so foolish as to ever conclude that Members of Parliament are shameless, I would not have compounded that foolishness to ask the very same persons to examine this matter. I said thrice in my article : 'Please set up a Committee'."

80. During the course of further hearing on 14th July, 1988, Shri Arun Shourie re-affirmed :

"It just does not stand to reason . . . about the remarks that have been attributed to members of Parliament, it is a complete misconception which has been foisted on my article about the

illegal accounts. . . Sir, my intention is not to denigrate the Parliament. I wrote it because of my regard for the Parliament, we took this risk, because of our regard for the institution of Parliament.”

81. Further asked whether the article did not contain certain passages which some members felt cast reflections on members of Parliament and/or on the Parliament generally, Shri Shourie replied : “I only regret that construction has been foisted on it which is not warranted. I regret the construction.”

82. In pursuance of his repeated assurances given to the Committee during oral evidence, Shri Shourie in a letter dated 23rd July, 1988, stated *inter alia* as follows :

“I cannot but regret that constructions have been put on two passages in the article and on its title which go contrary to everything that I stand for and have worked for.”

83. Shri N. S. Jagannathan, Editor, *Financial Express*, in his evidence¹⁴ before the Committee on 20th April, 1988, affirmed that he had published an article captioned “An M.P. and two Accounts” by Shri Arun Shourie in the *Financial Express* dated 14th March, 1988, for which he owned responsibility. He further stated that it was published as an article of public importance. However, he did not make any inquiry or investigation about the correctness or otherwise of the article.

84. In reply to further questions Shri Jagannathan stated as follows :

“I think I should make a submission before answering further questions. Certain issues about the procedure and the way in which he should protect our rights in the matter have been raised by Mr. Shourie, which are presented to you. I would like to take that position with regard to the entire range of issues raised about the procedure or the protection that I should have in this matter.”

85. Shri Prabhush Joshi, Editor, *Jansatta*, in his evidence¹⁵ before the Committee affirmed that a Hindi rendering of the article was published in *Jansatta* dated 14th March, 1988, under the caption “Ek Sansad do khate”, and that he took responsibility for the same.

86. Asked to state whether he had made any personal enquiries about what had been written in it. Shri Joshi stated that it came to him from Shri Arun Shourie and he did see that whatever appeared should convince him first. He had, however, not made any personal enquiries before publishing the article in *Jansatta*.

¹⁴See Minutes of evidence.

¹⁵See Minutes of evidence.

87. In reply to a question whether the article had not damaged the reputation of Shri Kamal Nath, MP, Shri Joshi stated : "It would not affect his functions and responsibility as a member of Parliament, but it may affect him in capacity as a businessman."

IV. CONCLUSIONS

88. As stated earlier, the issues that arise out of the impugned article and on which the Committee have to take a considered view are two-fold, namely (i) whether the two accounts referred to by Shri Arun Shourie in his article were 'illegal' as alleged by him, *i.e.*, whether they were opened without the prior permission of the Reserve Bank of India; and (ii) whether Shri Shourie had cast reflections on Shri Kamal Nath as an MP in particular and on Parliament, its Committees and members in general, and thereby committed breach of privilege and contempt of the House.

After a careful analysis of the evidence, both written and oral, specially the submissions made by Shri Shourie, the well-established precedents and the rulings of Presiding Officers in both the Houses on cases of a similar nature, the Committee have reached the following conclusions.

89. So far as the allegation that the accounts were 'illegal' is concerned Government have stated that M/s. EMC Steetal Limited, Calcutta, had actually opened accounts in Riyadh, Saudi Arabia and Dubai in pursuance of the permissions granted by the Reserve Bank of India, Exchange Control Department, Calcutta, *vide* their letters of 26th November, 1980 and 22nd August, 1981; that the numbers of these accounts were 12.84.037 and 9528 respectively (the same as mentioned by Shri Shourie in the impugned article) and that the RBI Exchange Control Department, Calcutta, was empowered in the year 1980 to grant permission to firms to open foreign accounts. In view of the information furnished by the Reserve Bank of India to the Ministry of Finance as conveyed to the Committee *vide* their letter of 2nd June, 1988, to the above effect the Committee cannot but reach the conclusion that the assertion of Shri Kamal Nath that the accounts were opened with prior permission of the Reserve Bank of India is correct.

90. The Committee regret to point out that there has been a miserable lack of coordination among the concerned authorities in this case. It is indeed very surprising that the Assistant Director, Enforcement Directorate, Calcutta Zonal Office should have made inquiries from the Exchange Control Department, Central Office, Reserve Bank of India, Bombay whether they had given permission for opening the accounts in question instead of ascertaining the facts from the Branch of the RBI located in Calcutta itself. The RBI, Bombay, in turn, gave a cautious reply to the effect that "we do not *appear* (emphasis added) to have given permission to the captioned company to maintain foreign currency account abroad nor do they *appear* (emphasis added) to have declared the same to us".

91. Content with such a bureaucratic reply, the Bank did not care to advise the Enforcement Directorate to check up with the Calcutta Office under whose jurisdiction the company was registered and located. It was in pursuance of such ill-founded and uncoordinated action that the premises of the firm were raided. The Committee are not concerned about the follow-up action taken by the Enforcement Directorate in the matter and the final outcome thereof. What they are concerned with is the effect of such vaguely-worded communications and lack of coordinated action on the reputation of Shri Kamal Nath, M.P. who happens to be on the Board of Directors of the Company. The Committee take a very serious view of the clumsy manner in which the matter was handled by the Enforcement Directorate including its Zonal Office in Calcutta on the one side and the Reserve Bank of India on the other. The Committee would like the Government to issue suitable instructions in this regard to all concerned to avoid recurrence of cases of this nature in future.

92. In so far as the impugned article is concerned, the Committee find that even though Govt. have categorically stated that the accounts were opened with the prior permission of the Reserve Bank of India, the reputation of a Member of Parliament has been damaged all the same. It is indeed surprising that Shri Shourie should have chosen to rake up the case after so many years. In fact, even the inquiries in the case had been completed by June, 1985, *i.e.*, three years earlier. Shri Shourie himself gave out that one reason for not contacting Kamal Nath before the article was written was that Kamal Nath would destroy evidence and he was so influential that he got him dismissed from his job in the Indian Express (while Shri Kamal Nath was on its Board of Directors). It is no surprise, therefore, that he had an animus against and scores to settle with Shri Kamal Nath. It was as a consequence of such thinking that he seized the opportunity of clandestinely making the inquiries from the employees of Shri Kamal Nath and secured information to be able to publish the present story.

93. Notwithstanding Shri Shourie's protestations that his only aim was to expose the so called coterie surrounding the Prime Minister, of whom he thinks Shri Kamal Nath is one, the Committee cannot help thinking that the real reason why Shri Shourie had chosen to malign Shri Kamal Nath might have been the animus which he bore against him. Had Shri Shourie's intentions been really so honest and straight forward, the proper course for him would have been to check up the facts with Shri Kamal Nath himself before publishing the article. Originating from the delayed information supplied by Shri Kamal Nath's own employees, there was all the more reason for Shri Shourie to exercise all care and caution, for it was quite likely that certain disgruntled employees might have had their own axe to grind. That a seasoned journalist of Shri Shourie's standing deliberately chose not to do so, speaks for itself.

94. The very heading of the article *viz.*, "An M.P. and two Accounts", gives to a lay reader the distinct impression that it is the conduct of a Member of Parliament which has been brought into question. The Committee have, therefore, no doubt in their mind, particularly in view of the strong language and harsh expressions used in the article that Shri Shourie's objective was to bring down Shri Kamal Nath as a member of Parliament in the eyes of the public. The Member's image has suffered irreparably.

95. In this connection, the Committee have taken pains to study the constitutional position, well-established precedents and rulings of Presiding Officers in both the Houses of Parliament and they find that the position is quite well settled, namely the House may not invoke its penal powers unless a libel upon a Member of Parliament concerns his character or conduct in his capacity as a Member of the House and is based on matters arising in the actual transaction of the business of the House. Where a Member's complaint is of such a nature that if justified, it could give rise to an action in the courts, it cannot form the subject of a request to the House to invoke its penal powers. Thus, in the case of a question of privilege regarding an article captioned, "The President's Visit", published in the Sunday Observer—a Bombay Weekly—dated 29th April, 1984, which allegedly cast reflections on Shri Khushwant Singh, a Member of Rajya Sabha, the Committee of Privileges in their Twenty-Sixth Report,¹⁶ *inter alia*, reported as follows :—

"Having read the references, the Committee has come to the conclusion that the references and the innuendos do not concern the character and conduct of Shri Khushwant Singh as a Member of Parliament and as such do not amount to a breach of Privilege."

96. In a similar ruling given in Lok Sabha on 19th March, 1986 in the case of Shri Ram Swaroop Sabharwal and others, Speaker Dr. Jakhar ruled¹⁷ as follows :—

"It is well-established that in order to constitute a breach of privilege, any libel or charge against a Member of Parliament must concern his character or conduct in his capacity as a Member of the House and must be 'based on matters arising in the actual transaction of the business of the House'."

97. In an earlier case in Lok Sabha where one political leader was reported in a newspaper to have said in a public speech that the representatives of a political party in the legislatures were "people whom any First-Class Magistrate would round up", and were "men without any appreciable means of livelihood", the question of privilege was disallowed¹⁸ by Speaker

¹⁶Presented to Rajya Sabha on 18th January, 1955.

¹⁷L.S. Deb., dt. 19-3-1986.

¹⁸L.S. Deb., dt. 20-4-1960, cc. 12729—34.

Ayyangar. The Committee thus find that the concept of privilege has been given a very restrictive interpretation so far. Some members of the Committee were strongly of the view that in the changed situation our Parliament is not bound to follow the precedents of the House of Commons.

98. Article 105(3) of the Constitution provides :—

“In other respects, the powers, privileges and immunities of each House of Parliament and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978.”

99. As originally enacted, the above clause provided that “the powers, privileges and immunities of each House of Parliament and of the members and the committees of each House shall be such as may, from time to time, be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees, at the commencement of the Constitution”. Reference to the House of Commons of the United Kingdom was deleted by Section 15 of the Constitution (Forty-fourth Amendment) Act, 1978, which came into effect from 20th June, 1979.

100. No comprehensive law has so far been passed by Parliament to define the powers, privileges and immunities of each House and of the members and the committees thereof. In the absence of any such law, the powers, privileges and immunities of the House and of the members and the committees thereof continue to remain the same as were available to us at the time the Constitution came into force. It is, therefore, clear that no new privileges can be claimed or created excepting those that were available to us on 26th January, 1950. The Committee are also conscious of the fact that members of Parliament are not above the law in matters that have no nexus with the business of the House.

101. In so far as the question of privilege is concerned, the Committee are of the view that the impugned article comes perilously close to criticising the conduct of Shri Kamal Nath, as a member of Parliament with an intent to malign him. It does not, however, constitute a case of privilege in view of what has been said in the preceding paragraphs.

102. So far as the question of breach of privilege and contempt of the House is concerned, the Committee find that many passages of the article have quite rightly agitated not only the members who have given notices

of question of privilege but also the Committee. Particular attention of the Committee was drawn to the following passage :—

“But what is the use of your producing these things again and again ? Those are shameless fellows. They will just shrug this one off too”.

This passage does cast reflection on the members of Parliament in general and on Parliament itself.

That Shri Shourie was quite conscious that the tone and tenor of his article was not only defamatory vis-a-vis Shri Kamal Nath but might also constitute contempt of the House, is quite clear from the following observations :—

“If the charge is true, the conduct of a member of Parliament scandalizes Parliament no less than that of Tulmohan Ram did in Pondicherry Licences case. If it is untrue, I am guilty of scandalizing the institution and thereby breaching its privilege.”

103. In his evidence before the Committee, Shri Shourie explained that he had written the article in the manner of a dialogue as in the Upanishads where a reader asks a question and the author gives a reply. He further tried to clarify that the article had nothing to do with members of Parliament as such. According to him, “it is a description of the coterie. . . If I had been so foolish as to refer to members of Parliament as ‘shameless fellows’, then in my successive three articles I would not have pleaded for setting up of a Committee to examine this illegality.”

104. On further questioning by the Committee Shri Shourie affirmed :—

“ . . . This sentence has absolutely nothing to do with members of Parliament. These sentences were about the coterie around the Prime Minister. . . . The decisive reasons show that this is a misreading. *I am sure it is unintended and I am sorry.*”

105. Subsequently, Shri Shourie in a letter dated 31st October, 1988, addressed individually to the members of the Committee and a copy endorsed to the Secretariat for ‘record’, has stated that he has ‘received’ a copy of the draft Report of the Committee. Commenting upon certain portions of the draft Report as being ‘gross distortion’ of ‘what I said and wrote inasmuch as ‘an attempt is being made to make out that I expressed regret for what I had written’, Shri Shourie has stated :—

“My request therefore is : please decide what you will, but please do not do so under any misapprehension that I regret what I wrote”.

106. Since Shri Shourie has taken care not to publish the contents of the draft Report, the Committee cannot hold him guilty of breach of their privilege or contempt of the House. The Committee also realise that it would be futile for them to ask Shri Shourie to divulge the source from which he 'received' the Report. Nevertheless, the Committee cannot but take a serious view of the grave impropriety on his part in addressing letters individually to the members of the Committee hereby seeking to influence their collective judgment in the matter. If at all he had any submission to make, he should have written to the Chairman. The way he has chosen to act in the matter only exposes the thin veneer of his regard to Parliament and its Committees so loudly proclaimed by him in evidence.

The entire tone, tenor and style of the article definitely smacks of disrespect for Parliament and its members and Shri Shourie did not even have the decency of expressing regrets.

107. While deprecating such behaviour on the part of a journalist in Shri Shourie's position, the Committee would, in the highest traditions of this august body, not like to defect from the correct and judicious stand taken by them in similar cases in the past. The Committee are entirely in agreement with the observations¹⁹ made by a predecessor Committee that it adds to the dignity of one and all if power in a democratic system is exercised with restraint; the more powerful a body or institution is, the greater restraint is called for, particularly in exercising its penal jurisdiction. The Committee would, however, like to caution Shri Arun Shourie and writers of his like to be more careful and restrained in their writings particularly about those who are in public life and whose conduct is ever exposed to public gaze.

108. The Committee would also like to observe that Sarvashri N. S. Jagannathan and Prabhash Joshi, Editors of *Financial Express* and *Jansatta* should be more discreet in future while publishing such articles in their newspapers.

109. The Committee consider that the House would best consult its own dignity and in keeping with the lofty traditions of Parliament, choose not to take any further notice of the matter.

Recommendation of the Committee

110. The Committee recommend that no further action be taken by the House in the matter and it may be dropped.

NEW DELHI;
December 6, 1988

Agrahayana 15, 1910 (*Saka*)

JAGAN NATH KAUSHAL,
Chairman,
Committee of Privileges.

¹⁹First Report (Seventh Lok Sabha).

**NOTE BY SARVASHRI SOMNATH CHATTERJEE, V. S. KRISHNA
IYER AND K. RAMACHANDRA REDDY**

With all respect to our distinguished colleagues in the Committee, we regret we cannot be parties to the Report approved by the majority, as in our humble view the majority have erred both in the correct ascertainment of the issues involved and in the appreciation of the evidence and materials produced before the Committee.

According to the majority-report, there are basically only two points before the Committee for consideration (as mentioned in paragraph 55 of the Report). So far as the first point is concerned, namely, whether the two accounts referred to by Shri Arun Shourie in his Article were illegal or not i.e. whether they were opened with the prior permission of the Reserve Bank of India or not, we are of the definite view that such point does not arise for consideration by the Committee nor it has anything to do with any question of breach of privilege. In our considered view, the majority members of the Committee have mis-directed themselves by considering an issue which is totally irrelevant. It cannot be the concern of the Committee of Privileges to consider whether a Member of Parliament, in his capacity of a businessman, has violated any provisions of the Foreign Exchange Regulation Act or not nor such question has been referred to the Committee.

Further, what was referred to the Committee was the matter relating to the article published in *Indian Express* and other papers in their issues of March 14, 1988 captioned "An M.P. and Two Accounts". A fair and unbiased perusal of that Article would convince anybody that the main basis of the Article was that the Government of India was aware that two of the foreign accounts of M/s. EMC Steelal Ltd., were unauthorised, that the Enforcement Directorate had made investigation about the same, that the Reserve Bank had informed the Enforcement Directorate that the accounts appeared to be unauthorised, that both the Directorate of Enforcement in Delhi as well as the Directorate of Enforcement at Calcutta had taken action and had made investigations, which were stopped at the intervention of Delhi. The gravamen of the charge in the Article was that :

- (1) A company (Messrs. E.M.C. Steelal Ltd.) of a Member of Parliament (Shri Kamal Nath) had foreign accounts.
- (2) The Government had knowledge of the accounts and of the fact that the accounts were illegal.

- (3) A decisive action (raid by Enforcement Directorate) that was commenced was called off, evidence handed back and destroyed midstream at the intervention of the man's patrons.

Shri Arun Shourie further stated in his Article that he had documents with him to establish :

- (i) the existence of the accounts;
- (ii) the deposit of about Rs. 2 crore into the Algemene Bank Nederland, Dubai;
- (iii) the balance of about Rs. 3 crore in the Albank Alsaudi Alhol-land, Riyadh;
- (iv) the fact that the government knew that the accounts existed and that they were illegal;
- (v) the fact of the inquiries to get the truth;
- (vi) the shorts of things that were being found as a result of the inquiries;
- (vii) and the abrupt end to the chase on orders from Delhi.

The contents of the Article clearly do not cast any reflection on Shri Kamal Nath in the way of his discharge of duties as a Member of Parliament and the Committee has also so held. On that finding, it was not the function or the duty of the Committee to proceed any further, particularly to decide on the vexed question as to whether the accounts were illegal or not. In our view, the Committee should not have gone into the question, so as to certify the legality of the accounts, as the same did not call for an enquiry and even then, on a cursory investigation of the facts. Shri Arun Shourie never alleged on the basis of his own knowledge that the accounts were illegal; what he had written in the article was that the Government knew that the accounts were illegal and it was the Government which had stopped while action was being taken. What could be gone into by the Committee, if at all, was the action of the Government in initiating proceedings against the Company of Shri Kamal Nath and stopping the same in the midstream, but the Committee, through the majority, did not choose to do so.

We had repeatedly submitted during the deliberations before the Committee that if the Committee at all felt that the question of the legality of accounts had anything to do with the question of privilege of the Hon'ble Member, then the matter should be proceeded with to its logical conclusion and the Committee should ascertain how could the highest authorities of the Government of India, namely the Reserve Bank of India, Central Office, Bombay and the Enforcement Directorate proceed on the basis that the accounts were illegally operated by M/s. E.M.C. Steelal Ltd. if they were

in fact not, but we regret that the Committee in the midstream gave up the enquiry and investigation into the matter and decided to give a clean chit to the Company and the M.P., which, in our view, is not based on due and proper consideration of the relevant facts and materials.

The decision of the majority of the Committee as contained in the Report compels us to recite the basic facts in some details in this Note, so that the real issues may be highlighted.

In this article, Shri Shourie stated that he had documents to prove the charges made by him and to substantiate the charges, he indicated seven documents, which he wanted to be called for by the Committee, as all the documents were in the custody of the Government of India. The documents are enumerated in paragraph 26 of the Report. Out of the seven documents, letters dated October 13, 1981, November 10, 1981, January 2, 1982, February 9, 1982, Enquiry Report of March 12, 1982 and letter dated September 22, 1984 are specifically mentioned in the article. Only one Report bearing No. T-1/531/Cal/81/5637 dated June 1, 1985 was not mentioned in his article. Shri Shourie described the document as "the Report prepared by Shri M. N. Bapat, Deputy Director, Enforcement Directorate, FERA, Calcutta for the Enforcement Directorate, Head Office, Delhi".

While giving evidence before the Committee, Shri Shourie started reading out from the copy of the Report No. T-1/531/Cal/5637 dated June 1, 1985, which was in his possession. While he read out some portion of the document, he was restrained by the Hon'ble Chairman from proceeding further, as the document produced by Shri Shourie appeared to be different from the document (bearing date June 1, 1985) which was furnished by the Ministry of Finance to the Committee. The Committee noted (as mentioned in paragraph 34 of the Report) that the document furnished by the Ministry of Finance was not the one called for by the Committee and that the contents of the two documents i.e. the document furnished by the Ministry of Finance and the one handed over by Shri Shourie to the Committee, differed materially from each other, though they bore the same date and were both signed by Shri M. N. Bapat.

Then the Committee decided that the Ministry of Finance should be asked to explain why the document No. T-1/531/Cal/81/5637 dated 1st June, 1985 was not furnished by the Ministry of Finance and some other document was furnished instead. The Committee also decided that the Ministry of Finance should be asked to state whether the original of the document furnished by Shri Shourie to the Committee existed in the relevant files of the Enforcement Directorate, New Delhi or the Enforcement Directorate, Calcutta and if so, to furnish an authenticated copy thereof for consideration of the Committee.

On being again summoned by the Committee and on being informed that the cognisance of the copy of the Report No. T-1/531/Cal/81/5637 dated 1st June, 1985 handed over by Shri Shourie to the Committee would be taken only if Shri Shourie took responsibility for its authenticity, Shri Shourie re-affirmed the authenticity of the document and handed over a copy of the same duly authenticated by him for consideration by the Committee.

The Committee further decided to seek a clarification in writing from the Reserve Bank of India, Bombay for consideration of the Committee as to whether they had made any enquiries from the Reserve Bank of India, Calcutta in the matter before informing the Asstt. Director, Enforcement Directorate, Calcutta that they did not appear to have given permission to the Company to maintain foreign currency account abroad, on the basis of which information, raids were conducted by the Enforcement Directorate at Calcutta at several places namely, the offices of the Company and the residences of its Directors, particularly because of the stand of the Finance Ministry that the Reserve Bank of India, Calcutta was empowered in 1980 to grant permission to E.M.C. Steel Ltd. for opening the foreign accounts. Thereafter, the Committee received a communication dated August 19, 1988 from the Ministry of Finance that the original of the document dated June 1, 1985 stated to be the one bearing No. D.O. No. T-1/531/Cal/81/5637 did not exist in the relevant files of the Enforcement Directorate, Calcutta. By the said letter of August 19, 1988, the Ministry of Finance further stated that "Reserve Bank of India, Bombay have confirmed in writing, that they had not made any enquiries from the Reserve Bank of India, Calcutta in the matter before informing the Assistant Director, Enforcement Directorate Calcutta on November 10, 1981, that they did not appear to have given permission to the company (E.M.C. Steel Ltd., Calcutta) to maintain foreign currency account abroad. . . .". Shri Shourie had informed the Committee as early as on August 5, 1988 that he had a carbon copy of the Report (of June 1, 1985) "which has on it, entries in the hands of Mr. M. N. Bapat himself. In addition, it has his signature. I will be honoured to present the document to the Committee at any time convenient to it. . . .".

In paragraph 38 of the majority report, it has been observed that "the Committee decided that it was not necessary to ask Shri Shourie to produce the carbon copy of the 'Top Secret' document, as it was not relevant for the purpose of determining whether breach of privilege had been committed by Shri Shourie". (emphasis is ours).

It is strange that a vital document, namely, the Report dated June 1, 1985, as produced by Shri Arun Shourie, is treated by the Committee to be irrelevant for the purpose of determining whether breach of privilege was committed or not, yet the majority of the Committee accept without

any question the subsequent communication from the Ministry of Finance and come to the positive conclusion that the accounts were legally opened and operated, when such communication did not relate to any matter of privilege, which alone could be within the jurisdiction of the Committee to decide. We must confess our inability to adopt different standards as has been done. It is our considered view that having come to the conclusion that the matter relating to the opening and operation of the foreign accounts by E.M.C. Steelal Ltd. did not raise any issue of breach of privilege, the Committee had no jurisdiction to go into the matter and to decide unsolicitedly the question of legality of the accounts. The Committee's task was to consider whether the article of Shri Arun Shourie amounted to breach of privilege of any Member of Parliament or of Parliament and not whether the concerned accounts had been legally opened or not. Whether the accounts maintained by EMC Steelal Ltd. of which Shri Kamal Nath is a director, were legal or not, was a matter which could have been examined, only if the Committee had felt that the article raised a matter of privilege. But the majority of the Report does the opposite. They conclude that the impugned article did not relate to Shri Kamal Nath, as a Member of Parliament and then proceed to examine whether the accounts were legal or not. To our mind, this exercise is wholly in excess of the powers and jurisdiction of the Committee.

Even then, having decided to examine this question (namely the legality of the accounts), the majority of the Committee have ignored very vital evidence and materials and have chosen to base their decision solely on a subsequent (not contemporaneous) communication from the Ministry of Finance and the Reserve Bank of India. When it became clear that the Ministry of Finance had sent to the Committee a document, which on the face of it called for further clarifications, we were prevented from going to the bottom of the matter. We were also prevented from ascertaining how the Reserve Bank of India had suddenly taken up a different attitude, although it was earlier decided that the Reserve Bank of India would be called upon to give clarifications on the question.

As mentioned earlier, Shri Shourie gave a list of seven documents, which he wanted to be summoned by the Committee. The documents were duly summoned by the Committee. But we are unhappy, to say the least, that initially we were told that the documents would not be given to the Members of the Committee and it was sufficient if they were perused by the Chairman. When some of us persisted that the documents should be shown to the Members of the Committee, as the documents, provided important evidence on the subject matter of the reference to the Committee, we were informed that the Chairman would write to the concerned Minister to ascertain the Minister's view whether the documents could be shown to all the Members. We protested and still protest against such practice, specially when documents had nothing to do with the security and integrity of the country.

The documents however were shown to the Members of the Committee during the deliberations before the Committee and Members were allowed at the meeting only to go through the file containing the documents. However, from what could be perused during the short time available, it appeared that the documents clearly established that (a) there were foreign accounts (b) that according to the Central Office of Reserve Bank, Bombay and Directorate of Enforcement, the accounts were unauthorised (c) that the Government of India were fully aware of the views of the Reserve Bank of India and of the Directorate of Enforcement (d) that the Office premises of EMC Steal Ltd. and the residences of its directors and executives were raided on May 31, 1985, (e) that the raids uncovered facts not just about these accounts but about several other illegalities, (f) when the raids had been in progress for about six hours, suddenly there was a telephone call from the Special Director, Enforcement, in Delhi, ordering that the searches be discontinued at once, that the evidence collected be returned and that nil panchnamas be filed (g) that the contents of the impugned article of Shri Arun Shourie were primarily based on the documents which had been produced.

For proper understanding of the issues involved, it is necessary to consider the Report bearing No. T-1/531/Cal/81/5637 dated 1st June, 1985. As we were shown only the document at the meeting and a copy of the same is not available with us, one of us wrote to the Hon'ble Chairman on 24 November, 1988 for supply of copies of some of the documents and particularly copies of both the Reports dated June 1, 1985, namely, copy produced by the Finance Ministry as well as the copy produced by Shri Arun Shourie. But the Hon'ble Chairman has decided that since the documents are "secret", copies thereof cannot be supplied. We do not see how documents concerning a private company can be treated as secret and copies thereof can be withheld from Members of the Committee, when many of the documents have already been published in the newspapers.

In some national dailies of the country, extracts from the Report bearing No. T-1/531/Cal/81/5637 dated June 1, 1985 (copy of which was produced by Shri Arun Shourie), have been reproduced. We set out below the relevant extracts of the Report (as published in the Press) for the purpose of proper understanding of the issues involved :

"The searches in the above mentioned three premises of EMC Steal Ltd. had been continuing. During the course of search we have come across existence of the two foreign currency accounts mentioned in the Source Reports with the banks in Dubai and Saudi Arabia. We have also come across certain commission received by EMC but not repatriated into India. We have

come across certain payments made to parties on behalf of EMC. We have further come across transactions revealing under invoicing of the exports”.

“When the searches were going on, there was a call from a high official from Delhi at about 5.30 p.m. on 31-5-85. Since this was received by the AEO, Deputy Director wanted to confirm it by telephoning to SDE himself. Therefore, a call was put through to the high official at about 7 p.m. on 31-5-85 when the searches were still continuing. On advice from the high official, the searches in the premises of M/s. EMC Steelal Ltd. and in three places have been drawn. It was learnt that Shri M. Nath was residing with his family on the up-stairs of No. 2, Robinson Street, Calcutta where the office of EMC Steelal also exists on the ground floor. It was learnt that Shri M. Nath along with his family are away in Europe on tour”.

From the above extracts (the authenticity of which has been certified by Shri Arun Shourie and nobody has denied the truth and correctness thereof), it clearly appears that while searches were continuing, the same were interrupted at the instance of the Special Director of Enforcement Directorate and Nil Panchnamas were drawn.

It is significant that the government produced the first six documents mentioned in paragraph 26 of the Report but the seventh document *viz.* the Report dated June 1, 1985, called for by Shri Arun Shourie when produced by the Department differed materially from the copy produced by Shri Shourie. In the copy produced by the Government, there was no reference to any incriminating document being found or to the withdrawal of the search and on the other hand it was stated that nothing incriminating had been found. The number of Report which was produced by the Ministry was D.O. No. T-1/531/Cal/81 dated 1st June, 1985. It did not bear any despatch number that all government communications should bear. As stated earlier, the Committee had decided that the Ministry of Finance should be asked to explain why the Government did not produce the report bearing No. T-1/531/Cal/81/5637 dated June 1, 1985 and had produced some other document instead. The matter was not allowed to be pursued further nor was the Ministry of Finance asked to clarify why different information at different times had been given regarding the authority of the Calcutta Office of the Reserve Bank of India to grant permission to open foreign accounts. In spite of the Committee's earlier decision, ultimately neither any clarification was sought for from the Ministry of Finance nor any explanation was asked for why copy of some document was furnished which was not asked by the Committee.

However, the Report of Shri M. N. Bapat (as produced by Shri Shourie), clearly confirms the existence of the foreign accounts and that the raiding officers came across evidence of commission received by the company, which had not been repatriated into India and also evidence of funds received from the United States which were being retained illegally in Dubai in Fixed Deposits and that there was evidence of transactions revealing under-invoicing of exports.

Further the Report reveals how the raids were aborted and nil panch-namas had been prepared. Therefore, the documents referred to by Shri Arun Shourie conclusively show that the statements made in his article were primarily reproduced verbatim from official documents.

We are unhappy, to say the least, that though the Committee at one stage had decided to go into the substance of the matter, subsequently, it chose to ignore the importance of the documents and the evidence adduced before the Committee and has come to findings without any acceptable basis or material; on the other hand, contrary to evidence produced before the Committee.

The documents which had been produced before the Committee at the instance of Shri Arun Shourie or by him appear to be of unimpeachable authenticity and with regard to the 'Top Secret' report of Shri M. N. Bapat of June 1, 1985, Shri Arun Shourie offered to supply the carbon copy also. It bears repetition to emphasise that no authority either from the Ministry of Finance or the Reserve Bank of India or the Directorate of Enforcement, has come forward to deny the authenticity of the report of Shri M. N. Bapat, as produced by Shri Shourie. One thus cannot but come to the unavoidable conclusion that there were in fact, raids in the offices of the company and the residences of the Directors and Executive Officers of the Company, that incriminating documents had been found and that the search was stopped at the behest of Delhi and that incorrect panch-namas had been prepared at the direction from the authorities in Delhi.

When such tell-tale evidence are staring us at our face, we can not be a party to the conclusion that "that the Committee, cannot but reach the conclusion that the assertions of Shri Kamal Nath that the accounts were opened with the prior permission of the Reserve Bank of India were correct" and we must emphatically dissent from such finding. We are of the opinion that the materials before the Committee raise serious questions as to the validity and legality of the accounts and unless unassailable proof was produced before the Committee, no finding can be arrived at as to the legality and validity of the Accounts. The documents produced at the instance of Shri Shourie could not be ignored, because of the subsequent communication from the Ministry of Finance about the supposed legality of the accounts.

We find with the dismay that the majority report does not refer to the nature of discrepancies in the two documents, both dated June 1, 1985 and does not deal with the same at all nor deal with the cause or the effect of such discrepancies.

Therefore, we are of the opinion that not only the question of the legality of the Accounts is not relevant for the purpose of the Committee arriving at a decision in the matter, there are no materials before the Committee to hold that the accounts were legal and on the other hand, serious questions have been raised by Shri Shourie regarding the validity of the accounts and the bonafides of the government's action and conduct. We are of the opinion that the Committee should not have come to any finding whether the accounts had been legally or validly opened or operated or not. Since the majority of the Committee have gone into the question, we cannot but hold, on the basis of available materials, that the accounts were not validly opened or operated; otherwise no searches would have been carried out as was done. We are unable to place any reliance on the subsequent communication of the Ministry of Finance, in the absence of any opportunity given to us to seek clarifications on the same.

Regarding the Second point namely, whether Shri Shourie has cast reflection on Shri Kamal Nath as an MP and on Parliament and committed any breach of privilege and contempt of the House, we are of the opinion that though some expressions in the article of Shri Shourie are unhappy and could have been avoided, yet as the Committee has decided not to take any further notice of the matter, we do not wish to dwell on the same.

However, to keep the record straight, we would like to state that :

- (i) We do not agree that it was not necessary for the Committee to ask Shri Arun Shourie to furnish the carbon copy of the Report dated June 1, 1985;
- (ii) There are sufficient materials, *prima facie* to prove the illegality of the accounts as mentioned in the article;
- (iii) The Committee should not have accepted the correctness of the communication of the Ministry of Finance, without further enquiry or clarifications.

The Committee has stated that it has taken a serious view of the "clumsy manner in which the matter was handled by the Directorate of Enforcement including its Zonal Office in Calcutta on the one side and Reserve Bank of India on the other", yet it chose not to look into the matter in all its details and we cannot be a party to the finding in the absence of proper scrutiny that any ill-founded or un-co-ordinated action was taken, only on the basis of the communication of the Reserve Bank of India to the Enforcement Directorate, Calcutta. Such observations have been made without fuller consideration of the materials in the matter.

There is no reason to accept, what is described by the Committee as 'the categorical statement of the Government', that the accounts were opened with the prior permission of the Reserve Bank of India. In the absence of any finding which can be said to affect the reputation of the Member of Parliament being damaged, the comments made by the majority in paragraph 89 of the Report against Shri Shourie are without any basis, and there is no reason to hold that Shri Arun Shourie had any score to settle with Shri Kamal Nath. The comments about clandestine enquiry is totally unjustified; obviously such enquiry could not be made openly.

We cannot agree with the observations of the Committee that the proper course for Shri Shourie was to refer the materials to Shri Kamal Nath before publishing the article. Apart from the fact that there is no such requirement in law, Shri Arun Shourie has given good reasons in the present case why he did not refer the matter to Shri Kamal Nath. The criticism of Shri Shourie by the Committee in this respect is unfortunate. The findings and observations of the majority of the Committee as contained in paragraphs 91, 92, 102, 103, 104 of the Report are not justified, in view of the findings and observations made in paragraphs 92, 93, 94, 96 and 97 of the Report.

We disagree that Shri Arun Shourie committed any impropriety on his part as observed by the majority, having written individually to the Members of the Committee "thereby seeking to influence their collective judgement in the matter. If at all he had any submissions to make, he should have written to the Chairman. The way he has chosen to act in the matter only exposes the thin veneer of his regard to Parliament and its Committees so loudly proclaimed by him in evidence. The entire tone, tenor and style of the article definitely smacks of disrespect for Parliament and its Members and Shri Shourie did not have the decency of expressing regrets". These are strong words, wholly unmerited. If Shri Shourie had written only to one or few Members of the Committee, then it could have been a matter of comment. The Committee acts through its collective judgement. Therefore, if Shri Shourie sought to influence the collective judgement of the Members of the Committee by writing to the Chairman as well as to the other Members, there was nothing improper on his part. Use of strong words as indicated above, does not add to the dignity or prestige of the Committee. We do not agree to the making of such unjustified sweeping remarks.

Sd/-

(K. RAMACHANDRA REDDY)

Sd/-

(V. S. KRISHNA IYER)

Sd/-

(SOMNATH CHATTERJEE)

COMMITTEE'S NOTE

Sarvashri Somnath Chatterjee, V. S. Krishna Iyer and K. Ramachandra Reddy in their joint Note have disagreed with the conclusions arrived at by the Committee and stated *inter alia* that "we regret we cannot be parties to the Report approved by the majority, as in our humble view the majority have erred both in the correct ascertainment of the issues involved and in the appreciation of the evidence and materials produced before the Committee."

2. The Committee find that the note is not only highly critical of the procedure followed by the Committee but also of their findings. What is still more distressing is that certain passages of the note tend to cast reflections on the Committee. On objections being taken by members to these passages, Sarvashri V. S. Krishna Iyer and K. Ramachandra Reddy stated that after mutual consultations all the three of them had taken a collective decision to submit a joint Note giving detailed reasons why they were not in a position to agree with the findings of the majority in the Committee. However, they had no intention to cast any reflections upon or show disrespect to the Committee or the Chairman in any manner whatsoever and requested that this may be brought on record.

3. The Committee are of the view that the contention of the members that the first issue namely, that the two accounts referred to by Shri Shourie in his article were "illegal", was not relevant for purposes of their inquiry, is not correct, as the whole thrust of Shri Shourie's article was that the accounts were opened without permission of the Reserve Bank of India and were therefore illegal. The Committee had therefore necessarily to go into this matter. Having found conclusive evidence that the accounts were opened with prior permission of the Reserve Bank of India, Calcutta Branch, they did not consider it necessary to go into the matter further as in their opinion, it was not germane for determination of the question of privilege. The Committee would in this connection like to point out that the issues for examination were finalised after great deliberations and it is obviously unfair for the three members now to say that the proper procedure was not followed.

4. The Committee have again gone into the matter in great depth with a view to seeing if any meeting ground could be found and the view points of the three members could be accommodated. They, however, find no reason to revise their findings in the case. The report is based on a broad consensus arrived at in a series of meetings and all aspects of the matter

have been given due weight in accordance with the Constitution and well established precedents.

5. The Committee have finally reached the conclusion that no case has been made out by the three members necessitating any modifications in the report as already adopted by them.

NEW DELHI;

January 5, 1989

Pausa 15, 1910 (Saka)

JAGAN NATH KAUSHAL,
Chairman,
Committee of Privileges.

MINUTES

MINUTES

I

First Sitting

New Delhi, Tuesday, 29th March, 1988.

The Committee sat from 16.00 to 17.00 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Sharad Dighe
5. Shri V. Sreenivasa Prasad
6. Shri Bholanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2—4 ** ** **

5. The Chairman informed the Committee that a question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for publishing in their issues of 14th March, 1988, an article captioned "An M.P. and two Accounts" had been referred to the Committee of Privileges by the House on 22nd March, 1988.

6. The Committee decided that in the first instance, the following members who had given notices of question of privilege might be requested to appear before the Committee of Privileges for oral examination at their sitting to be held on Wednesday, the 6th April, 1988 :—

- (1) Shri Harish Rawat, M.P.
- (2) Prof. K. V. Thomas, M.P.
- (3) Shri Satyendra Narayan Sinha, M.P.
- (4) Prof. N. G. Rangā, M.P., and
- (5) Shri Kamal Nath, M.P.

The Committee then adjourned.

**Paras 2—4 relate to another case and have accordingly been omitted.

II

Second Sitting

New Delhi, Wednesday, 6th April, 1988.

The Committee sat from 16.00 to 18.30 hours.

PRESENT

Shri Jagann Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
- 3 Shri Somnath Chatterjee
4. Shri Jagannath Choudhary
5. Shri Sharad Dighe
6. Shrimati Sheila Dikshit
7. Shri Bhishma Deo Dube
8. Shri Jujhar Singh
9. Shri Braja Mohan Mohanty
10. Shri Bhellanath Sen

SECRETARIAT

Shri T. S. Ahluwalia—*Chief Examiner of Bills and Resolutions*

WITNESSES

- (1) Shri Harish Rawat, M.P.
- (2) Prof. K. V. Thomas, M.P.
- (3) Shri Satyendra Narayan Sinha, M.P.
- (4) Shri Kamal Nath, M.P.

2. The Committee took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

3. Shri Harish Rawat, M.P., was called in and examined by the Committee on oath.

(Verbatim record of evidence was kept)
(The witness then withdrew)

4. Prof. K. V. Thomas, M.P., was called in and examined by the Committee on oath.

At this stage, Shri Braja Mohan Mohanty, M.P., raised a procedural point that the author of the article, Shri Arun Shourie, should be examined first by the Committee before proceeding further with the examination of the members who had given notices of question of privilege against Shri Arun Shourie. After some discussion, the Committee decided to proceed further with the examination of the members.

(Verbatim record of evidence was kept)
(The witness then withdrew)

5. Shri Satyendra Narayan Sinha, M.P., was called in and examined by the Committee on oath.

(Verbatim record of evidence was kept)
(The witness then withdrew)

6. Shri Kamal Nath, M.P., was called in and examined by the Committee on oath.

The Committee requested Shri Kamal Nath to furnish a copy each of the following documents :—

- (i) Letter No. Fex.As.131480, dated 12th November, 1980, from the Joint Manager, New Bank of India, Calcutta, to the Reserve Bank of India, Exchange Control Department, Calcutta;
- (ii) Letter No. Fex.As.132080, dated 15th November, 1980, from the Joint Manager, New Bank of India, Calcutta, to the Reserve Bank of India, Exchange Control Department, Calcutta;
- (iii) Letter No. INT/6C-4, dated 12th November, 1980, from M/s. EMC Steell Ltd., 3A, Auckland Place, Calcutta, referred to in endorsement No. CA.EC.PX 288/X.38(TK) (S-23)-80, dated 26th November, 1980, from the Reserve Bank of India, Calcutta; and
- (iv) Letter No. INT/8C-4, dated 12th August, 1981, from M/s. EMC Steell Ltd. Calcutta and the endorsement dated 13th August, 1981, thereon by the Manager, Allahabad Bank, Calcutta.

(Verbatim record of evidence was kept)
(The witness then withdrew)

7. The Committee decided that the Editors of the *Indian Express*, *Financial Express* and *Jansatta* be asked to appear before the Committee for oral examination at their sitting to be held on Wednesday, 20th April, 1988.

The Committee then adjourned

iii

Third Sitting

New Delhi, the Wednesday, 20th April, 1988

The Committee sat from 15.00 to 18.00 hours.

PRESHNT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Bhadreshwar Tanti
3. Shri H. K. L. Bhagat
4. Shri Somnath Chatterjee
5. Shri Jagannath Choudhary
6. Shri Sharad Dighe
7. Shrimati Sheila Dikshit
8. Shri H. A. Dora
9. Shri Bhishma Deo Dubc
10. Shri Jujhar Singh
11. Shri Braja Mohan Mohanty
12. Shri Bhojanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

WITNESSES

- (1) Shri Arun Shourie,
Editor, *Indian Express*.
- (2) Shri N. S. Jagannathan,
Editor, *Financial Express*.

2. The Committee took up consideration of the question of privilege against Shri Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

3. At the outset, the Chairman informed the Committee that Sarvasri Arun Shourie and N. S. Jagannathan, Editors of *Indian Express* and *Financial Express* who had been asked to appear before the Committee for

oral evidence, had in their identical letters dated 11th April, 1988, stated that Sarvashri Ram Jethmalani and Arun Jantley, Advocates, who would be representing them in the matter, would also accompany them at the time of their appearance before the Committee. They had also requested that as they would like to summon a number of documents as well as witnesses, procedure therefor might be intimated to them.

The Chairman further informed the Committee that a reply dated 13th April, 1988, was sent to them by the Lok Sabha Secretariat with his approval, stating that the question of allowing them to be accompanied by two advocates would be placed before the Committee of Privileges for their decision. As regards summoning of documents/witnesses, they were informed that they might submit a list of documents/witnesses to the Committee when they appear before them and that their request in that regard would be considered by the Committee.

4. The Committee considered the matter at length and noted that though rule 271 of the Rules of Procedure provided that a Committee might, under the direction of the Speaker, permit a witness to be heard by a counsel appointed by him and approved by the Committee, there had been no instance in Lok Sabha when a counsel appeared before the Committee of Privileges on behalf of a witness.

5. The Chairman informed the Committee that there had been a few instances in the House of Commons (U.K.) when counsel had been allowed to appear before the Committee of Privileges. All those cases, however, pertained to the eighteenth century. In 1967-68, the House of Commons gave leave for the Committee of Public Accounts to hear counsel in their investigation of the truthfulness of witnesses before them on 14th March, 1968.

6. The Committee decided that the Editors might be examined first on facts and if, during the course of their evidence, any legal points arose, necessitating the assistance of a counsel to the witnesses, the Committee would consider their request and proceed further in the matter in accordance with the provisions contained in rule 271 of the Rules of Procedure.

7. Shri Arun Shourie, Editor, *Indian Express*, was called in and examined by the Committee on oath.

Shri Arun Shourie, with the permission of the Committee, read out a statement¹ and also handed over a signed copy thereof to the Chairman. In his statement, Shri Arun Shourie raised several legal and procedural issues which might affect him adversely if he was compelled to proceed with his oral evidence.

¹See proceedings of the Committee of Privileges, dated 20-4-1988.

Shri Arun Shourie was thereupon asked to withdraw to enable the Committee to deliberate on the matter.

8. After some discussion, Shri Arun Shourie was called in again and informed by the Chairman that the Committee had decided that (i) copies of two letters issued by the Reserve Bank of India, Calcutta (which were shown to him) and handed over by Shri Kamal Nath to the Speaker, Lok Sabha, would be supplied to him; (ii) a copy of verbatim proceedings of the Committee of Privileges containing the oral evidence of Sarvashri Harish Rawat, K. V. Thomas, Satyendra Narayan Sinha and Kamal Nath, MPs, would also be supplied to him; and (iii) full protection would be afforded to him by the Committee insofar as the procedural and legal points raised by him were concerned, as and when required. The question of allowing him to be represented by a counsel would be considered as per rules as and when any legal issue arose necessitating such assistance.

Shri Arun Shourie was further examined by the Committee.

(Verbatim record of evidence was kept)
(The witness then withdrew)

9. Shri N. S. Jagannathan, Editor, *Financial Express* was called in and examined on oath by the Committee.

(Verbatim record of evidence was kept)
(The witness then withdrew)

The Committee then adjourned

IV

Fourth Sitting

New Delhi, Thursday, 28th April, 1988

The Committee sat from 15.00 to 16.15 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Bhadreshwar Tanti
3. Shri Somnath Chatterjee
4. Shri Sharad Dighe
5. Shrimati Sheila Dikshit
6. Shri Bhishma Deo Dube
7. Shri Braja Mohan Mohanty
8. Shri V. Sreenivasa Prasad

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2-4. **

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5. The Committee then took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, MP, in an article captioned "An MP and two Accounts" published in their issues dated 14th March, 1988.

6. The Committee perused the letter dated 24th April, 1988, received from Shri Arun Shourie, Editor of *Indian Express* requesting that the decisions of the Committee on the points which he had raised in his written submission on 20th April, 1988, be indicated to him in writing so that he could take proper legal advice thereon. He had also requested that his counsel and he himself might be permitted to ask questions from the members who had given evidence, before his own evidence was recorded.

7. The Committee deliberated on the matter and decided that there was no need to change their earlier decision taken on 20th April, 1988, that the Editors might be examined first on facts and if, during the course of their evidence, any legal points arose, necessitating the assistance of a

**Paras 2-4 relate to another case and have accordingly been omitted.

counsel to the witnesses, the Committee would consider their request and proceed further in the matter in accordance with the provisions contained in rule 271 of the Rules of Procedure.

8. As regards other points raised by Shri Arun Shourie in his aforesaid letter, the Committee decided that a detailed note might be prepared keeping in view the Constitutional provisions, authoritative books on the subject, precedents in India and elsewhere, particularly in the House of Commons (U.K.), so that well considered rulings could be given by the Chair on each of the points raised by Shri Shourie. The Committee desired that the U.P. Assembly case and Indira Gandhi's case might be carefully studied for purposes of the aforesaid note. The same might be made available to members within a week's time.

9. The Committee decided that Shri Arun Shourie, Editor, *Indian Express* and Shri Prabhask Joshi, Editor, *Jansatta*, be asked to appear before the Committee on 10th May, 1988, for oral evidence.

The Committee then adjourned.

Fifth Sitting

New Delhi, Friday, 6th May, 1988

The Committee sat from 15.00 to 16.30 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Sharad Dighe
5. Shri Jujhar Singh
6. Shri Braja Mohan Mohanty

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2. The Committee took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, MP, in an article captioned "An MP and two Accounts" published in their issues dated 14th March, 1988.

3. The Committee perused the letters dated 20th April, 24th April and 5th May, 1988, received from Shri Arun Shourie, Editor of *Indian Express* in which he had raised identical points which he had made in his submission to the Committee during the course of his oral evidence on 20th April, 1988.

4. The Committee deliberated on the matter at length and decided that there was no need to change their earlier decision taken on 20th April, 1988 that the Editors might be examined first on facts and if, during the course of their evidence, any legal points arose, necessitating the assistance of a counsel to the witnesses, the Committee would consider their request and proceed further in the matter in accordance with the provisions contained in rule 271 of the Rules of Procedure.

The Committee then adjourned.

VI

Sixth Sitting

New Delhi, Tuesday, 10th May, 1988

The Committee sat from 15.00 to 17.30 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Bhadreshwar Tanti
3. Shri H. K. L. Bhagat
4. Shri Somnath Chatterjee
5. Shri Jagannath Choudhary
6. Shri Sharad Dighe
7. Shrimati Sheila Dikshit
8. Shri H. A. Dora
9. Shri Bishma Deo Dube
10. Shri Jujhar Singh
11. Shri Braja Mohan Mohanty
12. Shri V. Sreenivasa Prasad

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

WITNESSES

- (1) Shri Arun Shourie, Editor, *Indian Express*
- (2) Shri Prabhash Joshi, Editor, *Jansatta*.

2. The Committee took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, MP, in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

3. Shri Arun Shourie, Editor, *Indian Express*, was called in and examined on oath.

Shri Shourie handed over a letter to the Chairman containing *inter alia* a list of documents which he requested the Committee to summon from the concerned authorities to enable him to substantiate the contents of his article.

(*Verbatim record of evidence was kept*)

(*The witness then withdrew*)

4. Shri Prabhash Joshi, Editor, *Jansatta*, was then called in and examined on oath by the Committee.

(Verbatim record of evidence was kept)

(The witness then withdrew)

The Committee then adjourned.

VII

Seventh Sitting

New Delhi, Wednesday, 11th May, 1988

The Committee sat from 15.00 to 17.55 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H.K.L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Jagannath Chaudhary
5. Shri Sharad Dighe
6. Shrimati Sheila Dikshit
7. Shri H.A. Dora
8. Shri Bhishma Deo Dube
9. Shri Jujhar Singh
10. Dr. Prabhat Kumar Mishra
11. Shri Braja Mohan Mohanty
12. Shri V. Sreenivasa Prasad
13. Shri Bholanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2—7. ** ** ** **

8. The Committee then took up consideration of question of privilege against Shri Arun Shourie Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kanial Nath, MP, in an article captioned "An MP and two Accounts" published in their issues dated 14th March, 1988.

9. The Committee perused the letter dated 10th May, 1988, handed over by Shri Shourie to the Committee during the course of his evidence on 10th May, 1988, in which he had requested the Committee to call for certain documents from the Directorate of Enforcement Zonal Office, Calcutta and Head Office at Delhi and the Reserve Bank of India, Exchange Control Department, Calcutta and Bombay.

10. After considering the matter at length, the Committee decided to further deliberate on the matter at their next sitting.

The Committee then adjourned.

**Paras 2—7 relate to another case and have accordingly been omitted.

VIII

Eighth Sitting

New Delhi, Friday, 13th May, 1988

The Committee sat from 14.00 to 16.30 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Bhadreshwar Tanti
3. Shri Somnath Chatterjee
4. Shri Jagannath Choudhary
5. Shrimati Sheila Dikshit
6. Shri Bhishma Deo Dube
7. Shri Jujhar Singh
8. Dr. Prabhat Kumar Mishra
9. Shri Braja Mohan Mohanty
10. Shri Bholanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

WITNESSES

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| (1) | ** | ** | ** | | |
| (2) | ** | ** | ** | | |
| (3) | ** | ** | ** | | |
| 2—7. | ** | ** | ** | ** | ** |

8. The Committee deliberated further on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, MP, in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988, and decided, after some discussion that the Ministry of Finance be directed to furnish a photo copy each of the following documents, duly authenticated, for their perusal:—

- (i) Letter No. T-1/531/CAL/81/9363 dated 13th October, 1981, from the Assistant Director, Enforcement Directorate, FERA, Calcutta Zonal Office to the Controller, Exchange Control Department, Central Office, RBI, Bombay;

**Serial Nos. (1) to (3) and paras 2—7 relate to another case and have accordingly been omitted.

- (ii) Letter No. ECCO. FAS/402/E/81, dated 10th November, 1981 from the Controller, Exchange Control Department, Central Office, RBI, Bombay to the Assistant Director, Enforcement Directorate, FERA, Calcutta Zonal Office;
- (iii) Letter No. T-1/531/CAL/81/46, dated 2nd January, 1982, from Shri A. K. Roy Chowdhury, Deputy Director, Enforcement Directorate, Calcutta Zonal Office to Shri H. S. Bindra, Director, Enforcement Directorate, New Delhi;
- (iv) Letter No. FC/ON/1/82/SA, dated 9th February, 1982, from Shri A. K. Banerjee, SA to Director, Enforcement Directorate to Shri A. K. Roy Chowdhury, Deputy Director, Enforcement Directorate, Zonal Office, Calcutta;
- (v) Enquiry report prepared on EMC Steelial Limited by the Assistant Enforcement Officer, Calcutta Zonal Office on 12th March, 1982;
- (vi) Letter No. T-1/531/CAL/81/7579, dated 22nd September 1984, from Shri B. P. Jana, Deputy Director, Enforcement Directorate, Calcutta Zonal Office to Shri D.C. Mandal, Special Director, Enforcement Directorate, New Delhi; and
- (vii) Report No. T-1/531/CAL/81/5637, dated 1st June, 1985 prepared by Shri M. N. Bapat, Deputy Director, Enforcement Directorate, FERA, Calcutta, for the Enforcement Directorate, Head Office, Delhi.

9. The Committee also decided that the Ministry of Finance be directed to state in writing—

- (i) Whether any Bank accounts were opened in Riyadh, Saudi Arabia and Dubai by M/s EMC Steelial Ltd., Calcutta, in pursuance of the permission granted by the Reserve Bank of India, Exchange Control Department, Calcutta, *vide* their letters No. CA. EC. PX. 287/X. 38(TK)(S-23)-80 dated 26th November, 1980 and CA.EC.PX/38/X38 (TK) (S-27)81, dated 22nd August, 1981, and if so, the numbers thereof; and
- (ii) whether the Reserve Bank of India, Exchange Control Department, Calcutta, was empowered in 1980 to grant permission to firms to open foreign accounts.

The Committee then adjourned.

IX

Ninth Sitting

New Delhi, Thursday, 9th June, 1988

The Committee sat from 11.00 to 12.45 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Bhadreshwar Tanti
3. Shri H. K. L. Bhagat
4. Shri Somnath Chatterjee
5. Shri Jagannath Choudhary
6. Shrimati Sheila Dikshit
7. Shri Bishma Deo Dube
8. Shri Jujhar Singh
9. Shri Braja Mohan Mohanty
10. Shri Bholanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri T. S. Ahluwalia—*Deputy Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2—4. ** ** ** ** **

5. The Committee then took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

6. The Chairman informed the Committee that as per the request of Shri Arun Shourie, seven documents and some other information regarding foreign bank accounts of Shri Kamal Nath's firm, M/s EMC Steel Ltd., were called for from the Ministry of Finance. The Ministry while furnishing

**Paras 2—4 relate to another case and have accordingly been omitted.

all the documents called for, had in their communication dated 2nd June, 1988, stated *inter alia* as follows :

“The Reserve Bank of India has informed that M/s EMC Steal Ltd., Calcutta, had in pursuance of the permission granted by R.B.I., Calcutta, vide letters No. CA. EC PX 287/X 38(TK) (S-23)-80 dated 26th November, 1980 and CA. EC. PX/138/X 38(TK)(S-27)81 dated 22nd August, 1981 had actually opened accounts in Riyadh and Dubai; the numbers of these accounts were 12.84.037 and 9528 respectively. The Reserve Bank of India has further confirmed that the R.B.I., Exchange Control Department, Calcutta, was empowered in the year 1980 to grant permission to firms to open foreign accounts.”

The Chairman also informed the Committee that while sending these documents, the Ministry of Finance had stated that since these documents had been classified as ‘Secret’, the same might be put up to the Chairman, Committee of Privileges ‘for his perusal only’.

7. The Committee were of the view that since it had been established from the communication received from the Ministry of Finance that the accounts of M/s. EMC Steal Ltd. were legal and had been opened after a proper permission was obtained from the concerned authorities, the documents which had been called for from the Ministry of Finance in pursuance of the request of Shri Arun Shourie were no longer relevant to the issue and it was not necessary for the Committee to peruse/examine them.

8. The Committee were of the opinion that broadly speaking there were only two points before the Committee for their consideration, namely, (i) whether the two accounts referred to in the article were illegal; and (ii) whether Shri Arun Shourie had cast reflections on Shri Kamal Nath in particular and on Parliament, its Committees and members in general by writing the impugned article and thereby committed breach of privilege and contempt of the House.

The Committee observed that the numbers of the foreign accounts of M/s. EMC Steal Ltd., as given by Shri Arun Shourie in his article tallied with the numbers furnished by the Ministry of Finance as belonging to the foreign accounts of M/s. EMC Steal Ltd. The Committee also noted that according to the Communication received from the Ministry of Finance these accounts had been opened by the firm after obtaining prior permission from the Reserve Bank of India, Calcutta, who were empowered in 1980 to grant permission to firms to open foreign bank accounts.

9. The information furnished by the Ministry of Finance had conclusively established that the accounts were legal. Shri Shourie’s allegation that the accounts were illegal had therefore no basis.

10. As regards the second point, the Committee noted that during his evidence before the Committee, Shri Arun Shourie's attention was invited to phrases like 'those are shameless fellows', 'what is the use of another Committee', etc., used by him in his article whereby he appeared to have cast reflections on and committed contempt of the House, its Committees and Members. Shri Shourie had, however, maintained that if his article was read as a whole instead of passages being read in isolation it would become clear that when he used the words and phrases mentioned above he was referring only to the 'coterie around the Prime Minister' and not to the members of Parliament in general.

11. The Committee deliberated upon the matter at length. The Committee noted that Shri Shourie had stated in the article as follows :

"If the charge is true, the conduct of a Member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry licences case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privilege."

12. The Committee further noted that the caption of the article "An M.P. and two accounts" was itself indicative of the intent of the author to malign members of Parliament. This was further borne out from the following passage in the article:

"The charge here is as grave as it can be : A company of a *Member of Parliament* has had foreign accounts. . . .".

Shri Shourie thus seemed to imply that Shri Kamal Nath had misused his position as a Member of Parliament.

13. The Committee were of the view that the tone and tenor of Shri Shourie's article appeared to denigrate the Members of Parliament in general. The Committee, therefore, came to the conclusion that Shri Shourie was guilty of committing breach of privilege and contempt of the House.

14. After careful consideration of all aspects of the matter, the Committee decided that Shri Arun Shourie may be asked in the first instance to appear again before the Committee to explain what he had to say in the matter in view of the above findings of the Committee.

15. After the Committee had taken the above decision, a member (Shri Somnath Chatterjee) who was not present during the course of earlier deliberations of the Committee and who had given prior intimation to the Chairman that he would be coming late because of some other pressing engagement, came to attend the sitting of the Committee. He was apprised by the Chairman of the decisions, taken by the Committee in his absence.

16. As regards the decision of the Committee in Shri Arun Shourie's case, the member, while stating that he was bound by the decision of the Committee, wanted to see the documents furnished by the Ministry of Finance himself so that he could form his independent opinion. The member also disagreed with the decision of the Committee that on both the counts Shri Shourie was guilty of having committed breach of privilege and contempt of the House. The member who was ready to accept that the bank accounts might be legal in view of the Ministry of Finance's letter, contended that it was clear from a simple reading of the article that it (the article) was entirely based on certain documents and reports of various Government agencies. If those documents and reports, relied upon by Shri Shourie in his article were now proved to be authentic inasmuch as copies thereof were furnished by the Ministry of Finance, how could it be inferred that Shri Shourie had committed breach of privilege and contempt of the House merely by basing his article on the said documents or reports of various Government agencies. The member submitted that it might not be proper to give a finding against Shri Shourie without first giving him an opportunity to be heard after apprising him of the communication of the Finance Ministry that the accounts had been opened after obtaining proper permission from the Reserve Bank of India, Calcutta, who were empowered in 1980 to grant such permission.

17. The Committee deliberated upon the matter and were of the view that they should proceed in the matter as per the decision already taken. The Committee accordingly desired that Shri Arun Shourie might be asked to appear before them at the sitting to be held on 30th June, 1988.

The Committee then adjourned.

X

Tenth Sitting

New Delhi, Wednesday, 29th June, 1988
The Committee sat from 1500 to 1605 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Bipin Pal Das
4. Shri Sharad Dighe
5. Shrimati Sheila Dikshit
6. Shri Bhishma Deo Dube
7. Shri V. N. Gadgil
8. Dr. Prabhat Kumar Mishra
9. Shri Braja Mohan Mohanty
10. Shri K. Ramachandra Reddy

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri T. S. Ahluwalia—*Deputy Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2—10. ** ** ** **

11. The Committee then took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for alledgedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

12. Chairman informed the Committee that at their previous sitting, the Committee, after deliberating upon the matter, had come to conclusion that Shri Arun Shourie was guilty of committing a breach of privilege of Shri Kamal Nath as a member of Parliament as well as of committing a contempt of the House. The Committee had then decided that Shri Arun Shourie might be asked in the first instance to appear before the Committee to explain what he had to say in the matter in view of the findings of the Committee. Chairman observed that as the Committee of Privileges had since been reconstituted and there were four new members in the Committee, it would be better if the matter was re-deliberated upon before

**Paras 2—10 relate to another case and have accordingly been omitted.

Shri Arun Shourie was asked to appear before the Committee, so that the new members might also get an opportunity to express their views in the matter.

13. The Committee decided to re-deliberate upon the matter at their sitting to be held on 30th June, 1988. The Committee also decided that Shri Arun Shourie who was to appear before the Committee at their sitting to be held on 30th June, 1988 might be asked not to appear before them on that day.

14—16. ** ** ** **

The Committee then adjourned.

XI

Eleventh Sitting

New Delhi, Thursday, 30th June, 1988
The Committee sat from 1100 to 1330 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H.K.L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Bipin Pal Das
5. Shri Sharad Dighe
6. Shrimati Sheila Dikshit
7. Shri Bhishma Deo Dube
8. Shri V. N. Gadgil
9. Shri Jujhar Singh
10. Dr. Prabhat Kumar Mishra
11. Shri Braja Mohan Mohanty
12. Shri K. Ramachandra Reddy

SECRETARIAT

Shri Subhash C. Kashyap—*Secretary-General*

Shri K. C. Rastogi—*Joint Secretary*

Shri T. S. Ahluwalia—*Deputy Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2—8. ** ** ** **

9. The Committee then took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, MP, in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

10. The Committee deliberated upon the matter at length. The Committee noted that during the course of his evidence before the Committee Shri Arun Shourie was repeatedly assured by the Committee that he would get all the opportunity to make his submissions, comments and remarks after he had given his evidence on facts. The Committee also noted that Shri Arun Shourie had not been confronted with the information/documents furnished by the Ministry of Finance which suggested that

**Paras 2—8 relate to another case and have accordingly been omitted.

the accounts of Shri Kamal Nath's firm were not illegal. The Committee, therefore, reviewed the decisions taken at their sitting held on 9th June, 1988, to hold Shri Arun Shourie guilty of having committed breach of privilege of Shri Kamal Nath as well as contempt of the House and to ask him to appear again before the Committee to explain what he had to say in the matter. The Committee decided that Shri Arun Shourie be asked to appear before the Committee on 14th July, 1988 and confronted with the information furnished by the Ministry of Finance to the effect that the Reserve Bank of India, Calcutta had granted permission to M/s. EMC Steelial Ltd., Calcutta in 1980 to open foreign bank accounts; that the Calcutta Branch of Reserve Bank of India was empowered to grant such permission in 1980 and that the accounts opened by the firm in pursuance of the said permission were the same which had been referred to as "illegal accounts" by Shri Shourie in his article. The Committee decided to redeliberate upon the matter in the light of explanations/submissions of Shri Arun Shourie thereon.

11. A member (Shri Sonmath Chatterjee) raised a point regarding the procedure adopted by the Committee at their sitting held on 9th June, 1988, when it was decided that the seven secret documents called for from the Ministry of Finance were no longer relevant to the issue and it was not necessary for the Committee to peruse/examine them. The member stated that inspite of Chairman's assurance that he would share the documents with the members of the Committee, they had not been shown the documents. The member stated that on principle he was not agreeable to nor would he like to be a party to a procedure whereby the documents relevant to the subject matter before the Committee were available to Chairman only and not to other members who were no less responsible. The member insisted that he had every right to see the documents furnished by the Ministry of Finance.

12. The Committee deliberated upon the matter. Chairman informed the Committee of the following well established convention in this regard :—

"In accordance with an established convention, secret documents required by a parliamentary committee are confidentially made available by the Ministry or Department or undertaking to the Chairman in the first instance, unless it is certified by the Minister concerned that such documents could not be made available on the ground that their disclosure would be prejudicial to the safety or interest of the State. The Chairman gives due consideration to the wishes of the Ministry or Department or undertaking before making any such documents available to the members of the Committee. Any difference of opinion between the Ministry and the Chairman is settled by discussion and in the last resort by reference to the Speaker."

(Practice and Procedure of Parliament, Kaul & Shakdher, p. 731)

13. The Committee directed that in the light of established convention as aforesaid, the Minister of Finance might be asked to state if he would have any objection to the Chairman showing to the members of the Committee the seven documents furnished by the Finance Ministry or he would like to certify that the documents could not be made available to the members of the Committee on the ground that their disclosure would be prejudicial to the safety or interest of the state.

XII

Twelfth Sitting

New Delhi, Thursday, 14th July, 1988.

The Committee sat from 11.00 to 13.25 hours and 14.30 to 16.45 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Bipin Pal Das
4. Shri Sharad Dighe
5. Shrimati Sheila Dikshit
6. Shri Bhishma Deo Dube
7. Shri V. N. Gadgil
8. Shri V. S. Krishna Iyer
9. Dr. Prabhat Kumar Mishra
10. Shri Braja Mohan Mohanty
11. Shri K. Ramachandra Reddy

SECRETARIAT

Dr. Subhash C. Kashyap—*Secretary-General*
Shri K. C. Rastogi—*Joint Secretary*
Shri T. S. Ahluwalia—*Deputy Secretary*
Shri J. P. Ratnesh—*Senior Table Officer*

WITNESS

Shri Arun Shourie,
Editor,
Indian Express

2. The Committee took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

3. At the outset, the Chairman read out the following communication dated 13th July, 1988, received from the Ministry of Finance :—

“(i) The concerned documents are classified as ‘secret’. However, these are not considered prejudicial to the safety or interest of the State. As such, keeping in view the established Parliamentary convention in this behalf, copies of these documents were furnished for perusal of the Chairman of the Committee.

(ii) Though the concerned documents are not considered prejudicial to the safety or interest of the State, nonetheless these are classified ‘secret’ documents relating to inquiries made by the Enforcement Directorate under the provisions of Foreign Exchange Regulation Act. It is, therefore, our view that such documents are not to be made available to the members of the Committee.

2. This issues with the approval of the Minister of State (Finance).”

4. The Chairman then drew the attention of the Committee to their earlier view arrived at on 9th June, 1988, that since it had been established from the communication received from the Ministry of Finance that the accounts of M/s. EMC Steel Ltd. were legal and had been opened after a proper permission was obtained from the concerned authorities, the documents which had been called for from the Ministry of Finance in pursuance of the request of Shri Arun Shourie were no longer relevant to the issue and it was not necessary for the Committee to peruse/examine them.

5. The Chairman observed that since the Committee had been re-constituted after the above view was taken, he was placing the matter before the Committee for re-consideration.

6. As some members were of the view that the documents be shown to the Committee, the same were made available to members for perusal and return.

(The documents were perused by the members)

7. After the members had perused the documents, Shri Arun Shourie, Editor, *Indian Express*, was called in and examined on oath. At the outset, the Chairman informed him as follows :—

“Shri Arun Shourie, I would like to inform you that the Ministry of Finance have intimated to the Committee that ‘The Reserve Bank of India has informed that M/s. E.M.C. Steel Ltd., Calcutta, had in pursuance of the permission granted by R.B.I.,

Calcutta, *vide* letters No. CA.EC.PX. 287/X. 38-(TK) (S-23)-80, dated 26th November, 1980 and CA.EC.PX/138/X.38 (T.K.) (S-27)81, dated 22nd August, 1981 had actually opened accounts in Riyadh and Dubai; the numbers of these accounts were 12.84.037 and 9528 respectively. The Reserve Bank of India has further confirmed that the R.B.I., Exchange Control Department, Calcutta, was empowered in the year 1980 to grant permission to firms to open foreign accounts.

You have now been asked to appear before the Committee to state what you may have to say in the matter in the light of the above information furnished by the Ministry of Finance.

In view of the above, what have you to say ?”

8. Shri Arun Shourie read out to the Committee letters number T-1/531/Cal/81/46, dated 2nd January, 1982 and ECCO.FAS/402, dated 10th November, 1981. However, when he started reading from the seventh document dated 1st June, 1985, (marked 'Top Secret') from the Deputy Director, Enforcement Directorate (Foreign Exchange Regulation Act), Calcutta, to the Director, Enforcement Directorate (Foreign Exchange Regulation Act), New Delhi, he was restrained by the Chairman from doing so as the document from which Shri Arun Shourie was reading appeared to be different from the document furnished by the Ministry of Finance to the Committee. A photo copy of this document was handed over by Shri Arun Shourie to the Committee.

At this stage, Shri Arun Shourie was asked to withdraw to enable the Committee to deliberate upon the matter.

9. The Committee noted that the Ministry of Finance had been asked to furnish *inter alia* a photo copy of "Report No. T-1/531/Cal/81/5637, dated 1st June, 1985; prepared by Shri M. N. Bapat, Deputy Director, Enforcement Directorate, FERA, Calcutta, for the Enforcement Directorate, Head Office, Delhi". The Committee further noted that the document furnished in response thereto by the Ministry of Finance, however, bore the number 'F. No. T-1/531/Cal/81', and was dated "1-6-1985". The document furnished by the Ministry of Finance did not appear to be the one called for by the Committee inasmuch as the figure '5637' was missing in the file number given on the top of the said document. The Committee also noted that the document furnished by Shri Arun Shourie was a letter dated the 1st June, 1985, addressed by Shri M. N. Bapat, Deputy Director, Enforcement Directorate, FERA, Calcutta to the Director, Enforcement Directorate, New Delhi and it bore the number 'D.O. No. T-1/531/Cal/81/5637'. The Committee noted that the document furnished by the Ministry of Finance, was not the one called for by them and that the contents of the two documents, *i.e.*, the document furnished by the

Ministry of Finance and the one handed over by Shri Arun Shourie to the Committee differed from each other though they bore the same date albeit in a different form.

10. The Committee decided that the Ministry of Finance be asked to explain why the document numbered T-1/531/Cal/81/5637 was not furnished by them and some other document was furnished instead. The Committee also decided that the Ministry of Finance be further asked to state whether the original of the document handed over by Shri Arun Shourie to the Committee existed in the relevant records of the Enforcement Directorate, New Delhi or the Enforcement Directorate, Calcutta, and if so, to forward an authenticated copy thereof for consideration of the Committee.

11. Shri Arun Shourie was called in again and informed by the Chairman that cognizance of the document bearing D.O. No. T-1/531/Cal/81/5637, dated the 1st June, 1985, handed over by him to the Committee would be taken only if he took responsibility for its authenticity. Shri Arun Shourie replied in the affirmative and handed over a copy of the said document duly authenticated by him for consideration by the Committee.

Shri Shourie was further examined by the Committee.

*(Verbatim record of evidence was kept)
(The witness then withdrew)*

12. The Committee further deliberated upon the matter and noted that another point was raised before them that according to the communication dated 2nd June, 1988, received from the Ministry of Finance "the Reserve Bank of India has informed that M/s. EMC Steel Ltd., Calcutta, had, in pursuance of the permission granted by RBI, Calcutta, vide letters No. CA.EC.PX.287/X.38(TK) (S-23)-80, dated 26th November, 1980 and CA.EC.PX/138/X.38(TK) (S-27) 81, dated 22nd August, 1981, actually opened accounts in Riyadh and Dubai". On the other hand, according to the letter No. ECCO.FAS/402/E/81, dated 10th November, 1981 (a copy of which was furnished by the Ministry of Finance) the Controller, Exchange Control Department, Reserve Bank of India, Central Office, Bombay, had informed the Assistant Director, Enforcement Directorate, FERA, Calcutta that they did not "appear to have given permission to the captioned company (EMC Steel Ltd., Calcutta) to maintain foreign currency account abroad, nor do they appear to have declared the same to us".

13. The Committee noted that on the basis of the information furnished by the Central Office, Reserve Bank of India, Bombay, searches were conducted by the Enforcement Directorate, Calcutta at several places. The

Committee decided that in view of the Ministry's assertion that the Reserve Bank of India, Calcutta Branch was empowered in 1980 to grant permission for opening the said accounts, the Ministry of Finance be asked to seek a clarification in writing from the Reserve Bank of India, Bombay, for consideration of the Committee, as to whether they had made any enquiries from the Reserve Bank of India, Calcutta, in the matter before informing the Assistant Director, Enforcement Directorate, Calcutta, that they did not appear to have given permission to the company to maintain foreign currency account abroad.

14. The Committee decided to further deliberate upon the matter at their sitting to be held on 9th August, 1988.

The Committee then adjourned.

XIII

Thirteenth Sitting

New Delhi, Tuesday, 23rd August, 1988
The Committee sat from 16.00 to 18.40 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Bipin Pal Das
5. Shrimati Sheila Dikshit
6. Shri Bhishma Deo Dube
7. Shri V. N. Gadgil
8. Shri V. S. Krishna Iyer
9. Shri Jujhar Singh
10. Shri Braja Mohan Mohanty
11. Shri K. Ramachandra Reddy
12. Shri Bholanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2—6. ** ** ** **

7. The Committee then took up consideration of the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

8. At the outset, the Chairman read out the communication* dated 19th August, 1988, received from the Ministry of Finance (Department of Economic Affairs) in which they had, *inter alia*, stated that "the original of the document stated to be the one bearing No. 'D.O. No. T-1/531/Cal/81/5657' (a photo copy of which had been furnished by Shri Arun Shourie) does not exist in the relevant files of the Enforcement Directorate, New Delhi, or the Enforcement Directorate, Calcutta". The Ministry had further stated that "the Reserve Bank of India, Bombay, have confirmed in writing, that they had not made any enquiries from the Reserve Bank

*See Annexure I.

**Paras 2—6 relate to other cases and have accordingly been omitted.

of India, Calcutta, in the matter before informing the Assistant Director, Enforcement Directorate, Calcutta, on 10th November, 1981, that they did not appear to have given permission to the Company (EMC Steelal Ltd., Calcutta) to maintain foreign currency account abroad. . . .”

9. The Chairman then read out to the Committee a letter** dated 5th August, 1988, from Shri Arun Shourie which he had addressed to the Chairman and also to other members of the Committee. Shri Shourie had referred therein to the Top Secret report prepared by the Enforcement Directorate and stated, *inter alia*, that “I have since obtained the carbon copy of the report. It has on it entries in the hand of Mr. M. N. Bapat himself. In addition, it has his signatures. I will be honoured to present the document to the Committee at any time convenient to it. . . .”.

10. The Committee decided that it was not necessary to ask Shri Shourie to produce the carbon copy of the ‘Top Secret’ document, as it was not relevant for the purpose of determining whether breach of privilege had been committed by Shri Shourie.

11. The Committee then deliberated upon the issues involved in the case. After discussing the matter at length, the Chairman informed the members that draft Report covering all the points of view expressed by the members would be prepared and placed before the Committee for their consideration at a subsequent sitting.

The Committee then adjourned

**See Annexure II.

ANNEXURE I

(See para 8 of the Minutes)

Copy of secret letter No. S-2507-FS/88, dated 19th August, 1988, received from the Finance Secretary, Ministry of Finance (Department of Economic Affairs) Government of India, New Delhi.

SUBJECT : Question of privilege against Shri. Arun Shourie, Editor, Indian Express and the Editors of Financial Express and Jansatta for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

With reference to Lok Sabha Secretariat O.M. No. 18/2/88/LB-I/Priv. dated 16th August, 1988 on the captioned subject, the following information is furnished :—

- (i) The Ministry of Finance had been asked to furnish *inter alia* a photo copy of "report No. T-1/531/Cal/81/5637, dated 1st June, 1985, prepared by Shri M. N. Bapat, Dy. Director, Enforcement Directorate, FERA, Calcutta, for the Enforcement Directorate, Head Office, Delhi". The relevant records available in the Enforcement Directorate, Head Office, Delhi did not contain any such report. However, the relevant file 'No. T-1/531/Cal/81' of the Calcutta Office of the Enforcement Directorate contained office copy of the report prepared by Shri M. N. Bapat, the then Dy. Director of Enforcement, Calcutta, for the Enforcement Directorate, Head Office, Delhi. This document carried reference No. 'T-1/531/Cal/81, dated 1st June, 1985'; but it did not carry any despatch number. However, this document carried the same file number and date (except that only the despatch number was missing) as indicated in the Lok Sabha Secretariat O.M. of even number dated 17th May 1988; also this document was the only available report prepared by Shri M. N. Bapat, the then Dy. Director of Enforcement, Calcutta, for the Enforcement Directorate, Head Office, Delhi. In view of these facts, a photo-copy of the same was furnished to the Lok Sabha Secretariat. However, the mistake in not noticing the omission of despatch number is regretted.
- (ii) The original of the document stated to be the one bearing No. 'D.O. No. T-1/531/Cal/81/5637' (the photo-copy of which has been furnished by Shri Arun Shourie) does not exist in the

relevant files of the Enforcement Directorate, New Delhi, or the Enforcement Directorate, Calcutta.

- (iii) The Reserve Bank of India, Bombay, have confirmed in writing that they had not made any enquiries from the Reserve Bank of India, Calcutta, in the matter before informing the Assistant Director, Enforcement Directorate, Calcutta, on 10th November, 1981, that they did not appear to have given permission to the Company (EMC Stealal Ltd., Calcutta) to maintain foreign currency account abroad; the letter received from RBI, Bombay, is *annexed*.

2. As desired the photo-copy of D.O. letter No. T-1/531/Cal/81/5637. dated 1st June 1985 furnished by Shri Arun Shourie to the Committee of Privileges is returned herewith.

Sd./-
(S. VENKITARAMANAN)
Finance Secretary
19-8-1988

ANNEXURE II

(See para 9 of the Minutes)

Copy of letter dated 5th August, 1988, addressed to the Chairman and members of the Committee of Privileges by Shri Arun Shourie, Editor Indian Express

During my examination on July 14 with the permission of the Chairman I placed on record the TOP SECRET report No. T-1/531/Cal/81/5637, dated 1st June, 1985, of Mr. M. N. Bapat in which he recorded the discoveries that had been made in the raids on the premises of M/s. EMC Steelial Ltd., and the residences of their officers, and also the circumstances in which the raid was abruptly stopped, the evidence recovered was returned and false evidence in the form of "nil panchnamas" was created. You will recall that the Chairman ruled that I could not read from the document as a document bearing the same number and date had been submitted by the Ministry of Finance to the Privileges Committee.

I then offered that in case anyone cast doubt on the veracity of the document whose photo-copy I had submitted or its contents, I would try to obtain the carbon copy of the TOP SECRET report. I have since obtained the carbon copy of the report. It has on it entries in the hand of Shri M. N. Bapat himself. In addition, it has his signatures. I will be honoured to present the document to the Committee at any time convenient to it.

In view of the seriousness of the matter, I earnestly request the Committee to either permit me to cross examine the author of the TOP SECRET report, Mr. M. N. Bapat, or the recipient, the then Director of Enforcement, Mr. Bhure Lal. If the Committee still feels that it cannot permit such cross-examination. I plead that it address an interrogatory to Mr. M. N. Bapat and direct him to state in writing whether he wrote the document (Report No. T-1/531/Cal/81/5637, dated June 1, 1985) of which I submitted the photo-copy on July 14 and whether the entries on pages 2 and 3 are in his hand.

I am also pained to have to inform you that I have learnt on good authority that the CBI has been strenuously pressurising Mr. Bapat to resile from the facts as he had set them out in this document. If the Committee desires, I will supply it the names of the two officers who have been on this job and have for this purpose been interrogating Mr. Bapat and other officers. Their actions are nothing but an attempt to come in the way of Parliament learning the truth, and thus a gross breach of its privileges.

Best regards,

Yours sincerely,
Sd./-
(ARUN SHOURIE)

XIV

Fourteenth Sitting

New Delhi, Thursday, 13th October, 1988

The Committee sat from 15.00 to 17.30 hours

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Bipin Pal Das
4. Shri Sharad Dighe
5. Shrimati Sheila Dikshit
6. Shri Bhishma Deo Dube
7. Shri V. N. Gadgil
8. Shri Kammodilal Jatav
9. Shri Jujhar Singh
10. Dr. Prabhat Kumar Mishra
11. Shri Braja Mohan Mohanty
12. Shri K. Ramachandra Reddy
13. Shri Bholanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri T. S. Ahluwalia—*Deputy Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2. The draft Fourth Report of the Committee of Privileges on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988, was circulated to the members present as directed by the Chairman. The Chairman also directed that the draft Report be sent at the residences of the members who were not present. The Chairman desired the Committee to discuss the draft Report at their sitting to be held on 14th October, 1988, since Shri K. P. Unnikrishnan, M.P., who had been requested to appear before the Committee on 14th October, 1988, in connection with another case had intimated through a telegram that he would not be able to attend the sitting.

3-4. ** ** **

The Committee then adjourned

**Paras 3-4 relate to another case and have accordingly been omitted.

Fifteenth Sitting

New Delhi, Friday, 14th October, 1988

The Committee sat from 11.00 to 12.30 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Bipin Pal Das
5. Shri Sharad Dighe
6. Shrimati Sheila Dikshit
7. Shri Bishma Deo Dube
8. Shri V. S. Krishna Iyer
9. Shri Kammodilal Jatav
10. Shri Jujhar Singh
11. Shri Braja Mohan Mohanty
12. Shri K. Ramachandra Reddy
13. Shri Bholanath Sen

SECRETARIAT

Dr. Subhash C. Kashyap—*Secretary-General*

Shri K. C. Rastogi—*Joint Secretary*

Shri T. S. Ahluwalia—*Deputy Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2—5. ** ** **

6. The Committee then took up consideration of their draft Fourth Report on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

7. As the discussion was inconclusive, the Committee decided to resume their deliberations on the case at a subsequent sitting.

The Committee then adjourned

**Paras 2—5 relate to another case and have accordingly been omitted.

XVI

Sixteenth Sitting

New Delhi, Thursday, 3rd November, 1988

The Committee sat from 15.00 to 16.30 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Bipin Pal Das
5. Shrimati Sheila Dikshit
6. Shri V. S. Krishna Iyer
7. Shri Kammodilal Jatav
8. Shri Jujhar Singh
9. Shri Braja Mohan Mohanty
10. Shri K. Ramachandra Reddy
11. Shri Bholanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

2—5. ** ** **

6. The Committee then took up consideration of the draft Fourth Report of the Committee of Privileges on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

7. The Chairman read out to the Committee a letter dated 31st October, 1988, received from Shri Arun Shourie, Editor, *Indian Express*. Copies of the said letter were also circulated to the members present as directed by the Chairman. Shri Arun Shourie had *inter alia* stated in his letter that he had received a copy of the draft Fourth Report of the Committee. He had commented upon certain portions of the draft Report as being "gross distortion" of "what I said and wrote" inasmuch as "an attempt is being made to make out that I expressed regret for what I had written". Shri Shourie categorically stated in his letter as follows :—

**Paras 2 -5 relate to another case and have accordingly been omitted.

"My request therefore is : please decide what you will, but please do not do so under any misapprehension that I regret what I wrote".

8. The Committee deliberated upon the matter in detail. The Committee expressed their deep concern and anguish over the fact that the draft Report of the Committee, which was a confidential document, had been leaked out to Shri Arun Shourie. The Committee also expressed their unhappiness over the manner in which Shri Arun Shourie had addressed letters to the Chairman and members of the Committee individually.

9. The Committee noted that a copy of the said letter was sent by Shri Arun Shourie to the Secretariat also for record. As Shri Shourie had not published the contents of the draft Report, it would not, however, be considered to be a question of breach of privilege or contempt of the House.

10. The Committee further noted that since Shri Shourie had categorically stated that he had not expressed any regrets for the articles, that he stood by every word of what he had written and that he had only "regretted the constructions which they (some members) were foisting on what the articles had said", it was necessary to take cognizance of the letter in spite of the impropriety on Shri Arun Shourie's part in addressing the same to the members of the Committee individually. The Committee decided to resume their deliberations on the case at their sitting to be held on 4th November, 1988, to enable members to suggest what modifications, if any, were needed in the draft report in the light of Shri Shourie's letter.

The Committee then adjourned

XVII

Seventeenth Sitting

New Delhi, Friday, 4th November, 1988

The Committee sat from 15.00 to 17.00 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H K.L. Bhagat.
3. Shri Somnath Chatterjee.
4. Shri Bipin Pal Das.
5. Shri Sharad Dighe.
6. Shrimati Sheila Dikshit.
7. Shri Bhishma Deo Dube.
8. Shri V. S. Krishna Iyer.
9. Shri Kammodilal Jatav.
10. Shri Jujhar Singh.
11. Shri K. Ramachandra Reddy.
12. Shri Bholanath Sen.

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer.*

2. The Committee took up consideration of their draft Fourth Report on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

3. As the discussion was inconclusive, the Committee decided to resume their deliberations on the case at a subsequent sitting.

The Committee then adjourned

XVIII

Eighteenth Sitting

New Delhi, Tuesday, 22nd November, 1988

The Committee sat from 15:00 to 16:30 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H.K.L. Bhagat.
3. Shri Somnath Chatterjee.
4. Shri Bipin Pal Das.
5. Shrimati Sheila Dikshit.
6. Shri V. N. Gadgil.
7. Shri V. S. Krishna Iyer.
8. Shri Kammodilal Jatav.
9. Shri Jujhar Singh.
10. Dr. Prabhat Kumar Mishra.
11. Shri K. Ramachandra Reddy.
12. Shri Bholanath Sen.

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer.*

WITNESSES

(1) ** **

(2) ** **

2—10. ** ** ** **

11. As regards the next item on the agenda paper *viz.* consideration of the draft Fourth Report on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P. in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988, the Committee decided to defer consideration thereof to their next sitting to be held on 30th November, 1988.

The Committee then adjourned

**Serial Nos. (1) and (2) and paras 2-10 relate to another case and have accordingly been omitted.

XIX

Nineteenth Sitting

New Delhi, Tuesday, 6th December, 1988

The Committee sat from 15.00 to 16.50 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H.K.L. Bhagat.
3. Shri Bipin Pal Das.
4. Shri Sharad Dighe.
5. Shrimati Sheila Dikshit.
6. Shri Binishma Deo Dube.
7. Shri V. N. Gadgil.
8. Shri V. S. Krishna Iyer.
9. Shri Kammodilal Jatav.
10. Shri Jujhar Singh.
11. Shri Braja Mohan Mohanty.
12. Shri K. Ramachandra Reddy.

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer.*

2—4. ** ** ** **

5. The Committee then took up further consideration of the draft Fourth Report on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, MP, in an article captioned "An MP and two Accounts" published in their issues dated 14th March, 1988.

6. The Committee adopted the draft Report with the following modifications :—

(i) after paragraph 39—

add the following paragraphs :—

"40. At their fourteenth sitting held on 13th October, 1988, the draft Fourth Report was circulated to the members as directed by the Chairman. The Committee decided to consider the draft Report at their sitting to be held on 14th October, 1988.

**Paras 2 —4 relate to another case and have accordingly been omitted.

41. At their fifteenth sitting held on 14th October, 1988, the Committee considered the draft Report. As the discussion was inconclusive, the Committee decided to resume their deliberations on the case at a subsequent sitting.
42. At their sixteenth and seventeenth sittings held on 3rd and 4th November, 1988, the Committee considered the draft Report and also the letter dated 31st October, 1988, received from Shri Arun Shourie, in which he had commented upon certain portions of the draft Report. The Committee deliberated upon the matter in detail and were of the view that since Shri Shourie had categorically stated that he had not expressed any regrets for the articles he had written, but had only 'regretted the constructions which they (some members) were foisting on what the articles had said' it was necessary to take cognizance of the letter in spite of the impropriety on Shri Shourie's part in addressing the same to the members of the Committee individually.

The Committee decided to resume their deliberations on the case at a subsequent sitting.

43. At their eighteenth sitting held on 22nd November, 1988, the Committee decided to defer further consideration of the draft Report to their next sitting.
44. At their nineteenth sitting held on 6th December, 1988, the Committee considered and adopted the draft Report."
- (ii) for the existing paragraph 52(i) [renumbered para 57(i)], substitute the following paragraph :—
- "52 (i) whether the two accounts referred to by Shri Shourie in his article were 'illegal' as alleged by him, i.e. whether they were opened without the prior permission of the Reserve Bank of India; and";
- (iii) for the existing paragraph 82 (renumbered para 87), substitute the following paragraph :—
- "82. As stated earlier, the issues that arise out of the impugned article and on which the Committee have to take a considered view are two-fold, namely (i) whether the two accounts referred to by Shri Arun Shourie in his article were 'illegal' as alleged by him, i.e. whether they were opened without the prior permission of the Reserve Bank of India and (ii) whether Shri Shourie had cast reflections on Shri Kamaal Nath as an MP in particular

and on Parliament, its Committees and members in general, and thereby committed breach of privilege and contempt of the House.

After a careful analysis of the evidence, both written and oral, specially the submissions made by Shri Shourie, the well established precedents and the rulings of Presiding Officers in both the Houses on cases of a similar nature, the Committee have reached the following conclusions.”;

- (iv) for the existing paragraph 83 (renumbered para 88), *substitute* the following paragraph :—

“83. So far as the allegation that the accounts were ‘illegal’ is concerned, Government have stated that M/s EMC Steelal Limited, Calcutta, had actually opened accounts in Riyadh, Saudi Arabia and Dubai in pursuance of the permissions granted by the Reserve Bank of India, Exchange Control Department, Calcutta, *vide* their letters of 26th November, 1980 and 22nd August, 1981; that the numbers of these accounts were 12.84 037 and 9528 respectively (the same as mentioned by Shri Shourie in the impugned article) and that the RBI Exchange Control Department, Calcutta, was empowered in the year 1980 to grant permission to firms to open foreign accounts. In view of the information furnished by the Reserve Bank of India to the Ministry of Finance as conveyed to the Committee *vide* their letter of 2nd June, 1988, to the above effect, the Committee cannot but reach the conclusion that the assertion of Shri Kamal Nath that the accounts were opened with prior permission of the Reserve Bank of India is correct.”;

- (v) paragraph 84 (renumbered para 89)—
for the words “Before the Committee proceed to dilate on this aspect of the matter, they would like”,
substitute the words “The Committee regret”;
- (vi) paragraph 88 (renumbered para 93)—
after the words “Shri Kamal Nath”,
insert the words “as a member of Parliament”;
- (vii) paragraph 91 (renumbered para 96)—
for the words “There was a very strong feeling in some members of the Committee that”,
substitute the words “Some members of the Committee were strongly of the view that”;

(vii) ~~paragraph 95 (renumbered para 100)~~—

~~for the words "when viewed in the context aforesaid".~~

substitute the words "in view of what has been said in the preceding paragraphs";

(ix) *for the existing paragraph 99 (renumbered paras 104—106)— substitute the following paragraphs :—*

"99. Subsequently, Shri Shourie in a letter dated 31st October, 1988, addressed individually to the members of the Committee and a copy endorsed to the Secretariat for 'record', has stated that he has 'received' a copy of the draft Report of the Committee. Commenting upon certain portions of the draft Report as being 'gross distortion' of 'what I said and wrote' inasmuch as 'an attempt is being made to make out that I expressed regret for what I had written', Shri Shourie has stated :—

'My request therefore is : please decide what you will, but please do not do so under any misapprehension that I regret what I wrote'.

100. Since Shri Shourie has taken care not to publish the contents of the draft Report, the Committee cannot hold him guilty of breach of their privilege or contempt of the House. The Committee also realise that it would be futile for them to ask Shri Shourie to divulge the source from which he 'received' the Report. Nevertheless, the Committee cannot but take a serious view of the grave impropriety on his part in addressing letters individually to the members of the Committee thereby seeking to influence their collective judgement in the matter. If at all he had any submission to make, he should have written to the Chairman. The way he has chosen to act in the matter only exposes the thin veneer of his regard to Parliament and its Committees so loudly proclaimed by him in evidence.

The entire tone, tenor and style of the article definitely smacks of disrespect for Parliament and its members and Shri Shourie did not even have the decency of expressing regrets.

101. While deprecating such behaviour on the part of a journalist in Shri Shourie's position, the Committee would, in the highest traditions of this august body, not like to deflect from the correct and judicious stand taken by them in similar cases in the past. The Committee are entirely in agreement with the observations made by a predecessor Committee that it adds to the dignity of one and all if power in democratic system is exercised with restraint; the more powerful a body or institution is, the greater restraint is called for, particularly in exercising its penal jurisdiction. The Committee would, however, like to

caution Shri Arup Shourie and writers of his ilk to be more careful and restrained in their writings particularly about those who are in public life and whose conduct is ever exposed to public gaze”;

(x) after paragraph 100 (renumbered Para 107)

add the following paragraph (to be re-numbered para 108) :—

“101. The Committee consider that the House would best consult its own dignity and in keeping with the lofty traditions of Parliament, choose not to take any further notice of the matter.”

7. The Committee authorised the Chairman to finalise the Report after incorporating therein the modifications made by the Committee and such other changes of a consequential, verbal and drafting nature as he might consider necessary.

8. The Committee decided that the evidence recorded by them be appended to the Report.

9. Shri V. S. Krishna Iyer did not, however, agree with the findings contained in the Report of the Committee and handed over a note jointly signed by him and Sarvashri K. Ramachandra Reddy and Somnath Chatterjee. The Committee decided that the note might be circulated to the members for their information.

10. The Committee authorised the Chairman to present the Fourth Report to the House.

The Committee then adjourned.

XX

Twentieth Sitting

New Delhi, Wednesday, 14th December, 1988

The Committee sat from 15.00 to 15.30 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H.K.L. Bhagat.
3. Shri Somnath Chatterjee.
4. Shri Bipin Pal Das.
5. Shri Bhishma Deo Dube
6. Shri V. S. Krishna Iyer.
7. Shri Kammodilal Jatav
8. Shri Jujhar Singh.
9. Dr. Prabhat Kumar Mishra.
10. Shri Braja Mohan Mohanty.
11. Shri K. Ramachandra Reddy.
12. Shri Bholanath Sen.

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer.*

2. At the outset, the Chairman informed the members as follows:—

“As Hon'ble members are aware, we had adopted the draft Report on Shri Kamal Nath's case in our last meeting held on 6th December, 1988. Before that the Report was discussed at great length at our meetings held on 14th October, 3rd, 4th and 22nd November, 1988.

This Committee has always been functioning in a non-partisan spirit and giving its recommendations on matters referred to it in a most judicious manner. The draft Report was essentially based on the consensus arrived at in our discussions and a number of changes were made to accommodate the differing view points. It was, therefore, a surprise for me to receive a joint 'Note' from three of our colleagues. I had asked the office to circulate the same to the Members.

I would still like the Report to be based on a consensus in the best traditions of this Committee. I, therefore, request the Members to give their views on the points raised by our colleagues with a view to seeing if we could obviate the possibility of appending the 'Note' to our Report. If that is not possible, comments on the 'Note' will also have to be suitably incorporated in the Report. I would now request the Members to let me have the benefit of their views in the matter."

As the Members had received the note only that morning, it was agreed that the matter may be postponed till the next sitting of the Committee to be held on Friday, the 16th December, 1988.

3. ** ** ** **

The Committee then adjourned.

**Para 3 relates to other cases and was accordingly been omitted.

XXI

Twenty first Sitting

New Delhi, Friday, 16th December, 1988

The Committee sat from 15.00 to 16.40 hours.

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat.
3. Shri Somnath Chatterjee.
4. Shri Bipin Pal Das.
5. Shri Bhishma Deo Dube.
6. Shri V. S. Krishna Iyer.
7. Shri Kammodilal Jatav.
8. Shri Jujhar Singh.
9. Dr. Prabhat Kumar Mishra.
10. Shri Braja Mohan Mohanty.
11. Shri K. Ramachandra Reddy.
12. Shri Bholanath Sen.

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer.*

2. ** ** ** **

3. The Committee then considered the Note submitted by Sarvashri Somnath Chatterjee, V. S. Krishna Iyer and K. Ramachandra Reddy, MPs, for being appended to the Fourth Report of the Committee on the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, MP, in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

4. The matter was discussed by the Committee in depth. Objection was taken by some members to certain passages of the note which appeared to cast reflections on the Committee. Both Shri V. S. Krishna Iyer and Shri K. Ramachandra Reddy (Shri Somnath Chatterjee had left early due to other engagements) stated that it was after mutual consultations and as a

**Para 2 relates to another case and has accordingly been omitted.

result of their collective decision that they had submitted the joint note wherein they had given detailed reasons why they were not in a position to agree with the findings of the majority in the Committee. However, they had no intention to cast any reflections upon or show disrespect to the Committee or the Chairman in any manner whatsoever and requested that this may be brought on record.

5. The Committee decided that no case had been made out necessitating any modifications in the draft report as already adopted by them and authorised the Chairman to append alongwith the note submitted by the three members, another note on their behalf giving their views in the matter in the light of discussions.

6. ** ** ** **

The Committee then adjourned.

MINUTES OF EVIDENCE

LIST OF WITNESSES

Wednesday, 6th April, 1988

	Page
(1) Shri Harish Rawat, M.P.	98
(2) Prof. K. V. Thomas, M.P.	102
(3) Shri Satyendra Narayan Sinha, M.P.	105
(4) Shri Kamal Nath, M.P.	111

Wednesday, 20th April, 1988

(1) Shri Arun Shourie, Editor, <i>Indian Express</i>	123
(2) Shri N. S. Jagannathan, Editor, <i>Financial Express</i>	141

Tuesday, 10th May, 1988

(1) Shri Arun Shourie, Editor, <i>Indian Express</i>	146
(2) Shri Prabhask Joshi, Editor, <i>Jansatta</i>	168

Thursday, 14th July, 1988

Shri Arun Shourie, Editor, <i>Indian Express</i>	175
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MINUTES OF EVIDENCE TAKEN BEFORE THE
COMMITTEE OF PRIVILEGES

Wednesday, 6th April, 1988

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Jagannath Choudhary
5. Shri Sharad Dighe
6. Shrimati Sheila Dikshit
7. Shri Bhishma Deo Dube
8. Shri Jujhar Singh
9. Shri Raja Mohan Mohanty
10. Shri Bholanath Sen

SECRETARIAT

Shri T. S. Ahluwalia—*Chief Examiner of Bills and Resolutions*

WITNESSES

- (1) Shri Harish Rawat, M.P.
- (2) Prof. K. V. Thomas, M.P.
- (3) Shri Satyendra Narayan Sinha, M.P.
- (4) Shri Kamal Nath, M.P.

(The Committee met at 16.00 hours)

(1) Evidence of Shri Harish Rawat, M.P.

Mr. Chairman : Mr. Rawat, you have been asked to appear before this Committee to give you evidence in connection with the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Janasatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

I hope that you will state the factual position frankly and truthfully to enable this Committee to arrive at a correct finding.

I may inform you that under Rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to the Speaker, Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege and contempt of the House. The evidence which you will give before the Committee may be reported to the House.

Now you may please take oath or affirmation as you like. Would you take oath or affirmation ?

Shri Harish Rawat : I will take oath.

I, Harish Rawat, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

Mr. Chairman : Now, you please state what is the notice which you have given regarding the Breach of Privilege. Please read the notice for the benefit of the Committee.

Shri Harish Rawat : Certainly, Sir. The notice is addressed to the Hon. Speaker, Lok Sabha. It says:

“Under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, I hereby give notice of my intention to raise the matter of breach of Privilege against all the editions—the *Indian Express*, *Financial Express* and *Jansatta* of 14th March and the article published therein captioned “An M.P. and Two Accounts” which is tendentious, misleading, false & derogatory. The article is a contempt of the Member of the Parliament and the Lok Sabha of which the Member is a part. The article brings down the reputation of the Lok Sabha in as much as it falsely depicts the character of its Member making the people to look down upon the institution. Thus, the article being against the dignity of the Parliament and its Member, the action against the contemnor deserves to be taken through the process of breach of privilege.

A copy of the said article is enclosed herewith.”

Mr. Chairman : What is your exact grievance ?

श्री हरीश रावत : 14 मार्च के इण्डियन एक्सप्रेस, फाइनेंशियल एक्सप्रेस और जनसत्ता में जो आर्टिकल छपा है उसमें सब बातों के अलावा तीन बातें ऐसी कही गईं

हैं। मैं माननीय सभित के माननीय सदस्यों का ध्यान आकृष्ट करना चाहता हूँ। सबसे पहली बात, जिसके कारण मैंने प्रभावित होकर यह नोटिस दिया है वह यह है :

"If the charge is true, the conduct of a Member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry Licences case. If it is, untrue, I am guilty of scandalising the institution, and thereby breaching its privilege."

सभापति महोदय : भागे कहो।

श्री हरीश रावत : इसमें जिनके नाम पर यह छपा है उन्होंने कहा है कि जो चार्ज उन पर लगाये गये हैं वह इंडीविजुअली नहीं हैं, बल्कि सदन के माननीय सदस्य पर हैं। उन्होंने कहा कि जो यह चार्ज लगाये गये हैं यह जानबूझ कर लगाये गये हैं। जिन्होंने यह घाटिकल छापा है उन्होंने इस बात को कहा है कि यदि उन्होंने गलत कहा है, तो इससे पार्लियामेंट के ऊपर लांछन लगाने की बात है। हम चाहते हैं कि जिनके खिलाफ कहा गया है उन्होंने सदन में कहा है कि इसकी जांच के लिए कमेटी बनाई जाये और कमेटी को जानना चाहिए कि जो छपा है इसके जरिये उनको संसद सदस्य को बदनाम करने की चेष्टा की है, इस प्रश्न पर विचार किया जाना चाहिए।

सभापति महोदय : कौन-सा चार्ज आपको झूठा लगा है?

श्री हरीश रावत : जो बातें छपी हैं उनका माननीय सदस्य ने सदन के पटल पर जबाब दिया है और कहा है कि यह गलत आरोप लगाये गये हैं, बदनाम करने की नीयत से लगाये गये हैं, सदन की अवमानना करने की नीयत से लगाये गये हैं।

सभापति महोदय : क्या मैं ठीक समझ रहा हूँ उन्होंने यह कहा है कि इस माननीय सदस्य के कम्पनी के जो अकाउन्ट हैं वह गैर कानूनी हैं और उनको बिना भारत सरकार की जानकारी के या रिजर्व बैंक की जानकारी के बिना या परमिशन खोला गया है। उसने भागे कहा है कि अगर यह चार्ज गलत हैं तो मैंने पार्लियामेंट की मान-हानि की है। यह कहना चाहते हैं आप ?

श्री हरीश रावत : उन्होंने कहा है कि यदि यह गलत है तो जिनके लिए कहा गया है उन्होंने कहा है कि यह सूचना गलत है।

सभापति महोदय : आपकी शिकायत यही है ?

श्री हरीश रावत : दूसरे पोशन की तरफ भी मैं आपका ध्यान आकर्षित करना चाहता हूँ। इसी के भागे उन्होंने एक चुनौती दी है जिनके नाम से घाटिकल छपा है अरुण शरी साहब ने हम सदस्यों पर आक्षेप लगाने की कोशिश की है।

"But what is the use of your producing these things again and again?
Those are shameless fellows....."

सभापति महोदय : आपको उनके खिलाफ शिकायत है कि उन्होंने सारी पार्लियामेंट के सदस्यों को शेम लैस कहा है।

श्री हरीश रावत : उन्होंने घागे कहा है

"Those are shameless fellows. They will just shrug this one off..... But sometimes even the shameless have to at least pretend to be a little ashamed. . . . It will depend upon what Parliament itself does".

एक तरह से संसद के बारे में कहा है कि वह क्या करती है। उसके सदस्यों की ईमानदारी और गरिमा पर शक किया है। इन तीन कारणों से मैं समझता हूँ कि कमेटी के सदस्यों को विचार करना है।

Shri Bholanath Sen : I would like to draw the attention of the witness to the next two paras where it says :

"Will it set-up a committee of the House to examine the matter....
But what is the use of another committee."

I would like to draw your attention to the use of the words : "What is the use of another committee?" Don't you think these words are objectionable?

Shri Harish Rawat : Yes, the words are objectionable.

Shri Somnath Chatterjee : In your letter you have said that the article falsely depicts the character of an hon'ble member making the people to look down upon the institution. I take it that on the basis of Shri Kamal Nath's denial on the Floor of the House you have said this and you have no personal knowledge about anything.

Shri Harish Rawat : I have no personal knowledge.

Shri Braja Mohan Mohanty : When you submitted this petition for breach of privilege did you check up the matter published by the *Indian Express*

Shri Harish Rawat : I have gone through the article and later on

Shri Braja Mohan Mohanty : And you believe that this is being done to defame Mr. Kamal Nath and to somehow or other bring down the image of Parliament in public esteem.

श्री हरीश रावत : घाटिकल के पहले पार्शन को छोड़कर जो दूसरा मैंने पढ़ा है उसको लिखने की या कहने की कोई जरूरत नहीं थी। उन्होंने कहा है कि इनके दो आकाउंट हैं और उसकी सूचना भारत सरकार को नहीं है। इसमें इन चीजों को जाँड़ने की जरूरत नहीं थी जो उन्होंने संसद को बदनाम करने के लिए या सदस्यों की गरिमा को ठेस लगाने वाली हैं।

Shri Braja Mohan Mohanty : So, according to you, he has thereby committed the contempt of the House and committed a breach of privilege also.

Shri Harish Rawat : Yes.

Shri H. K. L. Bhagat : If I have understood you correctly, firstly, you feel that an allegation is made against a Member of Parliament, Mr. Kamal Nath. This allegation, according to Mr. Kamal Nath, is baseless.

Secondly, the whole tenor and tone of the article in question clearly shows that the Members of Parliament, the institution of Parliament and the Committees of the Parliament have been ridiculed and has committed contempt against them.

Thirdly, the whole tenor and tone of the article shows that the whole thing is deliberate. It is being done deliberately, challengingly and obviously on the face of it, is it your impression that it is malicious ?

You have said in greater detail. I am only summing it up. Is that your impression from the article ?

Shri Harish Rawat : You are right, Sir.

सभापति महोदय : यह घाटिकल 14 मार्च को निकला और उसी दिन कमल नाथ जी ने बयान दिया।

श्री हरीश रावत : उन्होंने हाउस में कहा था कि जो घाटिकल में कहा गया है वह गलत है और उनको बदनाम करने की तीयत से कहा गया है। जिससे माननीय सबन, जिसके वह सदस्य हैं, उसकी गरिमा और परम्पराओं को चोट पहुंचे इसी लिए उन्होंने ऐसा छापा है। उन्होंने आगे कहा कि जांच के लिए सदस्यों की एक समिति बनाई जाय बल्कि अध्यक्ष जी विपक्ष के ही माननीय सदस्यों की एक कमेटी बनायें और उन्हें नामजद करें क्योंकि उस वक्त विरोधी पक्ष के लोगों ने यह मामला उठाया था।

सभापति महोदय : इस बयान के बाद आपने 15 तारीख को नोटिस दिया ?

श्री हरीश रावत : जी हां।

सभापति महोदय : आपका धन्यवाद। अब आप जा सकते हैं।

(The witness then withdrew.)

(2) Evidence of Prof. K. V. Thomas, M.P.

Mr. Chairman : Prof. Thomas, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and Two Accounts" published in their issues dated 14th March, 1988.

I hope that you will state the factual position frankly and truthfully to enable this Committee to arrive at a correct finding.

I may inform you that under Rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to the Speaker, Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege and contempt of the House. The evidence which you will give before the Committee may be reported to the House.

Now, you may please take oath or affirmation as you like.

Prof. K. V. Thomas : I will take oath Sir.

I, K. V. Thomas, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

Mr. Chairman : Did you give a notice of breach of privilege and submitted it to the hon. Speaker.

Prof. K. V. Thomas : Yes Sir.

Mr. Chairman : I hope you have got a copy of your notice.

(The notice was read out by Mr. Chairman)

Do you own this notice?

Prof. K. V. Thomas : Yes Sir.

Mr. Chairman : What was your exact grievance which had arisen out of this article?

Prof. K. V. Thomas : When I read this article, I felt two things. Firstly, it is an attempt to malign Shri Kamalnath as a Member of Parliament. Secondly, it is a purposeful attempt to show contempt to the Parliament and the Committees constituted by the Parliament. These are the two points which came to my mind when I read this article.

Mr. Chairman : When the matter was raised in Parliament on the 14th of March, did Shri Kamal Nath say anything on the floor of the House?

Prof. K. V. Thomas : He said that the allegations were not true, and that he was prepared even to face a committee comprising opposition members, constituted by the hon. Speaker to go through these allegations.

Mr. Chairman : After Shri Kamal Nath made his statement that the allegations were false, you served this notice on the next day believing Shri Kamal Nath's statement. Is that so?

Prof. K. V. Thomas : Yes Sir. I believe Shri Kamal Nath's statement as a member of Parliament.

Shri Bholanath Sen : Irrespective of whether you believe **Shri Kamal Nath's** statement made in the House or not, can you say whether you have any grievance against the article written by **Shri Shourie**?

Prof. K. V. Thomas : I feel that this Article has been purposefully written to malign **Mr. Kamal Nath** not as an individual but as an M.P. I can read out one or two sentences concerning **Mr. Kamal Nath** as an M.P.

In the beginning he says "A businessman, he shot into prominence during the emergency as one of **Sanjay Gandhi's** hatchetmen."

Secondly he says "he was one of the select who could get things done."

In one of the paragraphs he says "If the charge is true, the conduct of a Member of Parliament scandalises Parliament no less than that of **Tulmohan Ram** did in the **Pondicherry Licences** case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privilege.

But what is the use of your producing these things again and again? Those are shameless fellows. They will just shrug this one off too."

So this is against the entire Members of Parliament and not against **Mr. Kamal Nath** alone.

In another paragraph he says "it will depend upon what Parliament itself does. Will it set up a Committee of the House to examine the matter, a matter involving sums far in excess of the ones involved in the **Tulmohan Ram** case? But what is the use of another Committee?"

You see how contemptuous he calls the Parliamentary Committee?

Shri Somnath Chatterjee : You have rightly said there are allegations against **Mr. Kamal Nath** and allegation in general against Members of Parliament. You have said these are false allegations. I take it that you have no personal knowledge of the allegations made against **Mr. Kamal Nath** or his family or company or whatever it is.

Prof. K. V. Thomas : No.

Shri Somnath Chatterjee : You said that this is what the statement of **Mr. Kamal Nath** says.... "these are false allegations." Am I right?

Prof. K. V. Thomas : Yes.

Shri Somnath Chatterjee : When did he say that these were the false allegations?

Prof. K. V. Thomas : It was on the same day, when it was brought before the House.

Shri Somnath Chatterjee : We are all expected to accept the Members' statement. There is no doubt about it.

Shri Jujhar Singh : Do you consider the article objectionable which contained allegations against the Committee and the Parliament? If they are considered as objectionable you could have moved a motion of Privilege on those charges.

Prof. K. V. Thomas : Definitely.

Shri Braja Mohan Mohanty : Prof. Thomas, you might have gone through the whole article which was published in the newspaper. Now I am inviting your attention to Paragraph 3. It says "Since 1980 Kamal Nath has continued to represent Chindwara, Madhya Pradesh, in the Lok Sabha. But this time round he has studiously kept a low profile. And has busied himself with constructive tasks in what he has specified as his "special interest" in the Lok Sabha's Who's Who, that is "rural development". In pursuit of which he has been instrumental in setting up the country's second Doon School in Chindwara, the poverty stricken district he represents."

How do you react to this?

With some motive, he has done it. Is it a motivated statement sarcastically done, or is it a genuine statement, because it relates to an under-developed district where a school of the type of the Doon School is being tried to be set up?

Prof. K. V. Thomas : I have nothing to say about it.

Shrimati Sheila Dikshit : It is said that it looks like a deliberate attempt and that the article is a deliberate attempt to malign. Is that your impression of the article that you read? Maligning, not just the MP, but of all the appendages of Parliament, like its Committees?

Prof. K. V. Thomas : My impression, after reading the article, is that it is a deliberate attempt not only to malign the MP, but also the entire Parliament or its committees.

Shrimati Sheila Dikshit : Is this your impression after reading that article alone?

Prof. K. V. Thomas : Yes.

Mr. Chairman : Thank you very much. You may now withdraw.

(The witness then withdrew)

(3) Evidence of Shri Satyendra Narayan Sinha, M. P.

Mr. Chairman : Mr. Satyendra Narayan Sinha, you have been asked to appear before this Committee to give your evidence in connection

with the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

I hope that you will state the factual position frankly and truthfully, to enable this Committee to arrive at a correct finding.

I may inform you that under Rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to the Speaker, Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege and contempt of the House. The evidence which you will give before the Committee may be reported to the House.

Now you may please take oath or affirmation, as you like. I will administer it to you.

Shri Satyendra Narayan Sinha : I will take the oath.

"I, Satyendra Narayan Sinha, swear in the name of God, that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false."

Mr. Chairman : You gave a petition to the Speaker on 15th March, 1988. It reads as follows :

"Under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, I hereby give notice of my intantion to raise the matter of breach of privilege against all the editions—the *Indian Express*, *Financial Express* and *Jansatta* of 14th March and the article published therein captioned "An MP & two Accounts" which is tendentious, misleading, false and derogatory. The article is a contempt of the member of Parliament and the Lok Sabha of which the member is a part. The article brings down the reputation of the Lok Sabha inasmuch as it falsely depicts the character of its member making the people to look down upon the institution. Thus, the article being against the dignity of the Parliament and its member, the action against the contemnor deserves to be taken through the process of breach of privilege.

A copy of the said article is enclosed herewith."

What is your exact grievance against the article ?

Shri Satyendra Narayan Sinha : After reading this article and hearing Mr. Kamal Nath—nine allegations are made in this article—I felt that the allegations made by him and certain insinuations made by Shri Arun Shourie and derogatory to the dignity not only of the member concerned but also of Parliament. In a way, he has thrown a challenge to all the Members of Parliament as being more or less shameless and not bothering to take any steps howsoever a member might have committed. Therefore, I felt that, in the eyes of general people as well as I myself felt, he has cast aspersions in his article and made allegations against Mr. Kamal Nath as a Member of Parliament. Secondly, he has gone on to say that even the Committee, as formed, will not do anything. He has also gone on to say that if the charge is true the conduct of a Member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry Licences case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privilege. He further goes on to say, what is the use of your producing these things again and again. Those are shameless fellows. They will just shrug this one off too, etc. In my opinion, this has brought Parliament into disrepute in the estimation of the people. He further goes on to say that it will depend upon what Parliament itself does. The outcome thus will depend not on what this Member of Parliament does as against what that one did. This, in my opinion, is an insinuation against Parliament or a challenge to Parliament. Therefore, I felt aggrieved by this article and gave notice of my intention to move this privilege motion.

Shri Bholanath Sen : Irrespective of what has been stated for or against Mr. Kamal Nath, do you find anything objectionable tantamounting to contempt of the House in this article?

Shri Satyendra Narayan Sinha : I have already said. He says that should I read it? —is it not contempt of the House that allegations have been made against Mr. Kamal Nath, that he is maintaining two accounts, and illegal accounts, and Mr. Kamal Nath on the floor of the House denies that, and that the company of which he is a director has committed no illegality.

Shri Bholanath Sen : My question was this : Irrespective of what has been stated against Mr. Kamal Nath, about the two accounts, or Mr. Kamal Nath himself has said about these two accounts in the House, do you find anything objectionable in this article or the press, generally?

Shri Satyendra Narayan Sinha : Whatever the allegations, this article contained, it says that Parliament could not take action. "Those are shameless fellows. They will not take any action." This is one conclusion I draw.

Secondly, irrespective of whatever Shri Kamal Nath does, whether the Parliament will act or not, will it not go against him? That is another thing which is an insinuation against Parliament.

Thirdly, he says, "What is the use of another committee?" which again means that the Committees of Parliament are nothing, that they do not do anything, that they do not take any action. These are the three allegations, they are against Parliament itself.

Shri Somnath Chatterjee : I am only on the aspect about the allegations in the article against Mr. Kamal Nath and the condition regarding accounts being unauthorised and so on. You mentioned the other aspects, on which I am not asking you anything. In your letter you have stated that all these allegations have been made against a member. I take it that you refer to the allegations regarding the accounts, and I take it that you have no personal knowledge yourself.

Shri Satyendra Narayan Sinha : No. Mr. Chatterjee, I have absolutely no personal knowledge about this and I based my statement on the categorical denial made by Mr. Kamal Nath on the floor of the House. As a Member of Parliament, an honourable colleague is making a categorical statement. On the face of it we take it.

Shri Somnath Chatterjee : On your impression that Mr. Kamal Nath had denied the allegations on the floor of the House, you have said that. That is all.

Shri Braja Mohan Mohanty : Have you gone through the entire Article appeared in 'Financial Express' dated 14-3-1987?

Shri Satyendra Narayan Sinha : I have got a photostat copy of the Article.

Shri Braja Mohan Mohanty : You also know that 'Financial Express' is a very widely circulated journal in the country.

Shri Satyendra Narayan Sinha : Yes, It is a sister concern of *Indian Express*.

Shri Braja Mohan Mohanty : You must have gone through the paragraphs 1, 2 and 3 of the Article. Apparently an attempt has been made to reflect on the conduct of Kamal Nath as a M.P. I invite your attention to the paragraph 3. It says :

'And has busied himself with constructive tasks in what he has specified as his "special interest" in the Lok Sabha's Who's Who, that is "rural development". In pursuit of which he has been instrumental in setting up the country's second Doon School in Chindwara, the poverty stricken District he represents.'

I would like to know whether it is a sarcastic remark and reflect on his conduct. What is your impression after reading the first, second and third paragraphs of the Article ?

Shri Satyendra Narayan Sinha : You want to know my impression after reading Paragraphs 1, 2 & 3. Is it not? Also you want to know whether the tenor of the Article is to derogate or denigrate Mr. Kamal Nath, who is a Member of Parliament. This is what it appears to me. After reading it, it seems that he has been using his clout for helping some persons in an improper manner. This is what it means. So, the whole tenor of the Article is against Mr. Kamal Nath. There is no doubt about it.

Shri Braja Mohan Mohanty : Will you kindly enlighten me that the whole approach has been to reflect on Mr. Kamal Nath's conduct as a Member of Parliament?

Shri Satyendra Narayan Sinha : Yes. Certainly.

श्री भीष्म बेब बुबे : अभी आपने कहा कि आपने इस आर्टिकल को पढ़ा और यह महसूस किया कि इसमें श्री कमलनाथ जी के ऊपर आरोप थे, सांसद होने के नाते। कुछ आरोप ऐसे भी थे जैसे आपने बताया :

You are all false people and shameless people.

There is no sense in constituting Committee.

इसके मायने यह निकलते हैं कि इन शब्दों से न सिर्फ कमलनाथ जी की बल्कि संसद् की भ्रवहेलना की, आपने ऐसा महसूस किया?

श्री सत्येन्द्र नारायण सिंह : बिलकुल। इससे साफ जाहिर होता है कि संसद् के सदस्यों के लिए उन्होंने क्या कहा। उन्होंने कहा कि आप लोग कुछ भी परवाह नहीं करेंगे चाहे कोई भी आरोप हो, आपकी कमेटी भी कुछ नहीं करेगी, नतीजा यह कि पार्लियामेंट कुछ भी नहीं कर सकेगी सदस्य के खिलाफ। इससे आम जनता समझेगी कि सांसदों पर जो भी आरोप लगाया जाता है कमेटी और सदन कुछ भी उसकी परवाह नहीं करते। कोई एक्शन नहीं लेते हैं, यह लोग बेशर्म हैं।

श्री भीष्म बेब बुबे : यहां पर कमलनाथ जी का ही मसला नहीं आता। उनका नाम ही नहीं आता पूरे सदन का मामला है। इससे पूरी पार्लियामेंट की भ्रवमानना हुई है। क्या आप ऐसा सोचते हैं ?

श्री सत्येन्द्र नारायण सिंह : उनके बारे में कहा जाये कि वह बेशर्म हैं, कुछ नहीं करेंगे तो इससे ज्यादा क्या संसद् की बेइज्जती हो सकती है।

श्री जगन्नाथ चौधरी : मैं आपके माध्यम से यह जानना चाहता हूं कि कमलनाथ जी सांसद के खिलाफ कुछ शिकायत हैं जिसके बारे में आप कहते हैं कि यह सांसदों की प्रतिष्ठा का सवाल है। क्या यदि कोई सांसद गलत काम कर रहा है तो उसके खिलाफ यह शिकायत होनी चाहिए उसकी पूरी जिम्मेदारी पूरी संसद् पर होनी चाहिए।

श्री सत्येन्द्र नारायण सिंह : अगर इन्होंने श्री कमलनाथ जी के बारे में ही लिखा होता और कहा होता कि इन्होंने दो अकाउन्ट रखे हैं यह गलत है और वहीं छोड़ देते तो मैं समझता हूँ कि कोई बात नहीं होती। लेकिन वह आगे बढ़कर कहते हैं कि दो अकाउन्ट रखना गैर कानूनी है और संसद् सदस्य ने नाजायज इस्तेमाल किया अपने प्रभाव का और यह गैर कानूनी काम किया है। और यह भी कहा कि यह कमेटी में जायेगा, लेकिन कितना भी गम्भीर आरोप हो पार्लियामेंट कोई भी कार्यवाही करने को तैयार नहीं है। वह लोग बेशर्म हैं। इससे बड़ी बात नहीं कही जा सकती। कमलनाथ के बारे में एक सदस्य के नाते कहा है और हमें भी घसीटा है।

श्री जगन्नाथ चौधरी : क्या उचित होगा कि कमलनाथजी के खाते के बारे में कमेटी जांच कर ले कि वास्तव में उसके खाते सही हैं या नहीं?

श्री सत्येन्द्र नारायण सिंह : यह सवाल हमसे नहीं पूछा जायेगा। यह तो आप कमेटी के अन्दर बात कर सकते हैं।

श्रीमती शीला बीजित : इसका इससे कोई ताल्लुक नहीं है कि उनके खाते मंगवा लिये जायें।

Shri Somnath Chatterjee : With all humility, I do not think one member can oppose the question of another hon. Member. I think, every hon. Member is entitled to put the question.

I believe that we are not here deciding an adversary litigation. Ours is a committee to find out whether the respect or the glory of the Parliament has been scandalised or compromised. This is our job. This is my very humble and happy experience that we act here only for the sole object of maintaining our dignity and the dignity of the great institution which at least I look myself to be able to serve in my imperfect way.

Shri H. K. L. Bhagat : Well, I think I agree with Mr. Somnath Chatterjee to this extent that the Committee should concentrate on the issue before it. The issue, as it has come is the allegation that Mr. Kamal Nath was maintaining illegal accounts. There are two issues involved. First is the aspersion made on Mr. Kamal Nath as an M.P. and the second is the aspersion made on the Parliamentary Committee and the Parliament. These are the two issues. We are not conducting any inquiries against any firm here. Our job is very limited and is limited to the issue itself. I think that is where I request the Chairman that our inquiry and our questions should be confined to the kernel of the issue. We are not a probing agency or a police agency. We have just to confine ourselves to the privilege issue.

सभापति महोदय : आप अपना सवाल दुबारा पूछें ताकि मैं फैसला करूं ?

श्री सत्येन्द्र नारायण सिंह : यह सवाल मुझसे नहीं आपसे हम पूछ रहे हैं।

श्री जगन्नाथ चौधरी : मैं आपके माध्यम से इनसे जानना चाहता था कि यदि कमलनाथ जी के खिलाफ शिकायत है कि उन्होंने दो खाते बाहर गैर कानूनी रूप से खोल रखे हैं तो क्यों नहीं उसके खातों की जांच कर ली जाये कि यह शिकायत सही है या नहीं।

सभापति महोदय : यह सवाल सिन्हा साहब से नहीं पूछा जा सकता, मेरे से पूछने का वक्त नहीं है।

श्री जगन्नाथ चौधरी : ठीक है, जब समय प्रायेगा तो मैं पूछ लूंगा।

सभापति महोदय : सिन्हा साहब आप जा सकते हैं आपका धन्यवाद। आप सब सदस्य चाय के लिए आमंत्रित हैं, उसके बाद फिर शुरू करेंगे।

(The witness then withdrew)

(4) Evidence of Shri Kamal Nath, M.P.

Mr. Chairman : Mr. Kamal Nath, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shri Arun Shourie, Editor, *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on you, in an article captioned, "An M.P. and two Accounts" published in their issues dated 14th March 1988.

I hope that you will state the factual position frankly and truthfully to enable this Committee to arrive at a correct finding.

I may inform you that under rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented by the Speaker, Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege and contempt of the House. The evidence which you will give before the Committee may be reported to the House.

Now, you have to take oath or affirmation as you like. You will take oath ?

Shri Kamal Nath : I, Kamal Nath, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

Mr. Chairman : This article appeared on the 14th March, 1988. There was a mention in the Lok Sabha regarding this matter and is it correct that on that day you stated in the Lok Sabha that "I want to face a Committee of three Members of Parliament, may be of the Opposition Members, so that they can find out regarding the veracity and illegalities contained in the article of The Indian Express and to give a finding on the

charges against me" ? You further stated "After all, it is not a question involving me. It is a question involving every member of this House. It is not a charge against me; it is a charge against a member of Parliament. I am willing to submit myself to an enquiry by three members of the Opposition. Let there be a Committee of three members of the Opposition only."

In the earlier part, you had also stated that "The Indian Express has carried an article making grave charges of violation of the law against me. I would like to uphold the highest traditions of public life and would request this august House, everybody sitting here—it is not a question of this side or that side—to appoint a Committee of only three members of the Opposition to be appointed by the opposition themselves in consultation with you to find out about the veracity and the illegalities contained in the article of The Indian Express today and to give a finding on the charges against me."

Is this what you stated in the House?

Shri Kamal Nath : Yes.

Mr. Chairman : But the hon. Speaker did not agree for the appointment of a Committee. Is this correct?

Shri Kamal Nath : Not as yet.

Mr. Chairman : Some other Members as well as you gave a written notice. You gave notice on 16th March. Some other hon. Members had given notice on 16th March and you addressed that notice to the Hon. Speaker. I will read that notice for you so that the contents of the notice which I am reading are correct. You said I hereby give notice of privilege under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha against Shri Arun Shourie, author of an article "An MP and two accounts" appearing in the *Indian Express*, *Financial Express* and *Jansatta* of 14th March, 1988 being Editor of The Indian Express for making false allegation in the said article. The allegation contained in the said article is false and is a pernicious attempt to bring me down in the estimation of the public at large.

"This constitutes a breach of privilege as a member of Lok Sabha and contempt of the whole House. I, therefore, request that I may kindly be allowed to raise the matter in the House as a question of privilege. A copy of the said article is enclosed herewith."

Is this the Notice which you gave to the Hon. Speaker?

Shri Kamal Nath : Yes, sir.

Mr. Chairman : Did you do something beyond giving notice? Did you produce some documents before the Hon. Speaker or what action did you take?

Shri Kamal Nath : I saw the Hon. Speaker in his Chamber and produced before him photo copies of two letters from the Reserve Bank of India to the Company. They signified the Reserve Bank of India's permission to the two accounts which were alleged to be illegally held by the Company, in which I am a Director.

Mr. Chairman : Did you authenticate the letters which you produced before the hon. Speaker yourself?

Shri Kamal Nath : I authenticated the letters myself. I wrote the authentication, signed it and showed it to the Speaker in his Chamber.

Mr. Chairman : The matter was raised in the House again on 22nd March 1988. Professor Madhu Dandavate raised this question. You have also raised this question. Shri Satyendra Narain Sinha has also raised this question so also some others. Other Members also said that this matter should be referred to the Privileges Committee. Then you said this to the hon. Speaker. I quote what you said :

"To uphold the highest traditions of public life, I have demanded on the floor of this House and subjected myself to an inquiry by a Committee consisting of only Opposition Members and on the 14th March, as Mr. Dandavate said, I have also moved a motion under Rule 184. I have taken this unprecedented step. It is just not my credibility and vindication of my honour. It is the credibility and honour of this House which is at stake. I have subsequently, in your Chamber, produced to you incontrovertible evidence that the allegations made against a company in which I am a director having illegal foreign accounts are false. I have produced this evidence to you in your Chamber. What more can I do than moving the motion?"

Then, ultimately the hon. Speaker, when Mr. Basudeb Acharia also made a request, said :

"I go by the consensus of the House and the first thing is that I will refer it to the Privileges Committee".

Is this what happened ?

Shri Kamal Nath : Yes.

Mr. Chairman : May I also bring one more factor to your notice ? It will go on record. After the hon. Speaker had referred this matter to the Committee, Mr. Dinesh Goswami still raised objections and then the hon. Speaker said :

"How can I say anything without examining the case? I did examine the case. I have the documents before me."

Then, again, the hon. Speaker said :

“I have applied my mind. I got the documents. I did it. How can I do that without applying my mind ? I had the evidence; I got the facts from the Government and when I saw that there is a *prima facie* case and as the House has a consensus, I did it.”

Is this what happened in the House ?

Shri Kamal Nath : Yes, Sir.

Mr. Chairman : Your contention,—in respect of the two accounts, regarding which allegation has been made that these accounts were illegally got—is that this allegation is false. On what basis you say that the allegation is false ? Is it on the basis of the two letters which you produced before the Speaker ?

Shri Kamal Nath : Yes. I have given two photo copies to the hon. Speaker in his Chamber, signifying the permission of the Reserve Bank of India to the companies which were alleged to have these two illegal accounts, of which company I am a Director.

Mr. Chairman : Have you got a copy of those letters ? Shall I show you the copies which you produced ? Better you see the copies which you produced before the Speaker.

Shri Kamal Nath : Yes, I have the copy.

Mr. Chairman : Have you seen the copy which you produced before the Speaker ?

Shri Kamal Nath : Yes, Sir.

Mr. Chairman : Is it within your knowledge that the Hon. Speaker then made an enquiry from the Government in the Finance Department and the Finance Department also authenticated that all these letters were issued by the Reserve Bank ?

Shri Kamal Nath : Hon. Speaker, in the House said that he had verified the facts. Mr. Speaker has said, “I have got the facts from the Government.”

Mr. Chairman : Will you please tell me, apart from the fact that the allegations which are levelled against you are false ? Is there any other objectionable feature in the article ?

Shri Kamal Nath : Yes, Sir. The entire tone and tenor in the article is malicious. It lowers my dignity in the eyes of the people. The allegation that I am a Director of the company which has illegal accounts is false.

Mr. Chairman : This is not false that you are a Director of the company.

Shri Kamal Nath : No, it is not false. But the accounts are not illegal. Two accounts mentioned by him are false and the entire tone and tenor of the article is derogatory. It lowers my dignity in the eyes of the people. It is malicious.

Mr. Chairman : Has the article said anything about the Parliament, its Committees and its Members as such ?

Shri Kamal Nath : Yes Sir. If I have the permission to read from the article, it says : "These are shameless fellows."

It says "what is the use of any Committee?" This is not only derogatory to me as Member of Parliament but to every Member of Parliament and Parliament as a whole.

Mr. Chairman : Any other Hon. Member may put questions.

Shri H. K. L. Bhagat : I would like to know whether Mr. Arun Shourie or anyone else on behalf of the *Indian Express*, *Jansatta* or *Financial Express* made any enquiries from you or contacted you to ascertain the truth or otherwise of this fact of your company in which you are a Director about holding illegal accounts ? Did they make any enquiry directly or indirectly ?

Shri Kamal Nath : No, Sir.

Shri H. K. L. Bhagat : Secondly, I want to ask you what is your impression about this article. Is it true that read in the context as a whole, it denigrates you as a Member of Parliament and not just as Mr. Kamal Nath ?

Mr. Chairman : Is this the impression you have formed ?

Shri Kamal Nath : Yes, Sir.

Shri H. K. L. Bhagat : The whole tenor and tone of the article read as a whole gives an impression that the whole thing is deliberate, wilful, sustained and shows contempt for the Parliament, for its Committee, for you as Member of Parliament and for other Members of Parliament. Is that true ?

Shri Kamal Nath : Yes, Sir.

Shri Bholanath Sen : Do you agree with me that the Committee which you asked for on the Floor of the House, to be constituted by the Members of the opposition has not yet been constituted ?

Shri Kamal Nath : Yes, Sir.

Shri Bholanath Sen : This is a Committee on Privileges. Now you have said that the Mr. Arun Shourie has made false allegations ?

You have said that this constitutes a breach of privilege as a Member of Lok Sabha and the contempt of the whole House. Is it your view that by this very article he has committed two things—aspersion against you not only as a director; but also as an M.P. and an aspersion on the institution of the Parliament and its Committees ?

Shri Kamal Nath : Yes Sir.

Shri Bholanath Sen : Have you got any idea about the persons mentioned in this article that these facts are within the knowledge of at least six M.P.s and to about 50 to 60 officers ? Has any Member of Parliament ever told you about the facts or correctness of the facts stated in this article ?

Shri Kamal Nath : No Sir.

Shri Bholanath Sen : Have you also seen that part of the article which deals with you as a Member of Parliament and the Parliament itself ?

Shri Kamal Nath : Yes Sir.

Shri Bholanath Sen : Besides what has been stated against you, do you think that the dignity of the Parliament and its institutions are sought to be lowered by the article in so far as it tries to denigrate the institutions ?

Shri Kamal Nath : Yes Sir.

Shri Bholanath Sen : Have you seen the heading of the article 'An M.P. and two accounts' ?

Shri Kamal Nath : Yes Sir.

Shri Bholanath Sen : The headline does not say 'Kamal Nath and two accounts'. It says, 'An M.P. and two accounts'. Even if the allegations against you were not there, would you not consider the article to be a breach of privilege in so far as Members of Parliament is concerned and a contempt of the House ?

Shri Kamal Nath : Yes Sir.

Shri Somnath Chatterjee : I would like you to have a look at the letter of 21st March 1988 written by the Lok Sabha Sectt. which is mentioned at Page 682.

Mr. Kamal Nath, I am only restricting myself to the allegations which deal with your capacity as a Director of the company and about the accounts. I am not going into the insinuations or allegations made about the Members of Parliament etc., so that you may not be under any misapprehension.

On the first occasion, on the 14th March, you did not say that the charges were false; but you very fairly exhibited an attitude being bold enough to say that let the allegations be looked into by a Committee consisting of Opposition Members only. Is my reading of your speech correct ?

Shri Kamal Nath : Yes Sir. But I don't have the proceedings of that day.

Shri Somnath Chatterjee : Please go through it before you answer my question.

Shri Kamal Nath : Yes, Sir.

Shri Somnath Chatterjee : No doubt in your letter to the hon. Speaker dated 16th March you did mention that there were false allegations in the said article. Please have a look at the article and point out the false allegations ?

Shri H. K. L. Bhagat : Mr. Chairman, I would like the witness to withdraw for some time.

Mr. Chairman : Mr. Kamal Nath you please withdraw for some time.

(The witness then withdrew)

(At this stage, the witness was called in)

Shri Somnath Chatterjee : If you have anything else to point out, please do point out even later on.

Mr. Kamal Nath, to make it sure to you, so that you may not have misapprehension, there are various allegations, insinuations, charges against Parliament, against you as a Member of Parliament about your various activities which have been mentioned. I am not asking you on that. I am asking questions with regard to the two accounts which you yourself have mentioned and about which you have yourself produced the letter before the hon. Speaker. Therefore, I asked you to point out which are the wrong allegations in the statement, that is, only with regard to those accounts. You may point out. The paragraphs, which begin with Dubai account, there also mentioned as illegally maintained. So, they, according to you, are false? I take it.

Shri Kamal Nath : Yes.

Shri Somnath Chatterjee : Similarly, you can tell us later on. You can come to the portion dealing with Saudi Account.

Shri Kamal Nath : Insinuation, not only merely insinuation, that this account was illegal.

Shri Somnath Chatterjee : Now you have produced two letters before the hon. Speaker authenticated by you. One letter is dated 26th November 1980 from the Reserve Bank of India to the Joint Manager, New Bank of India.

Shri Kamal Nath : Yes, Sir.

Shri Somnath Chatterjee : It refers to two letters. You find that in the first paragraph. Can you produce copies of these two letters?

Shri Kamal Nath : I don't have them with me. But I can ask the company because it is a letter between the company and the Reserve Bank of India. The company will have the copy.

Shri Somnath Chatterjee : Kindly look at the end of that letter : 'Copy forwarded for information, etc.' There is a reference to a letter from the company, of 12th November 1980. Can you produce a copy of that letter?

Shri Kamal Nath : Not now but I can arrange subsequently.

Shri Somnath Chatterjee : Would you please try?

Shri Kamal Nath : Yes, Sir.

Shri Somnath Chatterjee : Now come to letter, dated 22nd August, 1981, from the Reserve Bank of India to the Allahabad Bank. Would you please try to ascertain whether the company has got a copy of this letter of 13th August 1981 in its possession as well as the Company's letter dated 12th August 1981, which is referred to in the first paragraph of that letter?

Mr. Chairman : Will you make an effort to produce this letter?

Shri Kamal Nath : Yes, I will make.

Shri Somnath Chatterjee : Now Mr. Kamal Nath, so far as you are concerned, these are two permissions from the Reserve Bank of India. Apart from this, there was no other permission?

Shri Kamal Nath : Relating to these two accounts?

Shri Somnath Chatterjee : Yes.

Shri Kamal Nath : I cannot specifically say. There must be other correspondence because there is a procedure laid down by the Government and the Reserve Bank.

Shri Somnath Chatterjee : If you find today you are not in a position to answer anything categorically, you may please request the hon. Chairman to give you opportunity so that you can produce that evidence. Certainly you can. But I am only asking you : Do you know or do you not know whether there was any other permission from the Reserve Bank of India?

Shri Kamal Nath : I don't know; these are the only two permissions which I have seen relating to these two accounts.

Shri Somnath Chatterjee : Now, letter dated 26th November 1980, gives permission to open the accounts on certain conditions. Do you find that?

Shri Kamal Nath : Yes.

Shri Somnath Chatterjee : When was this account actually opened?

Shri Kamal Nath : I do not have any personal knowledge.

Shri Somnath Chatterjee : Similarly I take it that you have no personal knowledge of the account mentioned in the letter dated 22-8-1981 as to when it was opened.

Shri Kamal Nath : The exact date is not known to me, but they were opened after the permission was received.

Shri Somnath Chatterjee : Do you have any personal knowledge that the contracts mentioned in the two letters were executed by the company ?

Shri Kamal Nath : As far as I know, they were executed by the company.

Shri Somnath Chatterjee : And the accounts related to the respective transactions.

Shri Kamal Nath : Yes, it is stated in the letter.

Shri Somnath Chatterjee : If you do not remember, please say so.

Shri H. K. L. Bhagat : I submit that we are going beyond the scope. The issue before us is whether the accounts were maintained legally or illegally; we are not investigating the contracts.

Shri Somnath Chatterjee : I must also say that you have not read it. This permission is a conditional permission.

Shri Bholanath Sen : Permission does not speak of things to happen in future.

Shri Somnath Chatterjee : In the House, a statement was made by Prof. Madhu Dandavate on 22-3-1988 that it is only the RBI Bombay which can give clearance. Have you got anything to say on that.

Shri Kamal Nath : I am told that the RBI Calcutta is the authority which gives permission.

Shri Somnath Chatterjee : In the article after the accounts have been mentioned, various agencies have been mentioned regarding some sort of enquiry etc. Have you got anything to say with regard to that?

Shri Kamal Nath : No.

Shri Braja Mohan Mohanty : I reserve the right to examine him again after the evidence of Mr. Arun Shourie.

Mr. Chairman : I request you to put your questions. If later on, we think that Shri Kamal Nath should be summoned again, we may do so.

Shri Braja Mohan Mohanty : Whether Mr. Arun Shourie or any other representative of the *Indian Express* contacted you before the publication of this article or after its publication?

Shri Kamal Nath : Not before, but may be there were some Journalists in the Parliament House who talked to me, one of them might have been from the *Indian Express* I do not know. But before the publication of this article nobody talked to me in relation to this.

Shri Braja Mohan Mohanty : After your statement* in Parliament, inviting the Opposition to investigate the matter, what has been the reaction of *Indian Express* to this?

Shri Kamal Nath : I do not know their reaction.

Shri H. K. L. Bhagat : I just want to know from you that the very fact that you stood on the floor of the House and asked for the appointment of a group of Opposition Members to investigate into it, was it meant that you were repudiating the allegation of maintaining illegal accounts? The very fact that you got up and said that it has got to be enquired by the Opposition clearly means that you were repudiating the allegation with regard to maintaining an illegal account.

Shri Kamal Nath : Yes, Sir.

Shri H. K. L. Bhagat : Secondly, I would like to know from you, if it is in your knowledge you might say and if it is not in your knowledge, you may not say, whether it is a fact that the Calcutta bank, the branch of the Reserve Bank, had given the permission? Whether it is a fact or not that they have given permission, such similar permissions to a number of other companies also? If it is in your knowledge then only you answer it otherwise you can refuse it.

Shri Kamal Nath : Sir, I would like to draw the attention of this Committee to the letter which I have submitted. This letter of the Reserve Bank appears to me to be a cyclostyled letter and they have just filled in the name and other details. It has a heading : 'Reserve Bank of India, Calcutta'. So, if this is a cyclostyled permission, they would not be maintaining such kind of copies. The way they have filled it, it appears that it is printed or cyclostyled. From this I presume that this is a normal thing they do, and they must have given it to others also otherwise they would not be having the printed or cyclostyled copies.

Shrimati Sheila Dikshit : Would you say that this permission is in a kind of proforma style or does it look like an individual letter of permission?

Shri Kamal Nath : It looks like a proforma. They have filled in the blanks.

Shri Bholanath Sen : Do you know that the Ministry of Finance, Department of Economic Affairs, has confirmed, by their note dated 21 March, 1988, these two letters from the Reserve Bank of India to EMC? Do they still allow the Calcutta branch to authenticate?

Shri Kamal Nath : I do not know, Sir.

Mr. Chairman : That letter was sent to the Speaker.

Shri Bholanath Sen : But it is in our papers.

Mr. Chairman : No, but he does not know about it.

Shri Somnath Chatterjee : Mr. Kamal Nath you are right that the letter dated 22nd August, 1981 appears to be in a proforma because something has been added and deleted in it. But the letter of 26th Nov., 1980 does not appear to be so. Am I right or wrong?

Shri Kamal Nath : That is right. The letter dated 26th Nov., 1980 does not appear to be a proforma type but the letter of 22nd August, 1981 does appear to be the one.

Shri Somnath Chatterjee : But according to you, the Calcutta Branch could give permission.

Shri Kamal Nath : Yes.

Shrimati Sheila Dikshit : According to you, Mr. Chatterjee, Mr. Kamal Nath is aware of the fact that Calcutta has a jurisdiction to give permission. Mr. Kamal Nath, do you make your business most of the time through the bank? Did you ask them, "Are you the competent authority to give me or grant me permission or not apart from this particular transaction or any other transaction?" Did you question them, when you approached this authority?

Shri Kamal Nath : I did not approach any bank. It is the company which approaches the bank. Who ever procedures are laid down, in pursuance of those procedures—the company follows it—the company's bank had applied for the permission. So, the RBI gave the permission. Because the RBI is competent to give permission in Calcutta, it has given it.

Mr. Chairman : Is the company carrying on business in Calcutta?

Shri Kamal Nath : Yes.

Shri Bholanath Sen : Its registered office, head office and factories are located in Calcutta. So the bank has acted upon this permission of the RBI.

Shri Kamal Nath : Yes.

Mr. Chairman : Now you can withdraw. Please try to produce those letters.

Shri Kamal Nath : I want to inform you that I will be away for some time.

Mr. Chairman : You are a free person. You can go.

(The witness then withdrew)

The Committee then adjourned.

Wednesday, 20th April, 1988

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Bhadreshwar Tanti
3. Shri H. K. L. Bhagat
4. Shri Somnath Chatterjee
5. Shri Jagannath Choudhary
6. Shri Sharad Dighe
7. Shrimati Sheila Dikshit
8. Shri H. A. Dora
9. Shri Bhishma Deo Dube
10. Shri Jujhar Singh
11. Shri Braja Mohan Mohanty
12. Shri Bholanath Sen

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

WITNESSES

- (1) Shri Arun Shourie,
Editor, *Indian Express*.
- (2) Shri N. S. Jagannathan,
Editor, *Financial Express*.

(The Committee met at 15.00 hours)

(1) Evidence of Shri Arun Shourie, Editor, Indian Express

Mr. Chairman : Shri Arun Shourie, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against you as Editor of *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Sh. Kamal Nath, MP, in an article captioned "An MP and two Accounts" published in their issue dated 14th March, 1988.

I hope that you will state the factual position frankly and truthfully to enable this Committee to arrive at a correct findings.

I may inform you that under Rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege and contempt of the House. The evidence which you will give before the Committee may be reported to the House.

Now, you may please take oath or affirmation as you like.

Shri Arun Shourie : I would like to make a statement before that.

Mr. Chairman : First of all, you will be taking an oath or affirmation.

Shri Arun Shourie : I will make a submission as I understand that oath is on facts. When I give evidence on facts and before these facts, I want to make some submissions to you. I will be guided by you.

Mr. Chairman : Now since you have started, you take oath.

Shri Arun Shourie : I, Arun Shourie, solemnly affirm that the evidence which I shall give in this case shall be true and that I will conceal nothing, that no part of my evidence shall be false.

Shri Arun Shourie : I respectfully submit that as Mr. Kamal Nath has stated that his company is likely to file a suit for defamation in regard to my articles in which his company proposes to claim Rs. five crores as damages, this Hon. Committee would not compel oral evidence in these proceedings until Mr. Kamal Nath affirms that the matter will be pursued in this august forum and not in the courts by him and his company. Compelling oral evidence before such an affirmation is taken on record would amount to making this august Committee available for exacting evidence which, in the event of a suit being instituted, is to be reserved for the courts. Apart from condoning abuse of an Hon. Committee of Parliament, putting me to such compulsion would prejudice my rights as an accused in the courts.

Second,

1. As neither the original motions nor the notice to me furnish any specific reason or evidence to show the specific part or proposition of the articles which constitutes a breach of privilege or contempt of the House or the member in his capacity as a Member of the House discharging his duties in matters arising from business transacted by the House;
2. As my reputation and liberty are at stakes in the proceedings and as it has been conclusively held that where this be the case,
 - (a) The procedure adopted must conform to Article 21 which protects life (which has been held to include reputation) and personal liberty;

- (b) Where orders under a procedure can have the direct and inevitable consequence of affecting a person's fundamental rights, the procedure must in addition conform to Articles 14 and 19 (and in the present instance, adverse orders will have direct and inevitable consequences for my rights under Articles 14, 19(1) (a) and 19(1)(g);
- (c) The procedure adopted must conform to the rules of natural justice, which *inter alia* include (a) the right to a fair hearing which in turn includes (i) the right to being informed of the case against oneself (ii) the right to being informed about the evidence against oneself; (iii) the right to ask and to have asked on my behalf relevant questions of the witnesses; (iv) the right not to be compelled to make any statement till (i) to (iii) have been completed; (v) the right to be represented by one counsel at all stages of the hearing; (vi) the right to be judged by an impartial tribunal;
3. As in the present proceedings I am the *accused*, and not just a witness;
4. As I am to be judged for an offence—the *offence* of having breached the privileges of a member of the House or the House by committing contempt of the member or the House;
5. As the proceedings are of the nature of *criminal* proceedings;
6. As the Committee is a *tribunal* performing a *quasi-judicial* function;
7. As unlike most cases of privileges and contempt considered by this Committee, going by reports in the press of interviews given by the member concerned, this one involves disputed questions of facts;
8. As the Committee functions according to Rules framed by the Lok Sabha under Article 118 of the Constitution, and

as the Article itself states that the Rules framed by the House are "subject to the provisions of the Constitution", as Rules are law and law is what the judgements of our courts say it is; and law must conform to the Constitution;

I respectfully submit that before compelling oral evidence, this Hon. Committee should be so kind as to:

- (i) direct the complainants to first establish the *prima facie* case that my articles constitute the libel of a member in his capacity as a member of the House discharging duties in regard to matters arising from business transacted by the House;

- (ii) tell me what the precise case against me is, what precise are the charges I am to answer;
- (iii) declare all document received by or gathered by this Hon. Committee to form part of the case, and direct that copies of these be furnished to me for my evidence;
- (iv) permit me to request the Committee to summon documents and witnesses;
- (v) permit me and my counsel to be present at all sittings of the Committee in which evidence is taken from complainants and witnesses;
- (vi) permit questions to be asked of these witnesses by me and on my behalf.

Thirdly,

As these proceedings involve complicated questions of law, including the provisions of FERA and the Exchange Control Regulations;

As, going by the interviews that Mr. Kamal Nath has given and the "evidence" he has handed over to several magazines and newspapers, these proceedings involve disputed questions of facts;

As the proceedings will involve examination and cross examination of a number of witnesses;

As it has been held that where proceedings are liable to affect the life, including reputation, and liberty of a person, which these proceedings certainly do, the accused has the right to be represented and assisted by counsel, and that this right flows from Article 21 itself;

I respectfully request this Committee to permit my counsel to represent and assist me in these proceedings.

Finally, you will permit me to confess that while I was honoured to receive the notice from the Committee, I was also surprised. The articles in question were written out of the deepest regard for Parliament that I have, a regard which is manifest from these articles as it is from what I have written on such matters for over a decade. The articles concerned the conduct of Mr. Kamal Nath and his associates as businessmen. The fact dealt in them did not arise in the transaction of the business of the House.

Moreover, the statements of facts are manifestly based on records of the concerned agencies. The motions therefore are entirely misconceived.

I shall furnish the note prepared by me.

Mr. Chairman : The witness may now withdraw for a few minutes.
(Shri Arun Shourie was called in)

(The witness then withdrew)

Mr. Chairman : Mr. Arun Shourie, we have deliberated upon the points raised by you and we have decided we will examine you and as and when situation arises, we will consider whether the assistance of a lawyer will be provided. So far as the documents are concerned, we will certainly give you the two documents which Mr. Kamal Nath has produced before the Speaker. You can have a look at those documents, and then we will examine you.

Regarding the question of cross-examination of Mr. Kamal Nath and other complainants, till now the practice of this Committee and the precedents are that we do not permit cross-examination of each other but in a given case, if later on, some situation develops where we think it is necessary, then we will consider this request. For the moment, we will examine you on facts, on the article which you have written.

You can have a look at these two documents which Mr. Kamal Nath has produced. These are the documents issued by the Reserve Bank of India from their Calcutta office. You can have a look at them.

Shri Arun Shourie : I am sure, you would like me to take some time to examine these documents and prepare the points on this material. I will read the documents meticulously. I would request for copies of these documents.

Mr. Chairman : You will have copies. If you cannot answer regarding these letters, we will give you more time.

Shri Somnath Chatterjee : If you want time, our Chairman will certainly consider your request.

Mr. Chairman : In the Indian Express of 14th March, 1988 an article appeared. The heading of the article was "A M.P. and two accounts" and this was by Shri Arun Shourie which I hope you are the person. Do you own this article ?

Shri Arun Shourie : Of course.

Shri Somnath Chatterjee : It is only for identification. It is all right.

Shri Arun Shourie : May I just take down the things you have said ?
As far as the lawyers are concerned, you will consider it from time to time.

Mr. Chairman : We will consider as and when the occasion arises.

Shri Arun Shourie : On cross-examination.

Mr. Chairman : The practice of this Committee has been that generally we do not permit cross-examination. But if a situation arises where cross-examination, in the opinion of the Committee, may be necessary, then, we will consider that request.

Shri Arun Shourie : I have pointed out in that.

Mr. Chairman : I am not open to arguments. You better give replies to my queries. We have told you our decision. Now you better proceed to give answers to the queries which I raise and to the other questions which the other hon. Members raise.

Shri Arun Shourie : With respect I would like to tell you that the issues I have raised are not formal issues. These are issues of great concern to us in the press. I have, in my small way, done a lot of research work for assisting this Committee and I can proceed to suggest to you why the order of the procedure which I have suggested is necessary and is the one that is warranted by rulings of this Committee. You have cited the practice of this Committee. I have a lot of documentation and the practice of the Committee. I can assure you that I have read for your assistance every single case coming up before this, Committee from 1951 to 1987 through the 'Privileges Digest' and I have learnt the procedure after reading them. I have gone through each of the judgments of our courts, at least 5 to 6 principal judgments that have a bearing on this procedure. I have read that with seriousness.

Mr. Chairman : We are examining all facts. Later on, when questions of law arise, we will hear you. We might even hear the counsel, if necessary. But please proceed on, according to the decisions we have taken.

Shri Arun Shourie : If I answer all queries on facts to start with, then everything I said becomes redundant. I make submissions in great seriousness and I beseech with utmost respect, you hear my suggestions. I suggest to you that I must be given the opportunity of cross-examination. I must be given evidence. They are based on the judgments which I must be allowed to submit to you. How can we proceed ? Then the whole submission is put aside, in effect.

Mr. Chairman : We have heard you. We have even deliberated on what you have given to us in writing.

Shri Arun Shourie : I can only beseech to you to give me the reasons for your decision and then if you feel. "No. All that is disregarded and you must duly reveal oral evidence now," you will please allow me to seek legal advice on that.

Mr. Chairman : The main question before the Committee is whether the article which you have just now owned, does it constitute, which part of this article constitutes, a contempt of the Lok Sabha and its Members ?

All other questions are subsidiary and will be considered in due course of time. For the moment you have given answer to one question—you have owned the article. I can assure you that your rights will be protected by this Committee. We will not adopt any procedure which will prejudice the rights of any person, and you can have full faith in this Committee. Wherever we feel that you need the assistance of a counsel and the Committee also feels that it is necessary, we will permit you. Now you better proceed to give answers to the questions which myself and other hon. Members will put.

Shri Somnath Chatterjee : Mr. Shourie, the basic point in your submission is that you should have a reasonable opportunity consistent with your Constitutional and legal rights. What the hon. Chairman is assuring you is that this Committee is extremely anxious that you are not deprived of natural justice or reasonable opportunity. What the hon. Chairman and some of us will be asking you is in relation to what you have written in your article; if you are in a position to answer, you may; otherwise, you may not. It is not as if you are here as an accused and you are called upon to explain your conduct. We are not on any inquisition.

Shri Bhadreswar Tanti : We have asked you to make a statement on the facts which you have published in your paper. What you have submitted in writing, we will definitely consider as and when occasion arises. But at present as the hon. Chairman has asked you, you may make a statement on the facts.

Shri Bholanath Sen : Mr. Shourie, you have already told our hon. Chairman that you have written this article. Haven't you ?

Shri Arun Shourie : Yes, certainly.

Shri Bholanath Sen : By this article you wanted to convey certain things to the reading public. Is not that so ?

Shri Arun Shourie : You are such an eminent counsel; you are leading me to answer on facts.....

Shri Bholanath Sen : Do you need a lawyer or do you need an argument to say whether or not you intended this article to be read by the public ?

Shri Arun Shourie : Obviously, that is not a simple question you are asking. You are, in effect, leading me to set aside the points I have made which we regard as necessary in the press. I have been told that this is not

an inquisition and that I am not here as an accused for any offence. That is exactly what was held by this Committee. That is your ruling in the past. The Attorney-General's opinion is incorporated here. I can read it out to you. This is a judicial tribunal. The proceedings are akin to a criminal proceeding. Mr. Kamal Nath, the principal subject has said on record that he is likely to take me to court for Rs. 5 crores. I may disclose all the facts that he would be asking me in court. But I will be lending myself to a procedure in which my rights, inspite of the assurance of the Chairman, are not protected.

Shri Bholanath Sen : Whatever you disclose here will remain a secret. Even you cannot tell anybody anything nor can we. You have already answered one question. Does it require a lawyer to say whether you intended by this article to convey to the reading public something ?

Shri Arun Shourie : I cannot believe that things will not go out of this room. You may not tell anybody and I may not tell, But I have had the experience as an editor of receiving information about what happens in Parliamentary Committees.

Kindly look at the proceedings of the Committee headed by Mr. Shankaranand. Every newspaper carries one version of the proceedings or the other. Certainly it did not come from Mr. Morberg or Mr. Gothlin. But we in the Press regularly receive information.

Shri Somnath Chatterjee : They are not authorised. In so far as the reports of deliberations of a Parliamentary Committee are concerned, without the sanction of the Speaker they cannot be produced before any authority. Somebody having an idea of what happened in the committees would not do.

Shri Arun Shourie : Sir, everything I have written is based on official documents, top secret documents. We will disclose them. You may get them from the Government or from the Reserve Bank. If they say that those are lost, I give you my word that I will produce everything to your satisfaction.

Mr. Chairman : I don't want you to enter into an argument. I would say that you better straightway proceed to answer my questions. If you don't want to answer them, it is for you to decide. We have deliberated about your submission. We have told you our position and now we want to proceed with your evidence. You now decide for yourself whether you would like to answer our questions or not.

Shri Arun Shourie : Will you give me time to consult my lawyer and come back to you ? I am not well equipped with law matters. You can also guide me. If I disclose my evidence now, then it means that you have brushed aside my submission.

Shri Somnath Chatterjee : Nothing has been brushed aside. Mr. Chairman has said it very clearly that in so far as the documents that Mr. Kamal Nath has produced, you would get the copies. Secondly there is no question of denying you the right of the assistance of a lawyer or the right to cross-examine. Today the Committee feels that you can assist it by your answers which are based on your article. Even then if you consider it necessary to have the assistance of a counsel, you can make a request to the Chairman.

Shri Arun Shourie : I would certainly request you to give me time to consult my lawyers.

Mr. Chairman : We will not deny any opportunity which we feel should be given to you. We will give you an opportunity but at the threshold we cannot permit the evidence not to be recorded.

Shri Arun Shourie : It is precisely at the threshold that I must make these submissions to you and I request you to allow me time to consult my lawyer about the next step.

Mr. Chairman : You have made your submissions in writing. We have deliberated on that and we have decided to record your evidence. Now if you want assistance of a lawyer to decide whether you can give answers to our questions or not then on that again we will deliberate.

Shri Arun Shourie : That has been permitted in the past. I request you to decide on that. I came here with the great regard. I gave up all the work in the last week so as to go through what are the legitimate procedures from our point of view. I am ready without the assistance of lawyers in the first instance to argue procedural points. If you are saying 'no' then I request you to allow me to consult the lawyers who will be defending me in the court of law.

Mr. Chairman : That means you do not want to give your evidence.

Shri Arun Shourie : Yes. That will be fore-closing the evidence.

Shri Somnath Chatterjee : You say there are some precedents or decisions of this Committee in the past which you would like to indicate.

Mr. Chairman : On which matter you want to show the decisions ?

Shri Arun Shourie : On the matter, for instance, when I am facing the prospect of a trial in court I would not be compelled by oral evidence to disclose the facts which would be necessary there. That would be misuse of this Committee. There are precedents on that.

Mr. Chairman : Have you got some decisions given by Parliament ?

Shri Arun Shourie : I will take this matter. The position is like this.

Mr. Chairman : Which case you want to quote ?

Shri Arun Shourie : I will quote the Select Committee of House of Commons on this very matter of privileges. That is printed in the Privileges Digest.

Mr. Chairman : I am sorry, I am not clearly hearing what you are saying. You can change your seat and come near so that we can, in any case, communicate with each other.

On what point you want to cite the decision of the House of Commons ?

Shri Arun Shourie : It is on the first point that I requested you to consider.

Where a remedy is available in a court, the penal powers of the House will not be invoked. I will give you the House of Commons on it. This has been adopted by the Press Commission in India. It has been adopted in the Press Council in a resolution.

Mr. Chairman : What does the House of Common say ?

Shri Arun Shourie : It says :

“In general, where a Member's complaint is of such a nature that if justified it could give rise to an action in the courts, whether or not the defendant would be able to rely on any defence available in the courts, it ought not to be the subject of a request to the House to invoke its penal powers. In particular, those powers should not be invoked in respect of a statement alleged to be defamatory, whether or not a defence of justification, fair comment, etc., would lie.”

This has been published in the Privileges Digest by the Lok Sabha Secretariat in October 1977, Vol. XXII, No. 2, Pages 60-62.

Mr. Chairman : What next you are going to cite ?

Shri Arun Shourie : I have 10—15 cases on the matter. I will cite from Kaul and Shakhder on this very matter :

“It is a breach of privilege and contempt of the House to make speeches, or to print or publish any libels reflecting on the character or proceedings of the House or its Committees, or any member of the House for or relating to his character or conduct as a member of Parliament.”

This is actually on page 223. And on page 224, they have said :

“In order to constitute a breach of privilege, however, a libel upon a member of Parliament must concern his character or conduct in his capacity as a member of the House and must be

(They are quoting from the ruling of the Speaker.) 'based on matters arising in the actual transaction of the business of the House'."

The reflections on Members otherwise, than in their capacity as Members do not, therefore, involve in breach of privilege or contempt of the House. The calling in of number of cases, presiding officers of Privileges Committees have held defamatory statements had only those which reflect the principles on the execution as Members of Parliament . . . This is the case of Daily Prajap in the Lok Sabha Debate on 30-8-85. Then comes the Hindustan Times case, Maharashtra Times case etc.

Mr. Chairman : We are hearing on a question of fact. We will provide you full opportunity to argue. Whatever you have written does orders not constitute contempt of the House. We thought that you would give me a case where I will not record the evidence. We are recording evidence and you are asking us not to do so. I think you will give some facts to record the evidence.

Shri Arun Shourie : I will give you those. I am citing the matter. "Requiring a person accused of misconduct to furnish his statement disclosing his evidence even before he has heard the case against him is so opposed to the basic norms of our legal system that every court could be allowed to draw some inferences". It is from Indira Gandhi's case. This is High Court's decision. The House cannot have any objection.

Mr. Chairman : I think you are coming to give a decision. You started like this. You will give decisions either of the Lok Sabha or the Privilege Committee. You started by saying so.

Shri Arun Shourie : Yes. I started so.

Mr. Chairman : Now the question is on which point you want to cite the case, whether cases of this Committee of Privileges or of the Lok Sabha.

Shri Arun Shourie : This Committee is a Tribunal under the law of Constitution."

Mr. Chairman : Please don't argue.

Shri Arun Shourie : This is vital to my rights.

Mr. Chairman : This is a Committee set up by the Parliament and this Committee has the right to go into a matter which has been referred to this Committee by the Speaker.

Shri Arun Shourie : To do so only under the rules. Those rules have been held to be subject to the decision of the courts. You want me to cite the cases.

Mr. Chairman : So, you will not permit to record the evidence ?

Shri Arun Shourie : I never said so. How can I permit you to say like that ?

Mr. Chairman : Please proceed with the evidence part. Later on at the argument stage, you will be given time. The benefit of argument will not be denied.

Shri Arun Shourie : This Committee is bound by any other Tribunal.

Mr. Chairman : The most important thing is that you have admitted that you have written this article.

Shri Arun Shourie : I am not going to deny.

Mr. Chairman : That is the matter on which we are proceeding. Some body might have given your name.

Shri H. K. L. Bhagat : Mr. Shourie, I would like to point out to you that the purpose of this Privilege Committee, with which we are entrusted the responsibility, is whether based on your article a case of privilege is made out regarding a Member of Parliament and or the Committee of the Parliament or the Parliament itself. At this stage we are on the question of ascertainment of the facts as to whether you own the article. The Committee of Privileges is not an investigating agency as other police investigating agencies are like the police itself or the CBI, etc. Its deliberations are confined to some specific points. Now, I or some other Member may like to put you a question on some specific portion of your article. Though you have already owned the article, still we would like to ask you specific questions on it. I would like to ask you some other questions, so are you prepared to answer the question without the assistance of the lawyer or not ? We have raised a number of questions and we have deliberated almost an hour. The question now arises, as the Chairman told you, assured you, we are going to tell you the case of Shri Kamal Nath. That is why the Chairman said that we are giving you the document so that you could know the case of Shri Kamal Nath. At this stage we are on the point of examining you, and ascertaining facts. Once the facts are ascertained then only the other questions, like whether you have written an article which is against an M.P. or not, arise. The Chairman has assured you that the proper opportunity will be given to you. At this stage we are examining you on certain facts. We would like to ask you on certain specific portions of your article if you are not prepared to answer even these questions without the assistance of lawyer, then you say it.

Shri Arun Shourie : Sir, you are absolutely right that this august body is not an investigating agency like the police but it is a judicial tribunal, and that is what has been held in your own reports. You are bound to follow the procedure. I have spelled out on terms of judgement and so on. By

asking me, if you want to ask general questions that is one thing. When you ask questions about the basis of the article, you will make a background and ask my answer for it, so you are exactly doing what the first point which I have suggested you कमलनाथ साहब से कहिए Are you going to pursue the matter in Court or not. Let him choose any forum, this or that, whichever but it cannot be that he will take me to court eventually but first I will disclose everything here. On those very points you are asking me now. You are absolutely right that if you were a police investigating agency, you can make me do that willy nilly but you are not. You are a judicial tribunal so you cannot do it. It has been held that to ask a person to make a statement before he has cross-examined the others, though the complainant has set out the case, is to make a nullity of the law. All the principles of natural justice, 21, 40, 90, I can quote all these. These are the cases I do not think Mr. Kaushal, with my utmost regard for you, you can say that they are to be dismissed merely because the House subsequently dismissed the Privileges Committee Report. Those were the statements made by your learned Counsel whom you know very well. Certainly Mr. Bhagat knows very well and they are the law of the land today. The judgment of the Delhi High Court is the law of the land.

Mr. Chairman : Delhi High Court's judgments are not the law of the land. For your information, only the judgments of the Supreme Court are the law of the land.

Shri Arun Shourie : In that case, you have given me the opportunity that I wanted. The Supreme Court is much more far going.

Mr. Chairman : You have made your point. We need not enter into a discussion on this.

Shri H. K. L. Bhagat : It has been made clear that whatever you deposes here cannot be used against you without the permission of the Committee and the Hon. Speaker. The Committee as you know stands on a special footing. Secondly, you have stated that somebody has threatened to go to court and in the case of prosecution, he might use your evidence and so on. In such a situation, the Committee has the power to decide whether to allow it or not. Thirdly, while giving your evidence, if you do not want to disclose certain matters, you have the right to say that at this stage you do not want to comment on such and such. But you are not even willing to begin giving your evidence even on very simple and straightforward questions of fact.

Shri Arun Shourie : I am surprised to hear this from you. The sentence which you have used, 'whatever you deposes here will be secret and will not be used against you in any court of law' was the very sentence

that was used in Mrs. Gandhi's case. And the report of that Committee was thrown out by the House itself and now you want to adopt exactly that very procedure. It is because of the procedure that the Committee's report was rejected. Secondly, it is said that the person has made only a threat and no prosecution has begun. The test here is the likelihood of prosecution. My deposition here can be used by him in some other form.

Shri Somnath Chatterjee : I am not minimising the importance of the issues that you have raised. Now, we have to decide whether they have any application to the facts of this case. Now, you have made certain comments in your article. Mr. Kamal Nath has stated that he has two accounts and he has brought and shown the relevant permits. The hon. chairman has already shown the original communication and the copies will also be given to you. You do not, as yet, know as to what questions we are going to ask, whether those questions will implicate you and whether answering the questions will mean disclosing your entire defence and so on and so forth. Are you not really prejudging our questions ? Are you not really pre-judging even our questions ? That was an assurance given solemnly by the Chairman of the Privileges Committee of the Lok Sabha I am sure that all of us are having an open mind here. Whenever it is felt—a person who is before the Committee—that he needs assistance from his Lawyer or he wants somebody to be cross-examined, he will be given the fullest and the fairest consideration. Therefore our request to you is, you please hear the question. If you find that we will put you in difficulty, you may request the Chairman that you want to consult the lawyer or something like that. But why are you at the moment trying to prevent even the questions of elucidations which we are asking you ? Why are you bringing Mrs. Indira Gandhi's case here—has it got an application here ? There may not be an absolute application of legal principles of the case. It may differ from case to case. The questions which will be put to you, on that you can surely deliberate. There is no question of trying to affect you prejudicially or permanently or even quasi permanently. Therefore, why don't you please listen to the hon. Chairman ? You kindly see the first question. It does not affect you. Has it affected you ? Are you the author of this ? That was the first question. Does it affect you Mr. Arun Shourie ? You have already admitted that that was your article. That was also your answer.

Shri Arun Shourie : You are saying that there is no absolute application of the principles of law. What is the relevance of the propositions, I have put forward to you ?

Shri Somnath Chatterjee : It is a question consistent with the principles of natural justice. The applicability depends upon the facts of the case.

Shri Arun Shourie : I am sorry, it is not really so. All these principles become applicable from the moment a person's reputation of life or liberty are at stake. This is certainly the case here.

Shri Somnath Chatterjee : You want the case to be made known to you. It has already been done.

Shri Arun Shourie : What is the case ?

Shri Somnath Chatterjee : The allegations made by you are incorrect.

Shri Arun Shourie : You give your documents.

Shri Somnath Chatterjee : That is a different matter. The case is that the charges made by you are not correct.

Shri Arun Shourie : You give the documents.

Shri Somnath Chatterjee : We assured you certain things. Nobody even your lawyers sitting by your side are not going to give evidence. After all, we are not in the court of law. We have to follow certain concepts, procedures of a tribunal. Of course, we are not judges in that sense, sitting here. Therefore, you need not have that apprehension. I am repeatedly assuring you all of us here. Nobody can blame our Chairman of any remissness of that nature, even unintended remissness. Therefore, let us proceed to that extent, to the extent that it will not jeopardize your interest.

Shri Arun Shourie : The letters you have shown me may be given to me, and I will then come back to you and answer, at some stage.

Mr. Chairman : This request is accepted.

Shri H. K. L. Bhagat : He is making this request, because he wants the documents of Mr. Kamal Nath. The Committee's decision is that we are not assuring him of any lawyer.

Shri Somnath Chatterjee : It will be considered, when he makes that representation. One of his points is that he must know the case.

Shri Arun Shourie : It is one point. The second point is about the prospects of prosecution in the court. I made a request that you will please request Mr. Kamal Nath to declare to you that he is prepared to pursue this case in this forum. Otherwise, you are really yourself gathering evidence for him.

Mr. Chairman : Mr. Chatterjee has rightly pointed out that we should indicate what is the case you have to meet. One aspect of the case Mr. Chatterjee has pointed out, is that Mr. Kamal Nath took up a plea that the accounts which Mr. Shourie says are illegal, are not illegal because he has produced two documents before the Speaker to show that the Reserve Bank of India did give this permission to him. Your assertion is that they

are illegal, and his assertion is that they are legal. On the basis of these two documents, the Speaker, *prima facie*, is convinced that it is a matter which should be referred to the Privileges Committee, because the entire House was of this opinion that this matter should be referred to the Privileges Committee. If the accounts are legal, Mr. Kamal Nath has been dubbed as a person getting away with illegal accounts, being a Member of Parliament etc. So, the Speaker referred it to us. Your article then further says this. We are going to put it to you, so that you may not be taken by surprise. In this article, you have levelled an allegation against Members of Parliament as a whole. May I point out one paragraph to you ?

Shri Arun Shourie : It is just impossible. Please tell me.

Mr. Chairman : You said :

“What is the use of producing these things again and again ? They are shameless fellows”

This is one of the paragraphs in bold print in your article. I have the original. You get hold of it.

श्री अरुण शोरी : आप सारा पढ़कर देखिए ।

सभापति महोदय : सारा पढ़ने की आवश्यकता नहीं है । मैं यह बताना चाहता हूँ कि ये सबाल हम आपसे पूछेंगे ।

Shri Arun Shourie : I do not want any misapprehension to go on record. You are reading from the bottom of column 2. It reads as follows :

“Those are shameless fellows. They will just shrug this one off too. But sometimes even the shameless have to at least pretend to be a little ashamed. Remember Amitabh Bachchan ? He had to resign merely because of a fact about his brother. A fact involving at that time no more than Rs. 60 lakh to 85 lakh. Now we have amounts going far beyond Rs. 5 crore. Will Kamal Nath be less honourable than even Amitabh Bachchan ?”

Mr. Chairman : I pointed out to you this bold print. You read the earlier portion also and then give a reply. The earlier portion reads as follows :

“If the charge is true the conduct of a Member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry Licences case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privileges.”

What is the use of your producing these things again and again ? Probably you were talking to yourself.

Shri Arun Shourie : I was not talking to myself.

Mr. Chairman : We want you to give us an explanation. If you can not give it just now, you can give us the next time. I have no objection.

Shri Arun Shourie : I have the highest regard for this Institution.

Shri Somnath Chatterjee : You have put it within the inverted commas.

Shri Arun Shourie : I have learnt it—I am sorry to say—from the Upanishad in which there is a dialogue—a reader asks a question and I reply. The manner of this bold letters is just like a reader asks a question and I give a reply. This has absolutely got nothing to do with the Members of Parliament. For two years I am writing articles about coterie which is ruling our country. This is how I am talking with the readers. I am sorry; I do not mean anything else. It is a description of the coterie. There are three articles and in each of the articles I have pleaded with the Parliament to examine them. If I had been so foolish as to refer to Members of Parliament as shameless fellows, then in my three successive articles I would not have pleaded for setting up of a committee to examine this illegality, in each one of those articles. I have said, if you examine this illegality, my paper and I will assist you.

How can a person pleading for the setting up of a committee of those people, say that they are shameless persons? On that point I can give it in writing, but let this misapprehension be dispelled first.

Mr. Chairman : You say misapprehension! That is the entire charge by the Members of Parliament against you, apart from what you say about Mr. Kamal Nath or he says. They say that this reference to the Members of Parliament and the Committees of Parliament, and the institution of Parliament is wrong.

Shri Arun Shourie : I can state that twenty times on oath, whatever it is, I will certainly give you in writing, so that this complete reading—if not misrepresentation—of what I have written, is wrong. What I wrote is about the coterie.

Shri H. K. L. Bhagat : I want to know one thing. Do you mean to say that about Parliament Members or the ruling party members ?

Mr. Chairman : This is the reading of the hon. Members of Parliament. you give your explanation.

Shri Arun Shourie : I will give it in writing definitely next time, that this sentence has absolutely nothing to do with Members of Parliament. These sentences were about the coterie around the Prime Minister. I have many times written; I affirm that their conduct shows that they are shameless. The decisive reasons show that this is a misreading, I am sure, I am sure it is unintended and I am sorry, I do not have the three articles with me. I can show you. They talk again and again about the coterie only. Each one of them pleads for the setting up of a Parliamentary Committee

to examine these matters, the web of illegalities. How is it at all possible that while asking for a committee of Members of Parliament to be set up, these articles say that they are shameless? If the person writing it pleads that they are shameless, how can he ask for a committee to be set up consisting of them? I can go on record and confirm in writing.

Mr. Chairman : Then there is another sentence, saying

“Will it set up a committee of the House to examine the matter, a matter involving sums far in excess of the ones involved in the Tulmohan Ram case?”

You are referring to a committee of Members of Parliament, or some other committee. First of all give an answer. Then again in bold print you say, “But what is the use of another committee?” Are you referring to a committee of Parliament or are you referring to some other committee? Give an answer to that first.

Shri Arun Shourie : That is certainly about by proposal, or request that a Parliamentary committee should examine this web of illegality. The answer is that the reader wants to know, “Look here, there are so many committees. Probably there is a committee on Bofors. It has been set up. It does not uncover the truth. तो एक और कमेटी से क्या फायदा होगा ? By examining this web of illegality it will—it may—uncover certain things. This is because of the regard I have for Members of Parliament which leads me to say that there should be a committee.

सभापति महोदय : अब मैं ऐसा करूंगा कि हमारे सामने जो एविडेंस आलरेडी पांचों मेम्बर्स ने दी है, कमलनाथ जी ने और बाकी चार मेम्बरों ने, जिन्होंने प्रिविलेज नोटिस दी थी—उन सभी के एविडेंस की कापी आपके पास भिजवा दूंगा ताकि कल आप यह न कहने लगे कि इन लोगों ने जो कहा था वह आपको बताया ही नहीं गया। जो केस है, वह तो मैंने आपको बता ही दिया है।

Shri Arun Shourie : Wonderful. Very kind of you.

Mr. Chairman : On two points, the case is against you. The allegation that the accounts of Shri Kamal Nath were illegal, has been denied by Shri Kamal Nath and in support of his assertion, he has produced two letters of RBI, copies of which will be supplied to you. In order to show that how the other hon. Members of Parliament feel that you have committed a contempt and breach of privilege of the House and the Member, that evidence also will be supplied to you.

Shri Bholanath Sen : You are an editor of this paper. On the top of the article, you have not mentioned ‘Kamal Nath and two accounts’, but you have mentioned ‘An MP and two accounts’. What do you want to convey by this heading?

Shri Arun Shourie : A person, who is among other things, a Member of Parliament, has these two accounts. You read my article. I have described him in many capacities— an ex-Doon School student, a business man, etc.

Shri Bholanath Sen : I want a simple answer from you. You have chosen these very words, namely 'An M.P. and Two accounts'. Why do you say 'An M.P. and Two Accounts' ? You could have put it as 'Kamal Nath and Two accounts' or 'Kamal Nath, Business man as well as a M.P. and Two accounts'. Do you want to say, here is an example that all MPs are doing dishonest business?

Shri Arun Shourie : Absolutely not.

समापति महोदय : आप जो कुछ कहना चाहते हैं, धाराम से कहिये।

Shri Arun Shourie : All of us have been writing and working for the strengthening of the parliamentary institutions. I have done this on several occasions. We have had to write about the conduct of the Members on the floor of the House and about the Speaker's rulings. I have been doing this for ten to twelve years, with only one objective in mind, that is the strengthening of the parliamentary institutions. In this instance, it is an exceptional feature, and an exceptional conduct that marks this particular person, who happens to be among other things, a Member of Parliament.

Mr. Sen asked a question, 'Do you want to convey by this that all MPs do such and such things'. The answer is, most certainly not. On the contrary, I am pointing out the exceptional feature. If I believe that all Members of Parliament are doing it am I going to those very Members of Parliament with folded hands 'please set up a committee and examine this matter' which just did not make sense?

Mr. Chairman : Mr. Shourie, you can retire now.

(Shri Arun Shourie then withdrew)

(2) Evidence of Shri N. S. Jagannathan, Editor, Financial Express

Mr. Chairman : You are Mr. Jagannathan.

Shri N. S. Jagannathan : Yes.

Mr. Chairman : Well, Mr. Jagannathan, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against you as Editor of Financial Express for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in your issue dated 14th March, 1988.

I hope that you will state the factual position frankly and truthfully to enable this Committee to arrive at a correct finding.

I may inform you that under Rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege and contempt of the House. The evidence which you will give before this Committee may be reported to the House.

Now you may please take oath or affirmation. You will like to take oath or affirmation?

Shri N. S. Jagannathan : Oath. I, N. S. Jagannathan, swear in the name of God that the evidence which I shall give in this case shall be true and that no part of my evidence shall be false.

Mr. Chairman : Now, Mr. Jagannathan, you are the Editor of Financial Express.

Shri N. S. Jagannathan : Yes.

Mr. Chairman : In the Financial Express dated 14th of March, 1988, an article had appeared with the caption "An M.P. and two Accounts", by Arun Shourie. You have published this article in your paper.

Shri N. S. Jagannathan : Yes.

Mr. Chairman : So, you own the responsibility of publishing this article.

Shri N. S. Jagannathan : Yes.

Shri Somnath Chatterjee : You not being the author of the article, I take it that you have no personal knowledge of the contents of it.

Shri N. S. Jagannathan : Except what I have read that has appeared.

Shri Somnath Chatterjee : You mean what Mr. Shourie has written.

Shri N. S. Jagannathan : Yes.

Shri Somnath Chatterjee : Why did you publish this article?

Shri N. S. Jagannathan : Well, it was a subject of public importance as I saw it.

Shri H. K. L. Bhagat : I would just like to ask you one thing. You published it, as you said, because you thought it was a subject matter of public importance. The article came to you and you published it without making any further inquiries whatsoever and you cannot personally vouchsafe the correctness or otherwise of this article because there was no personal investigation of the facts by you.

Shri N. S. Jagannathan : No, there was no personal investigation by me.

Shri H. K. L. Bhagat : So, you made no personal inquiry and published the article because it came to you, thinking that it was a matter of public importance. Is that so?

Shri N. S. Jagannathan : This was published as an article of public importance.

Shri H. K. L. Bhagat : You just published it because you thought it was a matter of public importance, but before doing so, you did not make any verification enquiring about it.

Shri N. S. Jagannathan : I did not make any enquiry.

Shri H. K. L. Bhagat : That is what I said. You personally cannot vouchsafe what is written in it. I am asking a specific question and you give me the specific reply. You cannot personally vouchsafe because you made no investigation of the correctness or otherwise of the article.

Shri N. S. Jagannathan : No.

Shri Bholanath Sen : Mr. Jagannathan, in your newspaper, an article appeared and the heading is "An M.P. and two Accounts". What did you think of this heading?

Shri N. S. Jagannathan : I think I should make a submission before answering further questions. Certain issues about the procedure and the way in which we should protect our rights in the matter have been raised by Mr. Shourie, which are presented to you. I would like to take that position with regard to the entire range of issues raised about the procedure or the protection that I should have in this matter.

Shri Bholanath Sen : May I ask you one question? You have said that you thought it was a matter of great public importance. What was the great public importance? Why did you think it to be a matter of great public importance?

Shri N. S. Jagannathan : I would like a ruling on my submission before I proceed further in the matter. Certain issues have been raised by Shri Shourie which we are jointly presenting before you for the purpose of further proceedings in this respect.

Shri Bholanath Sen : You have already said that you published it without making any enquiries because it was a matter of great public importance, and I believe that you felt that it was a matter of great public importance. Why did you feel that it was a matter of great public importance?

Shri N. S. Jagannathan : I am saying that before I answer these questions, I should like to have the procedure of this inquiry settled, which matter was raised by Mr. Shourie.

Mr. Chairman : Have you also brought the same note which Mr. Shourie has brought ?

Shri N. S. Jagannathan : Yes. And the submission that he has made in the letter that he has addressed to you, is also my submission.

Mr. Chairman : All right. That is all. One more question that I would like to ask you is whether your paper is very widely read.

Shri N. S. Jagannathan : Yes, but not as widely as Indian Express. We have three editions from Delhi, Bombay and Madras.

Mr. Chairman : And this article has appeared in all the editions.

Shri N. S. Jagannathan : Yes, in all the editions.

Shri H. A. Dora : Mr. Jagannathan, you have accepted that you had not personally verified as to whether the contents of the article were true or not. But you should have at least thought that if the contents were not true, it would be prejudicing the rights of the Parliament.

Shri N. S. Jagannathan : Till my submission about the procedure being settled before I answer further questions is accepted, I think it would be fair to suspend further questions on substantive issues.

Shri Bhadreshwar Tanti : Mr. Jagannathan, I will ask you only one question. You being the Editor of Financial Express, you published the article in your paper, written by Mr. Arun Shourie. You being the Editor, you thought that the matter was of public importance and that is why perhaps you did not verify its authenticity. Do you agree to this ?

Shri Jagannathan : (Sir, I would like to repeat the answer I gave earlier, saying that I would like to answer these questions after the procedural issues raised by me are settled.

Shri Bhadreshwar Tanti : But you have said that you have not verified.

Shri Jagannathan : Whatever I have said, I have said it. But I am saying that further questioning on this should be made only after the procedural issues are raised.

Shri H. K. L. Bhagat : If you can answer even this question, it will do. You just hear this question : Is your paper, the Financial Express a separate legal entity or not ?

Shri Jagannathan : I am answering this from memory. It is published by the Indian Express, Bombay, Ltd.

Shri H. K. L. Bhagat : It has a separate legal identity. Is it not ?

Shri Jagannathan : It is a paper published by the Indian Express Private (Bombay) Ltd.

Shri H. K. L. Bhagat : Bombay is one entity. There are so many different companies that are running it.

Shri Jagannathan : The Financial Express is published by the Company whose name appears in the Imprint Line.

Shri H. K. L. Bhagat : I hope you are an independent paper, independent of any other paper.

Shri Jagannathan : I hope so too.

Shri H. K. L. Bhagat : As an independent paper, you did not think it fit to make any inquiries ? Okay, you have given the answer, That is all right.

Mr. Chairman : You can now retire. If need be, we can summon you again.

(The Witness withdrew)

The Committee then adjourned.

Tuesday, 10th May, 1988

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Bhadreshwar Tanti
3. Shri H. K. L. Bhagat
4. Shri Somnath Chatterjee
5. Shri Jagannath Choudhary
6. Shri Sharad Dighe
7. Shrimati Sheila Dikshit
8. Shri H. A. Dora
9. Shri Bhishma Deo Dube
10. Shri Jujhar Singh
11. Shri Braja Mohan Mohanty
12. Shri V. Sreenivasa Prasad

SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

WITNESSES

- (1) Shri Arun Shourie, Editor, *Indian Express*,
- (2) Shri Prabhash Joshi, Editor, *Jansatta*.

(The Committee met at 15.00 hours)

(1) Evidence of Shri Arun Shourie, Editor, Indian Express

Mr. Chairman : Shri Arun Shourie, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against you as Editor of *Indian Express* and the Editors of *Financial Express* and *Jansatta* for allegedly casting reflections on Shri Kamal Nath, M.P., in an article captioned "An M.P. and two Accounts" published in their issues dated 14th March, 1988.

I hope that you will state the factual position frankly and truthfully to enable this Committee to arrive at a correct finding.

I may inform you that under Rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege and contempt of the House. The evidence which you will give before the Committee may be reported to the House.

Now you may please take oath or affirmation as you like.

Shri Arun Shourie : I, Arun Shourie, solemnly affirm that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

Mr. Chairman : You have received the statements which have been given by the hon. Members of Parliament before this Committee and you have also received the two letters, i.e., the copies of which Mr. Kamal Nath produced before the Speaker.

Shri Arun Shourie : I have received them but I want to make a submission.

Mr. Chairman : Submissions will come later. Have you received those statements as well as the two letters?

Shri Arun Shourie : Yes.

Mr. Chairman : Last time our examination had started and the examination was interrupted because a point was raised that you do not know what the exact case is against you and what the other hon. Members have stated against you. We have supplied the information and now we proceed further from the stage from where we left the examination last time.

Shri Arun Shourie : We have been kind enough to send those documents. I have seen the two letters but which have not been answered. I have been through a part of the evidence which have been sent to me and through the documents which you have sent. I would beseech to continue to say something about that and I will answer later on.

Mr. Chairman : You should not dictate the procedure, Whatever you want to submit, we will hear you. Procedure is in the hands of the Chairman. Your submissions will be heard by us and regarding the two letters which you sent to us. The Committee has received the letters. It has deliberated upon them and after deliberation, now the Committee want, to proceed further with the examination. And there is no procedure that when you submit some letters to the Committee, the Committee has to send answers to you. We do not enter into any correspondence. You have made your submissions and we have deliberated upon them and considered them. Therefore, you better proceed to give answers and whatever submissions you would like to make, we will hear you later. Your rights will not be prejudiced.

Shri Arun Shourie : You are absolutely right in saying that the procedure is not to be dictated by me. It is to be decided by you but I would like to beseech on a very important matter on documents which you sent to me through Mr. Rastogi.

Mr. Chairman : I do not follow what exactly you want to say.

Shri Arun Shourie : It is about the documents which have been sent to me that I want to suggest something to you and I beseech you to hear me. It involves injury to me and to the Committee. I beseech you once again to let me draw your attention to the documents which have been sent to me under your direction.

Mr. Chairman : What do you want to say?

Shri Arun Shourie : You would kindly recall that on April 20 I made some requests and without dealing with those requests you compelled me to proceed.

Mr. Chairman : You seem to be a little uncomfortable. Be comfortable and proceed.

Shri Somnath Chatterjee : The hon. Chairman has assured you that whatever was said to you on the last occasion about your rights and the privileges that you enjoy would not be taken away and you would be given all the opportunities. You need not have any apprehension on that account.

Shri Arun Shourie : With great respect, I would submit a few things. The Committee, in its wisdom, without dealing with my requests compelled me to begin answering questions.

Mr. Chairman : You have again started the same thing. Please do not repeat the submissions you have already made. You have taken my permission to say something with regard to those two letters.

Shri Arun Shourie : Documents that have been sent to me including two letters and the proceedings.

Mr. Chairman : Then, say something; do not read the written notes.

Shri Arun Shourie : I will read out to you what I have written.

I respectfully submit that by adopting the procedure that you have and in sending those documents you are doing great damage to both the institution of this Committee of Parliament and an institution to which we all subscribe which we want to uphold. And also.

Mr. Chairman : First of all, I may tell you that I am not happy with the language you are using. I have told you many a time, we know our procedure. Our procedure will be guided by Rules of natural justice. Now, instead of making submissions in the manner in which you are making, you

are using a language which is not used before such a high Committee. What do you want to say exactly, I have not followed ?

Shri Arun Shourie : Because you are not letting me do so. Why do not you let me do so, Sir?

Mr. Chairman : Just be courteous and use the language which is desirable to be used.

Shri Arun Shourie : Mr. Chairman, I am very courteous. I have tried to beseech you thrice.

Mr. Chairman : Proceed further.

Shri Arun Shourie : I was going to illustrate what I was going to say.

Mr. Chairman : I am not listening you. Please speak through the mike.

Shri Arun Shourie : Yes, I will do that, Sir. In the evidence which has been sent to me by Mr. Rastogi—I will first speak about the evidence and then about the letters—I am astonished, with great humility and respect to see that while Mr. Kamal Nath confined himself to one matter, suggestions were put to him in the form of questions which led him to say that alone which can enable this Committee to proceed with this matter. I will give you some illustration.

Mr. Kamal Nath was asked in the proceeding : “Will you please tell me apart from the fact that the allegations which are levelled against you are false, is there any other objectionable feature in the article (because he had forgotten to mention that)?” His answer was : “Yes, Sir. The actual tone and tenor in the article is malicious. It lowers my dignity in the eyes of the people. The allegation that I am a Director of the company which has illegal accounts is false.” He was again asked, “This is not false that you are a Director of the Company”. He again said, “But the accounts are illegal. Two accounts mentioned by him are false and the actual tone and tenor of the article is derogatory. It lowers my dignity in the eyes of the people. It is malicious.”

None of this is concerned with his function as a Member of the House, in the business transacted in the House, may I just come to this, Sir. Then the suggestion was put to him, “Has the article said anything about the Parliament (Because he had not said it has) ?”

Shri Somnath Chatterjee : With your permission, Sir, Mr. Shourie what you are now saying is your submission or your comment on the evidence given by Mr. Kamal Nath. Any submission or any comment you are entitled to make ultimately, but at the moment the Hon. Chairman wanted to ascertain certain facts. You will get all opportunity before this Committee to make your comments and remarks. You are open to make comments on whether we should accept the evidence of Mr. Kamal Nath or not.

Shri Arun Shourie : I am not at the evidence as yet.

Shri Somnath Chatterjee : You will do justice to yourself and to the Committee and to the Institution we are all pledged to serve. You want to make comments on the nature of evidence that has been given, but this is not the time. At the moment you please wait. Why don't you wait and see what sort of questions are put to you? Whether you can answer them or not; whether you need any assistance or not? Therefore, let us proceed further on that basis and then you can make your comments. Whether the Committee should accept the evidence of Mr. Kamal Nath or not, to say at this moment is for you just like jumping before you reached the stile.

Shri Arun Shourie : Mr. Chatterjee, I am not on Mr. Kamal Nath's evidence. I am on one point that while he did not comment on. . . .

Shri Somnath Chatterjee : Your comment is that he did not say so himself, and it was as if in response to question he said certain things. How can you say this?

Shri Arun Shourie : Just see what is put to him. "Don't you want to say this", each time he is continued to be asked.

The whole tenor and tone of the article—it is not Kamal Nath speaking, it is a Member speaking—gives an impression that the whole thing is deliberate, wilful, sustained and there is a contempt for the Parliament, for its Committee, for you as a Member of Parliament and for other Members of Parliament. Is this true?

Mr. Chairman : Don't read.

Shri Arun Shourie : Again and again you lead me to say, don't say this.

Mr. Chairman : I will remind you that you are criticising the conduct of the Committee. You have no business to tell this. We will haul you up.

Shri Arun Shourie : Sir, you are threatening me.

Mr. Chairman : You are criticising the conduct of the Committee. You have no business to do this.

Shri Arun Shourie : It is my right.

Mr. Chairman : We will grant your right. But you are exceeding that.

You are not aware of the procedure which is followed in these Committees. That is why we are telling you that we will protect your rights. We will not do anything which will be prejudicial to your life and liberty and reputation.

Shri Arun Shourie : For your age and for the important office which you are holding and for your eminence in the law, this is a minatory tone. You are threatening me with consequences. My criticism of the Committee is my right. You are not allowing me to make a statement. I read out one point, you become angry with me.

Mr. Chairman : I am reminding you that you have exaggerated notions about rights. Whatever may be your rights, we will protect you. We are not against you. We are trying to find out what is the purport of the article which you have written. But you started criticising the Committee itself.

Shri Arun Shourie : You have sent me the documents.

They have also asked me to report back to you.

Mr. Chairman : Those documents were sent to you for a limited purpose. The purpose was as you yourself said that I should know what had been stated against me by those hon. Members who have already appeared.

Shri Arun Shourie : That is not what I have stated. The evidence must be recorded in my presence. That has been held. You have then informed me of the case against me. You then directed Mr. Rastogi to send me the evidence. That evidence shows the tenor of the Committee's questioning.

I must bring that to your attention because my submission is when you concentrate on that tenor, you will reject the notice which had been sent to you on the threshold. That is my point which I made on the first day.

Mr. Chairman : We told you that we have heard your submission. Surely, it is for us to decide. You have a right to make submissions. You have a right to state the facts. Now, your evidence is not yet complete. We are not debarring you for raising any submission which you would like to raise. What I was telling you and what Mr. Chatterjee has told you just now is this. We are trying to find out the facts from you. Last time, when we adjourned, we adjourned for the precise reason that you said that : I don't know what has been said against me. I told you, that the Article which you have written—the authorship of which you have accepted—that Article was pointed out to you. I even pointed out the objectionable portion of your Article. Those portions were objected to by the Members of the Committee. So, an opportunity was granted to you. Now the difficulty arises that you don't want to proceed with the evidence.

Shri Arun Shourie : That is not the case.

Mr. Chairman : I told you last time also that we will give you all opportunities which you want.

But you don't want to proceed.

Shri Arun Shourie : These are the matters of fundamental importance to the Press. I have to dictate 16 pages answer to Mr. Rastogi's notice. Please don't push me to the wall.

Mr. Chairman : The position is that this Committee is guided by the precedents which have developed during the last forty years. We are going strictly according to those precedents and practices. You tried to raise a number of contentions. We have deliberated upon them. After deliberation, we told you that you please proceed further. You raised another point also. We had considered each and every one of them. But surely again, I say, it is for the Committee to decide which question should be put at what time, which facility should be provided to you at what time. The paramount consideration with the Committee is that, you will not be prejudiced by any stand which you think is not going to be in your interest. In spite of my assuring you, in spite of Members of the Committee assuring you that we will provide whatever assistance you like, but let us proceed with the matter, you are still saying the same thing.

Shri Arun Shourie : Mr. Shantaram Naik had sent me another notice. You will again be calling for that. I know that.

The procedure you are now prescribing is precisely the procedure which was thrust upon in Mrs. Gandhi's case. All of you took objection to that because that was an illegal procedure. That procedure should never be a precedent. Now you are forcing me into that the procedure.

श्री अरुण शौरी : आप कहते हैं कि प्रीसीडेंट फालो कर रहे हैं। मैं यह कहना चाहता हूँ कि आप वह प्रीसीडेंट फालो कर रहे हैं, जिसको हाऊस ने और आपकी लीडरशिप ने रिजेक्ट कर दिया था।

सभापति महोदय : मेरी समझ में नहीं आता कि कैसे आप को समझाऊँ।

श्री अरुण शौरी : मैं भी आप को नहीं समझा सकता।

सभापति महोदय : हम ने आप की बात सुन ली। उसको एग्री करना या न करना, यह तो हमारी बात है। कायदा यह है कि जो आप कहना चाहते हैं, उसको हम सुन लें और सुनने के बाद डेलायेशन कर लें और डेलायेशन करने के बाद अगर आप की बात से एग्री नहीं करते हैं, तो आप को कमेटी की बात माननी पड़ेगी।

श्री अरुण शौरी : देखना पड़ेगा। Then I will have to take up this matter with my legal counsel.

सभापति महोदय : पिछली दफ़ा हम ने आपको बोलने का मौका दिया था कि आप अपनी बात कहें। उस वक्त आप ने वकील करने की इजाजत मांगी थी लेकिन हमने बता दिया था कि इस स्टेज पर हम आप को वकील परमिट नहीं कर रहे हैं।

Shri Arun Shourie : Then I will have to follow what Mr. Chatterjee had said.

Shri Somnath Chatterjee : Mr. Shourie, the hon. Chairman is repeatedly telling you that you need not have any apprehension but you cannot go on settling the procedure of this Committee because after all the Committee has to decide. You have made your submissions. We have given considerable importance to them. We can assure you that all your submissions are being considered by this Committee with due seriousness and after due deliberations we have arrived at this conclusion that at the moment let us hear you. If you at any point of time require legal assistance and if you request the Committee for the same, if the Committee so desires, it will accede to that. The Committee will give you that opportunity. Everything is open to you.

Therefore, at the moment, you need not have any apprehension that this Committee is out for anything. We have only been given a certain duty to perform. We feel this is the way we can do the best, in the circumstances. Therefore, our request to you is this : Please cooperate with this Committee; and if you have any difficulty, let us know, let the Chairman know. At the appropriate time, we will consider it. If you take the stand that unless we agree to whatever you have suggested, you would stop consideration by this Committee of this matter, we will not accept it. There is no point in it. Let us proceed on this basis, I would request you. I am repeating : Do justice to yourself and to the institution. Therefore, you wait and see what is coming up, what are the types of questions, whether you are going to, or refuse to answer. You ask for permission from the Chair. The Chair will consider it. Let us proceed on this basis. Please do not challenge the Committee.

Shri H. A. Dora : You may reserve all the inherent weaknesses and improbabilities in the case as presented by Mr. Kamal Nath, for your comment at the end. You are exposing them only at your own peril. This is not the time. That is my learned friend asked you not to expose the weaknesses that are there. So, please cooperate with us. At this moment, do not think that this Committee is very much biased against you. We are here to safeguard your interests; we are not orphans from the street. We are Members of Parliament. We know how to safeguard your interests. We can assure you this much: you are now marshalling the evidence that is already there, and trying to fill up the gaps, which you yourself are exposing. That is not good for you also.

Shri Arun Shourie : In that case, whatever I was going to say, I will leave in a letter to the Chairman. I hope he will distribute copies to you

समाप्ति महोदय : आप बिला-बजह बबड़ा रहे हैं।

श्री अरुण शौरी : मैं घबड़ा नहीं रहा हूँ। मेरा कहना यह है कि फिर वही चीज रिपीट होगी।

सभापति महोदय : मैं रिपीट करना चाहता हूँ कि आप यहां पर गवाह हैं और हम आप को मुलजिम नहीं मानते हैं। आप इस समय गवाह हैं।

श्री अरुण शौरी : मैंने लिखा है और शकघर ने लिखा है :

“Any person who comes here as an accused, is tried for an offence, for punishment for contempt.”

All these words are there. You have held them.

सभापति महोदय : मैंने जो लिखा है, शकघर ने जो लिखा है, हमारे रूलस में जो लिखा है और जो प्रीसीडेंटस में लिखा है, वह सब आप ने पढ़ लिया है और पढ़ने के बाद उसका जो मतलब निकला, वह हमारे सामने रख दिया। अब आप यह कहें कि हम आप की बात मान ही लें, तो ऐसा प्रीज्यूम करना ठीक नहीं होगा। जो आप कह रहे हैं, आप यह मत प्रीज्यूम कीजिए कि वह सब ठीक है। इसका फैसला प्राल्टीमेटली हमें करना है। हम आप को सब किस्म का मौका दे रहे हैं। यह आर्टिकल आप का लिखा हुआ है, उसके बाद फैसला करना बहुत आसान है कि इस आर्टिकल में कोई प्रिविलेज ब्रीच किया है या नहीं।

श्री अरुण शौरी : आप सुन कर ही फैसला करेंगे।

सभापति महोदय : हम ने सुनने से कब मना किया है। पार्लियामेंट ने यह काम हमको दिया है और यह हमें करना है।

श्री अरुण शौरी : यह तो आप को ही करना है।

Mr. Chairman : You are a very eminent journalist. We cannot go on arguing in that circle.

उस सकल से निकलना होगा। आप ने लिख कर दिया दोबारा लिख कर दिया और तिबारा लिख कर दिया। हर दफा हम ने उस पर सोचा और गौर किया लेकिन हम आप की किसी बात पर एग्री करें या किसी पर न करें यह हमारा अख्तियार है। हम आप को मौका दे रहे हैं और जो कुछ आप को कहना है, वह कहिये। हम उस पर कोई रोक नहीं लगा रहे हैं लेकिन मेरी डिफीकल्टी यह है कि आप यह चाहते हैं कि हर स्टेज पर मैं आप को यह बताऊँ कि हम एग्री क्यों नहीं कर रहे हैं। यह प्रोसीजर कहीं नहीं होता है, कोर्ट में भी नहीं होता है। प्रोसीजर यह होता है कि आप अपनी बात कहें और हम उसे सुनें और डेलेबेट करें। इसलिए मैं आप से कहता हूँ कि इस वक्त आप प्रोसीड कीजिए। किसी स्टेज पर कोई डिफीकल्टी आएगी तो हम आप की डिफीकल्टी एग्रीशियट करने के लिए तैयार हैं। बहुत सिम्पल इशू है, इशू बहुत मुश्किल नहीं है और उसको काम्पलीकेट मत करिये। आपने एक आर्टिकल लिखा। उस आर्टिकल का इन्टरप्रिटेशन क्या है, आप की बात सुन कर फैसला करेंगे।

श्री अरुण शौरी : मैं आपको डाक्यूमेंट्स बताऊंगा।

I will give you a list of documents.

सभापति महोदय : आप हमें बताइए। जो चीज मंगानी है, वह मंगा लेंगे।

Shri H. A. Dora : You have already registered your protest. Any violation of the procedure or law will go to your benefit, not to the benefit of Mr. Kamal Nath.

Shrimati Sheila Dikshit : Since you are the author of that article, you know what you have written. You have used the language like shameless fellows and all that. What is the idea in writing that and whom are you referring to ? We do not want to ask you anything else. We do not want to go beyond this article, because apart from what Mr. Kamal Nath has said, there are three Members of Parliament, Prof. K. V. Thomas, Shri Harish Rawat and Shri Satyendra Narayan Sinha, who are very eminent Members of Parliament, who also have brought this privilege motion against you. They have in this motions of breach of privilege stated that your subject article is a contempt of the Lok Sabha and its M.P. and is against the dignity of Parliament. You have covered the points raised by Kamal Nath's motion. We do not want to go into all those now. We want your views on the words you have used against Parliament.

Shri Arun Shourie : Are you asking about those remarks ? And the second question was about those points.

सभापति महोदय : मैं प्रोसीड करूंगा, तो ठीक ठीक चलेगा। मैं फिर एक बात रिपीट करना चाहता हूँ।

This is a Committee of Parliament. Here nobody is a complainant, nobody is an accused. It is not a Committee which in ordinary parlance deals with adversary litigation. Here a very important issue has been raised in the House. That, you, one editor, a very eminent editor, a very eminent journalist, has written an article which in the *prima facie* opinion of the House constitutes a breach of privilege of the House and its members. Now this matter has been sent to us. We will go into this matter. It is open to us to come to a conclusion after hearing you. No, you never meant anything, you have not cast any aspersion, but you know Members of Parliament. Ultimately we may disagree with you. If this was the intention you have mentioned, you have to state it properly.

ये सारी बातें सही सानी हैं। मैं फिर कहना चाहता हूँ कि आपने बहुत मेहनत की है। आपने लॉ पढ़ा है, इसमें कोई दो राय नहीं हैं लेकिन सवाल यह है

This Committee has been entrusted with a particular job.

हमको अपना जॉब करने दीजिए। आपने बार-बार कहा है कि मेरा कोई हक न मारा जाए, अगर मेरा हक मारा जाएगा, तो तकलीफ होगी। जब हम महसूस करेंगे कि ऐसा काम्प्लीकेटेड मामला आ गया है, जिसमें किसी लीगल एडवाइज की

जरूरत पड़ेगी, तो ले लेंगे, किसी गवाह को जरूर एग्जामिन करना है और हम फील करते हैं कि उसको एग्जामिन करना है, तो हम इजाजत दे देंगे। पिछली दफ़ा जब आपका बयान हो रहा था, तो मैंने कुछ सवाल पूछे थे और कुछ भोला नाथ सेन जी ने पूछे थे। उसे कम्प्लीट कर लेने दीजिए और फिर आप को अपनी बात की सपोर्ट में कुछ डाक्यूमेंट्स देने हैं, तो दीजिए। अब हम प्रोसीड करें।

श्री अरुण शौरी : जो दो सवाल इन्होंने पूछे हैं, उन का मैं जवाब दे दूँ।

Mr. Chairman : You seem to be more anxious to reply to those queries.

Shri Arun Shourie : You permitted them to put the questions. And, do you not want me to answer ?

प्रोसीजर यह है कि मेरी परमिशन के बिना किसी को पूछने का अधिकार नहीं है लेकिन मैं टेक्निकेलिटी में बिलीव नहीं करता हूँ।

We have to come to a certain decision which Parliament has entrusted us to do. We have not assumed any jurisdiction.

आपको कहने का अधिकार होगा और फ़ैसला करने का अधिकार हमारा होगा।

Shri Arun Shourie : If you do not want me to answer the questions of Shrimati Sheila Dikshit, then I will not answer it.

Mr. Chairman : You please answer it.

Shri Arun Shourie : She had asked two questions—one whether by the words 'shameless and Committees of Parliament', what did I mean by it; and secondly, what do I think on these two letters. I had explained last time. When a reader addressed to me, I have said it relates only to the coteries around the Prime Minister.

Mr. Chairman : You had given the answer.

Shri Arun Shourie : At that time, I do not have the article. Now, I will just read out the article. Three quarters of the first column describes Mr. Kamal Nath in the context of the coterie around the Prime Minister. When Mr. Kamal Nath is described and the reader says 'shameless', I respond to it and say, 'No it is the coterie that we are just wanting to....' When the Committee goes into this matter, it will come to the vital truth. The second point, which I had suggested was that if I had been so foolish as to over conclude that Members of Parliament are shameless, I would not have compounded that foolishness to ask the very same persons to examine this matter. I said thrice in my article, 'Please set up a committee'.

Shrimati Sheila Dikshit : You said somewhere in the article 'what is the use of another committee?'

Shri Arun Shourie : All my articles are written in such a way that the reader asking me questions and I am replying to it. All my articles are written in this form. This is the form adopted from *Upnishad*. The question is asked and the answer is given.

समाप्ति महोदय : यह प्रापका एक्सप्लेनेशन हो गया । उन लेटर्स के मुताबिक प्रापका क्या एक्सप्लेनेशन है ।

Shri Arun Shourie : The two letters which Mr. Kamal Nath has preferred are not relatable to the accounts which I have drawn the readers attention. I had been to Reserve Bank after I received the notice to appear before this committee. I am assured that the power for giving this clearance is with the Central Office, especially when the initial deposit is over Rs. 2 lakhs for opening the said office and operating the same. I have been assured by the Legal Department of the Reserve Bank of India, Central Office, Bombay. The second point is that they said, when a sanction is given, it is given for a particular account. The procedure is like this. You are a Committee. I hear about a project in Dubai. I came to you with the proposal. You say, 'yes, go ahead and tender on these broad guidelines'. You may say, 'No, I am inflating the estimates to keep foreign exchange away and I will put the country to liability, which will not be able to meet later on.' So, this Committee is a screening committee, for which I had come. You accord approval in principle. Then, I go and tender. If my tender is accepted, then I go to each of these empowered authorities for getting subsequent sanctions. For instance, there is Export Credit Corporation. I come to the committee and I say, I have heard about transmission lines project in Dubai. About transmission line in Dubai, may I please tender and these will be my terms. I will need \$ 5 million and this much advance. I just go to Dubai and put in the tender. I win the tender, the contract. I come back to each of those authorities. One authority will permit me to open a site office. Another authority will permit me to send some money there. I will go to the Export Credit Corporation. All this is not done in the first stage. First approval is merely an approval in principle. When I go back to the Reserve Bank, I have to go back to the Central Office of the Reserve Bank. That Central Office may say, yes, now you may open an account in such and such bank and give us the account number. And opening of account on these conditions.

Mr. Chairman : Please give us the documents. You started by saying that these two documents which have been issued by the Calcutta Office of the Reserve Bank do not relate to the account which you had in mind. Your evidence is in support of what you are saying. Those two documents which Mr. Kamal Nath has produced pertain to Calcutta Office. And then you say that Calcutta Office has no authority to do that. Please tell me which are the documents you are having in mind. If you have brought a list of those documents, please pass it on to us.

Mr. Chairman : Speaking for myself, I will not be able to understand the purport of these documents simply by your reading the documents. That is why I wanted that if the list could be given to us, then we could decide what are these documents and whether they are relevant for our purpose. If they are, then we will decide what is to be done.

Shri Arun Shourie : Give me one minute and I will tell you the purport. You have asked me to read out the list of documents. There are six documents and this top secret report. These documents establish that the accounts were illegal and that this was the knowledge and conclusion of all the three authorities.

Mr. Chairman : Which are those authorities ?

Shri Arun Shourie : The Reserve Bank of India, the Enforcement Directorate in Calcutta, and the Enforcement Directorate's head office in Delhi. There were thorough investigations made. I have also listed an Inquiry Report. An inquiry was instituted into this firm. So, that Report also I have listed. Then, a comprehensive document of this entire case was prepared on June 1, 1985 by the Deputy Director of the Enforcement Directorate, Calcutta, Mr. M. N. Bapat. He was asked to determine the violation of the Foreign Exchange Regulations Act. This is a Report he sent to the head office in Delhi. It deals with these two accounts as to how they are illegal, how the evidence about their illegality was uncovered by the Enforcement Directorate, and how on orders, the evidence was destroyed and false evidence was created. It is one of the most serious offences and I say this with utmost responsibility. The documents will establish this.

Mr. Chairman : You pass on this list to us and then we will decide.

Shri Arun Shourie : I will give the entire thing to you, Sir, even though you have said that I may be held for a second contempt.

Mr. Chairman : We will not hold you for a second contempt unless you committed. But if you committed, then you committed at your own risk. We will not use this power very lightly.

Now, only one more question I will ask and then if any other member wants to put some questions, he will ask you. My question is before publishing this article, did you make any enquiry from Mr. Kamal Nath.

Shri Arun Shourie : I made enquiries from employees of his firm.

Mr. Chairman : Say yes or no. That means you did not make any enquiry from Mr. Kamal Nath.

Shri Arun Shourie : This was not done because I knew that when the Kuo Oil case came up and he was involved, what did he do with the evidence. May I add that the first information about this came to me from

senior employees of his organisation. When I met them, they expressed their apprehension saying that I am being watched by the security guards and, so, I may please send somebody else. One of my most senior colleagues was then sent. They led us to the Accounts. We then followed it up with each of the three authorities. As I mentioned, the results will be apparent to you when you get the documents.

Mr. Chairman : Now, is there any other question that any other Member may like to ask ?

Shri Jujhar Singh : The substance of the entire article would, according to you, not diminish the reputation of a person in the eyes of the right thinking personalities.

Shri Arun Shourie : I have not said that, Sir, I have pointed out that evidence, whether it diminishes or enhances, depends upon the person who hears it.

Shri Jujhar Singh : According to you, the article does not contain any discreditable or scurrilous substance.

Shri Arun Shourie : No, Sir. On the contrary, everything that I have stated is based on official documents, as those secret communications and top secret letters will show.

Shri Jujhar Singh : You wanted to substantiate your article by way of advance of justification. You want to substantiate by way of producing legal evidence.

Shri Arun Shourie : No, Sir. I first brought evidence and then brought out the article. I can't first write the article and then look for the evidence. The information came to us. We then investigated the matter. We came across the documents and we sat with the officers and went into the matter.

Shri Jujhar Singh : The evidence may be false.

Shri Arun Shourie : But we will have to decide.

Shri Jujhar Singh : That is the reason why I am asking as to how you are going to substantiate your definition, that are laid down in your article.

Shri Arun Shourie : Absolutely, Sir.

Shri Somanath Chatterjee : You have mentioned the Account Numbers in your article as 9528.3 in Dubai and the other No. 12.84037 in the Ria Bank. Now, Mr. Kamal Nath has produced two letters. I think you have seen them.

Shri Arun Shourie : Yes, Sir.

Shri Somanath Chatterjee : I want a clear answer whether none of those letters refers to either of these accounts or they are not the final sanctions

Shri Arun Shourie : Both the things, Sir. There are two things. You see those letters and in one of those letters, one of the account number is not mentioned. So you would like to ask him how these letters are related to these accounts. I will give the reason. The other documents which have been given to us are by his employees.

Shri Somnath Chatterjee : Is it that none of the letters produced by Mr. Kamal Nath refers to any of those two accounts ?

Shri Arun Shourie : That is my contention because as is evident from my document, I must confess that this is not a complete list of documents. We will show the document and we will show the accounts of Kamal Nath, because accounts are mentioned in different places in different ways. That is why you asked "you have given those letters, please tell us how these letters are connected with these things".

Shri Somnath Chatterjee : So far as you are concerned, your case is that you have mentioned the account number as 9528.3 at Dubai. Later Mr. Kamal Nath produced the letter of 22nd August 1981 a copy which has been given to you. Does it or does it not according to your information relate to that account ?

Shri Arun Shourie : No, Sir. My information is from within his own organisation and what I was told by the Reserve Bank and particularly by the documents which you were kind enough to summon.

Shri Somnath Chatterjee : Similarly, I take it that the letter of 26th November 1980 relating to the Saudi Arabian Account, according to you does not relate to the other Account and it is described by you as Saudi Account.

Shri Arun Shourie : That is what I have been told.

Shri Somnath Chatterjee : May I know from you whether your information is based on official documents only ?

Shri Arun Shourie : There are four types of things. One is official documents, second is our conversations with the employees of the firm—as I mentioned, they did not want to meet me directly, but my senior colleagues met them. The third is documents of the Bank, fourth is what I have been told by the Reserve Bank officials in Bombay, precisely in the Foreign Exchange section. I suppose the point was made whether due care was taken or not. Yes, due care was taken.

Shri Somnath Chatterjee : In your article you have stated that the Government got to know that the accounts were illegal in 1981 and 1982. What is the basis of this knowledge of yours ?

Shri Arun Shourie : In the Calcutta office of the Enforcement Directorate you will find the entire file on this case. The file has what are called source reports. The source reports are in the person's hand-writing. That is how the Government came to know first about the accounts.

Shri Somnath Chatterjee : In your article you have referred to various files and communications *inter se* between different agencies of the Government. Is it your case that the documents you have mentioned will substantiate this ?

Shri Arun Shourie : Yes, exactly.

Shri Somnath Chatterjee : Both with regard to Dubai Account and the Saudi Account ?

Shri Arun Shourie : Absolutely.

Shri Somnath Chatterjee : So far as the nature of the inquiry, as you say, was going on, will that also appear from the official documents ?

Shri Arun Shourie : Yes.

Shri Somnath Chatterjee : With regard to what you have mentioned under the headings in your article under the Dubai Account and Saudi Account, are there any supporting documents and materials ? If so, where will they be available and where are they ?

Shri Arun Shourie : I have given a list of the documents to the Chairman in these notes and each of those documents pertains to these Accounts. It pertains to the inquiries that were held into these Accounts. These documents show that the Government concluded that the Accounts were illegal. The documents will show that the steps were taken to verify this matter. The evidence about the illegality would be established. The documents will show that orders were given to return the evidence and to do something which is unheard of, one of the grossest crimes for any officer to commit, to concoct false evidence. This is what those documents will show.

Shri Somnath Chatterjee : You have said in the last portion of your article . These documents establish the illegalities. Are you in a position to prove each one of these ?

Shri Arun Shourie : You can summon those documents. Then, you need not call me. I assure you.

Shri H. K. L. Bhagat : Mr. Shourie, I hope you do not dispute the veracity of the documents by Mr. Kamal Nath asserted in the House that they have been issued by Calcutta Branch of the Reserve Bank. Do you challenge the veracity or not. First I want to know, do you challenge it or not ? Those documents have been issued. The permission has been given by the Calcutta Branch of the Reserve Bank.

Shri Arun Shourie : When I showed the documents to the Reserve Bank, the legal officers in Bombay said this. I am merely reporting to you, what they have told me. "Take this to forensic experts. It cannot be that anybody is going to issue things without our knowledge because all information is here". Secondly, please see how these letters are relatively to the accounts in question. They pointed out the circumstances which I did not know.

Shri H. K. L. Bhagat : Do I take it that you are challenging the illegalities of those documents ?

Shri Arun Shourie : The answer is not that simple. They pointed out the very important circumstantial thing. I am putting to the committee something which is important. One of the documents which you will obtain will be a query from the Enforcement Directorate to the Reserve Bank—have you given any permission to open this account. They say :

हो सकता है कि 1965 में किसी एकाउन्ट का ओपन करने की परमिशन दी हो लेकिन जब 1988 में फाइल एक डिपार्टमेंट से दूसरे डिपार्टमेंट में चली गई है, एक ऑफिस से दूसरे ऑफिस में चली गई है।

We are not able to trace it. But this permission was given in 1981. That query came to us in 1981, not by an ordinary person but by the Enforcement Directorate. No officer of the Reserve Bank of India would just say like that. Even if the powers were in Calcutta to give the authority, they say, Calcutta Office would immediately inform us—we have given this. That would be on our record. If the Enforcement Directorate asks us and we knew that the power was in Calcutta, we would have asked Calcutta—Have you given this permission ? Only we then answer the Enforcement. They suggested that the examination of documents should be done. I have not extradited foreign experts. I have been given photographic documents. I had got them examined.

Shri H. K. L. Bhagat : In the light of how you put it, there should be two things. You feel that the documents are not genuine. You feel permission was given but they were not authorised and legal. I cannot say they are legal or not.

Shri Arun Shourie : Second and third.

Shri H. K. L. Bhagat : That is your position. I want to know one thing more from you. You are a man who writes everything very carefully after a thorough study. Mr. Kamal Nath's defence has brought permission from the Reserve Bank. About this part, you did not make any enquiries. Did you make any enquiries because this does not find any mention in your article ? Have you come to know that it was wrong or you did not make any enquiry ?

Shri Arun Shourie : I made enquiries and these documents did not come to my knowledge. I made enquiries from three sources. I am very candid. This is because you said that I did these things with care from the employees of Mr. Kamal Nath's firm. Second, by looking at the documents on record in the Government with three separate Departments.

If, for instance, if we had come across these two letters, we would certainly have a paragraph on those letters and I would have conducted all the enquiries you want me to conduct now. Does it have the power or not? Does Section 51 applies or not?

Shri H. K. L. Bhagat : Thirdly, you thought that a Member of Parliament, Mr. Kamal Nath had illegal accounts without permission which was an offence and no action was being taken against him. You thought that no action would be taken against him. You thought that nobody would investigate and do anything and would go into that and with that feeling in your mind, you wrote this article.

Shri Arun Shourie : I came to the conclusion that action had been taken. Evidence had been found and written and false evidence was created, which led to a narrow point very deliberately. My purpose in writing the article is to uncover the entire web of illegalities. It is about the nature of governance. I have never written about an individual. It is as an example of the way of things that are done. Therefore it was not that nobody is going to take action. I had come to know that action had at least been taken and destroyed.

Shri H. K. L. Bhagat : The point is that you have thought that action has been taken and it was stopped because he is a Member of Parliament and action against him was stopped.

Shri Arun Shourie : It was not because he is a Member of Parliament but because he is part of a coterie.

Shri H. K. L. Bhagat : Lastly, I ask you one question. May be that every word written in your article is written very carefully, consciously written and deliberately written. You felt about it. Do you think every word that you have written is very consciously written?

Shri Arun Shourie : I have written that. Every word is written based on records. I knew that it was warranted by the facts on record.

Shri Brajamohan Mohanty : Mr. Arun Shourie, the normal journalistic ethics demands that before you publish an article in your daily issue you should have heard about it from the person against whom the allegations are made. We are not journalists. We read newspapers. They say

that this is the ethics. Unless the ethics is complied with, the norms are not maintained. That is why I am asking you about this. You say that it is investigative journalism. Therefore, it demands that the person against whom you are writing, he must be heard either personally or otherwise and his version of the matter should have been with you. Did you do that ?

Shri Arun Shourie : Sir, I do not agree with what you say. . . .

Shri Brajamohan Mohanty : If you think it is not required, tell it frankly. We have to hear from you about this. We are people who are interested in bringing this matter to light. Please give a correct reply.

Shri Arun Shourie : When there is likelihood that the person will destroy the evidence if he is forewarned . . .

Shri Brajamohan Mohanty : Please listen to me. My question is different. My pertinent question was about the journalistic ethics which demands that you must hear from the person against whom you have got incriminating materials and you are writing an article in your daily.

Shri Arun Shourie : There is absolutely no rule regarding that. I will tell you that the person can destroy the evidence. He will have adequate opportunity to get the facts either in a court or in a rival newspaper. Maybe Shri Kamal Nath has not been exactly helpless. I will give reference. We are very much exercised on this whole matter. We are concerned about this matter.

Shri Brajamohan Mohanty : I think, what you mean is that you are apprehensive of the evidence being destroyed and that is why you don't adopt that procedure. Is it so ? Have you done this in any other case ?

Shri Arun Shourie : Not only in this particular case but in several such cases it is so. For instance, there is Antulay's case.

Shri Brajamohan Mohanty : Do you think that this procedure should be followed or not ?

Shri Arun Shourie : I would not expect the Reporters to follow that.

Shri Brajamohan Mohanty : Now, may I invite your attention. . . .

Shri Arun Shourie : I have not yet completed my answer. . . .

Shri Brajamohan Mohanty : Complete it.

Shri Arun Shourie : Specially because the evidence had come from the close employees and associates of Mr. Kamal Nath in this particular case.

Shri Brajamohan Mohanty : Now, may I invite your kind attention to your article ? After the publication of this article, at any time, have you checked up whether the documents that you have referred to in your article are in existence or have been destroyed?

Shri Arun Shourie : I have mentioned here that they were in existence two days before the publication of my article. They were in Calcutta.

Shri Brajamohan Mohanty : Out of the seven documents you have mentioned, how many have not been destroyed ?

Shri Arun Shourie : I have answered that question. "As of day before yesterday, all the relevant documents existed in Calcutta."

Shri Brajamohan Mohanty : 'Day before yesterday' means ?

Shri Arun Shourie : Two days before the publication of this article, they were there.

Shri Brajamohan Mohanty : In between, you have not checked up whether they are there ?

Shri Arun Shourie : I have not been back to the office since then.

Shri Brajamohan Mohanty : Have you had the privilege of going through any of these documents personally ?

Shri Arun Shourie : Yes, I have seen them all.

Shri Brajamohan Mohanty : You have seen all the seven documents ?

Shri Arun Shourie : Yes.

Shri Brajamohan Mohanty : Have you taken photostat copies of these and if so, of how many ?

Shri Arun Shourie : I will not disclose it at this stage.

Shri Brajamohan Mohanty : If you do not want to answer, I will not insist. I wanted to know whether you could help us.

Shri Arun Shourie : I have said that I will not answer it at this stage.

Shri Brajamohan Mohanty : You have referred in your article to the letter dated February 2, 1982, that is, column 2 of your article. Have you seen that letter ?

Shri Arun Shourie : Yes, Sir, in Calcutta.

Shri Brajamohan Mohanty : Have you seen it personally ?

Shri Arun Shourie : Yes.

Shri Brajamohan Mohanty : Have you got a photostat copy of it or not? You may say that you will not answer it. But let it come on record.

Shri Arun Shourie : At this stage I would not like to.

Shri Brajamohan Mohanty : About this particular letter, you must have checked up its existence, that is, before publication of your article, not in between. After publication, you have not checked up whether all these documents are in existence or not. Is that so ?

Shri Arun Shourie : I will tell you something startling. After this Committee took this matter on record, the senior officers of the Enforcement Directorate issued these documents.

Mr. Chairman : We don't want stories. We want to know whether you have seen the documents which were existing two days earlier ? We are not concerned with the stories.

Shri Arun Shourie : Story is a pejorative word.

Mr. Chairman : Not for us.

Shri Arun Shourie : The documents existed two and a half days before. They were checked up by the officers of the Central Government and not by me personally.

Shri Brajamohan Mohanty : You have mentioned about seven document of 1-6-1985 which you have filed today. Have you got any evidence with you through which you can substantiate that you have gone through these documents ?

Shri Arun Shourie : I do not understand.

Shri Brajamohan Mohanty : I may not be clear. I can put it to you again. Have you seen all the documents which you have enumerated here—the seven documents which you have filed today ? Is there any evidence to substantiate that you have gone through these documents ?

Shri Arun Shourie : You are asking the same question in another way.

Shri Brajamohan Mohanty : I want to enlighten myself.

Shri Arun Shourie : The answer is the same. I will not answer at this stage.

Shri Brajamohan Mohanty : Have you got more particulars about the documents which you have published ?

Shri Arun Shourie : I have given the names.

Shri Brajamohan Mohanty : Do you have any additional particulars ?

Shri Arun Shourie : Additional thing is that these are all available in the Calcutta Office of the Enforcement Directorate.

Shri Brajamohan Mohanty : Have you got any additional particulars with you besides the one you have published ? You should be straight-forward. We are interested to enlighten ourself.

Shri Arun Shourie : After looking at the list of documents, I can say that I have given about the date of the document, the number of documents etc.

Mr. Chairman : You are confusing. He is talking about the documents mentioned in your article.

Shri Arun Shourie : The same documents are listed.

Shri Brajamohan Mohanty : Besides both the documents that you have mentioned in your article and the particulars that you have submitted, are there any other particulars and documents?

Shri Arun Shourie : I will give you the particulars now.

Shri Brajamohan Mohanty : So you have got additional particulars also.

Shri Arun Shourie : I had referred to the letter of Mr. A. K. Banerjee. No. FC/ON/1/82/S-A dated 2nd February 1982.

Shri Brajamohan Mohanty : Besides that is there anything more ? Do you have any Board of Editors for the *Indian Express* ?

Shri Arun Shourie : There are several editors. But there is no Board as such. I am the editor and I am responsible. There are my other colleagues also who are designated as editors.

Shri Brajamohan Mohanty : So far as this article is concerned, you are hundred per cent responsible.

Shri Arun Shourie : Of course.

Mr. Chairman : Apart from these documents, you don't want the Committee to have any other documents or oral evidence in support of any of your explanation. On this matter we will deliberate. But otherwise we take it that you don't want to produce any other evidence—either oral or documentary.

Shri Arun Shourie : Depending upon your position, after Mr. Kamal Nath has answered to these documents, I shall certainly be able to produce some more evidence. At this stage I would like to keep it with me, so that not to do exactly what is feared. This will be sufficient at this stage.

Mr. Chairman : Whatever you want to say, you say it now. Why are you adding 'at this stage'? Summing up stage comes later.

Shri Arun Shourie : The documents that I have listed will establish the questions which you have asked of me.

Mr. Chairman : That means, apart from these documents you have nothing further to say.

Shri Arun Shourie : I will have something to say by way of documents.

Shri H.K.L. Bhagat : If I understood you correctly, if the Committee after Mr. Kamal Nath's reactions to these documents feels it necessary may ask you again. Till then that is all. At this stage whatever you wanted to say and whatever documents you wanted to produce before the Committee, you have done. Beyond that there is nothing.

Shri Arun Shourie : Because of the Chairman having told me that many of the things I have been saying will be taken up at a later stage.

Mr. Chairman : Those are procedural and legal matters. Evidence is what is contained here.

Shri Arun Shourie : On evidence you allow me if you are misled on these documents. I should have an opportunity to give clarifications.

Shri Somnath Chatterjee : Assuming the Committee calls for these documents and the documents are not available then have you got anything to say? Have you got any other evidence?

Shri Arun Shourie : If the Government turns around to this august Committee and says that these documents do not exist I will prove to you that they existed. I will prove to you that those persons have perjured themselves. I will be able to assist this Committee even if the Government comes back and says they did not exist. I will prove each of the things I have said today to the satisfaction of the Committee.

Mr. Chairman : You may please now withdraw.

(The witness then withdrew)

(2) Evidence of Shri Prabhask Joshi, Editor, Jansatta

Mr. Chairman : Shall I talk to you in English?

Shri Prabhask Joshi : I can speak English but I will prefer to speak in Hindi.

Mr. Chairman : All our friends can follow English so we will talk in English.

Mr. Joshi, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against you as Editor of *Jansatta* and the Editor of *Indian Express* and *Financial Express* for a report casting reflections on Shri Kamal Nath, M.P. in an article, captioned 'An M.P. and two accounts' published in their issues dated 14th March, 1988. I hope that you will state the factual position frankly and truthfully to enable this Committee to arrive at a correct finding.

I may inform you that under Rule 275 of the Rules of Procedure and Conduct of Business in Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege and contempt of the House. The evidence which you will give before the Committee may be reported to the House.

Mr. Chairman : Now, I will ask you to take the oath or affirmation, whatever you like.

Shri Prabhash Joshi : I, Prabhash Joshi, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

Mr. Chairman : Are you the Editor of *Jansatta* ?

Shri Prabhash Joshi : Yes.

Mr. Chairman : In your paper dated 14th March, 1988, an Article had appeared and the heading of the Article was :

‘एक सांसद दो खाते’

The writer of the Article was shown as Mr. Arun Shourie. This Article appeared in your paper. Isn't it ?

Shri Prabhash Joshi : Yes. It was a news item. It was not an article.

Mr. Chairman : The original Article had appeared in the *Indian Express*.

Shri Prabhash Joshi : There is hardly anything original about it in the sense that we in the *Express* share stories. Our stories are translated into English from Hindi and *vice-versa*. You can see that it simultaneously appeared in most of the *Indian Express* publications. There is nothing original about it.

Mr. Chairman : I want to know from you, was it a translation ?

Shri Prabhash Joshi : It is not a mere translation, it is a rendering.

Mr. Chairman : You take responsibility for whatever had been written in it.

Shri Prabhash Joshi : Yes, I do take the responsibility.

Shri H. K. L. Bhagat : You obviously did not make any personal enquiries about what was written in that Article.

Shri Prabhash Joshi : When the story came to me, it did not come to me in the form it appeared.

Shri H. K. L. Bhagat : You did not make any personal enquiries about what had been written in it.

It came from the *Indian Express* and was published.

Shri Prabhash Joshi : It came from Mr. Arun Shourie to me. I did see to it that whatever appeared should convince me first.

Shri H. K. L. Bhagat : You are almost a sister publication. You published it. You did not make any personal enquiries about what is written in that.

Shri Prabhash Joshi : My submission is that when you are an Editor, you hardly make a personal enquiry.

Shri H. K. L. Bhagat : Okay. Secondly *Jansatta* and *Indian Express*, they are run by the same group of companies. Isn't it ?

Shri Prabhash Joshi : Yes.

Shri Sharad Dighe : May I take it that, the translation of what had appeared in the *Indian Express* is correct and true ?

Shri Prabhash Joshi : It depends. It is because there can never be any correct translation in English from any other language.

Shri Sharad Dighe : But it conveys the same sense, the same thought and substantially conveys the same expression and opinion.

Shri Prabhash Joshi : Yes.

Shri Sharad Dighe : What is the circulation of *Jansatta*.

Shri Prabhash Joshi : It should be above one lakh in Delhi.

Shri H. K. L. Bhagat : You said that you have not made any personal enquiries regarding the article which was published.

Shri Prabhash Joshi : I said, no Editor makes personal enquiries.

Shri H. A. Dora : Did you think that the substratum of your Article lowers the reputation of a person among the right-thinking personalities of the society ? The crux of the matter will bring down the reputation of a person in the right-thinking personality of the society.

Did you not think that if it is published, it would definitely damage the reputation of Mr. Kamal Nath ?

Shri Prabhash Joshi : It would not affect his functions and responsibility as a Member of Parliament, but it may affect him in his capacity as a businessman.

We have a Member of Parliament from Madhya Pradesh Shri Balkavi Bairagi. He is from Mandsaur. He is a poet. He became a Member of Parliament. There is a famous poem about him. It was written by one of our great humorist. Even now when Mr. Balkavi Bairagi sits on the dais,

Kaka Hathrasi recites that poem. I will recite that poem to you.

सच कहता हूँ नहीं प्राकंडे मेरे कच्चे

बालकवि बैरागी के बारह बच्चे ॥

Bal means a chil. **Kavi** means a poet.

Bairagi a child which has twelve kids. This is what he has said.

A child cannot afford to have twelve kids. He said my figures are not wrong. Balkavi Bairagi has twelve children. The entire audience then burst into laughter. In a sense one can say, it is a derogatory remark on a Member of Parliament. But it was not so because he was there in his capacity as a poet. Another poet got up and recited a poem which was a satire on Shri Balkavi Bairagi.

Shri H. K. L. Bhagat : You have not personally verified what was written there. Obviously, it came from Shri Arun Shourie. You published it. The interpretation of what is written here is that you did not make any personal verification. It came from a sister publication from an Editor—which was published. That is the correct position.

Without verifying what was written by him whether it was right or wrong, you might have believed it and published the same.

You cannot personally vouchsafe that whatever was written there was on the basis of your personal enquiries.

Shri Prabhash Joshi : I am not a Reporter investigating into this matter.

Shri Bhadreswar Tanti : I would like to ask one question. You said that this was not an Article. This was a news item rendered to you. Do you have any personal knowledge about the authenticity of the information which you had received after the matter had been referred to the Privileges Committee by the Parliament ?

Shri Prabhaskar Joshi : I did have some knowledge on the letters which were quoted in the news item.

Shri Bhadreswar Tanti : I wanted to know from you whether you have any personal knowledge about the authenticity of the information which you have already published in your paper.

Shri Joshi : I saw some of the letters quoted in the news item.

Shri Somnath Chatterjee : You said you were responsible as an Editor for the publication. I think you wanted to convey that as the Editor, you decided to publish it. Is it that responsibility that you meant ?

Shri Joshi : Yes.

Shri Brajamohan Mohanty : You are the Editor of one of the leading newspapers of the country. Do you know the position that a repetition of the defamatory or contemptuous statement also constitutes contempt and defamation ? Suppose somebody is the author of the article. Repetition of it or publication of it by you, by itself, is contemptuous.

Shri Joshi : Publication does mean contempt, and the Editor is responsible for it as anybody else. I know that.

Shri Brajamohan Mohanty : You take that responsibility.

Shri Joshi : Of course, I am responsible.

Shri Brajamohan Mohanty : You have already said it. It is nice of you. But is it not also your duty to have made some enquiry about the genuineness of the allegations—about the truth or otherwise of the allegations made out in the article ?

Shri Joshi : As I said in reply to the other hon. Member, I saw some of the letters quoted in that news story.

Shri Brajamohan Mohanty : Mr. Shourie has mentioned certain documents in the original article. You saw them. But you have not made any enquiry about the allegations. Have you, or have you not?

Shri Joshi : We carry news stories about New York every day; but I have never been to New York.

Shri Brajamohan Mohanty : In this particular case, did it not apparently occur to you that it is a defamatory or contemptuous statement ?

Shri Joshi : As I said earlier, it did not appear to be so, in relation to his capacity as a Member of Parliament.

Shri Brajamohan Mohanty : Did you consider at that time that it was not contemptuous or defamatory ?

Shri Joshi : No. I did see the letters.

Shri Brajamohan Mohanty : Did you try to locate all the points in the allegations ?

Shri Joshi : I did see the letters quoted in the news item.

Shri Brajamohan Mohanty : The full letter was not there, and he mentioned three letters. He mentioned certain documents.

Shri Joshi : Three letters have been quoted in the news item.

Shri Brajamohan Mohanty : Excepting that, you have not seen any other document ?

Shri Joshi : No.

श्री भीष्म देव बुबे : आपने अभी बताया कि आपके "जनसत्ता" समाचार पत्र का दिल्ली में सरकुलेशन एक लाख है। क्या आप बता सकते हैं कि यह और कहां कहां से पब्लिश होता है और कितना-कितना पब्लिश होता है ?

श्री जोशी : चंडीगढ़ से होता है। वहां उसका सरकुलेशन 36 हजार होना चाहिए। अभी बम्बई से दो मई से यह निकलना शुरू हुआ है। करीब 40 हजार सरकुलेशन है।

श्री भीष्म देव बुबे : तीन जगह से इसका पब्लिकेशन होता है।

श्री जोशी : जी।

श्री भीष्म देव बुबे : आप जो अपने पत्र में आर्टिकल प्रकाशित करते हैं, वे सारे लोग पढ़ें, इसमें आप विश्वास करते हैं? यह भी आप विश्वास करते हैं इसे सारे लोगों ने पढ़ा होगा?

श्री जोशी : जी। यह पढ़ा भी गया होगा।

श्री प्रभाष जोशी : इसी उम्मीद पर अखबार निकाला जाता है कि उसे लेने वाले पढ़ेंगे।

श्री भीष्म देव बुबे : आप चाहते हैं कि लोग उसे पढ़ें।

श्री प्रभाष जोशी : जी, हां।

श्री लोकाचारी : यह प्रार्थना कि "एक सांसद और दो छात्र" इसलिए निकाला जा कि लोग उसे पढ़ें और उसके तथ्यों को जानें ।

श्री प्रजापति जोशी : जी, हाँ ।

Mr. Chairman : Now you can withdraw from here.

श्री प्रजापति जोशी : कमेटी को आगे अगर मेरी जरूरत होगी, तो मैं हाजिर हों जाऊँगा ।

Mr. Chairman : Thank you.

(The witness then withdrew)

The Committee then adjourned.

Thursday, 14th July, 1988

PRESENT

Shri Jagan Nath Kaushal—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee.
3. Shri Bipin Pal Das.
4. Shri Sharad Dighe.
5. Shrimati Sheila Dikshit.
6. Shri Bhishma Deo Dube.
7. Shri V. N. Gadgil.
8. Shri V. S. Krishna Iyer.
9. Dr. Prabhat Kumar Mishra.
10. Shri Braja Mohan Mohanty.
11. Shri K. Ramachandra Reddy.

SECRETARIAT

Dr. Subhash C. Kashyap—*Secretary-General*

Shri K. C. Rastogi—*Joint Secretary*

Shri T. S. Ahluwalia—*Deputy Secretary*

Shri J. P. Ratnesh—*Senior Table Officer*

WITNESS

Shri Arun Shourie,
Editor,
Indian Express.

(The Committee met at 11.00 hours)

Evidence of Shri Arun Shourie, Editor, Indian Express

Mr. Chairman : May I, first, remind you Shri Arun Shourie that you are giving evidence under oath ? I need not repeat the oath.

Shri Arun Shourie : Yes, Sir.

Mr. Chairman : Shri Arun Shourie, I would like to inform you that the Ministry of Finance have intimated to the Committee that "The Reserve Bank of India, has informed that M/s. E.M.C. Steelal Ltd., Calcutta, had in pursuance of the permission granted by R.B.I. Calcutta, vide letters No. CA. EC. PX. 287/X. 38 (TK) (S. 23)-80 dated 26th November, 1980 and CA. EC. PX.138/X. 38 (T.K.) (S-27)-81 dated 22nd

August, 1981 had actually opened accounts in Riyadh and Dubai; the numbers of these accounts were 12,84.037 and 9528 respectively. The Reserve Bank of India has further confirmed that the R.B.I., Exchange Control Department, Calcutta, was empowered in the year 1980 to grant permission to firms to open foreign accounts”.

You have been asked to appear before the Committee to state what you may have to say in the matter in the light of the above information furnished by the Ministry of Finance. In view of the above, what have you to say ?

Shri Arun Shourie : Sir, I have several things to say. This relates to one of the certificates which my friend, Mr. Hinduja, got from Bofors. It should be examined minutely and I put the reasons to that. Sir, the letter which you have so kindly read out needs to be examined minutely and also many other certificates which have been preferred.

Mr. Chairman : This letter has been received by us from the Finance Ministry. This letter has been signed by the Finance Secretary, Shri Venkataraman. We have no reason to doubt this document and I would request you also not to doubt this document.

Shri Arun Shourie : I would put my reasons to you and you may please consider that.

Mr. Chairman : May I remind you about two earlier letters which were produced by Shri Kamal Nath were authenticated by the Finance Ministry and you in your evidence were almost doubting that the two account Numbers which you had mentioned in your article did not relate to the permission granted by the Calcutta Office ? Even that doubt has been removed by this communication and I would very much request you not to release out the documents which had been addressed to us by the Finance Secretary to the Government of India.

Shri Arun Shourie : I will equally put the authentic documents. The question is; whether the permission is granted or not. Now, Sir, the letter T-1. 531|Cal|81|46 dated 2-1-1982 from Shri A. K. Roy, Deputy Director, Enforcement Directorate, Calcutta addressed to Shri M. S. Bindra, Director, Enforcement Directorate, New Delhi, reads as follows :—

“Sir,

Sub.—Maintenance of Foreign Currency Account, 51, Canal East Road, Calcutta-700085.

We have received information through Secret source ‘X’ to the effect that E.M.C. Stealal Ltd., 51, Canal East Road, Calcutta, has been maintaining account No. 9528.3 with the Algemene Bank,

Netherland, N. V. Dubai. We have ascertained from the Reserve Bank of India, Bombay, that caption company have not been given any permission to maintain such foreign currency account.

Our enquiry reveals that the company belong to O. M. Khosla and Mahendra Nath. Shri Mahendra Nath is the father of Shri Kamal Nath, M. P. They reside at Robinson Street, Calcutta. I send herewith a copy of the secret source report and the Reserve Bank of India's letter dated 10-11-1981 for your kind perusal and further instruction in the matter."

Sir, it is the same Reserve Bank of India which has given this information. Now, Sir, I will take you to another letter from the Reserve Bank of India itself. This letter is from the Reserve Bank of India Central Exchange Control Department. This is addressed by the Controller to the Assistant Director, Enforcement Directorate, Government of India, Calcutta Zonal Office, Calcutta-16. The letter No. is ECCO FAS/E/81 dated 10-11-81.

"Dear Sir,

Sub.—Maintenance of foreign currency account abroad by EMC Steelal Ltd., 51, Canal East Road, Calcutta.

With reference to your letter No. T-1531/Cal/81/9363 dated 13th October 1981, we advise that we do not appear to have given permission to the caption company to maintain the foreign currency account abroad nor do they appear to have declared the same to us. We have noted not to correspond with the party without prior clearance from your office. Please keep us posted with the developments in the case."

Now, Sir, this is the report of the Deputy Director, Enforcement Directorate, Foreign Exchange Regulation Act, Government of India, 8, Lindsay Street, Calcutta-70008, dated 1-6-1985. It is the report to the Director, Enforcement Directorate in New Delhi.

"Dear Sir,

This has reference to the telephonic talk you had with me this morning. Information through source 'X' was received on 23-9-1981 showing that Steelal Ltd., No. 51, Canal East Road, Calcutta, maintain the account No. 9528.3

Mr. Chairman : This is the letter which is entered at Serial No. 7 of your list.

Shri Arun Shourie : Yes, Sir. This item 7 was of the last batch of my letter.

Mr. Chairman : This is 1st June, 1985. Is it not ?

Shri Arun Shourie : Yes. Kindly see the last para of my letter of May 10, 1988, to you (page 6). It says :

Furthermore I request the Committee to summon the Top Secret report (No. T-1/531/Cal/81/5637) prepared on June 1, 1985, by Mr. M. N. Bapat Deputy Director, Enforcement Directorate, Head Office, in Delhi. This Top Secret report deals with the entire case. It establishes that the Government was fully aware of the illegalities, that its officers recovered evidence that proved the illegalities, that, on orders this evidence was abandoned and false evidence created to whitewash everything."

Mr. Chairman : The document which you have just read—have you read the whole document or only a portion of it ?

Shri Arun Shourie : Mrs. Dikshit asked me whether I had made a request for this document.

Shrimati Sheila Dikshit : Is that the complete document that you read ?

Shri Arun Shourie : I am reading my letter to the Committee. Mrs. Dikshit asked me : "Have you made a request for this document earlier ?" Yes, it is listed as the seventh document asked for by me. I drew attention to page 6 of my letter.

Now I am reading that letter.

Shri Somnath Chatterjee : What is the number of that letter?

Shri Arun Shourie : No. T-1/531/Cal/81/5637. It is from Mr. M. N. Bapat, Deputy Director, Enforcement Directorate, FERA, Government of India, Calcutta dated 1st June, 1985. It is addressed to the Director of Enforcement in Delhi. It is dated 1st June, 1985.

Its says :

"Dear Sir,

This had reference to the telephonic talk you had with me this morning. Information through X was received on 23-9-81 saying that E.M.C. Steel Ltd., maintained Account No. 9528 with M/s. Algemene Bank Nederland, N.V. (P. O. Box 2567) Dubai....."

Mr. Chairman : I am afraid there is some difficulty in the document which you are reading. Would you pass it on to me ?

Shri Arun Shourie : Yes. This deals precisely with the question on the Reserve Bank which you asked me.

Mr. Chairman : My difficulty is, you asked for seven documents. Those documents we have received. And according to you the document which you are going to read is one of those seven documents. But unfortunately it is not so. That is why I am stuck up.

Shri Arun Shourie : Why so? I have given the exact number.

Mr. Chairman : That is what I am saying. Don't be in a hurry. Would you kindly retire for a minute?

(The Witness withdrew)

(Shri Arun Shourie was called in at 12.56 hrs.)

Mr. Chairman : Mr. Shourie, just now I permitted you to read the other letters because the other letters tallied with the letters which were supplied to us by the Government. But when you wanted to read this letter, I stopped you : I said, "Please stop" and then asked you from where you were reading. You said, "I am reading from this document". Then I said, "Pass it on to me". This document, I can take cognizance of, only when you take the responsibility for the authenticity of the document.

Shri Arun Shourie : Certainly I take the responsibility.

Mr. Chairman : Then you have to take the responsibility for that and consideration?

Shri Arun Shourie : Yes, Sir.

Mr. Chairman : Then you have to take the responsibility for that and authenticate the document, that it is a genuine copy of the original or whatever it is, and say how you have come in possession of this document.

Shri Arun Shourie : I shall state on this matter.....

Mr. Chairman : One of the hon. Members is suggesting that you have to take oath afresh since we are breaking new grounds. Therefore, you better take the oath, then produce the document; and then we will go step by step.

Shri Arun Shourie : I, Arun Shourie, solemnly affirm that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

Mr. Chairman : Now you say, "I am producing this document".

Shri Arun Shourie : I am producing most respectfully for the consideration of this Committee the 'Top Secret' Report authored by Shri M. N. Bapat, Deputy Director of the Enforcement Directorate (Foreign Exchange Regulation Act), Government of India, which he wrote on June 1, 1985 and sent to the Director of Enforcement in New Delhi, Shri Bhure Lal. The number of the document is D. O. No. T-1|531|CAL|81|5637.

Mr. Chairman : You better authenticate the document and pass it on to me.

Secretary-General, Lok Sabha : You may initial on every page; and on the last page you say 'Authenticated' and sign with date.

(The witness then authenticated the document and passed it on to the Chairman)

Mr. Chairman : Is it the original document or a copy, or a photo copy of the original document ?

Shri Arun Shourie : This is a photo copy of the original document which I have seen myself.

Mr. Chairman : How did you get a copy of the original document which is marked 'Top Secret' ?

Shri Arun Shourie : I am the editor of the largest selling Daily. I get this kind of things from several sources. I have got this from the officials concerned, from those persons who handle them directly.

Mr. Chairman : Do you know that an ordinary citizen of India is not expected to be in possession of a 'Top Secret' document ?

Shri Arun Shourie : The persons who handle these things were outraged by the fact that such illegalities have been deliberately buried under the carpet. That is how material on all other matters ranging from Antulay affair to Bofors to Kuo Oil deal has come to me.

Mr. Chairman : Apart from this document, have you got anything else to say on the limited question that the accounts were illegal and maintained under the authority of the Reserve Bank of India, Calcutta Office ?

Shri Arun Shourie : I will entirely confine myself to that limited question. I have already shown you the letter of the Enforcement Directorate, in which the Deputy Director Mr. A. K. Roy Chowdhury clearly says that :

“We have ascertained from Reserve Bank of India, Bombay that captioned company have not been given any permission to maintain such foreign currency account.”

He refers in that letter to the letter of 10-11-81 as well as the secret sources reports which he has received. The letter of 10-11-81 is from the Reserve Bank of India Central Office, Exchange Control Department, Bombay, which I have already given you. He clearly says :

“...we do not appear to have given permission to the captioned company...”

Mr. Chairman : Do we take it that you are depending upon only those six letters which you had asked us to summon ? For the time being you leave aside the 7th document because there is some problem in that as the one we have got is not tallying with the one you have supplied. So, you are depending on those six letters for your contention that the two accounts have not been properly and legally maintained.

Shri Arun Shourie : I am depending upon those seven documents and others which I shall produce.

Shri V. S. Krishna Iyer : Apart from the documents which you had asked the Committee to summon, are there other documents also ?

Shri Arun Shourie : Yes Sir.

Shri V. S. Krishna Iyer : Why haven't you produced them ?

Shri Arun Shourie : That question was put to me specifically earlier and my answer was that I would produce new documents. Now that the Chairman has referred to a new document, a letter from a senior official of the Finance Ministry, I shall also have to produce some documents.

Mr. Chairman : I was only asking whether you were depending on seven documents only, the list of which you had given to us. We had asked the Government to produce those documents. Leaving aside the 7th document, you depend for your contention on the other six documents to show that the accounts were not properly and legally maintained. If you want to depend on something else, then you have to tell us and you have to take our permission.

Shri Arun Shourie : I will also depend on other documents for which I shall seek your permission.

Mr. Chairman : For the moment I take it that you are not accepting the position which the Reserve Bank of India through the Finance Ministry has conveyed to us.

Shri Arun Shourie : Not at all Sir. I am dealing with one by one point. I have given you the document already to show that the Reserve Bank of India, Bombay have not given the permission.

Mr. Chairman : That we have seen. It is only a repetition.

Shri Arun Shourie : There are four other considerations which show that this letter has been given retrospectively. Especially their assertion that they had authorised these accounts is a retrospective absolution. Why that does not hold true in my view is because of the two letters I have already read. Besides there are three or four other considerations also. The first of these is that, if you notice the letter that was circulated on behalf of Shri Kamal Nath, you were kind enough to give me a copy of it, it was said that he is authorised to open an account in Dubai that was subject to a number of conditions. But the Reserve Bank says that they have given no permission.

This very company, EMC Steal Ltd., when it came to know that these investigations are going on, claimed it in its foreign remittance certificate submitted to none other than the Reserve Bank of India; but each time they make a remittance they are supposed to submit a certificate. These are the copies obtained from the Reserve Bank, you will see that they don't keep any number of the account.

Mr. Chairman : I cannot allow you to speak from other documents. You have to speak yourself. If you depend on some other document, you cannot take advantage of that document till I permit that document to go on record. Firstly the document has to be proved and then only the contents of that document can be referred.

I will repeat that for the moment the documents on our record are the two letters produced by Shri Kamal Nath, the authenticity for which has been vouched by the Finance Ministry. Then there are the six documents which you wanted us to summon. The 7th document also we had summoned, but since there is some difficulty in that, you can confine only to these eight documents for the moment.

Shri Arun Shourie : I think you would permit me to give the copies of these Dubai Bank remittance certificates.

Mr. Chairman : Last time when you appeared, one after the other asked you whether that is all that you can produce as documents. You said yes, if the Government does not produce those documents then the situation may be different. But today you want to produce some more documents. I can confront you with your own statement.

Shri Arun Shourie : I was asked whether I was in possession of any other documents also. I said yes, I will produce further evidence if what I have already submitted is not sufficient.

Mr. Chairman : You are seeking our permission for producing more and more documents. You have to give a list to us. We have to find out whether they are relevant. Then only we have to decide whether to permit you or not. At this stage you can rely on those eight documents only.

Shri Arun Shourie : You will guide me, of course. You asked me a question. Each time I tried to reply to that you stop me.

Mr. Chairman : The sequence of events indicate that the Reserve Bank of India told the Enforcement Directorate at one stage that they do not appear to have granted any permission. That was the communication from the Reserve Bank of India, Bombay Central Office. The Enforcement Directorate proceeded on that basis. Ultimately some action was taken. That action was dropped. The matter was over in 1985. Now in 1988, Mr. Arun Shourie writes an article mentioning all these sequences. Once the article appears in the market, Shri Kamal Nath in the Parliament itself declared that all these allegations against him that his company is running two accounts without the permission of the Reserve Bank of India are wrong and that he has documents with him to show that the allegations are false. He produced the documents before the Speaker. The Speaker got them verified and once the Speaker was satisfied that Shri Kamal Nath was saying the truth, he referred the matter to us.

Now the Reserve Bank of India has categorically told us that their Calcutta Office did grant the permission and the Calcutta Office had the authority to grant the permission. In view of that permission, these two accounts of which mention was made in the article was opened. But you are saying that don't believe what the Reserve Bank says today. Believe what the Reserve Bank said at that time. If this is the only controversy, then we will decide about it.

Shri Arun Shourie : I am giving you the reasons for my request. These documents were prepared not at that time, but when the letters became a public controversy.

Mr. Chairman : That we will consider. Are you disputing the point that permission as granted to Shri Kamal Nath ?

Shri Arun Shourie : Of course, I am disputing it.

Mr. Chairman : The main reason for your disputing the permission is the six letters or the seventh one that you have produced. There could be no other reason.

Shri Arun Shourie : I had taken the trouble to go back to the legal department of the Reserve Bank of India, Bombay to enquire about this.

Mr. Chairman : The controversy is very narrow. Please don't enlarge the controversy.

Shri Arun Shourie : I wrote an article about the web of illegalities. Now a third letter has come. I can either answer from personal knowledge or by reliance on documents. But you are not letting me to do either.

Mr. Chairman : What amount of time do you require ?

Shri Arun Shourie : I can hurry through this whole thing within fifteen minutes. I am sure you will give me an opportunity to explain my position on other matters. Today I will confine myself on this specific point.

Mr. Chairman : We have been telling you right through that we are not concerned with other matters. We are concerned only with two matters. On that you should be very clear in your mind. Please go ahead.

Shri Arun Shourie : I have a lot of submissions to make on these two points. You have said not to proceed on that. I have to make statements on several matters from which I differ.

Mr. Chairman : I am not the only person examining you, the whole Committee has been examining you. I am not standing on your way but please confine yourself to two matters on which we are particular, that is, were the accounts maintained by Mr. Kamal Nath legal or not and secondly about the general remarks which you have made regarding the Members of Parliament and its Committees.

Shri Arun Shourie : Certainly I will confine myself to these points but I would like to have an interval of 15 minutes at least I shall be going to Hyderabad in the evening flight and if you want me to cancel my programme, I will do so.

Mr. Chairman : We would like your evidence to be completed today itself. We shall meet again at 2.30 P.M. after lunch and then we will hear you. Now we adjourn for lunch.

The Committee then adjourned.

Committee Reassembled at 14.30 hours

Mr. Chairman : Yes, Mr. Shourie, you can continue.

Shri Arun Shourie : Sir, you asked me to give my answers on two questions. One is on the question of the accounts, and the second is, as you said, what are said to be my general remarks on Members of Parliament and so on in those articles.

My first submission is that every single thing that I have said in the articles is based on official records. These official records I have turned over to you. They cover a period of 4 years, in which there was continuing correspondence between the Reserve Bank of India and the Enforcement Directorate. The Enforcement Directorate had, after receiving information

from sources, asked the Reserve Bank a specific question that we have received information that so and so has maintained such and such account in such and such bank, did you give permission for this. They categorically said, "We have not done so". There was no ambiguity in it. It is evident from the fact that the Enforcement Directorate Office in Calcutta then wrote to the Enforcement Directorate Office in Delhi to the Directorate of Enforcement.

Shri Bipin Pal Das : I think they did not say categorically. They said, "It appears to be".

Shri Arun Shourie : I beg to differ. Kindly see how the Enforcement Directorate interprets that "appears to be". Just see. That is what I am pleading, if I may be allowed to read from the document. This is the letter from the Deputy Director of Enforcement to the Director of Enforcement :

"We have ascertained from the Reserve Bank of India that captioned company has not been given any permission to maintain such foreign currency account."

This is not a stray remark. A further enquiry has been held and I have submitted it to you also. Again, it is recorded in the file that in their reply the Reserve Bank of India replied that they have not given any permission. There is no ambiguity in the minds of the officers as to who asked the question and to whom answer addressed.

Mr. Chairman : You will feel irritated if I will remind you that repetition will not serve any purpose. It will not lend any strength to your argument. I can sum up your whole argument by saying you were depending on what happened between the Reserve Bank and the Enforcement Directorate. And you are depending for this not on your own memory and you are depending on documents. Now, those documents we have got. Based on these documents you say that "I presume that those accounts were illegal". I had put you only one question that after the Reserve Bank of India says, "Our Calcutta office did grant permission to Mr. Kamal Nath" and Mr. Kamal Nath has produced the permission which the Calcutta office had granted to him, if we come to the conclusion that those accounts were legally maintained then what have you got to say. This is a very small point. If you just keep on repeating it, though I will not stop you, it will not serve any useful purpose.

Shri Arun Shourie : Mr. Chairman, Sir, I will answer the questions to the best of my ability and I shall continue to do so.

Shri Somnath Chatterjee : Now, whatever is there in those six documents, forgetting the Seventh document, you have already told us and we

have also seen them. In your earlier evidence you said, and I am quoting your words :

“If you are misled by any document, I should have an opportunity to give clarifications.”

And you also said that if those documents are not sufficient you may produce some more evidence. Now, you have said that the Reserve Bank sources has told us that the accounts were legal. What Mr. Chairman asked you is whether you have any other additional material to show this. Instead of going back to the earlier documents, please concentrate on new materials, if you have any.

Shri Arun Shourie : In answer to that question I have four points. First is that the reason I doubt the Calcutta permission and this letter from the Reserve Bank is that the Central Office of the Reserve Bank in Bombay is the Central repository of all permissions granted. They have firm by firm, account by account permission granted information. It is the Central Office of the Exchange Control Department in Bombay. I state on oath that I have met the Seniomost legal adviser in the Reserve Bank in Bombay. They say, “We are the one who were giving permissions in 1980.” They gave me a book of guidelines. It is an internal book of guidelines, which they distribute, called ‘Book of Instructions of 1980’. This shows that the permission granted by the working groups, which are the letters that you have been given, is only in principle. The second point was about the repository of records. He said to me that if you as an ordinary citizen write to us a letter asking for something from one department to the other, we make three carbon copies. This was not an ordinary person, it was the Deputy Director of Enforcement writing a letter to us. If the permission granting powers were with the Calcutta office it is impossible that such a responsible officer of the Exchange Control Department in Bombay would varify from Calcutta who has the power to give permission. He says that is just not possible. The power was with us. More than that even if Calcutta was giving some permission, we were the one to be informed. Our records are very clear and at once we would be able to say that yes we have or we have not given the permission.

The third point is and which drew my attention to the documents which showed that the letters which had been produced were not relevant to, these accounts. In the Dubai case for instance, the letter which I was referring and which Mr. Chatterjee located, the permission is for one account. If you have permitted the examination of Mr. Kamal Nath, as I have been pleading from the beginning, or you can still ask him to state on oath, whether at any other place, before other authority, he has not claimed in the case of Dubai that the permission from this letter is related to Account Number 9567. My submission is that when this inquiry began, 9567 was mentioned. When this inquiry focussed on 9528, suddenly 9528 was inserted.

I am putting to you the argument of the Reserve Bank people itself on the internal evidence contained in those documents.

Shri V. S. Krishna Iyer : Am I to understand that there was more than one number ?

Shri Arun Shourie : Yes Sir. I would respectfully request the Committee to examine this matter. I put it like this. I am a businessman doing a large number of foreign contracts. I get general remittances reletable to 20 accounts and I actually operate 22 accounts. And when I am cornered, I say I have the permission. All the time, I have been raising this question. How is this particular letter reletable to this particular accounts? Also keep in mind the factor that the Reserve Bank is now going back upon what it maintained for four years. Therefore, I plead with the Committee to please examine how that letter is reletable to that account. Do not just take that letter which has been sent now, at its face value. The second point is much more telling, which is again pointed out to me by the Reserve Bank officials.

Shri Brajamohan Mohanty : So, according to you, two foreign accounts have been maintained by Shri Kamal Nath. Is that so ?

Shri Arun Shourie : Mr. Kamal Nath stated in a press interview that he has permission for 20 foreign accounts. He says he has permission for 'several' foreign accounts.

Mr. Chairman : Here, we are concerned only with two accounts. We have no intention to enlarge the scope of the inquiry. The article is mainly about two accounts. But I can not stop Shri Shourie. If I stop him, he feels that I am stopping him from advancing his argument. As far as I am concerned, his argument is clear to me.

Shri Arun Shourie : I am giving you the reasons for that. I cannot just make a blank statement. Then I may be accused of making a blank statement and not substantiating my argument.

Shri Somnath Chatterjee : The latest communication from the Reserve Bank gave a number in its letter relating to the Dubai account which Mr. Kamal Nath has produced saying that pursuant to the information contained in the letter, the account in Dubai was opened. Further, the Reserve Bank, Calcutta was empowered in 1980 to grant permission to open foreign accounts. The account number mentioned therein was 9528. Therefore, they have related this letter to Account No. 9528. Then why do you say that 9528 should not apply to this ?

Shri Arun Shourie : Because, in another claim he has given 9567 for the very same project.

Shri Somnath Chatterjee : Where from did you get the other number ?

Shri Arun Shourie : I got the number from the Foreign Inward Remittance Certificate. This relates to the very same project in Dubai—DUB-891.

Shri Somnath Chatterjee : Your contention is that there is another account relating to the very same transaction.

Shri Arun Shourie : Yes Sir. I am giving you the reason why we cannot take the Reserve Bank's letter at its face value. We have found out that the permission is only for one account while Mr. Kamal Nath is claiming two accounts. Secondly, kindly see the conditions that are given for this account. We should be able to verify that letter and the conditions which are laid down for opening the account. According to the conditions, the account can be used only for proceeds of the 891 Project. The document I have submitted to you shows that, on the contrary, remittances from the USA were being received and being kept in fixed deposits. I submit to you with great respect to examine the matter thoroughly.

Now it is said that the Reserve Bank, Calcutta has the power to grant permission. I request you to summon this book of instructions and examine its contents thoroughly. This is an internal book, marked 'confidential'. This is their book of instructions to officers as to how to handle projects and requests for foreign accounts. It is issued by the Exchange Control Department. Because of my high regard for this Committee, I have obtained 1980 Book of Instructions, so that later on I am not blamed that I have produced a 1985 version while the matter under probe related to 1980.

Shri V. S. Krishna Iyer : In your opinion, the Calcutta Bank has no authority to give permission. Is that right ?

Shri Arun Shourie : Right, Sir.

Shri Somnath Chatterjee : What are the Reserve Bank's reasons ?

Shri Arun Shourie : We have to understand what the Government had devised, so as to overcome these delays that used to be occurring because of multiple agencies. The contractor had to go to many agencies. They set up a working group consisting of several agencies. If I had heard that their tenders had been invited in Dubai, instead of going from one agency to the other, to obtain information to submit my tender, I could go to the working group. They would go through my proposal and give me approval strictly in principle, not to open the account—but to go and give the tender. After the tender had been submitted—this approval for overseas construction is exactly the case regarding Mr. Kamal Nath—the approval to go and submit the tender is there. If I won the contract, I shall come back to one of those agencies. For example, I have to go to EXIM Bank for a credit guarantee which I may have to use for my supplies. It is not that because the working group has given it, I would automatically get the credit guarantee, or

that the Export Guarantee Corporation's concurrence for covering my risks. I have to go to each one of the agencies and then get specific approvals. In the case of the Reserve Bank, it specifically says, and I accept it in good faith, that the account to be opened was for less than Rs. 5 lakhs. I could go to a small office. Even then, the small office had at once to inform the Central Office. If it was for more than Rs. 5 lakhs, as it certainly was, the permission had to come from Bombay. This is what I am told. I am only repeating.

It is in this book. In fact of all these conditions are also reproduced. On that matter, if the Director again departs from the book, I would request that you permit me to, as I said earlier, examine Reserve Bank officials. Then it would lead to other arguments.

The third point is that every single thing in my article—I say this with the greatest emphasis at my command—is nothing but an absolutely faithful paraphrase of the official documents and records. In fact, nine-tenths of it is putting in indirect speech what is put there in a direct speech. As a Journalist, if I get a straight letter, I may not be able to act on it. But correspondence exists for four years and after examination over four years the agency under the law, i.e. which is charged under the law, to act in such matters, acts and it finds evidence exactly corroborative of what the source report says, it finds the existence of these accounts, and that these accounts are receiving money from USA, being kept in fixed deposit and that it has not been reported to the Reserve Bank, he is making payments out of it in spite of and against the condition that it should not be done. They say : We have found evidence of his making payments, transactions of under-invoicing of exports—all this has happened.

While all this is recovered, the officers are forced, on orders from Delhi, to stop the raids, to return the evidence and to create false evidence saying that they did not find any evidence. This sentence occurs in the officer's i.e. Deputy Director's own hand. So, I had this belief that there were these accounts, that in the eyes of the responsible authorities, these accounts were unauthorized. Action was taken, and then all these things have happened.

Shri Somnath Chatterjee : Is it your evidence that for what the Reserve Bank had stated to be the permission—they have now mentioned 9258—there is no basis?

Shri Arun Shourie : I would like you to closely examine it. I have given my reasons. If the Chairman permits, I would like that those persons who have given such a statement be examined.

Shrimati Sheila Dikshit : They have given it in writing.

Shri Arun Shourie : The second point the Chairman raised is about the general remarks, which are attributed to me, about Members of Parliament.

In this connection, attention has been drawn to two sets of remarks. The Chairman was pleased to quote the portion where the reader asks the question : 'These are the shameless fellows. What is the use of doing all this ?'

As I have explained earlier, I have been writing—whatever I have written is published—for over twelve years i.e. at least since 1976. I have always written for the strengthening of such institutions. In this particular case, I immediately answered the question. You see the article. In the first column of that article, I had said : "Mr. Kamal Nath is a part of the ruling coterie"—not that all Members of Parliament are being talked about. Immediately in answering that reader's question, I again say : 'But look at Amitabh Bachchan'. Then again I am talking about that coterie.

The second argument, as I had suggested earlier, was that I had been so perverse as to think that all Members of Parliament—like the gentlemen I have before me like the Chairman, like Mr. Somnath Chatterjee and others for whom I have such affection and regard—are shameless people; it is amazing that anybody would believe it. Suppose I do that : will I then plead that this Committee be set up of such Members of Parliament to examine the allegations that I am making?

It just does not stand to reason. Similarly, I think it was Mr. Bholanath Sen who said : Look at your title : 'An M.P. and two accounts.' You did not say, 'Mr. Kamal Nath and two accounts'.

There are many facets of writing. Suppose I refer to Mr. Kaushal's speech at Chandigarh. Neither is it a pejorative word. There are so many Kamal Nath's. Does it mean that every Kamal Nath should make it an issue of defamation? Should I have said : "Kamal Nath, son of Mahender Nath, Canal Road, etc. and two accounts?"

It is a short form of writing something. Again, Mr. Sen—I was surprised that a lawyer of his eminence said it—said : 'By this, don't you imply that all MPs have dual accounts?' It is beyond my imagination how such an interpretation can be foisted on my title. Secondly, if I had believed that all MPs are guilty of this transgression, will I appeal that they should set up their own committees with people of their own, and promise to them that keeping everything which is written in this article in view, I will assist those committees with these documents? It just does not stand to reason.

We have to see all this in the context of writing articles on the issues of public importance. We have a right under 19(1)(a) for writing articles on issues of public importance. Reasonable restrictions are allowed and the privileges of Parliament are not those grounds and have been left out of that. The contempt of the court has been included. Privileges of Parliament have not been included. Under Art. 51(a) I proceed with the spirit of enquiry and reform. I have taken all reasonable care. As I mentioned last time, the first informant in this matter was an employee of

Mr. Kamal Nath's own company. We receive information from the officials orally. We also receive letters. Till we have the entire file dealing with a particular case, we do not start writing anything. We have checked with the Reserve Bank who has power and who does not have power. They quoted a particular action of FERA. We must ensure that everybody strives for excellence. This is exactly in that spirit that I have written it. I am duty bound to write like that. I had dealt with the question of other MPs also. There are comments of the Privileges Committee on articles. They have been held not to constitute any breach of privilege in regard to a matter arising out of the business being transacted by the House. There is a ruling by the Speaker. I do not remember the exact words. Nobody has yet said anything about it. I went through it very diligently. I have read your rules and other digests. If sufficient care is taken in advance, then it shall not constitute a breach of privilege. Supposing the Reserve Bank had said at that time that they had not given the permission; supposing the Reserve Bank now say that they have given the permission. Supposing I have proceeded on those documents. If some subsequent enquiry shows that an error was committed in making an allegation against a Member of Parliament, it shall not be deemed to be a breach of privilege provided reasonable care has been taken before the allegation was made. If sufficient care was taken in the beginning, there is a ruling by the Speaker which says that no breach of privilege was committed.

I will just mention two small things.

Mr. Chairman : I am only reminded of one thing which a Judge told me once. He said, "Mr. Kaushal, do not repeat; you may repeat, provided repetition lends weight to your argument." I only wanted that you should not repeat. Even we repeat in the courts. Only the Judges say that repetition will not lend weight to our arguments.

Shri Arun Shourie : We are in the same place just as you have mentioned.

I will come to the next point, and I will take only a few minutes. I am mentioning this because it turns out to be injustice to me but also because of my extreme regard for the Committee and the institution of Parliament. I have to make a large number of suggestions about the procedure that should have been followed. You have mentioned May's Parliamentary Practice,—I think 1981 edition—about the procedure followed. I want to say emphatically that the procedure followed this time should never be followed. It was specifically stated and several authorities have held, the Supreme Court, in Special Reference of 1984, in Shah Commission, about Shrimati Indira Gandhi's and other cases, in Delhi High Court, that the procedure followed should be valid under Articles 19, 20 and 21 specifically, and this requires that the evidence should have been recorded

and received in front of me. In fact, I am surprised that five witnesses have been examined, unknown to me. Even now you are asking me a question relating to a particular document, which I requested you to summon. I am aghast that the Government has, using that particular number, given you some other document. But even now, I do not have that document, so that I can respond to you and show it to you, so that I can conclude my evidence. I do not know what to do, if the contents of that document are sprung on me, I would have no contention to refute it. That is what has been done. You did not permit me to be present. Under the rules I should have been permitted to be present when the witnesses testify. If I had been present, the embarrassment to which the Members have been put—because Members put words in the mouth of Mr. Kamal Nath—could have been avoided. I have not been able to put questions to, or have questions put to persons like Mr. Kamal Nath, on my behalf. I have been made to answer questions and disclose my defence, as I have said in the beginning and I had expressed my apprehension in writing to you, in support of my evidence before any evidence was taken, but even before the complainants have been asked to state, *prima facie* about the maintenance of these two accounts, legal or illegal, by a businessman who happened to be a Member of Parliament, concerning his conduct as a Member of Parliament, in the business transacted in the House. No one asked that question. He only answer, "Yes, Sir, Yes Sir, Yes Sir,". And yet, I have been asked to disclose my defence. Throughout this time, I have been told that the Reserve Bank says that there is an authority. It requires interpretation of the FERA regulations, it requires an interpretation of this book consisting of instructions issued by the Reserve Bank, the Exchange Control Manual as it subsisted at that time. Then, Mr. Kamal Nath too—let us say—discusses what we are discussing involving disputed questions of fact. It is evident that these proceedings are liable to affect my reputation and liberty, protected under Article 21. In these circumstances, in this case, I have repeatedly been denied the assistance and guidance of counsel.

Shri Somnath Chatterjee : You are able to look after yourself.

Shri Arun Shourie : That may or may not be the case.

Shri Somnath Chatterjee : After all, we have told you, that our procedure is not to have lawyers unless the Committee feels that in your interest in such and such eventuality on such and such occasion lawyers may be needed.

Shri Arun Shourie : That may be your view. But the person who is accused may want to have a counsel.

Shri Somnath Chatterjee : This is not a criminal court.

Shri Arun Shourie : In my submission, this Committee in regard to its reports, has been held to be a tribunal with such a jurisdiction. The person

who is appearing is the accused, the thing he is being judged for is an offence. All these are there in your books, like *May's Parliamentary Practice* and Kaul and Shakhder's *Practice and Procedure of Parliament*. You may be good enough to say that I am able to defend myself. But I may not feel so, with such eminent persons sitting on the other side.

The first point is that the procedure that is followed will do injustice not only to me, but it will affect the outcome of these proceedings.

Secondly, about the remarks that have been attributed to Members of Parliament, it is a complete misconception which has been foisted on my article about the illegal accounts. In the eyes of the concerned department they were legal; nevertheless, even if they were illegal they do not come within your jurisdiction. They do not concern the conduct of the Member, arising out of the transactions of the House.

Shri Somnath Chatterjee : You have referred to some authorities about this procedure. Will you give a list of those authorities to the Secretariat ?

Shri Arun Shourie : I will give.

Shri Somnath Chatterjee : Also give the list of cases cited and the relevant portions and the authorities.

Shri Arun Shourie : I will give. One you wanted is about the Rs. 5 crore interview, that he will sue us for damages.

Shri Somnath Chatterjee : You referred to some past cases of privileges. Give those references also.

Shri Arun Shourie : I will do that.

Shri Somnath Chatterjee : Then you referred to some other documents and guidelines. The relevant portions of the same may be sent to us.

Now tell me one thing. Would you like to say that the accounts were illegal based on your personal knowledge or you have written it on the basis of what you have gathered from the official documents ?

Shri Arun Shourie : Yes, I have written the article on the basis of the documents gathered by me. I cannot go around Saudi Arabia and establish that the accounts were illegal. I had to depend upon the concerned agencies. There are two concerned agencies—the Reserve Bank of India and the Enforcement Directorate. So, I relied on the documents. Several times I have told you that I relied on the documents. I was honest right from the beginning. I gave the letter numbers, document numbers to the Committee.

Shri V. S. Krishna Iyer : You have said that you had written this article based on the official documents. You have also stated that you gave the letter numbers, document numbers, etc. Subsequently, the Reserve

Bank of India has given clarifications in their letter, which was read out to you. My question is, why do you not believe this particular letter ?

Shri Arun Shourie : Sir, I have some experience in giving this kind of document. Similar certificates and letters were produced in the case of **Antulay**. The then Finance Minister, now the hon. President, relied on the information. Even the Speaker relied upon it. Mr. Antulay went into the examination of those documents. When the Parliamentary Committee—it was the Public Undertaking Committee headed by Shri Bansilal—was examining the Kuo Oil Deal, certain documents were suppressed and similar documents were given. When the Parliamentary Committee was examining it, it was told that the file was missing and that they could not trace it. After that, I traced that file. It contained about three hundred pages. Then I published the extracts of that particular file for the assistance of the Parliamentary Committee. When Rajya Sabha and Lok Sabha were agitated over it, you people were telling the Committee that no file existed. Then I started printing the file. It was said by a responsible Minister and the Chairman of the Committee that minutes were not ready. The next day, I printed the minutes.

Bofors has been going on for the last one and a half years. Certificate of Hindujas has been procured not only from Reserve Bank of India but from other countries.

As I have mentioned already, unfortunately for us, when persons close to the ruling party are involved, all sorts of documents come up like this.

You have asked me a question, 'why do you not believe this letter ?'.

The Joint Parliamentary Committee relies on the certificate given by Mr. Win Chadha. Four of the officers of the Enforcement Directorate, who were actually the interrogating Officers, went to America and brought this certificate. I printed this certificate. Just see, my colleagues in 'The Hindu' have published those documents completely. Our Parliamentary Committee was misled. Our plea is, please have a look at that. It is the very senior officer, Mr. Venkitaramanan who gave this to us.

In this case, Mr. Kamal Nath is an important Member of the ruling party. Please look into those documents. This is what I would like to say.

Shri Bipin Pal Das : I want to ask a simple question, I want a straight answer. Have you at any time, during your journalistic career, written any such article about any business man or anybody else in public life ?

Shri Arun Shourie : Yes.

Shri Bipin Pal Das : How many times ?

Shri Arun Shourie : I do not know. I have been writing for twelve years.

Shri Bipin Pal Das : About whom ?

Shri Arun Shourie : Mr. Kamal Nath for one I have written such articles about Mr. Sanjay Gandhi and their group—Mr. Jagan Nath Mishra, Mr. Gundu Rao and others. Even I have written articles about Reliance Industries.

Shri Bipin Pal Das : My question is, 'would you write such articles even if Mr. Kamal Nath was not a Member of Parliament ?'.

Shri Arun Shourie : We wrote about Reliance. These are issues of public importance.

There is a sentence in the article that Mr. Kamal Nath represents Chhindwara constituency in Lok Sabha. If he is not a Member of Parliament and continues to be a person close to the seats of power, I would have written about it exactly like this, excepting the sentence that he represents Chhindwara constituency in Lok Sabha.

I had written an article about Ajitabh. Look at it. He is not a Member of Parliament.

Shri Bipin Pal Das : You have given this impression to the readers that you have written this article only because Mr. Kamal Nath is a Member of Parliament.

Shri Arun Shourie : I emphatically deny it. The whole article is written as a part of the coterie of the Prime Minister.

Shri Bipin Pal Das : You could have chosen some other title for this article.

Shri Arun Shourie : I had already explained on this point. If you want me to do it once again I will do it.

Shri Bipin Pal Das : I am not convinced. You could have given the title as 'Industrialist and two accounts', 'Rajiv's friend and two accounts'. or some other thing.

Shri Arun Shourie : You are foisting a thing, which I repudiate. You can go on foisting sitting here as judges.

Shri Bipin Pal Das : You said that the Committee tried to put words into the mouth of witnesses.

Shri Arun Shourie : Yes.

Shri Bipin Pal Das : If you say this, does it not amount to contempt of the Committee ?

Shri Arun Shourie : If you go on putting questions repeatedly and then expect me, as an accused, to keep quiet, that is not fair. I have put it on record. I have reproduced the records in the letter. What you say gives

an impression that the whole thing is deliberate, wilful, sustained and shows the contempt for Parliament and for its committees and for every Member of Parliament. Is that not true ? Several times you asked me such questions and is it not putting the words into the mouth of the witnesses ? If you expect that, then I beg to differ with you. You are trying to threaten us. That is not the case. I regret to say, this is the error of this Committee. And it is a matter which I shall certainly always pursue.

Mr. Chairman : I will again request you to use polite language. It is in your own interest not to use any derogatory words regarding the members of the Committee. I had warned you earlier. I again tell you, as usual, be polite, be respectful and do not try to arrogate more privileges to yourself than attached to a person who is appearing before such an august Body. That is all

Shri Bipin Pal Das : You have said what you have to say in answer. Why have you titled it 'An M.P. and two accounts'. You have no intention to drag an M.P. as such, but that is the language of the article. 'The charge here is as grave as it can be; a company of a Member of Parliament has had foreign accounts. . . .' What impression does it convey to an ordinary reader like me ? This sentence, as reader of the article, convinces me that you tried to condemn a Member of Parliament for having two accounts, which is supposed to be illegal as Member of Parliament.

Shri Arun Shourie : I have made my submission. What I really think I have said. I follow the instructions of the Chairman. Please look at the law.

Shri Bipin Pal Das : Do not talk about law. That we know. Answer what I asked ?

Shri Arun Shourie : As judges performing a quasi-judicial function you have to go by the law. If it were the case that you go by what I write or say, you would not be in this situation. I have said five or six times that the law is clear on this. The allegation must concern the conduct of the Member and not my questioning or calling him M.P., but the conduct of the Member in this matter. Why do you not see this ? Why is it somebody else asks question on this matter ? Kamal Nath is not even saying so. Why is it so ?

Shri Bipin Pal Das : You have come to the conclusion yourself in your article that "if the charge is true, the conduct of a Member of Parliament scandalises Parliament".

Shri Arun Shourie : I say, two things. One, the charge is true as official records and confidential and contemporaneous evidence are unassailable.

Shri Bipin Pal Das : But you said, "If it is untire, I am scandalising the institution", Does it not affect the reputation of Parliament as a whole ?

Shri Arun Shourie : Exactly. For instance, Parliament is Caesar's wife. It must be above suspicion. That is why, many times, if a Minister misleads the House, he must be hauled up because people outside should not get the impression that this is the forum in which anything goes. Similarly, if the brother of an M.P. is shown by us to have acquired foreign assets of Rs. 85 lakhs and the brother has made a statement that he has not acquired any asset, it is presumed to be contempt of Parliament because a lie has been spoken. So all of you get agitated and the man correctly resigns. So my first point is that the charge is true. Everything in the charge was based on declaration/document of that time. Secondly, if subsequent enquiries like this show that an error has been committed, let us assume for the time being that this is true, even then it does not amount to breach of privilege of Parliament because on a very specific point of reasonable care has been taken it would not be deemed to be a charge. The third is, even if I had quoted other journalists, their writings, let us assume, that is no argument in which the Committee will proceed. You should proceed according to law.

Shri Bipin Pal Das : The point on which I am insisting is that he has said in the article that "If the charge is true, the conduct of a Member of Parliament scandalises Parliament...".

Mr. Chairman : Mr. Das, he had written what he had to write. Now we will interpret ourselves.

Shri Brajamohan Mohanty : You have produced a letter dated 1-6-1985. My question is were you present when the photostat copy of this letter was prepared ?

Shri Arun Shourie : It was taken in the adjacent room, I was here after the photostat copy was made, it was given to me.

Shri Brajamohan Mohanty : So, the answer has come. My next question is whether the carbon copy of the original document is with you.

Shri Arun Shourie : No, it is not with me at the moment.

Shri Brajamohan Mohanty : But you had said that you will produce it.

Shri Arun Shourie : I said, Sir, that if the Finance Ministry disputes the authenticity of this document, I will try my best to get the carbon copy of the document with the handwriting of the person concerned in blue ink because I had seen that myself. It is not with me.

Shri Brajamohan Mohanty : Who had written the document of 1-6-1985 ?

Shri Arun Shourie : The Deputy Director himself has written it.

Shri Brajamohan Mohanty : Could you disclose to us the name of the persons who disclosed this information to you for the first time ?

Shri Arun Shurie : Certainly not, Sir.

Shri Brajamohan Mohanty : When you had written the article, we were all those documents which you are referring to now in your evidence today, in your possession ?

Shri Arun Shourie : Yes, I was having the photostat copies.

Shri Brajamohan Mohanty : Were you having photostat copies of all those documents that you are referring to ?

Shri Arun Shourie : Certainly.

Shri Brajamohan Mohanty : In your evidence in the morning, you wanted to produce some other documents besides those which you have mentioned in the list. I mean, to establish your case, you wanted to produce the photostat copies of some other documents. Were these documents also in your custody at the time of writing this article and at the time of writing your petition ?

Shri Arun Shourie : No, they were not in my possession when I wrote the article. When questions were put about the Reserve Bank last time, then the whole question was to produce those two letters of Kamal Nath. Before the second examination, I went back to the Reserve Bank and told them that this is what these two letters are about. So, I did not have them at the time of writing the article, I did not have them at the time of the first examination. But by the time of the second examination I had them. Shri Chatterjee and others have been asking me whether I had other documents and I said : Yes, I will produce those others also if I get them from the Reserve Bank. By 10th of May, these documents were with me. That is why when somebody asked me : "Do you have more documents", I said : "Yes, if it is necessary, I will produce them".

Shri Brajamohan Mohanty : You did not mention about those documents in your petition because you considered them not to be relevant.

Shri Arun Shourie : Not at all. I know that the Reserve Bank will come up with some fabrication. When they were forced to do a thing like this, I am grateful to Mr. Chatterjee that he reminded me. He said : "You yourself had said that there are some other documents."

Shri Brajamohan Mohanty : You got those documents and you kept them with you because you considered that the Reserve Bank of India would perhaps manipulate something and for the purpose of defence you would produce them when need arises.

Shri Arun Shourie : Yes, Sir.

Shri Brajamohan Mohanty : So, you have taken reasonable care before publishing this article. I want to know what reasonable care has

been taken by you excepting that you have produced the documents, excepting that you collected secret sources. Have you taken any other reasonable care which would genuinely indicate that those allegations are correct?

Mr. Chairman : He had characterised the reasonableness by saying one is this, the second is this and so on.

Shri Brajamohan Mohanty : All relate to that document. Besides these documents, what are the other relevant sources to get this information and whether any other care you have taken.

Shri Arun Shourie : I have mentioned to you that the employees of Mr. Kamal Nath Company had talked to us. Now, I am reminded of one question. It was his question : 'They said 'I am under observation'. They want somebody else. There are two other categories. We took care to examine the officials who entered the case. We also took care to question the Reserve Bank officials.

Shri Brajamohan Mohanty : My question is : whether you disclosed the name of any other person from whom you have enquired ?

Shri Arun Shourie : Certainly not, Sir.

Dr. Prabhat Kumar Mishra : Were you aware that he had only two accounts of an M.P. But today you have mentioned about the third account. Were you aware of the other accounts also ?

Shri Arun Shourie : I was not aware of any other account. I just mentioned this in response to Mr. Mohanty's question, because these documents came to me after discussion here.

Dr. Prabhat Kumar Mishra : Were you aware that he had only two accounts ?

Shri Arun Shourie : He may have many other accounts. But I did not have any concern with that.

श्री भीष्म देव दुबे : आपके यहाँ से इण्डियन एक्सप्रेस, जनसत्ता और फाइनेंशियल एक्सप्रेस के अलावा भी समाचार पत्र निकलते हैं ?

श्री अरुण शौरी : जी हाँ, बम्बई से लोक सत्ता है और दक्षिण से भी स्थानीय भाषाओं में पत्र निकलते हैं।

श्री भीष्म देव दुबे : जो आपने एक एम०पी० हेव टू प्रकाउंट्स के नाम से आर्टिकल को छापा तो वह सनी आपके अखबारों में छपा होगा ?

श्री अरुण शौरी : सारे अखबारों ने उस आर्टिकल को छापा था।

I think this has been published in all the papers.

श्री भीष्म देव दुबे : आपके पूरे समूह का कितना सर्कुलेशन होगा ?

Shri Arun Shourie : I do not know. I will have to look into my records.

श्री भीष्म देव दुबे : आपके जितने अखबार हैं सब में यह छपा और उनके रीडर्स ने सबने पढ़ा होगा। आपने जिस आधार पर आर्टिकल लिखा क्या यही चाहा कि लोग भी यही समझें जो आपने समझा है ?

श्री अरुण शौरी : मेरी कोशिश तो यही थी मगर यहां बहस से पता लग रहा है कि कहीं पर दूसरा ही मतलब समझा गया है।

श्री भीष्म देव दुबे : जितने पढ़ने वाले हैं आपके अखबार के वह सब तो बुद्धिमान नहीं हैं कि जो आपने लिखा है उसी को वह समझें।

श्री अरुण शौरी : यह नहीं है। मुझे 10-12 साल हो गये लिखते हुए। मैं समझता हूँ कि छोटी से छोटी बात भी पाठक समझते हैं, चाहे मैंने ठक्कर-नटराजन के बारे में, या किसी और के बारे में आप साउथ जाकर देखें लोग बेखबर तो हैं लेकिन इतने बेखबर नहीं हैं।

I agree that what you were trying to say is : "Was it not liable to be misunderstood by the persons who were not aware of the factual thing?". I have not come across any person saying so. I remember that quite a lot of persons met me and nobody had said anything ever after one and a half years. I want to give you instances after instances. When information has been denied to Parliament, I and my paper have taken the risk of being hauled up under Official Secrets Act for serving Parliament with those documents. When Mr. Brahma Dutt had stated something in Parliament when the Fairfax controversy was going on, even when our legal adviser had said "don't reproduce those documents because you will be hauled up". I thought it was our duty to serve the Parliament by publishing the factual matter. Sir, my intention is not to denigrate the Parliament. I wrote it because of my regard to the Parliament: we took this risk, because of our regard to the institution of Parliament.

श्री भीष्म नारायण दुबे : इसके बाद क्या यह समझते हैं कि आपका यह आर्टिकल पढ़ने के बाद जो मिलियन्स आफ रीडर्स हैं, जैसा कि आपने बताया, क्या उनमें से किसी ने यह नहीं समझा होगा कि जो आपने अपने आर्टिकल में लिखा है, वह मैम्बर आफ पार्लियामेंट पर एक आरोप है ?

श्री अरुण शौरी : श्रीमान्, मुझे पूरा यकीन है, जो मेरे आर्टिकल पढ़ते रहे हैं, वे कभी ऐसा नहीं समझेंगे कि मैं पार्लियामेंट पर कोई ब्लैक पेंट कर रहा हूँ, क्योंकि वे जानते हैं, मैं दस साल से एक ही बात लिख रहा हूँ।

Shrimati Sheila Dikshit : We heard you with attention today, and the impression that we have gathered is that you are constantly in pursuit of truth, you want to bring out the truth. And in that pursuit you have been to the offices of the Reserve Bank, you had talked to the officers in the

Enforcement Directorate, you had even spoken to the officers or people working in the Company of Shri Kamal Nath, Member of Parliament. But one question has arisen certainly in my mind and I am sure in the minds of other hon. Members of the Committee also that in this relentless pursuit where you exercised your privilege as a journalist quoting from secret documents and so on and so forth, you did not ask the one person who was going to be the subject matter of your article, that is, Shri Kamal Nath. If I remember correctly at some point of time Mr. Bhagat asked you : 'Have you ever spoken to Kamal Nath ?' and you had said 'no'. It is a bit of a surprise because this man and the institution which he represents, both of which are clubbed together, that is, Parliament, is the one person, in your duty towards the society or your pursuit of knowing the truth, whom you just did not ask whether on the documents that you have received, or the opinion that you have received from his own officers he had got anything to say.

Shri Arun Shourie : There are three reasons for it. One is the official record is so unambiguous as you can see from the document I have submitted to you—aids conducted etc.—in that we have discovered evidence that there are two foreign accounts, under-invoicing of exports, remittances into the foreign banks etc. the record speaks for itself.

The second point is about Mr. Kamal Nath. I had the bitter experience in my relentless pursuit of truth. I wrote about him in 1982 in the Kuo Oil deal. In Kuo Oil case Mr. Kamal Nath in his association with his school friend and chum Mr. Sanjay Gandhi, was able to give a contract of 200 million Dollars to a Company and later destroyed all the evidence.

Shrimati Sheila Dikshit : I have asked you a very clear question. I do not want to go back into history.

Shri Arun Shourie : I may answer the question in three points.

Shrimati Sheila Dikshit : You talked about unambiguity. I want an unambiguous answer.

Shri Arun Shourie : I have given you precisely an unambiguous answer. One is, the official record is clear and unambiguous. Secondly, as I know from my own experience, when Mr. Kamal Nath comes to know about this, he may destroy all the evidence. Earlier, there was a statement in Parliament, Mr. Kamal Nath was influential enough to destroy the evidence.

Shrimati Sheila Dikshit : Destroy the evidence of Parliament?

Shri Arun Shourie : Yes. The Committee was told that there was no file. Thirdly, he was so influential that he got me thrown out of my job.

Shrimati Sheila Dikshit : I thought you had resigned.

Shri Arun Shourie : No, Madam, I was dismissed. I always maintain that I never resigned.

These are the three reasons. I have the experience of this man. Earlier, the evidence disappeared as he was very influential. Consequently, I had the experience of him to say that he can destroy the evidence.

Shrimati Sheila Dikshit : The documents that happened to be in your possession are unambiguous in their evidence. That is what you said. So, you did not mean to go to Kamal Nath. When the honourable Chairman mentioned about the Reserve Bank's last communication, when the hon. Chairman referred to the two documents which were shown to you of Mr. Kamal Nath, who the hon. Chairman gave you a letter from no less a person than the Finance Secretary, you doubt that. Now, it leads to some question in our minds that when it suits the purpose or which you are pursuing, you call that evidence or that document as final, the whole truth and the entire-truth and from those very sources if there is any evidence or opinion which is contrary to that, you doubt that ? I am not able to understand this contradiction that when it suits a person the thing is ruthless, and when it does not, then somebody is interested. According to you, some powers are there, and if these powers use this kind of thing, then how did that information get to you, how did those papers get to you ? So, there is a bit of confusion, at least in my understanding. I am not able to understand it. To me, it looks your perception of the truth is different from the perception of several of us sitting here and many of your readers also. It is because, you are not able to convey to us or something is lacking in us that we are not able to understand it.

Shri Arun Shourie : It is not that when it suits my purpose, I believe the document and when it does not, I disbelieve it. When the record is complete, I said, Yes, it is complete. I have given you detailed reasons—no assertion but reasons—why the evidence status of document at that time is much greater than these letters that have been given now. It is not my purpose and my judgement.

The second thing that you said was, if the power could be used to destroy it, why were they not able to use arm—twisting earlier, at that time itself, either not letting such evidence to be created or if it had been created, to destroy it ?

Shrimati Sheila Dikshit : I did not use the word "destroy" at all.

Shri Arun Shourie : That is, such documents would not have come to us or would have been distorted.

Madam the points are : first the powers could not be used till that time because, they did not know that I was getting these documents. That is the safeguard, I observed. I got all documents complete.

Shrimati Sheila Dikshit : In the case of Mr. Kamal Nath, as you said, about the Kuo oil deal case, he would have been really concerned.....

Shri Arun Shourie : Precisely, he did not know that. He did not know that I was receiving these documents and searching for them and therefore, he was not able to do anything. Once the whole thing has been published, by that time, all these documents, as I said, were already in my possession. If the Government gives some other document by that No., I can immediately produce the photo copy of the original which is in my hand. There is nothing which Mr. Kamal Nath can do now. That is the reason for taking the precaution.

Second point is, power was used to twist the arms of the officer. No less officer than the standing of the Deputy Director of Enforcement, with 20 years of service will commit two serious crimes, each of which is separately punishable with 7 years rigorous imprisonment. This is the crime, they were made to commit, i.e. the destruction of evidence by returning that evidence and creation of false evidence, that is, nil Panchnama. Arm was twisted exactly as you said. But the officers were careful.

Shrimati Sheila Dikshit : I have not said that. You said so.

Shri Arun Shourie : I am right in saying that the arm was twisted because that is what the document shows. A man himself records it. A phone call came from Special Director, Enforcement, Mr. D. C. Kohli. It is there in paragraph 8. Assistant Enforcement Officer was not believing this. Therefore, the Deputy Director himself rang him up and on orders from him, the raids were stopped, evidence was taken away, nil panchnama was filed at all the three places.

Shrimati Sheila Dikshit : You are not answering my point.

Shri Arun Shourie : You were asking why were they not able to twist arm. I told you, they did not twist the arm earlier. The person whose arm they twisted, had already recorded it in writing. This they did not realise. Mr. Kamal Nath did not know, precisely because of the precaution I took and I got those documents. Once I got it, the Government may give any document appearing the same No. I can produce to you the photo copy of the original, as I have produced.

Shrimati Sheila Dikshit : I am still not convinced. Your judgement tells you that this is the truth and the whole truth and you completely obliterated any truth that is outside your judgement and arrogated to yourself, that you are the custodian of the truth you did not want to find out, you did not even want to know what the other party had to say. You did not want to do it because you would arrive at the truth, which according to you may be different and which you had already pre-judged.

Shri Arun Shourie : Madam, on the contrary, you are using strong words. Madam, you are saying, you are arrogating yourself. It is a very strong word. You said judgement pronouncement and all that.

Shrimati Sheila Dikshit : I did not use that word.

Shri Arun Shourie : You are attributing a motive to me. You said, I did not go for the truth to the extent of enquiring from Mr. Kamal Nath because that would have been contrary to what I had been wanting to present.

Shrimati Sheila Dikshit : Yes, that is the kind of inference, I draw.

Shri Arun Shourie : This is the inference, you want to draw. That is exactly how you are foisting a motive on me. Why don't you foist a motive on you ? I am sorry to say that a person whom I know for the last 20 years, is imputing a motive on me. Then, I will say, because of the position you have, you want to foist a motive like this. It is precisely so.

Shrimati Sheila Dikshit : I am trying to seek an answer.

Shri Arun Shourie : What you are saying is . . .

Shri Somnath Chatterjee : Please restrict yourself to the question and answer. You can deny it.

Shri Arun Shourie : I most emphatically deny it namely that I did not want to talk to Mr. Kamal Nath merely because I wanted to project a particular line. That is not the thing. I did not talk to him because of the three reasons that I had given.

Dr. Prabhat Kumar Mishra : There is one contradiction in Mr. Shourie's version. I asked him, what is the number 9567. He said, in the original version. I asked him, what is the number 9567. He said, in the original number. He said, he knows Mr. Kamal Nath very well and he has collected all the materials. But the number was not ready with you. You collected it later on. But you said, you were in possession of all the documents.

Shri Arun Shourie : I said about all the documents which I had turned over to the Chairman and on which the articles are based. Every fact is based on those documents. Even if the Committee completely disregards what were said orally, the document speaks for itself. Paragraph by paragraph, you can match them. Those documents were in my possession. There is no contradiction.

On the last occasion, the Chairman gave me copy of two letters which Mr. Kamal Nath gave to the Speaker. I then made enquiries with the Reserve Bank regarding those letters. Today the Chairman is kind enough to read the official communication from the Ministry of Finance, reporting something the Reserve Bank has said. So, I am duty bound to give you information. I have obtained the information also subsequently.

Dr. Prabhat Kumar Mishra : I am not concerned with all that.

Shri Arun Shourie : There is no contradiction.

Dr. Prabhat Kumar Mishra : You stated something. You have produced all the documents.

Shri Arun Shourie : Regarding those two accounts which in the view of the Enforcement Directorate and the RBI were unauthorised, I collected documents regarding those two.

Dr. Prabhat Kumar Mishra : You collected this information later.

Shri Arun Shourie : I did not know that these foreign remittances are so helpful to me.

Dr. Prabhat Kumar Mishra : Your contradiction is there.

Shri Arun Shourie : I cannot understand how contradiction can be attributed to me. In further inquiries, even more documents may be produced. I have given you the report of one person, the Deputy Director. It is entirely possible that other case diaries were kept. I hope I will get them one day.

Mr. Chairman : After going through your arguments and those six documents, I get the impression that the Enforcement Directorate may put a query to the Reserve Bank regarding only Dubai account. No query was made by the Enforcement Directorate regarding the Saudi account.

Shri Arun Shourie : It is a very good point. Now I repeat to you that I have been told by the officer.

Mr. Chairman : First of all, the six documents which you have given to me and the synthesis of the documents which you have summarised, they only talk of one query which was raised by the Enforcement Directorate regarding the Dubai Account. Later on, it came to their notice that there is a Saudi Account but they never tried to ask the Reserve Bank. The seventh document is not yet before us.

Shri V. S. Krishna Iyer : Did they issue any contradiction or clarification for public opinion, after you wrote the article ?

Shri Arun Shourie : No. not at all.

Shri Somnath Chatterjee : You have said that what you wrote about Mr. Kamal Nath was not in relation to the discharge of his duties as a Member of Parliament. But there are certain passages in your article which some hon. Members feel are reflection on the Parliament generally or on the Members of Parliament. If that is so, have you got anything to say with regard to that ?

Shri Arun Shourie : The two points for which objection has been taken, have been dealt with by me. I have already dealt with 'character assassination'. I have also made the point that over a decade I have been writing many of the said published books. I have always striven to uphold the dignity of Parliament.

Shri Somnath Chatterjee : Supposing that construction is put, how do you react to it ?

Shri Arun Shourie : I only regret that construction has been foisted on it which is not warranted. I regret the construction.

Mr. Chairman : You can withdraw.

(The witness then withdrew)

The Committee then adjourned.

APPENDICES

APPENDIX I

(See para 4 of the Report)

MEMBER OF PARLIAMENT

March 15, 1988.

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

Under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, I hereby give notice of my intention to raise the matter of breach of Privilege against all the editions—the *Indian Express*, *Financial Express* and *Jansatta* of 14th March and the article published therein captioned "An MP & Two Accounts" which is tendentious, misleading, false and derogatory. The article is a contempt of the Member of the Parliament and the Lok Sabha of which the Member is a part. The article brings down the reputation of the Lok Sabha inasmuch as it falsely depicts the character of its Member making the people to look down upon the institution. Thus, the article being against the dignity of the Parliament and its Member, the action against the contemnor deserves to be taken through the process of breach of privilege.

A copy of the said article* is enclosed herewith.

Yours faithfully,
Sd/-
(HARISH RAWAT)
Div. No. 110

*See para 5 of the Report.

APPENDIX II
(See para 4 of the Report)

MEMBER OF PARLIAMENT

March 15, 1988.

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

Under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, I hereby give notice of my intention to raise the matter of breach of Privilege against all the editions—the *Indian Express*, *Financial Express* and *Jansatta* of 14th March, and the article published therein captioned "An MP & Two Accounts" which is tendentious, misleading, false and derogatory. The article is a contempt of the Member of the Parliament and the Lok Sabha of which the Member is a part. The article brings down the reputation of the Lok Sabha in as much as it falsely depicts the character of its Member making the people to look down upon the institution. Thus, the article being against the dignity of the Parliament and its Member, the action against the contemnor deserves to be taken through the process of breach of privilege.

A copy of the said article* is enclosed herewith.

Yours faithfully,
Sd./-
(SATYENDRA NARAYAN SINHA)
Division No. 276

*See para 5 of the Report.

APPENDIX III

(See para 4 of the Report)

MEMBER OF PARLIAMENT

March 15, 1988.

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

Under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, I hereby give notice of my intention to raise the matter of breach of Privilege against all the editions—the *Indian Express*, *Financial Express* and *Jansatta* of 14th March, and the article published therein captioned "An MP & Two Accounts" which is tendentious, misleading, false and derogatory as I feel that the statement made by the Hon. M.P. in L.S. on the 14th inst., challenging the papers concerned to prove the allegations must be accepted as the truth of the matter. The article is a contempt of the Member of Parliament and the Lok Sabha of which the member is a part. The article seeks to bring down the reputation of the Lok Sabha inasmuch as it falsely depicts the character of its member making the people to look down upon the institution. Thus, the article being against the dignity of the Parliament and its member, the action against the contemnor deserves to be taken through the process of breach of privilege.

A copy of the said article* is enclosed herewith.

Yours faithfully,
Sd./-
(N. G. RANGA)
Division No. 151

*See para 5 of the Report.

APPENDIX IV

(See para 4 of the Report)

MEMBER OF PARLIAMENT

March 15, 1988.

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

Under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, I hereby give notice of my intention to raise the matter of breach of Privilege against all the editions—the *Indian Express*, *Financial Express* and *Jansatta* of 14th March, and the article published therein captioned "An MP & Two Accounts" which is tendentious, misleading, false and derogatory. The article is a contempt of the Member of the Parliament and the Lok Sabha of which the Member is a part. The article brings down the reputation of the Lok Sabha inasmuch as it falsely depicts the character of its Member making the people to look down upon the institution. Thus, the article being against the dignity of the Parliament and its Member, the action against the contemnor deserves to be taken through the process of breach of privilege.

A copy of the said article* is enclosed herewith.

Yours faithfully,
Sd:/-
(Prof. K. V. THOMAS)
Division No. 223

*See para 5 of the Report.

APPENDIX V

(See para 5 of the Report)

जनसत्ता

नई दिल्ली : सोमवार 14 मार्च, 1988

एक सांसद और दो खाते

—अरुण शोरी

राजीव गांधी के जानने वालों में प्रेस बच्चन भाईयों को ही उछालती है। लेकिन दूसरे और भी हैं। उनमें दून स्कूल के एक हैं चुपे-छुपे रहने वाले कमलनाथ। वे ब्यापारी हैं और इमरजेंसी में संजय गांधी के यार-दोस्तों में से एक होने के नाते मशहूर हुए। इन्दिरा गांधी ने जब एक्सप्रेस के बोर्ड पर कब्जा किया तो उसके एक दादा सदस्य थे—यही कमलनाथ। संजय गांधी की मृत्यु तक कमलनाथ उनके करीबी लोगों में “पीर बबर्ची भिखती खर” माने जाते थे।

वे काम करवा सकने वाले चुनिन्दा लोगों में से एक थे। मसलन वे सरकार को समझा बुझा कर पांच लाख टन हाई स्पीड डीजल और तीन लाख टन मिट्टी के तेल की खरीदी का 17.5 करोड़ डालर का ठेका एक ऐसी कम्पनी को दिलवा सकते थे जो महज एक साइन बोर्ड थी और जिस की कुल जमा पूंजी पचास डालर थी। कुओ ऑइल कम्पनी को तो आप जानते ही हैं। इस ठेके से, जिसे बाद में सरकार ने संसद में “गलती” माना, देश को नौ और बारह करोड़ रुपयों का चूना लगा।

ऐसी उनकी चलती थी और ऐसा उनका पक्का था। संजय की मृत्यु से वे कुछ धार से उतर गए। ऐसा कहा जाता है कि उस समय के आकाओं को पैसों का ठीक-ठक हिसाब वे नहीं दे पाए थे। लेकिन गलतफहमियां दूर कर दी गईं। 1980 से कमलनाथ मध्य प्रदेश के छिदवाड़ा से सांसद हुए चले आ रहे हैं। लेकिन इस दौरान वे समझ बुझ कर काफी चुपे-छुपे से रहते हैं। लोकसभा की परिचय-पुस्तिका के अनुसार “ग्रामीण विकास” में उनकी खास रुचि है और इसी रचनात्मक कार्य में वे लगे रहे हैं। ऐसा ही रचनात्मक कार्य करते हुए उन्होंने गरीब और पिछड़े हुए छिदवाड़ा जिले में देश के दूसरे “दून” स्कूल की स्थापना में अपना बिनम्र योगदान दिया है।

दुबाई में खाते—

लेकिन अब पता चला है कि 1981-82 में ही सरकार को उनके कम से कम दो विदेशी खातों का पता चल गया था जो कि उनकी एक कम्पनी ईएमसी स्टीलाल लि० अवैध रूप से खोले हुए थी। 23 सितम्बर, 1981 को सरकार को पता चला कि ईएमसी स्टीलाल लि० का दुबाई की अलोमीन बैंक नीदरलैंड एन०बी० (पो०बा० 2567 दुबाई) में एक खाता है। सरकार को खाते का नंबर 9528.3 भी पता पड़

गया। यह भी मालूम हुआ कि 9 सितम्बर, 1981 को इस खाते में दुबाई की चार्टर्ड बैंक से जो दीनार जमा करवाए गए वे उस समय की विनिमय दर से कोई दो करोड़ रुपये के थे। 13 अक्टूबर, 1981 को प्रवर्तन निदेशालय ने रिजर्व बैंक से पूछा कि क्या ईएमसी स्टीलाल लि० को विदेश में कोई खाता रखने की इजाजत दी गई है? रिजर्व बैंक ने 10 नवम्बर, 1981 को जवाब दिया कि ईएमसी स्टीलाल को ऐसी कोई इजाजत नहीं दी गई है। उसने निदेशालय को यह भी बताया कि इस कम्पनी ने रिजर्व बैंक को कोई सूचना नहीं दी है कि विदेश में उसका कोई खाता है।

लेकिन यह कमलनाथ का मामला था—जोकि सिर्फ एक सांसद ही नहीं राज परिवार के पीर बबर्ची भ्रमती खार के रूप में मशहूर थे। इसलिए निदेशालय का कलकत्ता दफ्तर इस मामले में कोई कार्रवाई दिल्ली से हुकम लिए बिना नहीं कर सकता था। इसलिए उस दफ्तर के उप निदेशक ए०के० राय चौधरी ने 2 जनवरी, 1982 को सारी जानकारी अपने मुख्यालय दिल्ली भेजी और निर्देश मांगे कि क्या कार्रवाई की जाए ?

राय चौधरी ने प्रवर्तन निदेशक एन०एस० बिद्रा को लिखे पत्र में खाते और रिजर्व बैंक की सूचना के अलावा यह भी बताया कि—“हमारी जांच-पड़ताल से पता चला है कि यह कम्पनी श्री ओ०एम० खोसला और मन्हेन्द्रनाथ की है। श्री महेन्द्रनाथ सांसद श्री कमलनाथ के पिता हैं। वे राबिंसन स्ट्रीट, कलकत्ता में रहते हैं।” लेकिन मुख्यालय को मालूम था कि कौन-कौन हैं और कलकत्ता में कौन-कौन रहते हैं इसलिए उसने सवाल का जवाब नहीं दिया।

प्रवर्तन निदेशालय के विशेष सहायक ए०के० बेनर्जी ने 2 फरवरी, 1982 को भेजे गए पत्र में कुछ ऐसा गुल खिलाया—“मुझे आपके पत्र के संदर्भ में लिखने को कहा गया है कि मामला प्रवर्तन निदेशक के सामने रखा गया था और उनकी इच्छा है कि चूंकि मीके पर तैनात अप्सर आप ही हैं, इसलिए सारे तथ्यों, परिस्थितियों, कागजात और मूल खुफिया रपट पर विचार कर के आप ही फैसला करें।”

कानून लागू करने वाले हमारे लोग कैसे उत्साही हैं। कलकत्ता में बैठा हुआ अप्सर कार्रवाई करने के बजाए दिल्ली से पूछा रहा है। लेकिन दिल्ली में बैठा उसका बड़ा बांस खुद जवाब नहीं देता। वह अपने विशेष सहायक से दिलवाता है। वह बेचारा खुद कैसे कोई जिम्मेदारी ले सकता है। इसलिए, “मुझे कहा गया है कि मैं कहूँ कि” और यह निर्देश मामले को फिर कलकत्ता बैरंग पहुंचा देता है। और कलकत्ता के दफ्तर का विवेक बताता है कि वह उसी मामले में खोज-बीन शुरू करे जो कि वह पहले ही जानता था। 12 मार्च, 1982 की जांच रपट बताती है कि कमलनाथ कम्पनी के निदेशक हैं और उनके पिता महेन्द्र नाथ उसके अध्यक्ष।—“सभी तथ्यों और परिस्थितियों को ध्यान में” रखने के हुकूम की दो बार चेतावनी पाने बासा कलकत्ता का दफ्तर फाइल बंद कर देता है।

बदकिस्मती से उसी महीने यानी फरवरी 1982 में कमलनाथ की कम्पनी के दूसरे विदेशी खाते की जानकारी भी सरकार को मिली। उसे सबूत मिला कि ईएमसी स्टीलाल लि० का अलबैंक अलसऊदी अलहालेडी, रियाद, सऊदी अरब में एक खाता नम्बर 12.84.037 भी है। सरकार को इस खाते के बारे में बैंक की तरफ से ब्योरा भी मिला जिससे पता चला कि उस समय इस खाते में तब की विनिमय दर के हिसाब से कोई तीन करोड़ के रियाल जमा थे। और भी जानकारी मिली कि किस तरह कमलनाथ की कम्पनी कैसे हथकंडों से विदेश में पैसा जमा कर रही थी। लेकिन कलकत्ता के दफ्तर को कुछ भी करने की हिम्मत जुटाने में दो साल लगे।

और उसने किया क्या ?

उसने 22 सितम्बर, 1984 को बैंक का चिप्रा ब्योरा और जांच की रपट आदि दिल्ली के मुख्यालय को भेज दी।

एक उचित सुझाव

लेकिन जमाना बदल गया था। जानकारी से पता चला है कि कार्रवाई सम्भव शुरू की गई थी। निर्णायक और अंतिम कार्रवाई। लेकिन पता चला है कि यह कार्रवाई शुरू होते ही खत्म कर दी गई—दिल्ली के कहने पर।

यह एक गम्भीर आरोप है। एक सांसद की कम्पनी के विदेशी खाते रहे हैं। सरकार को इन खातों की जानकारी रही है और यह भी कि ये खाते अबैध थे। और हमारी जानकारी है कि जो निर्णायक कार्रवाई की गई थी उसे रोक दिया गया। सबूत वापस कर दिए गए। और उनके आकाओं के हुकुम पर बीच में ही नष्ट भी कर दिए गए।

अगर यह आरोप सही है तो इससे संसद की वैसी ही बदनामी होती है जैसी कि पांडीचेरी लाइसेंस केस में तुलमोहन राम के कारण हुई थी। और अगर यह सच नहीं है तो मैं संसद जैसी संस्था को बदनाम करने और उसके विशेषाधिकार के हनन का दोषी हूँ।

“लेकिन बार-बार इस तरह के भंडाफोड़ करने का फायदा क्या है? ये बेशर्म लोग हैं। वे कंधे बिचका कर इसे भी घरी के नीचे दबा देंगे।”

लेकिन कभी-कभी बेशर्मों को भी थोड़े शर्मिदा होने का नाटक करना पड़ता है। याद है अमिताभ बच्चन की? उन्हें अपने भाई के बारे में एक जानकारी के कारण संसद से इस्तीफा देना पड़ा। एक ऐसे तथ्य पर जो उस समय साठ से पच्चीसवासी लाख से ज्यादा का नहीं था। अब यह मामला तो पांच करोड़ की रकम से भी ज्यादा का है। क्या कमलनाथ अमिताभ बच्चन से भी कम इज्जतदार निकलेंगे धारोमदार इस पर नहीं है कि यह सांसद क्या करता है बल्कि इस पर है कि उस सांसद ने क्या किया था। धारोमदार इस पर भी होगा कि खुद संसद क्या करती है?

क्या वह इस मामले की खोजबीन करने के लिए समिति बैठाएगी? आखिर इस मामले में तुलसीमोहन राम के केस से कहीं बड़ी रकम जुड़ी हुई है।

“लेकिन एक और कमेटी बैठाने से क्या फायदा?”

कमेटी संसद के एक सदस्य के कारनामे का ही पता नहीं लगाएगी। इन दो खातों में जमा की गई और निकाली गई रकम की जांच-पड़ताल से उसे दूसरे भी खातों का पता चलेगा जो शायद कहीं अधिक महत्व के हों। किसी पार्टी के?

“लेकिन यह तो फिर किसी आसमान के तारे तोड़ना होगा। कभी वे कागजात सबूत के रूप में रहे भी होंगे तो अब तक सारे के सारे नष्ट कर दिए होंगे।”

गलत। कल तक ये सारे दस्तावेज कलकत्ता में थे। फिर मामले के तथ्य न सिर्फ छह सांसदों की जानकारी में हैं बल्कि यह पचास साठ अप्सर भी जानते हैं जो बाघ की कार्रवाई में शामिल थे।

“लेकिन इससे भी क्या निकलेगा? अगर दस्तावेज होंगे भी तो तुम्हारे इम लेख के छपने के साथ ही नष्ट कर दिए जाएंगे। कमेटी के सामने कोई कागज का टुकड़ा भी रख पाएगा कि जिससे कुछ साबित हो?”

में रखूंगा अगर संसद आदेश दे। ऐसे दस्तावेज जो बता सकें—

1. खातों का होना 2. अलोमीन बैंक नीधरलैंड, दुबाई में दो करोड़ रुपए का जमा किया जाना 3. अलबैंक अलसऊदी अलहालेंडी, रियाद में तीन करोड़ की बाकी रकम 4. यह तथ्य की सरकार जानती थी कि खाते थे और वे अवैध थे 5. सचचाई पता करने के लिए की गई जांच-पड़ताल 6. जांच पड़ताल से खोज कर निकाली गई जानकारी और तथ्य 7. और दिल्ली के हुकुम पर इस जांच पड़ताल की हड़बड़ी में समाप्ति।

है न एक उचित सुझाव?

APPENDIX VI

(See para 7 of the Report)

KAMAL NATH
MEMBER OF PARLIAMENT

7, TUGHLAK ROAD,
NEW DELHI-110011.
Phone : 371972
March 16, 1988

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

I hereby give notice of privilege under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha against Shri Arun Shourie, author of an article* captioned "An MP and two accounts" appearing in the *Indian Express*, *Financial Express* and *Jansatta* of 14-3-1988 and also being Editor of the *Indian Express* for making false allegation in the said article.

The allegation contained in the said article is false and is a pernicious attempt to bring me down in the estimation of the public at large. This constitutes a breach of privilege as a member of Lok Sabha and contempt of the whole House.

I therefore request that I may kindly be allowed to raise the matter in the House as a question of privilege. A copy of the said article* is enclosed herewith.

Yours faithfully
Sd/-
(Kamal Nath)
Division No. 277

*See para 5 of the Report.

APPENDIX VII

(See para 8 of the Report)

Copy of letter dated 26th November, 1980, from the Reserve Bank of India, Calcutta, duly authenticated by Shri Kamal Nath, M.P.

Telex No. 021-7520

Telegrams

"RESERVIST"

CALCUTTA

Telephone · 228331

RESERVE BANK OF INDIA
Exchange Control Department
15, Netaji Subhas Road
Post Bag No. 2026
CALCUTTA-700001.

Ref. No. CA. EC. PX. 287/X. 38(TK) (S. 23)-80 26th November, 1980
(Saka).

The Joint Manager,
New Bank of India,
10, Clive Row,
Calcutta-700001.

Dear Sir,

SUB. :—Contract for survey, erection and stringing of transmission lines for Kasia Contract-4A in Saudi Arabia, A/c. M/s. EMC Steelal Ltd., Calcutta.

With reference to your letter Nos. Fex. As. 131480 dated 12th November 1980 and Fex. As. 132080 dated 15th November 1980, we advise that your constituents viz. EMC Steelal Ltd., Calcutta may open two bank accounts with Albank Alsaudi Alhollandi, Riyadh, Saudi Arabia in connection with execution of the subcontract with Electrical Work and Maintenance (EWH), Riyadh, Saudi Arabia for Wasia Contract 4A subject to the following conditions :—

- (i) Credits in the 2nd Account to be operated from your site office should only be by transfer of funds from st A/c.

- (iA) Credits in the 1st A/c. to be operated from Calcutta representing payments to be received by the company under the contract may be made freely.
- (ii) Debits representing disbursements to be made in the country concerned in connection with the execution of the contract may be allowed freely.
- (iii) All other credits/debits will be subject to the prior approval of the Reserve Bank.
- (iv) The balance in the accounts in excess of the normal requirement will be repatriated to India periodically and a bank certificate in support thereof should be submitted.
- (v) A quarterly statement of operations on the accounts will be submitted to the Reserve Bank regularly.
- (vi) The accounts will be closed immediately after the contract is completed and the balance, if any, in the accounts will be repatriated to India under advice to the Reserve Bank duly supported by a bank certificate regarding repatriation of the balance in the accounts.
- (vii) The company will abide by such other directives as the Reserve Bank may issue in this regard.

2. We further advise that EMC Steelal Ltd. may open a site office at Wasia, Saudi Arabia in connection with the captioned contract subject to the following conditions :—

- (i) No remittance from India will be allowed for opening and maintenance of such an office.
- (ii) Quarterly statements of expenditure of the site office would be submitted to the Reserve Bank with suitable documentary evidence.
- (iii) The office will be closed down immediately after the contract is completed under advice to the Reserve Bank.

3. We are also prepared to consider your request for remittance of Rs. 2 lakhs towards initial expenses on your submitting a bank guarantee on prescribed proforma and an application on Form A2, in duplicate, for the purpose.

4. As regards commission to be paid to the overseas agent, the matter will be considered only on submission of relative agency agreement for our perusal.

Yours faithfully,

Sd/-

p. Joint Controller.

Encl. No. CA, EC, PX. 288/X. 38 (TK) (S-23)-80. of date.

Copy forwarded for information and necessary actions to M/s. EMC Steelal Ltd., 3-A, Auckland Place, Calcutta-700017 with reference to their letter No. INT/6C-4 dated 12th November 1980.

Sd/-

p. Joint Controller.

APPENDIX VIII
(See para 8 of the Report)

Copy of letter dated 22nd August, 1981, from the Reserve Bank of India, Calcutta, duly authenticated by Shri Kamal Nath, M.P.

RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
15, NETAJI SUBHAS ROAD
CALCUTTA-700001

No. CA. EC. PX. 138/X. 38 (T.K.) (S-27)81

Dt. 22nd August, 1981

The Manager,
Allahabad Bank,
2, Netaji Subhas Road,
Calcutta-1.

Dear Sir/s,

Opening of a bank account/s and a site office in connection with the execution of the turnkey/contract—No. DUB-891 for Supply & erection of 76 KM of 132 KV transmission line in Dubai valued at 10.28 crores. A/c. M/s. EMC Steelal Ltd., Calcutta-17.

With reference to your endorsement dt. 13-8-81 on Company's letter No. INI/8C-4, dated the 12th August, 1981, we advise that we are agreeable to your request for opening of a bank account abroad in Dubai in the name of M/s. EMC Steelal Ltd., with Algemene Bank Nedarland, N. V. Dubai for smooth execution of the captioned contract subject to the following conditions :—

- (a) Credits representing payments by the project authorities to the Indian contractor under the contract may be made freely.
- (b) Debits representing disbursement to be made in the country concerned with the execution of the contract may be made freely.
- (c) Credits relating to accrued interest and debits representing remittances to India may be made freely. All other credits/debits will be subject to prior approval of Reserve Bank.

- (d) The balance in the account in excess of normal requirements will be repatriated to India periodically and a bank certificate in support of the repatriation submitted to the Reserve Bank.
- (e) A quarterly statement of operations on the account will be submitted to Reserve Bank regularly.
- (f) The account will be closed immediately after the contract is completed and the entire balance transferred to India under advice to the Reserve Bank duly supported by bank certificates evidencing repatriation of amount.
- (g) If the bank account is in the nature of an overdraft account for which necessary approval has been obtained from the Reserve Bank in advance, the overdraft would be fully liquidated out of project earnings (excluding the value of Indian supplies) and within the time limit laid down by the Bank.
- (h) The applicants will abide by such other directions as Reserve Bank may issue in this regard from time to time.

We are also agreeable to their opening a site office in Industrial Sub-Station at Dubai for the purpose of administration, supervision etc. of the project subject to the following conditions:—

- (a) No remittance from India will be allowed for opening and maintenance of such an office.
- (b) Quarterly statements of expenditure of the site office would be submitted to the Reserve Bank with suitable documentary evidence.
- (c) The temporary site office would be closed down as soon as the project in question is completed, under advice to Reserve Bank.

Yours faithfully,

Sd/-

P. Joint Controller.

APPENDIX IX
(See para 8 of the Report)

**Most Immediate
Parliamentary Matter**

MINISTRY OF FINANCE
(Department of Economic Affairs)

Attention of the Lok Sabha Secretariat (Legislative Branch-I) is invited to their N.O. No. 17/4(1)/88/L-I, dated 21-3-1988. Ministry of Finance confirms that the two letters from the R.B.I., copies of which are attached to the note representing permissions by RBI (Exchange Control Deptt.), Calcutta, to M/s. E.M.C. Steelal, Calcutta, are authentic.

Sd/-

(K. P. GELTHAKRISHAN)

Addl. Secretary (EF)

21-3-88

Lok Sabha Secretariat (Shri K. C. Rastogi)