

without scholarships. Even then we are trying to give the benefit to the Backward Classes as far as we can. I do not know the exact details, but if the hon. Member desires me to give him the details I shall get them from the Ministry of Education and supply him.

**SHRI AKBAR ALI KHAN** (Andhra Pradesh): The point was that they don't get it at the proper time.

**SHRIMATI VIOLET ALVA**: To that also, Sir, yesterday I said in my opening remarks that we had introduced a new system by which we make *ad hoc* payments to the institutions so that the scholars do not suffer in their academic career or they are not thrown out of the colleges for non-payment of fees. I said this in my opening remarks yesterday.

Now, I come to the hon. Shri P. N. Sapru. He talked of legal assistance. In the matter of legal assistance he showed us a new avenue. He said that bar associations should be awakened. I think it is a very good idea, that the right-minded social workers among the bar members should come forward to help these people. There is nothing wrong and I think this also should be encouraged in the country. After all in this honourable House and in the other august House there are so many lawyers who are practising lawyers, and if they only made up their minds that they could do this much for these people this year and next year and so on, then I think the task could very well be undertaken.

**SHRI H. D. RAJAH**: Why this distinction of honourable House and august House?

**AN HON. MEMBER**: You are also a lawyer.

**SHRIMATI VIOLET ALVA**: I used to be a practising advocate once but I have given it up for a long time. Nevertheless, if they want any advice and if they can take the risk, I am prepared to give it.

Well, Sir, most of the points that have been raised have been covered but nevertheless it is necessary that we should double our efforts and do something because the second year of the Plan period is already out. Sir, ill fares the land where caste system exists, ill fares the land where casteism prevails and unless we condemn it, it is not going to take us to the goal of our dream.

## REPORT OF THE COMMITTEE OF PRIVILEGES

**SHRI S. V. KRISHNAMOORTHY RAO** (Mysore): Sir, I move:

"That the First Report of the Committee of Privileges laid on the Table of the House on the 1st May, 1958, be taken into consideration."

All the matters arising in the case have been stated in the Report. This has arisen out of an election case pending before an Election Tribunal in Bengal. The Secretary of this House has been summoned to produce certain documents and the matter has been fully considered in the Privileges Committee. We have gone through the usages and rules prevalent in other Commonwealth countries, the House of Commons, the House of Representatives and the Senate in America, and having considered all these things we have made certain suggestions for all contingencies, both when the House is sitting and when the House is not in session. We have not exactly followed the rules that are prevalent in the other Houses but we have made our own suggestions. There is nothing controversial in this Report and submit that the House may take into consideration. I do not think there is any other matter that needs further elucidation.

**MR. CHAIRMAN**: Motion moved:

"That the First Report of the Committee of Privileges laid on the Table of the House on the 1st May, 1958, be taken into consideration."

SHRI S. V. KRISHNAMOORTHY  
RAO: Sir, I move:

"That at the end of the Motion the following be added, namely:—

'and having considered the same, the House agrees with the recommendations contained in the Report.'"

MR. CHAIRMAN: The motion and the amendment are before the House.

SHRI RAJENDRA PRATAP SINHA (Bihar): Mr. Chairman, we are grateful to you for referring this matter under rule 178 to the Privileges Committee and I must also record my appreciation of the very valuable Report produced by the Privileges Committee. I shall only draw your attention to one point here.

The Report says: "There is no specific rule in the Rules of Procedure and Conduct of Business in the Rajya Sabha regarding the production of documents....." and, therefore, they have more or less suggested a procedure that should be followed in such cases. I would recommend that this matter may be formally adopted by the Rules Committee and incorporated in our Rules.

Then there is another point. It may be a technical matter but it is important. I find from the correspondence given here that no formal request was made to you to refer the matter to this House and, therefore, probably it could not happen. It is a technical matter and the House could ignore it but I would submit that the form given in Appendix M may be formally adopted again by the Rules Committee and notified in the Gazette if necessary—I do not know—so that the people at large and also the various courts in India may know the procedure that they have to follow in future when they want such a matter to be considered by you or by this House. If that is done, the procedure will become known to the people and to the courts and all this can be done more formally.

DR. R. B. GOUR (Andhra Pradesh): Sir, it is quite an important matter that you have referred to the Privileges Committee and the Committee has taken an important decision. Of course, they have suggested certain procedure to be followed whenever the House or you, Sir, are faced with a similar problem in the future.

However, on two scores I would like to make some observations. One is whether ordinarily signed documents laid on the Table of the House could be produced before tribunals or courts or only copies of such documents should be produced. That is one point which I would like the House to consider.

The second point is whether this should be a precedent. Maybe, a certain expediency may have forced us to say that an officer of the Secretariat should proceed to Calcutta. But should it be a precedent that this should always happen? Or should it not be that a commission of the court or the tribunal comes over here and examines our officer after the usual procedure of either you, Sir, deciding it or the House deciding it. I would like the House to consider these two points.

SHRI AMOLAKH CHAND (Uttar Pradesh): Mr. Chairman, I have read the Report of the Privileges Committee with great care and attention....

MR. CHAIRMAN: You cannot be heard.

SHRI AMOLAKH CHAND: Mr. Chairman, Sir, I have gone through the Report with great care and attention and I have found that there are no rules in our Rules of Procedure which may authorise the production of documents before a court of law. Now, in such a case as the one before us now, only the correspondence between the Secretariat and the Company concerned is to be produced. Now, as has been pointed out by Dr. R. B. Gour, the point is whether it is desirable that an officer of this House should be sent to Calcutta or the Commissioner should come over here and

collect the papers. That is a matter of convenience and as this case is an old one, probably, the Privileges Committee recommended that an officer of this House may be deputed to produce the document. The other question is whether in future cases certified copies of correspondence can be produced as evidence before court of law. I would respectfully submit that this point may also be considered and if necessary a certified copy issued by the Secretariat of this House may be deemed as sufficient to prove the correctness of the document and the Evidence Act itself may be amended, if necessary.

**SHRI H. D. RAJAH (Madras):** The Committee says: "The Committee are of the view that the whole file need not be produced before the Tribunal. The Committee are of the opinion that it will not be proper for the Committee to decide whether any such correspondence which the firm had with the Rajya Sabha Secretariat is relevant..." There are two issues really. If they say that nothing need be produced, there is no reason for our officer to go and show anything. If the Committee are of the opinion that any correspondence must be produced, it is for the Chairman, who has got umpteen powers with regard to the affairs of the House, to decide about it. So, what is it that we are asked to decide? That is a point which requires clarification.

**SHRI S. V. KRISHNAMOORTHY RAO:** Sir, I will take up the second point first, made by Shri Rajendra Pratap Sinha, that no formal request was made. In this connection, summons used to be sent that the documents be produced just as to any other witness. But this matter was taken up both by the Lok Sabha and the Home Ministry and in consultation with the Law Minister they have circulated certain forms for adoption, through the State Governments, by the various High Courts. It is the High Courts that will have to amend the rules. I am sure with the consent of the State Governments the High Courts are adopting the rule. The

forms have already been sent and they have been approved. So, hereafter it will be a formal request to the Parliament consistent with the dignity of Parliament.

**SHRI RAJENDRA PRATAP SINHA:**  
No summons.

**SHRI S. V. KRISHNAMOORTHY RAO:** No summons. As regards the first point that no specific rules have been made in our Rules of Procedure, it is true that we have no such rules. We considered this in the Privileges Committee also. We thought that it would be better to keep it as elastic as possible and that the House would consider each case on its merits. Further, our Rules Committee is shortly meeting and this question is going to be taken up. We will discuss it in detail and come to certain agreed conclusions when the Rules Committee meets and new rules are framed.

As regards the points made out by Dr. R. B. Gour and Shri Amolakh Chand, the same points were made. As to whether copies should be produced or originals should be produced, I think it should be left to the court itself, because copies are after all secondary evidence. Where the question of genuineness of a document is concerned, the original will necessarily have to be produced. In this case, they wanted certain documents to find out whether Shri Biren Roy was a director of a certain company which took up the contract to instal the electric vote recording device. Whether copies of documents would be sufficient is a matter of rule under the Law of Evidence and I think it should be properly left to the court. It is within the jurisdiction of the court itself and I think the court will certainly pass the necessary orders.

As to whether an officer can go there, this also depends on the judge. The judge will have to assess the evidence that the officer gives. Where oral evidence has to be given, perhaps an officer would be necessary. Where oral evidence is not necessary, and

[Shri S. V. Krishnamoorthy Rao.] only production of document is necessary, some officer has to go, but he may not be a high officer. You can decide it in consultation . . .

DR. R. B. GOUR: The commission can come here.

SHRI S. V. KRISHNAMOORTHY RAO: The commission can also come here. But that means greater expense. It should be left to the court to decide. It is the function of the court to decide whether a commission would be sufficient or an officer should be sent. I think we should not usurp the functions of the court in this matter. After all, we should work in co-operation—both the legislature and the judiciary—and I think the procedure that we have suggested is quite proper. I hope the House will approve of the Report and the procedure suggested therein.

MR. CHAIRMAN: The question is:

"That at the end of the Motion the following be added, namely:—

'and having considered the same the House agrees with the recommendations contained in the Report'."

The motion was adopted.

MR. CHAIRMAN: The question is:

"That the First Report of the Committee of Privileges laid on the Table of the House on the 1st May, 1958, be taken into consideration, and having considered the same, the House agrees with the recommendations contained in the Report."

The motion was adopted.

#### THE PROBATION OF OFFENDERS BILL, 1958.

MR. CHAIRMAN: Mrs. Alva. A hard day for you.

THE DEPUTY MINISTER OF HOME AFFAIRS (SHRIMATI VIOLET ALVA): Welcome, Sir. I move:

"That the Bill to provide for the release of offenders on probation or after due admonition and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

It is a very different problem now that we shall debate today. From Scheduled Castes and Scheduled Tribes and *Vimukta Jatis*, we now come to that class in our society who are called offenders—rightly or wrongly—and have to be placed before courts of law. This Bill has been before this House once before. It went to the Joint Select Committee and it is here today for the opinion of this House and finally for its adoption. Probation is not a new thing in the world today, since the idea of penology and criminology has been changing based on scientific research in the last half a century or more. There are many countries that have gone far ahead on this subject and they have undertaken, or shall I say, they have ventured to undertake, that the human mind is far too intricate and, therefore, those whom we call criminals should be treated as diseased men or women. While discussing this Bill, I want the House to bear in mind that it is not a new measure in India or before this House. It was as far back as 1923 when the Criminal Procedure Code was amended first and a provision was put in there, by which the first offenders, not under 21, for offences punishable with not more than seven years could be given probation; and under 21, any woman for offences not punishable with death or transportation for life, could be considered under the scope of the measure that is before us today. From time to time it went to the Jails Committees. The jail reformers were there. Everyone felt that the jails only hardened a criminal, whether he is real or unreal; that the jails do not provide sufficient scope for his reformation or rehabilitation in society. It was felt so from time to time till we reached 1925 when the Conference of Inspectors-General of Prisons told the Central Government then that there should be a Central measure by which probation