C. B. II No. 228

LOK SABHA

THE GOVERNMENT [LIABILITY IN TORT] BILL, 1967

(Report of the Joint Committee)

[*Presented on 25th March, 1969*]

LOK SABHA SECRETARIAT
NEW DELHI
March, 1969/Phalguna, 1890 (Saka)
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LOK SABHA

C O R R I G E N D A

T O

THE REPORT OF THE JOINT COMMITTEE ON THE GOVERNMENT (LIABILITY IN TORT) BILL, 1967

1. Page IV, line 2 from bottom
   for "SECRETARAIT" read "SECRETARIAT"
2. Page 16, line 6, for "1963" read "1968"
3. Page 23, line 9, for "Legislotive" read "Legislative"
4. Page 44, line 4 from bottom
   for "apreciation" read "appreciation"

NEW DELHI
the 18th April, 1969.

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JOINT COMMITTEE ON THE GOVERNMENT (LIABILITY IN TORT) BILL, 1967

COMPOSITION OF THE COMMITTEE

Shri A. K. Sen—*Chairman*

MEMBERS

Lok Sabha

2. Shri K. Anirudhan
3. Shri N. C. Chatterjee
4. Shri R. R. Singh Deo
5. Shri Devinder Singh
6. Shri Anirudha Dipa
7. Shri Shri Chand Goyal
8. Shri R. M. Hajarnavis
9. Shri S. Kandappan
10. Shri Brij Bhushan Lal
*11. Shri Baij Nath Kureel
12. Shri Srinibas Mishra
13. Shri H. N. Mukerjee
14. Shri Amrit Nahata
15. Shri K. Narayana Rao
16. Shri M. Narayan Reddy
17. Shri Mohammad Yunus Saleem
18. Shri A. T. Sarma
19. Shrimati Savitri Shyam
20. Shri N. Sethuramane
21. Shri M. R. Sharma
22. Shri Narayan Swaroop Sharma
23. Shri Biswanarayan Shastri
24. Shri T. M. Sheth
25. Shri Devendra Vijai Singh
26. Shri Mudrika Sinha
27. Shri G. Viswanathan
28. Shri S. Xavier
29. Shri Ram Sewak Yadav
30. Shri P. Govinda Menon

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*Appointed w.e.f. the 30th July 1968 in the vacancy caused by the death of Shri Mali Mariyappa.

Rajya Sabha

31. Shri S. B. Bobdey
32. Shri Rama Bahadur Sinha
33. Shri Gulam Haider Valimohmed Momin
34. Shri Y. Adinarayana Reddy
35. Shri Krishan Kant
36. Shri M. P. Shukla
37. Shri Hira Vallabha Tripathi
38. Shri M. H. Samuel
39. Shri B. T. Kemparaj
**40. Shri Chakrapani Shukla
41. Shri Dahyabhai V. Patel
42. Shri N. K. Shejwalkar
43. Shri Balkrishna Gupta
44. Shri C. Achutha Menon
45. Shri G. P. Somasundaram.

LEGISLATIVE COUNSEL

1. Shri V. N. Bhatia, *Secretary, Legislative Department, Ministry of Law.*
2. Shri N. D. P. Namboodiripad, *Joint Secretary, Legislative Department, Ministry of Law.*
3. Shri R. V. S. Peri Sastri, *Additional Legislative Counsel, Legislative Department, Ministry of Law.*
4. Shri G. N. Saksena, *Assistant Draftsman, Official Language (Legislative) Commission, Ministry of Law.*

SECRETARAIT

Shri M. C. Chawla—*Deputy Secretary.*

**Appointed on 13th August, 1968 *vice* Sardar Raghbir Singh Panjhazari resigned.

REPORT OF THE JOINT COMMITTEE

I, having been authorised to submit the report on behalf of the Joint Committee to which the Bill* to define and amend the law with respect to the liability of the Government in tort and to provide for certain matters connected therewith was referred, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced on the 22nd May, 1967 in Lok Sabha. The motion for reference of the Bill to a Joint Committee was moved in Lok Sabha by Shri Mohammad Yunus Saleem, Deputy Minister in the Ministry of Law on the 8th May, 1968 and was adopted on the same day. (Appendix I).

3. Rajya Sabha discussed the motion on the 13th May, 1968 and concurred in the motion on the same day. (Appendix II).

4. The message from Rajya Sabha was published in the Lok Sabha Bulletin Part II dated the 16*th May, 1968.

5. The Committee held thirteen sittings in all.

6. The first sitting of the Committee was held on the 17th May, 1968 to draw up their future programme of work. The Committee at this sitting decided to hear oral evidence from the associations/individuals etc. desirous of presenting their views before the Committee and to issue a Press Communique inviting memoranda for the purpose. The Committee also decided to issue a circular letter to Chief Secretaries of all the State Governments/Union Territories and to the Bar Council of India and the State Bar Councils and the Bar Associations of the Supreme Court and the High Courts, Chambers of Commerce and Industry and all-India representative trade unions' organisations inviting their comments on the provisions of the Bill. The Chairman was authorised to decide, after examining the memoranda submitted by the associations/individuals as to which of them should be called upon to give oral evidence before the Committee.

7. 16 memoranda|representations etc. on the Bill were received by the Joint Committee from different associations/individuals etc. (Appendix III).

8. At their 2nd, 3rd, 7th to 10th sittings held on the 3rd and 4th July and 5th, 24th, 25th and 26th October, 1968, the Committee heard the evidence given by leading legal figures and interested organisations (Appendix IV).

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*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 22nd May, 1967.

9. The report of the Committee was to be presented by the last day of the first week of the Fifth Session. As this could not be done, the Committee at their second sitting held on the 3rd July, 1968 decided to ask for extension of time for presentation of their Report upto the last day of the Sixth Session. Necessary motion was brought before the House and adopted on the 22nd July, 1968. At their ninth sitting held on the 25th October, 1968, the Committee again decided to ask for further extension of time upto the 31st March, 1969 which was granted by the House on the 18th November, 1968.

10. The Committee considered the Bill clause-by-clause at their Eleventh and Twelfth sittings held on the 11th and 12th February, 1969.

11. The Committee have decided that the evidence given before them should be printed and laid on the Tables of both the Houses *in extenso*.

12. The Committee have further decided that the memoranda submitted by various associations, bodies, organisations, Government Departments etc. should also be laid on the Tables of both the Houses and a copy thereof be placed in Parliament Library for reference by members after the Report of the Committee had been presented to the Houses.

13. The Committee considered and adopted the Report on the 7th March, 1969.

14. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the suceeding paragraphs.

15. *Clause* 3.—Sub-clause (a) (ii) of the clause deals with liability of Government in respect of any tort committed by an employee or agent of the Government while acting beyond the course of his employment. The sub-clause in the Bill as introduced provided that Government would be liable in respect of any such tort only if the act constituting the tort was done by the employee or agent on behalf of the Government and is ratified by the Government. The Committee are of the opinion that if any tort is committed by an employee or agent of the Government while acting beyond the course of his employment but on behalf of the Government it would not be fair to make ratification of the act by the Government a condition precedent for holding the Government liable for the tort. The Committee are also of the opinion that there may be situations in which Government should have freedom to ratify an act done by its employee or agent while acting beyond the course of his employment, although such act was not done by the employee or agent on behalf of the Government. The Committee have accordingly substituted the word 'or' for the word 'and' in sub-clause (a) (ii) of clause 3.

Sub-clause (b) (iii) of clause 3 makes the Government liable for any tort committed by an independent contractor employed by the Government where the act contracted to be done although lawful is of such a nature that unless reasonable care is taken, it is likely in the ordinary course of events to cause personal injury or damage to property in the doing thereof and such care has not been taken. The proviso to this subclause enables the Government to shift the liability on the contractor by making an express stipulation to that effect in the contract to be signed by it with the contractor. The Committee have noted that the proviso is not based upon any recommendation of the Law Commission. The Com-

mittee are of the opinion that it is not correct in principle to affect, by a stipulation in a contract between Government and an independent contractor, the rights of third parties and that the proviso will have the effect of placing Government in a more advantageous position than a private person who entrusts work to an independent contractor. They have accordingly omitted the proviso to sub-clause (b) (iii) of Clause 3.

16. *Clause* 11.—Sub-clause (f)—The amendment is of minor nature and necessitated by developments after the introduction of the Bill.

Sub-clause (i) of this clause provides for exemption to Government from liability in respect of acts done by members of police force and certain other public servants for the prevention or suppression of a breach of the peace, or a disturbance of the public tranquillity or a riot or an affray or for the prevention of any offences against public property. The Committee are of the opinion that such exemption should be provided for only in respect of acts done in good faith for the purposes aforesaid. The Committee have amended the clause accordingly.

17. *Clause* 1 *and Long Title.*—The amendments are of formal character.

18. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
the 7th March, 1969.

N. C. CHATTERJEE,
Acting Chairman,
Joint Committee.

APPENDIX I

(*Vide* para 2 of the Report)

Motion in Lok Sabha for reference of the Bill to Joint Committee

"That the Bill to define and amend the law with respect to the liability of the Government in tort and to provide for certain matters connected therewith, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely: Shri K. Anirudhan, Shri N. C. Chatterjee, Shri R. R. Singh Deo, Shri Devinder Singh, Shri Anirudha Dipa, Shri Shri Chand Goyal, Shri R. M. Hajarnavis, Shri S. Kandappan, Shri Brij Bhushan Lal, Shri Mali Mariyappa, Shri Srinibas Mishra, Shri H. N. Mukerjee, Shri Amrit Nahata, Shri K. Narayana Rao, Shri M. Narayan Reddy, Shri Mohammad Yunus Saleem, Shri A. T. Sarma, Shrimati Savitri Shyam, Shri A. K. Sen, Shri N. Sethuramana, Shri M. R. Sharma, Shri Narayan Swaroop Sharma, Shri Biswanarayan Shastri, Shri T. M. Sheth, Shri Devendra Vijai Singh, Shri Mudrika Sinha, Shri G. Viswanathan, Shri S. Xavier, Shri Ram Sewak Yadav, Shri P. Govinda Menon, and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this house by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make;

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* para 3 of the Report)

Motion in Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to define and amend the law with respect to the liability of the Government in tort and to provide for certain matters connected therewith, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri S. B. Bobdey
2. Shri Rama Bahadur Sinha
3. Shri Gulam Haider Valimohmed Momin
4. Shri Y. Adinarayana Reddy
5. Shri Krishan Kant
6. Shri M. P. Shukla
7. Shri Hira Vallabha Tripathi
8. Shri M. H. Samuel
9. Shri B. T. Kemparaj
10. Sardar Raghbir Singh Panjhazari
11. Shri Dahyabhai V. Patel
12. Shri N. K. Shejwalkar
13. Shri Balkrishna Gupta
14. Shri C. Achutha Menon
15. Shri G. P. Somasundaram."

APPENDIX III

(*Vide* para 7 of the Report)

Statement showing the names of Associations/Individuals etc. from whom memoranda/representations etc. were received by the Joint Committee

S. No.	From whom received	Action Taken
1.	Indian Produce Association, Calcutta	Circulated to Members and Evidence taken on 3-7-68.
2.	Supreme Court Bar Association, New Delhi.	Circulated to Members and Evidence taken on 3-7-68.
3.	Federation of All India Foodgrains Dealers Association, Delhi.	Circulated to Members and Evidence taken on 4-7-68.
4.	Nag Vidarbha Chamber of Commerce, Nagpur.	Circulated to Members.
5.	Bar Council of Uttar Pradesh, Allahabad.	Circulated to Members.
6.	Delhi Hindustani Mercantile Association, Delhi.	—do—
7.	Incorporated Law Society of Calcutta.	—do—
8.	Indian Chamber of Commerce, Calcutta.	—do—
9.	Government of Bihar.	—do—
10.	Government of Nagaland.	—do—
11.	Government of Madhya Pradesh.	—do—
12.	Government of Mysore	—do—
13.	Government of Maharashtra.	—do—
14.	Government of Rajasthan	—do—
15.	Government of Kerala	—do—
16.	Government of Pondicherry	—do—

APPENDIX IV

(*Vide* para 8 of the Report)

List of parties/individuals who gave evidence before the Joint Committee

Sl. No.	Name of the Parties		Dates on which evidence was taken
1.	Indian Produce Association, Calcutta.		3rd July, 1968.
2.	Supreme Court Bar Association, New Delhi.		3rd July, 1968.
3.	Federation of All India Foodgrains Dealers Association, Delhi.		4th July, 1968.
4.	Representatives from—		
	(i) Ministry of Railways (Railway Board) (ii) Ministry of Home Affairs (iii) Ministry of Commerce (iv) Ministry of Finance	Called Jointly.	5th October, 1968.
5.	Shri M.A. Ansari Pro-Chancellor, Osmania University, Hyderabad.		24th October, 1968.
6.	Shri M. C. Setalvad, M.P.		24th October, 1968. and 26th October, 1968.
7.	Shri K. L. Misra, Advocate-General, U.P.		25th October, 1968.
8.	Shri Purushottam Trikamdas, Senior Advocate, Supreme Court of India.		26th October, 1968.
9.	Shri C. K. Daphtary, Attorney-General of India.		26th October, 1968

APPENDIX V

Minutes of the sittings of the Joint Committee on the Government (Liability in Tort) Bill, 1967.

I

First sitting

The Committee sat on Friday, the 17th May, 1968 from 11.00 to 11.45 hours.

PRESENT

Shri M. H. Samuel—*In the Chair*

MEMBERS

Lok Sabha

2. Shri K. Anirudhan
3. Shri Anirudha Dipa
4. Shri Shri Chand Goyal
5. Shri R. M. Hajarnavis
6. Shri Srinibas Mishra
7. Shri Amrit Nahata
8. Shri K. Narayana Rao
9. Shri M. Narayan Reddy
10. Shrimati Savitri Shyam
11. Shri M. R. Sharma
12. Shri Narayan Swaroop Sharma
13. Shri T. M. Sheth
14. Shri Mudrika Sinha

Rajya Sabha

15. Shri Rama Bahadur Sinha
16. Shri Krishan Kant
17. Shri M. P. Shukla
18. Shri Hira Vallabha Tripathi
19. Shri B. T. Kemparaj
20. Shri Dahyabhai V. Patel
21. Shri Balkrishna Gupta.

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Dy. Legislative Counsel, Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of Shri A. K. Sen, Chairman of the Committee, Shri M. H. Samuel was elected to act as Chairman for the sitting under Rule 258(3).

3. After some discussion, the Committee decided to issue a Press Communique (Annexure I) inviting memoranda on the Bill from public bodies, organisations and associations by the 30th June, 1968.

4. The Committee also decided to issue—

(a) a circular letter to the Chief Secretaries of all the State Governments/Union Territories (Annexure II), and

(b) a circular letter to the Bar Councils of the Centre and the States and the Bar Associations of the Supreme Court and the High Courts, Chambers of Commerce and Industry and all-India representative trade unions' organisations (Annexure III).

5. The Committee also desired that the Ministry of Law should furnish to them a note setting forth—

(a) the present position in regard to the liability of the State in tort in India,

(b) comparative position in the U.K. and other countries, with particular reference to the changes in the position in the U.K. since the enactment of the Crown Proceedings Act, 1947,

(c) the extent to which the Bill seeks to modify the present position in regard to tort,

(d) the extent to which the Bill does not incorporate the recommendations of the Law Commission in this behalf,

(e) the connotation of the term 'tort', and

(f) the gist of the Supreme Court Rulings in the Mst Vidyawati and Ralia Ram cases and the extent to which the Bill meets the points raised in these rulings.

6. The Committee also desired to be furnished with the following documents:

(i) Report of the Law Commission on Liability of the State in Tort.

(ii) U.K. Crown Proceedings Act, 1947, as amended uptodate.

(iii) Supreme Court Judgment in the State of Rajasthan V/s Mst Vidyawati—1962—Supplementary 2 S.C.R. 987.

(iv) Supreme Court Judgment in the Ralia Ram V/s State of Uttar Pradesh, 1963, 1 S.C.A. 809.

The representative of the Ministry of Law promised to furnish the note and the aforesaid documents.

7. The Committee authorised the Chairman Shri A. K. Sen, to select parties, after the receipt of written memoranda from them, for oral evidence.

8. The Committee decided to sit daily at 10.00 hours from the 3rd July to 6th July, 1968 to hear oral evidence.

The Committee then adjourned.

ANNEXURE I

LOK SABHA SECRETARIAT

PRESS COMMUNIQUE

The Joint Committee of both Houses of Parliament on the Government (Liability in Tort) Bill, 1967 at their first sitting held today decided that public bodies, organisations and associations desirous of submitting memoranda on the Bill for consideration of the Committee should send them so as to reach the Secretary, Lok Sabha, Parliament House, New Delhi on or before the 30th June, 1968. If it is possible at all to send 60 copies of such memoranda, it will be much appreciated. The memorandum which might be submitted to the Committee would form part of the records of the Committee and should be treated as strictly confidential and not circulated to anyone, as such an act would constitute a breach of privilege of the Committee.

2. Those who are desirous of giving oral evidence before the Committee, besides sending memoranda, are requested to intimate to this effect to the Lok Sabha Secretariat for consideration of the Committee.

3. The Government (Liability in Tort) Bill, 1967, as introduced in Lok Sabha, was published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 22nd May, 1967.

4. The Committee will sit at New Delhi from Wednesday, the 3rd July, 1968 onwards to hear oral evidence.

NEW DELHI;
Dated the 17th May, 1968.

No. 16|3|CII|68 May 17, 1968|Vaisakha 27, 1890 (Saka).

Copy forwarded for information to the News Editor, A.I.R., New Delhi.

It is requested that this may please be broadcast from the A. I. R. on three successive days.

M. C. CHAWLA,
Deputy Secretary.

ANNEXURE II

UNDER CERTIFICATE OF POSTING

LOK SABHA SECRETARIAT

PARLIAMENT HOUSE,
NEW DELHI-1.

No. 16|3|CII|68 May 17, 1968|Vaisakha 27, 1890 (Saka).

From

Shri M. C. Chawla,
Deputy Secretary.

To

The Chief Secretaries of all the
State Governments/Union Territories.

SUBJECT: *Joint Committee on the Government (Liability in Tort) Bill, 1967.*

Sir,

I am directed to state that the Joint Committee of both Houses of Parliament on the Government (Liability in Tort) Bill, 1967, at their sitting held today, decided that all State Governments/Union Territories be addressed to send their comments or suggestions, if they so desire, on the provisions of the Government (Liability in Tort) Bill, 1967 for the consideration of the Committee, so as to reach this Secretariat by the 30th June, 1968, at the latest.

2. The Government (Liability in Tort) Bill, 1967, as introduced in Lok Sabha, was published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 22nd May, 1967.

3. A copy of the Bill is, however, sent herewith for ready reference.

4. In case any comments or suggestions are sent, it is requested that if it is possible at all, 60 copies thereof may be furnished to this Secretariat for circulation to the Members of the Joint Committee.

Yours faithfully,
Sd/- M. C. CHAWLA,
Deputy Secretary.

ENCLS: *As above*

ANNEXURE III

UNDER CERTIFICATE OF POSTING

LOK SABHA SECRETARIAT

PARLIAMENT HOUSE,
NEW DELHI-1.

No. 16|3|CII|68 May 17, 1963|Vaisakha 27, 1890 (Saka).

From

Shri M. C. Chawla,
Deputy Secretary.

To

SUBJECT: *Joint Committee on the Government (Liability in Tort) Bill, 1967.*

Sir,

I am directed to state that the Joint Committee of both Houses of Parliament on the Government (Liability in Tort) Bill. 1967, at their sitting held on the 17th May, 1968, decided that the Bar Councils of the Centre and the States and Bar Associations of the Supreme Court and High Courts, Chambers of Commerce and Industry, and All India representative trade unions' organisations be addressed to send their comments or suggestions, if they so desire, on the provisions of the Government (Liability in Tort) Bill, 1967 for the consideration of the Committee so as to reach this Secretariat by the 30th June, 1968 at the latest.

2. The Committee further decided that they could also give oral evidence before the Committee, if they so desired.

3. The Committee will sit at New Delhi from 3rd to 6th July, 1968 to hear oral evidence.

4. The Government (Liability in Tort) Bill, 1967, as introduced in Lok Sabha, was published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 22nd May, 1967. A copy of the Bill is, however, sent herewith for ready reference.

5. In case any comments or suggestions are sent, it will be appreciated if 60 copies thereof may be furnished to this Secretariat for circulation to the Members of the Joint Committee.

6. No travelling or daily allowance will be paid to your representatives for appearing before the Committee.

7. Please acknowledge receipt of this letter.

Yours faithfully,
Sd/- M. C. CHAWLA,
Deputy Secretary.

ENCLS: *As above*

II

Second Sitting

The Committee sat on Wednesday, the 3rd July, 1968 from 10.00 to 13.10 hours.

PRESENT

Shri M. H. Samuel—*in the Chair*

MEMBERS

Lok Sabha

2. Shri R. R. Singh Deo
3. Shri Anirudha Dipa
4. Shri Shri Chand Goyal
5. Shri R. M. Hajarnavis
6. Shri S. Kandappan
7. Shri Brij Bhushan Lal
8. Shri Srinibas Mishra
9. Shri Amrit Nahata
10. Shri Mohammad Yunus Saleem
11. Shri A. T. Sarma
12. Shrimati Savitri Shyam
13. Shri M. R. Sharma
14. Shri Narayan Swaroop Sharma
15. Shri Biswanarayan Shastri
16. Shri T. M. Sheth
17. Shri Ram Sewak Yadav

Rajya Sabha

18. Shri S. B. Bobdey
19. Shri Rama Bahadur Sinha
20. Shri Y. Adinarayana Reddy
21. Shri Krishan Kant
22. Shri M. P. Shukla
23. Shri Hira Vallabha Tripathi
24. Shri B. T. Kemparaj
25. Sardar Raghbir Singh Panjhazari
26. Shri N. K. Shejwalkar
27. Shri Dahyabhai V. Patel

23. Shri Balkrishna Gupta

29. Shri C. Achutha Menon.

LEGISLATIVE COUNSELS

1. Shri V. N. Bhatia, *Secretary, Legislative Deptt. Ministry of Law.*
2. Shri R. V. S. Peri-Sastri, *Dy. Legislative Counsel, Ministry of Law.*
3. Shri S. V. Subba Rao, *Attache, Legislative Deptt. Ministry of Law.*

* * * * *

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

In the absence of Shri A. K. Sen, Chairman of the Committee, Shri M. H. Samuel was elected to act as Chairman for the sitting under Rule 258(3).

2. The Chairman informed the Members that in pursuance of the decisions of the Joint Committee on the Government (Liability in Tort) Bill, 1967 taken at their first sitting held on the 17th May, 1968, a Press Communique inviting memoranda on the Bill from public bodies, organisations and associations by the 30th June, 1968 was issued and circular letters were also addressed to the Chief Secretaries of all the State Government/Union Territories, Bar Councils of the Centre and the States, Bar Associations of the Supreme Court and the High Courts, Chambers of Commerce and Industry and all-India representative trade unions' organisations requesting them to give their comments on the provisions of the Bill by the 30th June, 1968 and also to give oral evidence, if they so desired.

In response to the Press Communique and the letters, comments/ memoranda were received from the following organisations etc. and circulated to the Members of the Joint Committee:

(i) Indian Produce Association, Calcutta.

(ii) Supreme Court Bar Association, New Delhi.

(iii) Nag Vidarbha Chamber of Commerce, Nagpur.

(iv) Federation of All India Foodgrain Dealers' Associations, Delhi.

(v) Bar Council of Uttar Pradesh, Allahabad.

(vi) Delhi Hindustani Mercantile Association, Delhi.

(vii) Government of Mysore.

(viii) Incorporated Law Society of Calcutta.

The Chairman stated that the following parties who wanted to give oral evidence were asked to appear before the Joint Committee to give evidence:

(i) Indian Produce Association, Calcutta.

(ii) Supreme Court Bar Association, New Delhi.

(iii) Federation of All India Foodgrain Dealers' Associations', Delhi.

The first two parties would appear before the Committee on the 3rd July and the last party on the 4th July, 1968.

The Joint Committee at their first sitting had also desired that the Ministry of Law should be asked to furnish to them certain documents connected with the Bill. Accordingly, the following documents supplied by the Ministry of Law were circulated to the Members of the Joint Committee:

(i) Report of the Law Commission.

(ii) A note on recent developments in the field of Government Liability in Tort in India and in England.

(iii) A note on the extent to which the Government (Liability in Tort) Bill, 1967 seeks to modify the present position in regard to Government Liability in Tort and the extent to which the Bill does not incorporate the recommendations of the Law Commission.

(iv) A note on the connotation of the expression 'Tort'.

(v) Copy of Judgment of Supreme Court in Ralia Ram case.

(vi) Copy of the Judgment of the Supreme Court in Vidyawati case.

(vii) Copy of the Crown Proceedings Act, 1947.

3. The Chairman added that the Government of Rajasthan had suggested that in view of the importance of the Bill, the last date for communicating the comments of the State Government be extended upto the 15th August, 1968 in order to enable the State Government to examine the Bill critically. The Committee decided to extend the time for submission of comments and memoranda on the Bill upto the 14th August, 1968 and desired that a Press Communique be issued to notify the public bodies, interested organisations, Bar Councils/Associations etc. about the extension.

4. The Committee further decided to sit on the 3rd and 4th July, 1968 to hear oral evidence, as already intimated to Members, and on the 5th July, 1968 to chalk out their future programme for giving notices of amendments and taking up clause by clause consideration of the Bill and to cancel the sitting scheduled for the 6th July, 1968.

5. The Chairman informed the Members that unless the Committee were able to complete all the stages of the consideration of the Bill and finalise their Report during the current inter-session period, the last date for presentation of the Report according to the motion being the last day of the first week of the next session, they would have to ask for an extension of the time till the winter session of Parliament. In view of the extension of time for receipt of memoranda upto the 14th August, 1968, the Committee decided to ask for the extension of time for the presentation of their Report till the last day of the winter session of Parliament. They authorised the Chairman to bring this to the notice of the Speaker also as envisaged in Direction 79(2) of the Directions by the Speaker. They also authorised the Chairman and in his absence, Shri Shri Chand Goyal to move the motion for the extension of time in the House on the 1st day of the next session *viz.* 22nd July, 1968.

6. The Committee desired that the Ministry of Law should submit to them by the 4th July, 1968, a note discussing the liability of Government Servants for tortious acts committed in course of their employment and beyond the course of employment.

7. The following witnesses then gave evidence before the Committee: Before they gave evidence the Chairman drew their attention to Direction No. 58 of the Directions by the Speaker:

I. Shri V. S. Aggarwal
Shri R. S. Sharma
Representatives of
Indian Produce Association,
Calcutta.
(10.15 to 11.15 hours)

II. Shri Sardar Bahadur
Saharya, Secretary.
Supreme Court Bar Association,
New Delhi.
(11.20 to 13.09 hours).

8. A verbatim record of evidence was kept.

9. The Committee then adjourned to meet again at 10.00 hours on Thursday, the 4th July, 1968.

III

Third Sitting

The Committee sat on Thursday, the 4th July, 1968 from 10.00 to 11.25 hours.

PRESENT

Shri M. H. Samuel—*In the Chair*

MEMBERS

Lok Sabha

2. Shri K. Anirudhan
3. Shri R. R. Singh Deo
4. Shri Anirudha Dipa
5. Shri Shri Chand Goyal
6. Shri R. M. Hajarnavis
7. Shri S. Kandappan
8. Shri Brij Bhushan Lal
9. Shri Srinibas Mishra
10. Shri Amrit Nahata
11. Shri M. Narayan Reddy
12. Shri A. T. Sarma
13. Shrimati Savitri Shyam
14. Shri M. R. Sharma
15. Shri Narayan Swaroop Sharma
16. Shri T. M. Sheth
17. Shri Ram Sewak Yadav

18. Shri S. B. Bobdey
19. Shri Rama Bahadur Sinha
20. Shri Y. Adinarayana Reddy
21. Shri Krishan Kant
22. Shri M. P. Shukla
23. Shri Hira Vallabha Tripathi
24. Sardar Raghbir Singh Panjhazari
25. Shri Dahyabhai V. Patel
26. Shri N. K. Shejwalkar
27. Shri Balkrishna Gupta
28. Shri C. Achutha Menon

LEGISLATIVE COUNSEL

1. Shri R. V. S. Peri-Sastri, Addl. Legislative Counsel, Ministry of Law.
2. Shri S. V. Subha Rao, Attache, Legislative Deptt. Ministry of Law.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. In the absence of Shri A. K. Sen, Chairman of the Committee, Shri M. H. Samuel was elected to act as Chairman for the sitting under Rule 258(3).

3. The Committee decided that the representatives of some of the major Ministries like Railways, Home, Steel, Mines and Metals, Health etc. should be invited to appear before them to throw light on the question of accountability of the Government for the tortious acts of Government employees under the Bill.

4. The following witness then gave evidence. Before he gave evidence, Chairman drew his attention to Direction No. 58 of the Directions by the Speaker—

Shri Bhani Ram Gupta,
General Secretary,
Federation of All India Foodgrain Dealers' Association,
Delhi.

(10.30 to 11.10 hours)

A verbatim record of evidence was kept.

5. The Committee desired that the Ministry of Law should submit to them a note discussing the question of ratification of the acts of the Government employees by the Government.

6. In the general discussion that followed, members desired to know whether the British doctrine that the King cannot be sued in his own Courts was applicable to India where the Constitution creates the President, Courts and the Legislatures, and what the corresponding position

was under the French Law. They also wanted to know what precisely was the implication of the "Sovereign functions of the State" *vis-a-vis* the liability of the Government for the tortious acts of its employees.

The Committee desired that the Ministry of Law should submit to them an exhaustive note on the aforesaid points.

7 The Committee then adjourned to meet again at 11.00 hours on the 5th July, 1968.

IV

Fourth Sitting

The Committee sat on Friday, the 5th July, 1968 from 11.00 to 12.45 hours.

PRESENT

Shri M. H. Samuel—*in the Chair*

MEMBERS

Lok Sabha

2. Shri R. R. Singh Deo
3. Shri Anirudha Dipa
4. Shri Shri Chand Goyal
5. Shri S. Kandappan
6. Shri Brij Bhushan Lal
7. Shri Srinibas Mishra
8. Shri Amrit Nahata
9. Shri M. Narayan Reddy
10. Shri Mohammad Yunus Saleem
11. Shri A. T. Sarma
12. Shrimati Savitri Shyam
13. Shri M. R. Sharma
14. Shri Narayan Swaroop Sharma
15. Shri Biswanarayan Shastri
16. Shri T. M. Sheth
17. Shri Ram Sewak Yadav

Rajya Sabha

18. Shri S. B. Bobdey
19. Shri Rama Bahadur Sinha
20. Shri Y. Adinarayana Reddy
21. Shri Krishan Kant
22. Shri M. P. Shukla
23. Shri Hira Vallabha Tripathi
24. Shri B. T. Kemparaj

25. Shri Dahyabhai V. Patel
26. Shri N. K. Shejwalkar
27. Shri Balkrishna Gupta
28. Shri C. Achutha Menon

LEGISLATIVE COUNSELS

1. Shri V. N. Bhatia, *Secy., Legislative Deptt. Miny. of Law.*
2. Shri N. D. P. Namboodiripad, *Jt. Secy., Legislative Deptt., Ministry of Law*
3. Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel, Legislative Deptt. Miny. of Law.*
4. Shri S. V. Subha Rao, *Attache, Legislative Deptt. Miny. of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*

2. In the absence of Shri A. K. Sen, Chairman of the Committee, Shri H. M. Samuel was elected to act as Chairman for the sitting under Rule 258(3).

3. The Committee discussed the note prepared by the Ministry of Law on the question of liability of Government servants for tortious acts committed by them in the course of employment and outside the course of employment.

4. The Secretary, Ministry of Law explained that generally speaking, Government servants were as much liable for the torts committed by them as ordinary citizens. Actions of Government servants might be protected under statutory provisions and Government might not be held liable for their tortious acts in all cases. He further said that the superior officers were not liable for the wrongful acts of their subordinates unless the acts of the latter were directed to be done by the former.

5. There was a general feeling among the members that the large number of exemptions provided in clause 11 of the Bill would stultify the rights of citizens who might be wronged by the Government or Government servants. They desired that the liability of the Government towards the citizens for the tortious acts of their servants should be enlarged by narrowing down the scope of Clause 11.

6. Some members wanted that the expression, 'any act of State' used in Clause 11(a) should be clearly and precisely defined and that the acts done by the Government servants in exercise of the 'Sovereign power' of the State for which Government was not liable according to the decision of the Supreme Court in the Ralia Ram case should be described in the Bill for the guidance of general public.

7. The Committee decided that before proceeding with the clause-by-clause consideration of the Bill, they should invite the following jurists, former judges and legal experts and hear their views on the provisions of the Bill:

(1) Shri B. P. Sinha, Ex-Chief Justice of India.

(2) Shri P. B. Gajendragadkar, Ex-Chief Justice of India.

(3) Shri C. K. Daphtary, Attorney-General of India.

(4) Shri M. C. Setalvad, M.P. and former Attorney-General, India.

(5) Shri H. M. Seerva, Advocate-General of Maharashtra.

(6) Shri K. L. Misra, Advocate-General of U.P.

(7) Shri D. Narsara Raju, former Advocate-General of Andhra Pradesh.

(8) Shri G. R. Ethiraju Naidu, former Advocate-General of Mysore.

(9) Shri M. A. Ansari, former Chief Justice of Kerala High Court.

(10) Shri Purshottam Trikamdas, Advocate, New Delhi.

(11) Civil Liberties Union.

The Committee also decided to pay T.A. and D.A. to such of the aforesaid persons as might appear before the Committee.

8. The Committee desired that, as the liability of the State Governments was likely to increase considerably after the Bill became law, the State Government should be asked to examine the Bill thoroughly in consultation with their Advocates-General and to send their views to the Committee. The State Governments should also be asked to request their Advocates-General to appear before the Committee, if they so desired.

9. The Committee decided that their proceedings of date should be printed and laid on the Table of the House and authorised the Chairman to omit such portions from the proceedings, as he might deem fit.

10. At the suggestion made by some members, the representative of the Ministry of Law agreed to circulate copies of the Court Judgment in Buron Vs. Denmans (1847) 2 Ex. 167 case to members of the Committee.

11. The Committee decided that they should sit in the first week of October, 1968 for hearing further evidence.

12. The Committee then adjourned to meet for a day on 2nd September, 1968 at 09.30 hours to chalk out their future programme.

V

Fifth Sitting

The Committee sat on Monday, the 2nd September, 1968 from 09.30 to 10.20 hours.

PRESENT

Shri A. K. Sen—*Chairman*

MEMBERS

Lok Sabha

2. Shri Anirudha Dipa

3. Shri Shri Chand Goyal

4. Shri S. Kandappan

5. Shri Baij Nath Kureel

6. Shri Srinibas Mishra

7. Shri H. N. Mukerjee
8. Shri Amrit Nahata
9. Shri A. T. Sarma
10. Shrimati Savitri Shyam
11. Shri M. R. Sharma
12. Shri Narayan Swaroop Sharma
13. Shri Biswanarayan Shastri
14. Shri T. M. Sheth
15. Shri Mudrika Sinha
16. Shri Ram Sewak Yadav
17. Shri K. Anirudhan

Rajya Sabha

18. Shri S. B. Bobdey
19. Shri Rama Bahadur Sinha
20. Shri Gulam Haider Valimohmed Momin
21. Shri Y. Adinarayana Reddy
22. Shri Krishan Kant
23. Shri M. P. Shukla
24. Shri Hira Vallabha Tripathi
25. Shri M. H. Samuel
26. Shri B. T. Kemparaj
27. Shri Chakrapani Shukla
28. Shri Dahyabhai V. Patel
29. Shri N. K. Shejwalkar
30. Shri C. Achutha Menon
31. Shri G. P. Somasundaram.

LEGISLATIVE COUNSELS

1. Shri V. N. Bhatia, *Secy. Legislative Deptt., Miny. of Law.*
2. Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel Legislative Deptt. Miny. of Law.*
3. Shri V. S. Bhashyam, *Deputy Legislative Counsel, Legislative Deptt., Miny. of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Chairman informed the Members that in pursuance of the decision of the Committee at their last session held in July, 1968, the following jurists were invited to appear before the Committee to express their views on the provisions of the Bill:

(1) Shri B. P. Sinha, Ex-Chief Justice of India.

(2) Shri P. B. Gajendragadkar, Ex-Chief Justice of India.

(3) Shri C. K. Daphtary, Attorney-General of India.

(4) Shri M. C. Setalvad. M.P. and former Attorney-General of India.

(5) Shri H. M. Seervai, Advocate-General of Maharashtra.

(6) Shri K. L. Misra, Advocate-General of Uttar Pradesh.

(7) Shri D. Narsara Raju, former Advocate-General of Andhra Pradesh.

(8) Shri G. R. Ethiraju Naidu, former Advocate-General of Mysore.

(9) Shri M. A. Ansari, former Chief Justice of Kerala High Court.

(10) Shri Purshottam Trikamdas, Advocate, New Delhi.

(11) Civil Liberties Union.

The Chairman stated that in response to the invitations, the following five jurists had conveyed their willingness to appear before the Committee:

(1) Shri M. A. Ansari, Pro-Chancellor Osmania University, Hyderabad.

(2) Shri C. K. Daphtary, Attorney-General of India.

(3) Shri K. L. Misra, Advocate-General of Uttar Pradesh.

(4) Shri Purshottam Trikamdas, Advocate, New Delhi.

(5) Shri M. C. Setalvad, M.P.

3. The Chairman further informed the Members that the Ministries of Home Affairs, Railways, Finance and Steel, Mines and Metals which had also been invited to appear before the Committee, had already nominated their representatives to appear before the Committee to give evidence on a date to be fixed by the Committee.

4. The Chairman also stated that in pursuance of the decision of the Committee the State Governments were requested to offer comments on the provisions of the Bill and also to depute their Advocates-General to appear before the Committee to give oral evidence. Only three State Governments *viz.*, Bihar, Mysore and Nagaland had so far offered comments on the Bill which had already been circulated to the Members. The States of Gujarat, Jammu and Kashmir, Orissa, Maharashtra and the Union Territories of Dadra and Nagar Haveli, Goa, Daman and Diu, Laccadive and Minicoy, Himachal Pradesh, Delhi and Tripura had informed that they had no comments to offer. No State Government had so far considered it necessary to depute their Advocates-General to appear before the Committee.

5. The Chairman further stated that the following papers received from the Ministry of Law in compliance with the request of the Members had already been circulated to the Members:

(i) A note on the question of ratification of the acts of the Government employees by the Government.

(ii) A note on the doctrine of sovereign immunity from liability in tort and its applicability in India.

(iii) French law as to liability of State and of public officers in tort.

(iv) The judgment in 'Buron V. Denmans' (1847) 2 Ex. 167 case.

The following memoranda received from Shri Sardar Bahadur Saharya, Secretary, Supreme Court Bar Association, New Delhi with reference to

his oral evidence tendered before the Committee had also been circulated to Members:

(i) A memorandum regarding the policy which the proposed measure should adopt; and

(ii) A memorandum containing suggestions regarding language of certain clauses.

6. The Committee decided to meet next on the 3rd and 4th October, 1968 at 16.15 hours to hear the views of the jurists referred to in para 2 above and on the 5th October, 1963 at 10.00 hours to hear the representatives of the Ministries on the Bill.

7. The Committee also decided that after hearing the evidence from 3rd to 5th October, 1968, the Committee should adjourn to meet again from the 24th to 26th October, 1968 to consider the Bill clause-by-clause and finalise their Report.

The Committee further decided that amendments, if any, to the Bill might be tabled by Members by the 15th October, 1968 so that they could be circulated to Members well before their next session.

8. The Chairman thanked Shri M. H. Samuel, M.P. for conducting the proceedings of the past sittings of the Committee in his absence, which he said was unavoidable.

The Committee then adjourned to meet again at 16.15 hours on the 3rd October, 1968.

VI

Sixth Sitting

The Committee sat on Thursday, the 3rd October, 1968 from 16.15 hours to 17.15 hours.

PRESENT

Shri N. C. Chatterjee—*in Chair*

MEMBERS

Lok Sabha

2. Shri K. Anirudhan
3. Shri R. R. Singh Deo
4. Shri Shri Chand Goyal
5. Shri R. M. Hajarnavis
6. Shri S. Kandappan
7. Shri Brij Bhushan Lal
8. Shri Baij Nath Kureel
9. Shri Srinibas Mishra
10. Shri H. N. Mukerjee
11. Shri Amrit Nahata

12. Shri K. Narayana Rao
13. Shri M. Narayan Reddy
14. Shri Mohammad Yunus Saleem
15. Shri A. T. Sarma
16. Shrimati Savitri Shayam
17. Shri M. R. Sharma
18. Shri Narayan Swaroop Sharma
19. Shri Biswanarayan Shastri
20. Shri T. M. Sheth
21. Shri Mudrika Sinha
22. Shri G. Viswanathan
23. Shri Ram Sewak Yadav

Rajya Sabha

24. Shri S. B. Bobdey
25. Shri Rama Bahadur Sinha
26. Shri Gulam Haider Valimohmed Momin
27. Shri Krishan Kant
28. Shri M. P. Shukla
29. Shri Hira Vallabha Tripathi
30. Shri M. H. Samuel
31. Shri Chakrapani Shukla
32. Shri Dahyabhai V. Patel
33. Shri Balkrishna Gupta
34. Shri C. Achutha Menon
35. Shri G. P. Somasundaram

LEGISLATIVE COUNSEL

1. Shri V. N. Bhatia, *Secy. Legislative Deptt., Miny. of Law.*
2. Shri N. D. P. Namboodripad—*Jt. Secy. Legislative Deptt.—Min. of Law.*
3. Shri R. V. S. Peri-Sastri—*Addl. Legislative Counsel, Legislative Deptt. Min. of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of Shri A. K. Sen, Chairman of the Committee, Shri N. C. Chatterjee was elected to act as Chairman for the sitting under Rule 258(3).

3. The Chairman informed the members that the Committee were to hear the evidence of Sarvashri M. A. Ansari, C. K. Daphtary and Purshottam Trikamdas. But on their intimating their inability to appear before the Joint Committee due to certain reasons, they had now been requested to appear before the Joint Committee on Thursday, the 24th October, 1963.

Shri M. C. Setalvad, M.P. was to appear before the Joint Committee on the 4th October, 1968 at 16.15 hours, but he too had intimated that he was going to Srinagar to attend some seminar and he would thus not be able to appear before the Committee on that day. He was being requested to appear before the Committee on the 24th October at 16.30 hours. In view of this, the Committee decided that as there would be no business to transact on the 4th October, the sitting which was to be held on that day, be cancelled.

The Chairman added that Shri K. L. Misra, Advocate-General of U.P. had rung up the Lok Sabha Secretariat that morning from Allahabad to say that contrary to his earlier expectations, the Allahabad High Court would be sitting on Saturday, the 5th October, 1968 and he had to attend to certain important state cases pending before the Court. He would, therefore, not be able to appear on the 5th October, 1968 before the Committee. He had, however, agreed to appear before the Committee on Friday, the 25th October, 1968.

The Committee would now be hearing the views of representatives of the various ministries of the Government of India on Saturday, the 5th October, 1968 at 10.00 hours.

4. The Committee decided to hold their next session from 24th October to 26th October, 1968 and approved the programme for those sittings (Annexure).

5. The Members felt that as the liability of the State Government was likely to increase considerably after the Bill became Law, it was very necessary for them to have the views of the State Governments before proceeding with the Bill further. Some members suggested that the Committee might meet in the Capitals of certain States to take evidence of representatives of the State Governments. The suggestion was supported by Shri V. N. Bhatia, Law Secretary, who felt that the State Governments would take up this question seriously only if the Committee visited the States. Shri Mohammad Yunus Saleem, Deputy Law Minister stated that the suggestion deserved serious consideration.

6. The Deputy Secretary, Lok Sabha Sectt. informed the Committee that the question of inviting views of the State Governments on the Bill had been considered in the past on various occasions and twice the State Governments had been requested to send their views on the Bill for the consideration of the Committee and also to depute their Advocates-General to appear before the Committee. Only three State Governments viz., Bihar, Mysore and Nagaland had so far offered commands on the Bill which had already been circulated to the Members. The States of Gujarat, Jammu and Kashmir, Orissa, Maharashtra, and the Union Territories of Dadra and Nagar Haveli, Goa, Daman and Diu, Laccadive and Minocoy, Himachal Pradesh, Delhi and Tripura had informed that they had no comments to offer. No State Government had so far considered it necessary to depute their Advocate-General to appear before the Committee.

The Deputy Secretary drew the attention of the Committee to 'Direction' by the Speaker under which sittings of the Committee could not be held outside Parliament House without the permission of the Speaker.

He also apprised the Committee of the recent decision by the Rules Committee of Lok Sabha emphasizing that Parliamentary Committees should not meet outside Delhi. Referring to the recent experiences of certain Committees which held their sittings in certain State Capitals, the Deputy Secretary told the members that the members of those Committees were put to a great inconvenience due to the inability of the State Governments to make adequate arrangements for their accommodation etc.

7. The Committee decided that in the circumstances instead of taking a decision on the suggestion to meet outside Delhi, the Lok Sabha secretariat should make one more request to the State Governments, who had not replied to their earlier communications, to send their views on the Bill and, if necessary, depute their Advocates-General to appear before the Committee at their next session.

8. Attention of the Committee was invited by the Law Secretary to the views on the provisions of the Bill expressed in his Book on Indian Constitution by Shri H. M. Seervai, Advocate-General of Maharashtra who had been invited by the Committee to give evidence but who had regretted his inability to come to Delhi for the purpose. The Law Secretary stated that those views required further clarification from Shri Seervai with reference to certain articles of the Constitution. Certain members suggested that Shri Seervai be 'summoned' to appear before the Committee under Rule 272.

After some discussion the Committee decided that in the first instance, an earnest request be made again to Shri Seervai on behalf of the Committee to appear before them to give the benefit of his views to the members on Saturday, the 26th October, 1968 at New Delhi.

9. The Committee adjourned to meet again on Saturday, the 5th October, 1968 to hear evidence.

ANNEXURE

JOINT COMMITTEE ON GOVERNMENT (LIABILITY IN TORT) BILL, 1967

TENTATIVE PROGRAMME OF SITTINGS

Day and Date	*Time*	*Name of the witness*
24th October, 1968 (Thursday)	14.00 hrs.	Shri M. A. Ansari, Pro-Chancellor, Osmania University, Hyderabad.
	15.30 hrs.	Shri C. K. Daphtary, Attorney-General of India.
	16.30 hrs.	Shri M. C. Setalvad, M.P.
25th October, 1968 (Friday)	10.00 hrs.	Shri K. L. Misra, Advocate General of U.P.
26th October, 1968 (Saturday)	10.00 hrs.	Shri Purshottam Trikamdas, Senior Advocate, Supreme Court of India.

VII

Seventh Sitting

The Committee sat on Saturday, the 5th October, 1968 from 10.00 to 11.00 hours.

PRESENT

Shri A. K. Sen—*Chairman*

MEMBERS

Lok Sabha

2. Shri N. C. Chatterjee
3. Shri Shri Chand Goyal
4. Shri S. Kandappan
5. Shri Brij Bhushan Lal
6. Shri Baij Nath Kureel
7. Shri Srinibas Mishra

8. Shri H. N. Mukerjee
9. Shri K. Narayana Rao
10. Shri M. Narayan Reddy.
11. Shri Mohammad Yunus Saleem
12. Shri A. T. Sarma
13. Shri M. R. Sharma
14. Shri Narayan Swaroop Sharma
15. Shri T. M. Sheth
16. Shri Mudrika Sinha
17. Shri G. Viswanathan

Rajya Sabha

18. Shri S. B. Bobdey
19. Shri Rama Bahadur Sinha
20. Shri Gulam Haider Valimohmed Momin
21. Shri Krishan Kant
22. Shri Hira Vallabha Tripathi
23. Shri M. H. Samuel
24. Shri Chakrapani Shukla
25. Shri N. K. Shejwalkar
26. Shri Balkrishna Gupta
27. Shri C. Achutha Menon
28. Shri G. P. Somasundaram.

LEGISLATIVE COUNSELS

1. Shri N. D. P. Namboodiripad, *Jt. Secy. Legislative Department, Ministry of Law.*
2. Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel, Legislative Deptt. Miny. of Law.*
3. Shri Subbarao, *Attache Legislative Department, Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. At the outset, the Chairman moved the following resolution condoling the death of Shri S. V. Krishnamoorthy Rao, former Deputy Speaker of Lok Sabha:

> "This Committee place on record their deep sense of sorrow over the passing away of Shri S. V. Krishnamoorthy Rao, former Deputy Speaker, Lok Sabha at New Delhi yesterday morning.
>
> The Committee send their heartfelt sympathies to the bereaved family."

The members then stood in silence for a shortwhile.

3. The following witnesses then gave evidence:

1. Shri K. C. Sood, Member (Engineering) Railway Board.

2. Shri Kasturi Rangan, Director-Establishment, Railway Board.
3. Shri Uma Shanker, Joint Secretary, Ministry of Home Affairs.
4. Shri H. K. Kochar, Joint Secretary, Ministry of Commerce.
5. Shri S. S. Shiralkar, Addl. Secretary, Ministry of Finance.

4. A verbatim record of evidence was kept.

5. The Committee then adjourned.

VIII

Eighth Sitting

The Committee sat on Thursday, the 24th October, 1968 from 14.00 to 17.30 hours.

PRESENT

Shri N. C. Chatterjee—*In the Chair.*

MEMBERS

Lok Sabha

2. Shri Anirudha Dipa
3. Shri Shri Chand Goyal
4. Shri S. Kandappan
5. Shri Brij Bhushan Lal
6. Shri Baij Nath Kureel
7. Shri Srinibas Mishra
8. Shri H. N. Mukerjee
9. Shri Mohammad Yunus Saleem
10. Shri A. T. Sarma
11. Shrimati Savitri Shyam
12. Shri M. R. Sharma
13. Shri Biswanarayan Shastri
14. Shri T. M. Sheth
15. Shri Mudrika Sinha
16. Shri Ram Sewak Yadav

Rajya Sabha

17. Shri S. B. Bobdey
18. Shri Rama Bahadur Sinha
19. Shri Gulam Haider Valimohmed Momin
20. Shri Krishan Kant
21. Shri M. P. Shukla
22. Shri Hira Vallabha Tripathi
23. Shri M. H. Samuel
24. Shri B. T. Kemparaj

25. Shri Dahyabhai V. Patel
26. Shri N. K. Shejwalkar
27. Shri Balkrishna Gupta
28. Shri C. Achutha Menon
29. Shri G. P. Somasundaram.

LEGISLATIVE COUNSEL

1. Shri V. N. Bhatia, *Secretary, Legislative Deptt., Ministry of Law.*
2. Shri N. D. P. Namboodiripad, *Joint Secretary, Legislative Department, Ministry of Law.*
3. Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel, Ministry of Law.*
4. Shri S. V. Subba Rao, *Attache, Legislative Department, Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of Shri A. K. Sen, Chairman of the Committee, Shri N. C. Chatterjee was elected to act as Chairman for the sitting under Rule 258(3).

3. The Chairman informed the members that at their sixth sitting, held on the 3rd October, 1968 the Joint Committee desired that State Governments who had not replied to Lok Sabha Secretariat's earlier communications, might be approached again to send their views on the Bill and if necessary, depute their Advocates-General to appear before the Committee at their next session. Accordingly letters were addressed to State Governments of West Bengal, Rajasthan, Punjab, Haryana, Assam, Andhra Pradesh, Madhya Pradesh, Kerala, Madras, Uttar Pradesh and Union Territories of Chandigarh and Manipur on the 5th October, 1968 requesting them again to send their views by the 16th October, 1968.

In reply to this letter the Government of Madhya Pradesh had sent their views alongwith the views of their Advocate-General. It had not been stated in the letter whether their Advocate General would be appearing before the Committee or not. The opinions of the Government of Madhya Pradesh and their Advocate General had been circulated to the Members.

The Chairman further informed the Committee that the Governments of Madras and West Bengal had intimated that the Bill was still under consideration and they would take considerable time to submit their views.

The Chairman added that it was also desired by the Committee that Shri H. M. Seervai, Advocate-General of Maharashtra might once again be requested to appear before the Committee on the 26th October, 1968. Shri H. M. Seervai, was accordingly requested to meet the Joint Committee on 26th October, 1968 at 11.00 hours. Shri H. M. Seervai, in his letter dated 8th October, 1968 had expressed that:—

"As stated by me in my letter to the Government of Maharashtra, I am unable to go to Delhi to give any evidence and I regret my

inability to appear before the Joint Committee on 26th October, 1968 or on any other date, in Delhi."

The Chairman further added that confirmation had been received from Sarvashri M. A. Ansari, M. C. Setalvad and K. L. Misra regarding their appearance before the Joint Committee on the 24th, 25th October, 1968.

Sarvashri C. K. Daphtary and Purshottam Trikamdas were contacted on phone and they had also confirmed that they would be appearing before the Joint Committee on the 26th October, 1968.

4. The following witnesses then gave evidence. Before they gave evidence, Chairman drew their attention to Direction No. 58 of the Directions by the Speaker:—

(1) Shri M. A. Ansari, Pro-Chancellor, Osmania University, Hyderabad.

(14.00 to 16.00 hours).

(ii) Shri M. C. Setalvad, M.P.

(16.00 to 17.30 hours—Not concluded).

The Committee decided to resume further hearing of evidence of Shri M. C. Setalvad, M.P., at their sitting to be held at 16.00 hours on Saturday, the 26th October, 1968.

A verbatim record of evidence was kept.

The Committee then adjourned to meet again at 10.00 hours on 25th October, 1968.

IX

Ninth Sitting

The Committee sat on Friday, the 25th October, 1968 from 10.00 to 12.45 hours.

PRESENT

Shri M. H. Samuel—*In the Chair* (Upto 10.30 hrs.)

Shri N. C. Chatterjee—*In the Chair* (from 10.30 onwards).

MEMBERS

Lok Sabha

3. Shri Anirudha Dipa
4. Shri Shri Chand Goyal
5. Shri S. Kandappan
6. Shri Brij Bhushan Lal
7. Shri Baij Nath Kureel
8. Shri Srinibas Mishra
9. Shri H. N. Mukerjee

10. Shri K. Narayana Rao
11. Shri Mohammad Yunus Saleem
12. Shri A. T. Sarma
13. Shrimati Savitri Shyam
14. Shri M. R. Sharma
15. Shri Narayan Swaroop Sharma
16. Shri Biswanarayan Shastri
17. Shri T. M. Sheth
18. Shri Mudrika Sinha
19. Shri Ram Sewak Yadav

Rajya Sabha

20. Shri S. B. Bobdey
21. Shri Rama Bahadur Sinha
22. Shri Gulam Haider Valimohmed Momin
23. Shri Krishan Kant
24. Shri M. P. Shukla
25. Shri Hira Vallabha Tripathi
26. Shri B. T. Kemparaj
27. Shri Chakrapani Shukla
28. Shri N. K. Shejwalkar
29. Shri Balkrishna Gupta
30. Shri C. Achutha Menon.
31. Shri G. P. Somasundaram.

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel, Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of the Chairman, Shri M. H. Samuel, M.P. was chosen to act as the Chairman of the sitting under sub-rule (3) of Rule 258.

3. The Committee decided that until such time as they received the comments of the State Government of Madras and West Bengal who had asked for some time, they should not take up clause-by-clause consideration of the Bill. They, therefore, decided to sit for a day during the next session to consider their comments. The Committee desired that these State Governments should be reminded.

4. The Committee felt that in view of the fact that as the proposed legislation was first of its kind in the country and it affected the tortious acts of both the Central and State Governments. They would do well if they were to consider the various implications thereof in somewhat greater detail. They, therefore, decided to ask for a further extension of time for the presentation of their report till the 31st March, 1969.

5. The Committee authorised Shri Asok Sen or in his absence Shri Shri Chand Goyal to move the necessary motion in the House in this behalf.

6. The Committee then proceeded to hear the evidence of Shri K. L. Misra, Advocate-General U.P. His attention was drawn by the Chairman to the provisions of Direction 58 of the Directions by the Speaker.

7. At 10.30 A.M., the acting Chairman, Shri M. H. Samuel, M.P. vacated the Chair and Shri N. C. Chatterjee, M.P. took the Chair with the approval of the Committee under sub-rule (3) of Rule 258.

The evidence lasted till 12.45 hours.

8. A verbatim record of the evidence was kept.

9. The Committee then adjourned till 10.00 hours on Saturday, the 26th October, 1968.

X

Tenth Sitting

The Committee sat on Saturday, the 26th October, 1968 from 10.00 to 12.40 hours and then from 16.00 to 17.05 hrs.

PRESENT

Shri N. C. Chatterjee—*In the Chair* (upto 12.40).

Shri Shri Chand Goyal—*In the Chair* (from 16.00 onwards).

MEMBERS

Lok Sabha

3. Shri Anirudha Dipa
4. Shri R. M. Hajarnavis
5. Shri Brij Bhushan Lal
6. Shri Baij Nath Kureel
7. Shri Srinibas Mishra
8. Shri H. N. Mukerjee
9. Shri Amrit Nahata
10. Shri K. Narayana Rao
11. Shri Mohammad Yunus Saleem
12. Shri A. T. Sarma
13. Shri M. R. Sharma
14. Shri Biswanarayan Shastri
15. Shri T. M. Sheth
16. Shri Mudrika Sinha
17. Shri G. Viswanathan
18. Shri Ram Sewak Yadav

Rajya Sabha

19. Shri Rama Bahadur Sinha
20. Shri Gulam Haider Valimohmed Momin

21. Shri Krishan Kant
22. Shri M. P. Shukla
23. Shri Hira Vallabha Tripathi
24. Shri B. T. Kemparaj
25. Shri Chakrapani Shukla
26. Shri N. K. Shejwalkar
27. Shri Balkrishna Gupta
28. Shri C. Achutha Menon
29. Shri G. P. Somasundaram
30. Shri M. H. Samuel
31. Shri Dahyabhai V. Patel

LEGISLATIVE COUNSEL

1. Shri R. V. S. Peri-Sastri, *Addl. Legislative Cousel, Legislative Deptt., Ministry of Law.*
2. Shri Subha Rao, *Attache, Legislative Deptt. Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of the Chairman, Shri N. C. Chatterjee, M.P. was elected to the Chair to act as Chairman for the sitting under Rule 258 (3).

3. The following witnesses gave evidence after their attention had been drawn to Direction 58 of the Directions by the Speaker:—

1. Shri Purshottam Trikamdas, Senior Advocate, Supreme Court of India. (10.10 to 11.25 hrs.)
2. Shri C. K. Daphtary, Attorney-General of India. (11.26 to 12.40 hours).

4. A verbatim record of evidence was kept.

5. The Committee adjourned for lunch at 12.40 hours.

6. The Committee reassembled after lunch at 16.00 hrs. and in the absence of the Chairman chose Shri Shri Chand Goyal as the Chairman for the sitting in terms of sub-rule (3) of Rule 258.

7. The Committee then proceeded to hear further the views of Shri M. C. Setalvad, M.P. on the provisions of the Bill.

8. The evidence lasted till 17.00 hours.

The Committee then adjourned.

XI

Eleventh Sitting

The Committee sat on Tuesday the 11th February, 1969 from 10.00 to 12.20 hours.

PRESENT

Shri N. C. Chatterjee—*In the Chair*

MEMBERS

Lok Sabha

2. Shri Anirudha Dipa
3. Shri R. M. Hajarnavis

4. Shri S. Kandappan
5. Shri Srinibas Mishra
6. Shrimati Savitri Shyam
7. Shri Narayan Swaroop Sharma
8. Shri Biswanarayan Shastri
9. Shri P. Govinda Menon.

Rajya Sabha

10. Shri S. B. Bobdey
11. Shri Gulam Haider Valimohmed Momin
12. Shri Y. Adinarayana Reddy
13. Shri Krishan Kant
14. Shri Hira Vallabha Tripathi
15. Shri M. H. Samuel
16. Shri B. T. Kemparaj
17. Shri Chakrapani Shukla
18. Shri Dahyabhai V. Patel
19. Shri N. K. Shejwalkar
20. Shri Balkrishna Gupta

LEGISLATIVE COUNSEL

1. Shri N. D. P. Namboodiripad, *Jt. Secretary, Legislative Deptt., Ministry of Law.*
2. Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel, Legislative Deptt. Miny. of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

In the absence of the Chairman, Shri N. C. Chatterjee was elected to act as Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business.

2. The Chairman informed the members that, in pursuance of the decision of the Committee, the Governments of those States and Union Territories which had not furnished their views had been reminded to furnish their views on the Government (Libility in Tort) Bill, 1967 by the 31st January, 1969 for the consideration of the Committee. He added that the views of Governments of Mysore, Bihar, Madhya Pradesh and Nagaland had so far been received and already circulated to members. The Governments of Gujarat, Orissa, Maharashtra, Jammu and Kashmir, Punjab, Goa, Daman and Diu, Delhi, Dadra and Nagar Haveli, Himachal Pradesh, Laccadive and Minicoy, Tripura and Chandigarh had informed that they had no comments to offer on the Bill. The comments of the Governments of West Bengal, Rajasthan, Madras, Kerala, U.P., Haryana, Assam, Andhra Pradesh, Manipur and Pondicherry had not yet been received.

The Minister of Law stated that the original Bill drafted in the light of the Law Commission's report had been circulated by the Government

of India to all the States and Union Territories for their comments. The present Bill under consideration was, however, circulated by the Lok Sabha Secretariat under the direction of the Committee. He felt that it might be presumed that the Governments of States and Union Territories, which had not sent in their comments on the Bill, despite reminders, had no objection to the provisions of the Bill.

The Committee agreed to the suggestion that if the Committee proposed to make any substantial amendments in the Bill, the amendments might be circulated to all the States and Union Territories for their comments before the Committee finalised their report on the Bill and submitted it to the House.

3. The Committee then discussed at some length the question of extending the application of the Bill, when enacted, to the State of Jammu and Kashmir in the context of Article 370 of the Constitution. The Minister of Law explained that, under the aforesaid article Parliament did not have the legislative competence to extend the enactment to the State without their prior consent.

4. The Committee thereafter took up clause-by-clause consideration of the Bill.

5. Clause 2.—The clause was adopted without any amendment.

6. Clause 3.—Consideration of the clause was taken up but the discussion there on was not concluded.

7. *Clauses* 4 *to* 10.—The clauses were adopted without any amendment.

8. *Clause* 11.—The discussion on the clause was not concluded.

9. The Committee then adjourned to meet again on Wednesday, the 12th February, 1969 at 11.00 hours to resume further clause-by-clause consideration of the Bill.

XII

Twelfth Sitting

The Committee sat on Wednesday, the 12th February, 1969 from 11.00 to 12.15 hours.

PRESENT

Shri N. C. Chatterjee—*In the Chair*

MEMBERS

Lok Sabha

2. Shri S. Kandappan
3. Shri Srinibas Mishra
4. Shri K. Narayana Rao
5. Shri A. T. Sarma
6. Shri M. R. Sharma
7. Shri Narayan Swaroop Sharma

8. Shri T. M. Sheth

9. Shri P. Govinda Menon

Rajya Sabha

10. Shri S. B. Bobdey

11. Shri Gulam Haider Valimohmed Momin

12. Shri Y. Adinarayana Reddy

13. Shri Krishan Kant

14. Shri Hira Vallabh Tripathi

15. Shri M. H. Samuel

16. Shri B. T. Kemparaj

17. Shri Chakrapani Shukla

18. Shri Dahyabhai V. Patel

19. Shri N. K. Shejwalkar

20. Shri Balkrishna Gupta

21. Shri C. Achutha Menon

LEGISLATIVE COUNSEL

1. V. N. Bhatia, *Secy., Legislative Deptt., Ministry of Law.*

2. Shri N. D. P. Namboodripad, *Joint Secretary, Legislative Department, Ministry of Law.*

3. Shri R. V. S. Peri-Sastri, *Addl., Legislative Counsel Legislative Department, Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of the Chairman, Shri N. C. Chatterjee was elected to act as Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business.

3. The Committee resumed clause-by-clause consideration of the Bill.

4. *Clause* 3.—(*Vide* para 6 of the Minutes dated the 11th February, 1969). The following amendments were accepted:—

(1) Page 2, line 35,
for "and" *substitute* "or".

(2) Page 3, *delete lines* 13-24.

The clause, as amended, was adopted.

5. *Clause* 11.—(*Vide* para 8 of the Minutes dated the 11th February, 1969). The following amendments were accepted:—

(1) Page 7, *for* lines 8-9, *substitute*—

"(f) any act authorised by or under the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947, or the Enemy Property Act, 1968;"

(2) Page 7, *for* lines 15-23, *substitute*—

"(i) any act done in good faith for the prevention or suppression of a breach of the peace, or a disturbance of the public tranquility, or a riot or an affray, or for the prevention of any offences against public property, by—

(i) a member of a police force; or

(ii) a public servant whose duty it is to preserve peace and order in any area or place or who is engaged on guard, sentry, patrol, watch and ward, or other similar duty in relation to any area or place;".

The clause, as amended, was adopted.

6. *Clauses* 12 *and* 13.—The clauses were adopted without any amendment.

7. *Clause* 1.—The following amendment was accepted:

Page 1, line 4, *for* "1967", *substitute* "1969".

The clause, as amended, was adopted.

8. *Enacting Formula.*—The following amendment was accepted:
Page 1, line 1,

for Eighteenth", *substitute* "twentieth".

The Enacting Formula, as amended, was adopted.

9. *Long Title.*—The Long Title was adopted without amendment.

10. On reconsideration the Committee decided that it was not necessary to circulate to the State Governments and Union Territories the amendments made by them in the Bill.

11. The Legislative Counsel was authorised to correct patent errors and to carry out amendments of consequential and drafting nature in the Bill and to submit an attested copy thereof, as amended, by Friday, the 28th February, 1969.

12. The Committee decided that the evidence given before them should be printed and laid on the tables of both the Houses.

13. The Committee further decided that the memoranda submitted by various associations, bodies, organisations, Government Departments etc. should also be laid on the Table of both the Houses and a copy thereof be placed in the Parliament Library for reference by members after the Report of the Committee had been presented to the House.

14. The Chairman then drew the attention of the Committee to the provisions of Direction 87 of the Directions by the Speaker under the Rules of Procedure regarding Minutes of Dissent.

15. The Committee then decided to sit at 15.30 hours on Friday, the 7th March, 1969 to consider their Draft Report.

16. The Committee placed on record their appreciation of the assistance rendered and the legal advice tendered to them by the Secretary, Legislative Counsel and other officers of Ministry of Law in the course of their deliberations.

17. The Committee also placed on record their thanks to Shri N. C. Chatterjee, acting Chairman for very ably conducting the proceedings of the Committee and guiding their deliberations on the Bill in the absence of the Chairman.

XIII

Thirteenth Sitting

The Committee sat on Friday, the 7th March, 1969 from 15.30 to 16.15 hours.

PRESENT

Shri N. C. Chatterjee—*In the Chair*

MEMBERS

Lok Sabha

2. Shri Shri Chand Goyal
3. Shri S. Kandappan
4. Shri Baij Nath Kureel
5. Shri H. N. Mukerjee
6. Shri K. Narayana Rao
7. Shri M. R. Sharma
8. Shri Mudrika Sinha
9. Shri P. Govinda Menon

Rajya Sabha

10. Shri S. B. Bobdey
11. Shri Gulam Haider Valimohmed Momin
12. Shri M. P. Shukla
13. Shri M. H. Samuel
14. Shri Dahyabhai V. Patel
15. Shri C. Achutha Menon
16. Shri G. P. Comasundaram

LEGISLATIVE COUNSEL

1. Shri N. D. P. Namboodiripad, *Joint Secretary Legislative Department Ministry of Law.*
2. Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel, Legislative Department, Ministry of Law.*
3. Shri G. N. Saksena, *Assistant Draftsman, O.L. (L) C, Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of the Chairman, Shri N. C. Chatterjee was elected to act as the Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business.

3. The Committee first considered and adopted the Bill as amended.

4. The Committe then considered and adopted the draft Report. The Minister of Law, however, did not agree to the proposed amendment to clause 3(a) (ii)—substitution of the word "or" for "and" occuring threin.

5. The Committee then decided as below:—

(i) Minutes of Dissent to be sent by the 21st March, 1969.

(ii) Shri N. C. Chatterjee was authorised to present the Report to the House and also a copy of the Evidence and Memoranda in the absence of the Chairman on the 25th March, 1969.

A copy of the Evidence and Memoranda should also be laid on the Table of Rajya Sabha.

(iii) Shri N. C. Chatterjee and in his absence Shri H. N. Mukerjee were authorised to present the Report in Lok Sabha and lay a copy of the Evidence and Memoranda on the Table of the House.

(iv) Shri M. H. Samuel, and in his absence Shri Dahyabhai V. Patel were nominated to lay on the Table of Rajya Sabha a copy of the Report, Evidence and Memoranda.

6. The Committee thanked the acting Chairman, Shri N. C. Chatterjee for his able guidance at the various stages of the consideration of the Bill.

7. The Committee also placed on record their apreciation of the able manner in which Shri M. H. Samuel had conducted the proceedings in the absence of the Chairman.

8. The Committee then adjourned.

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