

10/12/68-RPPR
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

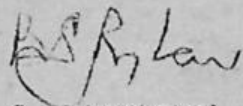
NEW DELHI, April 26, 1968.

Dear Sir,

The summary record of proceedings of the second meeting of the committee on political defections held in Room No.9, Parliament House, on Thursday, April 18, 1968 is enclosed.

2. The third meeting of the committee will be held at 10.30 A.M. in Room No.9, Parliament House, on Sunday, May 12, 1968. Your presence is requested.

Yours faithfully,


(B. S. RAGHAVAN)
DIRECTOR

Prof. N. G. Ranga, M.P.,
4-Sunehri Bagh Road,
NEW DELHI.

SUMMARY RECORD OF PROCEEDINGS OF THE SECOND
MEETING OF THE COMMITTEE ON DEFECTIONS HELD
IN ROOM NO.9, PARLIAMENT HOUSE ON THURSDAY,
APRIL 18, 1968.

Present:

- | | | |
|-----|---|----------|
| 1. | Shri Y.B. Chavan, Home Minister | Chairman |
| 2. | Shri Ram Subhag Singh,
Minister of Parliamentary Affairs
and Communications | Member |
| 3. | Shri P. Govinda Menon,
Law Minister | -do- |
| 4. | Shri P. Venkatasubbaiah, M.P. | -do- |
| 5. | Shri Bhupesh Gupta, M.P. | -do- |
| 6. | Shri K. Anbazhagan, M.P. | -do- |
| 7. | Shri P. Ramamurti, M.P. | -do- |
| 8. | Shri Balraj Madhok, M.P. | -do- |
| 9. | Shri Raghuvir Singh Shastri, M.P. | -do- |
| 10. | Dr H.N. Kunzru | -do- |
| 11. | Shri C.K. Daphtary | -do- |
| 12. | Shri Mohan Kumaramangalam | -do- |

In attendance:

1. Shri L.P. Singh, Home Secretary.
2. Shri G.A. Shah,
Joint Secretary, Ministry of Law.
3. Shri B.S. Raghavan,
Director, Ministry of Home Affairs.
4. Shri S.M. Kelkar, P.S. to H.M.
5. Shri U.C. Tiwari,
Deputy Principal Information Officer.

There was a brief preliminary discussion on the nature of participation by the members in the work of the committee, in the course of which Shri Bhupesh Gupta said that some of the members would be stating their party position and some their individual views. The country should know exactly what the members stood for as individuals and party representatives. This pointed to the importance of proper press briefing of the deliberations of the committee. The need for this arose because a statement like the one made by Shri Balraj Madhok and published in the newspapers that morning could raise a number of questions which the press might wish to ask of other members. He was, therefore, of the view that only the authorised version of the proceedings should be given out to the press.

2. Shri Madhok and Shri Venkatasubbaiah pleaded for a free discussion of the various issues with an open mind. All parties were opposed to defections and the committee was engaged in considering measures to curb them. Once there was agreement on the nature of those measures, then would be the stage for taking up the proposals with their respective parties.

3. Home Minister said he had not placed the matter under consideration by the committee **before** his party either. The proper stage for that would be when the committee came to agreed conclusions. The discussion could proceed on the basis of a free exchange of views until that stage was reached.

4. The Committee then settled down to discuss the various aspects of the problem of defection.

5. Shri Mohan Kumaramangalam said that the Independents formed an amorphous category and they had to be eliminated. If there was registration of political parties, we could provide for prevention of movements from one party to another. He did not agree that the constitutional provisions on Fundamental Rights would come in the way of giving effect to such a proposal. While it was possible that in some cases genuine political reasons induced the change of party allegiance, their number would be very few. Asking a defector to resign and face the electorate again would be a test of his sincerity and the genuineness of his motives. If defectors were invariably required to resign, the question of denying office to them would not

arise. Limiting the size of the Council of Ministers was also a good idea but this might require an amendment of the Constitution.

6. Dr Kunzru said that nobody had hitherto succeeded in defining defection. Group defection was said to be different from individual defection. A legislator did not need to leave the party to defect; he could vote against it or merely abstain on a critical issue thereby bringing down the Government. He did not think that this could be prevented. To require of every such person that he should resign and seek re-election would only bring about the tyranny of the party and political bossism. Party members would then become mere slaves of party leaders. Such a procedure of resigning and seeking re-election would expose the legislator concerned to the additional handicap that all the parties would combine against him. It must be remembered that the members were not at the beck and call of parties to the point of being asked to do violence to their conscience. The best thing to do was to have a code of conduct and give first place to political morality.

7. Limiting the size of the Council of Ministers was in Dr Kunzru's view a feasible proposition, especially as there was British precedent. This could be done by amending Articles 74 and 164 of the Constitution.

8. If anything could be done at all by way of legislation, Dr Kunzru said he would support the suggestion of the Law Ministry to create a new offence covering defection for gain or office of profit.

9. Shri Bhupesh Gupta said that there were informal discussions at the level of his party leadership on the various proposals to deal with defection and his views represented the tentative party position:

- (1) Defection should be so defined as not to include every change of party allegiance but should only relate to the crossing of the floor from the Government to the Opposition and vice versa.

(ii) The Independents amongst legislators should be asked to declare before the Speaker at the very outset whether they supported the Government or the Opposition or neither. That declaration should be taken as their formal stand to judge their subsequent conduct. The real difficulty would be about the Independents who were neither on the side of the Government nor of the Opposition but their number was likely to be very small.

(iii) The electorate of the constituency of legislator who defected should have the right of recalling him. The procedural details could be worked out later and could be any of the variants discussed in the Home Ministry's paper. If 30 per cent of the voters of the constituency supported the demand for recall, a vote could be taken on whether the defector should continue as a member. If the verdict went against him, the seat could be declared vacant and a bye-election ordered. If it was feasible, the ascertaining of the verdict of the people and the fresh election could both be combined by devising a proper procedure. Independents should have no immunity or or special status and should be equally liable to recall. The main point behind the suggestion was that it was the electorate which should react to an act of defection as no single individual or group of individuals could by themselves determine whether a defection was good or bad. It was a subjective matter and one could say that there were good as well as bad defections. That was why the matter should be left to the judgement of the electorate.

(iv) The size of the Council of Ministers (including the Deputy Ministers and Parliamentary Secretaries if they drew special emoluments for being designated as such) should be restricted to 10 per cent of the strength of the House or 30 whichever was less.

(v) If the Council of Ministers advised dissolution and mid-term poll and if it commanded a majority in the House, the Governor should agree as a matter of course. However, within one year of an earlier dissolution and election of a new Assembly, the new Council should not be entitled to ask for a second dissolution: this was with a view to ensure that this right was not exploited for political reasons.

(vi) The test of majority should be on the floor of the House. Practices like signature campaigns, parading of legislators etc. should be put an end to. Shri Gupta said we could not imagine a situation where the Governor would exercise discretion and his personal judgement in the choice of a Chief Minister except on the very first occasion after a General Election.

10. Referring to the code proposed on pages 49 and 50 in the paper on Defections circulated by the Home Ministry Shri Bhupesh Gupta said that excepting the one relating to imposition of a ceiling on the size of the Council of Ministers, the other three parts of the code were not acceptable to him.

11. Shri Balraj Madhok found himself in substantial agreement with what Dr Kunzru had earlier stated. The important thing to do was to establish right conventions rather than going in for constitutional amendments and the like. No Constitution could ever provide for every kind of situation. It would not be proper to ask every member who wanted to change his party to resign. So long as parties were conglomerations and lacked ideological cohesion, these instances would continue to occur. The real need was to have ideologically cohesive parties and to eliminate small parties and splinter groups.

12. Continuing, Shri Madhok said that defections were no sudden phenomenon. The paper prepared by the Home Ministry showed that there were a number of defections between 1957 and 1967 but not much attention was paid to them because they were mostly towards Congress which was the only road to power. In those years only a genuinely conscientious person would

leave the Congress. If defections were bad now, they were also bad then. Now, other roads to power having opened, there were movement in different directions. The real remedy lay in educating the electorate and improving the moral climate. He had once written to Shri Kamraj asking him to give a lead in discouraging the tendencies that had come to the fore after the Fourth General Election and offering to join hands for the purpose but Shri Kamraj had replied that he would prefer to wait for a little while and watch the situation.

13. Shri Madhok's view was that defections were for power and if the defector was denied power and perquisites or at least if he was put on a period of "probation" before being considered eligible for office or other kinds of appointments, the problem could be controlled. A limit on the size of the Council of Ministers was also a desirable step and the suggestion of the size being restricted to 10 per cent of the strength of the House was reasonable, although the ceiling of 30 suggested by Shri Bhupesh Gupta could be subject to discussion.

14. Shri Madhok, proceeding, said that the main reason why people hankered after Ministerships was the existence of a vast gulf between the status and perquisites of a Minister and an ordinary legislator. He knew of persons who would not be able to make Rs.100/- a month outside but who were appointed as Ministers. The narrowing of the gulf between the status and perquisites of a Minister and the legislator could be one of the measures by which this lure of Ministerships could be brought down.

15. Shri P. Ramamurti referred to Dr Kunzru's and Shri Madhok's preference for a code of conduct and the moral sanction and said that he was not sanguine that in the conditions prevailing in the country such a sanction or code would work. Legislation seemed to him the only effective solution. Another deterrent would be to vest the Chief Minister, particularly one who is defeated or threatened with defeat, with the right to seek a dissolution and go to the people, if he felt that the defectors did not reflect the real sentiments of the electorate. Thus, those members of the party who were actual or potential defectors would also be automatically called upon to face the electorate. If this course of action had been adopted in Madhya Pradesh and Rajasthan, the political situation would have taken a different turn altogether.

16. The point raised by Shri Ramamurti about the right of the Chief Minister to ask for dissolution and to get it was then commented upon by various members.

17. Shri Kumaramangalam said that the power of dissolution was perhaps the most important that a Prime Minister/Chief Minister had to keep the party in line. There could be no controversy about his right to ask for and get dissolution. Dr Kunzru said that as per practice in the United Kingdom, even after the P.M. asked for dissolution, it was open to the Sovereign to find out if an alternative Government could be formed and there was no compulsion on the Sovereign to accede to the Prime Minister's request. Shri Kumaramangalam and the Home Secretary said that it was now the accepted convention that the Crown had no option but to allow dissolution when asked for. Shri Kumaramangalam however, added that some writers had taken the view after 1950 that dissolution might be refused under certain circumstances.

18. Shri Bhupesh Gupta said that a distinction should be made between cases where a P.M./C.M. asked for dissolution while he still enjoyed majority in the House and cases when he asked for it after a formal defeat in the House or after manifestly losing his majority. Then, again, it should be carefully considered whether a P.M./C.M. should have the right to threaten dissolution merely to keep the party in line. One safeguard would be to take away altogether the element of discretion that the President/Governor still had in the choice of P.M./C.M. and making it obligatory on him to choose only that person as P.M./C.M. who established the fact that he had the majority of the House with him. The right of dissolution could be given either by convention or constitutional amendment but conventions had a way of getting discarded. So, if all the members agreed that such a power should be given to P.M./C.M., it could as well be put into the Constitution.

19. Shri Madhok felt that if the defector was denied office and if a limit was put on the size of the Council of Ministers, these by themselves would achieve the purpose that the committee had in view. Vesting the P.M./C.M. with the power of dissolution would only bring in the tyranny of the party. One of the ideas that could be considered as an alternative was to have the leader of the House elected by the entire House. Another variant of the idea was suggested by Shri Kumaramangalam: that the person chosen as Chief Minister could be asked

to get a vote of confidence of the legislature. The Home Minister commented that this very procedure of electing the leader by the whole House could have an unsettling effect. For instance, if the majority party put up one person and the other parties sponsored another, defections might start right at that point. It appeared to him that adoption of the convention that the Chief Minister had a right to dissolution would serve as an effective deterrent.

20. Shri Ram Subhag Singh and Shri Anbazhagan both mentioned the possibility of a P.M./C.M. acting arbitrarily and without regard to the election manifesto with the result his party members were forced to defect as the only way available to them of changing him. In such circumstances, a dissolution may only confer an unfair advantage on the P.M./C.M. Shri Anbazhagan also doubted the soundness of the idea being applied to a P.M./C.M. who headed a coalition. It might be that differences of opinion arose within the coalition and some of the constituents might like to leave the coalition. Should the P.M./C.M. have the right to impose a dissolution in such a situation? The consensus of the committee was that the possibility of such a situation and of a P.M./C.M. using the right arbitrarily could be obviated by ensuring that such an advice was given to the President/Governor as coming from the Council of Ministers as a whole and not from the P.M. or C.M. alone. This would also be in keeping with the wording of the relevant provisions of our Constitution.

21. Summing up the discussion, the Home Minister said that the two concrete proposals that had emerged on which there was agreement were: giving the right of dissolution to the Council of Ministers by convention and imposing a limit on the size of the Council of Ministers. A third point on which most members seemed to be agreed was to deny Ministership or other inducement by way of perquisites and so on to defectors. He would suggest that the members of the committee might place these proposals before their respective parties and apprise the committee of their final opinion at the next meeting.

22. It was decided to hold the third meeting of the Committee on Defections in Room No.9, Parliament House, New Delhi on Sunday, May 12, 1968.