

# COMMITTEE OF PRIVILEGES

## THIRTEENTH REPORT

*(The Blitz Case)*

(SECOND LOK SABHA)

*(Presented on the 11th August, 1961)*

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**LOK SABHA SECRETARIAT  
NEW DELHI**

***August, 1961***

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# PERSONNEL OF THE COMMITTEE OF PRIVILEGES

## *Chairman*

**Sardar Hukam Singh**

## *Members*

- 2. Shri Hem Barua**
- 3. Shri C. D. Gautam**
- 4. Thakor Shri Fatesinhji Ghodasar**
- 5. Shri M. R. Masani**
- 6. Shri Harish Chandra Mathur**
- 7. Shri Hirendra Nath Mukerjee**
- 8. Shri C. D. Pande**
- 9. Shri Shivram Rango Rane**
- 10. Shri Asoke K. Sen**
- 11. Shrimati Jayaben Vajubhai Shah**
- 12. Shri Sarangadhara Sinha**
- 13. Shri Satya Narayan Sinha**
- 14. Dr. P. Subbarayan**
- 15. Shri Shraddhakar Supakar.**

## **SECRETARIAT**

**Shri H. N. Trivedi—Deputy Secretary.**

# THIRTEENTH REPORT OF THE COMMITTEE OF PRIVILEGES

(Second Lok Sabha)

## I—INTRODUCTION AND PROCEDURE

I, the Chairman of the Committee of Privileges, present this report to the House on the question of privilege raised<sup>1</sup> by Shri Khushwaqt Rai, M.P., and referred to the Committee by the House on a motion moved by Shri Nath Pai, M.P., on the 20th April, 1961, regarding the following despatch and a photograph of Shri J. B. Kripalani, M.P., with the caption "Kripaloony" underneath, published in the *Blitz* (a weekly newsmagazine of Bombay), dated the 15th April, 1961:—

*"The Kripaloony Impeachment*

**BAD, BLACK, BALD LIES.**

From A. Raghavan: BLITZ's Delhi Bureau.

**NEW DELHI:** In its content, tenor and style, Acharya Kripalani's performance during the defence debate on Tuesday could be the envy of any American Senator who has not yet overcome his McArthian Moorings. He made it easy for the Prime Minister and the Defence Minister to demolish an impotent impeachment of our Defence built upon bad, bald and black lies and uttered in the hysteric manner of a violent epileptic.

In the lousiest and cheapest speech ever made since he was elected to Parliament by the courtesy of the Congress and Mr. Nehru, he demanded the head of the Defence Minister on a charger and made an impotent appeal to the Congressmen opposite to turn him out of the Government as the British Tories turned out Joseph Chamberlain.

By making a cocktail of plain hearsay, ancient Defence irregularities not even remotely connected with the tenure of the present Defence Minister and violence of speech, the senile Acharya overshot himself so much so that even his usual backers in the Congress ranks were heard saying in the lobbies that his was a self-defeating performance.

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<sup>1</sup> L.S. Deb. dt. 20-4-1961, cc. 12659—70 ( See Appendix I, pp. 19—27).

After Mr. Nehru and Mr. Menon tore his indictment into shreds, the whole House, with the exception of a few rabid PSP and Swatantra supporters, shouted him down like some bazar-buffoon."

2. The Committee held five sittings.

3. At the first sitting held on the 20th April, 1961, the Committee decided that, in the first instance, both Shri R. K. Karanjia, the Editor, and Shri A. Raghavan, the New Delhi Correspondent of the *Blitz*, be asked to state, by the 26th April, 1961, what they might desire to say in the matter for the consideration of the Committee. The Committee further decided that they be informed that if they desired to appear before the Committee in person, they might do so on the 26th April, 1961.

4. At their second sitting held on the 26th April, 1961, the Committee considered the letters<sup>2</sup>, dated the 24th and 25th April, 1961, received from Sarvashri R. K. Karanjia and A. Raghavan, respectively. The Committee decided that Shri R. K. Karanjia be granted six weeks' extension of time for submission of his explanation to the Committee, as requested by him in his letter. The Committee did not, however, accede to the request of Shri A. Raghavan to grant him also six weeks' time for submission of his explanation to them, but they decided that he be again asked to appear before them on the 5th May, 1961, or in the alternative, to send his *final* written reply in the matter by that date.

5. According to the order of reference by the House, the Committee was required to report to the House by the 30th April, 1961. After considering the matter at their first and second sittings (20th and 26th April, 1961), however, the Committee recommended to the House in their Twelfth Report<sup>3</sup> that, in view of the circumstances explained therein, the time for the presentation of their final report to the House be extended upto the last day of the first week of the next session. The House agreed<sup>4</sup> with the Twelfth Report of the Committee on the 1st May, 1961.

6. At their third sitting held on the 5th May, 1961, the Committee considered the letter<sup>5</sup>, dated the 5th May, 1961, from Shri A. Raghavan.

<sup>2</sup> Appendices II and III, pp. 6—9 and 10 respectively of the Twelfth Report of the Committee of Privileges.

<sup>3</sup> The Twelfth Report was presented to the House on the 28th April, 1961.

<sup>4</sup> L.S. Deb. dt. 1-5-1961, cc. 14661—66.

<sup>5</sup> Appendix II (See pp. 28—31).

The Committee decided that there was no necessity of again asking Shri Raghavan to send in any further explanation or to appear before the Committee on any fixed day, but that if some explanation or statement was received from him, the Committee would not shut that out of consideration simply because of its having been received late.

7. At the fourth sitting held on the 4th August, 1961, the Committee heard the views of Dr. Ram Subhagh Singh, M.P., considered the letter<sup>6</sup> and the written statement, dated the 12th June, 1961, from Shri R. K. Karanjia, the Editor of the *Blitz*, and came to their conclusions.

8. At the fifth sitting held on the 7th August, 1961, the Committee deliberated on their draft report.

## II—FINDINGS OF THE COMMITTEE

9. Both Shri R. K. Karanjia and Shri A. Raghavan, in their second written statements<sup>7</sup> submitted to the Committee, raised a "preliminary objection" that they had not been furnished with the specific grounds on the basis of which they were alleged to have committed a breach of the privileges of the House. The Committee considered this objection carefully and decided that since they had already forwarded to both of them the relevant extracts from the Lok Sabha Debates, dated the 20th April, 1961, wherein the charge of alleged breach of privilege had been made by Shri Khushwaqt Rai, M.P., there was nothing further to be conveyed to them in that connection.

It is significant to note in this connection that in their first letters<sup>8</sup> dated the 24th and 25th April, 1961, respectively, seeking extension of time for sending their detailed replies, neither Shri Karanjia nor Shri Raghavan even hinted that the charge against them was not clear to them. In fact, Shri Karanjia had stated in his letter of 24th April, 1961, that Shri Khushwaqt Rai, M.P., had cited (in his speech in the House on the 20th April, 1961) a formidable list of authorities in support of the case against him (Shri Karanjia), and that the latter would rely on equally formidable and more telling authorities

6 Appendix III (See pp. 32—79).

7 Appendices II and III.

8 Appendices I and II, pp. 6—10 of the Twelfth Report of the Committee of Privileges.

in his defence. Apart from this, the Committee twice gave opportunities to both Shri Karanjia and Shri Raghavan to appear before the Committee and explain their positions, if they so desired. Neither of them chose to avail of those opportunities. If they had really felt the need of any clarification, there was nothing to prevent them from appearing before the Committee. The plea of "not being informed of the precise charge" is an after-thought and an attempt to exhibit an appearance of innocence.

The fact that Shri Karanjia was aware of the charge against him is clear from the following passages in his own written statement<sup>9</sup>:—

- (i) "The motion which was referred to your Committee and the efforts of your Committee to consider the alleged libel on Mr. Kripalani, M.P., are inconsistent with the privileges of the House of Commons which alone are the privileges of the Parliament under our Constitution."—Para 39.
- (ii) "Mr. Khushwaqt Rai made a grievance that Mr. Kripalani was libelled in the BLITZ dispatch."—Para 41.
- (iii) 'It is significant, Sir, that during the entire 'breach of privilege' debate on 20th April last, Mr. Kripalani did not once raise his voice. Mr. Kripalani remained silent or absent. Some other members alleged that he was defamed or something to that effect.'—Para 64.

Not only this, the Committee find that Shri Karanjia has, in fact, taken elaborate pains in paras 58 to 88 of his written statement<sup>9</sup> to explain and justify, on the plea of "fair comment", the alleged libellous expressions used in the impugned despatch published in the *Blitz* and pointed out by Shri Khushwaqt Rai, M.P., in his speech in the House. Further, Shri Karanjia has concluded his explanation by adding in para 88 of his written statement: "I have dealt with whatever specific grounds I could gather from Mr. Khushwaqt Rai's speech". The Committee feel convinced that Shri Karanjia was very well aware of the charge against him and he has answered every aspect of it. Rather, he has done more than was needed.

In view of the above, the Committee are unable to accept the plea of Sarvashri R. K. Karanjia and A. Raghavan that they were not informed of the precise charge or of the specific grounds on the basis of which they were alleged to have committed a breach of privilege and contempt of the House.

10. Shri R. K. Karanjia, in his lengthy written statement dated the 12th June, 1961, has also raised a number of other issues some of which, the Committee find, are not strictly relevant to the question of breach of privilege under consideration of the Committee. The relevant points which arise out of Shri Karanjia's statement are dealt with briefly in the following paragraphs. Further elaboration of these, where necessary, and the comments of the Committee on the other issues raised by Shri Karanjia in his written statement are given in a separate note<sup>10</sup> appended to this Report.

11. One of Shri Karanjia's main contentions is that Article 105(3) of the Constitution, which provides that "the powers, privileges and immunities of each House of Parliament, and of the members and the Committees of each House, shall be . . . those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution" must be read as subject to Article 19(1) (a) which guarantees to all citizens the fundamental right to "freedom of speech and expression", which includes within its scope the freedom of the Press. Shri Karanjia seems to imply thereby that any action taken by Lok Sabha against any newspaper for a breach of privilege and contempt of the House, in pursuance of its powers and privileges under Article 105(3), would violate Article 19(1) (a) and be void in term of Article 13. This contention is wrong and cannot be accepted. The provisions of Article 105(3) [as also of Article 194(3)] are constitutional laws and not ordinary laws made by Parliament (or a State Legislature) and therefore they are as supreme as the provisions of Part III of the Constitution. The provisions of Article 19(1) (a) of the Constitution, which are general, must therefore yield to the provisions of the latter part of Article 105(3) which are special. The correct position in this regard has been stated by the Supreme Court in the *Searchlight Case* 11.

12. Shri Karanjia has also questioned the jurisdiction of the Committee "to entertain the alleged breach of privilege of Mr. Kripalani" on the ground that "the motion which was referred to your Committee and the efforts of your Committee to consider the alleged libel on Mr. Kripalani, M.P., are inconsistent with the privileges of the House of Commons which alone are the privileges of the Parliament under our Constitution". His argument is that "the matter could have

<sup>10</sup> Appendix IV (See pp. 80—94).

<sup>11</sup> *M.S.M. Sharma v. Sri Krishna Sinha and Others*, A.I.R. (1959) S.C. 395—422. Relevant extracts have been reproduced in paragraph 4 of Appendix IV.

been raised *only* as a breach of the privilege relating to publication of the debate and the incidental issues concerning one member alone, Mr. Kripalani, could be cited as an aggravation of the offence". Shri Karanjia has also given a list of eight instances of misconduct in connection with the publication of the debates, as given in *May's Parliamentary Practice* (16th Ed., pp. 118-119), in order to show that the charge of breach of privilege made by Shri Khushwaqt Rai, M.P., against him does not fall under any one of them.

The Committee find that the above argument of Shri Karanjia is misconceived as the question of privilege raised by Shri Khushwaqt Rai, M.P., was based on the allegation that the despatch in question published in the *Blitz* cast aspersions on the conduct of Shri Kripalani as a member of the House. The passages from *May* quoted by Shri Karanjia in this connection are not relevant. The gravamen of the charge against the *Blitz* is not that it published a report of the debates or proceedings in the House<sup>12</sup> but that it cast libellous reflections on a member of the House on account of his speech and conduct in Parliament. This type of contempt is quite distinct from the instances of misconduct in connection with the publication of the debates of the House and is dealt with separately by *May* at pp. 124—126. The relevant and appropriate extracts from *May's Parliamentary Practice* are as follows:

"Analogous to molestation of Members on account of their behaviour in Parliament are speeches and writings reflecting upon their conduct as Members. On 26 February, 1701, the House of Commons, resolved that to print or publish any libels reflecting upon any member of the House for or relating to his service therein, was a high violation of the rights and privileges of the House.

'Written imputations, as affecting a Member of Parliament, may amount to breach of Privilege, without, perhaps being libels at common law', but to constitute a breach of privilege a libel upon a Member must concern the character or conduct of the Member in that capacity.

\* \* \* \* \*

Both Houses will punish not only contempts arising out of facts of which the ordinary courts will take cognizance, but those of which they cannot, such as contemptuous insults,

<sup>12</sup> As a matter of fact, in paragraph 54 of his written statement (Appendix III), Shri Karanjia has himself emphasised that the despatch in question published in the *Blitz* was a "political round up" containing comments on the "performance" of Shri Kripalani in Lok Sabha, and "not a report of the debate of the House".

gross calumny or foul epithets by word of mouth not within the category of actionable slander or threat of bodily injury."

[May, 16th Ed., pp. 124-125.]

In this connection, attention may also be invited to the following resolution adopted by the House of Commons, U.K., on the 22nd April, 1699:

"That the publishing the names of the Members of this House and reflecting upon them, and misrepresenting their proceedings in Parliament, is a breach of the privilege of this House, and destructive of the freedom of Parliament."

[May, 16th Ed., p. 126.]

13. Shri Karanjia has also dwelt at great length on the freedom of the Press. He has asserted that "comments in a newspaper can never impede proceedings of a legislative Chamber" and that "even the most violent comment cannot impair the ability of a member to function unless the latter himself is a weak person".

The right to freedom of speech and expression is a fundamental right guaranteed to all citizens under Article 19(1) (a) of the Constitution. Although the freedom of the Press as such is not specifically provided for in the Constitution, it has been held<sup>13</sup> that the freedom of the Press is implicit in the freedom of speech and expression conferred on a citizen under Article 19(1) (a). It must, however, be remembered that being only a right flowing from the freedom of speech and expression, the freedom of the Press does not stand on a higher footing than the freedom of speech and expression enjoyed by a citizen, and that no privilege attaches to the Press as such, that is to say, as distinct from the freedom of speech and expression of a citizen<sup>14</sup>. Actually, a newspaper writer should be more cautious than a private citizen as his criticisms are widely publicised.

14. Shri Karanjia has pleaded justification for the comments published in the impugned despatch on the ground of "fair comment". Nobody would deny the Press, or as a matter of that, any citizen, the right of fair comment. But if the comments contain personal attacks on individual members of Parliament on account of their

<sup>13</sup> (1950) S.C.R. 594; (1950) S.C.R. 605; A.I.R. (1958), S.C. 578; A.I.R. (1959) S.C. 395.

<sup>14</sup> A.I.R. (1959), S.C. 395 at p. 402.

conduct in Parliament or if the language of the comments is vulgar or abusive, they cannot be deemed to come within the bounds of fair comment or justifiable criticism. Even the Press Commission (1954) held the view that "comment couched in vulgar or abusive language is unfair".<sup>15</sup> Nor can "fair comment" be stretched to include irresponsible sensationalism. The scope of the freedom of Press has been described by the Supreme Court in its judgment in the *Searchlight Case*, relevant extracts from which are given in para. 2 of Appendix IV.

15. The Committee have considered carefully the meanings and the context in which, according to Shri Karanjia, the various phrases and words objected to by Shri Khushwaqt Rai, M.P., were used in the impugned despatch published in the *Blitz*, dated the 15th April, 1961. The crux of the question, in the opinion of the Committee, is whether the said comments can reasonably be construed to come within the bounds of fair comment or justifiable criticism or whether they are in the nature of contemptuous insults, gross calumny, foul epithets or libellous reflections on a member of the House on account of his speech or conduct in Parliament.

16. It is well-established that speeches and writings reflecting on the character and proceedings of the House or upon anyone of its members, for or relating to his speeches or conduct in the House, constitute a breach of privilege and contempt of the House on the principle that such acts tend to obstruct the House and its members in the performance of their functions and duties by diminishing the respect due to them and by bringing them into odium, contempt and ridicule.<sup>16</sup>

17. In the light of what has been stated above, the Committee have come to the conclusion that the impugned despatch, read as a whole, including its heading and the photograph of Shri J. B. Kripalani, M.P., with the caption "Kripaloony" underneath, in its tenor and content, libels Shri Kripalani and casts reflections on him on account of his speech and conduct in the House. The language of the despatch is such that it brings Shri Kripalani into odium, contempt and ridicule by referring to him in a contemptuous and insulting manner and by using foul epithets in respect of him. The

<sup>15</sup> Report of Press Commission (1954), pp. 340-341, para. 914.

<sup>16</sup> *May's Parliamentary Practice*, 16th Ed., pp. 117, 120 and 124. See also para. 13 of Appendix IV.

Committee are, therefore, of the view that the impugned despatch constitutes a breach of privilege and contempt of the House.

18. In the opinion of the Committee, both Shri R. K. Karanjia, the Editor, and Shri A. Raghavan, the New Delhi Correspondent of the *Blitz*, under whose name the libellous despatch appeared in the *Blitz*, dated the 15th April, 1961, are guilty of committing a gross breach of privilege and contempt of the House.

19. The Committee regret that although they twice gave opportunities to Shri A. Raghavan to explain his position to the Committee both in writing and in person, he failed to submit a full and adequate explanation. In his first letter,<sup>17</sup> dated the 25th April, 1961, he simply stated that Shri R. K. Karanjia, as Editor, had taken full responsibility for the publication of the impugned despatch. Even in his second letter,<sup>18</sup> dated the 5th May, 1961, Shri Raghavan neither disclosed to the Committee the text of the despatch communicated by him to his editor at Bombay, nor did he state specifically that the libellous expressions published in the *Blitz* were not contained in the original despatch communicated by him to his editor. In view of this, and also in view of the fact that the impugned despatch appeared under Shri Raghavan's name in the *Blitz*, the Committee have come to the conclusion that Shri Raghavan cannot be absolved of his responsibility in the matter.

### III—RECOMMENDATIONS OF THE COMMITTEE

20. Having reached the conclusion that both Shri R. K. Karanjia and Shri A. Raghavan are guilty of a gross breach of privilege and contempt of the House, the Committee gave careful consideration to the question as to what course of action they should recommend to the House. In the opinion of the Committee, the final responsibility for the publication of the impugned despatch rested with Shri R. K. Karanjia and therefore his offence is graver. This offence has been further aggravated by the type of explanation he has chosen to submit to the Committee. The Committee therefore recommend that he should be summoned to the Bar of the House and reprimanded.

As regards Shri A. Raghavan, the Committee feel that the ends of justice will be adequately met by awarding him a somewhat milder punishment. The Committee accordingly recommend that the Lok

<sup>17</sup> Appendix II on p. 10 of the Twelfth Report of the Committee of Privileges.

<sup>18</sup> Appendix II (See pp. 28—31.)

Sabha Press Gallery Card and the Central Hall Pass issued to him be cancelled and be not issued again till he tenders to the House a full and adequate apology.

**NEW DELHI;**  
*The 7th August, 1961.*

**HUKAM SINGH,**  
*Chairman,*  
*Committee of Privileges.*

# MINUTES

## I

### First Sitting

*New Delhi, Thursday, the 20th April, 1961*

The Committee met from 16.00 to 16.25 hours.

#### PRESENT

Sardar Hukam Singh—*Chairman.*

#### MEMBERS

2. Shri Hem Barua.
3. Shri M. R. Masani.
4. Shri Harish Chandra Mathur.
5. Shri Hirendra Nath Mukerjee.
6. Shri C. D. Pande.
7. Shri Shivram Rango Rane.
8. Shri Asoke K. Sen.
9. Dr. P. Subbarayan.

#### SECRETARIAT

Shri H. N. Trivedi—*Deputy Secretary.*

2. The Committee considered the question of privilege referred to them by the House on the 20th April, 1961, regarding certain comments under the caption "The Kripaloony Impeachment", published in the *Blitz*, dated the 15th April, 1961, on the speech of Shri J. B. Kripalani, M.P., made in Lok Sabha on the 11th April, 1961.

3. The Committee directed that, in the first instance, Shri R. K. Karanjia, the Editor, and Shri A. Raghavan, the author of the said comments published in the *Blitz*, be asked to state, by the 26th April, 1961 what they might desire to say in the matter for the consideration of the Committee. The Committee further directed that they be informed that if they desired to appear before the Committee in person, they might do so at 16.00 hours on the 26th April, 1961.

*The Committee then adjourned.*

## II

### Second Sitting

New Delhi, Wednesday, the 26th April, 1961

The Committee met from 15·00 to 15·35 hours.

#### PRESENT

Sardar Hukam Singh—*Chairman*.

#### MEMBERS

2. Shri Hem Barua
3. Shri Harish Chandra Mathur
4. Shri Shivram Rango Rane
5. Dr. P. Subbarayan.

#### SECRETARIAT

Shri H. N. Trivedi—*Deputy Secretary*.

2. The Committee considered the letters dated the 24th and 25th April, 1961, received from Shri R. K. Karanjia, the Editor, and Shri A. Raghavan, the New Delhi Correspondent of the *Blitz*, respectively.

3. The Committee were of the opinion that Shri R. K. Karanjia, the Editor of the *Blitz*, who had asked for six weeks' time for submission of his explanation and had sent in a medical certificate saying that he was suffering from some ailment and had been advised to take two weeks' rest, be granted the extension of time requested by him.

4. As regards Shri A. Raghavan, the Committee decided that since the news-report containing the comments, which were the subject matter of the question of privilege, appeared under his name in the *Blitz*, he had also to explain his position for the consideration of the Committee. The Committee, accordingly, directed that he be asked again to appear before them on Friday, the 5th May, 1961, at 15·00 hours, or in the alternative, to send his final written reply in the

matter by 11.00 hours on the 5th May, 1961, at the latest, for the consideration of the Committee. The Committee further directed that Shri Raghavan be informed that in the case of his failure to appear before the Committee to explain his position or to send his final written reply by the specified time and date, the Committee would proceed further with the matter *ex parte*, as they might deem fit.

5. The Committee decided that in the circumstances, a request be made to the House to grant extension of time for the presentation of their report to the House by the last day of the first week of the next session.

6. The Committee authorised the Chairman to make a report to the House explaining the circumstances necessitating the extension of time for presentation of their report to the House on the question of privilege referred to them.

*The Committee then adjourned to meet again on Friday, the 5th May, 1961, at 15.00 hours.*

### III

#### Third Sitting

New Delhi, Friday, the 5th May, 1961

The Committee met from 15:00 to 15:35 hours.

#### PRESENT

Sardar Hukam Singh—*Chairman*.

#### MEMBERS

2. Shri Hem Barua.
3. Thakor Shri Fatesinhji Ghodasar.
4. Shri C. D. Pande.
5. Shri Shivram Rango Rane.
6. Shri Asoke K. Sen.
7. Shrimati Jayaben Vajubhai Shah.
8. Shri Satya Narayan Sinha.
9. Dr. P. Subbarayan.

#### SECRETARIAT

Shri H. N. Trivedi—*Deputy Secretary*.

2. The Committee considered the letter dated the 5th May, 1961, received from Shri A. Raghavan, the New Delhi Correspondent of the *Blitz*.

3. Regarding the request of Shri Raghavan that he might be informed about the nature of privilege of which he was alleged to have committed a breach, and the facts constituting the same, the Committee observed that they had already forwarded to him the relevant extracts from the Lok Sabha Debates, dated the 20th April, 1961 wherein the charge of the alleged breach of privilege had been made by Shri Khushwaqt Rai, M.P. The Committee, therefore, decided that there was nothing further to be conveyed to Shri Raghavan in that connection.

4. After persuing the statement of Shri Raghavan, the Committee came to the conclusion that there was no necessity of again asking

Shri Raghavan to send in any further explanations or to appear before the Committee on any fixed day. But no final report is being made for the time being at least till the 16th June, 1961. In such a case, if, in the meantime, some explanation or statement is received from Shri Raghavan, the Committee would not shut that out of consideration simply because of its having been received late. Nay, more, if Shri Raghavan chooses to appear personally before the Committee, he may do so on the 16th June, 1961, at 11 A.M. in Room No. 1, Parliament House. But in such a case, he shall have to give an advance intimation of his intention so as to reach the Lok Sabha Secretariat not later than the 1st June, 1961.

*The Committee then adjourned.*

## IV

### Fourth Sitting

New Delhi, Friday, the 4th August, 1961

The Committee met from 11-00 to 12-25 hours.

#### PRESENT

Sardar Hukam Singh—*Chairman*.

#### MEMBERS

2. Shri Hem Barua.
3. Shri M. R. Masani.
4. Shri Harish Chandra Mathur. ..
5. Shri Hirendra Nath Mukerjee.
6. Shri Shivram Rango Rane.
7. Shri Asoke K. Sen.
8. Shrimati Jayaben Vajubhai Shah.
9. Shri Satya Narayan Sinha.
10. Shri Shraddhakar Supakar.

#### SECRETARIAT

Shri H. N. Trivedi—*Deputy Secretary*.

2. At the outset, the Chairman suggested that the Committee, before entering into their deliberations, might hear Dr. Ram Subhag Singh, M.P., who desired to place his views before the Committee on the question of privilege under their consideration. Dr. Ram Subhag Singh then placed his views before the Committee. Thereafter, he withdrew.

3. The Committee then considered the letter and the statement, dated the 12th June, 1961, received from Shri R. K. Karanjia, the Editor of the *Blitz*. The Committee came to the conclusion that the impugned despatch published in the *Blitz*, dated the 15th April, 1961, constituted a gross breach of privilege and contempt of the House. In the opinion of the Committee, both Shri R. K. Karanjia, the Editor, and Shri A. Raghavan, the New Delhi Correspondent of

the *Blitz*, under whose name the libellous despatch appeared in the *Blitz*, were guilty of committing a gross breach of privilege and contempt of the House.

4. The Committee decided to recommend to the House that Shri R. K. Karanjia be reprimanded.

5. The Committee also considered the question of withdrawing the Lok Sabha Press Gallery facilities from the *Blitz*. They did not, however, consider it necessary as they found that the *Blitz* was not officially represented on the Press Gallery of Lok Sabha and that, Shri A. Raghavan, the New Delhi Correspondent of the *Blitz*, was accredited to the Press Gallery of Lok Sabha as the representative of a foreign newspaper.

6. The Committee also decided to recommend that the Lok Sabha Press Gallery Card and the Central Hall Pass of Shri A. Raghavan be cancelled.

7. The Committee decided to meet again on Monday, the 7th August, 1961, at 16.30 hours, to consider the draft report.

*The Committee then adjourned.*

V

Fifth Sitting

New Delhi, Monday, the 7th August, 1961.

The Committee met from 16.30 to 17.00 hours.

PRESENT

Sardar Hukam Singh—*Chairman.*

MEMBERS

2. Shri Hem Barua.
3. Shri C. D. Gautam.
4. Shri M. R. Masani.
5. Shri Harish Chandra Mathur.
6. Shri Hirendra Nath Mukerjee.
7. Shri C. D. Pande.
8. Shri Shivram Rango Rane.
9. Shri Asoke K. Sen.
10. Shrimati Jayaben Vajubhai Shah.
11. Shri Satya Narayan Sinha.
12. Dr. P. Subbarayan.
13. Shri Shraddhakar Supakar.

SECRETARIAT

Shri H. N. Trivedi—*Deputy Secretary.*

2. Shri H. N. Mukerjee sought to reopen the decision of the Com-  
mittee regarding the course of action to be recommended to the  
House. The Committee did not, however, agree to do so.

3. The Committee then considered the draft report and adopted it  
with the modification that for the word "reprimanded" in para. 20 of  
the draft report, the following words be substituted:

"summoned to the bar of the House and reprimanded".

*The Committee then adjourned sine die.*

## APPENDIX I

(See para. 1 of Report)

*Extracts from the Lok Sabha Debates, dated the 20th April, 1961*

### QUESTION OF PRIVILEGE

**Shri Khushwaqt Rai (Kheri):** Mr. Speaker, Sir, I rise to ask for leave to raise a question of privilege of which notice was given by me yesterday.

It will be recalled that the Demands of the Ministry of Defence were debated in this House on the 11th and 12th April. The hon. Member from Sitamarhi (Bihar)—I mean Acharya Kripalani—a very respectable Member of the House, spoke after the Defence Minister had initiated the debate.

Now, about the performance of the hon. Member on that day, which he had a right and privilege to do as a Member of this august House, the Journal *Blitz* in its issue dated 15th April, 1961, has come out with an item on its first page headed "The Kripaloony Impeachment". Mark the use of the word "loony". Sir, I emphasise the use of the word "loony" in place of "lani"—his name is Kripalani and not "Kripaloony". The use of this word clearly shows what the paper aims at, proves its *mala fides* and is the greatest libellous reflection on a Member of this House. A picture of the hon. Member was also published on this very page with the caption "Kripaloony" underneath which leaves no doubt that the reference is to the speech delivered by the hon. Member in this House in the Defence debate.

Sir, I do not want to take the time of the House in reading the whole article in question. It is before you and you will find that it is a breach of privilege on the face of it. Their libellous content and the intention to libel shall be evident to anyone who reads it. I shall only point to some words and sentences—not the whole article—which I consider libellous. I shall only point to some words and sentences which constitute the gravamen of the offence. I want to be brief and shall take only that time which is required to prove that there is a *prima facie* case of breach of privilege.

Sir, this is an article which begins by saying:

"The Kripaloony Impeachment"—"Bad, Black, Bald lies". All these expressions constitute libel. Then it says: "In its content, tenor and style, Acharya Kripalani's.....".

**Mr. Speaker:** The hon. Member has not given to the House what exactly the words are. We are only having his comments.

**Shri Khushwaqt Rai:** I am reading now. I am coming to the article itself. I am not reading the whole article but I am only reading those words and sentences which constitute a breach of privilege.

**Shri Narayanankutty Menon (Mukandapuram):** Isolating certain parts of the article from the whole article is not fair. Unless we know the whole of it.....

**Shri Khushwaqt Rai:** The article says:

"In its content, tenor and style, Acharya Kripalani's performance during the defence debate on Tuesday could be the envy of any American Senator who has not yet overcome his McArthian Moorings."

Then it says that it was a case—

"built upon bad, bald and black lies and uttered in the hysteric manner of a violent epileptic."

**Mr. Speaker:** Epileptic?

**Shri Khushwaqt Rai:** Suffering from epilepsy or who is a subject of epilepsy.

**Mr. Speaker:** The hon. Member said that he was called "loony" in place of "lani" with his photograph and his speech was characterised as the speech of an epileptic.

**Shri Khushwaqt Rai:** Violent epileptic.

**Mr. Speaker:** Very well.

**Shri Khushwaqt Rai:** Here is the description of his speech, and that will amount to misrepresentation of the proceedings.

**Mr. Speaker:** Did I not request the hon. Member to read that portion?

**Shri Khushwaqt Rai:** I will read. It says:

"In the roughest and cheapest speech ever made since he was elected to Parliament by the courtesy of the Congress...."

Mark the words "lousiest and cheapest." This also indirectly reflects on the Chair, whoever was presiding at that time. Now I am reading further:

"By making a cocktail of plain hearsay, ancient Defence irregularities....."

Now Sir, this also is a misrepresentation of the proceedings. Then it says:

"The senile Acharya overshot himself so much so that even his usual backers in the Congress ranks were heard saying in the lobbies that his was a self-defeating performance."

"After Mr. Nehru and Mr. Menon tore his indictment into shreds, the whole House, with the exception....."

I am leaving that portion—

".....shouted him down like some bazar-buffoon." Can there be any worse libel than the use of the words "bazar-buffoon"?

**Shri D. C. Sharma (Gurdaspur):** The hon. Member is giving more publicity to the libel.

**Shri Khushwaqt Rai:** I am preserving your dignity, the dignity of the House. Sir, it is clearly a libellous reflection on the hon. Member for or relating to his service therein. It is also a wilful misrepresentation of the proceedings of the hon. Member in this House. It has also the effect of obstructing or impeding this hon. Member in the discharge of the duty as a Member of this House by holding him up to the ridicule of the public.

If this is allowed to go unchecked and uncurbed, this paper can hold any hon. Member to such ridicule and that would serve as a great impediment to all the activities of the House because then no Member would be able to freely express what he feels.

Sir, I shall now proceed to refer to *May's Parliamentary Practice*. I refer to page 125. There it is said:

"Analogous to molestation of Members on account of their behaviour in Parliament are speeches and writings reflecting upon their conduct as Members. On 26th February 1701, the House of Commons resolved that to print or publish any libels reflecting upon any member of the House for or relating to his service therein, was a high violation of the rights and privileges of the House."

Further on it says:

“Written imputations, as affecting a member of Parliament, may amount to breach of privilege, without, perhaps, being libels at common law, but to constitute a breach of privilege a libel upon a Member must concern the character or conduct of the Member in that capacity.....”

Sir, I would like to point out that this is a reflection on the hon. Member for making a speech in this House.

Now, Sir, I shall give you a few precedents about this. I shall not go into the details of the cases, but I shall briefly refer to them. Firstly, Sir, I refer to *Parliamentary Debates*, 1880, Vol. 250, pages 797 and 1108. I would also refer to House of Commons debate, 1935-36, Volume 311, Column 1349. I shall not read it. A question was raised there about a certain article in *Forward* dated the 2nd May, 1936. If you refer to page 1351, the Speaker has ruled that there is a *prima facie* case of breach of privilege. I will also refer you to the *Commons Journal*, 1947-48, page 22. Unfortunately, our library has not got the complete series of the *Commons Journal*. We have got it only from 1929. Otherwise, I would have quoted it.

Do we not have the *Hansard*?

**Shri Khushwaqt Rai:** We have the *Hansard*. But *Commons Journal* is easier for reference. Then I would also refer you to certain cases of this kind in Lok Sabha. There are cases of reflection. There has been, so far as I understand, no case of libellous reflection, at least here. The cases to which I refer are cases of reflection on Members, I would refer you to *Lok Sabha Debates*, Part II, dated 30th August 1955, which refers to *Daily Pratap's* case. The *Daily Pratap* made certain allegations. When it was brought up here, the Deputy-Speaker, who was in the Chair at that time, ruled that there was a *prima facie* case. But, since the paper tendered an unqualified apology, the matter was dropped. Then, *Lok Sabha Debates* of 10th February 1959, columns 140 to 172 refer to Mathai's case which was also a case of reflection. Then, I would refer to *Lok Sabha Debates* of 30th August, 1960, columns 5652—5654 (Bhounik's case). These are all reflections on Members.

Then I would refer you to a case which has happened in the U.P. Assembly in 1951. This is reported in 1951 *U.P. Assembly Debates*, volume 96, pages 117 and 181. This is a case where one Member of the House made libellous reflections on another Member of the House

and the matter was raised in the U.P. Assembly and it was referred to the Privileges Committee.

I shall now come to wilful misrepresentation. I have levelled the charge of breach of privilege on three counts. The first count is reflection on Members, which I have already referred to. Now I shall come to wilful misrepresentation.

**Mr. Speaker:** Order, order. The hon. Member will kindly resume his seat. I gave my consent to this matter being raised. We are at the next stage, that is, to see whether leave should be granted or not under rule 225 of the Rules of Procedure. The rule says:

“The Speaker, if he gives consent under rule 222 and holds that the matter proposed to be discussed is in order, shall, after the questions and before the list of business is entered upon, call the member concerned, who shall rise in his place and, while asking for leave to raise the question of privilege, make a short statement relevant thereto;”

I have allowed him to make a sufficiently long statement. Now the only question is whether leave should be granted by the House. If the leave of the House is granted to the making of the motion, then the next question is whether the House should itself dispose of it, or it should send it to the Committee of Privileges.

**Shri Nath Pai (Rajapur):** May I say a few words?

**Mr. Speaker:** Now the motion has to be moved. Because, rule 226 says:

“If leave under rule 225 is granted, the House may consider the question and come to a decision or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member.”

**Shri Nath Pai:** Mr. Speaker, I beg to move:

“That this matter be referred to the Committee of Privileges for consideration and report within a week”.

I am moving this motion so that we are fair to the editor and the reporter concerned, because this matter involves not only the question of the privileges of this House, but an equally important matter with which we are concerned, namely, the freedom of the Press. In the light of that, though the case *prima facie* is very clear, I would submit that the matter be referred to the Privileges Committee with a direction that the Committee report on it within a definite time-

limit. That, Sir, should not exceed more than one week. May I make one more observation? And this refers to the vital issues we have before us and I will be very brief in submitting my plea to you. A free Press is both a safeguard and a safety valve of a democracy. We cannot think of a sovereign Parliament without a free Press. It is well nigh impossible to separate one from the other; so mutually inter-connected and inter-dependent they are.

**Mr. Speaker:** How does all this arise?

**Shri Nath Pai:** If you allow me to continue.....

**Mr. Speaker:** I am very anxious to hear him as often as possible. But so far as leave is concerned, that has to be granted by the House. The only question which has to be considered is whether in the interests of a free Press and so on, we ought to take note of small matters, or whether it is a sufficiently big matter to go to the Committee of Privileges. The only point here is: shall we dispose of it here and now, or shall it be sent to the Committee? The hon. Member has to make a motion, either that it be referred to the Privileges Committee or that it be disposed of by the House. I will put it to the House whether it should go to the Privileges Committee. If the matter is referred to the Privileges Committee, the hon. Member can raise it before the Committee, and it will again come back to the House with a report. Then the House will decide as to what ought to be done. This is not the occasion for that. I have no objection to allowing proceedings that are relevant to the subject matter. So far as the question of leave is concerned, if any hon. Member opposes it, then the hon. Member might have an opportunity to tell the House "No, leave ought to be granted". On this occasion, I do not think all those matters would be relevant. Now the question is whether this matter should be referred to the Privileges Committee.

**Shri Asoka Mehta (Muzaffarpur):** His motion is somewhat different. It says that the matter be referred to the Privileges Committee but the Committee should report within a particular time. In that way, this motion is different.

**Mr. Speaker:** But I have not placed it before the House. The motion will be that the matter be referred to the Privileges Committee and the Committee be requested to make a report to this House within a week from today. But will it be possible?

**Shri Nath Pai:** I submit to your ruling, Mr. Speaker, and I will be abiding by it. But I have been denied the right of making certain

observations with regard to the motion which I have moved, I want to explain why I feel very strongly that even in the case of libellous attack on the Member, I would like that the matter be referred to the Committee. Otherwise, I would have insisted that it be disposed of here and now. I want to justify my plea to you and to the House why we should refer it to the Committee and, therefore, I plead with you to bear with me for a minute. It would not be a question of something irrelevant. That is not what we indulge in.

**Mr. Speaker:** The House is seized of the matter and the House is willing to grant leave. The short question is whether the House will dispose of it here and now or whether it should be referred to the Privileges Committee. There is a motion that it be referred to the Privileges Committee and there is an amendment that it should not be referred to the committee but should be disposed of here and now. Therefore, the only question now is whether it should be referred to the Committee. Evidently, the hon. Member wants the matter to be disposed of in this session. We will find out from the Deputy-Speaker, who is in charge of this Committee and who presides over its deliberations, whether the report of the committee can be presented within a week. Very often we find that the Committee asks for extension of time.

**Shri S. A. Dange (Bombay City-Central):** On the basis of the material that has been read here, the motion does not seem to be so serious as to be remitted to the Privileges Committee. The House can go through it and can easily decide whether it is worthwhile referring it to the Privileges Committee.

**Shri Tyagi (Dehra Dun):** May I make a submission? Most humbly I want to beg of you to kindly consider whether the manner in which motions like this are passed by the House without discussion is just. Formal sanction of the House is taken only for the introduction of Bills. If we adopt motions of the present type without discussion, it may become a precedent for future cases. There may be many more important matters on which the House, before remitting the question to any committee, may like to discuss whether it is worthwhile referring it to the committee or not. A motion was moved and you were pleased to take votes. I do understand that on the face of it, it seems to be a question worth examining. But then the House did not get any chance of expressing itself. You just put the question to vote and we passed it by majority ascertained by voice vote.

**Mr. Speaker:** I do not know if I should go on inviting every hon. Member to rise and object to it. Of course, when a motion has been moved, I place it before the House, saying, "Motion moved". Immediately after that it was open to any hon. Member to get up and say, "I am opposing this motion on these grounds, namely, that it is on such a small ground that it ought to be disposed of here" as Shri Dange has said. I am really surprised that again and again I have to remind hon. Members of the rules. It was open to him to say, "We should dispose of it here and now". But he has not said anything. The only question is whether it should go to the Committee or it should be disposed of by the House. I will put that first. Then I will put the question whether a report ought to be made within seven days or not. I will divide this into two portions and put them to vote separately. The question is:

"That this matter be referred to the Committee of Privileges for consideration and report".

*The motion was adopted.*

**Mr. Speaker:** Now, we shall take up the second part:

"That this matter be referred to the Committee of Privileges for consideration and report by the 30th April, 1961."

**Some Hon. Members:** By the end of this month.

**Shri Ansar Harvani (Fatehpur):** Sir, since it is a matter in which an enquiry has to be made from the editor and the correspondent, I think that seven days is not sufficient time. Therefore the Committee should have the right to decide about the time. It should not be left to the House to decide that the explanation should come within seven days and the matter should be disposed of within seven days. Full initiative should be given to the Committee as regards the time in which to decide it.

**Shri S. A. Dange:** I agree to the proposition that the time should be decided by the Committee itself.

**Mr. Speaker:** So, we leave it to the Committee. No question of privilege can be disposed of without giving notice and a fair opportunity to the person against whom a privilege motion is brought. Normally, if it is a small matter, I myself refer it to the Privileges Committee. But inasmuch as very serious allegations have been made, I thought that I must leave it to the House to decide whether leave be granted or not. In another case a short time ago, before:

leave was granted I referred it to the editor to offer his explanation. Therefore the question is whether we should leave it to the Committee or ask it to decide within a week.

**Dr. Ram Subhag Singh (Sasaram):** It should be left to the Committee but the Committee should take the minimum possible time.

**Sardar Hukam Singh (Bhatinda):** It would not be possible in any case to submit the report within a week. If an enquiry is to be made, notice will have to be given. He might or might not turn up on the first day. Perhaps, he might or might not be served with the notice the first time and a second notice might have to be served. Some time would be required for that. Perhaps the gentleman also has to come from outside Delhi. That too might take some time. But a week's time would not be sufficient in any case.

**Dr. Ram Subhag Singh:** I think that this is quite a serious case. Though I fully agree that there should be freedom of the press, the press also has some obligations to the nation and to this principle of the freedom of the press. Each and every newspaper is supposed to observe certain canons of journalism and no newspaper should be allowed to go on in this way. Therefore I think. . . . (*Interruption*).

**Mr. Speaker:** We are not going into those details.

**Shri S. A. Dange** rose—

**Mr. Speaker:** Hon. Members will resume their seats. We are not going into these details. I understand that sufficient opportunity should be given to the person who is accused of having committed a breach of privilege, while at the same time we should try to dispose of it as expeditiously as possible.

**Dr. Ram Subhag Singh:** During this session.

**Mr. Speaker:** Therefore I propose that the report may be called for by the end of this month after allowing a reasonably sufficient time to the editor or whoever is responsible. If it is not possible to dispose of it by then, certainly the House will give some more time to find out what exactly has happened. But at present let us ask the Committee to report by the end of this month.

The question is:

“That this matter be referred to the Committee of Privileges for consideration and report by the 30th April, 1961.”

*The motion was adopted.*

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**APPENDIX II**

(See para. of 6 of Report)

Letter dated the 5th May, 1961, from Shri A. Raghavan, Staff Correspondent of the Blitz

The Chairman,  
The Committee of Privileges,  
Parliament House,  
New Delhi.

**SUBJECT.**—*Question of privilege raised by Shri Khushwaqt Rai, M.P. re: certain comments published in Blitz, dated 15th April, 1961 on the speech made by Shri J. B. Kripalani, M.P., in the Lok Sabha on 11th April, 1961.*

**Ref.**—Letter No. 341/CI-51, dated 27th April, 1961 from the Deputy Secretary of the Lok Sabha Secretariat.

Sir,

I have the honour to receive the letter under reference. I am sorry indeed that my humble request for six weeks' time for preparation and submission of my detailed reply did not receive a sympathetic response from your Committee. I also note that I am informed that, should I not be able to present myself before your Committee on 5th May, your Committee propose to proceed further with the matter *ex parte*. I can only say that I am very much grieved at such a proposal, more so because in my letter to you of 25th April, 1961 I had extended my whole-hearted co-operation to your Committee in deciding this question of privilege which is of primary importance to the Parliament and the Press. Under these circumstances I find no alternative but to submit the following statement for the sympathetic consideration of your Committee.

1. I have received till today two communications from the Deputy Secretary of the Lok Sabha Secretariat, dated 20th and 27th April, 1961 respectively. I have also gone through the verbatim report of the Lok Sabha Debate on 20th April, 1961 when the motion to refer this matter to your Committee was adopted, as well as the Twelfth

Report of your Committee laid on the Table of the Lok Sabha on 28th April, 1961. I have understood from the documents referred to above that your Committee have under consideration the question of privilege regarding certain comments published in BLITZ, dated 15th April, 1961 on the speech made by Shri J. B. Kripalani, M.P. in Lok Sabha on April 11, 1961 during the debate on the Defence Ministry's demand for grants. However, I must submit that I have not been able to understand as to what is the precise nature of the privilege involved in this matter. Neither in the first notice nor in the subsequent communication is there any specific assertion of the nature of the privilege which I am alleged to have committed a breach of, nor facts constituting any such breach of privilege upon which I am expected to render an explanation to the satisfaction of your Committee. Therefore, permit me to submit that it is only fair and in consonance with the principles of natural justice that I may be informed about the nature of privilege of which I am alleged to have committed a breach, and the facts constituting the same.

2. Without prejudice to my above submission, may I be allowed to state a few facts concerning the nature of my work as the Delhi Correspondent of BLITZ Newsmagazine. BLITZ Newsmagazine is a weekly publication placed in circulation on Friday morning though it bears the Saturday dateline. In order that it can be placed in circulation on Friday morning it is put on the printing machine on Thursday night. I function in Delhi as the Correspondent whose main task is to collect material about events and developments in the Capital, including Parliament sessions, and despatch them to Bombay. I may be permitted to state here that the function of the correspondent of a newsmagazine is always limited to the collection and despatch of material. In all cases concerning newsmagazines the said material is re-written, edited and additions and subtractions made by the members of the staff who are known as copywriters. After this the News Editor edits the "copy" which is then laid out by layout man who chooses photographs and supplies captions and headlines. Once the page is laid out, it is submitted to the Editor who can make any correction, alteration or addition which he considers appropriate. I have described this process in some detail so that the Committee may appreciate the reason why it is the Editor who is solely responsible for what is ultimately printed in a newsmagazine.

3. Permit me also to state here a few facts in connection with the despatch of the material in the present case. You will kindly

remember that Shri J. B. Kripalani, M.P., made his speech in the debate on the Defence Ministry's demand for grants on Tuesday, 11th April, 1961. The debate ended on Wednesday, 12th April, 1961. The report about this debate was transmitted to Bombay from Delhi in two parts. The first part was despatched on Tuesday evening in a written form by airfreight so as to reach Bombay office by Wednesday morning. This was before the Prime Minister's intervention in the debate and the Defence Minister's reply on Wednesday. It is the practice of this Correspondent to telephone to Bombay on Wednesday night or Thursday morning if there is anything extra to be conveyed about developments during Wednesday. In the present case the discussion on Wednesday in Lok Sabha was of great public importance. So in order to bring the despatch up-to-date the latest information was conveyed to the Bombay office by telephone, that is, the *substance* was given and the *actual writing* was left to the Bombay office.

4. I am confident that your Committee will appreciate the fact that it is against the code of ethics of the profession of journalism to disclose the correspondent's despatches to his editor. The secrecy of communication between the correspondent and his editor is accepted in all democratic countries as a conventional privilege of the Press. I have no doubt that your Committee which is a part of our sovereign Parliament will only be eager to uphold this tradition which is a vital part of the very edifice of the freedom of the Press. Therefore, you will appreciate that, despite my ardent desire to co-operate with your Committee in all manner of ways, I am unable to elaborate my individual contribution to the despatch which finally appeared under my name for which my Editor, Shri R. K. Karanjia, has taken fullest responsibility.

5. However, I may assure you that in the despatch which I air-freighted on Tuesday evening and the substance of Wednesday's debate which was conveyed on the telephone, I did not intend in the least to commit a breach of privilege of the House or any of its Hon'ble Members.

6. Your Committee have directed me to submit my final written reply by 5th May, 1961. Your Committee will appreciate my difficulty in submitting the same in view of the reasons stated in para. 1 above. Therefore, I submit this may be treated as an interim reply. I may also be permitted to request the Committee's indulgence to

allow me to submit further defence after I am informed by the Committee of the specific nature of the alleged breach of privilege and the facts constituting the same.

Assuring you of all co-operation, I am,

Yours faithfully,  
(Sd.) A. RAGHAVAN.

### **APPENDIX III**

(See para 9 of Report)

*Letter dated the 12th June, 1961, from Shri R. K. Karanjia, Editor of the Blitz, Bombay.*

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

Sir,

With reference to the communication, dated 1st May, 1961, from the Secretary of the Committee, I am submitting herewith my written statement. Your Committee will appreciate from the first part of the statement that I have not been furnished with details of the alleged breach of privilege which could enable me to send you a proper defence and, therefore, the present statement will have to be supplemented as and when I am supplied with the necessary information.

Thanking you.

I remain,

Yours faithfully,

(Sd.) R. K. KARANJIA,  
*Editor-in-Chief,*  
*BLITZ Newsmagazine.*

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*Statement of Shri R. K. Karanjia, Editor, Blitz, Bombay, before the Committee of Privileges Lok Sabha: New Delhi*

Mr. Chairman,

1. I CONSIDER it a privilege to submit this document to your Committee. I am grateful to you for granting me the extension of time which I requested in my letter, dated April 24, 1961. I welcome

the opportunity offered by the Privileges Committee of the Lok Sabha to submit my explanation: for I believe that the basic issue before your Committee is of supreme importance to the growth and development of democracy in our country, its relation to the survival of a free press and the service which a free press can render to the growth and protection of a democratic system of life. For me this issue is the fundamental consideration in the present case; and it is because of this that I have applied myself to the study of the question involved of the privileges of the Lok Sabha and their relation to the freedom of the Press. I respectfully submit that the present occasion is one which must lead all concerned to a dispassionate and objective consideration of this issue. Its implications are far wider than the privilege of Mr. Kripalani, M.P., or the alleged breach of it, which I, as the editor of BLITZ Newsmagazine, am considered to have committed. I submit that eleven years have elapsed since our Constitution came into existence and it is high time that a precise code is evolved on this controversy for the guidance both of the Press and of individual members of our Parliament, and, if I may add, the State Legislatures. It is because of this urgency that I place before you my submissions, based on a study of our Constitution, the British Constitution, the privileges of the members of the Lok Sabha in India as well as of the British Parliament, and the rights and duties of the Press in our own country as well as in Britain.

#### A. PRELIMINARY OBJECTION

2. BEFORE I do so, I am bound to raise a preliminary objection. This is imperative to the interest of the principles of natural justice, statute law and recognised civilized behaviour which, I am certain, you hold supreme in your esteem and always endeavour to follow in the conduct of the business of your Committee. Sir, I am constrained to bring sharply to the notice of your Committee the manner and method in which I, a citizen of the Republic of India, was summoned to appear before your Committee without any precise charge or without even an effort to inform me what precise charges I was expected to plead to or against. That I have respected the wishes of your Committee and sent you this explanation must be taken, I submit, as a measure of the respect with which I look upon your Committee. At the same time, I am bound to submit that it

is only on account of the esteem in which I hold your Committee and for no other reasons that I have placed myself at your disposal. Allow me, therefore, to make my submission on my preliminary objection.

3. I RECEIVED a letter from Mr. H. N. Trivedi, dated 20th April, 1961, confirming a telegram which was sent to me earlier and attaching thereto the relevant extracts of proceedings of the Lok Sabha. The said letter is attached herewith and marked "A". You will see that the letter speaks of "the dispatch by your Delhi bureau representative Shri A. Raghavan under the caption 'The Kripaloony Impeachment' published on the front page of the BLITZ, dated 15th April, 1961". I was asked in the same letter to state whatever I might desire to do so in the matter. The letter puzzled me. My astonishment was due not so much to the fact that the said dispatch became a subject worth raising in a debate in the Lok Sabha, but to the absence in the letter of any specific grounds which might be considered to constitute the basis of the alleged breach of privilege. I carefully perused the extracts of the report of the debate in the Lok Sabha, and found that your Committee was empowered to take up this issue through a resolution which was worded as follows:—

"that this matter be referred to the Committee of Privileges for consideration and report."

I examined the extracts of the report to discover the "matter" referred to your Committee. I found that Mr. Nath Pai, M.P., had moved the resolution referred to above. Mr. Nath Pai's speech appeared to have been cut short by the Honourable Speaker, who seemed to indicate that Mr. Nath Pai's speech in support of his resolution was irrelevant. The Honourable Speaker appeared to refer generally to the dispatch as the "matter". Adverting to the speech delivered by Mr. Khushwaqt Rai, I found that this Honourable Member had referred to some extracts from the dispatch, which were, I respectfully submit, taken out of their context. Thus, I could not determine the precise grounds on which the Lok Sabha considered the dispatch to constitute a breach of its privilege. Mr. Khushwaqt Rai's speech was limited to the issue of raising the matter under rule 225 of the Rules of Procedure of the Lok Sabha. Under this rule, Mr. Khushwaqt Rai was obliged to make a short statement relevant to the question of privilege if he wanted to raise it in the House. His speech pertained, therefore, to a procedural requirement

and could not be considered as one pertaining to the substance of the matter.

4. THE resolution referred to above had to be moved under rule 226, and this was done by Mr. Nath Pai. As I have submitted above, Mr. Nath Pai's speech, which must be considered to be the main speech on the matter of privilege, did not refer to any specific grounds which could reasonably underline the facts constituting the alleged breach of privilege. Hence, I submit that I have yet not been furnished with the specific grounds on the basis of which I am alleged to have committed a breach of the privileges of the House.

5. I RESPECTFULLY submit that the objection taken by me is not of a technical nature. I am charged with what by the ordinary law of the land would be called an offence. The Honourable Speaker emphasised this very point when, during the debate on the 12th report of the Committee of Privileges, he intervened and stated that the offence was of a criminal nature. I should have been appraised of not only the grounds on which the said offence was alleged to have been committed, but also the facts constituting such grounds. The charge must be specific, and such as would enable the person charged to plead fully to it. This is a matter which reaches to the very root of the principles of justice. It is my submission that no court is entitled to dispense with this preliminary pre-requisite, much less your Honourable Committee, which is a limb of the Lok Sabha, which in turn, is dedicated to protecting of the rule of law in this country.

6. THERE is a further submission I must make in this behalf. The term "privilege" as it is used in relation to the privileges of the Lok Sabha are collectively denoted thereunder. It is, therefore, absolutely essential, in my submission, that your Committee ought to have referred specifically to the privilege, or privileges with breach of which I am charged. Apart from the requirements of the principles of natural justice, I should be left helpless, in view of the Committee's failure to state the specific breach, to plead to the breach of any particular privilege or privileges.

7. ON the basis of what has been stated in paragraphs 3, 4, 5 and 6 above, I submit that it is only fair and just that your Committee should list the specific grounds and the facts relating thereto before I can plead to the offence of the alleged breach of privilege of the

House. I submit that this preliminary objection needs to be disposed of by your Committee before it can proceed to the merits of the case.

### B. FREEDOM OF THE PRESS

8. I APPEAR before your Committee not only as the Editor of BLITZ Newsmagazine, which, as you are aware, has the largest and widest national readership of any newsmagazine published in India, but also as a citizen of this great country who has striven, in his own manner and to the best of his ability, to help the nation's struggle for freedom. As I submit this statement before you, memories of my earlier appearances before our erstwhile rulers crowd my mind. As your Committee is well aware, it was a difficult task to run a patriotic fighting people's journal in those days of storm and struggle. Indeed, many members of your Committee will surely recall the service which I, as the Editor of BLITZ, rendered to our great national struggle led by Lokmanya Tilak, Mahatma Gandhi and Pandit Jawaharlal Nehru. I mention this only to emphasise the point that I have always striven to uphold the principle of the freedom of the Press as sacred, inviolate and inviolable. I took this stand before the tribunals of the imperialist Government as, indeed, I am doing today. Indeed, I consider it my good fortune that destiny has chosen me as an instrument in the important and imperative task of protection of the freedom of the Press under our Constitution.

9. I PROUDLY submit that as a citizen of this country I am guaranteed an inviolable right of freedom of speech and expression, which includes, as it must necessarily and inescapably include, the freedom of the Press.

10. ALLOW me to draw the attention of your Committee to Article 19 in Part III of our Constitution, which deals specifically with the Fundamental Rights of the citizens. The relevant portion of the Article reads as under:

"(1) All citizens shall have the right—

(a) to freedom of speech and expression;

\* \* \* \* \*

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security

of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.”

11. ARTICLE 19(1) (a) has been the subject of interpretation in several judgments by the Supreme Court. In *Romesh Thaper vs. The State of Madras*, the Supreme Court ruled that freedom of speech and expression includes freedom of propagation of ideas, and that freedom is ensured by the freedom of circulation. This freedom, is, I submit, comprehensive enough to take in the freedom of the press. In *Brijbhushan vs. The State of Delhi* [1950 S.C.R. (605)], the Supreme Court followed this interpretation. In *the Express Newspapers Ltd., vs. The Union of India* [(AIR 1958) S.C. 578, 614] Bhagwati J., who delivered the judgment of the Court, held that freedom of speech and expression includes within its scope the freedom of the press. In *Srinivasan vs. The State of Madras* [(AIR 1951) Mad. 70] it was held, on the basis of the views expressed by the Supreme Court, that the terms “freedom of speech and expression” would include the liberty to propagate not only one’s own views but also the right to print matters which are not one’s own views but have been either borrowed from someone else or are printed under the direction of that person. I have cited the aforesaid precedents to emphasise the self-evident point that Article 19(1) (a) includes the freedom of the press in the most comprehensive sense.

12. IT is my submission that our Constitution specifically guarantees all citizens the fundamental right of freedom of speech. I respectfully draw your attention to Clause (2) of Article 19 which, unlike other clauses of the Article, confines the scope of the restrictions on the said freedom within comparatively narrower limits. The said Clause (2) enables the State to impose reasonable restrictions on the said right in the interest of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence. Your Committee will observe that Article 13 makes all laws that are inconsistent with, or in derogation of, the fundamental rights void, while Clause (2) thereof expressly prohibits the State from making laws in contravention of the said right.

13. IT is my respectful submission that your Committee, being a limb of the Lok Sabha, is duty bound not to infringe on the fundamental rights of the citizen. I submit that the fundamental rights

are the rights reserved by the people after delegation of the rights by the people to the institutions of government. There is no power given either to the Courts of Law or to government institutions to restrict in any manner whatsoever these fundamental rights or that part of the sovereignty of the people which the people have not delegated to any agency at all. I respectfully submit that your Committee should bear in mind this important distinction in my case, because, dealing with it, you deal with the question of the freedom of the press. It is my submission that any restrictions imposed on these fundamental rights which have not been provided for specifically in the Constitution will amount *ipso facto* to amendment of the Constitution, and this is, therefore, a matter of supreme importance which your Committee cannot afford to treat lightly. Allow me respectfully to state that every institution created by the Constitution must function within its allotted field and cannot encroach on the rights of the citizens who have, in theory, reserved to themselves these rights and delegated only the others to the Lok Sabha.

14. I SHALL now bring back to your memory one or two examples of the manner in which the builders of the tradition of a free press in India have exercised their right in the past. I do so because sometimes I form an impression—and I am sure that I am not the only one to feel this way—that for some inexplicable reason we are fast losing touch with what certainly is the most glorious heritage of this nation. I should like to remind you of the days in the first decade of this century when Bal Gangadhar Tilak conducted the *Kesari* from Poona soon after the partition of Bengal, an event contemporaneous with the Russian revolution of 1905. Tilak wrote as follows:

“A Royal Decree may be a law, but it cannot by itself claim to be justice and morality. Rulers, as degraded as rabid dogs, are, through inebriation, capable of issuing dangerous orders. The question naturally arises whether the subjects should obey them because they conform to the technique of law-making.” (*Kesari* issue dated 8th May 1906 quoted in S. L. Karandikar’s *Lokamanya Bal Gangadhar Tilak*, Bombay 1957).

It was in the same audacious spirit that Mahatma Gandhi, two decades later, described the then government as “satanic”.

I cite these two instances to illustrate the point that the freedom of the press is not a mere matter of decoration for patriotic journalists; it is an article of faith and a sacred duty. Permit me to refer

you, once again, to the words of Bal Gangadhar Tilak on this issue—  
 “When the Kesari was started. . . . . journalists had made fashion-  
 able a type of writing, calculated not to antagonise the rulers, if not  
 positively flatter them. Those days are gone. As journalists we  
are out to awaken and unite people as also to make them earnest.  
We do not write for our rulers alone. We aim at inculcating on  
the mind of our readers the thoughts which stir us deeply. We want  
them to feel our earnestness. We want the discontent in our heart  
to infect them.”

16. IT may be argued that Tilak and Gandhiji affirmed these ideals and ideals in a period which was different from today. May I submit that principles do not change with the change of times. These giants of the Indian renaissance placed before our people not platitudes but sterling principles and rousing examples to guide them in their actions for generations to come. Today Jawaharlal Nehru continues their noble endeavour. In this inspiring context, I have always believed that the policy of my paper must be guided by the principles which are enshrined in BLITZ's challenging motto to remain “Free, Frank, Fearless and First”.

17. THEREFORE, I submit, Sir, that your Committee must consider the two basic concepts which I have placed before it in the preceding paragraphs: those of the sacred fundamental rights of the freedom of the press guaranteed under our Constitution and the glorious heritage of the Indian tradition of a free press built over a century by leaders like Lokmanya Tilak, Mahatma Gandhi and Jawaharlal Nehru. Your Committee consists of representatives of the people. Though some of the members of your Committee may be lawyers, it is my respectful submission that your Committee must view the question of the freedom of the press beyond the narrow confine of legal technicalities and appraise them from the broader point of view of national history and national destiny. I have no doubt that your Committee will consider the matter in this light.

### C. SOVEREIGNTY OF THE LOK SABHA

18. PERMIT, me, now, to make my submissions on the question of the privileges of the Lok Sabha. I entertain the profoundest respect for the Lok Sabha, and this sentiment I have on all occasions expressed in my journal. I have ever considered the parliamentary

system introduced by the framers of our Constitution to be one of the historic turning points in our national history. Our Lok Sabha is the first democratically elected representative institution of the people in their chequered history during nearly the past thousand years. As a believer in parliamentary democracy, I have made the columns of my journal freely available to publicists holding views which are not always similar to mine. I refer to only four of the many occasions when Mr. P. R. Lele, an elder Congressman and a well-known constitutional lawyer, emphasised his point of view on the supremacy of the Parliament. These are to be found in BLITZ's issues dated 20th April, 1960, 10th December, 1960 and 26th January, 1961. The relevant portions are attached herewith marked collectively "B".

"B"

19. IT is my respectful submission that before your Committee considers the breach of privilege alleged to have been committed by me, it ought to answer the following questions: Under our way of democratic life, in whom does sovereignty vest? Is it in the People or in the Lok Sabha or the several Assemblies which function at State level in our federation? Indeed, the crucial question is which is supreme—the Constitution or the Lok Sabha and the said Assemblies?

20. MY respectful submission is that the Lok Sabha nor the many State Assemblies and Councils are either sovereign or supreme. I am conscious of the fact that this submission is a departure from the popular view which is, in my considered opinion, based on a fallacy. This fallacy arises from an attitude of mind which tends to follow almost blind-foldly the custom and the conventions of the British Parliament. Our Lok Sabha and the legislative organs at State level are creatures of the Constitution: thus there is a fundamental and radical distinction between the status, powers and privileges of the British Parliament and our Lok Sabha. As is well-known, the United Kingdom does not have a written Constitution, so that the British Parliament is not a creature of any Constitution. It has grown into a sovereign and supreme body in the course of British history. A documentary constitution normally reflects theoretical beliefs. Progress has been achieved in Britain less by adherence to philosophical concepts than by the process of trial and error. Hence no written formula has been embodied in the code of rules for the Legislative, Executive and Judicial limbs of the State.

21. THE position I submit in relation to our Constitution is qualitatively different. Our Constitution places before the people certain theoretical concepts. One such concept is that of fundamental rights. Allow me to quote the words of Prime Minister Nehru uttered in the Lok Sabha on May 16, 1951: "The essential difficulty lies in the fact that the whole conception of fundamental rights is for the protection of the individual liberty and freedom. That is a basic conception and to know where it was derived from you have to go back to European history in later days of the 18th century, roughly speaking from the days of the French Revolution on to the 19th century. That might be said to be the dominating idea of the 19th century, and it has continued to be a matter of fundamental importance". (Jawaharlal Nehru's speeches 1949—53|2nd impression| pp. 494-495.) I refer to these words to underline specifically the *raison d'être* of the nature of our written Constitution.

22. I SUBMIT that the powers of the Lok Sabha and Assemblies are not unlimited as those of the British Parliament and, therefore, the Lok Sabha is neither supreme nor sovereign. It is well-known that our Constitution lays down the powers of the legislature, the judiciary and the executive, and to take up any of these three branches and make it supreme is inconsistent with the very nature of our written Constitution. I respectfully submit that each of these three branches has to function harmoniously, and certainly the legislature cannot be elevated to a superior position for this would make the judiciary subordinate to it. The distinction may be illustrated in another manner. Under our Constitution the laws framed by the legislature may be challenged before the superior courts in India because both the legislature and the judiciary are the creature of the Constitution. This is not so in Britain, where the courts and judges are creatures of Parliament, and they cannot, therefore, question the acts of their creator and supreme body, the Parliament. It is, therefore, my submission that the Lok Sabha is not a supreme nor a sovereign body.

23. THIS fundamental fact is illustrated by Chapter Three of our Constitution dealing with fundamental rights. Allow me to draw your attention to Article 13 which makes void laws that are inconsistent with, or in derogation of, the fundamental rights, and clause 2 thereof expressly prohibits the State from making laws in contravention of the said rights. I submit that there is only one way to

understand the real purport of Article 13, and that is that the said Article reflects the truth that the rights reserved by the people to themselves, which are their sovereign rights, cannot be violated by any institution under the Constitution, including the Lok Sabha.

#### D. PRIVILEGES OF THE PARLIAMENT

24. I HAVE dealt with this question at some length because it pertains to the question of privileges which the Lok Sabha claims for itself. Let me now refer to you Article 105 of the Constitution for its validity as well as correct interpretation.

Article 105 reads as under:

- “(1) Subject to the provisions of the Constitution and the rules and the standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.
- (2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any Committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.
- (3) In other respects, the powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and Committees, at the commencement of this Constitution.
- (4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of a House of Parliament or any Committee thereof as they apply in relation to members of Parliament.”

25. YOUR Committee doubtless knows that the first clause declares that there shall be freedom of speech in Parliament and that freedom is expressly made subject to the provisions of the Constitution and to the rules and the standing orders regulating the procedure of the Legislature. The second clause gives protection to members of Parliament from any liability to any proceedings in any

court in respect of anything said or any vote given by him in Parliament or in any Committee thereof and to every person in respect of the publication by or under the authority of Parliament of any report, paper, votes or procedures.

26. I SUBMIT that it is the third clause which is of major concern to your Committee today. It is, as is obvious, in two parts and deals with certain powers, privileges and immunities conferred on the Parliament and its Committees. The first part lays down that the powers, privileges and immunities of the Parliament shall be such as may from time to time be defined by the Parliament by law. In the second part, it is stated that until so defined, they shall be those of the House of Commons of the British Parliament, its members and its Committees at the commencement of the Constitution.

27. IT is my respectful submission that your Committee, representing the Parliament, is faced here with three fundamental questions: *First*, is clause 3 of Article 105 consistent with the nature of the Constitution or is it an anachronism? *Secondly*, is clause 3 subject to the other provisions of the Constitution? *Finally*, if the answer to the second question is in the negative, how is Article 105 (3) to be construed in relation to Article 19 (1) (a), dealing with the fundamental rights of the citizens or, in other words, with the residuary sovereignty of the people? I submit that these are matters of serious concern both to Parliament and the Press. I further submit that they need to be examined not by the technical standards of the Law Courts, but with political vision and in consistency with our national mission. If, as the result of these examinations, your Committee comes to a conclusion different from the accepted ones, they are bound to adopt a courageous and dynamic attitude and accept my submission.

28. IT is my submission that Article 105 (3) is an anachronism. It runs counter to the very spirit of our Constitution. I submit that as the nature of our Constitution is different from that of the British Constitution and as the framers of our Constitution, as is well known, have followed the American Constitution in relation to the Fundamental Rights and distribution of powers between the three branches of the State, Article 105 (3) is inconsistent with its basic pattern. In fact, Article 105 (3) is a departure from the basic fabric of the entire Constitution. It is pregnant with several invidious possibilities. I shall illustrate this point. Suppose a member of the State Assembly reads over the BLITZ dispatch concerning which your Committee is

deliberating or goes a step further and makes a speech calling Mr. Kripalani a traitor, what are its consequences? Subject to the powers of the Speaker of the said State Assembly to disallow such a speech, what is the impact of Article 105 in the circumstances? I must draw your attention to Article 194 which protects the said member of the said State Assembly and confers on him the identical powers and privileges as are conferred by Article 105 on Mr. Kripalani. Can the Parliament entertain a motion under rule 226 of its procedure against the said member of the said State Assembly and refer it to your Committee? Can you issue a summons for appearance in such a case? Therefore, I submit that the question of the powers of the Parliament to take action for breach of anything said or done outside the House is in contradiction with Article 194. The real point is to distinguish between the jurisdiction of the Lok Sabha within its precincts, on the one hand, and without, on the other. Under British conventions, and only because the British Parliament is a supreme body, its jurisdiction is the same outside its precincts as it is within its precincts. I submit that it is not so in India because our Parliament is not supreme. Your Committee is aware that under the American Constitution, the Senate has no power to punish any person for such acts as defamation or even assault on any of its members if the act is committed outside the House. Indeed, the aggrieved member has a right to take recourse to the ordinary remedy open to all citizens alike, i.e. go to court. It will be seen that the American Constitution, on the basis of which all constitutions rest to a large measure, thus carefully avoids the creation of a special class of citizens who would enjoy special powers, privileges and immunities. This, I submit, is in the nature of the principle of equality before the law inherent in a democratic system of government. Indeed, if such privileges, powers and immunities are granted to any section of the citizens, that would violate the very spirit of our democracy. Permit me to draw your attention to the fact that the framers of the Indian Constitution could not have intended the creation of any special political caste. One has only to look at Article 14 which says: "The State shall not deny to any person equality before the law or the equal protection of the law within the territory of India." I submit that Article 105 violates the Fundamental Right of the citizen to equality and, therefore, it is void. Article 14 grants rights to the citizens which are subject only to the provisions of Article 34, which lays down that they shall be restricted while martial law is in force in any area.

29. ON the second question I raised in paragraph 27 I submit that Article 105(3) must be read subject to the other provisions of the Constitution. I submit that an examination of Article 105 will show that this is the only reasonable interpretation. Article 105(1) clearly makes it subject to the provisions of the Constitution. It cannot be said that Article 105(3) is expressly made independent of the other articles of the Constitution. It is customary to add words such as "notwithstanding anything in the provisions of the Constitution or any part thereof", whenever an Article is sought to be made independent of the other provisions of the Constitution. One has only to look at the wording of Article 34 which lays down restrictions on the Fundamental Rights, while martial law is in force in any area.

30. ON the third question, which would arise if your Committee finds it difficult to accept my submissions made in paragraph 29, I respectfully submit that on a true construction of Articles 105(3) and 19(1) (a), Article 105(3) must be read as subject to Article 19(1) (a). Article 105(3) states that the powers, the privileges and the immunities of Parliament, its members and its Committees shall be such as are defined by Parliament by law. Allow me at this stage to submit that there are no such laws in existence today, and hence no question of any breach of such laws by me can arise. I shall make my detailed submissions on this point later. Article 105(3), in its second part, lays down as a temporary measure that till the Parliament makes such laws defining the aforesaid powers, privileges and immunities, such powers, etc, shall be those of the House of Commons of the Parliament of the United Kingdom, its members and Committees at the commencement of the Constitution. Allow me here to quote the comments of Subba Rao J. on this point: 'It is inconceivable that the Constituent Assembly having framed the Constitution covering various fields of activities in minute detail, should have thought fit to leave the privileges of the legislatures in such a vague and nebulous position compelling the legislatures to ascertain the contents of their privileges from those obtaining in the House of Commons at the commencement of the Constitution. The privilege of the House of Commons is an organic growth. Sometimes a particular rule persists in the record but falls into disuse in practice. Privileges just like the other branches of common law are results of compromise depending upon the particular circumstances of a given situation.' (M.S.M. Sharma vs. Sri Krishna Sinha and others; Privileges Digest, Vol. III, No. 1, p. 58). The considered judgment of Subba Rao J. leads to one

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conclusion and one alone, and that is that the second part of Article 105 (3) is of a transient nature. After all, it is clear that the first part of Article 105 (3) is of transitory character for it expressly declares that the law in respect of powers, privileges and immunities is that made by Parliament from time to time. Part two of the same Article only adds a rider as a transitory measure. Can it be said that part two of Article 105 (3) imports into India the law of a foreign country and makes it independent of the fundamental rights of the citizens of this Republic? I submit with great respect that legally such an interpretation would be untenable and politically it would be derogatory and humiliating to the national pride and honour of the sovereign people of India. I submit that when the framers of the Constitution made the laws prescribing the privileges of Parliament subject to the Fundamental Rights, it is inconceivable that they should have omitted that limitation in the case of the privileges of the British Parliament which were made applicable as a transitory measure. Surely, it cannot be argued that the framers of our Constitution thought that the privileges of the House of Commons were subject to the Fundamental Rights in that country. It is an absurd proposition, for its logical conclusion is that the learned framers of our Constitution were ignorant men who knew nothing about the nature of the British Constitution and who in their historical illiteracy were unaware of the fact that the British Parliament was supreme and no fundamental rights of the citizen resctricted their power of legislation!

31. I URGE your Committee to look at this question from another angle. Let us suppose that Parliament had found time to frame laws defining the powers, privileges and immunities as empowered by the first part of Article 105 (3). Suppose a citizen wanted to challenge one such law as infringing on his Fundamental Rights. Would the superior courts of this country have not come down on it with a firm hand if it did in fact infringe on the Fundamental Rights of the citizen concerned? Would it not then be subject to the jurisdiction of the Supreme Court? I submit that there is only one answer to this question. The laws framed would have been subject to the Fundamental Rights of the citizen. Then, I ask in the name of our sacred Constitution, how can the imported conventions of the Commons claim a higher position? Can it be that we still consider everything British superior to everything Indian? I submit with great respect and equal firmness that the conventions of the House of Commons imported for a period till Parliament found time to define its powers, privileges and immunities are subject to the Fundamental Rights of the citizens.

32. PERMIT me to refer to a case with which I had some personal connection. I refer to the case of Gunapati Keshavram Reddy *vs.*

Nafisul Hasan [AIR (1954) S.C. 636]. This was a petition filed by G.K. Reddy, then BLITZ's correspondent in New Delhi—the post which A. Raghavan holds today—under Article 32 of the Constitution. It related to the arrest of the Deputy Editor of BLITZ, Mr. Homi Dinchshaw Mistry, who was acting editor of the journal during my absence abroad, in Bombay on 11th March, 1952, in order to be produced at Lucknow before Mr. Nafisul Hasan, the then Speaker of the Uttar Pradesh Legislative Assembly, to answer a charge of breach of privilege. Mr. Mistry was arrested in a manner which might be called an abduction. Anyway, Mr. Mistry was flown to Lucknow via Delhi and was kept in custody in Lucknow to be produced before the said Mr. Nafisul Hasan. Mr. Reddy petitioned the Supreme Court stating among other facts, that Mr. Mistry had not been produced before a magistrate within 24 hours of his arrest. Their Lordships of the Supreme Court, in a judgment delivered by His Lordship Patanjali Sastri, C. J., as he then was, held: "This is a clear breach of the provisions of Article 22 (2) of the Constitution of India which is quite peremptory in its terms: No such person shall be detained in custody beyond the said period without the authority of a Magistrate'. In view of the admitted facts, it is perfectly clear that this provision of the Constitution has been contravened and the said Mr. Mistry is entitled to his release. The habeas corpus petition therefore succeeds and we direct that Mr. Mistry be released forthwith."

33. THIS was a unanimous decision of five judges of the Supreme Court who held that the arrest was a clear breach of the provision in Article 22 (2) of the Constitution. It must be remembered that Mr. Mistry was arrested under orders issued by the said Mr. Nafisul Hasan who acted under the authority of Article 194 of the Constitution which is analogous to Article 105. I submit that this decision of the Supreme Court finally lays at rest any controversy on whether the Articles dealing with the powers, privileges and immunities of the Parliament and the State Legislatures are subject to the Articles pertaining to the Fundamental Rights of the citizens. There can be no question, in my respectful submission, that Article 105 is void to the extent it is derogatory to the Fundamental Rights of the citizens. Allow me to submit further that rights of the State Legislature under the Constitution are the same as rights of the Lok Sabha. If the said Mr. Nafisul Hasan could not be permitted to violate the Fundamental Rights of the then acting editor of BLITZ, Mr. Mistry, Mr. Ananthasayanam Ayyangar and your Committee which functions under his directions cannot be said to have any rights infringing on my Fundamental Rights.

### E. PRIVILEGES OF THE HOUSE OF COMMONS

34. I SUBMIT that it is a great misfortune for citizens of this country in general and the members of the Press in particular that Parliament has not found it possible, for very good reasons I am sure, to exercise the right given to it in the first part of Article 105(3) to frame laws defining its powers, privileges and immunities as well as those of its members and its committees. I believe that if Parliament had exercised the said powers and framed such laws, it would have been possible for a citizen like me to test their validity before the superior courts of the country. Such a step would have been, in my submission, a healthy development, because it would have secured the frontiers of that area of sovereignty which the people of this country knowingly and purposely did not delegate to the Parliament. As this has, however, not been done, I am, like all other citizens, reduced to the position of a research scholar in the history of the privileges of the House of Commons.

35. THE first submission I would like to make on this question is that there is something inherently incoherent in the Lok Sabha's claiming the parliamentary privileges of the House of Commons. Parliamentary privilege is defined by May as "the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament and members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals." (Sir Thomas Erskine May's Parliamentary Practice, 16th Edition, Chapter 3, p. 42|Emphasis supplied). Further, May states: "Privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law. The privileges of Parliament are of two kinds namely, (i) those which are common to both Houses and (ii) those which are peculiar either to the House of Lords or to the House of Commons. (Halsbury's Laws of England, 2nd Edn., Vol. 24 Art. 698, p. 346). The privileges of the House of Commons as distinct from those of the House of Lords, have been defined as "the sum of the Fundamental Rights of the House and its individual members as against the prerogatives of the Crown, the authority of the ordinary courts of law and special rights of the House of Lords." (Redlick & Ilbert on Procedure of the House of Commons. Vol. I, p. 46). It is my submission that these privileges have no bearing whatsoever on the history and the position of the Lok Sabha. First, the House of Commons was a constituent part of the High Court of Parliament and did possess certain judicial functions, to which the Lok Sabha has no resemblance. Secondly, the privileges of the House of Commons were framed as a protection against the British Crown. Here, once again,

there is no similarity in objective situation. Thirdly, the Commons privileges were aimed against the authority of the ordinary courts of law. Here, too, the situation of the Lok Sabha is qualitatively different. Finally, the Commons privileges were rights against the special rights of the House of Lords. This, too, has no application to the Lok Sabha. Therefore, your Committee will see that there is nothing in common between the House of Commons and the Lok Sabha in relation to the need and the nature of the privileges.

36. I WISH now to place before you the history of the origin of the privileges in a summary form in order to emphasise my submissions made in paragraph 35. As pointed out in May's Parliamentary Practice, (16th Edn., p. 151) in the early days of British History the maintenance of privileges was of vital importance to the House of Commons. They were necessary to preserve its independence of the King and the House of Lords and, indeed, for its very existence. "The history of Parliamentary privilege is to a great extent the story of the fierce and prolonged struggle of the Commons to win the rights and freedom which they enjoy today." (Encyclopaedia of Parliament by Norman Widling and Laundry p. 451). I submit that the history of one privilege alone concerning prohibition of publication of their debates will illustrate this point.

37. THE privilege to prohibit publication of debates in the House of Commons had its origin in the troubled times of seventeenth century England. The now famous Standing Order preventing members of the Commons from helping in publishing any proceedings of the House was framed by the Long Parliament in 1641. I am sure that your Committee remembers the conflict which existed between the Stuart monarchy and Parliament. "The object of the House at that time was to prevent its members or officers from supplying the King with information which might incriminate its members" [Halsbury's Laws of England, 2nd Ed., Vol. 24, p. 350 fn (d)]. It was only after the English Revolution of 1688 that the Commons came in conflict with the City of London on this question.

I believe it to be unnecessary to detail the great struggle which John Wilkes and his North Briton waged in a challenge against the Commons before such an august body like your Committee since I believe that the Honourable Members who act under the powers granted to them by part two of Article 105(3) must be familiar with it. Suffice it to say that despite the Commons' efforts, this privilege continued to be ignored by the people, and the Commons had no other alternative but to imprison the Lord Mayor of London and two Aldermen. When these civic officials were released, they were taken out in a triumphant procession by the people of London. This practi-

cally put an end to the attempts of the House of Commons to prevent publication of its debates.

38. YOUR Committee may be pleased to consider this short history and answer to itself the question whether there is any point in common between this history of the Common's privilege to prohibit publication of its debates and the eleven-year old history of the Lok Sabha. It is my submission that the transplantaion of these privileges in our Constitution baffles the common man and, if I may be permitted to add commonsense, too.

39. LET me proceed to submit my second objection. The motion which was referred to your Committee and the efforts of your Committee to consider the alleged libel on Mr. Kripalani, M.P., are inconsistent with the privileges of the House of Commons which alone are the privileges of the Parliament under our Constitution. I shall make this submission explicit by a quotation from May's Parliamentary Practice, 16th Ed., p. 118 which is as follows:—

“Analogous to the publication of libels upon either House is the publication of the false and perverted, or of partial and injurious reports of debates or proceedings of either House or Committees of either House or misrepresentations of the speeches of particular members. But as the Commons have repeatedly made orders forbidding the publications of debates or other proceedings of either House or any Committee thereof, which, though not renewed, is still in force, it has been ruled that an alleged misrepresentation is not in itself a proper matter for consideration of the House, the right course being to call attention to the report as an infringement of the orders of the House, and then to complain of the misrepresentation as an aggravation of the offence.”

(Emphasis supplied.)

40. I HAVE carefully gone through the debate of the Lok Sabha concerning the motion moved by Mr. Nath Pai and I am unable to find even a single reference to the privilege of the House to prohibit the publication of its debate. I submit that the entire question of the privilege of the House having been infringed was totally misconceived. The matter could have been raised only as a breach of the privilege relating to publication of the debate and the incidental issues concerning one member alone, Mr. Kripalani, could be cited as an aggravation of the offence. I respectfully submit that this course was mandatory, and since it has not been followed, your Committee has misconceived the scope of its jurisdiction. I submit with great respect that your Committee has no jurisdiction at all to entertain the alleged breach of privilege of Mr. Kripalani. I may

be allowed to add that in the well-known *Searchlight* case which was decided by the Supreme Court, the Speaker of the Bihar Legislative Assembly had specifically pleaded the privilege of the Commons concerning prohibition of publication of its debates. Your Committee will see that no such privilege has been pleaded in the present case as this is a flaw which is fatal to its jurisdiction.

41. MY third objection relates to the absence of any legitimate ground given for the alleged breach of privilege committed by me. Assuming that I have committed breach of privilege, then it must fall within the list of eight instances of misconduct in connection with the publication of the debates which is generally treated as a breach of privilege of the House of Commons. According to May the following are the eight instances:

- (i) Publishing a false account of proceedings of the House of Lords;
- (ii) Publishing scandalous misrepresentations of what had passed in either House or what had been said in debate;
- (iii) Publishing gross or wilful misrepresentation of particular Members' speeches;
- (iv) Publishing under colour of report of a Member's speech a gross libel on the character and conduct of another Member;
- (v) Suppressing speeches of particular Members;
- (vi) Publishing a proceeding which the House of Lords had ordered to be expunged from the Journals;
- (vii) Publishing a libel on counsel appearing before a Committee under report of the proceedings of such committee; and
- (viii) Publishing a forged paper, publicly sold as His Majesty's speech to both Houses.

I submit that it is clear that instances (i), (vi) and (viii) have no bearing on the privileges of the Lok Sabha since Article 105(3) in terms grants the Lok Sabha only the privileges of the House of Commons. I further submit that instances (ii), (iii), (iv), (v) and (vii) too have no bearing on the present case. As far as I have been able to gather from the relevant Lok Sabha debate, only Mr. Khushwaqt Rai made a grievance that Mr. Kripalani was libelled in the BLITZ dispatch. In the eight instances outlined above on the authority of May, no reference can be found concerning the alleged libel of a Member through the report of his own speech. Therefore, it is my respectful submission that no proper ground has been made

out to substantiate any charge which would be considered valid in the House of Commons.

F. MR. KRIPALANI AND THE DEFENCE DEBATE

42. IN this conext, I submit that the criticism of Mr. Kripalani's conduct of the Defence Debate, harsh though it was, was no aberration of BLITZ's. It was part of a crusade to save our national democratic base from sabotage. We of BLITZ family believe that the unconcealed campaign against the Government of India in general and against Prime Minister Nehru and Defence Minister V. K. Krishna Menon in particular is part of a conspiracy by interested parties, both internal and foreign, aimed at undermining the faith of our people in the parliamentary system of democracy and subverting the morale of our armed forces. For me opposition to this campaign is a matter of passionate conviction, and I have consistently exposed and fought it. I have done so because of my knowledge that our parliamentary system is undergoing a severe crisis, and the sappers and miners of the anti-democratic forces within our land are working relentlessly with international reaction for its destruction.

43. I WOULD like you to view this danger not only in the national context but also against the broader and more frightening background of contemporary developments in Asia. I request your Committee to bear in mind the undemocratic and counter-revolutionary character of political systems obtaining today in most countries of Asia. Whatever might be the reasons for the substitution of military dictatorships for parliamentary governments, we have witnessed the spread of this disheartening phenomenon in the majority of Asian States. There is today hardly a country in East, South or West Asia where the parliamentary form of government has survived, with the exceptions of Ceylon and our own India. The fact is that a gigantic offensive has been launched from Korea to Turkey to overthrow the parliamentary form of government and substitute it with military dictatorships.

44. INDIA has hitherto successfully fought this fascist offensive, thanks to the leadership of Jawaharlal Nehru, one of the most passionate democrats of our time, the commendable vigilance of the Defence Minister, and, of course, our faith in the parliamentary system of government and the democratic way of life. Nevertheless, the danger exists. As a War Corresepondent during the last World War, I came into intimate contact with the leadership of our armed forces. Most of the military officers involved in the controversy

raised by Mr. Kripalani are well known to me. They make the finest soldiers in the world so long as they remain uncontaminated by politicians, playing the game of power-politics. When that happens, the result is well illustrated by the tragedy that has overwhelmed Pakistan: and it will be useful here to remember that the military dictators of Pakistan today were part and parcel, flesh and blood, of the Indian Army only yesterday.

45. YOUR Committee, Sir, consists of Members of Parliament, representatives of the people, men of political sagacity and patriots dedicated to the cause of democracy enshrined in our Constitution. This fact encourages me to plead before you the imperative need to give due consideration to this sweeping tide of militarism against parliamentary democracy in Asia. I have had some opportunities to study at first hand this process of establishment of military dictatorships and consider myself qualified to speak on the subject. I have found that the first blow struck at the edifice of parliamentary democracy is always aimed at the faith of the people and the morale of the armed forces. I have also seen that when it is struck with great vehemence and viciousness, and reinforced with the powerful machinery of modern propaganda, it proves fatal. Permit me to say, Sir, that an impartial consideration of the Indian political scene today leads one to the conclusion that there are forces in, also, this country who deliberately seek to undermine our people's faith in the democratic way of life and to instigate the armed forces to political action.

46. WITH the example of Pakistan before us, which by the way has found extraordinary support and encouragement in certain quarters in our own land, our infant democracy cannot remain indifferent to this fascist-militarist threat. To us parliamentary democracy is not only a way of life but a historical purpose, an almost holy mission. I have learnt this truth from the greatest democrat of our times, Jawaharlal Nehru, and tested its solid worth both at home and abroad. As a student of history, I believe that India's attainment of freedom constitutes a watershed in human progress. I believe it is our national purpose, our historical mission, to harmonise the diversities of this multi-cultural and almost multi-national country of ours and offer a united, strong, solvent, secular, socialist and non-aligend India to humanity as a glorious model and shining example of the 'One World' of mankind's dream living in peaceful and co-operative co-existence. I am convinced that India can fulfil this glorious destiny of hers only if she stands squarely upon the bedrock of parliamentary democracy at home. Those who would

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dynamite that most precious base of ours, are in my opinion, enemies of the land and people and traitors to our history no less than to our destiny.

47. FOR a journal like BLITZ, which exists as a dynamic instrument of what we believe is our national purpose, it has become an almost holy crusade to fight and defeat these forces. This crusade is in a way the main *raison d'être* of our existence. The despatch under dispute covering Mr. Kripalani's so-called. "impeachment" of our Foreign and Defence policies was but part of this crusade most solemnly dedicated to the services of the nation and its mission. It does not matter really whether it was written by Mr. Raghavan or anybody else belonging to BLITZ, for even if Mr. Raghavan or, for the matter of that, myself, were not available to mount such a counter-attack, something of the nature was unavoidable and inescapable for the journal. In the context of the Defence debate and the assault on what we consider to be our most sacred national purpose and its security, such a counterblast was almost inevitable and predetermined by the real masters and directors of the policy of BLITZ, its readers and partisans. Hence I have to assume sole and full responsibility for the dispatch in my capacity as the Editor of the journal and the humble servant of the people and the purpose to which it is dedicated.

#### G. BLITZ AND FAIR COMMENT

48. NOW that I have placed before your Committee my understanding of the threat to our parliamentary democracy, allow me to make my submission on three related aspects of the same question—that is, the role which BLITZ plays in the political life of the nation, my duties as the editor of BLITZ, and the inherent right of fair comment which I must claim as a journalist. I believe that only if your Committee will kindly keep in mind my submissions on these three aspects of the privilege matter before you, it will be possible to project against the correct background the dispatch in which Mr. Kripalani's "Impeachment" was covered and criticised. Immediately after this, I shall, with your permission, make my submissions on the content and phraseology of the said dispatch.

49. AS your Committee is aware, I have had the honour to build up BLITZ from a struggling weekly, which it was twenty years ago, to its present position which, I say with all modesty, is that of a national institution. Permit me to submit only two major facts about BLITZ. It has a larger circulation than any other political weekly journal published in English in the whole of India. Its present print order is in the neighbourhood of 130,000, but its readership is over a

million. Besides its circulation, the second aspect to which I must draw your attention concerns its political character. As I stand before you, I am reminded of the fact that at least one member of your Committee used to be one of my valued contributors before he revised his socialist ideology and adopted the path of free-enterprising Swatantra. I note that one more member has also written for me. I am referring to Prof. Hiren Mukherjee. In your House there are several members who were connected with BLITZ as its contributors or correspondents. Indeed, all the national parties, the Congress, the Socialist and the Communist, have enjoyed the hospitality of my columns. I state these two facts of its massive circulation and its national character, not so much to express the personal pride of the BLITZ team, but to emphasise the crusading, socialist and democratic character of the paper. It is because BLITZ has been fearless and frank, because it has served the nation, marching along the path of democracy, secularism, socialism and non-alignment, that it has become a national institution in our political life. It has grown in the image of our national purpose, and its dynamics is the holy mission imposed upon our land by history and destiny. Kindly remember, Sir, that I do not say all this in order to glorify the role of any individual or paper, but to place these basic facts in their due setting in the hope that once they are borne in mind, the rest of the issues raised will fall into proper focus.

50. THE next point which I must place before you concerns the duty of the Editor of the political journal the character of which I have outlined in the preceding paragraph. Needless to say that heavy is the responsibility which rests on the shoulders of BLITZ's Editor. I have been fully conscious of this fact. Even where I like to make any mistake, the million-strong readership of BLITZ, which includes Cabinet Ministers, Judges of the Superior Courts, and the majority of the Legislators, besides live and alert people from all professions, would not allow me to do so. I have as a consequence, accepted the freedom of the press—freedom not only from state restriction, but also from advertising magnates—as the sheet-anchor of my policy. As I have submitted above, I stand by my fundamental right of the freedom of speech and expression. I have always believed that the Fundamental Rights reserved by our people as part of the sovereignty which they decided not to delegate to Parliament, cast Fundamental obligations on every citizen. I believe that it is as much a right of each citizen to have freedom of speech and expression as it is his duty to speak and express himself.

51. SOVEREIGNTY which is not exercised is first dormant. It then dies and loses all meaning. Our Fundamental Rights, Sir, are neither

decorative Articles of our Constitution nor hollow platitudes. They are the touchstone of the people's patriotism. They must be fully exercised as a matter of duty. A citizen who fails to exercise them fails in the discharge of his duty towards our Republic. In the exercise of the right—and I say this with humility—no interference shall be tolerated except those restrictions which have been incorporated in the Constitution: for any such interference is an attack on the sovereignty of the people.

52. IT is in this faith that I have conducted BLITZ's policy for the last two decades. I have considered it a dereliction of my duty to remain silent when I must speak in the interests of the people. I have believed it to be a crime to remain mute when it is essential to criticize frankly and fearlessly the powers and politicians that be. In the discharge of this duty, I have had to face a great many odds, but had I deserted this fundamental faith, I should have failed my readers, who have stood by me through thick and thin. Permit me, Sir, to say that this is my testament of faith, and no power, howsoever high and mighty, can force me to abandon it.

53. MY final submission on this issue relates to the right of fair comment, which all civilized nations have granted to the press. In our system of law, fair comment is part of the general law of libel and defamation. The foundation of this right is the duty of the press to act in the public interest. The only subsidiary obligation enjoined on the press is that the comment must be based on facts. Therefore, if facts are correctly stated, comment is no offence. Allow me to submit, Sir, that the word fair in fair comment does not mean mild or pleasant. Comment may be hot with passion and indignation and may be clothed in very strong and unpleasant language. In fact, it is recognised that if the person on whose behaviour, policy or act such comments are made by the press is a public figure indulging in political debate and controversy, the comment may be much stronger than otherwise. This, I submit, Sir, is not only a healthy attribute of parliamentary democracy, but it is also essential to its very survival. Without a free, frank and fearless press, independent institutions of the people cannot survive. These facts are of such common knowledge that I need hardly take more of your time to dilate on them. I may only add that the right of fair comment is as much needed by the press and the people as by Parliament itself.

#### H. NATURE OF BLITZ DISPATCH

54. WITH very great respect, I now submit, Sir, that it appears from the reports on the debate in the Lok Sabha on the BLITZ

privilege issue that there has been some misconception about the nature of this dispatch. I appeal to your Committee to familiarize itself with the entire article instead of a few phrases, torn out of their context, which were referred to by Mr. Khushwaqt Rai. It is my submission that a careful perusal of the dispatch which appeared under a New Delhi dateline and under the name of Mr. A. Raghavan will reveal the following few facts:—

- (1) It is not a report on the debate of the House during the Defence demands. I may add here that BLITZ is a weekly newsmagazine and it cannot afford the space to report Parliamentary debates.
- (2) It is a political roundup from the capital for that particular week. Even a cursory glance at the dispatch will prove this. It deals with several other topics besides Mr. Kripalani's speech. To cite only two topics, the dispatch refers to sabotage of tractors at Dandakaranya and exposes the role of private enterprise in that behalf. Again, while dealing with facts regarding the flight of Soviet pilots on our northern frontier, it mentions the flight of Western pilots over the same area.
- (3) As the Defence debate was the main topic of interest in New Delhi in that particular week, a considerable number of comments were expressed on Mr. Kripalani's dramatic "impeachment" of the Defence Minister, Mr. Krishna Menon. All that was written about the performance of the Honourable Member is part of the comment which BLITZ is entitled to make.
- (4) This is part of BLITZ's crusade to expose conspiracy of private enterprise against the Socialist policies of the government. The matter of the tractors, etc., was dealt with by BLITZ in earlier weeks. Therefore, the dispatch in question is in continuation of that crusade of exposure. If Mr. Kripalani features in it, it is only because he decided to take upon himself the role of the "impeacher" of the Defence Minister and the foreign and defence policies of the Government of India, which are supported by BLITZ.

55. IT is my submission that the dispatch must be viewed against the background of the conspiracy which was being unfolded during the previous several months. As far as BLITZ is concerned, it has fought this conspiracy at every stage. The first open attack on the production and expansion programme was launched when the Government of India decided to manufacture trucks and tractors requir-

ed for their own purpose. The Automobile Cartel, which functions impudently against the background of a "socialist" India, raised a hue and cry against the Defence Minister and demanded his head. BLITZ at that time exposed the machination of private enterprise with facts and figures in a series of articles entitled: "Indian Big Business Bid For a Political Coup Against Nehru" (BLITZ, December 13, 1958). It may be of interest to add here that elements of the so-called Washington Lobby, who have attacked the policy of non-alignment followed in international relations by our Government and who have continuously attacked Mr. Menon on this score, made common cause with the free enterprise caucus. Ever since, the attack has been intensified. A new element was added when the former Chief of Staff, General Thimayya, sent his resignation in the summer of 1959. The propaganda of free enterprise exploited this occasion to use it as a weapon against the Defence Minister in violation of the basic principle of parliamentary democracy that military authority should always remain subordinate to civil authority.

56. I SUBMIT, Sir, that these facts cannot be ignored while judging BLITZ's comments on what Mr. Kripalani did and said in the House. Ever since December last, critics of Defence Minister have abandoned the limits of political decency. Mr. Menon has been libelled, smeared and defamed as no politician has been in this country. The Prime Minister has had his share of smear for the simple reason that he refused to oblige the spokesmen of private enterprise. The issue between the Government and its opponents from the Capitalist class, I submit, is not a private affair of the contenders. It affects the very survival of the nation with its national freedom and purpose and it is because of this that I, as Editor of BLITZ, have done whatever was within my power to expose the falsehoods, calumnies and distortion of our national policies which have been the stock-in-trade of the free enterprise lobby.

57. I HAVE only one more point to submit on this topic. I request your Committee to consider the total effect of this conspiratorial propaganda on the mind of the people if it is allowed to go unchallenged. Apart from undermining the confidence of the people in the present Government, it would destroy the morale of the armed forces and the faith of the people in parliamentary democracy. The ugly images of the Defence Minister and, of course, the Prime Minister, as power-greedy politicians had simply got to be demolished. As I have submitted earlier, reaction has always exploited such political distortions of national life and purpose before

dealing a fatal blow to a democratic system of Government. The main weapon which democracy can wield is enlightened public opinion. Once the people are led into confusion and neutralized, those who plan to destroy the democratic fibre of the nation have already disarmed democracy. The evil consequences of such propaganda become a hundred times—nay, a thousand times—more deadly when its instigators, the capitalist free-enterprising group, allied to similar anti-socialist interests abroad, own a powerful instrument of moulding public opinion in daily and weekly press-chains. The nationwide press howls unleashed against Mr. Nehru and Mr. Krishna Menon every time an attack on our Foreign and Defence policies has been mounted in the Lok Sabha provide proof of this charge; and it is an extraordinary feature of this anti-national campaign that every time such “impeachments” are defeated in Parliament by an overwhelming majority of votes and their authors are repudiated by the representatives of the nation, a reading of the daily press would suggest the opposite! Defeats are played up as victories, and individuals shouted down and put to ridicule are hailed as heroes and victors. Such insistent, consistent and persistent propaganda may be ignored at only our national peril: so it becomes the duty of an independent paper like BLITZ, free from such pressures, to counteract the hideous consequences of such propaganda. It is against this background that BLITZ’s comments must be examined.

#### I. FACTS OF “KRIPALANI” IMPEACHMENT

58. I SHALL proceed to review the facts on which our comments on what I call for convenience the “Kripalani Impeachment” were based. All the extracts which are reproduced below are taken from the official reports of the Lok Sabha Debate, Second Series, Vol. LIV—Nos. 41 and 42. I shall cite the page number on each occasion.

59. THE Defence Minister, certainly aware of the distortions made current by the private enterprise lobby, took the unusual step of initiating the debate on the demands for grant to his Ministry. It is not for me, at this juncture, to give my opinion on the contents of his speech, but he dealt with the factual position about the morale of the Army. It is useful to quote him on this subject.

“Acharya Kripalani referred to numerous resignations. I think that, after all, if you are indulging in a fancy, if you are flying in the air, you might as well fly high. Why be small? So far as I know, there have been no resignations from the Army.....But, Mr. Speaker, if you read these

observations, it would look as if there are many desertions in the Indian Army.....”.

(No. 41, pp. 10542—37.)

The Minister also gave a graphic picture of Defence Production.

60. MR. KRIPALANI followed the Defence Minister immediately after, and his entire speech is reported from p. 10549 to p. 10578 in No. 41. I want to cite only two or three portions of that speech. Besides bringing in the matter of Army promotions at the highest levels, Mr. Kripalani attacked what he believed to be “defence irregularities”. Mr. Kripalani attacked the expansion of public sector in the Defence Ministry in the following words as he neared the end of his speech:—

“In this connection, I am puzzled to find that apart from the public sector and the private sector, we have also a defence sector....Apart from the production of arms and ammunitions, there is no reason why other categories of production should be reserved for Defence....There is no reason why aircraft manufacture, electronics and a plant like Prototype Machine tool factory should be under the Defence Ministry.... (Emphasis supplied.)

(No. 41, page 10576.)

It was from this base that he moulded his “impeachment” of the Defence Minister in these words:

“Sir, I charge him with having created cliques in the Army. I charge him with having lowered the morale of the Armed Forces.

“An Honourable Member: Question! Question!

“Acharya Kripalani: I charge him with wasting the money of a poor and starving nation. I charge him with the neglect of the defence of the country against the aggression of Communist China. In the international field, I charge him with having lent his support to the totalitarian dictatorial regions against the will of the people to freedom.”

(No. 41, pp. 10577-8.)

He ended with an appeal to Congressmen to force the Defence Minister to resign.

61. AFTER certain other members had participated in the debate, the Prime Minister rose to speak. I request your Committee to read his speech which is to be found on pp. 10819—35 of No. 42. Since what happened during the Prime Minister’s speech, at which I, as a citizen, am socked, forms the subject matter of the next section of

my submissions, I am not placing any extracts before you at this stage. I only wish to remind your Committee that it was with the greatest difficulty that the Prime Minister could reply to the "impeachment" of his own policies in face of Mr. Kripalani's running, irrelevant and unparliamentary interruptions. I shall deal with these interruptions in some detail below in their proper context. The reply of the Defence Minister is to be found on pp. 10897 to 927 of No. 42

#### J. COMMENT IN BLITZ

62. THE dispatch which is the subject matter of your examination was in fact a communication on Mr. Kripalani's performance and the Prime Minister's and the Defence Minister's reply. As I have already submitted, the dispatch dealt with other matters too. It is my submission that the dispatch must be read as a whole and not in isolated sentences or extracts. Its tenor and content are parts of an organic whole. It must be construed in its normal context of political terminology. Allow me to explain this point. Each subject has today its particular phraseology. For example, one does not use the same terminology commenting on an impeachment of a Cabinet Minister as one uses when one speaks of the Third Five-Year Plan. I, therefore, submit that great care must be exercised in construing the said dispatch. There are, in my submission, two essential points which need to be proved by me: first, that the dispatch did no violence to facts; and, secondly, that the comment based on these facts was such as to be in the public interest or, in other words, to be fair comment.

63. HERE I find myself once again at a disadvantage in giving my explanations on this dispatch. As I have submitted in my preliminary objection, I have not been supplied with the grounds on which I am alleged to have committed a breach of the privileges of the Lok Sabha and the facts constituting it. I repeat with very great respect and no less emphasis that there is an extraordinary situation. I have repeatedly attempted to discover these grounds in speeches delivered during the debate when Mr. Khushwaqt Rai raised this issue. As I have submitted, he was only seeking to raise the matter and when he attempted to outline specific grounds, the Speaker stopped him since, under the rules, that could not be the purpose of his speech. I do hope that your Committee, Sir, will discharge this obligation to me—nay, to itself—and the canons of justice, without further loss of time.

64. IT is significant, Sir, that during the entire "breach of privilege" debate on 20th April last, Mr. Kripalani did not once raise his voice. Mr. Kripalani remained silent or absent. Some other members alleged that he was defamed or something to that effect. It is

equally significant, Sir, that the Leader of the House did not participate in this debate, though some other members alleged that there was a defamation of the House. Finally, I submit, Sir that even though Mr. Khushwaqt Rai attempted to make out that there was contempt of the Speaker, the Honourable Speaker said nothing which would indicate that it was so. May I add, Sir, that I find that Mr. Khushwaqt Rai, Mr. Nath Pai and Mr. Ashok Mehta appeared to insist that there was breach of privilege. I happen to know the party to which these gentlemen have belonged for some years. It has been my misfortune to have disagreed with them and criticised them. It is noteworthy that as recently as on March 25 last, we editorially asked the Bombay City electorate to "Vote Congress; Boycott P-SP!" in regard to the municipal elections. I do not suggest that the continuous political opposition by BLITZ to this party had anything to do with their insistence that BLITZ had committed a breach of privilege. They are honourable members of the Lok Sabha and I have regard for their integrity.

65. I NOTE from Mr. Khushwaqt Rai's speech that he seemed to consider the heading "BAD, BLACK, BALD LIES" as a breach of privilege. I submit, Sir, that there can be no breach of privilege in stating what is the truth. The heading refers to the contents of Mr. Kripalani's speech and not to his judgment. I realise that it is a serious matter to state that a member of the Parliament did not base his impeachment on correct facts; but when that happens to be the truth, there is no way out of it. If I have erred in this respect, I have done so in the company of the Leader of the House, Mr. Jawaharlal Nehru, for this is what he said:

"Now, as the House knows, I have the greatest respect for Acharya Kripalani.....though I think his judgment about various matters is wrong. But it is one thing for a judgment to be wrong, it is quite another for facts to be wrong. And he and some others have indulged in this matter in wrong facts, distorted facts ....." (Emphasis supplied).

(No. 42, p. 10820.)

I submit, Sir, that a wrong fact, a distorted fact is not truth, and what is not truth is a lie. As to its being bad, there can be hardly any question that a lie regarding the career of any gallant officer of our armed forces is certainly a bad lie. I can only quote the Prime Minister:

"I say, Mr. Speaker, that this kind of wild talk and these wild accusations do not help." (Emphasis supplied).

(No. 42, p. 10835.)

The reason we used the word "bald" is to indicate that Mr. Kripalani did not make any qualifications or utter them subject to corrections. In fact, Mr. Kripalani did not make any effort to check them up with the Prime Minister, who said:

"I said that the charges are made here—some may be based on judgment, I think misguided judgment—but most of them are based on wrong facts....."

(No. 42, p. 10825.)

"It is not too difficult a matter for the Honourable Acharya to have asked me about certain basic facts..... and I would have given him the facts..... During the course of all these events, in every speech, whatever the subject, he has brought more or less the same thing. But he has never taken the trouble to ask me what the facts are on which charges are being levelled." (Emphasis supplied).

(No. 42, p. 10821.)

On the basis of the foregoing circumstances, I submit, Sir, that the description given in the heading of the comments is fair and truthful. There can never be, I further submit, any breach of privilege of our Parliament in telling the truth. Mr. Kripalani did base his case on "wrong facts, distorted facts", never bothered to check them when he had ample opportunity to do so, and, what is more and was his duty as a Member of the Lok Sabha to do, levelled charges against officers who could not reply. Similarly then it was no exaggeration to say that his case was based on bad, bald and black lies. I submit that opinions may differ on whether this is strong language or not, but there can be no two opinions that this comment is fair, for it is based on facts.

#### L. "McCARTHIAN MOORINGS"

67. I BELIEVE, Sir, your Committee is familiar with the pattern take objection was this: "In its content, tenor, style, Acharya Kripalani's performance..... could be the envy of any American senator who has yet not overcome his McCarthyian Moorings." I am frankly puzzled at this objection, but, as at least one Honourable Member of the Lok Sabha appears to have raised it, I must make my submissions on this point.

67. I BELIEVE, Sir, your Committee is familiar with the pattern of political behaviour of the late Mr. Joe McCarthy, a junior senator from the State of Wisconsin in the United States. McCarthy's main weapon was using "wrong facts, distorted facts" to smear his political adversaries. He never bothered to check his facts. He used them

to build up impeachment of members of the United States Government and Armed Forces. When he found someone opposing him, he called him a "Communist". All his victims, according to him, had failed to protect the United States against "Communist aggression". They were either Communist agents, "supporters of totalitarianism against freedom", or Communist-supported elements. I may add that this abominable technique of character assassination did achieve some success in the climate of cold war hysteria, but ultimately it failed and died with its author.

68. MAY I say, Sir, that the record of Mr. Kripalani's speech bears out that he adopted a similar technique during the Defence debate. I have already quoted the evidence of the Prime Minister on Mr. Kripalani's basing his case on wrong and distorted facts which he did not think it necessary to check though he had ample opportunity to do so and though it was his duty to do so. Kindly refer to the "charge-sheet" and you will find: "I charge him with the neglect of defence of the country against aggression by Communist China. In the international field, I charge him with having let his support to totalitarian and dictatorial regimes against the will of the people to freedom". Anyone who is familiar with McCarthy's diction will hear its echo in these wild words.

69. ANOTHER instance of this technique, I submit, is to be found on pp. 10574-5 of No. 41. You will see, Sir, that Mr. Panigrahi asked that time for the debate be extended. I reproduce the verbatim record below:

"Acharya Kripalani: This call has come not for the Minister but for me. This call comes from Communist Members. That shows which way the wind is blowing.

"Shri Chintaman Panigrahi: Why should he feel like that?

"Acharya Kripalani: The more you support him, the less will the people have faith in him."

Mr. Kripalani obviously did not understand that Mr. Panigrahi wanted Mr. Kripalani to have more time! All that he could see was that Mr. Panigrahi was a Communist and so he coupled the Defence Minister with him. These are the facts. This behaviour is exactly similar to the behaviour of the late Senator Joe McCarthy.

Therefore, I submit, Sir, that there is nothing wrong in the comment about the analogy drawn with the American senators of "McCarthyian moorings."

M. "IN THE MANNER OF A VIOLENT EPILEPTIC"

70. THEN, I find, Sir, that Mr. Khushwaqt Rai quoted half a sentence thus: "...built upon bad, bald and black lies and uttered in the hysteric manner of a violent epileptic". I also find that the words "violent epileptic", torn out of their context, gave rise to some surprise. Mr. Khushwaqt Rai volunteered a meaning of the word epileptic as "suffering from epilepsy or who is subject to epilepsy".

71. BEFORE I deal with these words in greater detail, allow me to state categorically that I had no intention of attributing any disease to Mr. Kripalani, much less epilepsy. I am certain that such a seasoned politician like Mr. Kripalani himself knows this. He has been in politics long enough not to misconstrue expressions used in metaphors. However, if my estimate of Mr. Kripalani be wrong and he, by any chance, has an impression that I intended to call him an epileptic, it is only fair, since it was never my intention to say or imply so, that I must correct the impression.

72. I SUBMIT, Sir, that there is no allusion to Mr. Kripalani's person in this metaphor which describes his style and manner of speech. When a man loses control out of anger, waves his hands and when his face becomes abnormal, he reminds one of the style of a late and unlamented dictator. I am referring to the oratorial style of the late Adolf Hitler. All who know something about the German dictator know that when he spoke, his hands began to wave, his face became abnormal, and he lost control of himself with anger. It was to describe his style that the phrase "in the manner of a violent epileptic" was coined in political journalism. It, of course, did not mean that Hitler was an epileptic in the sense of being afflicted with epilepsy. It was only his manner of speech that was akin to that of one affected with it.

73. HAVE I then erred in giving a truthful description of the manner of speech of Mr. Kripalani during the defence debate? Permit me, Sir, to refer to the description given by the Prime Minister to Mr. Kripalani's manner of delivery and the language of his speech:

"I should like you, Sir, and the House to consider as to who at the present moment is functioning as dictators normally function. Look at the Honourable Member opposite, the language he uses, the arms he waves about, the looks he casts around him.....(Emphasis supplied).

(No. 42, p. 10815.)

THIS is how the Leader of the House spoke, drawing the attention of the Speaker and the House to the behaviour and manner of Mr. Kripalani who, according to Mr. Nehru, "at the present moment is functioning as dictators normally function." Kindly observe the

reference to dictators' normal manner of functioning. The Prime Minister did not mention the name of the dictator. Nor have we mentioned it. I have used only the political phraseology which was used in connection with dictators. I submit, Sir, that "in the manner of a violent epileptic" is a part of the language of political journalism. I make bold to say that Mr. Kripalani cannot be unaware of its political meaning. Therefore, I submit that there is no motive involved in its use; no *mala fide* intention can be attributed in this case. This is a phrase which is a paraphrase of what the Leader of the House said, and, of course, no question of any breach of privilege arose at the time when he used it. I submit, Sir, that therefore no question of breach of privilege can arise now.

N. "COCKTAIL OF HEARSAY AND....."

74. THERE is also a reference in Mr. Khushwaqt Rai's speech to an alleged "misrepresentation of the proceedings". He quoted the following half sentence. "By making a cocktail of plain hearsay, ancient Defence irregularities.....". You will remember, Sir, what happened during the debate. One part of Mr. Kripalani's speech referred to matters connected with Army promotions. This was not the first time, Mr. Kripalani brought this matter up. On an earlier occasion this is what the Prime Minister said about him and the contents of his allegations:

"He is not either the public Press or a public meeting at Ram-lila Grounds. He is not the mirror, I hope, of every rumour that is thrown about in the city of Delhi or elsewhere".  
(Emphasis supplied).

(Quoted by the Defence Minister—No. 42, p. 10926.)

During the Defence debate, Mr. Kripalani was asked by the Prime Minister for the source of his information on the secret and confidential matters concerning the defence of the country on which Mr. Kripalani spoke at some length. Mr. Kripalani would not give it. The Prime Minister, as well as the Defence Minister, asked him why he did not examine the defence files, which he was invited to do. Mr. Kripalani could not reply to it. The Prime Minister pinpointed the source of Mr. Kripalani's information thus:

"But my knowledge of them (of army officers) is superior to Acharya Kripalani's who says that he has not met them and knows nothing about them. Therefore, he has to rely on reports that may come to him from persons who are disgruntled. It is obvious because he has no other source of reports. He does not know them personally. I say it is not a safe way of considering these problems."

(No. 42, p. 10830.)

I submit that this conclusively proves that Mr. Kripalani relied on plain hearsay. It is common knowledge that what is not of personal knowledge belongs to the category of hearsay. Mr. Kripalani himself has conceded that he has relied on hearsay; and it does not lie in the mouth of anyone to say that the BLITZ description can amount to misrepresentation of the proceedings.

75. AS to "ancient Defence irregularities" I submit that the point is so obvious that it needs hardly any emphasis, but I shall endeavour to show that the description is correct. Mr. Kripalani referred to the cost of construction of roads, the faulty estimates for which were prepared in 1952. He referred to defective storage, which he alleged resulted in loss of Rs. 174 lakhs to the country. The matter related to the time soon after the war and the loss, according to a Joint Finance-Defence Ministries' estimate, amounted to Rs. 25 lakhs only. He spoke of the cost of spare parts of some tanks, but these tanks also were ordered before the present Defence Minister took charge of his present portfolio. He made much of the Audit Report of 1961, which consists of 40 paragraphs, of which 24 deal with matters arising before 1956, and some of these going back to the forties. He spoke against the purchase of a cargo carrier which was ordered as far back as 1951. As to this criticism of an aircraft carrier, that too was ordered long before 1956 and the present Defence Minister had no hand in its purchase. I submit, Sir, Mr. Kripalani did truly, indeed, make a "cocktail of plain hearsay and ancient defence irregularities" and that this is only a colourful way of describing something which could have been described in much stronger language. It can hardly be lost sight of that this was the foundation on which Mr. Kripalani built up the superstructure of his impeachment, so-called.

#### O. "THE KRIPALOONY IMPEACHMENT"

76. MUCH again has been made of a journalistic pun on the spelling of Mr. Kripalani's name. It has been suggested that I intended to call him a "lunatic". How shocking it is to think that anyone would read such a meaning in what appeared in BLITZ. Surely, I must be credited with the knowledge that lunatics are debarred from taking seats in the Lok Sabha! Further Sir, this heading has been torn out of its context. The dispatch is a severe political criticism of Mr. Kripalani's policies and has nothing to do with his person.

77. The only meaning which a man of commonsense can derive from this phrase is that there was political insanity in the "impeachment" which Mr. Kripalani moved and in the subsequent behaviour he adopted. It might be said that this is strong language, about as strong as the wording of Mr. Kripalani's indictment. I submit the occasion demanded strong language. I further submit that if

my comments are based on facts and are in the public interest, nobody can ask me to use a particular language. It is my right to use the language I choose as long as it is a fair comment.

78. KINDLY remember, Sir, the passion and heat generated by Mr. Kripalani's "impeachment". It is needless for me to remind you that human emotions and patriotic indignations are to be found as much outside the Lok Sabha as inside. I happen to know that hundreds of thousands of citizens of this country, including Defence personnel, were roused to patriotic anger by Mr. Kripalani's efforts to assassinate the political character of the Defence Minister and several high officers of our glorious armed forces with the dagger of wrong and distorted facts. Their anger was stoked into indignation by the daily press distortions of Mr. Kripalani's parliamentary defeat into something like a national triumph. While my information was that it was the impeacher, Mr. Kripalani, who really stood impeached by his performance and the whole debate under review was a triumph for Mr. Nehru and Mr. Krishna Menon as well as the ideals and policies they symbolise, the capitalist press sought to tell its vast "chain-gang" readership quite another story—a distorted story, a false story, a story which sought to bring the majority sane opinion into contempt and disrepute. I would like your Committee to go into the press reports of the "impeachment", so-called, to find out whether it was BLITZ or the capitalist press that really committed contempt. I have before me sheets piled over sheets of printed matter glorifying Mr. Kripalani and ridiculing Mr. Krishna Menon. I see even pictures of the Defence Minister with the fool's cap put on his head and his protest that "the morale of the army was never higher" featured under the heading "FAMOUS LAST WORDS!" It is rather significant that nobody ever thought of bringing such thrash to the notice of the Speaker. Can the Lok Sabha become a shield unto Mr. Kripalani, while it leaves another Honourable Member, Mr. Krishna Menon, exposed to the slings and arrows of Mr. Kripalani and his friends?

79. IN any case, I should like to ask you, Sir, what is one expected to do in circumstances when one is the Editor of a people's journal dedicated to the service of the nation, its people and its purpose?

- (i) How would one describe, coming as it did from a senior politician, an attack on the officers of our armed forces who cannot reply?

May I refer to you how an older statesman, Mr. M. S. Aney, warned Mr. Kripalani during the Defence debate. Mr. Aney interrupted him and said: "Is the Honourable Member attacking the Minister here or the officers? If he is attacking the officers, they are not here to defend themselves!"

- (ii) What does one call the bland assertion, on basis of plain hearsay, that the Defence Minister was appointing his own men to become a dictator? Does this not completely undermine the confidence of the people in democracy and harm the morale of the armed forces?

The impact of this attitude and attempt was described by Mr. Panigrahi in these words: "May I submit that when the Indian Army is trying its utmost to defend the borders of the country and our soldiers are bravely facing all difficulties on the frontiers, those persons who are very much vocal in this House that they want the defence of the border, they by discussing these (army) appointments, by supporting one officer against another, are breaking the morale and the solidarity of the Army at a critical juncture. I think they are going to do more harm to democracy and they are going to demoralise the Army when they prefer to defend the country. That shows these people in their true colours." (Emphasis supplied).

(No. 42, p. 10882).

- (iii) How can one describe the passionate championship of frustrated officers by one whose record in the service of the armed forces is a big zero?

Allow me, Sir, to remind your Committee of what Mr. Joachim Alva said: "I have never heard Acharya Kripalani opening his mouth for the last ten years on the amenities of the defence services or about the wives of Air Force officers who have been crashed and killed with their aircrafts.....But he picked up one case of promotion and took the Minister to task....This is the kind of psychology which is being spread by our people here. If one allowed this kind of psychology to run into the defence services, how are we going to guard our country? Any person who lays his unholy hands on the army or the Defence Ministry is rendering the greatest disservice to the country. (Emphasis supplied).

(No. 42, p. 10882).

- (iv) How does one describe a grave "impeachment" accusing the Defence Minister of treason which is based on self-confessed hearsay?

Your Committee must be aware that even if half of the charge levelled by Mr. Kripalani were based on facts, the Defence Minister would have been tried for treason. The nature of the impeachment could not have been graver.

80. I SUBMIT that granted the *bona fides* of the person who indulges in such "wild charges", as the Prime Minister aptly described them, it is a mild description to refer to them as political lunacy. The defence of the country, the threat of one-man dictatorship, the alleged treasonable attitude of the Defence Minister and his meddling with senior Army appointments are grave national issues. If one indulges in such matters without ascertaining facts, and on the basis of wrong and distorted facts, then I say that political lunacy is only a mild description of such an aberration. You know, Sir, that for much less an "offence", that of accepting Marxism as a guide to their action, Communists have been called "traitors" by men like Mr. Kripalani. Such words have been uttered in all places, including the Lok Sabha. In this context, the description which I have used is only a qualified one.

81. I SUBMIT, Sir, that these are trying times. Politicians who believe in hard hitting, who indulge in strong language, should in all fairness be able to take as much as they give. The people of this country and the press do not use velvet gloves when the very issues of the survival of their socialist, secular democracy and national and, if I may add, international independence are involved. Therefore, I say that it is only a fair comment to call Mr. Kripalani's "impeachment" political lunacy.

#### P. WHY THIS POLITICAL CRITICISM?

82. I ACCEPT that BLITZ has expressed severe political criticism of Mr. Kripalani in very strong language. It was not only the ill-founded "impeachment" which politically proved impotent as the House rejected Mr. Kripalanis, flimsy and unsupported charges, but what moved us more was the extraordinary attitude adopted by Mr. Kripalani during the entire debate. I am now referring to the innumerable interruptions by Mr. Kripalani during the speeches by the Prime Minister, the Defence Minister and other Honourable Members who refused to agree with Mr. Kripalani's "fanciful" charges.

83. I shall first refer to what the Hon'ble Speaker had to say about it:

"Mr. Speaker: Order, order. I am really surprised at the attitude even of Acharya Kripalani. Does he not want that whatever he has said should be answered, and does he expect an answer only on the lines of what he himself has accused? I cannot understand this (Interruptions). Order, order. I am inclined to come to the conclusion, on account of the various interruptions, that unless the Prime

Minister admits everyone of the accusations, Acharya Kripalani will not be satisfied! I am really surprised at it." (Emphasis supplied).

(No. 42, p. 10832).

"Mr. Speaker: I allowed 56 minutes to Acharya Kripalani. I never interfered with him. I allowed him to level accusations. Is it not the duty of the Prime Minister, when he wants, to intervene and explain the position? Is the Government run by the Opposition here? I cannot understand this. Honourable Members ought not to be impatient. I would make this appeal to Acharya Kripalani and the leaders of the various groups. (Interruptions).

"Order, order. I would ask them not to interrupt like this. After all we have to maintain some decorum and allow opportunities for all shades of opinion to be expressed". (Emphasis supplied).

(No. 42, p. 10824).

"Mr. Speaker: Surely, he cannot criticize like this. My ruling is that he cannot criticize individual appointments like this (Interruptions). Order, order. Now, there must be an end to this". (Emphasis supplied).

(No. 42, p. 10817).

"Mr. Speaker: Let us not interrupt like this.

"Acharya Kripalani: That is the only thing left to us.

"Mr. Speaker: If he is not satisfied with one hour out of eight hours, I do not know how I am going to satisfy him." (Emphasis supplied).

(No. 42, p. 10831).

84. Mr. Kripalani interrupted the Prime Minister during the latter's speech at least 25 times. In this connection, permit me to quote the official report on what happened after the twentieth interruption.

Acharya Kripalani: May I point out that when we are discussing the Demands for Grants of this Ministry... (Interruptions).

"Some Honourable Members: Sit down!

(No. 42, p. 10832).

85. I WILL now draw your attention to the nature and character of these interruptions. The very first interruption from Mr. Kripalani during the Defence Minister's speech was regarding audibility of the Minister's voice. Mr. Speaker then commented: "I thought that the Hon. Defence Minister is sufficiently audible".

"Some Hon. Members: Yes, yes, he is quite audible.

"Mr. Speaker: Probably, he wants the Defence Minister to look up to him".

(No. 41, p. 10530).

**"Acharya Kripalani:** Now, we know why he survives".

(Vol. 4, p. 10543).

(During the speech of the Prime Minister).

**"Acharya Kripalani:**.....We cannot allow the Defence Minister to go on charging people like that, till he becomes a dictator".

**"Shri Jawaharlal Nehru:** Now, as the House knows, I have the greatest respect for Acharya Kripalani.

**"Acharya Kripalani:** 'ADAB ARJ'".

86. NOW I shall, with your permission, refer to the description of what happened during the interruptions specially with reference to the behaviour of Mr. Kripalani. I have dealt with the nature and character of those interruptions. The Speaker had to appeal to Mr. Kripalani and his colleagues "to maintain some decorum". He had to protect the Prime Minister who was not being allowed to proceed with his speech in these words:

**"Order, order! Let him be allowed to speak in his own way. What is the meaning of cross-examining like this? Is he in the dock? "I allowed Acharya Kripalani to get along with his facts...."**

(Interruptions). (Emphasis supplied).

(No. 42, p. 10828).

As I have submitted above, it was after his twentieth interruption of the Prime Minister's speech that Mr. Kripalani was shouted down by Members. One has only to see the record on p. 10832 of No. 42 to accept that the description about his being "shouted down like a bazar-bafoon" is based on facts.

87. EVEN a cursory reading of the official record will show that Mr. Kripalani behaved in a most extraordinary manner. His attitude towards the Defence Minister was openly insulting. His remarks and interruptions during the Prime Minister's speech were bewildering. At one moment, he was playing the humorous character, bowing and saying "Adab Arj", and at the next, he was exploding with violent frustration. He himself had "charged" the Defence Minister for the international policies of Government of India, but when the Prime Minister started replying to it, he took objection and suggested that the reply was irrelevant to the Defence debate! The Honourable Speaker was exasperated, as were a large number of Honourable Members. Was Mr. Kripalani serious about what he said? Was he making a serious political criticism or was playing to

the gallery? No wonder his performance invited sharp counter-attacks both within and outside the Lok Sabha.

88. I SUBMIT that I have dealt with whatever specific grounds I could gather from Mr. Khushwaqt Rai's speech. In conclusion, I say that the dispatch was fair comment on Mr. Kripalani's performance during the Defence debate. Undoubtedly, it was strongly worded and undoubtedly it could not be worded otherwise. I submit that it was political criticism of Mr. Kripalani, and it was perfectly within my right to publish such criticism.

I SUBMIT that nothing in the dispatch can be construed to be of a character which would have had the effect of obstructing or impeding Mr. Kripalani in the discharge of his duty as a Member of the Lok Sabha by holding him up to the ridicule of the public. Mr. Kripalani is not a greenhorn, in public life. He had been a Congressman for long; later he went over to the Kisan Mazdoor-Praja Party; next he became a Praja Socialist; and now, as far as I know, he calls himself Independent. If his performance in the Lok Sabha during the debate brought ridicule on him, he can blame none but himself. BLITZ or Mr. Raghavan have not had anything to do with it. The Prime Minister thought that Mr. Kripalani was behaving in the manner of a dictator; the Speaker said something to that effect; and several members of the Lok Sabha used much stronger language. Nor is this the first time that Mr. Kripalani has found himself under such a heavy onslaught from all quarters. All this has not obstructed or impeded him in the discharge of what he regards as his duty; and it really beats me how any criticism can obstruct a gentleman of Mr. Kripalani's controversial and combative character armed with the audacity of his own convictions or prejudices, as the case may be, from saying what he wants.

#### Q. PROTECTION FROM THE PEOPLE !

89. YOUR Committee, Sir, has now been seized of a very serious problem. I shall put it to you in my blunt manner. Can the press be gagged in the discharge of its duties in the face of such manifest distortion of facts and perversion of the truth? Do you want the press silently to watch efforts directed at the destruction of the faith of our people in democracy and sabotage of the morale of our armed forces? Must we remain mute when "impeachments" are mounted on the flimsiest of pretexts against the Defence Minister and the Prime Minister? Must the mouth of the press remain sealed when serious damage is being done to our national interest and purpose? As an Editor and a citizen I cannot believe that it can be so. I submit in all humility that the privilege of the Lok

Sabha cannot be employed to lead to such an undemocratic situation. Even parliamentary democracy, of which you and I are equally proud and zealous, was created by the Constitution made by the people of India and given to themselves, as evidenced by the Preamble. The Lok Sabha consists of persons elected by adult voters who alone are sovereign in this free land of ours.

90. THE press of India has the same rights as any citizen; and a citizen, I beg to submit, has the right to tell his fellow-citizens what he thinks of their representative in the Lok Sabha. As the citizen-editor of probably the most powerful organ of public opinion in this country, I claim the right to warn the people that any person, in whom they reposed their confidence, does not deserve it hereafter. I claim the right as a citizen to inform fellow-citizens that a certain member has begun to behave unsatisfactorily. As matters stand, the General Elections are less than a year ahead; and every citizen has the right to warn his fellow-citizens against any member of the Lok Sabha as much as he has the right to laud the services of another member. In this context, comments in a news paper can never impede proceedings of a legislative chamber. Even the most violent comment cannot impair the ability of a member to function unless the latter himself is a weak person. Much less can they impair the ability of the legislative house to function. I would go to the extent of stating that a person who allows his ability to function in the legislature to be compromised by newspaper comments that are free of intimidation really does not deserve to represent the people.

91. I AM not an Englishman nor an Anglophile who worships all British traditions. I am an Indian and proud of being one. I respect the British system of democracy, but I do not accept it to be identical with our own, which I not only respect but hold to be sacred. I believe that our democratic system has lent a qualitative content to mere formal political equality of the Western system of democracy in as much as we have incorporated the basic concept of economic equality in our Constitution and its Directive Principles. Our legislature and the Lok Sabha specifically are enjoined to follow these injunctions. I believe that it is absolutely unthinkable that the legislature should be placed in a position where no adverse comments can be made on the performance of its members. Even in the United Kingdom, where the Parliament is a supreme and sovereign body, men have challenged its claims to shroud its activities in secrecy away from public criticism. Permit me to draw your attention to what an eminent Chief Justice of England,

Lord Cockburn, said while delivering the judgement of the Queen's Bench Court in the case of *Wasan and Walter* (1868 L.R. 4 B.B. 73):

"It seems to us impossible to doubt that it is of paramount public and national importance that the proceedings of the houses of parliament shall be communicated to the public, who have the deepest interest in knowing what passes within their walls, seeing that on what is there said and done, the welfare of the community depends. Where would be our confidence in the government of the country or in the legislature by which our laws are framed, and to whose charge the great interests of the country are committed—where would be our attachment to the Constitution under which we live,—if the proceedings of the great council of the realm were shrouded in secrecy and concealed from the knowledge of the nation? How could the communications between the representatives of the people and their constituents, which are so essential to the working of the representative system, be usefully carried on, if the constituents were kept in ignorance of what their representatives are doing? What would become of the right of petitioning on all measures pending in parliament, the undoubted right of the subject, if the people are to be kept in ignorance of what is passing in either house? Can any man bring himself to doubt that the publicity given in modern times to what passes in Parliament is essential to the maintenance of the relations subsisting between the government, the legislature and the country at large?"

**WHAT, indeed, are the rights and duties of the Members of the Lok Sabha? What is the position in the United Kingdom? What is their *locus standi* in the eyes of the people? The well-known authority on the British system of parliamentary Government, Sir Ivor Jennings, answered the question, in his classic work "The British Constitution" thus on p. 82:**

"The Members of the House of Commons were not elected for their special qualifications, but because they supported the policies which the majority of their constituents were prepared to accept. They have no authority except as representatives, and in order that their representative character may be preserved, they must debate in public."

92. IF this is the position in the United Kingdom, if the people, of which the press is an important, enlightened and significant sector, have a right to know and comment on what goes on in the British Parliament, if the members of the British Parliament have no authority except as representatives and if they must, in order that their representative character may be preserved, debate in public, how can

Members of the Lok Sabha feel aggrieved at criticism by the press of their behaviour in their representative character? I make bold to say that even if such criticism hurts their individual political future, it cannot be silenced in the name of their alleged privileges: for to do so would be tantamount to giving them protection from the people which is a negation of all democratic canons. Representatives of the people do not need protection from those whom they claim to represent; and if they do so, they have ceased to be the people's representatives. Sir, I request your Committee to consider these points or principles with all the seriousness deserved by them.

#### R. OFFER TO MR. KRIPALANI

93. FINALLY, I have a couple of more submissions to make before the conclusion. I am trained in the Indian school of journalism founded by Lokmanya Tilak which risks personal discomfort in the interest of telling the truth. I am proud to belong to that fraternity which has not yet given up the ideology of journalism taught by the Lokmanya. I have written about Mr. Kripalani what I have, not because of any personal malice. I bear him no malice whatever, but I cannot remain silent when he attacks what I consider to be our most vital national interests. It may be said that I have used strong language. It may be that he feels aggrieved about it, though he has not yet spoken a word indicating that it has been so. But if he does, then I invite him to take recourse to a Court of Law where I shall be only too happy to answer his charges. This is only a fair offer. I am certain that an uncowardly political fighter of the calibre of Mr. Kripalani would detest the idea of taking shelter behind the wall of the privileges of the Lok Sabha to defend his political honour if he believes it has been harmed. He should know too well that the present course is equivalent to taking unfair advantage of the fact of his membership of the Lok Sabha. He must know that I am denied here all the three rights which a citizen can claim when he is charged with an offence—that is (i) a clear chargesheet; (ii) a hearing in the open, and (iii) the right of appeal. If Mr. Kripalani is indeed the honourable and courageous fighter I believe him to be, he should find no difficulty in accepting my offer if he thinks I have done any damage to his reputation.

\*     \*     \*     \*     \*     \*     \*

THAT is all I have to say, Mr. Chairman. I venture to hope that the foregoing will convince you that the article in dispute was not any irresponsible excess of sensationalism or part of any vindictive or malicious campaign. There is passion in it and high purpose and the will of a million readers who believe in our democratic way of life. I am only a humble instrument of that mighty will. In an issue of

faith and passion like this involving the national purpose and honour of my country, you will appreciate that there can be no surrender, compromise or retraction whatsoever. Having said so much, I am ready to face the consequences of discharging what I consider to be a sacred duty *vis-a-vis* my readers and my country.

JAI HIND!

(Sd.) R. K. KARANJIA,  
Editor-in-Chief,  
*BLITZ* Newsmagazine.

Bombay, June 12, 1961.

—  
"A"

CONFIDENTIAL

MOST IMMEDIATE  
Lok Sabha Secretariat,  
New Delhi;  
April 20, 1961.

No. 34/1/CI-61

From

Shri H. N. Trivedi,  
Deputy Secretary.

To

Shri R. K. Karanjia,  
Editor, BLITZ,  
17-17H Cawasji Patel Street,  
Patel House, Bombay-1.

**SUBJECT:**—*Question of privilege raised by Shri Khushwaqt Rai, M.P. re: certain comments published in the BLITZ, dated 15th April, 1961, on the speech of Shri J. B. Kripalani, M.P., in Lok Sabha, delivered on 11th April, 1961.*

Sir,

I am directed to confirm herewith the following telegram sent to you on—date:

“Question of privilege raised by a member in Lok Sabha today regarding the despatch sent by your Delhi Bureau representative Shri A. Raghavan under the caption ‘The Kripaloony

1507 (ii) LS—6.

Impeachment' published on the front page of the Blitz, dated 15th April 1961 referred by Lok Sabha to its Committee of Privileges AAA Committee at their sitting held today decided that you be asked to state what you may desire to say in this connection AAA Your reply should reach Committee by 25th instant AAA If you desire to appear before Committee in person you may do so at 4 P.M. on 26th instant in Room No. 1, Parliament House, New Delhi AAA Letter follows AAA."

The relevant extracts of proceedings of the Lok Sabha of—date in this connection are enclosed herewith for your ready reference.

Please acknowledge receipt.

Yours faithfully,

*Deputy Secretary.*

"B"

*BLITZ 20/8/60, Page 4.*

"Parliament must have the last word regarding services and no other authority should have any word."

"Lok Sabha must have final powers to cede territory."

"The amendment must be in the direction of strengthening and enlarging the authority of the Lok Sabha."

"No individual can be allowed to challenge the authority of the Lok Sabha in matters of state."

*BLITZ 12/11/60, Page 4.*

"Personally I am a believer in Parliamentary democracy to such an extent that I support the view that Parliament and no court of Law shall be supreme in the land."

In this article there are several remarks in support of the supremacy of Parliamentary democracy.

*BLITZ 1/10/60*

Strengthening of Parliament and Lok Sabha.

*BLITZ 10/12/60, Page 4.*

"The supremacy of Parliament subject to certain rights of individuals is the essence and the foundation of the Constitution of India."

In this whole article the supremacy of Parliament and more particularly the Lok Sabha has been emphasised.

*JANUARY 26, 1961, Page 4.*

Among the main features of the new Constitution shall be—

- (4) Full supremacy of the Parliament of the Union.
- (5) The adjective 'supreme' shall be the monopoly of Parliament.
- (15) The power of making treaties with other countries shall as completely vest in the Government of India as in the King or Queen of England. The power of ratification shall vest in the House of the People, and Parliament must have been unquestionable authority to cede or accept territory.

## ✓ APPENDIX IV

(See para. 10 of Report)

Note giving further comments of the Committee on the issues raised by Shri R. K. Karanjia, Editor, Blitz, Bombay, in his written statement, dated the 12th June, 1961.

In paragraphs 2 to 7 of his written statement, Shri R. K. Karanjia has raised a preliminary objection. This has been dealt with in para 9 of the Report.

2. In paragraphs 8 to 17 (under the heading "Freedom of the Press"), Shri Karanjia has made general observations regarding the Freedom of the Press and stated that the fundamental right to freedom of speech and expression, guaranteed under Article 19(1) (a) of the Constitution, includes within its scope the freedom of the press. He has further stated that the scope of restrictions which can be imposed on the said fundamental right is defined in Clause (2) of Article 19, and that "any restrictions imposed on these fundamental rights which have not been provided for specifically in the Constitution will amount *ipso facto* to amendment of the Constitution".

It may be pointed out in this connection that the scope of the freedom of the press has been described by the Supreme Court in their judgement in the *Searchlight* case as follows:—

"Prior to the advent of our present Constitution, there was no constitutional or statutory enunciation of the freedom of speech of the subjects or the liberty of the Press. Even in the famous Proclamation of Queen Victoria made in 1858 after the British power was firmly established in India, there was no reference to the freedom of speech or the liberty of the Press, although it was announced that 'none be in any wise favoured, none molested or disquieted by reason of their Religious Faith or Observances; but that all shall alike enjoy the equal and impartial protection of the law;.....'. Indeed during the British period of our history the Press as such had no higher or better rights than the individual citizen. In *Arnold v. King Emperor*\* which was a case of an appeal by the editor of

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\* (1914) L. R. 41 I. A. 149.

a newspaper against his conviction for criminal libel under s. 499 of the Indian Penal Code, Lord Shaw of Dunfermline in delivering the judgment of the Privy Council made the following observations at p. 169:—

‘Their Lordships regret to find that there appeared on the one side in this case the time-worn fallacy that some kind of privilege attaches to the profession of the Press as distinguished from the members of the public. The freedom of the journalist is an ordinary part of the freedom of the subject, and to whatever lengths the subject in general may go, so also may the journalist, but apart from statute law, his privilege is no other and no higher. The responsibilities which attach to his power in the dissemination of printed matter may, and in the case of a conscientious journalist do, make him more careful; but the range of his assertions, his criticisms, or his comments, is as wide as, and no wider than, that of any other subject. No privilege attaches to his position.’

Then came our Constitution on January 26, 1950. The relevant portions of Article 19, as it now stands and which is relied on, are as follows:—

‘19. (1) All citizens shall have the right—

(a) to freedom of speech and expression;

\* \* \* \* \*

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.’

It will be noticed that this Article guarantees to all citizens freedom of speech and expression but does not specifically or separately provide for liberty of the Press. It has, however, been held that the liberty of the Press is implicit in the freedom of speech and expression which is conferred

on a citizen. Thus in *Romesh Thappar v. State of Madras*\* this Court has held that freedom of speech and expression includes the freedom of propagation of ideas and that freedom is ensured by the freedom of circulation. In *Brijbhushan v. The State of Delhi*\*\* it has been laid down by this Court that the imposition of precensorship on a journal is a restriction on the liberty of the Press which is an essential part of the right to freedom of speech and expression declared by Article 19(1)(a). To the like effect are the observations of Bhagwati J. who, in delivering the unanimous judgment of this Court in *Express Newspaper Ltd. v. Union of India*† said at page 614 that freedom of speech and expression includes within its scope the freedom of the Press. Two things should be noticed. A non-citizen running a newspaper is not entitled to the fundamental right to freedom of speech and expression and, therefore, cannot claim, as his fundamental right, the benefit of the liberty of the Press. Further, being only a right flowing from the freedom of speech and expression, the liberty of the Press in India stands on no higher footing than the freedom of speech and expression of a citizen and that no privilege attaches to the Press as such, that is to say, as distinct from the freedom of the citizen. In short, as regards citizens running a newspaper the position under our Constitution is the same as it was when the Judicial Committee decided the case of *Arnold v. The King Emperor*‡ and as regards non-citizens the position may even be worse."

[A.I.R. 1959 S.C. 395 at pp. 401-02.]

3. In paragraphs 18 to 28 (under the headings "Sovereignty of the Lok Sabha" and "Privileges of the Parliament"). Shri Karanjia has stated that the Lok Sabha is, unlike the British Parliament, a creature of the Constitution, and that, therefore, it is neither supreme nor sovereign. According to Shri Karanjia "there is a fundamental and radical distinction between the status, powers, and privileges of the British Parliament and our Lok Sabha" and that the fundamental rights guaranteed under the Constitution "cannot be violated by any institution under the Constitution, including the Lok Sabha".

Article 105(3), which equates the powers and privileges of the Houses of Parliament with those of the House of Commons, U.K., is a complete answer to this argument.

\* (1950) S.C.R. 594.

\*\* (1950) S.C.R. 603.

† A.I.R. (1958) S.C. 578.

‡ (1914) L.R. 41 I.A. 149.

In the context of this argument, Shri Karanjia has stated in paragraph 28 that Article 105(3) of the Constitution which equates the powers, privileges and immunities of the Houses of Parliament in India with those of the House of Commons, U.K. is an "anachronism" and is "inconsistent" with the "basic pattern" of the Constitution. He has further stated that "Article 105 violates the Fundamental Right of the citizen to equality and, therefore, it is void". It is, on the face of it, absurd to suggest that any Article of the Constitution can be void.

4. In paragraphs 29 to 33, Shri Karanjia has contended that "Article 105(3) must be read subject to the other provisions of the Constitution", and that "on a true construction of Articles 105(3) and 19(1) (a), Article 105(3) must be read as subject to Article 19(1) (a)". In support of his above contentions, Shri Karanjia has quoted certain observations from the dissenting judgment of Mr. Justice Subba Rao in the *Searchlight Case*.\*

Shri Karanjia has quite conveniently not quoted from, or even referred to, the majority judgment of the Supreme Court in the same case. He has not even mentioned that Mr. Justice Subba Rao's was only a minority view. The judgment in that case was delivered by the Supreme Court by majority of four to one.

Incidentally, it may be mentioned that Mr. Justice Subba Rao in his minority judgment had stated "In the year 1950, it would be unthinkable and indeed would have been an extraordinary phenomenon for the House of Commons claiming the privilege of preventing the publication of its proceedings". Actually, however, there have been three recent instances when it was affirmed in the House of Commons in 1939-40, 1940-41 and 1951-52 that "the right to publish debates which take place" in the House "has never been conceded by the House" and "that the publication of the debate at all is a breach of privilege"\*\*.

Shri Karanjia has also referred to the decision of the Supreme Court in the case of *G. K. Reddy v. Nafisul Hasan*†. But even while referring to this case, he has given only half the story. He has made no mention of the fact that subsequent to that judgment, Shri Homi Mistry, the Acting Editor of *Blitz*, filed a suit in the Bombay High Court against Shri Nafisul Hasan and others claiming damages for wrongful arrest and detention. That suit was dismissed by the

\**M.S.M. Sharma v. Sri Krishna Sinha and Others*, A.I.R. (1959) S.C. 395-422.

\*\*See H.C. Deb. 1939-40, Vol. 355, cc. 1031-32; H.C. (1940-41) 94, p. iii; H.C. Deb. 1940-41, Vol. 374, cc. 203-07; H.C. Deb. 1951-52, Vol. 494, cc. 222-25.

†A.I.R. (1954) S.C. 636.

Bombay High Court and Shri Mistry, ultimately, tendered an apology to the Speaker, U.P. Vidhan Sabha, and the Vidhan Sabha itself, and published the same in the *Blitz*, dated the 12th April, 1958. Referring to the judgment of the Supreme Court in the case of *G. K. Reddy v. Nafisul Hasan*, the Acting Chief Justice Coyajee of the Bombay High Court observed as follows:

“On a reading of the Judgment it is clear that the conclusion arrived at in this Order was on admitted facts which indicated that the Constitution had been infringed. There is no mention in the Order that the warrant was the warrant of the Legislative Assembly of Uttar Pradesh or that the warrant was for contempt of the said House.

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I am entirely of the opinion that the manner in which the facts were admitted indicated that the warrant was looked at as if it was issued by the executive and not by a judicial authority.

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It is within the category of judicial warrant that this warrant necessarily falls and therefore cannot draw the protection afforded by Article 22 of the Constitution.”

[I.L.R. (1957) Bom. 218]

In fact, the earlier decision in the case of *G. K. Reddy v. Nafisul Hasan* should be deemed to have been overruled by the Supreme Court judgment in the *Searchlight* case. In the *Searchlight* case, the Supreme Court observed:

“.....Our decision in *Gunupati Keshavram Reddy v. Nafisul Hasan\**, also relied on by learned advocate for the petitioner, proceeded entirely on a concession of counsel and cannot be regarded as a considered opinion on the subject.”

[A.I.R. (1959) S.C. 395 at p. 410.]

As regards the contention of Shri Karanjia that Article 105(3) should be read as subject to Article 19(1) (a), it may be pointed out that the position has now been finally settled by the judgment of the Supreme Court in the *Searchlight* case. In that case, the Supreme Court observed:

“It is true a law made by Parliament in pursuance of the earlier part of Art. 105(3) or by the State Legislature in

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\* A. I. R. (1954) s. c. 636.

pursuance of the earlier part of Art. 194(3) will not be a law made in exercise of constituent powers like the law which was considered in *Sankari Prasad Singh Deo v. Union of India*\*, but will be one made in exercise of its ordinary legislative powers under Art. 246 read with the entries referred to above and that consequently if such a law takes away or abridges any of the fundamental rights it will contravene the peremptory provisions of Art. 13(2) and will be void to the extent of such contravention and it may well be that that is precisely the reason why our Parliament and the State Legislatures have not made any law defining the powers, privileges and immunities just as the Australian Parliament had not made any under s. 49 of their Constitution corresponding to Art. 194(3) upto 1955 when the case of *The Queen v. Richards*\*\* was decided.

It does not, however, follow that if the powers, privileges or immunities conferred by the latter part of those Articles are repugnant to the fundamental rights, they must also be void to the extent of such repugnancy. It must not be overlooked that the provisions of Art. 105(3) and Art. 194(3) are constitutional laws and not ordinary laws made by Parliament or the State Legislatures and that, therefore, they are as supreme as the provisions of Part III. Further, quite conceivably our Constitution makers, not knowing what powers, privileges and immunities Parliament or the Legislature of a State may arrogate and claim for its Houses, members, or Committees, thought fit not to take any risk and accordingly made such laws subject to the provisions of Article 13; but that knowing and being satisfied with the reasonableness of the powers, privileges and immunities of the House of Commons, at the commencement of the Constitution, they did not, in their wisdom, think fit to make such powers, privileges and immunities subject to the fundamental right conferred by Article 19(1) (a).

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Article 19(1) (a) and Art. 194(3) have to be reconciled and the only way of reconciling the same is to read Art. 19(1) (a) as subject to the latter part of Art. 194(3), just as Art. 31 has been read as subject to Art. 265 in the cases of *Ramjilal v. Income-tax Officer, Mahindergarh*† and *Laxmanappa*

\* (1952) S.C.R. 89, 90.

\*\* (1955) 92 C.L.R. 157 (*Bankstown Observer Case*).

† (1951) S.C.R.-127.

*Hanumantappa v. Union of India and another\** where this Court has held that Art. 31(1) has to be read as referring to deprivation of property otherwise than by way of taxation.....In our judgment the principle of harmonious construction must be adopted and so construed, the provisions of Art. 19(1) (a), which are general, must yield to Art. 194(1) and the latter part of its clause (3) which are special."

[A.I.R. (1959) S.C. 395 at pp. 409-10.]

5. In paragraphs 34 to 38 (under the heading "Privileges of the House of Commons"), Shri Karanjia has urged that "there is something inherently incoherent in the Lok Sabha's claiming the parliamentary privileges of the House of Commons' as "there is nothing in common between the House of Commons and the Lok Sabha in relation to the need and the nature of the privileges" and because the privileges of the British Parliament owe their origin to historical circumstances.

The above contentions of Shri Karanjia are irrelevant so far as the consideration of the issue of privilege is concerned. However, in so far as the constitutional position is concerned, Article 105(3) of the Constitution is quite clear and unambiguous as pointed out earlier.

Thus, whatever be the origin of the privileges of the House of Commons, U.K., Article 105(3) confers those privileges *in toto* on the Houses of Parliament in India. As stated by the Supreme Court in the *Searchlight* case:

"The latter part of Art. 194(3) confers all these powers, privileges and immunities on the Houses of the Legislatures of the States, as Art. 105(3) does on the Houses of Parliament. It is said that the conditions that prevailed in the dark days of British history, which led to the Houses of Parliament to claim their powers, privileges and immunities, do not now prevail either in the United Kingdom or in our country and that there is, therefore, no reason why we should adopt them in these democratic days. Our Constitution clearly provides that until Parliament or the State Legislature, as the case may be, makes a law defining the powers, privileges and immunities of the House, its members and Committees, they shall have all the powers, privileges and immunities of the House of Commons as at the

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\* (1955) I.S.C.R. 769.

date of the commencement of our Constitution and yet to deny them those powers, privileges and immunities, after finding that the House of Commons had them at the relevant time, will be not to interpret the Constitution but to remake it. Nor do we share the view that it will not be right to entrust our Houses with those powers, privileges and immunities, for we are well persuaded that our Houses, like the House of Commons, will appreciate the benefit of publicity and will not exercise the powers, privileges and immunities except in gross cases."

[A.I.R. (1959) S.C. 395 at p. 407.]

As regards the need and nature of the privileges, it is well-established that these privileges are necessary for the effective working of every Legislative Assembly and for the discharge of its constitutional functions. As stated by May:

"It is more convenient to reserve the term 'privilege' to certain fundamental rights of each House which are generally accepted as necessary for the exercise of its constitutional functions.

The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are 'absolutely necessary for the due execution of its powers'. They are enjoyed by individual members, because the House cannot perform its functions without unimpeded use of the services of its Members; and by each House for the protection of its Members and the vindication of its own authority and dignity.

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.....the surviving privileges of the House of Lords and the House of Commons are justifiable on the same grounds of necessity as the privileges enjoyed by legislative assemblies of the self-governing Dominions and certain British colonies, under the common law as a legal incident of their legislative authority.....

Such powers are essential to the authority of every legislature. The functions, privileges and disciplinary powers of a legislative body are thus closely connected. The privileges are the necessary complement of the functions, and the disciplinary powers of the privileges."

[May, 16th Ed., pp. 42-43.]

The above position was reiterated (in relation to the power of Parliament to punish for contempt) by Chief Justice Dixon of the High Court of Australia in his judgment in the recent *Bankstown Observer Case* (1955) in the following words:—

“.....throughout the course of English history there has been a tendency to regard those powers as not strictly judicial but as belonging to the legislature, rather as something essential or, at any rate, proper for its protection.

This is not the occasion to discuss the historical grounds upon which these powers and privileges attached to the House of Commons. It is sufficient to say that they were regarded by many authorities as proper incidents of the legislative function, notwithstanding the fact that considered more theoretically—perhaps one might even say, scientifically—they belong to the judicial sphere.”—(1955) 92 C.L.R. 157.”

It may be noted that Section 49 of the Constitution of Australia is worded in terms which are similar to those of Article 105(3) of our Constitution.

6. In paragraphs 39 to 41, Shri Karanjia has questioned the jurisdiction of the Committee. This has been dealt with in para. 12 of the Report.

7. In paragraphs 42 to 47 (under the heading “Mr. Kripalani and the Defence Debate”), Shri Karanjia has pleaded justification and necessity of the publication of the impugned despatch on political grounds. Since the privileges of Parliament protect equally every one of its members irrespective of his political ideology and party affiliations, political considerations are not relevant in deciding a question of breach of privilege.

Further, in these paragraphs, Shri Karanjia has made imputations and insinuations. He feels that there is “a conspiracy by interested parties, both internal and foreign, aimed at undermining the faith of our people in the parliamentary system of democracy and subverting the morale of our armed forces”. He desires the Committee to view “this danger not only in the national context but also against the broader and more frightening background of contemporary developments in Asia.” Giving his faith in the secular democracy and warning the Committee of the dangers inside and outside, Shri Karanjia observes that “those who would dynamite that most precious base of ours are, in my opinion, enemies of the land and people and traitors to our history no less than to our destiny”.

With this bias in his mind he believes that "it has become an almost holy crusade to fight and defeat these forces". There is no wonder that with such prepossessions he has in pursuance of his "crusade" produced this publication. For our present discussions, this is all irrelevant. It rather is an indication that the comment could not be fair.

8. In *paragraphs 48 to 53* (under the heading "Blitz and fair comment"), Shri Karanjia has mentioned about the "massive circulation" and "national character" of the *Blitz*, right of "fair comment", and given his views on what constitutes "fair comment". The question of "fair comment" has been dealt with in paras. 14 and 15 of the Report.

9. In *paragraphs 54 to 57* (under the heading "nature of Blitz despatch"), Shri Karanjia has stated the political background against which, according to him, the comments contained in the despatch in question were published in the *Blitz*. If the comments themselves constitute a breach of privilege or contempt of the House, political considerations motivating the same have no relevancy.

10. In *paragraphs 58 to 61* (under the heading "Facts of 'Kripalani' Impeachment"), Shri Karanjia has given certain extracts from the speeches of the Defence Minister and Shri Kripalani made in Lok Sabha during the debate on the demands for grants of the Defence Ministry. According to Shri Karanjia, the comments contained in the despatch in question, published in the *Blitz*, were based on the proceedings in the House. Proceedings in the House cannot be offered as a justification for making a libellous attack on a Member of Parliament for his speech or conduct in Parliament.

11. In *paragraphs 62 to 88*, Shri Karanjia has discussed in detail the meaning and the context in which the various phrases and words, objected to by Shri Khushwaqt Rai, M.P., were used in the despatch in question published in the *Blitz*, dated the 15th April, 1961. Shri Karanjia has accepted that "*Blitz* has expressed severe political criticism of Mr. Kripalani in very strong language", but he has pleaded justification for the comments contained in the said despatch on the grounds that "the despatch did not violence to facts, and, secondly, that the comment based on these facts was such as to be in the public interest or, in other words, to be fair comment". He has urged that "the despatch must be read as a whole and not in isolated sentences or extracts" and "it must be construed in its normal context of political terminology".

The Committee have carefully considered the submission made by Shri Karanjia in this regard and their conclusions are given in para. 17 of the Report.

12. In this connection, the Committee would like to draw attention to the following precedents:—

(i) In a case in the House of Commons in 1880, a member complained about the publication of placards representing the part taken by a member in the proceedings of the House as 'inhuman' and 'degrading'. The House thereupon passed a resolution that the publication of placards 'was calculated to interfere with the due discharge of the duties of a member of this House, and is a breach of its privileges'. The matter was, however, dropped by the House on the regret expressed by the author of the placards.

[Parl. Deb. (1880), 250, cc. 797—809, 1008—50.]

(ii) On the 30th July, 1901, in the House of Commons, U.K., a member raised a question of privilege regarding the following passage published in the *Daily Mail* of that date, relating to the speech of Mr. Brodrick, M.P., in the House:

"We do most strongly object to Mr. Brodrick's baseless and mean retort that this journal is in the habit of offering pecuniary temptations to War Office clerks for the purpose of obtaining early news. The suggestion is an untruthful one, and it is remarkable that it should only have been made after our exposure of the Vlaktefontein suppressions, and after we had pointed out continually that the war in South Africa is in a worse position than the public is allowed to know, and that for this reason the Government is perpetually endeavouring to patch up a hasty peace. It was not until his irritation consequent upon the Vlaktefontein episode that Mr. Brodrick made any insinuation as to the *Daily Mail's* news-getting propensities.

The *Daily Mail* will have no hesitation in proceeding against Mr. Brodrick for libel if he ventures to suggest outside the privileged circle of the House of Commons that this newspaper has stolen official documents, and its editor is quite willing to undergo an investigation under the Official Secrets Act."

After some discussions, the following motion was moved and adopted in the House:—

"That the passages from the *Daily Mail* of this day complained of constitute a breach of the privileges of this House."

[Parl. Deb., Vol. 98, cc. 582—599].

(iii) On the 8th September, 1958, Shri Bhupesh Gupta, M.P., gave notice of a question of privilege regarding the following passage contained in an article published in the weekly journal 'Thought', dated the 6th September, 1958:

"When a Congress member Mr. H. P. Saksena (U.P.) did a bit of skinpeeling that exposed the spots on the Communist friends of the Nagas, Mr. Gupta did the obvious: he flew into a rage. 'This was' he shrieked (Mr. Gupta's voice is too shrill to permit a thunder), 'fatuous, fantastic, untrue'."

The Chairman of the Rajya Sabha referred the matter to the Committee of Privileges who reported as follows:

"In the course of his statement, Shri Ram Singh (Editor) said that at the time the offending article was written in the issue of 'Thought' he or his columnist had not taken into consideration the latter portion of the proceedings of the Rajya Sabha of the 27th August, 1958, wherein Shri H. P. Saksena had stated that he did not suggest that Shri Bhupesh Gupta or the Communists were misleading the Nagas. Shri Ram Singh further said that if this had been taken into consideration, the report of the columnist and his conclusions might have been different. He expressed regret for this inadvertent inaccuracy. He also expressed regret for his references to Shri Bhupesh Gupta which were of a personal character.

The Committee is of the opinion that, in view of the explanations offered and the regrets expressed before the Committee by Shri Ram Singh, the Editor of 'Thought' no further time should be occupied by the House in consideration of this matter.

The Committee, therefore, recommends that no further action be taken by the House in the matter."

On the 6th March, 1959, the Rajya Sabha agreed with the recommendations contained in the report of the Committee of Privileges.

13. In paragraphs 89 to 92 (under the heading "Protection from the People!"), Shri Karanjia has again raised in general terms the question of the freedom of Press *vis-a-vis* the privileges of the Lok Sabha. He has asserted *inter alia*, that "comments in a newspaper can never impede proceedings of a legislative Chamber" and that

“even the most violent comment cannot impair the ability of a member to function unless the latter himself is a weak person”. In this connection, he has quoted certain observations of Cockburn, C.J., in the case of *Wason v. Walter* (1868 L.R. 4 Q.B. 73) and from Sir Ivor Jennings’s “The British Constitution”. Those quotations, however, merely stress the need of communicating the proceedings of the Houses of Parliament to the public, and do not support Shri Karanjia’s wide assertions.

As regards the scope and limits of criticism and comments by press and others on proceedings of Parliament and its members, the Committee would like to draw attention to the following extracts from the reports of the Committee of Privileges of the House of Commons, U.K., which are pertinent:—

“It is clear that a ‘libel’ upon a Member of the House of Commons which concerns his character or conduct in his capacity as a Member, and is based on matters arising in the actual transaction of the business of the House, constitute a contempt of the House and a breach of privilege.....

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There may be many cases in which general words of criticism are used which are reasonably capable of being construed as legitimate criticism and not as infringing the privileges of the House. If they can reasonably be so construed in your Committee’s opinion, it is better in general, to give the writer or publisher the benefit of that construction.”

[Report of Committee of Privileges of House of Commons, U.K., in the *Highland Development League Case* (1941), H.C. 103, 1940-41.]

“It has long been recognised that the publication of imputations reflecting on the dignity of the House or of any Member in his capacity as such is punishable as a contempt of Parliament. It is true that the imputation upon a Member to come within this principle must relate to some thing which he has done as such, that is to say incidentally to and as part of his service to Parliament. Thus in an extreme case concerning the *Times* in 1887, an allegation that certain Members ‘draw their living.....from the steady perpetration of crimes for which civilisation demands the gallows’ was held not to constitute a contempt in that it did not refer to the action of the Members

concerned in the discharge of their duties as such. Reflections on Members, however, even where individuals are not named, may be so framed as to bring into disrepute the body to which they belong, and such reflections have therefore been treated as equivalent to reflections on the House itself. It is for the House to decide whether any particular publication constitutes such an affront to the dignity of the House or its Members in that capacity as amounts to a contempt of Parliament."

[Report of Committee of Privileges of House of Commons, U.K., in the *Allighan Case* (1947), H.C. 138 (1946-47).]

14. In *paragraph 93* (under the heading "Offer to Mr. Kripalani"), Shri Karanjia has stated, *inter alia*, that if Shri Kripalani "feels aggrieved" about the publication of the despatch in question in the *Blitz*, "then I invite him to take recourse to a Court of Law where I shall be only too happy to answer his charges". The Committee are of the opinion that this, and other statements made by Shri Karanjia in *paragraph 93*, are neither proper nor in good taste in a statement which he has submitted to the Committee of Privileges for consideration in connection with a question of breach of privilege against him. In certain other paragraphs also Shri Karanjia has made certain statements which are improper and uncalled for, *e.g.*—

- (i) "If the said Mr. Nafisul Hasan could not be permitted to violate the Fundamental Rights of the then acting editor of BLITZ, Mr. Mistry, Mr. Ananthasayanam Ayyangar and your Committee which functions under his directions cannot be said to have any rights infringing on my Fundamental Right."—(Para. 33).
- (ii) "your Committee has misconceived the scope of its jurisdiction."—(Para. 40).
- (iii) "May I add, Sir, that I find that Mr. Khushwaqt Rai, Mr. Nath Pai and Mr. Ashok Mehta appeared to insist that there was breach of privilege. I happen to know the party to which these gentlemen have belonged for some years. It has been my misfortune to have disagreed with them and criticised them. It is noteworthy that as recently as on March 25 last, we editorially asked the Bombay City electorate to 'Vote Congress; Boycott PSP!' in regard to the municipal elections. I do not suggest that the continuous political opposition by BLITZ to this party had

anything to do with their insistence that BLITZ had committed a breach of privilege. They are honourable members of the Lok Sabha and I have regard for their integrity."—(Para. 64).

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