

[Shri N. M. Lingam]

being undertaken everywhere—a sort of a rambling survey is going on. I would urge the Minister to see that each area is subjected to all the surveys so that if no oil is to be found in that area, it could be eliminated from the surveys. This is very important not only from the point of view of tapping oil easily but also from the point of view of economy.

I come to the negotiations with the Assam Oil Company. We have only heard that negotiations are going on with it; we do not know the details. The existing prospecting licence confers several concessions on it. The financial implications of the rupee company are not clear. We also do not know whether the setting up of the future refinery is a subject matter of negotiations with that company nor do we know whether the railway is going to make arrangements for the transport of oil from the future refinery. Information on these vital issues has to be placed before the House so that the House can give its approval to the whole question.

The exploration of oil in the south is also an important question. The Russian geologists have indicated the possibility of oil not only in Orissa but also in the Deccan alluvium. I would request the hon. Minister to give us an indication of the programme for the development of the mineral oils in the south.

It is reported that the Ministry is going to have a new directorate for oil and natural gas. We also hear that foreign technicians, consultants and scientists are going to be brought to man this directorate. The House would like to know the relationship of these foreign experts with the directorate. It is vital that in such a directorate our scientists and our experts have at least equal voice, if not a dominant voice. I hope the Minister will enlighten the House on this very important question.

We have a partnership with the Assam Oil Company, and the Standard Vacuum Oil Company. I am voicing, I think, the sense of this House when I say that this agreement needs modification to ensure greater association of the Government of India in these companies.

I cannot dilate upon more details within the limited time at my disposal. I hope the Minister will be able to tell us the exact position of the Government of India in all these matters.

With regard to copper, we are short of our requirements.

**Mr. Deputy-Speaker:** Would the hon. Member able to conclude within a minute or two?

**Shri N. M. Lingam:** No, Sir; I will require about five minutes more.

**Mr. Deputy-Speaker:** He can continue on the next day. We will now take up the next item on the Order paper—Private Members' Business.

3 P.M.

#### CHILD SANYAS DIKSHA RESTRAINT BILL\*

**Shri Dabhi (Kaira North):** I beg to move for leave to introduce a Bill to provide for the restraint on *Sanyas diksha* of a child.

**Mr. Deputy-Speaker:** The question is:

"That leave be granted to introduce a Bill to provide for the restraint on *Sanyas diksha* of a child."

*The motion was adopted.*

**Shri Dabhi:** Sir, I introduce the Bill.

#### PROCEEDINGS OF LEGISLATURES (PROTECTION OF PUBLICATION) BILL

**Mr. Deputy-Speaker:** The House will now resume further discussion of the motion moved by Shri Feroze Gandhi on the 23rd March, 1956, that the Bill to protect the publication of reports of proceedings of Parliament, State Legislatures and their Committees be taken into consideration.

Out of 4 hours allotted for discussion of the Bill, 1 hour and 58 minutes were taken up on the 23rd March, 1956, and 2 hours and 2 minutes are still available.

\*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated 6-4-56, pp. 183-185.

Shri Raghubar Dayal Misra may continue his speech.

श्री अरार० डी० मिश्र (जिला बुलन्दशहर) : साननीय उपाध्यक्ष महोदय, पिछले दिन में यह प्रश्न कर रहा था कि मैं इस बिल का समर्थन करता हूँ। इस का खास कारण यह है कि हमारे देश में प्रजातंत्र राज्य.....

**Mr. Deputy-Speaker :** Order, order. There are a large number of hon. Members who have expressed their desire to participate on this important Bill. If the hon. Members agree that they want to have a time-limit placed on the speeches then, perhaps, they might be able to accommodate a larger number of Members to participate in the debate. Shall we have 15 minutes for each Member ?

**Pandit Thakur Das Bhargava (Gurgaon) :** 10 minutes.

**Pandit Balkrishna Sharma (Kanpur Distt.—South cum Etawah Distt.—East) :** I am told that there are some important Members who will speak on this Bill,—Shri N. C. Chatterjee is one of them—and we would like to hear them for a longer time.

**Mr. Deputy-Speaker :** Then we fix it at 10 minutes normally and in some cases 15 minutes.

**The Minister of Legal Affairs (Shri Pataskar) :** I think I should be given about 20 minutes.

**Mr. Deputy-Speaker :** Exceptions would be made.

श्री अरार० डी० मिश्र : हमारे देश में प्रजातंत्र राज्य स्थापित होने के बाद यह आवश्यक हो गया है कि इस हाउस (सभा) में या स्टेट के लेजिस्लेचर्स (राज्य विधान मंडलों) में हम जो काम करते हैं, वह काम जनता के सामने जाय। और जनता के सामने सिवा समाचारपत्रों के और कोई साधन नहीं है जिस के जरिये उन के पास यहां को कार्यवाही जाय। आज यह जरूरी हो जाता है कि यहां की कार्यवाही सही सही जनता के सामने पहुंचे ताकि जनता यह समझे कि उन के नुमाइन्दे लेजिस्लेचर्स में क्या कर रहे हैं, किस तरीके से टैक्स लगाते हैं, क्या उन की जिम्मेदारियां हैं, किस चीज के लिये उन्हें क्या खर्च करना है, और और भी जो जरूरी बातें हों उन सभी के बारे में जनता को अच्छे तरीके से जानकारी हो। इस लिये यहां की प्रोसीडिंग्स

(कार्यवाहियों) का छपना अखबारों में निहायत जरूरी है।

लेकिन मैं ने पिछले दिनों देखा कि बहुत से अखबारों में, इस हाउस की बहुत सी कार्यवाही नहीं छापते हैं, कुछ अखबारों में जो कि छापते हैं, कुछ अखबारों में ऐसे हैं जो कि एक हिस्सा छापते हैं, दूसरे नहीं। जो पार्टियों के अखबारों में होते हैं वह यह करते हैं कि अपनी पार्टी के आदमियों की बातों को ले लिया और उन्हें छाप दिया। इस के मुतालिक कोई कानून हमारा बना हुआ नहीं है जिस से हम इस प्रेस को भी कंट्रोल (नियंत्रित) कर सकें और यह देख सकें कि उन लोगों की कहां तक प्रख्यात हैं। अखबारों की इस की पूरी आजादी होनी चाहिये कि यहां जो कुछ भी कार्यवाही हाउस के अन्दर हो उस को सही सही जनता के सामने रख दें, लेकिन अगर कोई अखबार उस कार्यवाही में से किसी बात को छिपाता है या दबाता है, एकतरफा कार्यवाही रखता है, तो उस के खिलाफ भी इस हाउस को अधिकार होना चाहिये। तो यह बिल जो कुछ कर रहा है वह सिर्फ यही है कि अखबारों को यह आजादी होनी चाहिये कि वह सही सही कार्यवाही जनता के सामने रख सकें। हमारे विधान ने इस बात को मान लिया था कि इस हाउस की कार्यवाही छपी जा सकती है, लेकिन इस हाउस की अथॉरिटी (अधिकारण से) से उस की मंजूरी से। तो इस किस्म की मंजूरी का कानून गवर्नमेंट को पहले ही ले प्राना चाहिये था कि इन शर्तों के साथ अखबार वाले यहां की कार्यवाही को छाप सकते हैं और अखबार वालों को पूरी आजादी है कि अगर वह सही सही रिपोर्ट इस हाउस की प्रोसीडिंग्स को छापेंगे तो उन के खिलाफ बाहर का कोई भी आदमी मुकदमा नहीं चला सकेगा। यह जनता के हित में है कि इस हाउस और दूसरे लेजिस्लेचर्स की कार्यवाही जनता के सामने जाय। जब वह ठीक ठीक कार्यवाही छापते हैं तो उन की नेक नियती या बद नियती का कोई सवाल पैदा नहीं होता है क्योंकि प्रजातंत्र राज्य में जनता के नुमाइन्दों को जो कार्यवाही लेजिस्लेचर्स में हो वह जनता के सामने जानी ही चाहिये। उस का छापना निहायत जरूरी होता है और उस में मैलिस (बदबय) का कोई सवाल नहीं। इस लिये जैसी कि मेरे भाई डा. भी साहब ने तरमिम रखी है कि इस में गुड फैंथ (सदिच्छा) रख देना चाहिये, उस में गुड फैंथ की कोई बात नहीं है। अगर अखबारों में सही सही रिपोर्ट छपी जाय तो उस में गुड फैंथ का सवाल पैदा नहीं होता। जैसा कि हमारे संविधान में प्रोवाइड (उपबन्ध) किया गया है,

[श्री आर० डी० मिश्र]

इस तरह का बिल गवर्नमेंट को ही लाना चाहिये था, लेकिन हमारे भाई श्री फीरोज गांधी को एक प्राइवेट मेम्बर की हैसियत से इस को यहां लाना पड़ा। मैं समझता हूँ कि उन्होंने बड़ा अच्छा काम किया है। अगर यह बिल यहां पर पास हो जाता है तो समाचारपत्र जगत में उनका नाम स्वर्णाक्षरों में अंकित रहेगा। जहां पर भी प्रजातंत्र राज्य हैं वहां पर सभी जगह थोड़ी सी शरायत के साथ खबरों को छापने की पूरी आजादी दी हुई है। अमरीका के अन्दर तो वहां के संविधान में ही यह बात हुई है कि अखबारों को पूरी आजादी है। जहां तक इंग्लिस्तान का ताल्लूक है वहां पर सन् १९३८ में जो मुकदमा हुआ था उस के बारे में फीरोज भाई ने बतलाया था कि उस के अनुसार वहां पर पूरी आजादी है कि अगर सही कार्यवाही अखबार वाले छापते हैं तो उन के ऊपर कोई मुकदमा नहीं चल सकता है। लेकिन कानून के मुताबिक अगर कोई आदमी बिना हाउस आफ कामन्स की मंजूरी के वहां की प्रोसीडिंग्स को छापता है तो कंटेस्ट आफ प्रोसीडिंग्स (सभा की मान हानि) हो जाती है, लेकिन वहां के हाउस ने इस चीज को वेब (हटा) कर दिया है और वहां पर सही सही रिपोर्ट छपती है। इसी तरह से दूसरे मुल्कों में भी इस तरह की कार्यवाही छपी जाती है, मगर अभी तक हमारे में मुल्क अखबारों को पूरी आजादी नहीं है। इस लिये अखबार वालों को डर रहता है कि अगर किसी सेम्बर ने कोई ऐसी बात यहां पर कह दी जो किसी के खिलाफ आ कर पड़ती हो और वह डिफैमेशन के क्लाज (मान हानि के खंड) में आ जाती हो तो वह आदमी उस के छापने वाले पर मुकदमा चला सकता है। इस डर की वजह से वह कार्यवाही को नहीं छापते हैं; और जो छापते हैं वह उस के छापने की जिम्मेदारी अपने ऊपर लेते हैं। तो मेरे कहने का मतलब यह है कि जहां तक डिफैमेशन का सवाल है बहुत से मामलात हमारे सामने आते हैं, कान्स्टिट्यूएन्सी (निर्वाचन क्षेत्र) का सवाल आता है, अफसरों की शिकायतों का सवाल आता है, किसी मेम्बर के खिलाफ कोई बात आती है, जनता के आदमियों की शिकायतें आती हैं, अगर उन शिकायतों को इस हाउस के सामने रख दिया गया, मुमकिन है कि उन में पूरी सदाकत (सत्यता) न हों, या वह पूरी तरह से साबित न हो सकें, तो उस के छापने वालों को अपने ऊपर मुकदमा चलने का डर रहता है और इस लिये वह चीज जनता के सामने नहीं पहुंचती है। जो खराब काम करता है और अगर उस के खिलाफ कोई

शिकायत रखी जाय तो मुकदमा नहीं चल सकता है लेकिन जहां तक इस हाउस का ताल्लूक है अगर यहां पर कोई बात पेश की जाय कि गवर्नमेंट का फलां अफसर खराब काम कर रहा है, उस की जांच करने पर अगर पाया जाय कि वह निर्दोष है तब तो कोई बात नहीं, और अगर दोषी है तो उस को सजा दे दी जाय, लेकिन अगर वह अफसर निर्दोष है और उस की शिकायत अखबार में छप जाती है तो वह उस अखबार के खिलाफ डिफैमेशन की कार्यवाही कर सकता है। तो इस डर से तो अखबार वाला छापता नहीं है और जनता से यह शिकायत की जाती है कि हमारी बातों को हाउस के सामने रखा नहीं जाता। इस लिये जरूरी है कि अखबारों को इजाजत दे दी जाय कि वह हमारे हाउस और स्टेट सेंजिस्लेचर्स की कार्यवाहियों को सही सही छापें। जहां तक जनता का सवाल है प्रेस कमीशन (प्रेस आयोग) ने इस की तहकीकात (जांच) की कि कितने आदमी यहां की तकरीरों को पढ़ते हैं तो उन्होंने मालूम किया २,२५८ आदमियों की राय ली गई, कि उन में बहुत बड़ी तादाद ऐसे आदमियों की थी जो कि यहां की स्पीच को पढ़ने में दिलचस्पी रखते हैं। इस से मालूम पड़ता है कि हमारी जनता जो है वह भी इस के लिये सतर्क रहती है कि हमारे नुमाइन्दे हाउस के अन्दर क्या करते हैं। इस लिये जरूरी हो जाता है कि जनता की दिलचस्पी को कायम रखने के लिये, जनता को गवर्नमेंट की कार्यवाही को मालूम होने के लिये जनता को अपने नुमाइन्दों का काम मालूम होने देने के लिये उनके पास अखबारों के जरिये से सही सही कार्यवाही इसकी जाये।

दूसरी बात से यह कहना चाहता हूँ कि मेरे दो तीन भाइयों ने एक तरमीम रखी है कि इस बिल को राय ग्राम्मा (जनमत) जानने के लिये सर्क्युलेट (परिचलित) किया जावे। मेरा कहना यह है कि इस पार्लियामेंट की लाइफ (संसद के जीवन) का करीब करीब एक बहुत बड़ा हिस्सा खत्म हो चुका है और चूंकि इस बिल का पास किया जाना बहुत जरूरी है इस वास्ते इसको सर्क्युलेट न किया जाये। वैसे तो होना यह चाहिये था कि इस बिल को बहुत पहले लाया जाता लेकिन चूंकि यह बेर में लाया गया है इस वास्ते मेरे खयाल में जनता की राय मालूम करने की कोई जरूरत नहीं है। एक भाई ने एक तरमीम यह पेश की है कि इसको सिलेक्ट कमेटी (प्रवर समिति) के पास भेज दिया जाये क्योंकि इसकी जो लैंग्वेज (भाषा) है, उसमें कुछ थोड़ी इम्प्रूवमेंट (सुधार) की जानी

आवश्यक है। इस चीज को मैं मानता हूँ और चाहता हूँ कि इसे सिलेक्ट कमेटी के पास भेज दिया जाये।

इतना कह कर मैं इस बिल को सपोर्ट करता हूँ।

**Mr. Deputy-Speaker :** I have received notice of an amendment, at this stage, that the Bill be referred to the Select Committee. Normally it is very difficult to accept such an amendment at this late stage, but if the mover of the Bill and the Government agree, I will have to waive notice and condone the delay. I must know first whether the Government agree to the amendment.

**Shri Feroze Gandhi** (Pratapgarh Dist.—West *cum* Rae Bareilly Dist.—East) : I agree.

**Shri Pataskar :** Government is prepared to accept a reference to the Select Committee. But the Bill in its very nature is such that I do not know whether it involves a question of accepting the principle or not. But I do not think that question will arise. So, Government do wish that the Bill be referred to the Select Committee. Let the Bill be considered thoroughly and let the Select Committee first decide what to do and in what form, etc.

**Mr. Deputy-Speaker :** It is not for me to lay down any rule or tell the House whether the Government would be accepting the principles of the Bill or not. If Government agree to this amendment, they will have to decide those questions. I am only to be told whether the Government agree to this amendment.

**Shri N. C. Chatterjee** (Hooghly) : I hope the Government will create no difficulty having regard to the importance of the Bill and the repercussions that it will have both on the press and on the working of Parliament.

**Shri Pataskar :** I am agreeable to the Bill being referred to the Select Committee.

**Mr. Deputy-Speaker :** Under the circumstances, notice is waived and the delay condoned. So, I shall call upon Shri Rane to move his amendment.

**Shri Rane** (Bhusava) : I beg to move :

“That the Bill be referred to a Select Committee consisting of Shri Hari Vinayak Pataskar, Dr. Ram Subhag Singh, Shri Tribhuvan Narayan Singh, Shri Ganesh Sadasshiv Altekar, Shri Narahar Vishnu Gadgil, Shri Nemi Chandra Kasliwal, Shri Bhagwat Jha Azad, Shri Abdus Sattar, Shri Balkrishna Sharma, Shri Kamakhya Prasad Tripathi, Dr. Shaukatullah Shah Ansari, Shri A. M. Thomas, Shri Feroze Gandhi, Shri R. Venkataraman, Shrimati Subhadra Joshi, Shri Radhelal Vyas, Shri Paidi Lakshmayya, Shri Tekur Subrahmanyam, Shri Shankar Shantaram More, Shri Jaipal Singh, Shrimati Renu Chakravartty, Shri K. Ananda Nambiar, Shri Amjad Ali, Shri K. S. Raghavachari, Shri Bhawani Singh, Dr. A. Krishna-swami, Shri N. C. Chatterjee, Shri A. E. T. Barrow, Shri Fulsinhji B. Dabhi and the Mover, with instructions to report by the 1st May, 1956.”

I will not take much time of this House to support the present motion which seeks to refer this Bill to a Select Committee. Last time, all the hon. Members who participated in the debate fully supported the principle. I also find from the pamphlet supplied to us by the Secretariat of the Lok Sabha—for which I think the House will be much grateful as it contains useful information—that in almost all countries, United Kingdom, USA including the different States in the USA, Australia, Canada, etc., they have also laid down that there should be a privilege for the press in publishing the proceedings of the legislature. In India also, this question has been considered by different committees and as far back as 1948, the Press Law Enquiry Committee considered this question. Before that committee, the representatives of the press made a representation that the statements made on the floor of the legislatures should be fully protected when they are published in the newspapers. But the committee did not accept the suggestions at that time and the reasons were as under :

“With regard to parliamentary proceedings, it is true that, while there is freedom of speech in legislature, there is no privilege attached to the publication in newspapers of statements made on the floor of

[Shri Rane]

the legislature. . . . . We are unable to recommend that newspapers should be fully protected when they publish parliamentary proceedings, since, in our view, the privilege attached to speeches in the legislature cannot be passed on automatically to newspaper reports of such speeches. In our view, this is a matter for determination by the legislature concerned, and we have no recommendation to make in this behalf, since we understand that the Parliament of Indian Union is likely to appoint shortly a committee to examine this question".

Recently, the Government of India appointed a Press Commission, and the Press Commission, in its report, has observed as follows :

"We recommend, however that Exception 4 to Section 499 of the Indian Penal Code be amended by inserting the words 'or of Parliament or State Legislature' to give effect to the principle *Wason vs. Walter.*"

These are the observations made by the Press Commission. In view of this, I think there is hardly any necessity to substantiate the necessity of this Bill.

On going through the provisions of the Bill and also comparing them with the provisions of the Defamation Act of 1952 of the United Kingdom I find there is some lacuna in the present Bill. For instance, in clause 2 of the Bill, the word "newspaper" has been defined. I find there is a difference between the definition given here and that given in the United Kingdom legislation. I also find that in clause 4 of the Bill the mover seeks extension of privilege to the broadcasting of the speeches, made in the Legislature etc. In this matter also, I find there is difference between this Bill and the United Kingdom legislation.

Besides, the most important clause is clause 3. Clause 3 says : that no person shall be liable to any proceedings in any court in respect of any proceedings of either House of Parliament or of a State Legislature or of either House of a State Legislature where it consists of two Houses or of any Committee, etc., unless the publication is proved to have been made with malice. I have gone through the provisions of the Constitution. I find that entry No.

39 in list II of the Seventh Schedule runs thus :

"Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof. . . ." etc.

At least it appears to me that this House perhaps may not have power to pass a piece of legislation which may curtail the rights of the State legislatures. So, this is a question which will have to be gone into carefully. I think the best course will be to refer the Bill to the Select Committee.

As far as the personnel of the Select Committee is concerned, I need not speak of them. They are all distinguished Members of this House and they will do justice. With these observations, I commend my motion to the acceptance of the House and I also request my hon. friends Shri Feroze Gandhi, the mover of the Bill, and Shri Pataskar, the Minister of Legal Affairs, to accept this motion.

Mr. Deputy-Speaker : Amendment moved :

"That the Bill be referred to a Select Committee consisting of Shri Hari Vinayak Pataskar, Dr. Ram Subhag Singh, Shri Tribhuvan Narayan Singh, Shri Ganesh Sadasshiv Altekar, Shri Narahar Vishnu Gadgil, Shri Nemi Chandra Kasliwal, Shri Bhagwat Jha Azad, Shri Abdus Sattar, Shri Balkrishna Sharma, Shri Kamakhya Prasad Tripathi, Dr. Shaukatullah Shah Ansari, Shri A. M. Thomas, Shri Feroze Gandhi, Shri R. Venkataraman, Shrimati Subhadra Joshi, Shri Radhelal Vyas, Shri Paidi Lakshmayya, Shri Tekur Subrahmanyam, Shri Shanker Shantaram More, Shri Jaipal Singh, Shrimati Renu Chakravarty, Shri K. Ananda Nambiar, Shri Amjad Ali, Shri K. S. Raghavachari, Shri Bhawani Singh, Dr. A. Krishnaswami, Shri N. C. Chatterjee, Shri A. E. T. Barrow, Shri Fulsinhji B. Dabhi, and the Mover, with instructions to report by the 1st May, 1956."

The original motion and this amendment are before the House. I have received the names of eight hon. Members who are very anxious to speak. There may be others also. I find that half of them, four of them, are included in the Select Committee. There have been cases where Members have

been allowed to speak as a special case. Not that half of them should be allowed.

**An Hon. Member:** Shri Gadgil and Shri N. C. Chatterjee are always exceptions.

**Mr. Deputy-Speaker:** Shri N. C. Chatterjee.

**Shri N. C. Chatterjee:** It is very kind of you to permit me to speak although my name has been put down on the Select Committee.

**Mr. Deputy-Speaker:** Not without your consent.

**Shri N. C. Chatterjee:** Yes. It was with my consent. You will find that my hon. friend Shri Gadgil also spoke and also my hon. friend Shri S. S. More.

**Shri Gadgil (Poona Central):** Even now my consent was not ascertained: but I have given.

**Shri N. C. Chatterjee:** When the Maharashtrians have got that privilege, Bengalees also should be given that privilege.

**Shri S. S. More (Sholapur):** There was no talk to Select Committee when we spoke.

**Mr. Deputy-Speaker:** The time limit is there. The hon. Member should keep that in view.

**Shri N. C. Chatterjee:** Coming to the merits of the Bill, the House will remember that four years hence we will be celebrating the 100th anniversary of the enactment of the Indian Penal Code. As you know, it was enacted in October, 1860. It was drafted by Lord Macaulay who was the President of the First Indian Law Commission. This draft Code was submitted to the Governor-General in Council. It further underwent revision at the hands of two great lawyers, Sir Barnes Peacock who was the Chief Justice of the Calcutta High Court, and Sir James Coiville. Shri Feroze Gandhi is right when he points out that there is a serious lacuna in the Indian Penal Code and that lacuna is this. Under section 499 of Indian Penal Code, as you know, which deals with the law of defamation, there are certain exceptions. The fourth exception is not comprehensive enough. The fourth exception says that it is not defamation to publish a substantially true report of the proceedings of

a court of justice or the result of any such proceeding. In the year 1860, when the Indian Penal Code was enacted, they never thought of any Parliament. There was no question of any democratic chamber. There was no adult suffrage. There was no legislature.

**Shri S. S. More:** There was a legislature, but no democratic legislature.

**Shri N. C. Chatterjee:** As a matter of fact, there was something like a parody of a legislature, which was practically a packed legislature consisting of nominees of the bureaucracy. Therefore, there was no question of any parliamentary privilege.

What we are pointing out is this. We want the same law to be enacted by Parliament here, that law which was clearly laid down by a great judge in England in the year 1868, on the 25th of November, in the leading case *Wason Vs. Walter*. Chief Justice Cockburn laid down the law very clearly. That law, I submit, should be enacted by this Parliament. Otherwise, parliamentary democracy would not at all be effective. It is no good having a Parliament with 500 Members elected on adult suffrage. It is not a question of my attacking, or criticising the other Members of Parliament. It is not a question of Members talking to each other. The question is, parliamentary discussion and debate must be communicated to the nation. We are daily on our trial before the entire nation. Therefore, if parliamentary debate has got to be effective, it must be communicated to the people. It is no good saying in the Constitution that our speeches are privileged. That means that if anybody says anything here, he cannot be prosecuted. No action civil or criminal lies in regard to that speech or that debate. That is not enough. You must, at the same time, give the fourth estate the essential immunity in order to make parliamentary democracy really effective. You remember the great speech of Sheridan when he stood up in the British House of Commons. He said, "I defy you"—he addressed the Treasury Benches—"I defy you, you can have a venal legislature, you can have a corrupt Cabinet, and a pliant monarchy, but give me the freedom of the press, if I get that freedom to publish your speeches and focus the attention of the country on what is being done here, then I can vindicate the rights and



[Shri N. C. Chatterjee]

liberties of the people." Therefore, it is no good saying that we have got the right to deliver our speeches. That must be communicated by the press. The press must have the corresponding right. What did Chief Justice Cockburn say? The judgment lays down that a faithful report in a public newspaper of a debate in either House of Parliament containing matters disparaging to the character of an individual which had been spoken in the course of the debate is not actionable at the suit of the person whose character has been called in question. That is the immunity which we want to confer on the press. We do not claim any fundamental right to commit slander or to commit libel. There is a feeling that Shri Feroze Gandhi's Bill is meant for the purpose of getting additional rights to Members of Parliament for the purpose of indulging in vituperative attack. Nothing of the kind. I would be the last person to endorse any such Bill or legislation. What I am pointing out is this. We are responsible people. We have come here in responsible character as representatives of the electorate for the purpose of vindicating public grievances in the discharge of our public duties. It is often our unpleasant duty, not a pleasant duty, to expose the misdeeds of persons who are dealing with public funds or quasi-public funds or who are placed in such important positions that they are in the position of trustees or quasi-trustees. If they commit any default or breach of trust, we as custodians of the public purse, we as representatives of the electorate, have got to focus the search light on those misdeeds and call upon the Government to take action. If they do not do that, we have got to take steps against the Treasury Bench. All that we are saying is, it is no good delivering speeches here exposing the misdeeds of the people in power or authority. We have got, at the same time, to see that the people who discharge their duty honestly and fairly, without malice, without any ill motive, without any oblique motive, should be given the protection of law. Justice Cockburn goes on to say that publication is privileged on the same principle as an accurate report of the proceedings in a court of justice is privileged, namely, that the advantage of publicity to the community at large outweighs any private injury resulting from the publication. That is exactly the principle on

which I am asking this Parliament to accept this legislation or modify or amend it if necessary in view of this very salutary principle laid down. The advantage of publicity is for the national good. National good demands that there should be full publicity and although it may connote some private injury resulting from the publication of the debate, this great Judge points out that that even then it should be made immune from any attack. Judgment has been delivered by the British House of Lords in a recent case reported in 1949 A.C. where they pointed out that the principle is very important. The principle is common convenience and welfare of the society at large. It is for the vindication of that principle that I take it that Shri Feroze Gandhi has introduced this measure. It is only by that yardstick that I want to support this Bill. 'General interest of society' is the language used in McIntosh's case. In leading case *Stuart V Bill*, 1891—2—Q.B. 34, H the great Judge said that the general advantage to the country in having the proceedings made public must not be lost sight of. Therefore, although it may connote reflection, although it may connote a certain amount so-called defamation, how can a man possibly complain if a newspaper man is simply publishing honestly, *bona fide* and without any malice, the debates which take place, because that is to the general advantage of the community as a whole?

In another case *Rex. vs. Wright* 8 TR 293 and *Davison vs. Duncan* I find the Judges put it on this ground: "Balance of public benefit derived from publicity" is the test. I am pointing out that is the test which should be followed.

Now, privilege is accorded to a fair report of the proceedings of courts. I do not understand this. If I stand up as Counsel in the Supreme Court and attack strongly some businessman or some person in authority in the Government, I get perfect immunity, nothing can happen if that speech of mine or submission of mine or argument of mine is published in the daily press in any part of India, but if I deliver the same speech here, then the press does not get the immunity. I submit this is unfair discrimination. This is not right. I submit the Supreme Court is entitled to the highest respect, and Counsel cannot perform his duties unless that immunity is given to him and the im-

munity is given to the press. But I cannot understand what is the difference between the speech or submission made or an address delivered in the Supreme Court of India in the next room and the speech delivered in public interest by a Member of Parliament in this House. As you know, the British House of Commons and the British Parliament have been called "This High Court of Parliament". Here this Parliament also in a sense is a Supreme Court. It is also the highest tribunal for the redress of injuries, for the vindication of the basic rights of human beings. If either the public sector or the private sector does something grossly wrong, and if in discharge of his public duties as a representative of the electorate a Member has got to expose the wrong, it is only fair that not merely he gets the immunity, but the press also gets the requisite immunity.

I had pointed out to Shri Feroze Gandhi,—and I am glad that he has accepted it,—that it should not be made an absolute privilege. He has made it a qualified privilege. I am happy to find that he has put restraint on his anxiety to vindicate the press. Therefore, he has put it in this way. In clause 3 you find this language: "unless the publication is proved to have been made with malice". Therefore, if there is malice, if a publisher is given facts and figures and he does not publish it in spite of demand, then the courts may reasonably infer malice. Malice, as you know, means not merely ill-will, it means oblique motive; though it is said to be published for public good, it is with some other motive. Therefore, the courts have got the power to punish the delinquent if there is ill-will, if there is malice, if there is oblique motive.

I think on the whole this is a Bill which deserves the sympathetic attention of this House. We are not taking power, unrestrained power; we are not assuming any prerogative of indulging in general libellous slander either of the private sector or the public sector and therefore I submit that this should be carefully considered by the Select Committee, and I hope the principle of the Bill will be accepted by this House.

**Shri U. M. Trivedi (Chittor):** I oppose this Bill. I oppose this Bill with all the emphasis at my command.

**Pandit Balkrishna Sharma:** Not vehemence?

**Shri U. M. Trivedi:** Why I oppose it is because I doubt the motives of the Mover.

**Mr. Deputy-Speaker:** Motives?

**Pandit Balkrishna Sharma:** Is it a parliamentary expression?

**Mr. Deputy-Speaker:** Let us hear him more. Perhaps he might clear it.

**Pandit Balkrishna Sharma:** He has doubted the motives of an Hon. Member.

**Mr. Deputy-Speaker:** Perhaps his next sentence might clear it. Otherwise, I will....

**Shri U. M. Trivedi:** With all the respect in which I can hold Shri Feroze Gandhi, I still doubt that he is guided not by *bona fide* considerations. Why I feel it is this.

**Mr. Deputy-Speaker:** The hon. Member persists in this.

**Shri N. C. Chatterjee:** Now, it is really *mala fide*.

**Mr. Deputy-Speaker:** Certainly. I would request the hon. Member not to carry on in this strain. Motives are not to be doubted. He may have different views on a certain point, and there can be differences of opinion even with the best of motives on both sides. If it was said in a lighter mood that is a different thing, but persistently to say it again and again is not fair.

**Shri Gadgil:** Is it parliamentary or not?

**Pandit Balkrishna Sharma:** He will gradually come round, don't mind.

**Mr. Deputy-Speaker:** I also hope so.

**Shri U. M. Trivedi:** I am sorry that I had to use that language, but if it touches my friend....

**Shri Feroze Gandhi:** No, no.

**Shri U. M. Trivedi:**.... I offer my unqualified apologies to him. I have absolutely no mind to injure his feelings, but why I felt like this is this.

**Shri Feroze Gandhi:** What you said should also be published.

**Shri N. C. Chatterjee:** And with impunity.



**Shri U. M. Trivedi :** I thank him for that liberality. I think hon. Members will allow me to proceed.

When we make use of this forum with the knowledge that what we speak here in this House is so much privileged that whatever we say here cannot be made a ground for defamation either of a criminal nature or of a civil suit of a libel type, and then if we succeed in running down a particular individual here, name him, give details about false or frivolous or vexatious details about his doings, we desire that those very things which we said here which are not proved may still be published to ruin that man outside in the country. I say that we must cry a halt to have such a desire at our heart that with that desire we want to get it published.

**श्री एम० एल० त्रिवेदी (जिला हमीरपुर) :**  
क्या मैं माननीय सदस्य से एक प्रश्न पूछ सकता हूँ ?

**Shri U. M. Trivedi :** I want to say this; I feel it. Perhaps with the best of motives, speeches may have been made by particular hon. Members; yet can they say that they do not get funky about it if they are allowed to be published in the press to achieve the same object which they wanted to achieve here inside this House? If that is the object, then I must very respectfully submit that this Bill goes a longer way than we will ordinarily allow.

Ordinarily I would have immediately agreed that a lacuna does exist, but does it exist except by reading the words in the Indian Penal Code, because the exceptions do not cover exactly the privilege which a man can enjoy inside this House? We must remember that the law in England on libel is the same as the law in India so far as the civil law is concerned, and what has been decided in England on the question of civil liability still holds good in India. There is not a single case where any distinction has been made and it has not been said that the law is the same as the law in England is. I find that two of my friends for both of whom I have got very great respect for their knowledge of law, are shaking their heads.

**Shri Gadgil :** Significantly shaking.

**Shri U. M. Trivedi :** With great respect to both of them I say that the law is as I said, that the law is that the

civil liability of libels stands on the same footing in India as it stands in England. So, the question of removing this lacuna does not arise. What arises is this, the criminal liability, the liability which is attached under section 499 of the Indian Penal Code. If anyone wants to do a thing for public good and to help the public good, under the provisions of section 499, if a truthful statement which can be verified is made on the floor of the House, it can without any qualms of conscience be published by anybody in a newspaper. And he is completely protected, so far as our law is concerned. I therefore feel. . . .

**Shri Feroze Gandhi :** He is not protected from any action.

**Shri U. M. Trivedi :** He is protected from criminal action.

**Shri Feroze Gandhi :** No.

**Shri U. M. Trivedi :** You say so, but he is.

**Mr. Deputy-Speaker :** What Shri Feroze Gandhi means is that that may be a good defence, but he is not protected.

**Shri U. M. Trivedi :** What he wants is an absolute privilege. I say that that privilege attaches to him by virtue of the fact that what he said in the public good is a truthful statement, but with this proviso that there is no malice, and in fact that is the sort of proviso which the hon. Member himself has put down in his own Bill in clause 3 in the following words :

“...unless the publication is proved to have been made with malice.”

Now, suppose a Member makes a speech here, and he is also the editor of a paper; then, after making a speech here, suppose he goes and gets it published in his own press. What is there to suggest that it is entirely due to malice, if this law is made? But today, it would be malice, and today he will not be protected even by the provisions of the Indian Penal Code.

But suppose a Member comes here and makes a speech referring to a criminal case in all consciousness and with full conviction that what he has done is in public interest and he is closely connected with a newspaper, wherein the publication is necessary

then what happens? Then I say with a challenge that any man, any good man, who has got the courage of his own convictions and who is the editor of a press can always publish it, and there is nothing to bring any action against him.

Here, look at the example which is there. Shri Feroze Gandhi is not probably well-briefed. I would request him to go and read law of debates in the house; what he speaks today is published and is available for sale, and the price is only three annas or four annas. They are always available for sale, and you can always reprint them as much as you like.

**Shri Feroze Gandhi:** No, you cannot reprint them.

**Shri U. M. Trivedi:** You can go and reprint them.

**Shri Gadgil:** The immunity does not extend there.

**Shri Feroze Gandhi:** Only if it is by an order of the House.

**Mr. Deputy-Speaker:** Should I be a silent spectator when this issue is being settled?

**Shri Gadgil:** Bad barrister.

**Shri U. M. Trivedi:** My difficulty is this, that I know too much or I do not know anything.

**Pandit K. C. Sharma:** (Meerut Distt.—South): Both may be true.

**Shri U. M. Trivedi:** It is just possible that too many cooks spoil the broth. With so many lawyers about me, they think that they understand everything and I do not.

**Mr. Deputy-Speaker:** If the hon. Member keeps to addressing a layman like myself, then it will be all right. Why should he indulge in discourses with the lawyers?

**Shri U. M. Trivedi:** They were disturbing me, and hence I was led away. I am sorry. It was a mistake on my part. I shall now address the Chair.

I submit that this Bill is not going to serve any purpose. If Government had felt that it was essential, if any fact had been found out by virtue of which it was possible that the proceedings of this House were made the subject-matter of

an action, of a criminal action, in any court of law, and if such an action had in any manner succeeded, then there would have been a ground for Government to come round and say....

✓ **Pandit Balkrishna Sharma:** There is the Calcutta High Court case.

**Mr. Deputy-Speaker:** Let us hear the hon. Member. He has got very limited time. Let it not be spent away in this manner.

**Shri U. M. Trivedi:**.....and that case ought to have been brought forward by Government to indicate that the lacuna does exist. In this particular instance, I do not know whether that case has gone to the Supreme Court and a final decision has been obtained on it. For, our Government are always anxious even to validate the illegal Acts. They would have certainly given protection, if it were a legal act which required validity. So, an exception to section 499 could have been brought in by any Bill by Government. The exception could have been introduced into the Indian Penal Code itself. But this Bill in its present form tries to give an absolute immunity of a type.....

**Shri N. C. Chatterjee:** Not absolute; it is only qualified.

**Shri U. M. Trivedi:** Yes, absolute. You call it qualified only because the word 'malice' is there; therefore, it is qualified liability, not privilege.

**Shri M. L. Dwivedi:** When it is in public interest. (*Interruptions.*)

**Shri U. M. Trivedi:** Please do not disturb me.

**Mr. Deputy-Speaker:** The hon. Member may leave that part of the job to me, and perhaps I might do it.

**Shri U. M. Trivedi:** I am sorry. My contention still holds good, and I do maintain that what is formulated here in this Bill is a question of an absolute privilege. With that absolute privilege are added the words:

"...unless the publication is proved to have been made with malice."

Such a question will arise only when the editor himself happens to be a Member and also a publisher. Then only the question of malice would arise. Otherwise, one Member may be set up to

[Shri U. M. Trivedi]

say a hundred and one things against a particular man such as that he is a drunkard, he is a rogue, he is a *bad-mash* and so on, and in this way, all sorts of accusations can be showered on that man on the floor of the House; and then, there may be another gentleman who may have been paid something or the other by a publisher of a paper who goes and publishes all the gibberish that is being uttered here.

**Pandit K. C. Sharma :** On a point of order. May I know whether such a thing can be uttered here? It is contempt of the House.

**Pandit C. N. Malviya (Raisen) :** You cannot permit such things.

**Mr. Deputy-Speaker :** If a Member says that all these things can be uttered on the floor of the House, then is that contempt of the House? It is not a point of order. Whether we can conceive that such a thing would be uttered or not is the point. That would not be a point of order. He conceives that such a thing can be uttered, and the hon. Member feels that it cannot be friend.

**Pandit K. C. Sharma :** He should not conceive.

**Mr. Deputy-Speaker :** So, it is only a difference of opinion.

**Shri U. M. Trivedi :** I shall leave the question of conception to my learned friend.

**Shri S. S. More :** You better deliver now.

**Mr. Deputy-Speaker :** I would request hon. Member to remember that it is a serious matter of very great importance, but we are rather taking it in a lighter mood. We have to consider it very seriously. Besides, there is too much of noise, and perhaps all hon. Members cannot listen to the hon. Member who is speaking.

The hon. Member's time is also up.

**Shri U. M. Trivedi :** I shall conclude with this one word. My submission is that even the exception that is put down here in the following proviso :

"...unless the publication is proved to have been made with malice."

is of no use, and it gives complete and absolute privilege to a person who wants to make use of this forum. Therefore, my submission is that the Bill is unwarranted.

**Shri Tek Chand (Ambala-Simla) :** I have had many occasions to listen with great care to the speeches of my hon. friend who has preceded me. On very many occasions, I have differed from him. Today, I find his speech singularly innocent of all logic. I endeavoured to analyse what he said, and the more I analyse his speech, the more I feel that the Bill has been brought forward not one day too soon.

When I persued the language of the Bill, I thought it was capable of considerable improvement. The Select Committee will no doubt prune it. The Select Committee will no doubt bring about certain changes with a view to reflect in precise language the laudable intention behind it.

The law of defamation today, whether we are thinking of criminal culpability or of civil liability, is imperfect in many respects. There are certain persons who are a privileged class and whose privileges, no doubt, well worth preserving, are not of such a high order which the law need jealously guard. There are other bodies whose privileges ought to be preserved, because it is necessary in the national interest, and the law has omitted to do so. The parallel before you is to be found in question 4 to section 499 of the IPC dealing with the law of defamation. It says :

"It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings."

But, curiously enough, Lord Macaulay omitted to include or omitted to add an exception conferring similar privilege to a house of legislature, whether democratic or nominated or otherwise. Why? There is an innate anomaly that needs rectification, and that is this. In a court of law, it is usually, ordinarily, the conduct of a single individual or a few individuals which is the subject of scrutiny, and it is open to a lawyer in any court to give all the lip-lashing he can to the witnesses, to the parties, whomsoever he may, like but, of course, a responsible lawyer always knows his limitations and he al-

ways conducts himself with commendable self-restraint. There is also the brake imposed by the Judge. But when it come to a similar person or persons or bodies or corporations who may be doing, in accordance with the contention of one side, considerable damage, may be to the nation, may be to the society, may be to the bulk of the people, you can say with advantage what you like in this House and bring it to the notice of every other colleague in this House which is the voice of the people, but the people of the country cannot know what has been said here because the newspapers have not got the identical immunity.

With the best of motives, anyone of us may in the House bring to Government's notice certain foibles, certain errors, even certain culpabilities of a public person, a public body, a government servant or anybody, in order that the Government may be persuaded to take good action in good time. But that very Member cannot communicate what he has done to his own constituency, neither directly nor through the agency of the newspaper, because a tremendous amount of protection is being made available by the existing law to the person liable, though really guilty as to the allegations which happen to be the subject-matter of the libel. The result, therefore, is that our deliberations or utterances, howsoever weighty, howsoever responsible, howsoever necessary for dissemination to the nation, remain abortive because the newspapers next morning dare not publish what is otherwise considered to be of advantage to the larger interest. Therefore, while a lawyer can say what he likes in the course of arguments with respect to a party, with respect to a witness, with respect to the conduct of all abettors of conspirators, this cannot be communicated to the larger forum, to the larger court that is the nation, by its accredited representatives, and the vehicle for communicating what goes on here seems to be petrified because the law of defamation is in the condition in which we find it today.

Therefore, it is absolutely necessary in the larger interest, in the higher interest, that a similar privilege should be accorded to newspapers and others like broadcasting organisations who are reflecting what is substantially true, what is substantially correct, what is said in good faith and published to the nation at large.

In this connection, the principle underlying the grant of privilege was stated to be—I mean, with respect to judicial privilege—that “though the publication of such proceedings may be to the disadvantage of a particular individual concerned, it is of vast importance to the public that the proceedings of courts of justice should be universally known. The general advantage to the country in having these proceedings made public more than counterbalances the inconveniences to the private persons whose conduct may be the subject of such proceedings”. These weighty words become of much greater value when we relate them to the utterances made here and to be brought to the notice of the nation. That privilege will more than counterbalance any inconvenience, any discomfort, to the person who happens to be the victim of those speeches.

Then again, it is a privilege which is not a licence. There are three checks. Whenever a speech is made which attributes impropriety of conduct to an individual, the first check is the Chair, the Speaker himself. The moment I start uttering anything which is improper, which is unparliamentary, which is defamatory, the Chair will check me. The second check is the check of my own conscience. I should see that I shall not abuse this privilege whereby a person who is not here to answer back may suffer. The third check is the check of a responsible newspaperman who will see that he does not publish something that is vituperative, something that is gross, something that is ugly and improper.

**Shri M. L. Dwivedi:** Why not the check of the Members sitting here?

**Shri Tek Chand:** If my hon. colleague desires to elevate himself to the level of the Chair, his check is certainly there; he is the fourth brake.

Therefore, I feel that these checks are there and there is not the remotest chance that we will take leave of our good sense, of our sense of responsibility and simply let ourselves loose into vulgar, and vituperative epithets with respect to persons not here. But this privilege is necessary because the newspapers should not feel that the Sword of Democles is hanging over their heads. I can say what I like here, but

[Shri Tek Chand]

if these very words of mine are reported by someone else, then of course he can get it in the neck and I go scot-free. That state of law is unfortunate and deserves to be rectified.

It will not be improper to just very briefly see the well known landmarks in the growth and development of the parliamentary privilege *vis-a-vis* the law of defamation in England. There, the speech of a Member of Parliament from his seat was privileged and, but he was the exclusive beneficiary of that privilege. The state of law in England was that statements made by members of either House of Parliament in their places in the House, though they might be untrue to their knowledge, could not be made the foundation of civil or criminal proceedings, however injurious they might be to the interest of a third person.

4 P.M.

This limitation was removed in 1840 by the Parliamentary Papers Act of 1840. It extended the privilege to a small extent; that is to say, protection was extended to publication of any papers by the direction of either House or of any copies of such papers. But the privilege which is being claimed was not yet extended in England in 1840. Later on, of course, it was.

The latest statute law in England is the 1952 Act, to which a reference was made by an hon. Member. But, I wish to invite his attention and that of other hon. colleagues of mine here to section 7. Section 7 extends a qualified privilege to newspapers. The publication in a newspaper with respect to any matters mentioned in the schedule attached to the Act is deemed to be a privilege only if the publication is proved to be made without malice. More than the section itself, the schedule is important. And, the schedule provides extended privilege to a fair and accurate report of any proceedings in a newspaper of the legislature of any part of Her Majesty's Dominions outside Great Britain. In 1952, the newspapers in England had the privilege not only *vis-a-vis* what was reported or said in the Parliament of England alone but to anything reported in the Parliaments or Legislatures of the Dominions. Similar privileges have been extended with regard to the proceedings of international organisations, international courts etc. Therefore, the law should be brought in

consonance with logic and the privilege should be extended not only to newspapers but also to pamphlets and broadcasts.

When my hon. friend who preceded me was referring to the privilege mentioned in the Bill he did not notice that there were not one but more than two hurdles before a newspaper could take protection of law, and the hurdles are firstly, the report should be substantially correct. Secondly, it must be made without malice. Thirdly, and it is the third provision which he did not notice,—the publication should be for the public benefit. With these three hurdles before a newspaper to clear, I do not think there will be any occasion—not one in-a-hundred chance—of its abusing the privileges and in case it transgresses the limits, even then, I submit, the same principles *vis-a-vis* the law courts and what are known as judicial privileges apply to larger degree in the case of reproduction of the deliberations of this House outside the House.

**Shrimati Ila Palchoudhry** (Nabardwip) : This Bill has come not a day too soon. I thoroughly support the Bill because it was high time that we had a Bill like this. The Press today holds the key to public opinion and it is the responsibility of the Press to mould and create that opinion in a democracy. After all, the public are the people who will assess the good of anything and will reject that which is good. So, the Press must have full freedom to reproduce that which is said in this House because it is here that many policies are decided and many speeches are made and if we cannot get them across to the people, how can the people get full knowledge of what is being done? Otherwise, you shut out really what you are doing in this House from the people.

Sir, Laski has said that "a people without reliable news is sooner or later, a people without a basis for freedom." So, surely the freedom of the Press must be a primary condition in a free country. In fact, the Press in every country has it. England has it; the U.S.A. has it and India is the only country where we have not got it. If you look at some figures which I have taken the trouble of collecting, you will realise, that after all, in an illiterate country like India what small diffusion of news we have of whatever happens in this august House. The circulation of daily

newspapers in India is estimated at a little over 2 million copies and that gives a distribution roughly of 6 copies for every thousand people. Compare it with other countries. For instance, in England there are 596 to every thousand, in the U.S.A. 354, in the Netherlands it is 81, in the Philippines it is 25 and even in Iraq it is 10. But, in India it is 6. So, you can realise what a small percentage of our people really do get the news. It is this small percentage, the intelligentsia that will read the newspaper and it is this small percentage again that will create the opinion of the democratic public. Even if this very small percentage is denied a comprehensive knowledge of the proceedings of the legislatures, what adequate diffusion of information can there be? The democratic public of India must be given full scope to know and hear what has been said in this House. Actually, the very fact that it can be reproduced in newspapers. I think, will constitute a wholesome restraint on Members who may be willing to or inclined to make high-flown or wild speeches in this House. I think it is a practice amongst lawyers that they are allowed to abuse the opposing lawyer.

**Shri Tek Chand :** It is not the practice.

**Pandit K. C. Sharma :** They have the highest respect for each other.

**Shrimati Ila Palchoudhury :** But, they are encouraged to do that sometimes, as lawyers themselves know! When the case is weak, abuse the opposite lawyer!

But, parliamentary practice and tradition already holds that every responsible Member of this House does not use anything or say anything about which he is not sure and which can harm another person. When this Bill is passed—and I hope it will be passed and also accepted by Government—after it has been duly reformed a little by the Select Committee, I think it will have some effect on the Press also, because when they have this privilege, they will be automatically, more careful.

**Shri Feroze Gandhi :** Their proprietors will be very careful.

**Shrimati Ila Palchoudhury :** The proprietors will be very careful because one does find very peculiar things reported in the Press. I have a little unfortunate experience of my own. When Helen Keller was here, I spoke about

Helen Keller, but imagine my horrified surprise—that I had spoken about 'Helen Killer'! the 'e' having been changed to 'i' and so on. I was glad and thanked my stars that it was not reported as 'Helen the Killer'! It has been said: "You cannot bribe or twist, Thank God, the British journalist". But it has also been said: 'Seeing what the man will do, unbribed, there is no occasion to.'! So, I hope the Press will be more careful once it gets this privilege and the re-write man will not let his imagination run riot. The journalists must be the same every where more or less! I hope that freedom and scope which are the very essence of full growth will contribute to the stature of the Indian Press. In India we yet need that ideal Press which is national and yet has international outlook, a Press that can be right without being righteous, a press that can be colourful and vivid without being cheap and nasty. With full protection achieved, of reporting anything that has been said here. I think that that ideal Press will develop in India which will fully justify the highest expectations that Indians have of this national forum, and the journalists of the future behind that Press would feel, that they "sit down at the heart of men and things" abide therewith liking and respect.

Sir, I warmly support this Bill.

**Shri M. D. Joshi (Ratnagiri South) :** I wish to congratulate the hon. Member, Shri Feroze Gandhi, on bringing this very desirable Bill with regard to the privilege of the fourth estate of the realm. I belong personally to the fourth estate of the realm. So many times I have been proceeded against in the law courts, and on all occasions I have emerged unscathed.

However, the editor runs a great risk in trying to report faithfully the proceedings of a Legislature. I find that at least one hon. Member is unnecessarily afraid that this liberty of the Press, which is tried to be secured by this Bill, will be abused especially by Members here and members of journalism acting in combination. That means that hon. Members in Parliament as well as journalists will have to be in unison or in collusion in wickedness. I do not think that the general character of the Members of Parliament is so low that they will begin to abuse all their powers simply because there is



[Shri M. D. Joshi]

this additional liberty for the Press to be secured still. At the most, I would say that the liberty of the Press, which will be additionally secured by the provisions of this Bill, will cause greater responsibility on Members of Parliament to be guarded in their utterances and greater responsibility on the Chair also which is the guardian of the good character of Parliament. It has been already pointed out by several of my friends that this liberty already exists in several nations—U.K., U.S.A., etc.—and I wish to cite a few examples in which this liberty of the Press is there already in America. I shall cite three cases in which there have been decisions of American Law Courts cited in a book which has been recently published, *Problems of Law in Journalism*.

There was a case *Swearingen vs. Parkersburg Sentinel Company*. The newspaper reported or alleged that twice the amount of money intended for other purposes was transferred into the general fund by the municipal council, of which the plaintiff was a member. The plaintiff was not only a member of the municipal council but was a candidate for mayorship. He went to the court of law and the court decided that the management of the municipal funds was a matter of public anxiety and, therefore, the newspaper was protected and there could be no successful libel against that journal. The judge said :

"Anything connected with the plaintiff's official duties was a proper subject of discussion, which, if made without malice, was not libelous."

It will be found here that the words "without malice" have been inserted in order to give proper protection to an innocent person.

Then there was another case in which even not the most correct report but an ordinarily correct report; which was made more readable by the imagination of the newspaperman, was given protection. The court stated that paraphrasing or restating the substance of official proceedings, and almost universal newspaper practice in the interest of making the stories more readable for laymen, sometimes raises a question of the accuracy of a report from an otherwise privileged record. Therefore, giving a

substantially correct report with an imaginative addition for making the report more readable is also given protection.

Thirdly, there was another case in which the report of the grand jury was made in a newspaper and it was given protection. There the court said :

"A report, by a newspaper, of proceedings had a public meeting of a municipal council, in which proceedings the public has an interest, when the report is a fair and accurate one of the proceedings had, is privileged, even though it contains matter defamatory of another. Reports of such proceedings are privileged in the same manner as are reports of judicial proceedings. It is not necessary in reports of judicial proceedings, and hence of the proceedings of municipal councils, that the report should be *verbatim*; nor is absolute accuracy essential so long as the report is substantially correct."

I need not add to the instances on this. When the law of defamation was laid down in the I.P.C., there was no Legislature. Lord Macaulay and his colleagues had not before their mind's eye the case of the Legislature because there was no Legislature then existing and public opinion was not so insistent and vocal. Now the Legislatures have come into being and the Indian nation is free. We are here in Parliament discussing great matters of moment. It is but natural, and I think it has been rightly said that the Bill has not been brought forward a day soon because we here are discussing matters in the world, matters of moment, and therefore, newspapers ought to be given this very desirable protection. I have done, Sir.

पंडित ठाकुर बास भागवत : उपाध्यक्ष महोदय, यह सवाल जो हाउस (सभा) के सामने है, यह मुश्किलता से खाली नहीं है और इसके मुकल्लिफ पहलुओं पर गौर करने से कई एक तरह के सुझाव दिमाग में घाते हैं कि हमको क्या करना चाहिये। मैं श्री राने का मशकूर हूँ कि उन्होंने यह तजवीज रखी है कि इस बिल (विधेयक) को सेलेक्ट कमेटी (प्रवर समिति) के सिपुर्दे किया जाय क्योंकि बगैर सेलेक्ट कमेटी



को गये इस बिल के ऊपर ठीक तरह से गौर नहीं हो सकता। श्री फीरोज गांधी जो यह बिल यहाँ पर लायें हैं, उनकी खुद यह मंशा नहीं है कि हम लिबर्टी आफ दी प्रेस (समाचार पत्रों की स्वतंत्रता) को इतना बढ़ा दें जितना कि आज के दिन विलायत में है क्योंकि उन्होंने खुद जो अपनी यह तजवीज रखी है उसमें दो सेफ़गार्ड्स (परित्राण) रखे हुए हैं। अब यह कि वह सेफ़गार्ड्स उसी तरह माने जाय, उनको छोटा कर दिया जाय, या बढ़ा कर दिया जाय या उनको मौडिफ़ाइड फ़ीर्म (परिवर्तित रूप) में रखा जाय, इसे सेलेक्ट कमेटी में अभी तय करना है। मेरी भ्रदब से गुज़ारिश है कि मासूली तौर पर देखा जाय तो आप पायेंगे कि फ्रीडम आफ़ स्पीच और एक्सप्रेशन (भाषण तथा विचार प्रकट करने की स्वतंत्रता) हमारे फंडामेंटल राइट्स के चैप्टर (मूल अधिकारों के अध्याय) में दफ़ा १६ में दी हुई और १६ (१) का जो पैरा २ है वह उसको एक तरीके से रिस्ट्रिक्ट (नियंत्रित) करता है। यह फ्रीडम आज हर एक हिन्दुस्तान के बाशिन्दे को हासिल है। लेकिन बतौर मेम्बर पार्लियामेंट (संसद सदस्य) मुझे जो फ्रीडम आफ़ स्पीच हासिल है, वह उससे किसी कदर ज्यादा है और वह एक तरह से कॉन्स्टिट्यूशन की दफ़ा १०५ में डिफ़ाइन (परिभाषित) की हुई है और उसके अन्दर लिखा हुआ है कि वह फ्रीडम आफ़ स्पीच हर एक मेम्बर को हासिल होगी, "Subject to the constitution and the rules

of procedure" पहले फ़िकर में यह लिखा हुआ है। अगले फ़िकर में यह लिखा हुआ है कि जो बात मेम्बर यहाँ पर रखेगा और जो कुछ वोटिंग (मतदान) वगैरह करेगा, उसके बारे में उसके ऊपर कोई सिविल या क्रिमिनल लाएबिलिटी (दीवानी या फ़ौजदारी उत्तर दायित्व) नहीं होगी। जिस के माने यह है कि बावजूद इसके कि हमारे ऊपर रूल्स आफ़ प्रोसीजर (प्रक्रिया नियमों) के रूल (नियम) ३३१ में बंदिशें हैं जिस की बिना पर हम डिफ़ेमेटरी (मानहानि कारक) चीजें हाउस में नहीं कर सकते, और मैं समझता हूँ कि जो रूल बने हुए हैं उन पर हम चलेंगे, लेकिन कुछ सुरतें ऐसी भी होंगी जिन के अन्दर कोई शर्क़्स उन रूल्स पर न चले। मुझे याद है कि जब ब्रिटिश गवर्नमेंट के एजेन्ट्स (अधिकर्ता) यहाँ पर बैठ कर रहे थे जो कि एग्जिक्यूटिव कौंसिलर्स होते थे तो जो हमारी स्वराज्य पार्टी के मेम्बर हुआ करते थे वह उन को गालियाँ दिया करते थे। एक मर्तबा मुझे याद है, पंडित मोती लाल नेहरू ने तकरीर करते हुए

यहाँ फरमाया था कि तुम डाकू हो, तुम चोर हो। इस का उनको जवाब मिला था कि आप जरा बाहर चल कर तकरीर कीजिये, यहाँ तो आप को कुछ भी कहने के प्रिविलिजेज (विशेषाधिकार) हैं। उन को यह चैलेन्ज (चुनौती) मिला था कि यहाँ के और बाहर के रूल्स में बहुत फर्क़ है, आप इस तरह से बाहर कहें तो हम आप को प्रोसीक्यूट (मुकदमा चलायेंगे) करेंगे। यहाँ तुम क्या कहते हो, पब्लिक प्लैटफ़ॉर्म (सार्वजनिक मंच) पर चल कर कहो। मैं भ्रज करना चाहता हूँ कि इस में शक़ नहीं है कि जो रूल्स यहाँ के हैं वह पब्लिक के रूल्स से डिफ़रेंट (भिन्न) हैं। अब लिबर्टी आफ़ प्रेस की बात को लीजिये। सारा विलायत का कानून और सारा हमारा कानून एक चीज़ पर मबनी (निर्मर) है और वह यह है इंडिविजुअल (व्यक्ति) की लिबर्टी (स्वतंत्रता)। वही लिबर्टी प्रेस की है, न उस से ज्यादा है और न कम है अभी थोड़ा अर्सा हुआ यहाँ पर प्रेस आब्जेक्शनबल मैटर बिल (समाचारपत्र आपत्ति-जनक सामग्री विधेयक) पास किया गया था। यहाँ पर एक राइट रायल बेटल (युद्ध) हुई और यहाँ पर सैकड़ों ऐतराजात किये गये। मैं समझता हूँ कि जो ब्रिटिश गवर्नमेंट है उस के अन्दर प्रेस का आज भी वह हुक़ूक़ हासिल नहीं है जो कि वहाँ के एक मामूली बाशिन्दे को हासिल है। अब भी वहाँ प्रेस को पूरी लिबर्टी हासिल नहीं है। मेरी राय में गोक प्रेस कमीशन (आयोग) ने उस को इस तरह से नहीं देखा है, लेकिन ताहम आज हम प्रेस की लिबर्टी को मामूली आदमी की लिबर्टी से बढ़ाने जा रहे हैं। आज हम अपनी लिबर्टी भी जो कि हमें दफ़ा १०५ के मुताबिक मिली है उससे किसी कदर ज्यादा कर रहे हैं। आज हम यहाँ पर जो स्पीच चाहें कर सकते हैं, लेकिन पाटस्कर साहब हमें चैलेन्ज करते हैं कि जरा बाहर आ कर स्पीच करो ताकि हम डिस्कस कर सकें कि तुम ने क्या कहा और क्या नहीं कहा। लेकिन अगर एक स्पीच यहाँ दे और आप की इजाजत से उस को हमारे अख़बार जल्दी से छाप दें तो उन पर मुकदमा नहीं चल सकता है। इस तरह से अख़बारों के अख़्तियार ज्यादा ही बढ़ें। जो चैलेन्ज यहाँ पर था उस को ही आपने ख़त्म कर दिया, अख़बार वाले को इम्मुनिटी (उन्मुक्ति) दे दी। इस तरह से मेम्बरों के भी राइट ज्यादा हुए और लिबर्टी आफ़ दी प्रेस भी बढ़ती है।

प्रेस इन्क्वायरी कमेटी (समाचार पत्र जांच समिति) की रिपोर्ट जो हमारे सामने आई तो

[पंडित ठाकुर दास भार्गव]

उन्होंने जो अपना प्वाइंट ऑफ व्यू (दृष्टिकोण) रखा उसमें उन्होंने इसकी सिफारिश नहीं की कि इस तरह की लिबर्टी दी जाय, मगर जो हमारा कॉन्स्टिट्यूशन है उस के अन्दर यहां की कार्यवाही छापने के वास्ते यह दिया हुआ है कि या तो खुद हाउस उस को छापे या हाउस की अथॉरिटी (अधिकार) से छपे। उसके अन्दर हमारी कार्यवाही प्रोटेक्टेड (संरक्षित) है। इस सिलसिले में जो नुक्ते ब्याल हमारे दिल में आते हैं उन में से एक यह है, और जो स्पीच मेरे दोस्त श्री त्रिवेदी जी ने की उस के अन्दर इसी बात की झलक थी, वह समझते हैं कि यह राइट किसी कदर मेम्बरान को है, लेकिन दूसरी तरफ जनाब खयाल फरमायें। श्री फीरोज गांधी ने बतलाया है कि सारी दुनिया भर में प्रेस को राइट है कि जो प्रोसीडिंग्स (कार्यवाहियां) लेजिस्लेचर्स (विधान सभाओं) की होती हैं उन को छापें। विलायत में ही यह राइट (अधिकार) नहीं है, दूसरे मुल्कों में भी है, हम क्यों यह समझें कि हमेशा एक आदमी अपनी लिबर्टी का नाजायज फायदा उठा कर कोई बात छापेगा। मैं नहीं समझता हूँ कि हमारे यहां या स्टेट लेजिस्लेचर्स में भी ऐसा ऐटमास्फिअर (वातावरण) बनेगा जिस में कोई मेम्बर ऐसा करेगा कि फुजूल की बातों को कहे। जो सेफगार्ड (परिचाण) श्री टेकचन्द जी ने बताये, उन के रहते हुए मैं यकीन नहीं करता कि कोई भी इस तरह पर नाजायज फायदा उठाना चाहेगा। यहां पर मिसाल दे कर उन्होंने बतलाया कि अगर कोई प्राइवेट मेम्बर नाजायज फायदा उठा कर ऐसा करे, मुझे जो डर है वह दूसरा है, और वह यह कि कहीं ऐसा न हो कि कोई मेम्बर यहां आ कर किसी हायैस्ट अफिशल (उच्चतम पदाधिकारी) के खिलाफ, मिनिस्टर्स के खिलाफ या जो पब्लिक अगनाइजेशन (सार्वजनिक संगठन) हैं उन के खिलाफ तकरीरें करे। मैं यह नहीं चाहता कि उन का क्रिटिसिज्म (आलोचना) न हो, जायज क्रिटिसिज्म जरूर हो, लेकिन ऐसा क्रिटिसिज्म न हो जिस का वह जवाब न दे सकें। ऐसा करना उन सब आदमियों के खिलाफ यहां पर दिये गये राइट्स का, ऐम्बुज (दुरुपयोग) हो सकता है। लेकिन यह सब चिजें आउट ऑफ दी कामन (अप्रामाण्य) हैं। रोजमर्रा की चीजें नहीं हैं। आज लेजिस्लेचर्स की जितनी चीजें होती हैं वह मुल्क के अन्दर जाती ही नहीं हैं। मैं तो ऐंशस (उत्सुक) हूँ कि हमारे यहां की प्रोसीडिंग्स जो हैं वह इस तरह से छपें जैसे कि और चीजें छापी जाती हैं और वह हर खास

व घाप तक पहुँचें। मैं इस बात से इन्कार नहीं कर सकता, और न इस बात से अपनी आंखें बन्द कर सकता हूँ कि हमारे देश में लेजिस्लेचर्स की कार्यवाही पूरी तरह से पब्लिक के सामने नहीं जाती। एक एक दो दो लाइनें लिख दी जाती हैं बाकी छोड़ दी जाती हैं। मैं अर्ज करना चाहता हूँ कि आज जो सेक्शन ४६६ है उस के ६ वें हिस्से में है कि 'पब्लिक गुड (सार्वजनिक हित) के वास्ते' कोई ऐसी चीज छाप दी जाय जो कि डिसेप्टिव (विष्वसाल्यक) हो, खराब हो लेकिन गुड फेथ (सदिच्छापूर्ण) में हो तो कोई आदमी उसको सजा नहीं दे सकता। हमारा ला ऑफ डिफमेशन (मानहानि कानून) बन चुका है। वह भी आप को देखना चाहिये। लाई मेकाले हमारे देश में आये, लाई मेकाले साहब ने सब से बड़ी गिफ्ट (उपहार) जो हिन्दुस्तान को दी वह इंडियन पेनल कोड (भारतीय दंड संहिता) थी जो कि निहायत विजडम (बुद्धिमत्ता) की चीज है। आज भी इस बिल में कि श्री फीरोज गांधी ने पेश किया है उसमें उन्होंने दो सेफगार्ड्स रखे हैं। मैं इन दोनों सेफगार्ड्स से ऐंग्री (सहमत) करता हूँ सारे सेफगार्ड्स के साथ। उन्होंने खुद इसको महसूस किया कि कहीं कोई इस को ऐम्बुज न करे, रस वास्ते पहली चीज उन्होंने लिखी कि अगर कोई शल्स मैलिस (द्वेष) की वजह से या जैसा कि मैं ने कहा महज इविल डिस्पोजीशन (बुरे विचार) की वजह से, या इम्प्रापर मोटिव्स (अनुचित मनोवृत्ति) की वजह से, जिस के माने उर्दू में होते हैं खराब नियत से या अनलाफुल मोटिव्स (गैर-कानूनी मनोवृत्ति) की वजह से करे तो वह मलिस है। उन्होंने यह लिखा कि अगर यह साबित हुआ कि किसी शल्स ने मैलिस की वजह से लिखा है तो उस सूत्र में इस प्रोटेक्शन (संरक्षण) को वह नहीं पायेगा। मैं बड़न ऑफ प्रूफ (प्रमाण भार) को थोड़ा सा बदलना चाहता हूँ। मैं चाहता हूँ कि जो गुड फेथ में छापे, और उसकी तारिफ इंडियन पेनल कोड में दी हुई है कि 'इन गुड' फेथ क्या है। उस में लिखा है :

"believed to have been done with good care and attention."

मगर 'इन गुड' फेथ की शकल वह बना दी जाय कि दफा १०६ में है। इस से हमारा मतलब पूरा हो जाता है। गोकि उस से आदमी पर बोझ कम पड़ता है और छापने वाले को साबित करना है कि उस ने गुड फेथ में छापे।

अब जनाब मूलाहजा फरमायें, फर्ज कीजिये कि मैलिस साबित हो जाती है और पब्लिक गुड भी साबित हो जाता है, पब्लिक गुड में एक चीज

छपती है, लोकन मोटिव अच्छा नहीं है तो उसे सजा मिलेगी या नहीं? मैं भ्रज करना चाहता हूँ कि इस चीज को सेलेक्ट कमेटी को सोचना पड़ेगा। जो भाइ.डया इन्कारपोरेट (सन्निहित भावना) इस में है वह इस तरीके से पूरा हो जाता है। गुड फेय और पब्लिक गुड ऐसी चीजें हैं जो कि कंसिस्टेंट (संगत) हैं अगर उनको साथ रक्खा जायगा तो कोई दिक्कत नहीं होगी। जो हमारा प्रेजेन्ट ला (वर्तमान विधि) है वह हमें मालम है और हम उसको मिसयूज (दुरुपयोग) नहीं कर रहे हैं। यह ठीक है कि हमारे प्रेस की लिबर्टी जो है वह हमारे मेम्बरो की लिबर्टी से ज्यादा है, अगर वह बढ़ती है, तो कोई नुकसान की बात नहीं है। मैं सेलेक्ट कमेटी की सिदमत में भ्रज करूंगा वह इन बातों पर विचार करे कि हम किस तरह से प्रेस की लिबर्टी को बढ़ा सकते हैं। क्योंकि मैं जानता हूँ कि जब तक प्रेस को प्राप यह लिबर्टी नहीं देंगे उस वक्त तक इस हाउस की जो कार्यवाहियां हैं वह सारी पब्लिक के वास्ते क्लोज्ड बुक (बन्द पुस्तक) रहेंगी और पब्लिक को उनसे कोई फायदा पहुंचाने वाला नहीं है। पब्लिक तक यहां की चीजों का पहुंचाने के लिये कुछ भी व्यवस्था की जाये वे थोड़ी हैं।

**Mr. Deputy-Speaker :** Shri Velayudhan. There are only seven minutes left.

**Shri Feroze Gandhi :** The Minister will require about 25 minutes. It is already 4-30.

**Mr. Deputy-Speaker :** He told me that he would require only twenty minutes.

**Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes) Sir,** I congratulate Shri Feroze Gandhi for bringing this legislation before this Parliament. He has taken a lot of effort and put a lot of pressure and also—I will say—a little influence, to mould this Bill so that it may be accepted by the Treasury Benches. I was feeling about this—the way in which this was introduced in the House. It is an achievement of the non-official benches belonging to the Congress Party in power to bring in a legislation like this.

It is my humble opinion that it is not a healthy parliamentary practice for a private Member belonging to the party in power to bring such a piece of legislation which ultimately is accepted by the Treasury Benches. I think a Bill like this should have been brought by the Government itself and passed here.

That would have been a better practice. Otherwise, this kind of privileges belong to the Opposition and not to the Members of the party in power. Of course, these are only points relating to the technicalities of the Bill.

**Pandit Thakur Das Bhargava :** Sir, with your permission, I want to suggest to the hon. Member that he is taking away the powers of the Congress Party to introduce Bills, which the law has given and the rules have provided for. I would request him to reconsider before he wants to put such a sort of restriction on the Members of the Congress Party.

**Shri Velayudhan :** There is nothing to reconsider; I am not on the Treasury Benches.

**Shri S. S. More :** But, we wish him to be there.

**Shri Velayudhan :** With regard to the Bill, I was practically ignorant about the lacuna that was existing in the privileges of the Members of Parliament, the journalists and the news world. It is very essential that we, who have come here as Members of Parliament duly elected by the people, should ventilate certain grievances here before the Parliament on behalf of the people. At the same time, if it is not made known to the public outside, I think it is a curb on our privileges which will automatically amount to a curb on the privileges of the people as well. Therefore this Bill is very essential to the development of democracy in our country. I had no occasion to know that such a lacuna was there, because anybody making a speech here can make it as a platform or an organ of propaganda. My impression was that when we speak something here, anybody, even we ourselves, can publish it. Now that this Bill has come, I think it is quite essential that we should pass it. It is very important as far as development of democracy in the country is concerned.

We have got restrictions imposed on our freedom by various legislations. Take for instance the Indian Penal Code. Also, several oppressive legislations were passed in this Parliament to curb the powers of the people and even the powers of the Members of Parliament. Therefore, it is a welcome thing that a Member belonging to that Party itself brings a legislation like this. Therefore, I support this Bill. In the beginning I only mentioned about the

[Shri Velaudhan]

undeserving aspect of this Bill being brought by a private Member and not by the Treasury Benches. The Bill is a small one and I do not think the Select Committee will take a long time to bring it before the House after it has considered it. If it takes a long time even for this Bill, it is very unfortunate.

Sir, I once again submit that I fully agree with this Bill. I give my full support bringing such a legislation before the House and once again I congratulate Shri Feroze Gandhi for having brought it before the House.

**Shri Pataskar :** Mr. Deputy-Speaker, from the debate it appears that a very large number of Members support the idea underlying a legislation of this type. I believe it is, to some extent, very natural.

So far as the question of law is concerned, I think it had been sufficiently discussed, but to recapitulate I would only put the position like this. So far as the speeches of hon. Members in this House are concerned, there is absolute immunity to them from any proceedings, whether civil or criminal, being taken against them for whatever they say in Parliament or what the members of the different legislatures or in the different legislative assemblies say. So far as the publication also is concerned, our Constitution makes provision that with respect to the publications which may be made by Parliament itself, even if they contain something, I think that publication will not attract any liability whether civil or criminal.

The main question, therefore, is : what about the Press, whose duty it is to report from time to time the proceedings of this House or the different legislatures in India? So far as the English Common Law is concerned, as was pointed out very rightly, there was a decision in 1868 which made it clear that :

"A faithful report in a published newspaper of a debate in either House of Parliament containing matter disparaging to the character of an individual which had been spoken in the course of the debate is not actionable at the suit of the person whose character has been called in question. But the publication is privileged on the same principle as an accurate report of proceedings in a court of

justice is privileged, viz., that the advantage of publicity to the community at large outweighs any private injury resulting from the publication."

So, the state of law in England is that, ever since that ruling, so far as publication of proceedings in Parliament are concerned they are privileged like proceedings in the judicial courts. Not only that. Subsequently they passed an Act by which this protection was extended to proceedings of local bodies like municipal boroughs and others.

So far as India is concerned, with respect to the civil law which comes under the general law of Torts, we know that the law of Torts was never codified. The hon. Mover on that day referred to some provisions made in one of the draft proposals with respect to codifying the law of Torts. Naturally it was a very very long time back. As we know, the Law of Torts contains several other subjects; for various reasons, it was not codified. Therefore, so far as India is concerned the civil law has not been codified. With respect to the criminal liabilities, as was pointed out, under sections 499 and 500—499 defines what is defamation—we find that there are certain exceptions. Naturally Exception 4 is an important provision, as also Exception 9. Exception 4 says :

"It is not defamation to publish a substantially true report of the proceedings of a court of justice, or of the result of any such proceedings."

Then the Explanation says :

"A justice of the Peace or other officer holding an enquiry in open court preliminary to a trial in a court of justice is a court within the meaning of the above section."

As was pointed out at the time when the Indian Penal Code,—which I agree with Pandit Thakur Das Bhargava is one of the best statutes and has got a very effective purpose,—incorporated this Exception 4 with regard to the proceedings in courts,—the matter would not have assumed such an importance—probably there was no question of such exemption being made in the case of Parliament and legislatures. In those days there was some sort of a legislature consisting of some few nominated

members, mostly of the Executive Council. In those days there was hardly any Parliament or legislative body in India. It was for this reason, probably, that such a provision had not been made in the Indian Penal Code.

Now, having briefly stated the position of law as it stands at the present moment, the main question is: when we passed the Constitution, the Constitution, no doubt, has made provision in article 105 with respect to the rights of Members and the privileges and immunities which they enjoy saying that they shall be on the same basis as the immunities and privileges enjoyed by Members of Parliament in the United Kingdom; but whether that should be extended also to the press, in a qualified or in an unqualified manner, was a matter on which there was difference of opinion so far as the Constituent Assembly itself was concerned. Therefore, that point was not stressed beyond the stage of providing for immunity for the Members themselves. Probably it was thought that by this Constitution we were going to introduce so many important changes and that we were going to give very wide franchise. It was probably thought that it was safer to wait till we come to a definite decision as to whether it should or should not be extended beyond confining it to the Members of Parliament alone. That is the state of things at present.

So far as this question is concerned, there is again another important point. This is a concurrent subject. When we have to legislate on a matter which is within the competence of both this House as well as the State legislatures, it is desirable and it is necessary that we ascertain also the views of the State legislatures concerned. Last time, when this Bill was introduced by the hon. the mover, I tried to gather the views of the different States regarding the present measure. But I have been able to get the views of only seven States. They are as follows: the Saurashtra Government says that it agrees to the Bill so far as it relates to the criminal liability. But it does not accept the principle regarding civil liability. That is the opinion of that Government. That means they are prepared to go to the extent to which probably the Press Commission itself suggested in its report. But beyond that they are not prepared to go.

Then, the Government of Kutch says that concessions proposed in the Bill may be misused and that safeguards in addition to those contained in clause 3 of the draft Bill appear desirable. So, their opinion seems to be that they apprehend that these provisions are liable to be misused and that, therefore, there should be some additional safeguards provided.

The Madras Government has offered no comments. It has nothing to say in the matter.

Then, Tripura is in agreement with the object of the Bill.

**Shri Feroze Gandhi:** Tripura?

**Shri Pataskar:** Yes; that is also a State Government. It is in favour of the Bill. Then, Assam does not support it. Bhopal has no comments to offer.

**Shri S. S. More:** What about Bombay?

**Shri Pataskar:** I am yet to receive their views as also some other Governments.

**Shri Gadgil:** There is no one Government there!

**Shri Pataskar:** So, that is how the matter stands with respect to the legislatures of States. I would, in the circumstances, suggest—looking at the very brief history of this question—to the hon. Members and to the Select Committee to which this Bill might go, that so far as the States and their legislatures are concerned, it would be much safer to make this Bill applicable only to the proceedings of Parliament, and leave it to the States legislatures themselves for their own application. Let the State legislatures subsequently decide whether they want to adopt this law or adopt in a modified form or whether they do not want to adopt it. I hope that would be a perfectly democratic and constitutional method of approaching this question in view of the difference of opinion that has been clearly made out in the reports of the State Governments so far received.

Then, another point amuses me a little. I found that some people seemed to labour under the impression that a Member of Parliament can say anything in this House, as if it is all uncontrolled speech. That is the impression. I cannot quote anybody. But, I believe that it is not correct. Because I find in our Rules of Procedure, there is rule-

[Shri Pataskar]

332 which specifically lays down what an hon. Member while speaking ought not to do. Of course, it may be a fact that many hon. Members either are not aware of it or forget it while they speak. That is a different matter.

**Shri Gadgil :** That is a reflection on the Chair.

**Shri Pataskar :** But, so far as the provision in our Rules of Procedure is concerned, it clearly lays down that a Member while speaking shall not utter treasonable, seditious or defamatory words. So, in the first place, any hon. Member of this House, so long as these rules stand—they have not been changed—is not allowed to say any defamatory words. So, much harm is not likely to be caused if this Bill is passed. There is this check. The first safeguard is the Rules of Procedure. Under the Rules, nobody shall say anything defamatory. I think good taste also demands the same thing. I am sure my colleagues in the House are all anxious to observe the Rules. There is not much cause for hesitation.

**Pandit Thakur Das Bhargava :** What about 'treasonable and seditious'?

**Shri Pataskar :** They are also there. What is seditious also changes according to the times. What was seditious in pre-Independence days was something different. Now the circumstances are different. I do not want to go into the details of that question. The point that I am now on is that even now there is restriction on what we call reckless of speech of some hon. Members. The people are naturally afraid, not in this House, but as I gather from the opinions received, elsewhere. Then, the Speaker is there, you are there to control and see that the rules are observed. Not only that. You have also the power to expunge anything which has been said in contravention of the Rules of Procedure which are prescribed in this House. Supposing somebody says something, there is rule 393 which provides that it can be expunged.

I find by going through the several objections that are raised, there is this fear. A man may say something here which is entirely defamatory or seditious or whatever we may call it. It may take some time before the attention of the hon. Speaker or the Deputy-Speaker or Chairman is drawn and before they are expunged.

**An Hon. Member. :** He is presumed to be very vigilant.

**Shri Pataskar :** It may be that before they are so expunged, they may find their way into the press. That is one of the fears, which I am not putting forward in an imaginary way. I would like to point that out so that it may be considered when the Bill goes to the Select Committee to which I have agreed. That is one of the things of which some people are afraid. Of course, I am sure, as I said, the hon. Speaker and the Deputy-Speaker who are the custodians of the honour and prestige of this House, will naturally see that these rules are properly observed. There is always the machinery of Parliament which can look into all these things. I think these fears are not entirely justified. So, there is no reason for much hesitation about what we are doing so far as this Bill is concerned, if, as I said, in the first place we confine it only to the Houses of Parliament and in the next place, we submit the phraseology of clauses 3 and 4 for scrutiny by hon. Members of this House. During the course of the debate I found some of the hon. Members thought that probably it was the anxiety of the Treasury Benches or the Members on this side that this freedom should not be extended to the press. I can assure them that it is far from reality.

**Shri S. S. More :** Good sign.

**Shri Pataskar :** Not only good sign, but if I were only to refer to this debate itself, I would say that the Treasury Benches have all along shown a greater regard to bearing and putting up with things which the Opposition very rightly have got the right to say. As Pandit Thakur Das Bhargava was saying...

**Pandit Thakur Das Bhargava :** They also in turn have heard the abuses that now our Ministers are hearing. They were more tolerant because they to an extent deserved the abuses.

**Shri Pataskar :** Whoever crosses from that side to this side has to have a thick skin. He cannot afford, there is no question whether it is now or before. I will give only one instance. When the hon. Member moved his Bill on the 23rd there was a reference to lawyers. I was only reminded of this casually, I do not make a point of it.



"Where lawyers are not very popular...."

Probably the hon. Member was saying he is not a lawyer himself, but I must state here that though he is not a lawyer, he has taken great pains to study the law so far as this particular aspect is concerned, and really I think that none of the lawyer members who have spoken after him have been able to add to what he has already said. That is a very good compliment though he modestly said he was not a lawyer.

Naturally somebody might have thought that bad lawyers are popular. That has nothing to do now. Somebody might have thought that bad lawyers have become Ministers. I think it is not only the present practice. Even in the past....

**Shri S. S. More :** Is that not a traditional policy?

**Shri Pataskar :** This comes not from the present Minister, but from an ex-Minister. So, it is applicable to all, whether present or *ex*. It is not applicable only now. It is a very good truth. But even *ex*-Ministers when they move from these benches and go there, forget this would apply to them. That is what I wanted to point out. So, it is the habit and we have to put up with it. We have all played that game. That matter is different, it does not come into the picture at all.

The only question is what should be done in the matter. Who is defamed, what is the aim, is all different. That is why I believe on the whole it is a very good piece of work that is being tried to be done by the Hon. Mover. He has brought forward this legislation. I think it will be referred to the Select Committee.

Then the question was raised whether it means acceptance of any principles. Well, so far as I am concerned, I am of the opinion that there is no question of any principle involved. Everybody is agreed. As we look into the speeches, the question is : what should be done so that there should be no bar on proper and efficient publication which might correctly give right information to the public in general to which they are entitled, because they are entitled to know as to what we are doing here. Naturally, people outside do not look at it from the point of view whether

we are defaming or not. They think we are Members of Parliament doing work of national importance. Therefore that question we need not at all take into consideration. And I believe that so far as the principle is concerned, nobody wants that there should be any hurdles placed in the matter of the proceedings of this House being properly reported without any malice in the best interests of the society and the nation. It is from that point of view that I agree to the amendment which has been moved by the hon. Member Shri Rane that the Bill be referred to the Select Committee. I hope the suggestions which I have made will be taken into account, and the Bill will emerge in a form which will remove all fears, suspicions and apprehensions in the minds of a few Members, if they still have them.

**Mr. Deputy-Speaker :** I do not think the Mover wants any more time now to reply to the debate.

**Shri S. S. More :** No.

**Shri Feroze Gandhi :** No.

**Shri Keshavalengar :** May I know what has happened to amendment No. 2 which I had tabled? I had put it only for the identical reasons that were anticipated by the Law Minister. We are making provision here for the State legislatures also. So, I thought if it is sent for circulation, the local legislatures, the State Governments and the local bodies and everybody else concerned would be consulted. That was the object with which I had moved this amendment.

**Shri Feroze Gandhi :** They are already being consulted.

**Mr. Deputy-Speaker :** If the hon. Member wants me to put it to the House, I shall put it. But Government are not prepared to accept it. Now that they are prepared to accept the other amendment, it is implied that the other amendments will not be accepted by them. Would the hon. Member like me to put it to vote?

**Shri Keshavalengar :** The Mover has not been prepared to accept the amendment suggested by the Law Minister.

**Shri Feroze Gandhi :** Yes, I accept the amendment for reference to the Select Committee. I have already told you, Sir.



**Mr. Deputy-Speaker :** So, the Mover, Government and others also are agreed that the Bill should be referred to the Select Committee. Now may I know the reaction of the hon. Member ?

**Shri Keshavalengar :** In view of the observations made, I do not press it.

**Mr. Deputy-Speaker :** The question is:

"That the Bill be referred to a Select Committee consisting of Shri Hari Vinayak Pataaskar, Dr. Ram Subhag Singh, Shri Tribhuan Narayan Singh, Shri Ganesh Sadashiv Altekar, Shri Narhar Vishnu Gadgil, Shri Nemi Chandra Kasliwal, Shri Bhagwat Jha Azad, Shri Abdus Sattar, Shri Balkrishna Sharma, Shri Kamakhya Prasad Tripathi, Dr. Shaukatullah Shah Ansari, Shri A. M. Thomas, Shri Feroze Gandhi, Shri R. Venkataraman, Shrimati Subhadra Joshi, Shri Radhelal Vyas, Shri Paidi Lakshmayya, Shri Tekur Subrahmanyam, Shri Shankar Shantaram More, Shri Jaipal Singh, Shrimati Renu Chakravartty, Shri K. Ananda Nambiar, Shri Amjad Ali, Shri K. S. Raghavachari, Shri Bhawani Singh, Dr. A. Krishnaswami, Shri N. C. Chatterjee, Shri A. E. T. Barrow, Shri Fulsinhji B. Dabhi, and the Mover with instructions to report by the 1st May 1956."

*The motion was adopted.*

**Mr. Deputy-Speaker :** So, the Bill is referred to the Select Committee.

## INDIAN PENAL CODE (AMENDMENT) BILL

(Amendment of section 429)

वंडित ठाकुर दास भागवत (गुड़गाव) : जनाब डिप्टी स्पीकर साहब, में तजवीज करता हूँ कि इंडियन पैनल कोड (अमेन्डमेंट) बिल, अमेन्डमेंट ग्राफ सेक्शन 429, को यह हाउस कंसिडर (विचार) करे :

"That the Bill further to amend the Indian Penal Code, 1860, be taken into consideration."

यह इतना छोटा सा बिल है और इतना सेल्फ एक्सप्लेनेटरी अमेन्डमेंट (स्वयं व्याख्यात्मक संशोधन) है और वह इतना साफ है कि उसके मुताबिक बहुत ज्यादा बजूहात देने की जरूरत नहीं

है। तो भी चूँकि दफा ४२१ ऐसी दफा है जो कि ग्राम तौर पर काम में नहीं आती है इस वजह से बहुत से लोगों को गालिबन् यह पता नहीं होगा कि यह बिल है क्या और किस गरज से यह लाया गया है।

जनाबवाला, इंडियन पैनल कोड में ४५२ दफा जो मिस्चिफ (कुचेष्टा) के बारे में है वह इस तरीके पर है :

"Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits 'mischief'."

इसके साथ दो एक्सप्लेनेशंस (व्याख्याएं) हैं जिनकी कि तरफ में जनाब की तबज्जह दिलाना चाहता हूँ और वह यह है :

"It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not".

इससे जो भयला हिस्सा है वह इससे भी ज्यादा साफ है और वह इस तरह पर है :

"Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly."

5 P.M.

इसका साफ मतलब यह हो गया कि कोई भी शख्स ख्वाह इस फेल को करने वाला उस जायदाद का मालिक हो या न हो, मिसचिफ करने वाला माना जा सकता है, चुनांचे इसके नीचे ज्वाइंट प्रोनरशिप (संयुक्त स्वामित्व) की रेस्ट्रिक्शन (प्रतिबन्ध) भी दी हुई है। मिसचिफ का जुर्म साबित करने के बास्ते तीन चीजें जरूरी है। सब से पहले इंटेंशन (इरादा) का होना जरूरी है, उसकी इंटेंशन यह हुई : to cause wrongful loss or damage to the public or to any person. जो यहां पर सफ़