

[Mr. Speaker]

Member here. I expected that the would not wind up by saying "Otherwise, scenes will be created in this House". He might have stopped short of that. It is always open to him to create any scene in this House.

Shri Nath Pai (Rajapur): He said he wants to avoid any scene.

Mr. Speaker: But to say, "Otherwise, I would create scenes in this House" . . .

Acharya Kripalani: I again want to correct you. I said, the proceedings of this House will be interrupted as they are interrupted elsewhere. What I say, I say very deliberately and with calculation. Every word of it is weighed. I do not make any allegations against the Chair. But I am entitled to put forward my point of view and I do not want my point of view to be misrepresented, whether it be by any Member or even by the Chair. You will excuse me if I say that, even if we get angry, if we get excited, if we are in a passionate mood, it must be the work of the presiding authority to remain cool and have a judicial attitude of mind and not get excited himself. I have done.

12.18 hrs.

RE QUESTION OF PRIVILEGE

Shri M. R. Masani (Ranchi—East): Mr. Speaker, I have your consent to raise the question of breach of privilege of this House and some of the Members of this House. The subject, which was referred to in the notice, which I have submitted, deals with the telegram sent by the Chief Minister of Kerala to our Home Minister. In the course of that telegram, the Chief Minister is reported to have attributed the motive of 'slander' to certain Members, unnamed, of this House.

'Slander' is a very serious charge to make against hon. Members engaged in the pursuit of their duties

to the country. If Members can be attacked like this and their bona fide questioned, freedom of speech in this House is in danger. 'Slander' involves two things: It involves a lie or mendacity and in addition, according to the law and the dictionary, it also involves malice. In other words, the charge is that certain Members of this House are *mala fide* misusing their position here to slander against party.

The basis on which this privilege motion is raised is this, and it is reflected in *May's Parliamentary Practice*. People may say, "Individual Members may be attacked; what has the House to do with it?" *May's Parliamentary Practice* points out that "Reflections upon Members, even if the particular individual is not named or otherwise indicated, are equivalent to reflections on the House." *May* goes on to explain that if individual Members cannot function without being brow-beaten and maligned in this manner, they are inhibited from functioning freely. Freedom of speech is affected and the whole proceedings of the House are thereby adversely affected. That is why Parliamentary practice dictates that the House should be the sole judge of the legitimacy of its proceedings or the behaviour of individual Members of the House and nobody outside, not even courts of law, leave aside the Chief Minister of a subordinate Government, has a right to sit in judgment over the motives or honesty of the Members of the House.

I do not know who the Members in his mind were. But we know that two Members—Shri Asoka Mehta and Dr. K. B. Menon—very respected Members of this House, whose integrity is accepted all round,—are the victims of this 'slander' on the part of the Chief Minister of Kerala. I request your permission to raise this matter, so that the House may be able to take a decision, either to summon Mr. Namboodripad to the bar of this House to account for his conduct, or

to refer this matter to the Committee of Privileges where this matter can be investigated and a report presented to this House. Sir, I crave your leave under the rules of this House.

Shri H. N. Mukerjee (Calcutta—Central): I happen to be a Member of the Committee of Privileges and we yield to none in our regard for the privileges that the Members of this House enjoy. That is why we should take good care that we do not take a step which is not very considered. I could not quite gather what my hon. friend, Mr. Masani, said about the actual content of his privilege motion. I heard him say that the Chief Minister of Kerala had slandered, according to a report, the conduct of certain Members of this House.

Mr. Speaker: What are the very words?

Shri M. E. Masani: The words are "Trying to slander the State Government in the name of explanation."

Mr. Speaker: Who said so?

Shri M. E. Masani: This is part of the telegram that the Chief Minister is reported to have sent to the Home Minister. I do not know whether it is the same telegram that the Home Minister showed to you yesterday or another telegram. But the Press Trust of India message from Trivandrum quotes official sources as the source of this quotation. Probably the Home Minister can throw light whether or not it is an accurate quotation from the telegram.

Shri H. N. Mukerjee: I am not going into the merits, but I am just referring to the technicality of it. My submission is, if any communication has actually passed between the Chief Minister of Kerala and the Government here, that is, I take it, in the course of their routine communication from time to time. We do not have anything like a proper report, as far

as we can take cognizance of it in this House, of that kind of communication. It appears that there is a Press report where there are some indications. As far as we are concerned here, we should not utilise the forum of this House to make observations in regard to the conduct of the Chief Minister of a State of the Indian Union, without having gone, in the Privileges Committee or elsewhere in your Chamber, into the authenticity of the telegram, the authenticity of the report and so many other things. I do not think it is right and proper for any Member of this House to make observations which will be reported in papers in regard to the alleged conduct of the Chief Minister of a State.

That being so, I feel that before you take a decision in this matter in regard to the reference of this subject to the Committee of Privileges, it is very necessary that the motion is formulated properly, so that no unmerited reflection is made upon a dignitary of the administration in any part of the country who is performing, I presume, his own duty according to his own light. Therefore, the communication between the Chief Minister of Kerala and the Government of India here is not before us at all. It is only a Press report. If in regard to the Press report, you decide that certain steps are warranted, then it is a different matter; on that we may have to make our submissions later on. But I feel that the way in which Mr. Masani has formulated his proposal is something which goes against the grain of parliamentary functioning. That is why we should take whatever steps are in conformity with the propriety of parliamentary life.

Dr. K. B. Menon (Badagara): The telegram sent by the Chief Minister of Kerala in connection with my motion says "Attempts made by some Members of Parliament to slander the State in offering explanation."

Mr. Speaker: Has he got a copy of the telegram?

Dr. K. B. Menon: Immediately I read that letter, I telephoned to the Private Secretary to the Home Minister and requested for a copy of the telegram. The Private Secretary was not here and the P.A. to the Home Minister answered the telephone. He took my telephone number and told me that he would search for the paper and send me a copy of the telegram, because I wanted to be quite correct in my procedure and submit a copy of the telegram to you when I move the motion. After half an hour, the P.A. telephoned back to me saying that he could not find the paper and that he, therefore, would not send a copy of the telegram to me.

Mr. Speaker: The sum and substance of it is that he has not got a copy. (*Interruptions*).

Dr. K. B. Menon: The Communist Party Members only want themselves to be heard; they do not want others to be heard. That springs from the very basic philosophy of their party.

Mr. Speaker: Has he got the telegram? (*Interruptions*).

Dr. K. B. Menon: Let me continue. Therefore, I requested the P.A. to send me a copy of the telegram after he returned in the evening. I have not received a copy of the telegram so far. That is the reason why I could not submit to you a copy, a full text, an authenticated copy of the telegram. I hope the Home Minister will help us in this matter.

Mr. Speaker: In the absence of the telegram, is it the contention of the hon. Member that with respect to this matter we must act on what has appeared in the newspaper?

Dr. K. B. Menon: I have not made my submission yet. The reference to "some members" is obviously to my colleague Shri Asoka Mehta and to myself—I mean, in the text of the

telegram. Shri Asoka Mehta's name is there. And it comes after Shri Asoka Mehta has moved an adjournment motion in the matter of Kerala. According to the Oxford Dictionary "slander" means false accusations maliciously made. I am quite sure that making any false accusation, especially against a State in the Union, is far from my mind. When I made accusations you asked me to support my motion with statements and I have tried to do so. I have done it only for serving the people of the State and not for slandering the State. When the Chief Minister of my State accuses me of slandering my own State, I feel humiliated and belittled before the world. I feel it is a gag on me as a member of the House and I, therefore, appeal to you, who is the custodian of the rights of this House, in my name and in the name of the members of this House that you protect our freedom of speech and our right to be free from being slandered by anybody, including the Chief Minister. Justice is blind. Therefore, you should take action, whether it is done by the Chief Minister or anybody else.

Shri Narayanankatty Menon (Mukandapuram): On a point of order.

Dr. K. B. Menon: I request you in the name of justice and in the name of the privileges of the House—I am not asking you to give a ruling immediately, but to refer this matter to the Committee of Privileges so that they could scrutinise it and give a decision. May I request the Home Minister to read the telegram, if he could?

Sardar Hukam Singh (Bhatinda): I have also to do something with this Committee of Privileges. Therefore, I feel also interested in this matter.

Mr. Speaker: The hon. Member is the Chairman of the Committee.

Sardar Hukam Singh: This House must and would guard its rights and privileges and would not permit them to be violated, from whatever quarters they might be threatened. When Shri

Masani tabled the motion, it was brought to my notice in my chamber and you, Sir, wanted that it may be examined, I have looked into it. The word "alander" certainly means false accusations and reflections and may also include a case where the accusation is made *mada fide*. But we have to see what record we have before us as the basis for any indictment that may be made by this House. So far, the contents of the telegram are not before us. What we have got is only the newspaper report and our friend Shri Masani has said that this is the official version. Normally, any communication made by any representative of the State Government to the Home Minister is not disclosed, and that is not the subject-matter of any discussion here.

Shri Surendranath Dwivedy
(Kendrapara): That is not the case with the Kerala Government.

Shri Nath Pal (Rajapur): The news has leaked out.

Mr. Speaker: Hon. Members need not commit the same error of which they are accusing the other side. Let us hear the Deputy-Speaker.

Sardar Hukam Singh: Now it is pointed out that the P.T.I. report says that it is the official version. It is either a disclosure made by the Chief Minister himself or it is a leakage. Now, if it is a case of deliberate disclosure by the Chief Minister, it may be very improper. He ought not to have done it. But the point is whether this House can take any action by assuming or taking it for granted that this is exactly what he has said in his telegram to the Home Minister. Even if it were correct, his action may be indictable in some other forum or some other place. So far as we are concerned, even if he disclosed it himself, he might have committed a mistake or it might be an act of impropriety, but that would be for a different authority or official to take

action on it. Perhaps we may not be able to do anything on that, and we ought not to take that into consideration. If it is a leakage, then too I am afraid that no action can be founded on the leakage of an official document that has passed between the Chief Minister and the Home Minister.

Now I will come to the actual words that are before us. In the first instance, I am afraid, after going through the motion I feel that only the press report should not form the basis for an indictment by this august House. Unless we can get the original documents—I have not got access to it . . .

An Hon. Member: You can call for it.

Sardar Hukam Singh: But the fact remains that we have not got it. Without the document, it would not be safe to take any action upon the report that has appeared in the press. That is the first thing that I wanted to bring to your notice.

The second thing is that just now, within the last half an hour, I have gone through the parliamentary debates of the House of Commons and I have found a case reported there.

In 1907, a certain member of the House had been charged with "deliberate fraud and indictment",—these are the words—against the electorate, and a notice was given that severe action be taken against the man who had made that speech, because a breach of privilege had been committed. The Speaker in that case held that in political controversies in the heat of the moment the words used are very strained, considerably strained, but from those strained words we cannot really find out whether really there was *mala fide*, whether the intention was bad, whether it was really to humiliate or bring into disgrace any member or the Parliament as a whole. The Speaker held that

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these words were discourteous, yet no breach of privilege had been committed. That was the finding that he gave, and no action was taken in that case.

Now, two things are necessary. Firstly, it should be *mala fide* and secondly, bad intention should also be there. So far we have got only the word 'slander'. The Chief Minister is reported to have said that some hon. Members here slandered the State Government. But there is one thing that the Committee will have to consider, if it is entrusted to them, viz., even if the dictionary says that the word 'slander' means a false accusation with *mala fide* or bad intention, whether really the Chief Minister had that intention or not. Simply the use of the words 'the State Government has been slandered', so far as the precedents show, would not amount to a breach of privilege.

Shri Mahanty (Dhenkanal): May I point out, Sir, that the hon. Deputy-Speaker is the Chairman of the Privileges Committee and listening to him I am inclined to think that he is prejudging the issue?

Shri Nath Pal: All points, whether they are relevant or not, may be raised in the Privileges Committee.

Mr. Speaker: There are three points he has made. Firstly, there must be an authoritative statement. In a matter of libel or slander, whatever be the accusation made, it depends upon the exact language that is used. If, instead of 'slander', I use some other word, i.e., it is absolutely incorrect, unsupported by any evidence and so on, there would not be any accusation and there would not be any charge. What exactly is the word that was used, other than what appears in the newspapers, is one point which we have to consider.

Shri Hiren Mukerjee is a member of the Privileges Committee and he wanted to place before the House his

view. Therefore, naturally when the hon. Deputy-Speaker, who is the Chairman of the Privileges Committee, got up, I allowed him an opportunity, so that at this stage I may try to get some information about the Rules. Hon. Members will see that if I give my consent, I will bring it up before the House so that the House itself might dispose of the matter or refer it to the Committee for its recommendation as to what ought to be done. These are the two courses. But before bringing it up here, under the Rules there is a provision to enable me to come to a conclusion about its admissibility. *Prima facie* it may not be admissible. But if I have any doubt, I may refer it to the Privileges Committee to give me their advice so that I can act upon their advice and then give my consent or not.

At this stage it is not as if I have given my consent. I wanted to hear Shri Masani. Yesterday, I told him that he may have an interview or a discussion with the hon. Deputy-Speaker because I wanted to have an opinion under the rules, preliminary to giving my consent. Inasmuch as Shri Masani wanted to have it here, I wanted to have some more information as to what is the authenticity of the document on which we are basing it. The hon. Deputy-Speaker is doing nothing more than saying whether, here in the House or there in the Committee, it is right to act upon a document or a message that is reported in the Press without having the original document.

As far as I have been able to understand, he has been reading from an authority to show that in the heat of the discussion some expressions are used. We are one on that matter. The hon. Member referred to the House of Commons practice and so on, and the Deputy-Speaker is saying something on that point. Let me hear him.

Shri Mahanty: May I say one word? With all humility I beg to submit that

you cannot give your consent on this air. Let us see the document. The hon. Home Minister is here. The hon. Deputy-Speaker is building up his case on certain documents which are not before us. Therefore, in order to get a proper appreciation of the subject matter, the hon. Home Minister may kindly be requested to lay that document on the Table at least now.

Sardar Hukam Singh: The hon. Member agrees that there is no document. Certainly, when I read it, I had the same sensitiveness and I had the same objection as Shri Masani has. I take strong objection to the word as it is used. But unless the context is there, how can we found any action on it? A word taken out from the context may mean quite a different thing. This is the objection that I am taking.

Dr. K. B. Menon: May I submit that no contradiction nor correction have been issued by the Kerala Chief Minister even after two days since the thing has been published?

Shri M. L. Dwivedi (Hamirpur): Besides, the word 'slander' has been used either by the Chief Minister of Kerala or by the papers which have published it. The word 'slander' has been used against some hon. Members of this House and therefore we are seized of it. Whether it has been used by the Chief Minister or by the news agency, we cannot say that the word 'slander' has not been used. It has been used by some authority, some person or some source and therefore we are seized of the matter.

Shri Naushir Bharucha (East Khandesh) rose—

Shri H. N. Mukerjee: On a point of order, Sir. (*Interruption*).

Mr. Speaker: This is only a preliminary matter. We are not going into the merits.

Sardar Hukam Singh: Exactly; that was what I was submitting. I am also

not talking of merits. We might come to a different conclusion when we look into the merits. But, whether on this we can go into the merits, whether the material supplied to us is sufficient, whether any indictment can be made on the material that we have got—that is the point for consideration. That is what I am making out.

Lastly, there is another thing also and it has been brought to my notice just now. That is that on our own initiation, it has been decided that when a breach of privilege has been committed by an hon. Member of one House against some other House that matter would be referred to that House for action. Several legislatures are passing resolutions according to that procedure.

An Hon. Member: Which other House?

Sardar Hukam Singh: Therefore that also might be considered by you when you decide whether any action is necessary in this particular case.

Shri Frank Anthony (Nominated—Anglo-Indians): I want to make a suggestion on the preliminary point. My hon. friend here, I feel, is building something which must arise at a subsequent stage, i.e., at the stage after the matter has been considered by the Privileges Committee. The simple issue, as I see it, is whether on a report by an official press agency—a report which is palpably a gross violation of the privilege of an hon. Member—anyone can say, "Oh! we have not got the official document which forms the basis of that report." My respectful submission is that here is a Press report which is palpably a gross violation of the privilege of an hon. Member of this House. I submit that that is sufficient for you to give your consent to remit the matter to the House. Otherwise what will happen is that some person *mala fide*—he may be in an official position—may release or get some of his friends to release something through a Press agency. It

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is grossly in violation of my privilege as a Member. Then all that you will do is to remit the factum of this report to the Privileges Committee. The Privileges Committee will arraign the authors or co-authors of the report, will arraign the Press reporter and also the Chief Minister if they think that he gave this item of news. That is the simple issue at this stage.

Shri Naushir Bharucha: Sir, may I be permitted to say something?

Mr. Speaker: I have heard so many hon. Members. Hon. the Home Minister.

The Minister of Home Affairs (Pandit G. B. Pant): Sir, I received a telegram from the Chief Minister of Kerala, I think, on the 21st morning or thereabout. In that telegram he had referred to two matters. One of them was Shri Asoka Mehta's adjournment motion. I had requested him to send me his own reactions to what has been said here and let me have his views as directed by you on the incidents that had been quoted. That is one matter to which he referred in his telegram.

The other matter was Dr. K. B. Menon's motion. There he referred to the report that, I think, had appeared in the meantime in the papers that he was presumably to make a statement. He asked me to request the Speaker not to accede to that request at this stage and to let the State Government have the opportunity of stating what they had to say in this connection, so that the whole position may be before the House. I showed that telegram to the Speaker. I did not send it to anybody else. I have myself not published that telegram. So far as I am concerned, I did not like to do more than what I had been asked to do. I received the telegram. I was requested to bring it to the notice of the Speaker, and I placed it before the Speaker. That is what I did in connection with that telegram.

I have received another telegram from the Chief Minister today about the telegram that he had sent me previously. I have brought that telegram too to the notice of the Speaker, as desired by him. He has stated therein that there was never any intention of casting aspersions on anybody and so on.

Now, I am not in a position to say anything myself more than that. The telegram was really meant for you and I placed it before you. As regards the telegram I have received today, I have sent a copy of that too to you. So I will proceed in the manner that you may direct.

Acharya Kripalani (Sitamarhi): When the second telegram has come saying that the Chief Minister had no intention of casting any aspersions upon anybody, he presumably admits the first. As Shri Frank Anthony pointed out, whether it is the Chief Minister or the reporter or the newspaper, it is a fit matter to be placed before the Committee of Privileges, and it is for that Committee to get all relevant facts bearing upon the issue. We here are not them.

As regards what the learned Deputy-Speaker said giving the example of the House of Commons that in the heat of the moment words are used and those words have not the ordinary dictionary significance, may I humbly point out that that refers to words used in the heat of a discussion? It has no reference to words that are put on paper deliberately. The written word is quite different from the spoken word. We here in this House in our excitement use many words which may constitute slander, but they are not actually slander. I can understand that. But we are bound to make a difference between spoken word and written word.

Shrimati Sucheta Kripalani (New Delhi): May I make a submission?

You are the custodian of the honour of this House. From the statement of the hon. Home Minister, it appears that the telegram is with you. We would request you to take the House into confidence and let us have the contents of the telegram.

Shri M. R. Masani: May I just say a word before you give your decision? I think after the clarification given by the Home Minister, the position seems to be simpler. My own respectful submission to you would be to remit both the telegrams to the Committee of Privileges so that they can judge whether, in the first instance, contempt of the House was committed, and whether, in the second, the contempt has been purged by the appropriate party. I think it is for the Committee to consider and report to us whether justice has been done and whether the contempt stands or is purged.

Shri Mohammed Imam (Chitaldrug): We want to see the contents of the telegram.

Shri Mahanty: We would like to have the contents of both the telegrams. Those telegrams have been submitted to you.

Acharya Kripalani: If the whole question goes to the Committee of Privileges, it is all right.

Dr. K. B. Menon: If they have repented . . .

Mr. Speaker: Order, order. I have heard him already. Hon. Members will kindly bear with me.

When this motion of privilege came, I wanted to thrash out the facts, as is normally done. As soon as it appeared in the papers and Shri M. R. Masani brought it to my notice yesterday, I wanted to have it verified and find out the actual position instead of spending the time of the House here. Every hon. Member knows that if it is possible to get at the original,

it must be got, to find out what the exact words used are. The reason why I referred it to the hon. Deputy-Speaker was to have it investigated under rule 227. Rule 227 says:

“Notwithstanding anything contained in these rules”—

These rules relate to my bringing it up before the House, if I give my consent, for the House to decide whether it should be referred to the Committee of Privileges or should be disposed of by the House itself—

“the Speaker may refer any question of privilege to the Committee of Privileges for examination, investigation of report.”

So I have under rule 227 authority to refer the matter preliminarily to the Privileges Committee to thrash out the facts and get all the documents, if necessary, as in this case. The Committee can call for the documents and look into them. That is a preliminary examination before it is brought before the House. But Shri M. R. Masani appeared to be a little impatient. Of course, I do not object to it. If certain words are used, any hon. Member may become impatient.

But we could have asked them to get all the information. They could have got the information and examined it. This could have been easily done. I am asked to do now what they could have easily done.

I would like to know one thing from the hon. Minister. He did not give me a copy of the first telegram yesterday. He showed that portion which related to this. I was not concerned with all that had occurred earlier. I was particular to see that portion. Possibly he intended to show me the whole thing. But I confined myself only to that portion.

There is no meaning in going into this matter in this way now. I acted upon that telegram. It is proper

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and in the interests of natural justice that any person, against whom any action is contemplated, however big or small the action may be, should, irrespective of personalities, be given a hearing. Then we may come to any conclusion. Therefore, I thought it necessary and proper that the matter should first be investigated to ascertain facts, though I could understand the anxiety of Dr. K. B. Menon that notice was given long ago and I ought to have heard the party concerned and taken action immediately. So I allowed opportunity to the other side to place its facts. The House also was considerate and allowed it.

Now, I do not know what the hon. Minister is able to say concerning these documents. How could he ask me to place them before the House? If he is prepared to place them before the House, I have not the least objection. I will look into it. But let nothing wrong be done. As this House is anxious that no wrong should be done to it, let no wrong be done to any other limb of the same federal structure of which all of us are parts. I would like the hon. Minister or any other hon. Member to satisfy me about the action to be taken on the documents. I believe the hon. Home Minister who received that document advisedly did not send the document to me because I find under the rules here relating to questions and other matters arising between a State and the Centre, there is a certain amount of confidence. Rule 41(2)(xx) relating to conditions of admissibility of questions, says:

"it shall not ask for information regarding Cabinet discussions, or advice given to the President in relation to any matter in respect of which there is a constitutional, statutory or conventional obligation not to disclose information."

Again Rule 42 says:

"In matters which are or have been the subject of correspondence

between the Government of India and the Government of a State, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of fact."

Now the House wants to have a copy of the documents. I would like to know if the hon. Minister of Home Affairs is willing to place them on the Table.

Shri Raghunath Singh (Varanasi): It is not a question of the States and the Centre.

Mr. Speaker: The hon. Home Minister is both a lawyer and the Home Minister. Let him answer.

Pandit G. B. Pant: As I said, I placed the telegram that I received from the Kerala Chief Minister before you.

Mr. Speaker: Which telegram? Today's?

Pandit G. B. Pant: No. Today's telegram, I sent you a copy. Yesterday's, or the first one, I showed you the telegram myself, because I felt that there was some economy of time in placing it before you instead of sending you a copy. And I have so far not given any publicity to it except showing it to you, because I did not like to do so and to be a party myself for publishing the contents of this telegram.

I have received another telegram today from Shri Namboodripad, and so far as today's telegram goes I have sent you a copy.

Mr. Speaker: I have got a copy; I will read it.

Pandit G. B. Pant: You have got a copy. In fact, the request to me in both these telegrams—in the first one was that I should approach you, as I said before, with a request that the Kerala Government must be allowed

to have its say before these things were stated on the floor of this House; and today he has sent me this telegram and he says that his telegram to me was confidential, that it was meant only for the Speaker, that I had to bring it only to the notice of the Speaker.

An Hon. Member: After it had been published!

Pandit G. B. Pant: And he said . . .

Mr. Speaker: That "I never intended to publish this telegram". The hon. the Home Minister gave me the latter telegram wherein it is stated—I shall read out this telegram—"Refer my telegram dated 20th and the motion in Parliament for breach of privilege as reported in Press. I never intended to publish this telegram (which is the subject-matter). On the contrary, meant for your consumption only."

We will assume that I write a letter to some friend and keep it on my table. And some other man steals it and publishes it. Am I responsible? (*Interruption*). Hon. Members need not be in a hurry.

Shri M. L. Dwivedi: There must be some contradiction.

Mr. Speaker: I am only trying to clear up a legal issue whether a suit for defamation or anything would lie. He may keep it in his table. He may have many things in his mind. Are we charging him for breach of privilege or contempt? Then he puts it in paper and sends it with all confidence. Therefore, between them, the hon. the Home Minister is not responsible for having given it to the Press; that gentleman says, "I have written to you privately; some other man might have given it to the Press." Are we to take advantage of it? I mean there is a point which has to be considered. I am only trying to ask the hon. the Home Minister if he can place it. But the hon. the Home Minister evidently feels from this telegram that it was intended to be confidential and therefore he is not willing to place it.

Shri Ranga (Tenali): It is not proper to embarrass the Home Minister in this matter.

Shri Bimal Ghose (Barrackpore): Already the Home Minister has stated that the Chief Minister of Kerala did not want to cast any reflection upon anybody. That is a clear statement and we are, therefore, seized of the matter.

Mr. Speaker: There are two things. One is, in the absence of any telegram, how far we can proceed upon the newspaper report. The other is, the previous telegram not having been placed, the latter telegram has been placed wherein he has stated that it is intended to be purely a confidential communication between himself and the Centre.

Shri Surendranath Dwivedy: After maligning us publicly.

Mr. Speaker: Hon. Members will kindly hear me. Therefore, the question is whether that can form the subject-matter without the original being placed here—where it is a confidential communication, according to him.

Therefore, the only point is whether the Home Minister feels it is a confidential communication. Otherwise, let him place it here; I have no objection.

Shri Frank Anthony: On this legal issue may I make a submission? I do not know whether you will follow the analogy of the courts; whether, merely because somebody, an official, claims that a document is privileged, you will allow him to claim privilege. I submit with the utmost of respect that you will not come down to the level of a magistrate. I am talking from recollection: even in the courts, if a privilege is claimed for a document, it does not oust the discretion of the magistrate. Here you are the Speaker of the supreme Legislature. Merely because—I say with respect—the Chief Minister of Kerala or the Home Minister of the Centre claims

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privilege, will you, merely because they claim it as an *ipse dixit*, accord privilege to the document?

My next submission is, we are not asking, we do not ask for the whole document to be disclosed. We only ask for the offending passage. How can they claim privilege for an offending passage which does not purport to disclose any matter of public importance? We only ask for that offending passage.

Finally, the position is this. If some Member of this House *bona fide* criticises—and it is within his right to criticise—the State Government, and the State Chief Minister chooses to write to the Prime Minister that this man is a blackguard and he has taken a bribe and that is why he is saying so, etc., and that matter is reported, what is the right of a Member of this House? Haven't I an absolute right if the matter is reported in the Press that I am a blackguard, that I have taken a bribe, etc., and can't you not only arraign the Press Reporter but the person from whom he got the statement?

Shri Jaipal Singh (Ranchi West—Reserved—Sch. Tribes): I just wanted to point out one thing. The fact is that the particular item is before the House. We cannot say that that portion is not before the House. I am not prepared to believe that the Home Minister of the Central Government went to see you in your private capacity. He showed it to you as Speaker of this House.

Now, the whole question is, when some communication is there, you are seized of it. The thing is there. We cannot say it is not there. The whole telegram may not be there, but what you are concerned with, what the Home Minister is worried about, has been shown to you.

Mr. Speaker: I did not see the word "slander" there. Hon. Members ought not to come to a conclusion from my

statement that the word is not there. I do not know. All that I can say is that we were pressed for time. It was enough for me to look into that portion where he wanted to say that he wanted an opportunity. Nothing more. It was open to the hon. the Home Minister, instead of having shown it to me there, he could have easily sent it also. There is no difference.

Therefore, the only point that arises is, whether in the absence of the original document where it is said that the Chief Minister of Kerala stated that it is confidentially written to the Home Minister here, when somebody reports it to the Press, we can act upon it. Now, that is one point.

Shri Surendranath Dwivedy: He could have supplied it to you now. Only for consideration of time yesterday he could not give you.

Mr. Speaker: He is here in flesh and blood. I have heard all sides.

Shri C. K. Nair (Outer Delhi): The Home Minister said it was confidential to him and he was acting only as a post-office to carry the message to you. Now that it is in your hands it is the property of the House. It is high time for you to place it before the House.

Dr. K. B. Menon: One word more. Even before the Home Minister received the telegram saying that this is confidential, I had asked for a copy of the telegram—for which I had a right, because I was slandered. Therefore, when I asked for that copy, it was not a confidential document, and it could not become a confidential document subsequently.

Mr. Speaker: The conduct of the Home Minister is not in question here.

Shri M. R. Masani: Before you take a final decision, may I say a word?

Two things have come out of the discussion here. One is that the second telegram was inspired by the notice in the newspapers about what transpired in the House—and I am glad that a salutary effect had already been produced. The other fact is that the first telegram was not marked confidential: in fact, it was specifically asked that it should be shown to you, so that you may be seized of the Kerala Government's point of view. The second telegram, two days later after debate in the House starts, making the first one confidential retrospectively—does not make it a privileged document. The Home Minister has very frankly said that he is in your hands and he has offered to carry out your decision. I request that you ask the Home Minister to produce a copy of the first telegram also and suggest that both the telegrams may be referred to the Committee of Privileges under the Chairmanship of our Deputy-Speaker for report to the House under Rule 226.

13 hrs.

Mr. Speaker: So far as the telegram that has been sent to me is concerned, that seems also to make a reference to the earlier one—"refer my telegram, dated twentieth". This has been sent to me not in my private capacity, but as Speaker of the House.

Pandit G. B. Pant: I may submit that the other one too that was shown to you not in your private capacity! Whatever I did in this connection, whenever I approached you, it was to convey to you the wishes of the Chief Minister of Kerala and I was the channel through which he wanted his message to be conveyed to you. I have done that. That was my duty. I would not publish it myself because I was commissioned with a certain duty which I have performed and which alone I was expected and desired to perform. The rest does not rest with me.

Mr. Speaker: Let us be clear on this point. So far as this paper is concerned, it is public. It has come to me and I will read it. The hon. the Home Minister, I thought, was only asked by the Chief Minister of Kerala to make a request to the Speaker in the House here to give him sufficient time to make his position clear. That was all that I understood of it. If it was intended to be given to me I would have accepted it.

Pandit G. B. Pant: When I showed you the telegram I thought I had perhaps done the same thing which would have been achieved had I sent you a copy.

Mr. Speaker: Then I would have brought it here. Whatever communication is made to me will be the property of the House. Of course, it would not become public property until I bring it before the House. (Interruptions) I will read this telegram. This telegram cannot be understood, unless the other telegram is also before the House.

"Refer my telegram dated twentieth and the motion in Parliament for breach of privilege as reported in Press. I wish to mention that the telegram read as a whole brings out the main point pressed before you namely that you should persuade honourable Speaker not to permit discussion or explanation by Member without affording Kerala State opportunity to state facts and present case. Telegram was purely private and confidential communication urgently made in official confidence with a view to enable you to present Kerala point of view before honourable Speaker."

It could be that he possibly asked the hon. the Home Minister to tell me without showing me the telegram. (Interruption) Unless an hon. Minister relies upon a telegram and reads it out here I cannot make it the property of the House. It is open to him to say: "Yes, Sir, I have received a

[Mr. Speaker]

telegram, (without quoting it). I want time to be granted to the Kerala State to answer." I understood the position only that way.

I am not competent to ask him, unless he reads it out in the House, to place it before the House. May's Parliamentary Practice is clear on this point. "It has also been admitted that a document which has been cited ought to be laid on the Table of the House, if it can be done without injury to the public interest. A Minister who summarises a correspondence, but does not actually quote from it, is not bound to lay it on the Table of the House."

It was open to him to have said: "I have received a telegram; I wish to place it on the Table of the House" in which case I would have called upon him to do so. If he quotes any particular portion, or otherwise gives information, I cannot ask him to lay it on the Table. If something is confidential, I would not like to go against the rules and break the confidence which the Chief Minister has reposed. Now there seems to be a way out of this.

The telegram proceeds—

"I never intended to publish this telegram. On the contrary meant for your consumption only. Moreover never intended cast aspersions or reflection on any Member of Parliament or his conduct or proceedings of House. Context makes clear my meaning that if State not allowed to present correct facts an one-sided version from a Member may appear as slander on Kerala Government. Never meant to make imputation on Member but pleaded that if Kerala Government's case not before House impression would be damaging to my Government. Pray explain position to honourable Speaker and my complete absence of intention to cast aspersion on Member or House."

This is the copy of the telegram that has been received by me. It will be part of the proceedings. Unless you have the entire document you may not be able to come to a conclusion. So far as I am concerned, I do not think I am called upon to ask the hon. the Home Minister to place the document before the House. The hon. the Home Minister says it is intended to be a confidential document between them. In view of what he has said I believe hon. Members need not pursue this matter. Anyhow I leave it to the House. I have heard both sides. I reserve my decision on this matter.

Shri Dasappa (Bangalore): May I submit one thing? In view of the fact that the hon. the Home Minister is willing to be guided by yourself, and in view of the fact that the telegram that you have read, refers to an earlier telegram, it is perfectly open to you to call upon the hon. the Home Minister to give you a copy of it, and that I think is the only thing which will make sense out of the whole correspondence. Otherwise, we will know precious little of the whole thing.

Mr. Speaker: Inasmuch as this telegram cannot by itself be understood without the aid of the other telegram, I request the hon. the Home Minister to place it on the Table of the House. Then I will consider as to what is to be done.

Sardar Hukam Singh: Now that the Chief Minister has said in his second telegram that it was a confidential document and the newspapers have published it, is there not a case separately—it has not been raised by Shri Masani—against the newspapers that have published it?

Pandit G. B. Pant: May I submit that the Chief Minister says in his telegram that his communication to me was confidential and that it was not meant to be published and that he himself had not given any publicity to the contents of this telegram.

Acharya Kripalani: Did he say it confidential in the first telegram?

Pandit G. B. Pant: The first telegram contained only his request about the matter to which I have already referred, about Mr. Menon's and Mr. Asoka Mehta's Adjournment Motion. So far as the first part of the Adjournment Motion was concerned, that was not really an issue yesterday, but we are concerned with the other part. The request of the Chief Minister was that it was desirable and he thought that he should have an opportunity of having his say along with what Mr. Menon had said in this connection so far, and that Mr. Menon might be persuaded not to pursue it with an explanation at this stage. That was what he said especially about this particular thing. There is also reference to the other adjournment motion. It was, in fact, in connection with that motion, under your directions, I had written to him to let me have the relevant material. So far as that part goes, that is not relevant at all. When a person sends a telegram like that, he might not take particular care about every word that he writes. Now, it is an official document as stated by him. I am at your disposal. Whatever you ask me, I will do.

Some Hon. Members: He has asked

Pandit G. B. Pant: Of course, I have to do. But, I would say that in a matter of this type, it is worth considering whether in view of the statement of the Chief Minister, it is really necessary to pursue this matter further; even if it be, whether it will be proper for you to ask me to place the telegram on the Table; even if you think that something has to be placed on the Table whether the whole of the telegram is to be placed on the Table or whether only such part as may be relevant to the discussion. All these are matters for consideration. I should like you to give further thought to this, because, everything that is done in this House serves as a precedent for

the future. The conventions that we build are not only for today or tomorrow, not in respect of any particular Government, but also in respect of all that might happen hereafter, whether in this Parliament or in the State legislatures or in connection with the relationship between the States and the Centre. So, I would request you to give further thought to the matter before reaching any final decision today, because, it is, in my humble submission, an important matter that deserves consideration. Here is a Chief Minister saying that it is a confidential document. I would have said that I would not place it on the Table of the House and claim privilege myself. But, in view of the interest that the matter has aroused in Parliament, I feel I would not be justified in saying so myself or withholding it because when there is so much interest in Parliament, I would not be a party myself for withholding a thing against the wishes of the Parliament and the Speaker. But, I would appeal to the House and also the Speaker to take into account the fact that the Chief Minister has said that it was a confidential telegram that he had sent to me and he has repeated that he had no intention of doing anything that would amount to aspersion on any Member of this House. So, the least that I think is advisable is that you may give further thought to this matter. Of course, I shall submit to any directions that you give to me now or hereafter.

Shri M. R. Masani: I for one would be quite satisfied if the offending portion of the telegram is made available to you so that both of them can be referred to the Privileges Committee to consider (a) whether there was contempt and (b) whether the contempt is purged by the kind of apology submitted by the Chief Minister.

Mr. Speaker: The Law Minister.

Several Hon. Members rose—

Mr. Speaker: Order, order. All the five hundred Members cannot go on speaking on this matter.

The Minister of Law (Shri A. K. Sen): Mr. Speaker, I feel it my duty to offer you such assistance as I may, as you have called upon me to do so.

This is a matter of great consequence. I may submit respectfully that in a matter of this nature, I am sure, the House will not be carried away by sentiment or passion. After all, the dignity and privileges of the House are not built on slender rocks but on solid foundations which are built by mature deliberation and careful safeguarding of those rights which you want to preserve. A light dealing with the matter would not help in building the solid foundations on which you desire these things to be built.

The presumption relating to official communications is that they are *prima facie* confidential.

Shri Raghunath Singh: Is it a code telegram or an ordinary telegram we want to know.

Shri A. K. Sen: I am not dealing with the court, because I will not deal with the argument of privileges and the power of the court to deal with privileges that was raised by Shri Frank Anthony. The hon. Member will please be good enough to bear with me because I am trying to be as objective as possible. It is not a question of party or group, but it is a question of the privilege and dignity of the whole House. Therefore, I would really request hon. Members to be objective and dispassionate.

As I was saying, it will be impossible to transact official business if communications between the Chief Ministers of States with the Home Ministry or the Prime Minister or the President are subjected to scrutiny on the barest of allegation or on its being reported, assuming correctly, in the papers. They are *prima facie* confidential and unless there is evidence

before you to show *alimunde* that these communications were meant to be communicated to you *qua* Speaker, these communications should not be forced to be brought on the Table of the House. I am not saying this because it is now a question of Kerala Government; I am saying this for the purpose of preserving the solid and stable relationship between the Centre and the States that these communications in the absence of evidence that they were meant to be communicated to you *qua* Speaker, should not be on the bare allegation that they might be so, brought on the Table of the House. For, it might prejudice the future open discussion on communications between the Centre and the States. I have no reason to doubt and I do not think any evidence has been offered to the contrary to rebut the contention in the latest telegram of the Chief Minister namely that he did not intend it to be communicated to any one else. There is no evidence before you to rebut that allegation. I humbly submit that the dignity of the House will be best served if you accept that statement as it is without trying to question it. I, therefore, submit, that in view of the latest telegram of the Chief Minister—this matter which is raised certainly in the best spirit, for the purpose of expressing that zealous vigilance which alone preserves the dignity of this House should not be pursued further. I should request the hon. Member Shri M. R. Masani not to press for a decision.....

Some Hon. Members: No, no.

Shri A. K. Sen: I would request you to accept that request after the telegram of Shri Nambudiripad.

Mr. Speaker: I will treat this matter as closed and now I will proceed.....

Shri Nath Pai: When shall we know your ruling, Sir? Before the end of this session?

Mr. Speaker: I shall try.

Shri Naushir Bharucha: What is the position, Sir? Will the document be placed on the Table or not?

Mr. Speaker: I will consider that matter.

Acharya Kripalani: You, Sir, said that the second telegram cannot be understood unless the first telegram is shown to you and you did ask the Home Minister to give it to you. As far as the Law Minister is concerned, if every communique from the State Government to the Central Government is of a secret nature, then, there was no need for the Chief Minister to send another telegram asking it to be considered as secret.

Mr. Speaker: In view of what Shri M. R. Masani and other hon. Members wanted, I asked the hon. Home Minister to place it on the Table of the House. Exception is being taken to this. Also I had my own doubts as to whether this official correspondence between a State and the Centre can be brought up and there is no confidence so far as that matter is concerned. The Law Minister has also spoken on this matter. I will consider. Merely because I express a view, a document may not be placed here. It is open to an hon. Minister to say, "No, no, I am not going to place it for this reason." He may claim privilege or confidence or various other things. I cannot immediately come to a conclusion. I will take time to consider this matter.

Shri M. R. Masani: May I take it that you will convey your decision to the House later on?

Mr. Speaker: Certainly.

Acharya Kripalani: Will you also consider that this matter has got to be referred to the Privileges Committee, whether it is the Chief Minister or the press or anybody else?

Mr. Speaker: Of course. That is what has been all along argued in this House. I am not going to make a difference, but I cannot commit that I am going to do one way or the other.

13:20 hrs.

**CLARIFICATION OF REPLIES
GIVEN TO SUPPLEMENTARIES
ON STARRED QUESTIONS NOS.
41, 54, 55 AND 62.**

The Deputy Minister of Irrigation and Power (Shri Hathi): On behalf of Shri Hafiz Mohammed Ibrahim, I make the following statement.

In reply to the supplementary questions by Dr. Ram Subhag Singh on Starred Question Nos. 41, 54, 55 and 62 answered on the 12th August, 1958, I had informed the House that the London conference had been postponed because India wanted time to consider the question.

This reply was given as I thought that the hon. Member desired to know the reason for adjournment of the London conference after presentation of the alternative plan by representative of Pakistan. It appears, however, that the hon. Member desired to know why the commencement of the meeting at London had been suddenly postponed. The position in this regard is that the London conference was expected to commence towards the later part of June, 1958. Actually it commenced from the 7th July, 1958. The postponement was made at Pakistan's request.

13-23 hrs.

**DEMANDS* FOR SUPPLEMENTARY
GRANTS, 1958-59**

Mr. Speaker: The House will now take up the Supplementary Demands for Grants in respect of the Budget (General) for 1958-59. As the House is aware, 4 hours have been allotted for discussion and voting on these Demands.

**Demand No. 3
Salt**

Mr. Speaker: Motion moved:

"That a supplementary sum not exceeding Rs. 4,000 be granted to

*Moved with the recommendation of the President.