

An Hon. Member: What is it about?

Mr. Speaker: I shall read it when he comes. I will proceed with other work now.

Shri C. D. Pande (Naini Tal): It should be taken up tomorrow morning.

12.01 hrs.

QUESTION OF PRIVILEGE

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

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

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

Sir, I do not want to take the time of the House in reading the whole article in question. It is before you and you will find that it is a breach of privilege on the face of it. Their libellous content and the intention to libel shall be evident to anyone who reads it. I shall only point to some words and sentences—not the whole article—

which I consider libellous. I shall only point to some words and sentences which constitute the gravamen of the offence. I want to be brief and shall take only that time which is required to prove that there is a *prima facie* case of breach of privilege.

Sir, this is an article which begins by saying:

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

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

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

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

Shri Khushwaqt Rai: The article says:

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

Then it says that it was a case—

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

Mr. Speaker: Epileptic?

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

Mr. Speaker: The hon. Member said that he was called "loony" in place of "lani" with his photograph

and his speech was characterised as the speech of an epileptic.

Shri Khushwaqt Rai: Violent epileptic.

Mr. Speaker: Very well.

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

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

Shri Khushwaqt Rai: I will read. It says:

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

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

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

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

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

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

I am leaving that portion—

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

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

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

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

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

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

Further on it says:

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

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

Now, Sir, I shall give you a few precedents about this. I shall not go into the details of the cases, but I shall

[Shri Khushwaqt Rai]

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

Mr. Speaker: Do we not have the *Hansard*?

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

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

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

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

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

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

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

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

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

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

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

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

I am moving this motion so that we are fair to the editor and the reporter concerned, because this matter involves not only the question of the privileges of this House, but an equally important matter with which we are concerned, namely, the freedom of the Press. In the light of that, though the case *prima facie* is very clear, I would submit that the matter be referred to the Privileges Committee with a direction that the Committee report on it within a definite time-limit. That, Sir, should not exceed more than one week. May I make one more observation? And this refers to the vital issues we have before us and I will be very brief in submitting my plea to you. A free Press is both a safeguard and a safety valve of a democracy. We cannot think of a sovereign Parliament without a free Press. It is well nigh impossible to separate one from the other; so mutually inter-connected and inter-dependent they are.

Mr. Speaker: How does all this arise?

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

Mr. Speaker: I am very anxious to hear him as often as possible. But so far as leave is concerned, that has to be granted by the House. The only question which has to be considered is whether in the interests of a free Press and so on, we ought to take note of small matters, or whether it is a sufficiently big matter to go to the Committee of Privileges. The only point here is: shall we dispose of it here and now, or shall it be sent to the Committee? The hon. Member has to make a motion, either that it be referred to the Privileges Committee or that it be disposed of by the House. I

will put it to the House whether it should go to the Privileges Committee. If the matter is referred to the Privileges Committee, the hon. Member can raise it before the Committee, and it will again come back to the House with a report. Then the House will decide as to what ought to be done. This is not the occasion for that. I have no objection to allowing proceedings that are relevant to the subject matter. So far as the question of leave is concerned, if any hon. Member opposes it, then the hon. Member might have an opportunity to tell the House "No, leave ought to be granted". On this occasion, I do not think all those matters would be relevant. Now the question is whether this matter should be referred to the Privileges Committee.

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

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

Shri Nath Pai: I submit to your ruling, Mr. Speaker, and I will be abiding by it. But I have been denied the right of making certain observations with regard to the motion which I have moved, I want to explain why I feel very strongly that even in the case of libellous attack on the Member, I would like that the matter be referred to the Committee. Otherwise, I would have insisted that it be disposed of here and now. I want to justify my plea to you and to the House why we should refer it to the Committee and, therefore, I plead with you to bear with me for a minute. It would not be a question of something irrelevant. That is not what we indulge in.

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

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

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

tion to vote and we passed it by a majority ascertained by voice vote.

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

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

The motion was adopted.

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

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

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

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

within seven days and the matter should be disposed of within seven days. Full initiative should be given to the Committee as regards the time in which to decide it.

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

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

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

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

Dr. Ram Subhag Singh: I think that this is quite a serious case. Though I fully agree that there should be freedom of the press, the press also has some obligations to the nation and to this principle of the freedom of the press. Each and every newspaper is supposed to observe certain canons of

journalism and no newspaper should be allowed to go on in this way. Therefore I think. . . . (*Interruption*).

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

Shri S. A. Dange rose—

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

Dr. Ram Subhag Singh: During this session.

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

The question is:

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

The motion was adopted.

12.25 hrs.

MOTION FOR ADJOURNMENT

DEATH OF FIRST SECRETARY OF HIGH
COMMISSION AT OTTAWA, BY
SHOOTING

Mr. Speaker: I have received notice of an adjournment motion and a few calling attention notices about the report in the Canadian press on the 19th April to the effect that the First Secretary at the Indian High Commissioner's Office in Ottawa had been shot dead.