

[Secretary.]
sitting held on Thursday, the 10th
May, 1956: —

Clause 8

1. That at page 2, lines 29-30, the words 'constituted under the Indian Red Cross Society Act, 1920' be deleted.

Clause 9

2. That at page 3, line 8, for the word 'Convention' the word 'Conventions' be substituted."

**THE ORPHANAGES AND WIDOWS'
HOMES BILL, 1956**

SHRI KAILASH BIHARI LALL (Bihar):
Sir, I beg to move for leave to introduce a Bill to provide for the better control and supervision of orphanages and widows' homes in India.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to provide for the better control and supervision of orphanages and widows' homes in India."

The motion was adopted.

SHRI KAILASH BIHARI LALL: Sir, I introduce the Bill.

**THE FACTORIES (AMENDMENT)
BILL, 1956**

SHRI S. N. MAZUMDAR (West Bengal):
Sir, I beg to move for leave to introduce a Bill further to amend the Factories Act, 1948.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill further to amend the Factories Act, 1948."

The motion was adopted.

SHRI S. N. MAZUMDAR: Sir, I introduce the Bill.

THE PARLIAMENTARY PROCEEDINGS (PROTECTION OF PUBLICATION) BILL, 1956

DR. P. SUBBARAYAN (Madras): Sir, I move:

, "That the Bill to protect the publication of reports of proceedings of Parliament, as passed by the Lok Sabha, be taken into consideration."

I think, Sir, very few words are needed from me to commend this Bill for acceptance of the House. The chief credit for the introduction of this measure should go to Mr. Feroze Gandhi. This Bill has gone through the gauntlet of a Select Committee as well as the Lok Sabha where they have altered the Bill; as it was originally introduced it sought to afford protection for all proceedings of legislatures in India but now it applies only to parliamentary proceedings. I do not know how this came to be done but I am not concerned with it; at the moment I am only concerned with the measure as it stands. As hon. Members know, in England protection is given for reports of proceedings of both Houses—the House of Lords as well as the House of Commons—provided they are not published with malice and provided also that their publication is for public good. That was done not by any legislation but by a decision of the High Court in the Kings Bench Division by Chief Justice Cockburn in the famous case of *Wason vs. Walter*. The analogy that was quoted by Lord Cockburn was that as the proceedings of judicial courts including the courts of Justices of the Peace were covered by common law, the same could be applied to proceedings of both the Houses of Parliament because they were also courts in another sense of the term and that is how this privilege was obtained in England. I need not go into the de-

tails and quote elaborately from Lord Cockburn's judgment. This is a case known to all constitutional lawyers. Of course, when the Indian Penal Code was introduced by Lord Macaulay he adopted wholesale what obtained in England with regard to criminal law but then there was no Parliament in this country. So the protection given in the Penal Code is for proceedings in courts and does not apply to any proceedings in legislatures because I do not think at that time it was envisaged that we will be sitting in Parliament as we are today. Therefore, applying that principle here, I feel that we ought to confer on the Press the same privilege as is conferred in England. It is in the interests of Parliament itself because the* constituencies which we represent ought to know what is happening in the House. As you know, Sir, our proceedings are not available as obtains in England where the next day after the debate in the House of Commons or in the House of Lords you can buy a copy of the speeches made on the floor of either House of Parliament. Of course, they take care to put on the top of the proceedings 'uncorrected' because they are as taken down by the Parliamentary stenographers. The final publication called the Hansard which is published afterwards include the corrections which hon. Members may make in their speeches because mistakes are bound to be made in taking down. Not that there are many mistakes. Here I want to pay a tribute to our stenographers here. I think they are very good and what they do is mostly acceptable to Members of this House. Naturally, articles and things like that have got to be corrected, otherwise a wrong interpretation may be placed. As you know, Sir, 'the*' and 'a' are vrey important in the English language and a word here or there may make all the difference to what is said. Therefore such privilege is allowed to Members to correct the transcript as taken down by the stenographers. Therefore, we need in this country for our Press the same protection. Originally it was intend-

ed to apply this to all the legislatures. I even now feel that it would have been correct to have included all legislatures because these legislative assemblies are also miniature parliaments and they transact quite a lot of business which is of interest' to the public. But that apart, Sir, I feel that this is a very salutary measure and should be passed into law.

MR. CHAIRMAN: Motion moved:

"That the Bill to protect the publication of reports of proceedings of Parliament, as passed by the Lok Sabha, be taken into consideration."

SHRI PERATH NARAYANAN NAIR (Madras): Mr. Chairman, Sir, I rise to support this Bill to the extent it goes, and to press my definite view that the scope of the Bill requires to be widened. Being a new Member, naturally I have a sense of hesitancy in speaking on a subject like this. All the same, I should like here to express my sense of gratification for having been allowed this opportunity to make my first speech here on a measure which seeks to extend the freedom of the Press; and by so extending the freedom of the Press, gives added opportunities and facilities to the people of our country to better shoulder the responsibilities of democracy. I do not propose to dwell at length on the legal and juridical aspects of this question. I am not a lawyer; not even a bad lawyer. After all the speeches that have been made in the other House and also after the speech by the distinguished mover of the Bill here, it becomes unnecessary for me to dwell at length on the legal aspects. But I have been a journalist and a newspaper-man all along. And with the practical experience of a journalist, I hasten to support, this Bill. What has been my experience as a journalist? Of course, I get the proceedings of Parliament, published reports of the proceedings of Parliament. I get the Estimates Committee Reports and the Public Accounts Committee Reports

[Shri Perath Narayanan Nair.] although after a considerable lapse of time. I scan the pages and I find so much well deserved exposure of the doings of officials, especially all sorts of shady transactions, how public money has been embezzled and that sort of thing. As a democrat, as a journalist, I feel that these are materials which I must pass on to the readers, to the common people of the country, so that they can understand really how the affairs are being managed in this country, so that I can help to sharpen their sense of vigilance, so that they can be better custodians of their own rights. But then I cannot do it, because as a newspaper-man I do not enjoy the immunity which Members of Parliament enjoy. All this time the newspaper-men have been smarting under this restraint. They cannot discharge their responsibilities to the public. They cannot properly educate public opinion on the affairs of this country. This has been so and it has all along been there. The newspapers deserved this immunity long long ago, but in the context of the present situation in India, this immunity, this privilege is all the more necessary for the papers. We are no longer concerned with the police State. Our concepts regarding the State are changing. We are no longer concerned merely with the maintenance of law and order or a few officials or Ministers. We are thinking of a social welfare State. We are talking of advancing towards socialism. All these mean that we are increasingly obliged to lay our hands on vested interests on special privileges. We are enlarging the responsibilities and rights of the common people. When we lay our hands on special privileges and when we touch vested interests, it is quite natural that they have recourse to all sorts of devious ways, just to perpetuate their special interests and cheat the public; to gain their private ends, to the detriment of the general interests of the society. Recently we have had many instances in Parliament itself. When the Companies Bill came up for consideration, when we had the affair

of the insurance magnates, when efforts were being made to have better control, in the public interest, of these corporations, institutions, etc., when we were thinking of enlarging the public sector, naturally we found vested interests resorting to all sorts of shady transactions and devious methods. Now, when in Parliament, Members make such well deserved exposures, it is necessary that all this information must be passed on to the people of the country, to our electors, through the medium of newspapers. If we conceal this information from the public, we will not be playing fair by the electorate.

Now, hon. Members may like to know, if actually the newspapers have been smarting under this restraint, have they at any time stood up for their rights? Have they actually demanded that they be granted this immunity? Yes, there have been many instances. I do not propose to refer to the period under foreign rule. We had more egregious restraints than to fight against in the matter of the Press. But even then there have been journalists in India who stood up for their rights, who were prepared to suffer the consequences. I refer to the instance of Shri K. K. Malaviya, who was a member of the old Indian Legislative Assembly. He published a speech which he made in Parliament in his own paper and he had to suffer the consequences. The then Government demanded security from his press and he had to suffer the consequences. And my information is that he was obliged to close down his press even. Even afterwards there have been instances. Only a few years ago we had the instance of Shri Suresh Chandra Banerjee, of Bengal, who also dared to get published a speech he made in the Legislature in his paper and then he had to face the consequences in a court of law. Not merely individual newspaper-men have stood up for those rights and suffered the consequences for having fought for their rights, organisations of newspapers—especially after the dawn of freedom—have been making

systematic representations that this immunity be granted to them so that they may be enabled to discharge their responsibilities to the people better. In 1948 representations were made to the Press Law Enquiry Committee by newspaper organisations and then, again, before the Press Commission, the All India Federation of Working Journalists and the Newspaper Editors' Conference led evidence. They said that this immunity, this privilege, this salutary principle be recognised to the advantage of news-paper-men. And again at the time when the Constitution was being discussed in the Constituent Assembly—if my memory is correct I think when they were discussing article 105—this question came up that the immunity be granted, namely, the immunity so far as the reporting of the proceedings of courts is concerned be extended to the newspapers in the matter of proceedings of Legislatures also. And there was weighty opinion favouring that proposal. But unfortunately the Constituent Assembly thought otherwise and this particular provision could not be added to that article 105. And when we look at the history of this question we find that for centuries, for decades, the Press and newspapers in all civilized countries have been having this privilege.

The hon. mover of the Bill referred to the outstanding judgment in the *Wason versus Walter* case. I think it was in 1868 and ever since that outstanding Chief Justice Cockburn's judgment, the newspapers in the United Kingdom enjoy that right not only in respect of publication of the proceedings of Parliament, but even in respect of borough councils, country councils, etc. And I think in 1952 they got this protection in so far as publication of reports of even Commonwealth Parliaments are concerned. From the pamphlet published here, I have come to understand that even in the United States of America not only in regard to the publication of proceedings of the Congress but even in regard to the State Legislatures, this protection extends to newspaper-men.

The judgment of Cockburn was in 1868. It is almost 88 years now and all this time the Press in other countries has been enjoying this privilege. Now if you pass this Bill at this stage, as Members have remarked elsewhere, it does not come a day too soon.

I do not at all share the apprehension that if we pass this Bill here, it will be giving licence to Members of Parliament here and licence to newspapers to say and publish all sorts of things which would place the reputation of persons in high places in jeopardy. I do not share that apprehension. Of course, as Members in the Lok Sabha have pointed out, there are a number of checks here. In the first place, the average Member of Parliament has always exercised self-restraint and displayed taste in making speeches—especially when he has to discharge his responsibility of exposing the devious transactions affecting public moneys. Again, there are the rules of procedure and standing orders; and Mr. Chairman, you are here to pull us up whenever we go out of the way and make baseless allegations and all that. Apart from the rules of procedure and standing orders, there is the good taste of the average Member of Parliament to guide him. But my point is that more than all other checks, if we pass this Bill, that itself will be the most healthy check on the use of vituperative language. If a Member of Parliament knows that what he speaks here goes to millions of people outside, if he is conscious of the fact that what he says will have to be tested before the bar of public opinion, I am sure he would think a hundred times before he begins to make any baseless allegations in his speeches or when he makes any reference to facts which he is not in a position to substantiate. Because, our people are discriminating. They will not swallow all that is being said even by a Member of Parliament or even by editors of newspapers. They have got their sense of judgement. If editors of newspapers or Members of Parliament know that

[Shri Perath Narayanan Nair.] what they say here will be tested by the public there, that alone is the best check. Our people do not like vituperation and other things like that. They want to be properly educated about the affairs of the State. When any Member makes such well-deserved exposures in a restrained language, such things must come to the notice of the people. My point is that by the passage of this Bill, the knowledge, the consciousness, that whatever we say here, whatever is published in newspapers, will go to millions of people outside, will serve as the most healthy check on vituperation. I think that the reputation of even the most highly placed persons is safe in the keeping of millions of people outside. We speak here, we talk to each other and all these exposures reverberate within this Chamber. If you pass this Bill the electors will get to know these things and the result will be that their sense of vigilance will be sharpened. They will be educated better to shoulder the responsibility, as I said, of democracy.

Of course, as I said I support this Bill to the extent it goes. I also said that the scope of this Bill required to be further widened. I have given notice of two amendments and I will have occasion to speak on them.

Now the mover of the Bill himself suggested that it would have been more correct if the scope of this Bill had been widened to include reporting of the proceedings of state Legislatures also. But the Select Committee thought otherwise and an official amendment was accepted excluding the State Legislatures from the purview of the BUI. Well, Sir, I feel strongly that once we accept the principle that this immunity should be granted to newspapers in so far as reporting of the proceedings of this Parliament is concerned, that immunity must extend even in respect of reporting of proceedings of State Legislatures. Both are sovereign bodies. And I will be the last man to take away from the State Legislatures their rights. I am all for their

sovereignty; I am all for their autonomy. But then, the same people who elect the Members of Parliament also elect the members of State Legislatures. Though the lists are different and the territories are limited within their spheres, the elected representatives are the same. They in the State Legislatures also do the same thing exposing the devious transactions of public corporations and erring officials. It requires to be broadcast, to be taken to the people outside. When I speak on that amendment I will say more. I am not well-versed with the constitutional position. They say that this subject comes under the Concurrent List (item 39) and that we have to consult the State Legislatures and that we have to be guided by them. Even then I do not know what prevents this Parliament from passing this Bill on a subject falling under the Concurrent List. The Bill passed here may not be having binding effect on the State Legislatures. It can just indicate to the Legislatures how Parliament is feeling on this matter. And if we pass this Bill here in Parliament, public opinion—healthy public opinion—in the States will assert itself and exert pressure on the State Legislatures to pass similar legislation. Now, what happens? We know that newspapers in our country circulate in more than one State. Take any leading newspaper. If we do not have any uniform law on this matter, what will happen? A particular legislature may pass this legislation. Then any aggrieved party can take proceedings against the newspaper concerned from another State because the paper circulates in that State and the cause of action arises wherever newspapers are circulated. It will lead to all sorts of anomalies. I do not want to give details now, but when we concede this salutary principle in so far as reporting of the proceedings of Parliament is concerned, it is absolutely necessary that we must extend it to the reporting of proceedings of State Legislatures also.

Now there are three qualifications. It is not an absolute privilege that we are conferring on the newspapers.

The reports published must be substantially true of the speeches made in Parliament. That is absolutely necessary. That is one qualification which I think all of us would accept. But then I do not agree with the other two qualifications—about malice and public good. In my opinion, they are unnecessary. Not that I want any Member or newspaper to be motivated by malice. It is very difficult to prove malice. After all it is a state of feeling. Guided by the rules of procedure and by the Chairman and also by a sense of responsibility and good taste, the average Member is not motivated by any malice while making a speech. If there are accusations, they will be judged before the bar of public opinion. There is also an amendment to delete sub-clause (2) of clause 3, and I will have something to say on that occasion. There also the onus of proof is on the person proceeded against. It will lead to all sorts of complications.

At all times when we have sought to extend the liberties of the Press and the people, there have been prophets of woe and disaster opposing all these things. Even at the time when adult franchise was introduced in this country, there were prophets of woe and disaster. But are we not agreed today that our people have made a complete success of adult franchise? The expectations of these prophets of woe have been belied. Even at a time when more severe restrictions placed on the Indian Press were sought to be removed, again there were counsels against this. People said 'It is an infant democracy; it is just an untried democracy.' You see that all those prophesies have been belied. The great people of our country have made adult franchise an unqualified success. Whatever rights have been extended to them, they have not misused them. They have used them to the best advantage of our country, in the interests of our country, and everybody is agreed that our democracy is progressing, our democracy is flourishing, and even distinguished leaders of

public opinion, including our Prime Minister, have said that our democracy is maturing. And in that context, what prevents us from extending tMs immunity to our newspapermen who on all accounts have discharged their responsibilities well by the people of this country?

I just want to touch on one more point. Mr. Chairman. Being a new Member, I am not conversant with the procedure of this House; I am not well-versed in the constitutional position either, but it struck me as rather-strange, as rather odd, that it ought to have been left to a private Member belonging to the ruling party to bring forward this very vital piece of legislation, which seeks to extend democratic rights to the Press. With all the experience of other civilised countries for decaees and centuries, with the agitation carried on by the newspaper-men themselves and also the journalists and enlightened public opinion in our country, it would have been better if the Government itself had brought forward this measure. I am not questioning the right of private Members even belonging to the ruling party to bring legislation of this kind. I join with the others who have complimented them on the initiative they have shown, for the very welcome initiative they have shown, in bringing forward this measure. But what has been the Government's attitude towards it? Judging from what the Law Minister has said in the other House, he has accorded limited support to this Bill. He has accepted it in principle. His support was halting, was hesitant. He was over-cautious. He said that it would be safer if this immunity was just limited to the publication of the proceedings of Parliament now. Underlying this is his suspicion of the people. He cannot trust the people. He cannot trust the newspaper-men in our country. As I have already said, whenever liberties have been extended to our people, they have used them to the best advantage. Caution is good, but to play for safety, for ultra caution, for excessive safety, will defeat the very purpose

[Shri Perath Narayanan Nair. J -we hava in view. After aii these years, if you ask the newspaper-men to wait still more for this immunity in the matter of publication of the proceedings of the State Legislatures, I think we will not be fair to them. I would just appeal to the Law Minister and the Government that they will be taking no risks if this immunity is , extended to the publication of the proceedings of the State Legislatures also. If this Bill is passed, will everything be all right in the matter of reporting . so far as newspapers are concerned, I may be asked. I do not want to psint . such a rosy picture. There have been •very conscientious journalists in our .country, and their number is increasing, who feel handicapped because of .this law, because of their fear that they will be proceeded against in reporting and giving adequate information to the public regarding the proceedings of Parliament. I think their hands will be strengthened; they will be enabled in the discharge of their daily duties to more properly, more adequately educate our people in the affairs of our country. Now, so far as that section is concerned,—I said their number is increasing—it will be a real step forward if we pass this Bill. But, in the newspaper industry also there are vested interests. Even after passing this Bill, some of them may not do full justice in giving adequate publicity to all that is taking place in Parliament. But today even those newspapers with vested interests, who serve monopoly interests, have the pretence that it is because of this law, because of this Damocles' sword hanging over their heads they are prevented from publishing such proceedings. When there were the discussions on the Insurance Bill, the Companies Bill, the Budget leakage and other things, they said, 'We cannot publicise them, because we do not enjoy any immunity.' If we pass this Bill, they will no longer be left with that pretence. There may be other measures necessary to deal with that section of the Press. But my point is that, when this Bill is passed, it will help the conscientious journalists to better discharge their responsibilities.

Now, Sir, I am beholden to you ior the consideration you have shown to a new Member, and I am grateful for the indulgent hearing the Members of this House have given me. I have done.

SHRI H. P. SAKSENA (Uttar Pradesh): Mr. Chairman. Sir, it is a great pleasure to me to see my very old and dear friend, Mr. Feroze Gandhi bringing forward this Bill.

SHRI NAWAB SINGH CHAUHAN (Uttar Pradesh): He is not very old.

SHRI H. P. SAKSENA: The hon. Member has not understood the full meaning of the world 'old'.

SHRI M. GOVINDA REDDY (Mysore) : Either you are young or he is old.

SHRI H. P. SAKSENA: He has rendered a very great public service. I would pay my compliments to my friend to my right who preceded me for his maiden speech, and would advise him to shake off his hesitancy and apologetic language very soon, so that he may feel at home while speaking in this House. We are all colleagues, and we are not afraid of one another. The only point is that, as yon, Sir, pointed out to us the other day, sometimes we take a very long time in speaking on *nothing*. So, for the benefit of the majority of the Members of this House, we should see that we do not fall into that error.

Now, Sir, I was telling the House that Mr. Gandhi has rendered a very great public service by bringing forward this Bill. But the Bill unfortunately is a truncated Bill. It has been shorn and deprived of the best part of it. under which the proceedings which are to be protected would have extended even to the proceedings of the State Legislatures but that has been denied, and this Bill would extend only to the proceedings of the two Houses of Parliament. Anyway, as the adage goes, something is better than nothing and this would give

a very useful weapon in the hands of the members of the journalistic family, which is known as the Fourth Estate, to fight against their opponents.

I find to my great regret the very same perennial exception appearing in this small Bill also that it will extend to the whole of India excepting the State of Jammu and Kashmir. If my information is correct, rice is selling there at eight seers per rupee and a 12 education upto the university standard is free in the State of Jammu and Kashmir. How is this all being brought about? Who is financing all these things? Is it not the Government of India which is bearing the burden of all this heavy expenditure and making it easy for the Government of the State of Jammu and Kashmir to carry on and to consolidate the State? Now with this background it does not behove the people of Jammu and Kashmir to be always thinking of article 370 of the Constitution which at least, so far as I am concerned, haunts me like a ghost at each and every step and we, the Government of India I mean, this Parliament, cannot as freely act in the matter of the State of Jammu and Kashmir as we would like to act. So I only hope that this Bill, at any rate, will be extended even to that State because it is a matter concerning the freedom of the Press, the protection of the newspaper-men and the widening of the scope of Indian journalists.

When talking of journalists, I may also state that my friend who preceded me said that he was a working journalist. To me even the title of being a journalist is denied by my present-day friends and I am satisfying myself by calling myself as a dormant journalist but a journalist I remain all the same. I cannot shake off that title because I read long long ago that "Once a journalist, always a journalist". This publication of the proceedings without any fear, without any frown or without any favour is a very great constitutional right and this small Bill confers that right on newspaper-men, and journalism is

worse than a rag if it is not free, if it is not honest and if it is not independent. These are the qualifications which a journalist must possess if he is to be included in that great family of journalists otherwise he is not worth his salt. A great galaxy of the bold, brave, fearless journalists and newspapermen and editors comes before my eyes and I recollect the world-famous names of Motilal Ghosh, Surendranath Bannerjee, B. G. Horniman, C. Y. Chintamani, Sajjad Husain and last but not least, the hero of journalism in the old city of Lucknow known as Ganga Pershad Verma. Now I would recite to this House a very small incident of that great fighter for Indian Press freedom known as Ganga Pershad Verma. He was working in the Court of a District and Sessions Judge in a murder case as an assessor. The District and Sessions Judge who was a European abused a certain witness and used very indecent and abusive language for that witness. When the trial was over, he called Mr. Verma to his Chamber and asked him in the most authoritative manner not to publish the proceedings of that incident in his paper. Mr. Ganga Pershad Verma was bringing out a paper—a bi-weekly English paper known as 'The Advocate'. He was the proprietor as well as the editor of that paper. So he was asked not to publish. He made no promise. He said that he would be doing his public duty. If he thought it necessary to publish that report, he would do it and the next day 'The Advocate' was full of that story including the talk that took place between Mr. Verma and the District and Sessions Judge. Now these were the brave and fearless journalists in whose company and at whose feet I learnt the profession of journalism and I am proud of that heritage even today.

It is not journalistic to be extending a narrow subject, a subject which does not admit of very great expansion, into unnecessarily a long period of time and talking on things which had better be left untalked. What this little Bill suggests is simply this

[Shri H. P. Saksena.] that if the Parliamentary proceedings are published in all good faith without malice and for the sake of public good, the journalist concerned, the newspaper-man concerned, shall fear no evil consequences falling upon him and with this guarantee, with this legal and constitutional safeguard, it becomes an easy life for the newspaper-men to be conducting henceforth. The sword of Damocles which was hanging over their head will be removed and in that sense it is a great blessing and it is a great boon that this Bill will confer upon them.

Now my only regret is that the Bill shall not be applicable to the proceedings of the State Legislatures and when on the one hand they are having only two Houses of Parliament in the whole of the country, there will be at least 32 or more State Legislatures. In some States there are bi-cameral, namely two Legislatures, the Upper House and the Lower House and in the others there is only one. But then a very wide field is left uncovered and I would be happy if at some later date a separate Bill is brought forward to see that all the proceedings of all these legislatures are included.

My friend who preceded me talked much of the rights and the privileges of newspapermen and the journalists. I would humbly remind the House that alongside these privileges and rights, there are very heavy duties and responsibilities which attach to the profession of journalism and the best and foremost of them all is that a newspaper-man is never to divulge a secret. If a thing is to be kept secret and confidential, if journalistic ethics require a thing not to be divulged, a newspaper-man is expected to suffer the greatest and the severest penalty for that but not to divulge that secret. Then they will have control of the ethics of the profession of journalism. Therefore, what I would crave of my newspaper brothers is this, that they should

learn the habit of inculcating fearlessness and honesty in the present-day journalism and in the journalists who are to follow. Rights will come of their own. There is no need for running for the rights. Rights will be there, and the privileges will be there, only if the duties and responsibilities are faithfully and honestly performed.

Sir, there is a press known as the "gutter press" or the "yellow press". Fortunately, in our country, that commodity is almost rare. It is not in abundance. It is not profuse at all. It is only here and there that some miserable person starts a newspaper just for the sake of blackmailing people and making money out of it. This is neither journalism nor does it indicate any sense of responsibility. So call it "yellow" or call it "gutter" it is neither a newspaper nor is it a thing worthy of being looked at. It all depends upon the readers to throw out such kind of publications, to throw them into the gutter from where they emerge and to have nothing to do with them. Government does not take into account these rags and the public too should co-operate with the Government in having nothing to do with them and then they will die a natural death.

So in this new democracy of ours, in this independent State of ours, it is our first and foremost duty to make things grow in such a manner that we establish a fearless, independent, healthy

Dr. P. C. MITRA (Bihar): Ram Rajya?

Shri H. P. SAKSENA: My hon. friend here, Dr. Mitra suggests calling it Ram Rajya journalism. Let us establish such Ram Rajya journalism where the truth and truth alone is spoken and no one has got any axe of his own to grind. With these words, I give my full support to the Bill.

THE MINISTER FOR LEGAL AFFAIRS (SHRI H. V. PATSKAR): With your permission, I would like to

.intervene now in order to explain a point, which is made by almost every hon. Member, namely

SHRI H. N. KUNZRU (Uttar Pradesh): May I know, Sir, whether we shall be able to speak after Mr. Pataskar, or will his speech close the debate?

SHRI H. V. PATASKAR: No, I am only intervening in the debate to explain why the Bill is not being made applicable to State Legislatures. The Bill as it was originally introduced was made applicable not only to the proceedings of Parliament but also to the proceedings in the State legislatures. It was then thought that probably it was covered either by entry 1 of the Concurrent List which refers to criminal law, because in this Bill also we lay it down that "no person shall be liable to any proceedings, civil or criminal in any court" and so on. So we thought that it would come under entry 1 or entry 39 in the Concurrent List, which relates to newspapers, books and printing presses. As it was a matter in any case, which is in the Concurrent List, I immediately got this circulated to the State Governments to ascertain their opinions, because in matters which are in the Concurrent List it is the convention and a very right convention, that whenever we get a Bill like this, we ascertain the views of the States before we do anything further. As a result, we got then opinions and naturally these opinions were divided. Some States were willing to have it made applicable to them and others there were who did not want this Bill to be made applicable to them.

SHRI H. C. DASAPPA (Mysore): 'Sir, may we know which were the States which were against the Bill, which were for it and which were neutral?

SHRI H. V. PATASKAR: I will lay that information on the Table. I will

give the whole list. But before I do that, there is another point which I must bring to the notice of this House and which I think, deserves serious consideration. There was one State Government which brought it to our notice that this was a matter which was covered, not by entry 39 of the Concurrent List, because that entry relates only to newspapers, books and printing presses, but to entry 39 in the State List which refers to "powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof". Of course, there is a similar power given to Parliament also. This is a Bill relating not merely to books, newspapers and printing presses, but it is a matter of giving protection for the publication of the proceedings in Parliament, and as we know, it is certainly within our rights in Parliament to decide what shall and shall not go outside Parliament. But under entry 39 of the State List, it is also within the power of the State Legislature to say what proceedings shall be published, to what extent and in what manner and so on. So one Government brought it to our notice that this is more appropriately a matter, which would come under entry 39 of the State List.

SHRI K. S. HEGDE (Madras): I want a little clarification

SHRI H. V. PATASKAR: I am only mentioning the opinion given to us by that State Government. After that the hon. Member can argue the point. I am not giving my opinion now one way or the other. Even if it is to be governed by entry 39 of Concurrent List, there are a number of States which do not want it. Over and above that, one State has gone to the length of saying that this is a matter which is covered by entry 39 of State List. So what I am saying is that this matter is not free from doubt. I will not say that this Bill as it stands relates merely to newspaper. Somehow or other it relates to the publication of the proceedings of

[Shri H. V. Pataskar.] Legislative Assemblies or Parliament In that case, under the Constitution itself, the State Legislatures as well as Parliament have got the right, as in the House of Commons, to say which proceedings, to what extent and in what manner, are to be allowed to go out of Parliament. Therefore, I would say that it is in the best interest of everyone that so long as and to the extent that we are passing this legislation in Parliament, it is safer to confine ourselves only to the proceedings of Parliament. So far there is no doubt. It is the privilege of Parliament and it is Parliament which enacts this law. So there is no difficulty. But I should hesitate to give a decision on this point and it has to be considered by those who are in favour of the Bill being made applicable to the State Legislatures. So far as the principle of the Bill is concerned, everybody agrees with the principle. The only question raised is, "Why not extend it to the State Legislatures also?"

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Therefore, I am pointing out two things. In the first place, the general thing is that so far as matters in the Concurrent List are concerned, this is a healthy convention established that we try to ascertain the views of the States. If they concur, then naturally there is no difficulty but the difficulty is there inasmuch as there are some States which do not want that this law should be extended to them.

SHRI BHUPESH GUPTA (West Bengal): Which are those States? Please name them.

[MR. DEPUTY CHAIRMAN in the Chair]

SHRI H. V. PATASKAR: Andhra opposes; Assam does not support the Bill; Orissa does not accept the principle of the Bill; Madras has no particular comments to offer; Madhya Pradesh opposes the Bill; Madhya Bharat is not in favour of the legislation; Bhopal has no comments; Saurashtra is of the view that the

provision should be confined to criminal liability only; Hyderabad generally agrees with the principle of the Bill but makes some further recommendations; Travancore-Cochin is naturally opposed.

SHRI BHUPESH GUPTA: Why 'naturally'?

SHRI H. V. PATASKAR: Because it is that State which has raised this constitutional point already that this is a matter in the State List.

SHRI BHUPESH GUPTA: Therefore, the constitutional point is determined by opposition which had already been taken to this Bill.

SHRI H. V. PATASKAR: I am not able to follow it. That is what they say. I myself made it clear that I do not say anything about it but this is a *matter not free from doubt. Pepsu has no comments to offer; Rajasthan agrees with the principle of the Bill; Coorg has no comments; Kutch has suggested some changes; Tripura is in agreement; Manipur has no comments; Vindhya Pradesh is in favour; West Bengal has no objection to protection being given but wants the substitution of certain words. Bombay is not opposed; Punjab apprehends misuse. There are some Governments which have not sent in any reply.

SHRI H. C. DASAPPA: What about Mysore, Sir?

DR. P. C. MITRA: What about U.P. and Bihar?

SHRI H. V. PATASKAR: I think Mysore probably has not replied.

What I was telling hon. Members was that all these things were considered by the Select Committee as well as by the other House and they thought that in a matter like this, it would be much better that we confine the Bill to the two Houses of Parliament itself so that there will be no difficulty and subsequently the

State Governments could adopt this Bill or enact a Bill on similar lines.

SHRI BHUPESH GUPTA: Some of the States will not exist by that time.

SHRI H. V. PATASKAR: Let us wait and see what happens to this great question. At least there will be States in India, whether smaller in number or larger in number. That apart, I think that would be the most appropriate manner to deal with a question like this. Apart from the technical aspect of it, what part of the proceedings of a particular Assembly or Parliament should or should not go out and how they should be published are matters which I think do form an important item.

SHRI K. S. HEGDE: How is that right restricted by the present Bill? That right is there even if the provisions of this Bill are made applicable.

SHRI H. V. PATASKAR: As I said, as the Law Minister of the Government of India, I would try to avoid giving that opinion because it might create complications in the future. There are so many hon. Members who are lawyers and if they so choose, instead of having a law which is smooth and in time can be followed by others, they can have a law which can go to the Supreme Court or whatever it is. After all, it is a Private Member's Bill. Here, I would like to appeal to them and say that it is much better if we confine this Bill to Parliament as it has been done in the Select Committee and in the other House.

SHRI H. C. DASAPPA: May I just ask one question? Is it open to a State Government to merely extend the operation of this Bill within that State or should it enact a fresh piece of legislation to cover this very position? I would like my friend, Mr. Pataskar, to explain.

SHRI H. V. PATASKAR: I think the States are entitled to have separate legislations of their own even under the Concurrent List. I believe that

once this Bill is passed and is in operation for some time, the State Governments—as they usually do in such matters—will only try to adopt this measure.

DR. P. C. MITRA: Government itself brought forward an amendment in the Select Committee which was adopted by the Select Committee. On what grounds did the Government do it?

SHRI H. V. PATASKAR: For what?

DR. P. C. MITRA: For excluding the proceedings of the States Legislatures.

SHRI H. V. PATASKAR: I have already stated that both the Select Committee and the House accepted the amendment.

DR. P. C. MITRA: But what are the reasons?

MR. DEPUTY CHAIRMAN: He gave them. Please go over his speech again.

SHRI H. N. KUNZRU: Mr. Deputy Chairman, if my friend, Shri Pataskar, is doubtful about the interpretation of article 194 of the Constitution, it is not for me, as a layman, to express any confident opinion about its meaning but I should like to know whether Government obtained legal opinion on this point. They have their legal advisers; did they ask, for instance, the Attorney-General, to express an opinion on this point? If so, the House should be told as to what the opinion of the Attorney-General was. I shall, however, suppose for the time being that the Attorney-General was of the same opinion as Shri Pataskar himself but we should consider carefully the effect of this" doubt on the publication of proceedings of State Legislatures. One does not know whether all the State Legislatures will be prepared to pass laws on the lines of the Bill now before us but even if we assume that all the State Legislatures will follow the lead given by the Government of India

SHM BHJPESH GUPTA: By Parliament.

SHRI H. N. KUNZRU:..... we have still to consider whether the result of this will be very satisfactory. Suppose, the Uttar Pradesh Legislature passes a law allowing the publication of its proceedings, a fair summary of the proceedings, and protects a newspaper or any person publishing an account of a debate in the State Legislature from legal action. I take it that the law passed by the U.P. Legislature will be effective only within that State. If a newspaper in Bombay were to publish the proceedings of a debate in the Uttar Pradesh Legislature, and they reflected on the conduct of some person who was living in Bombay or who was connected with a firm which had its headquarters in Bombay or a branch in Bombay and the thing is: Will that person be protected against any criminal or civil action that the party concerned may propose to take against him? Now, if this is not the effect of State legislation, it behoves the Government of India to consider what should be done in order to make the publication of proceedings not merely of Parliament but also of the State Legislatures legal throughout "the country. Shri Pataskar did not say a word on this subject, but I think it is due to this House that the spokesman of the Government of India should tell us how the Government of India proposes to deal with this difficulty. The Government of India cannot merely leave the matter to be decided by the State Legislatures. It must bring the difficulty that I have mentioned to the notice of the State Governments and in consultation with them find a way out of it. So long as such action is not taken, the responsibility of the Government of India for the absence of legal immunity for the publication of the proceedings of a State Legislature outside that State will remain. I think, Sir, that the Government of India should approach the State Governments and persuade them to allow Parliament to pass a law which will be applicable to all

the States. The mere extension of the law, that we are going to pass today, to the States will not, I think, serve our purpose; it will mean only protection for the journalists and other people who publish the proceedings of the legislature of a State throughout India. The principle on which this Bill is passed should apply also to the proceedings of the State Legislatures and should be accepted throughout the country but, as I have already said, the course suggested by Shri Pataskar will not enable it to achieve this purpose. Apart from this, the laws passed by the States may not all be of the same kind. The active interest of the Government of India and its help is needed for the solution of the difficulty mentioned by Tne. I hope therefore that the Law Ministry will take the matter into consideration and will soon be able to tell us that the States have agreed to let Parliament pass legislation on the subject which this Bill deals with, which will be applicable throughout India, which will be applicable not merely in respect of the proceedings of Parliament but also in respect of the proceedings of State Legislatures throughout India.

SHM P. N. SAPRU (UttarPradesh): Mr. Deputy Chairman, I should like first of all to congratulate Shri Feroze Gandhi on successfully piloting this Bill in the other House. I hope that it will have a safe passage in this House and that it will be VmDroved notwithstanding what Mr. j Pataskar said in respect of the provi-I sions regarding State Legislatures.

Mr. Deputy Chairman, the Bill is ! in no sense a revolutionary measure. ; Tt brings the law of libel and of defamation in regard to publication i of parliamentary matter in line with j that which has prevailed in England j for years. The position is that in I defamation there are certain defences available to the person injured and one of those defences is privilege. ! Now this privilege may be of an l absolute character or of a qualified character. It is of an absolute character I so far as speeches made in the House

are concerned because there is freedom of speech guaranteed by the Constitution itself. Subject to what your ruling might be on any particular speech, the speaker cannot be proceeded against in any court of law for what he might say, be it howsoever seditious, howsoever blasphemous, howsoever defamatory of the person complaining. But there is another class of privilege, which is not absolute in character. This is called qualified privilege. Provided a newspaper in England publishes a fair and accurate report of what has been said in Parliament it is protected, because it will be assumed that it was not actuated by malice and that it was for the public good that it should publish reports of Parliament. Of course, if it could be proved, if it could be established that what has been published is influenced by malice, is dictated by malice, the privilege will be destroyed, of course, but it is for the plaintiff or the complainant to establish malice. It is also assumed in cases of qualified privilege that it is in the interests of public good that the report should have been published.

DR. W. S. BARLING AY (Madhya Pradesh): May I ask my friend Mr. Sapru a question? Probably what Mr. Sapru has said just now is the position in England. But I should like to know from him and I ask this in a spirit of enquiry and not in any spirit of criticising him in any way—as to why in the body of the Bill you should have this phrase at all, 'unless the publication is proved to have been made with malice'. As a matter of fact, what I wish to ask him is this. By introducing this phrase what you are doing is that although the publication may be absolutely truthful none the less if it is made with malice, then the person making the statement can be proceeded against in a court of law. I do not see why this should be the case.

SHRI P. N. SAPRU: This brings the law in India in conformity with what

was laid down by Lord Cockburn in the famous case of *Wason vs Walter* and the reason for the change suggested in the Indian law is the judgment of Chief Justice Harries in Dr. Suresh Chandra Banerjee's case. Chief Justice Harries took the view that newspapers were not protected, that the rule laid down in England in the case referred to by me was not applicable in India because.....

DR. W. S. BARLINGAY: We need not ape the English practice.

SHRI P. N. SAPRU: You need not; you can go back; if you like you can go 5,000 years back. I am only just explaining what the legal position is in regard to this matter. The fact of the matter is that the whole concept of the Law of Torts, the whole concept of the Law of Contract, and the whole concept of the common law and the criminal law have all been borrowed from Britain and it becomes therefore necessary to remind ourselves what the position of the law in England is and whether the law that we are enacting approximates to the law in England or whether it is a departure from that law.

DR. W. S. BARLINGAY: There is no question of going back. I suppose he has misunderstood me.

SHRI P. N. SAPRU: There are good reasons why unqualified privilege should not attach to publications of speeches made in Parliament. After all people have their reputation and sometimes statements are made on the floor of the House—and there is no doubt that there should be frank speaking on the floor of the House—which reflect upon the honour of persons outside. Now, the practice in modern countries is that when statements of this nature are made on the floor of the House, the person making the allegation normally repeats it outside the House thus giving an opportunity to the person offended to vindicate his honour. Now, in Parliament it is necessary, in order that it might be able to perform its work satisfactorily, in order that it

[Shri P. N. Sapru.] might be able to discharge the functions which have been entrusted to it by the electorate, that there should be absolute freedom of speech. But so far as reports of what took place in parliament are concerned, there is a slight difference. Provided the report is a fair and accurate one, provided the report is substantially true, it will be presumed that it was not malicious. The burden 'of establishing that the report was malicious will be upon the person who complains against the publication of the report. If, for example, I look into the copies of the Indian Legislative Assembly debates of 1926 and publish something that was said then—it being a privileged publication—the presumption is that I was actuated by some malicious consideration. That is why the word 'malice' is put in there and that is why only reports of a *bona fide* character have been protected. I do not know whether this explanation satisfies Dr. Barling or not but this is how my mind works in respect of this Bill.

Therefore the position is that this Bill is not of a revolutionary character. It just brings the law of this country in conformity with the law of libel relating to publication in newspaper of parliamentary proceedings in Britain. The difficulty here arose by reason of the fact that Chief Justice Harries in Dr. Suresh Chandra Banerjee's case went to the length of saying—I do not say he was wrong; he was perhaps correct—that there was no qualified privilege such as that existed in England so far as publication by newspapers of proceedings in Parliament was concerned. The newspaper therefore publishes everything that is said in Parliament at its peril. It has to take risk in publishing anything that is said in Parliament. He has relied for this on the fact that in the exceptions in the Indian Penal Code publication of parliamentary matter had not been included. There is no case, so far as I can see, on the civil side

on this; point but one may take it that this is the state of the law in India because there is no judgment to the contrary. Therefore it becomes necessary to clarify the legal position so far as newspapers are concerned. I think the Bill provides ample protection to every newspaper because the assumption will be, in publishing parliamentary proceedings provided they are substantially true, that it is acting in a *bona fide* manner and that it is not acting with malice. I have therefore pointed out how and why this Bill became necessary and why this Bill is not of a character which need alarm anyone. I was therefore surprised, Mr. Deputy Chairman, that there should have been State Governments which opposed this Bill. The majority of the States, as far as I know, have not opposed this measure. It is only a minority of States that have opposed this because one may assure that those States which had not sent any replies at all were not against the Bill. One may proceed on that assumption.

Now, under the Constitution we have three lists. We have the Union List; we have the State List and we have the Concurrent List. In the Concurrent List it is the function and privilege of this Parliament to legislate and it is not essential that it should legislate for the whole of India only with the consent of the States. Before we allow ourselves to be dictated to in these matters by the States we have to make sure that the grounds urged by the States are of a character which make it necessary for us to accept their viewpoint. The States, as far as I can see, have given no valid reason why this legislation should not apply to the State Legislatures, to the proceedings of State Legislature also.....

SHRI S. C. KARAYALAR (Travancore-Cochin): What about entry 39 of the State List as pointed out by the hon. Minister?

SHRI K. S. HEGDE: This is not a privilege for the House, but this is a privilege for the Members.

PROF. G. RANGA (Andhra): This is a privilege of the Members and you may extend your own privilege to others.

SHRI P. N. SAPRU: Privileges under this entry have as much to do with this Bill as I have to do with the man in the moon. I think we ought to know exactly what these words "powers, privileges and immunities of the Legislative Assembly and of the Members thereof" mean. I was just going to come to that point. Privilege is the fundamental right of Parliament. Now, this is what a Bench of the Allahabad High Court said about parliamentary privilege and I may be permitted to quote from that because it sums up correctly the whole position: —

"Parliamentary privilege of the House of Commons in United Kingdom is the sum of the fundamental rights of the House and of its individual members as against the prerogatives of the Crown, the authority of the ordinary Courts of law and the special rights of the House of Lords.

They are rights which a sovereign legislature must possess for the due execution of its powers. Some of them are enjoyed by individual members for the obvious reason that the House cannot perform its functions without an unimpeded use of their services and others by each House for the protection of its members and the vindication of its own authority, prestige, power and dignity. \

Though the distinction between privilege and functions is not always apparent, the more convenient course is to reserve the term 'privilege' to certain fundamental rights of each House which are generally accepted as essential for the exercise of its constitutional functions."

Now, in delivering his judgment in the *Wason versus Walter* case, Chief Justice Cockburn did not put the case

for a qualified privilege or for a privilege so far as publication by news papers of contemporaneous portions of proceedings is concerned upon any privilege which Parliament possessed. It was not on the ground that there was a privilege which attached to publication of parliamentary proceedings that the judgment of Chief Justice Cockburn was based. The basis of that judgment was the view that it was desirable, in the public interest, to look upon publication of parliamentary proceedings in the same light or in the same way as publication of proceedings in a Court of law. That is to say they were adding a new ground for defence to an action for libel so far as newspapers were concerned and that case itself destroys the view that parliamentary privileges are affected in any way by this Bill. It is a Bill which affects the criminal law of the country. It is a Bill which affects the law of libel of this country, but it is not a Bill which affects the parliamentary privileges or which affects the fundamental rights of either the State Legislatures or of Parliament. And that, I think, is a distinction which was completely ignored by the Law Minister when speaking on this Bill. I venture to suggest that it is a wrong view of the law to look upon it as constituting something in the nature of a new privilege for Members of Parliament. So far as privilege is concerned, each House is its own master. The House of the People and the Council of States could by separate resolutions say this is a privilege and we claim this privilege for ourselves. Whether by a resolution or otherwise a new privilege can be created is a different matter. The fact of the matter is that so far as this Bill is concerned, it does not concern itself at all with the question of privilege

DR. W. S. BARLINGAY: Sir, may I ask Mr. Sapru a question?

MR. DEPUTY CHAIRMAN: No. You may ask it afterwards.

DR. W. S. BARLINGAY: It is very necessary for the sake of clarification

[Dr. W. S. Barlingay.] of the very point which Mr. Sapru is making. I am not asking in a spirit of opposition. All I wanted to ask Mr. Sapru is this. For instance, there is a debate in Parliament and certain words escape from the mouth of a Member and afterwards those portions have got to be expunged. Now, before the words are expunged, certain reports are published in the newspapers. In that case, will not this sort of provision in the Bill affect the privilege of the House, because it is the privilege of the House to expunge any portion of a speech or any proceedings, or for that matter any report of what takes place here?

SHRI P. N. SAPRU: I think it is a very legitimate and clear question to ask. That is a question which, I must say, troubled me also, because what happens is that certain remarks are made which are of a defamatory character or which are of suspicious character. Then attention is drawn to those remarks by some Member or other. And the Chairman or the Speaker rules that those remarks are of an unjustified character and they should be expunged from the proceedings of the House. Where the matter is expunged, it means that the House did not accept it.

DR. W. S. BARLINGAY: Suppose there is publication in the newspapers before the matter is expunged.

SHRI K. S. HEGDE: The Chairman has ruled it out of order; it cannot be published at all.

DR. W. S. BARLINGAY: It is already published in the papers. Therefore, it will affect the privilege of this House.

SHRI P. N. SAPRU: Every day, newspapers publish reports of the proceedings of this House and the privilege of this House is not affected. What will affect the privilege of this House is when something is expunged from the proceedings of this House

and the newspapers do not publicise the fact that that particular portion has been expunged from the proceedings of the House. That only would constitute a breach of privilege of the House. We are having a debate today; tomorrow, it may be published in the newspapers and the papers do it in the normal course. But if, for example, something is uttered here in the course of the debate today and for some reason or other, the Chairman overlooks what was said at that moment and the following day he gives a ruling that what was said should be expunged, then a new situation arises. The newspaper which, in the first instance, published something which was expunged now would be bound to publish what was said later in this House. I think that is the correct position.

AN HON. MEMBER: The mischief is already done.

SHRI P. N. SAPRU: Well, you know that mischief is always done. There are so many things; you cannot have preventive cures for all of them. You can deal with such a situation either before or after it has arisen. But I think that the words "substantially true report" are stronger than "fair and accurate report." Here in this Bill what is insisted upon is "substantially true report". That is something quite right.

I think that there are reasons why it is necessary that the State Legislatures should fall in line with this Parliament. The circulation of a newspaper is not limited to the State where it is published. We know, for example, that the *Statesman*, the *Times of India*, the *Sunday Express*, the *Hindustan Standard* and the *Hindustan Times* have an all-India circulation and they also publish something about the State Legislatures' proceedings. Suppose a State Legislature protects them from being proceeded against for such publication. But there may be other States

where the law as a matter of fact will not know where they stand. The papers may not be liable for prosecution in Bengal but they may be liable to be prosecuted for the same thing in Bihar or Madhya Pradesh or Uttar Pradesh. It is necessary, in order that the newspapers should be able to discharge their duties satisfactorily, that there should be an all-India law on this point. I would like to point out that we have ample authority under the Constitution to have an all-India legislation on this matter. In the List of Concurrent subjects, we have Criminal law. As I pointed out, this Bill affects particularly the criminal law of the country including all matters included in the Indian Penal Code at the commencement of this Constitution. And then we have the criminal procedure. We have the civil procedure including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration and newspapers, books and printing presses. We can legislate in regard to newspapers, book and printing presses. I do not know whether this entry would, properly speaking, apply, but I certainly think that we can deal with this matter under the first head 'Criminal Law.'

SHRI AKBAR ALI KHAN (Hyderabad) :
Entry 8 in the Concurrent List.

SHRI P. N. SAPRU: Entry 8—'Actionable wrongs.' Thank you very much. 'Actionable wrongs' means tortious wrongs. Therefore, these two matters are in the Concurrent List and we would like to deal with these matters ourselves. Why should we therefore make the State Legislatures go through the farce of debating the ground which has been debated in this House and passing separate Acts to deal with a problem which is common to the entire country? I think that the matter should have been looked at from this point of view by the Select Committee. Unfortunately,

the fact is that the Select Committee has taken a different view, and by taking this view, it is going to add to the confusion of law in this respect in the country. We know that in the United States separate laws can be enacted in regard to marriage, divorce and various other matters by the various States. The activities of the State Legislatures there in these matters have resulted in a vast mass of confusion, so far as law in that great country is concerned. But we deliberately accepted the principle of three separate lists, in order that there might be some uniformity about the laws of this country. The question, therefore, to which the House must address itself is whether it is desirable in the interests of the country that there should be uniformity about this legislation or not. The Indian Press has a very heavy responsibility to discharge. Democracy is yet in its infancy in this country. The way it functions is important. It has got to be taken to the door of the common man. The Press has to be made to feel that it has a very heavy responsibility in discharging this function. Is it possible for the Press to discharge this function without some guarantee that in so discharging its duty, it shall not be proceeded against under State laws, which may be of a somewhat autocratic character? Personal liberty, freedom of speech, freedom of expression, freedom of association—these are things which modern man values and democracy values. It is because of this that we have our Fundamental Rights and Directive Principles of State Policy. Is it not, therefore, in the public interest that we should give some security, some protection, to this great fourth estate which, I hope, is not a competitor with us for power, but which can influence for good or for evil the fortunes of this country in many ways. Responsibility has a sobering effect. Is there any reason behind the assumption that the Press of different States will not act with responsibility, if an innocuous provision of this character is made uniform

[Shri P. N. Saprū.] throughout the country in all the States? Is there any reason to assume that we are more responsible in our utterances than Members of the Vidhan Sabha of our States? I am not reflecting upon ourselves. I think we are a very responsible and sober body, but I should claim the same privilege for the Members of our Vidhan Sabhas. They too speak with responsibility. They have very onerous responsibilities to discharge towards their electorate. In fact, they are in charge of subjects which intimately, directly, vitally, affect the mass of our population. Is it not necessary for the mass of our population to know what is being said or what has been said in the Vidhan Sabhas of the States? Should they not be kept in touch by the Press of this country with all that is happening in the legislatures of the States? With this Damocles' sword hanging over its head, can the Press do justice to the proceedings of the Vidhan Sabhas? It may be able to do justice, if this Bill is passed, to the proceeding of Parliament, but it will not be able to do justice to the proceedings of the Vidhan Sabha and the Vidhan Sabhas will have a legitimate grievance against us. They may say that we are arrogating to ourselves powers which they are not exercising, because they cannot have their speeches published in the same way as we can have our speeches published. Look at it from whatever point of view you like, Mr. Deputy Chairman, I think there is a very strong case for uniformity of legislation in this matter. Considering that the Bill is of a modest character, considering that the Bill does not affect in the slightest degree the privileges of the Members of Parliament, which have been defined, unless there is an enactment to the contrary, as those privileges and immunities enjoyed by the Members of the British House of Commons, considering that it does not affect the privileges of the legislatures in the States, is it not desirable that we

should take upon ourselves the responsibility of enacting a measure which will benefit the State Legislatures as also the Union Parliament? I do not think that the question was looked at from the proper angle by the Select Committee. It was open to the Select Committee to come to the conclusion that this Bill was a thoroughly useless Bill and that we should not go ahead with it. The Select Committee did not do this. It was open to the Select Committee to take the line that this Bill was of a fairly reasonable character and that, therefore, it should apply both to the Parliament and to the State Legislatures. This too the Select Committee did not do. What the Select Committee has done is this: The Select Committee has said that the Bill embodies a good principle, a sound principle, a right principle, so far as the Parliament of this country is concerned. It wants the proceedings of this Parliament to be advertised by the Press and it protects the Press for publishing these proceedings. But it is not prepared to concede this principle in the case of States. Why should we not concede that principle in the case of States? We are not conceding it in the name of the States' autonomy. Will any extra expenditure be incurred by the States if this law is changed? Will there be any administrative difficulties in administering the law? There is no doubt that, so far as the Constitution is concerned, it gives us authority to legislate for the entire country in this matter. If this is so, why should we shirk our responsibility, and why should we hesitate to accept the responsibility of enacting legislation which will apply both to the State Legislatures and to the Union Parliament? The question has therefore to be considered from a new angle, and we should not feel ourselves barred by what the Select Committee has said or what the other House has said. I think we have a will of our own. I think we are capable of independent thinking and independent action," and

I think we should press the Government to yield on this matter, because obviously the Government is not right in making a distinction between the State Legislatures and Parliament. We are prepared to impose Constitutions upon the States without their consent but we are not prepared to modify the law of libel or the law of defamation—because that is a better word and it covers both civil and criminal defamation—we are not prepared to modify the law of defamation in a manner which will, to some extent protect the honest journalist from being dragged into courts for reporting speeches made on the floor of the House. Thank you, Mr. Deputy Chairman.

Mr. DEPUTY CHAIRMAN: The House stands adjourned till half past two.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI H. C. DASAPPA: Mr. Deputy Chairman, Sir, I have hardly come across at any time a small Bill, almost the smallest of the kind, provoking such a rather vague discussion and that is so because the subject matter of the Bill is of such vital importance to the life of the people as a whole and particularly to the progress of democracy and it is but right that it has assumed such an importance. Let me go to the subject straight and that is with regard to the question whether the Bill as it is, is going to serve the purpose that we all have in view. The main object of the hon. sponsor of this Bill in Lok Sabha—Shri Feroze Gandhi—was to see that these fetters on the Press, particularly those which—though not expressly put—are yet operating in action, are removed and therefore Shri Feroze Gandhi in the Lok Sabha and

my hon. colleague who has deputed and sponsored the Bill here deserves every congratulation. As I was saying, the object of the author of the Bill was that the Press should have sufficient freedom to publish everything provided it was for public good and there was no question of any *mala fide* with the publishers. If we confine the operation of this Bill only to proceedings of the Parliament as it is now whittled down to, then I agree with the hon. Members who have spoken before me that after all it is not going to serve much of a purpose because the questions that arise here in the Parliament no doubt are of national interest and have great importance but I do not think that the protection that the Press is asking for is a matter which should be confined to the proceedings of the Parliament but it is a thing which should comprehend the proceedings of all legislatures otherwise it will not be serving the great purpose. I pose the same question as the hon. speakers who preceded me have posed and I am yet to find an answer for it namely, that so far as the State Legislatures are concerned, if the matter is fit to the State Legislatures to regulate the publication of the proceedings, then two things will arise. One is perfect confusion in the land. Each State will enact a measure as it chooses and one piece of legislation in a State may not agree with another so that far from doing any service to the country and to the Press, we will simply have created a great confusion in the land. The second thing which my hon. friend Dr. Kunzru said was that even if a State Legislature does enact a piece of legislation, it will not find publicity outside or it will not prevent a person who is outside the jurisdiction of that State Legislature from launching out any action against the paper that is published in that particular State. Now, for instance, a person who may, say be defamed, is a person in Bombay and the U.P. Legislature enacts a piece of legislation enabling the Press to publish certain proceedings. Unless the U.P. PTWPR

[Shri H. C. Dasappa.] is prevented from sending its papers

beyond the frontiers of U.P., the natural result will be that the person aggrieved in Bombay can run that paper down if the paper circulates in Bombay. That will be the result so that the immunity or concession to the paper that we are sought to be conferring on the Press is so much of a shadow and there is no substance in it. So these two things which have already been placed very nicely and very convincingly are things which we have got to answer. Either Mr. Pataskar should answer or my friend Dr. Subbarayan must answer. I can see nothing in this piece of legislation which will try to obviate that rather obvious confusion that will be created in the land and therefore I emphasise that point but the real question of controversy today on the floor of this House seems to be this namely, whether the Parliament can enact a piece of legislation which will be applicable to all the States concerned. On that Mr. Pataskar has tried to shed some light but it has been rather difficult for the House to follow. Shri Sapru the other day as just a few hours before, said that the question of privileges and the immunities and the powers of a Parliament or Legislature are not in the least affected by the operation of this Bill. It looks no doubt to be a fairly correct stand but the position does not seem to be also clear. I beseech the attention of the House because it is a legal point. Mr. Sapru said that item 39 of the State List which refers to the "powers, privileges and immunities of the Legislative Assembly and of the members and the Committees thereof" is a matter which appertains to the privileges and immunities and powers enjoyed by the Legislature as well as the members of the House. If we refer to either article 105 or to article 194 which refer to these powers and privileges and immunities of Parliament and the State Legislatures respectively, this is what we find, I do not read out article 105 (1) but I prefer to read article 105(2) which is

the tiling applicable to the present position.

MR. DEPUTY CHAIRMAN: That means Parliament.

SHRI H. C. DASAPPA: Yes, so Parliament and to the particular subject matter now under discussion. This article 105(2) says:

"No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof,"

That is simple enough.

MR. DEPUTY CHAIRMAN: And the latter portion?

SHRI H. C. DASAPPA: Yes.

"and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings."

Therefore

MR. DEPUTY CHAIRMAN: It refers to Parliament only.

SHRI H. C. DASAPPA: That is to say, the publication of any proceedings whatsoever of either of the Houses of Parliament shall be regulated by no other power or authority except by the authority of that particular House. That is the reading. And therefore, it can be argued that since the same provision exists in article 194 with reference to the State Legislature, an identical sub-clause.

MR. DEPUTY CHAIRMAN: The same wording.

SHRI H. C. DASAPPA: Since there is an identical sub-clause, there is no difference whatsoever between article 194(2) and article 105(2).

MR. DEPUTY CHAIRMAN: Except that in the other case, for the word

"Parliament" you have to term it
"Legislature of a State"

SHRI H. C. DASAPPA: Yes, Sir. That is perfectly correct. Therefore, I believe that if Mr. Pataskar had put it in that way, it would have been possibly easier for us to follow him instead of his merely referring to entry 39 of List II.

MR. DEPUTY CHAIRMAN: What does article 194(2) mean? It means that only the Legislature of the State can give permission for the publication of any of its proceedings.

SHRI H. C. DASAPPA: That is right.

MR. DEPUTY CHAIRMAN: Just as Parliament can give permission to publish any of its proceedings.

SHRI H. C. DASAPPA: Therefore, a *fortiori* Mr. Pataskar may argue, or as argued, for I take it that his argument is implied in his statement, that since it comes under the jurisdiction and the purview of the State Legislature to regulate the entire publication of all its proceedings, it cannot be open to Parliament to do likewise. It is a very ticklish point. This is the issue, the main issue, and possibly the only issue before us.

MR. DEPUTY CHAIRMAN: Please also read entry 74 of List I—the Union List.

SHRI H. C. DASAPPA: Yes, we know entry 74 of the Union List.

MR. DEPUTY CHAIRMAN: And also entry 39 in the State List.

SHRI H. C. DASAPPA: Entry 39 of the Concurrent List refers to

MR. DEPUTY CHAIRMAN: Not the Concurrent List but entry 39 of the State List.

SHRI H. C. DASAPPA: Yes, entry 39 of the State List is there and that deals with the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof. That is why I say, I am reading article 194(2) in juxtaposition with entry 39 of the State List. Therefore my hon. friend Mr. Pataskar could have argued, even if he has not, that this belongs exclusively to the province of the State Legislature; because you will see, Sir., that after seeing article 194(2) when we come to the other para which Mr. Sapru also referred, namely clause (3) which refers to "In other respects", we find the following:

"In other respects, the powers, privileges and immunities of a House of the Legislature of a State and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom."

So this term "In other respects" means primarily this right of regulating the publication of any proceedings and that is vested with the Legislature concerned. That is what article 194 tries to make out.

MR. DEPUTY CHAIRMAN: That is what Mr. Pataskar also said.

SHRI H. V. PATASKAR: Yes.

MR. DEPUTY CHAIRMAN: And many of the States have taken protection under it.

SHRI H. C. DASAPPA: No, only Travancore-Cochin has taken it. I am sure Mr. Pataskar himself will concede that this is not free from controversy, that it is not so simple as he makes out. I shall presently show how it is not so simple as it may appear, or as his blank statement might lead one to believe. I may ask Mr. Pataskar and all those who think

[Shri H. C. Dasappa.] like him this question: Now that we are passing this Bill, conferring certain privileges on the Press, I ask, whether the power to regulate the publication is taken away from the Rajya Sabha or the Lok Sabha in consequence of that? I assert that no power of either House of Parliament is taken away. The mere fact that through this Bill we are conferring a measure of freedom or latitude to the Press to publish proceedings, does not amount to saying that there is the slightest abridgement of the power of this House or of the Lok Sabha.

MR. DEPUTY CHAIRMAN: Yes, but what does it lead to?

SHRI H. C. DASAPPA: I am just developing, Sir.

MR. DEPUTY CHAIRMAN: You may take it that that point is conceded.

SHRI H. C. DASAPPA: Perfectly right.

SHRI H. V. PATASKAR: Otherwise the Government would never have agreed to it.

SHRI H. C. DASAPPA: If that is conceded to me, may I put a question to Mr. Pataskar: How do we interfere with the powers of the State Legislature to do likewise with regard to the publication of its own proceedings? If Parliament were absolutely unaffected and its powers are not in the slightest degree abridged, I ask you, how the powers of the State Legislature are going to be abridged by our extending the operation of this Bill to all publications in India, whether of Parliament or of the State Legislature.

SHRIMATI T. NALLAMUTHU RAMAMURTI (Madras): How can we do that?

SHRI H. C. DASAPPA: How is it going to abridge the power of the State Legislature in the matter of regulating its publications? It will not.

MR. DEPUTY CHAIRMAN: Nobody contends that.

SHRI H. C. DASAPPA: Therefore I say, let us not try to confuse the issue. This is a general law which we are trying to enact, by invoking the powers in the Concurrent list, with regard to newspapers, books and printing presses. We are trying to invoke or exercise that power, in the Concurrent List.

MR. DEPUTY CHAIRMAN: Where do you bring it under the Concurrent List?

SHRI H. C. DASAPPA: Under entry 39 of the Concurrent List, dealing with newspapers, books and printing presses. We have got the concurrent power to take away such powers from newspapers and to confer on newspapers such additional powers as we in Parliament choose to confer on them. This power I refuse to allow anybody to exercise, except as provided under the Constitution under either clause (2) of article 105 or clause (2) of article 194.

Therefore, what I am saying is that articles 105 and 194 do not pertain to any general law by which we regulate either libel, slander or defamation or things of that sort. Those are special powers which remain unaffected. For instance, you, Sir, with the authority that the Constitution vests in you, can prevent any newspaper from reporting anything done in this House today; you can order that this must be a closed session. There is nothing to prevent that. In spite of the enactment of this Bill, you can still say that the speeches of so and so shall not be published; you can say that such and such words should be expunged. Those powers remain absolutely unfettered. Now, when we are thinking of powers of a Legislature, let it be understood that it is of that particular Chamber or the particular House and not of the joint Legislature. Let us understand the scope of articles 105(2) and 194(2) the powers conferred by these clauses are

not on the joint Legislature, not on the Parliament as a whole but of either House. Let me again remind my hon. friend, Mr. Pataskar, if he does need any reminder. The clause says, "...no person shall be so liable in respect of the publication by or under the authority of either House of Parliament, of any report, paper, votes or proceedings" so that this clause which we want to weave as a fetter round ourselves to find an excuse to eliminate the operation of this Bill in regard to the proceedings of State Legislatures is a thing which I am afraid is not correct, is not justified and is not necessary. This does not refer to Parliament but to each House of Parliament; this is to say, that the Speaker of the Lok Sabha can do whatever he chooses and the Chairman or you can do whatever you choose in order to say what should be published or what should not be published. This is the scope of clause (2) of article 105 and of article 194 and not the enactment of a general law regarding the questions of defamation and so on. If, instead of bringing out a special measure like this, we had brought out an amendment to the law on defamation section, 499 or 500, and had provided in addition to the ten exceptions one more, the same effect could be had and if a newspaper had to be proceeded against, then the burden of proving malice on that paper, so far as the proceedings of a Legislature is concerned, either the Central or of the State, would be there. In that case, what would have happened? How would the State Legislatures have ever come back on that? This is an interpretation and I agree with Mr. Pataskar that there is an element of some doubt arising. It is possible for legal people to quibble with regard to this but I want the spirit of the clause to be taken into consideration, the spirit of this measure to be taken into consideration. If we understand the scope, the nature, the extent and the scope of this piece of legislation, then I have no doubt whatever, no misgiving whatever that this Bill can well be extended to all

the States. I have no doubt about that*, Sir.

MR. DEPUTY CHAIRMAN: Under what clause?

SHRI H. C. DASAPPA: No clause is required. It is the general law of regulating the newspapers in the land, rather releasing the hold that we have got on the newspapers.

MR. DEPUTY CHAIRMAN: We are not concerned now with the newspapers. We are concerned with the Members of Parliament or of the Houses of Legislature. This is provided by the particular section.

SHRI H. C. DASAPPA: All that I say is that this enactment is not going to abridge the powers_____

MR. DEPUTY CHAIRMAN: For that specific provisions are provided in the Constitution itself and in the Schedules attached to the Constitution. Can you refer to a general clause and say, ignoring from the provisions of the Constitution?

SHRI H. C. DASAPPA: That is why I wanted the House to concede the earlier point and I am glad it has been conceded, namely, that the powers of this Parliament to regulate the publication of its proceedings remain unaffected by the Bill. That is the fundamental basis for my address today. Otherwise, if Mr. Pataskar had said, "No, no, it abridges the powers of this Parliament", I would have had no argument. If he concedes that the powers of Parliament are there unaffected by this piece of legislation

MR. DEPUTY CHAIRMAN: The powers of the Parliament are sovereign. This is only a particular right conferred on the newspapers for the publication of proceedings of the Parliament.

SHRI H. C. DASAPPA: I would beg of Mr. Pataskar or anybody to tell me this. Is it not open to Parliament, in

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[Shri H. C. Dasappa.]

spite of this Bill, to regulate it further by preventing the publication of a matter? It is obvious. So also, I say, the powers of the State Legislatures are not affected. The point is that we are trying to take a picture of the whole of India into consideration and are trying to release these fetters which now are woven round the Press so that we may breath fresher air and the people may get a truer picture of what is happening in these Legislatures. That is the main object and so long as power is conferred on us to make a legislation, we do that subject always—if that is going to be of help to my hon. friend, I have no objection—to all the powers which the Legislatures can exercise under article 194 or article 105 because it is now admitted that no power of the Legislature of a State or of the Centre is going to be affected by this Bill. If that is conceded, then what is the trouble?

Mr. DEPUTY CHAIRMAN: This does not confer any power on the Press to publish anything about the State Legislatures; it is only with regard to the proceedings of the Parliament and what is there that the State Legislatures can confer?

SHRI H. C. DASAPPA: What I say is that if the operation of this Bill is extended to the State Legislatures also, it would not be *ultra vires* of the Constitution. That is my argument because it does not abridge the powers of any Legislature, either of the Centre or of the State, to do whatever it likes.

SHRI M. GOVINDA REDDY: In what respect is it to be extended? This is to be extended in respect of the publication of Parliamentary proceedings which the States cannot do.

SHRI H. C. DASAPPA: There is only one position for our friends to take up. Either they must take up the position that the powers of the State Legislatures are going to be affected,

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the powers conferred under article 194 are going to be affected by this Bill, or.....

SHRI H. V. PATASKAR: May I try to clarify or should I speak at the end?

SHRI BHUPESH GUPTA: I do not find things being clarified.

SHRI H. V. PATASKAR: My hon. friend agrees with me so far as article 194 is concerned. The States have got all powers with respect to those particular proceedings of the respective Houses but he asks whether we are not going to affect the power—the power of control over the proceedings—of this House. What is the power? The provision is that whatever proceedings are allowed to be published are done so by whatever orders are passed by the Speaker or the Chairman in respect of each House. What we provide is that we grant an exemption to the reporting of the proceedings which exemption is already there granted so far as the Members are concerned. This means that they cannot be proceeded against there cannot be any liability. The point is that it does not take away the powers of the House; at the same time, the Bill refers to the proceedings of the House. This House, that is the Parliament—both the Houses—has come to conclusion that so far as the proceedings are concerned, so far as any rights are concerned, if anybody publishes those proceedings *bona fide*, then he shall not be liable for any prosecution. That is what has been laid down. Even under the Constitution, under article 194, it would be more appropriate for the States to lay down just as we have done. We have practically extended that exemption granted from any liability for defamation of these proceedings to newspapers under certain conditions. I believe it is at least workable.

That can be done only by 3 P.M. that State Legislature, but if my friend first agrees with me that is within the power of a State Legislature, then certainly

the fact is there that by this the powers of the House itself are not affected, because it is open for that House, if the publication impinges on them, to say nobody can publish it but, that apart, the Bill lays down with respect to the proceedings of the House over which we have control, and it puts it in a sort of a negative form that, if they are published in a newspaper *bona fide*, then he shall not be liable. Naturally it is capable of being argued by the State Legislatures as well. Still it would be for us now to consider whether we could also extend it to them, our procedure, and that will depend upon several factors. I have not carefully studied the rules of this House, (*turning to the Secretary*)—Mr. Mukerjee might tell us—for instance, there is a rule in the other House that nothing defamatory or in contempt of court and all that can be said in the House.

SECRETARY: We have also got that.

SHRI H. V. PATASKAR: So it should be consistent with the rules which we ourselves have laid down. Suppose there is a Legislature where there is no such rule, then what happens? So naturally it may be safe for us not to introduce this there. It is all one whole thing that we in this House have made certain rules and under those rules the proceedings are conducted. What this Bill lays down is that if these proceedings, naturally subject to all those rules and the other rules which may come into being, are published *bona fide*, the man will not be liable for prosecution. If you concede my point there, then this must be in the nature of things, a matter which must be decided by the particular State Legislature concerned.

SHRI H. C. DASAPPA: I am so sorry that my forensic ability that I once possessed must have absolutely deserted me. As I say, the State Legislatures have powers to regulate the publication of their proceedings; I have not disputed it, and this Bill is not going to prevent them from doing

so. Article 194 continues to be operative. Article 194 is the only article which speaks of the powers, privileges and immunities of a State Legislatures. When nothing of a trickle in article 194 is going to be prejudiced, I, for my life, cannot understand how anybody can invoke article 194 and say that we are trespassing 'on the powers of a State Legislatures—for my life I cannot understand. If we had tried to interfere by howsoever little the powers in article 194, which is the only article which confers powers on the State Legislatures, I perfectly agree and I am at one with Mr. Pataskar.....

MR. DEPUTY CHAIRMAN: But still you want to make this law applicable to the State Legislatures. How wiH you do it?

SHRI H. C. DASAPPA: What I say is that the Bill which was originally put forward by Shri Feroze Gandhi aimed at doing so—I did not want to point it out—but that apart the amendment that my friend, Mr. Sapru, has now placed before the House is worthy of consideration.

MR. DEPUTY CHAIRMAN: I think the point is very simple. It is a question of privilege, the matter of publication, what portion of the proceedings of the Parliament or Legislatures can be allowed to be published. As regards Parliament it comes under article 105; as regards other Legislatures it comes under article 194. So it is only the Parliament that can grant the permission, confer this privilege *on* the Press and to say what portions of the proceedings or reports or papers of the Parliament can be published under article 105. Similarly under article 194 the State Legislatures can confer that privilege. I believe you concede that position. Then how can you make this law applicable to a State Legislature?

SHRI H. C. DASAPPA: That is why I also said that there is room for approaching it legalistically and then saying.....

MR. DEPUTY CHAIRMAN: Don't you think.....

SHRI H. C. DASAPPA: What I say is this. As I could read article 194(2), it refers to the inalienable right of a State Legislature to regulate the publication of its proceedings as it chooses; the mere enactment of this Bill is not going to prevent that. If it was preventing then I agree with Mr. Pataskar. But it does not. It is a general law which we are trying to enact by virtue of the fact that the Concurrent List _____

MR. DEPUTY CHAIRMAN: This is not a general law.

SHRI H. C. DASAPPA: The Concurrent List refers to the regulation of newspapers. He is doing it from the point of view of the exercising of the power

MR. DEPUTY CHAIRMAN: I am afraid you cannot bring in item 39 of List III. The main substance is that it is a question of privilege of the Parliament and the privilege of the Legislatures.

SHRI H. C. DASAPPA: Quite right.

SHRI H. V. PATASKAR: The Title of the Bill itself shows that this is not a Bill about newspapers. The Bill deals with giving protection in the matter of publication of Parliamentary Proceedings.

SHRI H. C. DASAPPA: I am questioning the Bill as it has come before the House, not that I am arguing on the strength of the Bill before me, but on the shape it ought to have taken properly. That is what I am arguing. Let not my friend take umbrage in the fact that the Title of the Bill today is "Parliamentary Proceedings" etc. As my friend Dr. Subbarayan would agree, it began the other way; it was a question of all State Legislatures. What I say is that this Bill, as Mr. Kunzru said, is going to create

confusion in the land because, if the U.P. State has a similar Bill as my friend Mr. Pataskar wants it to enact, and" Mysore, Bombay and Bengal and so on have different kinds of Bill, far from trying to do any good to the Press, we would be creating such a confusion in the land that they will say, "Save us from our friends."

SHRI M. GOVINDA REDDY: If they have different Bills they will be Bills in respect of publication of proceedings of their Legislature whereas this is a Bill not in respect of publication of proceedings of any Legislature, but of the Parliament. How can there be a confusion?

SHRI H. C. DASAPPA: Now my friend wants an instance; I will give an instance., which I think Mr. Kunzru very well did.

MR. DEPUTY CHAIRMAN: Even conceding that position that some confusion may be caused, how can you help it as long as the Constitution remains what it is, unless you amend the Constitution?

SHRI H. C. DASAPPA: Now the whole thing boils down to this that such a state of affairs, if left unamended or unattended to, is going to create* confusion. That is conceded I take* it. The next question is how best to secure the desired need of bringing about uniformity. *(Interruption)* I have always yielded to you. Just a minute. I say this that either it should be possible under the Constitution as it is, or the Constitution has got to be amended. I want my friend to say whether it is possible in any other way. Now I feel there is another way, of course a better approach and a more constructive approach to the* problem, and that is of getting round to the States, get all of them to say *Yes' and then with their concurrence enact this.

MR. DEPUTY CHAIRMAN: They have not done so.

SHRI H. C. DASAPPA: The only State of all the States is Travancore-

Cochin, which is now under Central administration. No other State has raised this funny issue of invoking item 39 as a bar to the publication of the

MR. DEPUTY CHAIRMAN: Read the list. Bengal and Bombay have agreed for such a legislation, but all the other States have said, "No".

SHRI H. C. DASAPPA: I quite see *at they said, "No" but.....

SHRI AKBAR ALI KHAN: The majority have said that.

SHRI H. C. DASAPPA: I do not want the majority to say yes or no.

I have noted down the States. All the States, except Travancore-Cochin which has raised the legal question, namely, that it is not within the competence of Parliament to enact a piece of legislation of the kind suggested, have said that this legislation is not desirable only on the ground that they do not welcome it. I have followed my friend Mr. Pataskar. Let him point out if there is any State except Travancore-Cochin which has chosen to say that Parliament has no powers. I ask him a specific question and I am prepared to wait for an answer.

SHRI H. V. PATASKAR: I have already said that this point has been raised by one of the States. I do not think it has done any wrong. I have made my position very clear—my hon. friend Dr. Kunzru will also agree I hope—that in view of the point raised by them which at any rate even according to the argument of my friend is not free from doubt and realising that afterwards there may be some complications, the best thing will be for us in the Central Government to write to them and induce them to do it. This is after all a concurrent subject and I have no doubt that ultimately we will succeed that way instead of trying to do something which may be challenged in a court of law. We can write to them, and I say

here openly that as soon as this is passed, we will write to the State Governments and induce them to take action. That I think is the easiest and best way of solving this problem.

SHRI H. C. DASAPPA: I am very grateful and I am very thankful for these small mercies as usual. But, Sir, in a case like this, two things should have been done. I am not repeating any of the arguments.

Firstly, when there is some controversy like this, it would have been better that the Attorney-General's opinion was taken in the matter. This is a purely constitutional question where there is, as admitted by the hon. Minister, difference of opinion and no State except one has chosen to take this legal objection. In fact, when they said that they did not think it desirable, it meant that they conceded the jurisdiction of Parliament to enact a piece of legislation.

MR. DEPUTY CHAIRMAN: It does not lend itself to that interpretation.

SHRI H. C. DASAPPA: Perhaps they wanted to say that

MR. DEPUTY CHAIRMAN: They have not mentioned the reason and how do you presume that?

SHRI H. C. DASAPPA: That is why, when the hon. Minister was on his legs, I asked him to let me have a statement showing how the States have given their opinion, what opinion they have given and in what manner. And all the enlightenment that we got was that there was only one State which had taken legal objection to Parliament trying to enact this piece of legislation.

SHRI H. V. PATASKAR: Not objected they have pointed out.

SHRI H. C. DASAPPA: Not even objected; they have just pointed out. The very fact that the other States have thought that this piece of legisla-

[Shri H. C. Dasappa.] tion was undesirable goes to show that they all—with me luckily—thought that Parliament had powers to enact this piece of legislation. Sir, in a matter like this the Attorney-General should have been consulted. That is my opinion. It is up to the wisecracks in the Ministries to choose to think that the Attorney-General is there not for such purposes. In fact, I should have welcomed his coming here and giving his exposition. That would have been very helpful and who knows that he would have thrown a flood of light on this question?

Secondly, this is not a financial measure. As Mr. Sapru has said, this has no financial implications.

SHRI P. N. SAPRU: No financial or administrative implications.

SHRI H. C. DASAPPA: So when there was an idea of referring it to a Select Committee, in all humility I suggest that it would have been better if they had constituted a Joint Committee. Because this is going to affect the Rajya Sabha also. Is it proper, Sir, that a thing which so vitally affects our powers, our privileges and our immunities should be considered by a committee composed of only one House? Should they not have extended to us some courtesy? Of course, we are not persons so able or so enlightened but I think.....

MR. DEPUTY CHAIRMAN: It is a private Member's Bill.

* SHRI H. C. DASAPPA: Who says it is not a private member's Bill? How does it alter the circumstances of the case? May I say that we have powers to refer it to a Select Committee of our own if we chose? If it is not too late, if hon. Members think that there is something for us to consider, I would even at this stage—after all there is no urgency in the matter—suggest that we can sit for three days and then make a report to the House and then, consider it carefully.

SHRI B. M. GUPTE (Bombay): That is barred under the rule. We cannot appoint a Select Committee.

SHRI H. C. DASAPPA: Again a legal point comes up.

MR. DEPUTY CHAIRMAN: Anyway there is no motion.

SHRI H. C. DASAPPA: May I submit in all humility that we need not stand on technicalities? If we can serve some purpose beneficial for the country as a whole, I think it is never too late to right a wrong. They say there is no wrong without a remedy. If we consider it necessary, we can certainly refer this to a Select Committee. I would appeal to my friend Dr. Sub-barayan to accept my suggestion to refer this to a Select Committee. Within three days we will come back before the House and possibly we will be able to put on the Statute Book something that is going to serve a real purpose and not merely lead to confusion.

Sir, I am grateful to you for the indulgence you have shown in permitting me to speak at length. There is only one small point to which I would like to refer and that is with regard to drafting. You will find that in clause 3 we have got what is called a reservation and at the end of subclause (1) it says, 'unless the publication is proved to have been made with malice'. That is one condition. Then sub-clause (2) says: 'Nothing in sub-section (1) shall be construed as protecting the publication of any matter, the publication of which is not for the public good.' May I submit that when there are reservations of the kind, they must come under a separate part. Sub-section (1) should have been only something like this: 'Save as otherwise provided in subsection (2), no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament.' Then

you could have said, 'provided unless it is proved to have been made with malice' and then the other one. That would have been better. Thank you.

SHRI H. P. SAKSENA: The remedy suggested by the hon. Minister for Legal Affairs is just the remedy that we need in order to make.....

MR. DEPUTY CHAIRMAN: Order, order. Mr. Akbar Ali Khan.

SHRI AKBAR ALI KHAN: Mr. Deputy Chairman, Sir, I am very glad that this measure has been brought forward by a private member because I think, notwithstanding the great paraphernalia and the machinery of the Government, it is obvious that sometimes important things do escape their notice. It is not for want of interest in public affairs but occasions do arise when private members also can bring in legislation which would stand to the credit of private members and which would be of great service to the country. Sir, there is not time enough now as I have to join a committee, to go into the history of the protection that was extended first to judicial proceedings and later on to parliamentary and legislative proceedings. But certainly we have to pay our respectful tribute to Lord Cock-burn who about 80 to 90 years back laid down a rule giving newspapers immunity for publications of legislative proceedings which is the essence of democracy, as it gives full protection for publication of proceedings of legislatures in newspapers and this rule stands as a good law even today.

Now, coming directly to the point under consideration, I am also of the view that under the concurrent powers of Parliament we have got the right to pass a Bill relating to the protection of publications of proceedings of State Legislatures as well. As this is the moot point, I shall come directly to it. My learned friend Mr. Dasappa laboured on that and I agree with his interpretation in distinguishing the

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provisions of article 105 and article 194 and convincing the Law Minister and this House that we can do it irrespective of those provisions. But I will put it from another point of view. Now, what are we doing by this measure? We are giving immunity from certain liabilities on the civil side and from certain penalties on the criminal side. That is the position that we have to bear in mind and I would request the Law Minister to have this aspect very clearly and definitely in his mind. For the time being forget article 105 and forep+ article 194 and other provisions. Can we not amend the criminal law? Can we not amend the law relating to actionable wrongs? As has been pointed out by my learned friend, Mr. Sapru, item 1 and item 8 of the Concurrent List are quite evident and obvious. If this Parliament has got power to amend the criminal law and the civil law, I do not think any question arises about the propriety, or legality of our passing this measure which would extend to publication of State Legislatures. We are not interfering with the privileges of the Legislature. I would leave out item 39 relating to newspapers also for the time being. For the sake of argument I would confine myself only to two of these—item 1 and item 8 in the Concurrent List and with due respect I am quite clear, I am quite definite and I am sure if the legal authorities are consulted they will also concur with me, that under those two items this Parliament has got right to amend or enact a law.

MR. DEPUTY CHAIRMAN: Does the liability for a breach of privilege of Parliament or House of Legislature come under any of those items—item 1 or item 8?

SHRI AKBAR ALI KHAN: Item 1 relates to the whole of the criminal law.

Mn. DEPUTY CHAIRMAN: What I want to know is that liability for breach of privilege of Parliament or House of Legislature does not come

[Mr. Deputy Chairman.] under the criminal law or under item 8 as you said. It has to be dealt with only either by Parliament or House of Legislature.

SHRI AKBAR ALI KHAN: My submission is that your observations are quite correct so far as you are looking to the immunities and privileges of the Parliament and Legislatures are concerned. I concede that.

MR. DEPUTY CHAIRMAN: We are now concerned with the privilege of Parliament.

SHRI AKBAR ALI KHAN: Exactly. But what is this measure about?

SHRI H. N. KUNZRU: May I draw my hon. friend's attention to these words in article 194(2)? No one will be liable in respect of the publication—that is, publication of the proceedings of either House of a State Legislature—by or under the authority of a House of such a Legislature of any report, etc.

SHRI K. S. HEGDE: At present we are merely adding to it.

SHRI H. N. KUNZRU: It is not a question merely of the immunities and privileges of the Members of the House, but of the publication of the report of the proceedings in a House of the Legislature and that immunity in respect of the publication of such proceedings can be granted only by the Legislature, by the House concerned.

MR. DEPUTY CHAIRMAN: And by this enactment you are conferring that authority on the newspapers.

SHRI H. N. KUNZRU: Can this authority which is given to the State Legislatures be overridden by entries 1 and 39 of the Concurrent List?

SHRI H. C. DASAPPA: Nothing is overridden.

SHRI H. N. KUNZRU: YOU cannot pass a law in respect of a subject which has been entirely placed within the jurisdiction of the State Legislatures. They alone can grant immunity in respect of the publication of their proceedings.

SHRI K. S. HEGDE: The question is whether this relates to immunity or privilege of the House. The HOUSE can still say it shall not be published if there is no such enactment

(Interruptions)

SHRI AKBAR ALI KHAN: I am in possession of the floor.

MR. DEPUTY CHAIRMAN: You will have your say.

SHRI AKBAR ALI KHAN: My submission is that, as Dr. Kunzru pointed out, certainly so far as the publication is concerned, it is within the power of the respective Legislatures. I concede that point. But what I am saying is for the time being suppose we are dealing with criminal law.

MR. DEPUTY CHAIRMAN: We are not. That is the point. We are not dealing with criminal law here.

SHRI AKBAR ALI KHAN: My submission is that the liabilities under criminal law and liabilities under civil law are being exempted to. That is the point.

MR. DEPUTY CHAIRMAN: No, it is not correct.

SHRI AKBAR ALI KHAN: It is. Suppose

MR. DEPUTY CHAIRMAN: If there is to be a breach of privilege of Parliament by some person outside the Legislature, outside the Parliament, who is to take action? It is not the criminal court or the civil court. It is the Parliament that calls him to the bar and takes action. Similarly, in the

case of Legislatures of the States, it is the State Legislature that calls him to the bar and takes action, not the criminal court or the civil court.

SHRI AKBAR ALI KHAN: That is the power of the Legislatures, but in addition to that power.....

MR. DEPUTY CHAIRMAN: V7e are not concerned with criminal law at all here.

SHRI AKBAR ALI KHAN: We are exempting them from that liability.

MR. DEPUTY CHAIRMAN: No.

SHRI AKBAR ALI KHAN: That is very clear. Clause 3(1) of the Bill reads:

"Save as otherwise provided in sub-section (2), no person shall be liable to any proceedings, civil or criminal, in any court

What are you doing by that provision? You are giving exemption from civil and criminal liability. When we are doing that it does come under the general law and as it possesses the power under the general law, I submit respectfully that we can do that as well. So, my point is in addition to Shri Dasappa's point—article 194—I agree with Mr. Dasappa but it is a debatable point that could be discussed under article 194 and as the hon. Law Minister said it could be construed both ways. But so far as the provisions of items 1 and 8 in the Concurrent List are concerned it is beyond dispute. I submit that we have got powers under this provision.

The other point is what makes our position nationally stronger when we look to the point of actual difficulty and confusion that would arise, as was pointed out by Dr. Kunzru. Suppose Uttar Pradesh passes a law giving them immunity and the publication is made in Hyderabad, they will sue him according to law of Hyderabad.

MR. DEPUTY CHAIRMAN: That point has been pressed.

SHRI AKBAR ALI KHAN: That point gives strength that it should be an all-India law. That is a further point which supports the contention.

Now, number three point is so far as the consultation with the States is concerned, according to convention there is no objection from the majority of the States. That is what I could gather. Most of the States have said that they are not opposed to it. In view of all these things, is it not in the best interests to include the State Legislatures in this Bill? After all we are already eighty-five years behind modern countries and modern legislation. You want this to be still more delayed in the Legislatures where there is a greater necessity for this Bill than for Parliament. You want to postpone it. I submit that if we can reasonably construe the provisions and include the publication of Legislatures of all the States, I think, in the greater interests of the country, in the interests of the freedom of our Press and in the interests of democracy, we should extend the operation of this Bill to State Legislatures.

Lastly, I submit that my learned friend from opposition bench just referred to certain qualifications that are essential and suggested their deletion. But I think they should remain there. The question of substantial truth should be there. Otherwise, it may cause hardship to the public. The question of malice should be there as it has been considered, only when there is personal motive, apart from public. And the element, public benefit, should also be there, otherwise a person may malign another for personal reasons. So, with these observations I support the Bill and I would strongly urge that the House will consider the plea of extending this measure to the State Legislatures as well. I thank you.

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, Sir, I rise in support of this Bill and I express my sense of gratitude to the sponsor of this Bill in the other House who has

[Shri Bhupesh Gupta.] very ably piloted it through and also to Dr. Subbarayan who has taken the responsibility in this House. I consider it a very great piece of public duty on their part, because this measure has been long overdue and I think that a longstanding demand of the Press has been partially met in this particular Bill I will be very much interested in its swift and immediate passage in this House so that in a few days' time, it becomes the law of the land. I would not like to go into the details of it or to embark upon any legal point. Law is not my domain. I am a little afraid of legal argumentations. I know that points may be made this way or that way. But the proposition is simple— whether the Press in our country is to get the protection that it deserves to be given. That is the proposition. If we make up our minds on this topic. I think that there would not be any difficulty in ensuring such a measure as would be necessary to bring about the protection of the Press.

Now the confusion that has arisen here is largely due to the attitude that the Law Minister has taken. I find that the Law Minister has just gone out of the House and I would have liked him to hear what I say. We find that it is a private Member's Bill. I am very glad that behind the Treasury Benches there are talents which bring up measures such as this; We welcome such developments and I hope that they would be more vocal than the Treasury Benches in sponsoring measures such as this. But it does not behove the Government to wash off the responsibility in the matter by merely saying that it is a private Member's Bill and that they have very little to do with it. The Minister for Legal Affairs said this morning that he would not venture to give an opinion whether the Bill came within the Concurrent List or State List. He also said that this was only a private Member's Bill and that he would not say anything and

that the parties might go to a court of law. It is a strange utterance if you remember something else that he has done. In matters that should be left to the courts, they are free with their advice. It is not that they do not give advice. The Working Journalists Act was enacted by this House and the other House after great deliberations. We applied our minds to that measure and discussed it at length. The law defines that working journalists are such people as editors, sub-editors, proof-readers. Now, proof-reader was included as a working journalist. Owners of the press thought that proof-readers were not included in the category of working journalists and asked for Government's advice. What did the Government do? They immediately came out with an advice—and volunteered that advice—to the owners of the press saying that proofreaders were not to be included in the category of working journalists. This is what they did in regard to a matter which had to be left to a court of law to be decided upon. The government did not hesitate in that particular case to come out and volunteer advice to the owners of the Press. But when we ask the hon. Minister as to whether this particular Bill pertains to the Concurrent List or the State List, he pleads his inability to give us an advice. What does the Law Ministry do when it goes through the Bill? Why should it not give any advice on this? It is the bounden duty of the Ministry of Law to bring to light such legal advice as is required by the House. I should have thought that the Attorney General would be available for advice in this matter. I should have thought that the Minister for Legal Affairs would take it into his head that some laymen like us would require a bit of legal elucidation before we pass such a measure, in the course of the discussion on the measure. He only said that he was not in a position to do anything. Yet he showed a little bias in the course of his speech. Anyway, I am not going into it. Then he quoted a.

number of States. He read out a list of States. Except for one State— Travancore-Cochin— which is under the Central Government no State has objected to this measure being passed saying that it would not be within the domain of Parliament to apply the provisions of the Bill in regard to State Legislatures. None whatsoever. They might have given different types of opinions. We do not know exactly what opinions have been given. We should have been supplied with a copy of the opinions so that we could see how the minds of the great ones in the States work. Nothing of that sort we have been provided with. But from what he indicated to us it was quite clear that generally, the Bill has met with approbation on the part of State Governments and that they would not mind if it were to be extended to the States also. Some did not speak; others spoke. On the whole, I feel that the judgment of the States, taken as a whole, would not be certainly in favour of restricting the scope of operation of this Bill. Government have made out a case from the opinions that they got from the States that the States are definitely opposed to the provisions of this Bill being applied to them. Therefore, on that score, the Government has very little claim.

We stand for the freedom of the Press. The Press suffers not only from legal fetters, but also from financial control both of which restrict its freedom. In connection with the debate on the Press Commission's Report, we pointed out as to how the financial fetters on Press operate to the detriment of the development of democracy and free Press in our country. So far nothing has been done. I think that this Press Commission's Report and many of the recommendations there which ensure the freedom of the Press would be left in cold storage to be reopened, I think, only after the next general elections. Well, he would be thanked by the electorate if he passed all the recommendations now.

MR. DEPUTY CHAIRMAN: Anyway, this is beyond the point.

SHRI BHUPESH GUPTA: I am coming to the point. It takes a little time to come to the point, Mr. Dasappa spoke for one hour with your very kind and generous indulgence.

Mn. DEPUTY CHAIRMAN: You can speak on this Bill.

SHRI BHUPESH GUPTA: Here nothing has been done. Here is a piece of measure. It is the point to which I am coming because it seems that Mr. Feroze Gandhi has expiated for the sins on the part of the Ministry of Information and Broadcasting by sponsoring this Bill which at least extends a measure of liberty to the Press. This is the point I wished to make in this connection. Naturally, Sir, you cannot make a point out of air. You have to say something by way of giving the background so that things can be shown in their true colours.

Now, this Bill gives the Press some freedom which we all welcome and would like to be extended. I would not like to say how it does, because in sponsoring this Bill in the other House, Mr. Gandhi made a very able and instructive speech to which there is very little for me to add. I have read it with interest and I have found a lot of useful material which I hope the Ministry will kindly read before they decide as to what they should do in such matters.

Sir, it is necessary, for the democratic development of the country, that the Press should be given ample freedom. I should say unrestricted freedom. I am not talking about the gutter Press or the yellow Press. We all demand that the free Press should flourish; not the gutter Press. If the gutter Press flourishes, it is not a thing which is liked by the common men who make our electorate. Therefore, let us not talk about the gutter Press and the yellow Press. We are not concerned

[Shri Bhupesh Gupta.] with them. We are concerned with our Press as we understand it today. Now, this Press requires freedom, requires encouragement, requires inspiration, requires to be liberated not merely from legal but! also from financial fetters which impinge upon their liberty and freedom. Such a Bill, therefore, would commend itself not only to the acceptance of the entire House, but also the entire country because it moves in that direction.

Now, Sir, you will remember that in the course of the debate in this House and in the other House on the Insurance Bill, Company Law and other matters, lots of things were discussed. We participated in those debates in discharging our public duties and with a sense of responsibility to the people, to the community at large. We said so many things which were definitely in public interest.

Mr. Gandhi has said, I have said, Mr. Dasappa has said, and so many others have said so many things while speaking on the various Bills discussed in this and the other House, but how much of it has appeared, in the press? Complete silence. Whenever we say something about the rich people, about a managing agent here or a managing director there, people who have money at their command, you find that nothing appears in the Press, firstly because the Press is controlled by these rich people and secondly because there is always this Damocles' sword hanging over their heads that, if they publish such things, they will be hauled up and faced with proceedings either under the criminal law or under the civil law. Those who would like to take the proceedings here to the doors of the people would not be in a position to do so because of the legal handicaps that are in the way. Therefore, we feel that it is the duty of the Government to come forward and extend the freedom of the Press and to see that nothing stands in the

way. Otherwise, what is the use of our talking in this House? We are certainly not in a talking shop here. We feel that we are here to discharge certain responsibilities on behalf of the people, ventilating their grievances, giving expression to their urges, bringing to the light of the House the events that are happening in our public life, placing the problems of our society before the view of the public. This is what we do in this House. Naturally, functions such as these cannot be well fulfilled unless and until the Press becomes a mirror of our activities in this House. The Press should have the full freedom to tell the people what we are doing here for two reasons: One is to show how their chosen representatives, chosen directly or indirectly, are fulfilling their functions as public men, and the second reason is to show how the public life of our country is going on. Unless the Press is given this freedom, it will not be possible for it to fulfil such responsibilities. Therefore a Bill of this sort, a measure of this sort, is essential.

Now, we find that there are always some people who are concerned about protecting the fame and what not of the rich. Whenever we talk about anything, we find that some people get up and say, 'The person's name will be tarred and defamed and all that.' Sir, you have been sitting in this House for a number of years now and you know that, when we speak in this House, we speak from the angle of the people; whether we speak from this side or whether we speak from the other side, it is always with the interests of the people at heart that we speak. Therefore, when we speak, we speak actuated by a desire to serve the interests of our country. If in the course of such participation and debate, we say certain things about an individual, about a company director or a managing agent, about a managing director of an insurance company or a managing director who sometimes finds a place in the Central Jail, the

country should jolly well know what we have said and why we are saying such things. It is necessary that the people should know what things are happening in the country. Otherwise, nothing would be known to them. Suppose we come across some reports about some speculation, we find that certain companies and firms are engaged in certain activities in Bombay or Calcutta, and I make mention of it here—you are there to see that I make responsible utterances and suppose you allow me and I do make that utterance—why should that be kept back from the people? After all, it is their interests which are at stake. A timely warning emanating from this House through the columns of the Press may save millions of rupees, may save the interests of so many people outside, and they ought to know what we are saying and what matters are being discussed.

It is essential from the point of view of democracy that the Press should be given full freedom. After all, democracy means criticisms of those people who are in high positions, whether Government officials or non-officials. Now, if we make criticisms about certain individuals even if we make charges about certain individuals, the country should know what charges and criticisms are being made against individuals and others in high authority or in high positions. Let the people judge whether we have been behaving as responsible Parliamentarians; let them *come to* a judgement with regard to those persons against whom charges are made, against whom allegations are made in this House. The people will be the final arbiters of the whole thing. They will be the final judges in such matters, and I do not think why democracy which is supposed to grow in this country should be denied the advantages of the things that are uttered in the Parliament and in the State Legislatures being taken to the electorate, to the people, by the Press. This is very important. If we were

to have a press here, a very widespread press—not a small press as we run, which can match the press of the big persons—and if that press publishes some of the things we say specially about the Ministers' doings or certain officials' doings, we will see our Ministers behaving very well. It will make better men of them. We know that, if similar things are given publicity in the Press about the business of the managing directors and the whole crowd of them, they will behave much better and they will know what their place is. It will be to the advantage of not only the particular sector of the community but of the entire country, and will usher in a very healthy state of things in our public life. That is why we feel that this freedom should be given to the Press. Mr. Gandhi has done a good job of it by sponsoring this Bill. Only one would have expected that, when the Government came to know of the fact that Mr. Gandhi, one of the Members of the Government Party had worked out such a Bill, they would have seen their way to accepting and welcoming it with both hands. They should have piloted it themselves. It would have been better for them. Instead of that, the hon. Minister has told us that they have not come to any conclusions, that it is only a private Members' Bill, and that the parties could go to a court of law. What sort of support is being given by the Treasury Benches to a measure which is undoubtedly beneficial to our society? This does not speak well of those who adorn the Treasury Benches but only of some of those who follow them behind.

Then, Sir, legal arguments were advanced for and against, as to whether this Bill could apply to the State Legislatures. My legal learning is certainly not one of my strong points, but I can tell you from whatever little knowledge I have of the law and of this Constitution which has got so many schedules and all that, it

[Shri Bhupesh Gupta.] seems to me that it is possible for us to pass a measure which would not only apply to the proceedings of the Parliament but also to the proceedings of the State Legislatures. That is what I feel, and there is not a legal talent here who would dare to say that it is not possible to do it and bet something on it. The hon. Mr. Sapru, an eminent lawyer and a former Judge of a High Court, also felt that it would be possible for us to pass this measure, to broaden the scope of this measure by including the State Legislatures in it. It is regrettable that the Government did not take the initiative in this matter. We are told that opinions were sought. We would like to know as to how opinions were sought, what kind of communication was sent out. We are very much interested in knowing from the Government whether the Government, while sending the communication, tried to persuade the States to fall in line with this measure or whether they simply wrote a noncommittal letter, a non-committal communication. We feel that, if the Central Government had shown a little more enthusiasm, the State Governments would have supported this measure except for a few States. You can understand that, when the Government of West Bengal has supported this measure, when even Dr. Roy has not opposed it—I have no reflections to make on Dr. Roy; I welcome the advice he has given—it only shows the validity of the case for extending the range of this Bill to cover the State Legislatures also. But unfortunately the Government has behaved in a stepmotherly manner in regard to this Bill and moved with halting steps, and therefore it has not been possible for us to do what otherwise we could have done here and now in this House. I would like to say another thing. I have no illusion that if you give this privilege to the Press, it will be properly used. I tell you why. Privileges of course we are giving, but the trouble is that the Fourth Estate of yours is under the

occupation of the big money. As long as these gentlemen remain in occupation of the Fourth Estate, I am afraid that even this privilege would not be properly used and I think we should be watchful as to whether this privilege given with all good faith, good intentions, for expanding and broadening our democracy, for ensuring better public life, is utilized by the Press and not undermined or otherwise sabotaged by those people who own the Press in our country. That is also a very important matter. This Bill has nothing to do with it I know. But I know that the law itself would not solve the problem. It will be useful, it will be beneficial, it will be effective, it will achieve its ends only when the Press itself is in a position to make use of it and I know that as far as the working journalists are concerned, they would welcome it with both arms because it gives them the moral force and also provides them strength for discharging their responsibilities by the society. But after all, it is not they who dictate things. It is these press lords who might come in their way and abridge these privileges in actual life and prevent its full utilization by the working journalists of our land. I have not a doubt in my mind that once this Act is passed, the working journalists in our country, intelligent as they are, would know how to make the full use of it despite the handicaps that will be put in their way by the newspaper baronets. But as far as we, in Parliament, are concerned, we should make it known to these newspaper bosses that we are passing this measure not merely for the luxury of it, not merely for the sake of having a good measure on paper. We want this measure to be implemented in practice, in life and the Parliament would never, never tolerate any kind of interference in the free use of this measure within the four corners of law in order to discharge the responsibilities towards the people and towards the cause of democracy. I think a note of warning of this sort should be uttered

here and now in this House lest there would be some malefactors sitting somewhere in high positions who would try to stifle the liberty that is being given to the press, a liberty that is well-won but may be killed by the machinations of the press barons of our country. With these words I support this measure. I once again congratulate all those who have been associated with the bringing up of this Bill, in particular the sponsor of this Bill Shri Feroze Gandhi, who is not an old friend but perpetual friend of mine. It gives me particular pride in supporting this Bill. I can tell you that I have a sigh of relief personally. Once I made a speech

MR. DEPUTY CHAIRMAN: That will do.

SHRJC BHUPESH GUPTA:
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Calcutta which was published in a newspaper of which I am the Chief Editor. What happened you know? Immediately a lawyer's notice came; but you see I am not frightened of lawyer's notices because criminal court is something which never frightens me. As far as civil court is concerned, I have nothing to pay and therefore I am not frightened of it. Regarding criminal courts, I have been a frequent visitor of jails. But I got a letter saying that as the Editor of *Swadheenata* I was liable for prosecution for a speech which I had made and which had been printed in *Swadheenata* about a coal mine—about corruption and malpractices in a coal-mine. I threw that letter into the waste paper basket. Only I made it known that if such things would be done by them, they would hear more speeches by me. Naturally, no action was taken but that is how they try to frighten the people. The mine has gone into liquidation and even the Government has found out great corruption and the Government has taken some action. Anyway, this is how the press was sought to be frightened. Imagine what would have happened if it was some other paper. If it were a paper of the

mine-owners themselves, my speech would never have been published. In fact, it had not been published in any of the bourgeois press owned by the big people. They were frightened. If they had published, they would have been frightened by this kind of legal action and the pressman or the working journalist who had written such things would have been terrorised and probably would have been given the sack. Such things would have happened. Therefore I say that it is of very great importance that we are adopting this measure and I do not like to speak any more because before five O'clock, I think, the hon. Members are hoping very much that we should give the sanction of our House to this Bill and we should pass this out of this House for assent of the President in order to become the law of the land. I wish this measure good luck and I hope this will instil healthy spirit in our public life and would liberate, if only partially, the Press from the manacles of law.

MR. DEPUTY CHAIRMAN: Mr. Mahanty. The Members are anxious that this Bill should become law. Unless this is passed before this evening, it will have to go to the next Session.

SHRI S. MAHANTY (Orissa): I cannot help it. I will try to co-operate with you but I cannot help it.

Mr. Deputy Chairman, Sir, we are beholden to the sponsors of this Bill in so far as it seeks to extend the frontiers of the freedom of the Press but it is unfortunate that this good handiwork was spoiled by bad touches in the Select Committee. Originally, as I understand from the report of the Select Committee, this Bill wanted to include the publication of proceedings in the State Legislatures in its scope to provide protection from actions in any civil or criminal court; but the Select Committee thought it best to drop that provision and to make it applicable in respect of the Parlia-

[Shri S. Mahanty.] mentary proceedings only. Two points have emerged out of this debate so far. In the first place article 194 has been cited to suggest that inclusion of the State Legislature proceedings in the scope of the Bill will undermine the privileges of the State Legislatures which are guaranteed under article 194 of the Constitution and in which domain, only the State Legislatures are competent authorities to formulate any law or rules in that regard and the second point has been cited by the hon. Minister for Legal Affairs that many of the State Governments were opposed to this kind of suggestion. If you look at the Minute of Dissent appended to this Bill by four Members of the Select Committee, you will find that two-thirds of the States are reported to have expressed in favour. I better read out:

"The States have expressed their opinion. The opinions so expressed give us an idea that almost two-thirds of the total number of such States have expressed in favour of it, including neutrals."

Therefore, the fact has to be admitted that the majority of the States were in favour of including the proceedings of the State Legislatures in the scope of this Bill. But then it is said that it is in the Concurrent List and the Parliament cannot ride roughshod over the opinions of the State Governments in this regard. I will here cite an example. As you know, Marriage and Divorce are in the Concurrent List and it is a matter of common knowledge that many States including the Government of Uttar Pradesh were opposed to the Hindu Marriage and Divorce Bill. Yet that did not stand in the way of the Government in bringing forth the measure in this regard, which is applicable to all States. So I ask pertinently the hon. Minister for Legal Affairs to explain to us why in this particular case the reported, the alleged, disagreement of certain State Governments stood in the way of the Government of India to include the proceed-

ings of the State Legislatures in the scope of this Bill. I believe that this is a very pertinent question and we are entitled to an answer.

4 P.M.

It has also been said times without number, that the inclusion of the proceedings of the State Legislatures in the scope of this Bill will impinge on the privileges enjoyed by the State Legislatures. Sir, I am a layman and I have no pretension to legal acumen, But then law, they say, is only codified commonsense and from that common-sense point of view, I have not been able to see much merit in that argument. Let us analyse the position. Article 194(2) says:

"No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings."

Now, let us see what the present position is. Even now correspondents of accredited newspapers cover the proceedings of the State Legislatures. That is the position. You cannot deny that. Therefore these publications are made under the authority of the Legislature, just as in the case of Parliament where the correspondents are accredited. Therefore suppose all these proceedings are reported in a paper and that a publication affects the fame or reputation of a person, let us name him as Mr. X. Then Mr. X brings an action against the paper concerned. Then I would like to know how this affair, this personal affair between Mr. X and the newspaper concerned, impinges upon the privilege of the Legislature concerned.

Sir, the issue is completely different and that issue should not be brought in here to confuse the entire proposi-

tion. Now the question is, instead of making it actionable, let the proceedings of the State Legislature be brought within the scope and purview of this Bill, so that any publication of the proceedings of a State Legislature would not be actionable in any civil or criminal court. It has nothing to do whatsoever with the privileges which have been enumerated in article 194(2).

Much has been said about these privileges. So let us go to the genesis of these privileges. Sir, the question of privileges and the ban on the publication of proceedings of Parliament are as old as the 18th-century-England. At one time, I think it was in the year 1742, the House of Lords passed an order prohibiting the publication of any proceedings of the House of Lords, without the authority or the sanction or the approval of the House of Lords. The Commons also passed a similar order. During the period of the Stuarts when the civil war brought democratic reforms in England, the papers were all hungry to publish proceedings of Parliament. But then the British people, conser-

As they are, would not deviate from the old prohibition which had been imposed on the publication of the proceedings of Parliament. Sir, throughout the eighteenth century, the struggle continued but the same prohibition or restriction was there. In the course of a debate in the year 1738, on the publishing of Parliament's proceedings, the Tory leader Mr. Windham said:

"The public ought to be able to judge their representatives if these proceedings are published in the newspapers."

But even this very reasonable argument did not cut much ice and the prohibition continued. Then what happened? The proceedings were all the same published, but under pseudonyms. False names were given for the Houses and for the Members of Parliament concerned and the publica-

tion continued, though the prohibition was there. The futility of it all can be realised when we remember that the prohibition continued on the Statute Book, but the newspapers were not deterred in any way from giving adequate publicity and adequate coverage to the proceedings of Parliament. Therefore, if you care to analyse the history of this kind of a prohibition, then you will realise that as the democratic horizon has extended, the freedom of the Press for giving coverage to these parliamentary proceedings has also extended. Therefore, in the year 1956 it would not only be futile but it would be truly retrograde to say that the publication of the proceedings of a State Legislature would impinge upon the privileges of the Legislature concerned.

I would also submit that this introduces an anomaly to which I think the House should give some serious consideration. Let me cite an instance. As the House may remember, there were some exposures in this House about the Modi Industries. No newspapers could publish it because they feared that there would be action against them for defamation. But when this Bill is passed there is no bar to the publicising of that kind of an exposure when it is made on the floor of this House. Now, suppose there is a Modi concern, or let it be a concern X or Y or Z—I do not want to mention any names, because that may be invidious—located in the Uttar Pradesh with regard to which some exposures were made on the floor of this House. These proceedings are published without any kind of inhibition or restraint and no action can lie against the publishing of these Parliamentary proceedings in a paper, which originates in Delhi. But in the U.P. Legislature which is more competent to discuss such a matter, if this matter is raised on the floor of that Legislature, and if the State Legislatures proceedings are not brought within the purview of this Bill, then any newspaper which wants to publish those proceedings would be prohibited from giving publicity to that kind of exposure on the floor of

[Shri S. Mahanty.] the Uttar Pradesh Assembly. This is an anomaly which must be solved and it can be solved only by bringing the State Legislatures proceedings within the purview of this Bill.

There is also another matter in which we as Members of Parliament are very much interested. That relates to clause 3 of this Bill. In clause 2, newspapers are defined as:

"any printed periodical work containing public news or comments on public news, and includes a news-agency supplying material for publication in a newspaper."

That is the definition of "newspaper". And sub-clause (1) of clause 3 says:

"Save as otherwise provided in sub-section (2), no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have been made with malice."

Now, suppose a Member of Parliament wants to print and bring out his own speech or speeches in Parliament in the form of a brochure or in the form of a booklet to acquaint his constituents. *{Interruption by Dr. P. Subbarayan}*. I am coming to that. Under the British practice, if I have understood it correctly, if a Member of Parliament publishes his own speeches in the form of a booklet completely torn from the other proceedings of the House, in a separate book form, not as a Hansard publication at any rate not under the authority of the Parliament, then if there is any defamatory element in it, his publication is actionable in any court, civil or criminal. Now, the newspaper mentioned in this Bill does not include that kind of a brochure or that kind of a publication. According to the British practice even today, if a Member of "the House of Commons brings out a publication containing his speeches

and if those speeches has some defamatory element in it—so long as these speeches are made in the House of Commons no action can lie against them but, if they come out in print, in the shape of a booklet—action can be taken. It is an anomalous position. We have to acquaint our constituents with our activities in the Parliament. In the course of doing so, in the publications that we may issue, there may be something defamatory in the case of persons whose conduct have not been above board. Our constituents are entitled to know certainly that such exposures have been made on the floor of this House but what is there in this law to provide for that? There is no provision. My hon. friend the mover says that there is no provision; I would most humbly beseech him to accept my verbal amendment.

MR. DEPUTY CHAIRMAN: You cannot make any defamatory statements here because the Rules prohibit it.

SHRI S. MAHANTY: You have completely misunderstood me. I do not intend any defamatory statement. I do not care so much for your rulings but in my own taste I will not make any defamatory statement.

MR. DEPUTY CHAIRMAN: What I am saying is that every hon. Member is bound by the Rules of Procedure in this House. The Rules provide that there should be no defamatory statement. So, there cannot be any defamatory statements.

SHRI S. MAHANTY: What I have been trying to say is this: I will not make any defamatory speech here; it is neither my intention nor that of any Member of the House but the speech that I may make may be construed to have contained some defamatory element. When it comes in print, the person whose interests have been affected can make out a case for action. Therefore, what I am saying is that even though it is quite late—I was examining this question and I had

no time to give notice of an amendment—I hope the hon. mover of this Bill will be prepared to accept this Verbal amendment so as to expand the scope of the definition of a newspaper to include printed brochures. Other wise, there will be an anomalous position. We the Members of Parliament are going to confer

DR. P. SUBBARAYAN: I shall definitely not accept the amendment.

SHRI S. MAHANTY: Many thanks.

MR. DEPUTY CHAIRMAN: Anyway, there is no amendment.

SHRI S. MAHANTY: There is no amendment but I was only suggesting. Anyway, I thank the hon. Member for his refusal. That only shows that he has nothing to lose nor anything to gain. I do not think the hon. Member will be so intransigent as not to understand the reason for this suggestion. I ask him, what validity is there in his stand?

DR. P. SUBBARAYAN: The hon. Member would like to know my reaction. Even in England, the law does not allow

SHRI S. MAHANTY: He can come out with what happens in England in the course of his reply but here an anomaly arises. We, as Members of Parliament, are going to confer a kind of a privilege, an immunity, a right, on the Press which it most amply deserves while we ourselves are denied of that kind of privilege. This is a most unheard of situation; this is a most anomalous situation and I am sure that if this point would have struck the original author of this Bill or even the Select Committee, it would have been given due consideration, the consideration that it deserved. This anomalous position is there and every Member of Parliament can say whether it is so or not. We are conferring this immunity on the Press while we ourselves do not enjoy that immunity and if we publicise a speech which may be construed to contain a

defamatory element then we are liable to be proceeded against.

With these words and with these observations, I once again wish this Bill a speedy and safe passage and I hope the Government will lose no time in coming to this House again with an amending Bill keeping in view the remarks that we have made and the amendments that we have proposed.

DR. W. S. BARLINGAY: Mr. Deputy Chairman, as I am very anxious that this Bill should be passed in today's session, I do not want to take a lot of time of this House. I want only to voice my dissent with respect to one or two phrases in the Bill. Since there is not much time and since I am more anxious that the Bill should be passed today than that my speech should be heard in this House. I would briefly refer to these phrases.

I refer now to sub-clause (1) of clause 3 and the phrase is, "unless the publication is proved to have been made with malice". This phrase really is contradictory to the spirit of the Bill itself. It seems to me that this phrase is wholly unnecessary. I really do not want to dilate *on* this point but my point is that this will give a handle to people of wrong mentality to persecute the editors of newspapers although they may have published substantially correct reports of the proceedings of the House. The point in short is this. Even where the report is substantially true, it will be open to a person to say that this nevertheless is done with malice. This does not sound well; this gives a handle to people who are wrong minded.

MR. DEPUTY CHAIRMAN: Malice has to be proved.

DR. W. S. BARLINGAY: Quite so I entirely agree that it has got to be proved.

DR. P. SUBBARAYAN: I would like to say for the consideration of Dr. Barlingay that malice will have to be proved by the prosecution.

DR. W. S. BARLINGAY: That is perfectly true but, nonetheless, suppose there is a wrong-minded person who deliberately wants to persecute an editor of a newspaper, then what is there to prevent him from doing it. That is the whole point—and this especially in the face of the fact that the report is substantially true. If the report is substantially not true or if there is something wrong somewhere in the report then the matter is different. What I say is that even when the report is substantially true—that is granted—it is possible for a wrong-minded person to persecute the editor of a newspaper.

Sir, I do not think this provision is really satisfactory. Then, Sir, the same, according to me, holds good with regard to sub-clause (2) of clause 3. I do not want to make any comments on this, but the principle is the same. It seems to me that the freedom of the Press is a fundamental kind of freedom and there should be no restriction on the freedom of the Press in any manner whatever. I respectfully agree with the learned gentleman, whose acquaintance unfortunately I have not yet had the pleasure of making, I mean the second speaker, and I think he made a very good point and I substantially agree with him.

SHRI JASWANT SINGH (Rajasthan) : Sir, I do not want to take much time of the House because most of the points in regard to this important question have been discussed and I do not want to repeat them.

There cannot be any two opinions about the importance of this measure but, Sir, if we pass this measure in this particular form, where the freedom of the Press at the Centre only is guaranteed, it will not go a long way to give relief. What is being done by this Bill is that the interest of the Press at the Centre only is properly safeguarded, but as far as the States are concerned, it is there that the

interest of the Press is particularly to be safeguarded, because I can at least say from my experience of one State that hardly any freedom of the Press exists there. So to pass this measure in this form at present will not give the relief that is most required to a particular section of the Press. I would not go into the merits of the case because it has been discussed threadbare in the House, but I will give one or two instances within the course of five minutes, whereby I would try to show that it is very • necessary that before this measure is passed the States, somehow or other, are brought within the scope of this measure. Legally or constitutionally whether they can be brought in or not at this stage I am not in a position to say, because I am not a lawyer, and even lawyers among themselves are not unanimous as to what is the real position, but it is most important I would submit, Sir, that, if we are going, to do some justice to the Press, then the interests of the Press, particularly in the States, should be brought within the scope of this measure.

Sir, I would submit that in Rajas than the condition of the Press is such that it could hardly be said that they enjoy any freedom whatsoever. During the course of the last six or seven years, since the formation of that State some six Governments have held office up till now—within a period of seven years. Now talking of the present Government, last year the reader of the Legislature or the Chief Minister changed and a new Chief Minister came in. At present there is a Congress Government there all right, but it is a group Government and the

MR. DEPUTY CHAIRMAN: What has that to do with the Press?

SHRI JASWANT SINGH: I am coming to the Press, how this group Government has been curtailing the freedom of the Press and how the Press elsewhere too needs relief at this

moment when protection is being given to the Press at the Centre. That is the point that I want to bring out. The last group Government a year ago had a paper of their own. The moment this Government came into power, the one Hindi daily of Jaipur called the 'Rashtra Dut' was finding fault with the present Government and exposing them in regard to their acts of omission and commission—quite rightly—either in the Assembly or outside. The result was that immediately the present group came into power, against the recommendation of the Press Commission and otherwise too, that paper was blacklisted. That paper used to get advertisements to the tune of something like Rs. 3,000—Rs. 4,000 per month from the Government. That was stopped. Then in the Government departments thousands of copies were being subscribed to by way of aid. Those were stopped, and immediately this Government started a new paper called the "Navjiwan" and within a month of its publication advertisements worth Rs. 3,000—Rs. 4,000 per month began

MR. DEPUTY CHAIRMAN: We are now concerned, Mr. Jaswant Singh, with the publication of Parliament Proceedings.

SHRI JASWANT SINGH: I am coming to that. The next point

MR. DEPUTY CHAIRMAN: We are not concerned with what Rajasthan Government did, and that Government is not represented here in this House. It has no relevance.

SHRI JASWANT SINGH: All right. Sir, I leave this point here. What I wanted to submit to this House is how the freedom of the Press can be curtailed and how they should be given some relief. Now

MR. DEPUTY CHAIRMAN: How are we concerned with the general freedom of the Press here? We are

now concerned with the publication of Parliament Proceedings.

SHRI JASWANT SINGH: I follow, Sir. I am coming to the publication of Parliamentary Proceedings. Now, Sir, it so happened last year in the Rajasthan Assembly that certain discussions took place in regard to some Select Committee proceedings and the Revenue Minister there was cornered and he could not help divulging some of the discussions which took place in the Select Committee. We brought in a motion of breach of privilege against him for divulging certain facts on the floor of the House. No other paper would publish them out of fear that they will also be brought in for the breach of privilege. But this Government group encouraged their own paper to publish these and we tried to bring a breach of privilege motion against that particular paper also, but being in an overwhelming majority, a brute majority, naturally they would not listen to us. The point that I am driving at is this that no papers which want to do their duty, which are guaranteed freedom under our Constitution—and everybody is guaranteed freedom according to our Constitution—no paper would be able to even quote what has been told on the floor of the House unless they enjoy immunity from proceedings and for this particular reason, Sir, these breaches will be observed more in the States and the freedom of the Press is being curtailed in the States much more than what is being done in the Centre. Therefore to pass this measure in this form here would not serve the purpose and afterwards, in due course of time, if you prevail upon the various State Governments to pass similar laws, as has been said in this House, only confusion will prevail, and I do not want to repeat those arguments. Therefore all I would submit is this that it is very necessary that these important measures should have been passed a long time ago and brought in conformity with what is happening in the United Kingdom whose parliamentary

[Shri Jaswant Singh.] system we are following more or less. But that time has passed. Even now this measure has come through a private Member, on whom everybody has showered his praise and I also join in it for his having done a great service, but this Bill will not help the country and the Press, particularly that Press which needs the help most and redress most. Therefore if today this Bill is not passed and this does not become law it does not matter. It may go into the next session, but the law should be all comprehensive, so that the cases of the Press all over the country could be covered and they all should be given redress. It does not look nice that only in this country always freedom should be enjoyed by a few people in one part of the country, while in the vast areas, particularly in the States where freedom is curtailed where they do not enjoy freedom, they should not enjoy this right. Therefore, Sir I again submit that the law should be all comprehensive wherein the cases of the Press all over the country could be covered, and with these words, Sir, I conclude.

DR. P. SUBBARAYAN: Mr. Deputy Chairman, Sir, I don't want to cover all the ground that has been covered and all the criticisms that have been made. I am grateful to hon. Members for at least conceding that this is a very salutary measure and complimenting my friend of the other House for the trouble he had taken in piloting this measure.

There are one or two points I would like to deal with. Principally I would like to deal with the point that Mr. Mahanty made, which is wanting immunity for any statements which any hon. Member makes on the floor of this House and getting it published by himself. In fact this is the one protection which any person being defamed has as against any hon. Member. If such freedom is given, what might easily happen is, in spite of the power vested in the Chair to

stop defamatory statements—and it is not very easy for the Chair to deter mine what is right and what is defamation, anyone can make any statement he likes on the floor of this House and then publish it. Even newspapers, I think, have a little decency in themselves not to indulge in personal defamations being published. In fact, I have every right to think that newspapers would be careful in reporting the speeches. No doubt they may be published in parliamentary proceedings. It is bound to happen because the speeches will be published as made in the House and corrected by the speaker concerned but it may not happen that many people will buy those proceedings and know what has been said; But if an hon. Member is free to publish what he has said on the floor of the House and then broadcast it in his constituency then you will be allowing him freedom to make defamatory statements. Of course, he can take the risk, if he feels

DR. W. S. BURLINGAY: May I respectfully point out that under the British practice if the whole debate is published the publisher is protected.

DR. P. SUBBARAYAN: That is true and that can be done; but still I hold the view that this freedom should not be given and people should not be allowed to publish extracts of their speeches.

SHRI S MAHANTY: It is there already.

DR. P. SUBBARAYAN: I do not mind the Press having the power and I have the belief that they will not give publicity to really defamatory statements if they feel that the statements are defamatory. Even so a Member can always say that what he has said is a true and fair comment and that the matter is of public interest. He has got various defences by which he can still put before the public what he has to say but he

takes the risk no doubt and I think he ought to take that risk if he feels so strongly about it and not claim immunity by parliamentary legislation. That is all that I have to say with regard to Mr. Mahanty's proposals.

Then there is the question of State Legislatures. I myself feel that it would have been better if the State Legislatures had been included in this Bill as was the original intention of the mover of this Bill in the other House but because of certain difficulties and because of certain statements from the States, this has not been done. Even now I am sure my hon. friend the Minister for Legal Affairs has realised—I have talked to him and I think he has understood the position—that it is no use the various States passing legislation of the kind that we are doing here today. Because that will not protect the Press, for what is done in Madras may be actionable in Bombay even though both Bombay and Madras Legislatures had passed legislation to this effect, because what they can give protection to could be only in the area within their jurisdiction. There is consensus of opinion among the State Legislatures that such protection should be given and eventually both Houses of Parliament will have to enact the legislation if that protection is really to work. I am sure the hon. Minister for Legal Affairs realises this position but at the same time, as he has said, let us wait; let us not proceed in haste. So I think we should be content with the legislation as is propounded today and not go beyond it. I would therefore request hon. Members who have given notice of amendments seeking to include State Legislatures to desist from moving them so that this Bill may be passed now and we can consider the question of State Legislatures afresh.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to protect the publication of reports of proceedings

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of Parliament, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 3—*Publication of reports of Parliamentary proceedings privileged*

SHRI PERATH N AR AY AN ANN AIR: Sir, I move:

"That at page 1, line 13, after the word 'Parliament' the words 'or of any House of a State Legislature or of any Committee of either House of Parliament or of a Joint Committee of both Houses of Parliament or of any Committee of either House of a State Legislature or of a Joint Committee of both Houses of a State Legislature' be inserted."

"That at page 1, lines 15 to 17 be deleted".

SHRI P. N. SAPRU: Sir, in view of the observations which have been made by Dr. Subbarayan, I would not like to move my amendment. I shall give my reasons when I speak on the clause.

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI PERATH NARAYANANNAIR: As this has been thoroughly discussed I have nothing to say.

SHRI P. N. SAPRU: Sir, I would like to elaborate my reasons for not moving my amendment. I do not accept the legal position regarding the interpretation of article 194. I could give an interpretation, quite different from that which commended itself to the Law Minister, which I am sure is the correct interpretation.

isnri f. JN. sapru.j This article gives to the State Legislatures the power to regulate their own proceedings and also gives them the authority to regulate speeches etc. made in the House. But, Mr. Deputy Chairman, I recognise that Mr. Pataskar who has got a fine legal mind has taken a rather different view and therefore it is at best a question of doubt as to whether our interpretation is correct or Mr. Pataskar's interpretation is correct. In such circumstances where a doubt exists as to the constitutionality of a measure the correct course is not to proceed with a disputed amendment.

The second reason is that Mr. Pataskar has not ruled out a review of the situation as soon as further material is available in the light of the working of this measure and I do not wish the passage of this Bill to be delayed. The mover of the Bill in the other House would not like this to be delayed. Naturally we would like to see it in operation at an early date. The Select Committee has worked over this Bill and it has had a safe passage in the other House. It makes a good advance over the situation as it exists today and I am quite certain that the States will fall in line soon and therefore I shall not press the amendment.

SHRI H. V. PATASKAR: There seems to be some misunderstanding. I would like to make it clear that it will harm the cause of those who feel that this law should apply to the States also. I would like it to be perfectly understood again that so far as I am concerned I have refrained from giving a dogmatic opinion on this point. I was pointing out what has been raised in certain quarters and I hope hon. Members realise that when I do it I do it with a sense of responsibility. As a matter of fact if we tried to do something which probably will be challenged in a court of law afterwards, what is the use? Let it not be given out as if I have given a dogmatic view or opinion on this

question. I have avoided giving any opinion and I do not know why my hon. friends interpret me as saying that I hold that view. Probably I have not made myself clear. All what I say is, in view of the objection which has been raised it is better that we confine ourselves at the present moment to parliamentary proceedings. I think it will be understood that this is the first time we are having such a law and that there is likely to be some complication if we are not careful. I have not said that the Government or any one of us will not concede, but the point is whether the present time is a very laudable one. It at least takes us a step further than it is now and I think that in that spirit hon. Members will look at the measure and pass it.

MR. DEPUTY CHAIRMAN: Are the amendments acceptable to you?

DR.P.SUBBARAYAN: No, Sir.

MR. DEPUTY CHAIRMAN: No reply. Shall I put it to the House?

SHRI BHUPESH GUPTA: Yes, Sir. Let it be on record.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 1, line 13, after the word 'Parliament' the words 'or of any House of a State Legislature or of any Committee of either House of Parliament or of a Joint Committee of both Houses of Parliament or of any Committee of either House of a State Legislature or of a Joint Committee of both Houses of a State Legislature' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Now, the next amendment. The question is:

"That at page 1, lines 15 to 17 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

Clause 1—*Short title and extent*

MR. DEPUTY CHAIRMAN: There is one amendment It is consequential and so it is barred.

The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill. The Title and the Enacting Formula were added to the Bill.

DR. P. SUBBARAYAN: Sir, I move:

"That the Bill be passed".

I do not think many more words are necessary from me than what has been said in favour of this Bill, subject of course to some amendments they wanted. It has been really not possible to accept these amendments for the reasons stated by my hon. friend, the Minister for Legal Affairs. I have appealed to him and I appeal to him once again that any legislation, which is to protect the reports of proceedings of State Legislatures, must come from Parliament, because legislation passed by the State Legislatures will not give the immunity that we intend should be given by such legislation. I hope when the time comes my hon. friend, the Minister for Legal Affairs, will consider the position and agree to enact such legislation after getting the consent of most of the State Governments. He would have the consent of the Governments of West Bengal and Bombay which I consider as Governments which have worked democracy in a proper manner. (*Interruption.*)

I may tell you and I still feel that the Government of West Bengal is good. Having said that I feel when Governments of the calibre of West Bengal and Bombay have accepted.....

SHRI BHUPESH GUPTA: Calibre and democracy are not synonymous.

DR. P. SUBBARAYAN: They are the same thing, because the way in which you work, the way in which you please the people, the way in which you protect the rights of the people is democracy and that is being done in Bengal.

SHRIMATI T. NALLAMUTHU RAMAMURTI: There is nothing particular from Madras. That means acceptance.

DR. P. SUBBARAYAN: May hon. friend behind says that Madras also has accepted this. I hope so, but silence is half consent. I was only referring to these two State Governments because they have actually accepted the measure. Considering all these I hope the Minister for Legal Affairs would consider this position when the time comes for such an enactment. But as I said to some of my friends opposite sometimes half a loaf is better than a full loaf. We are certainly not having a full loaf.....

SHRI BHUPESH GUPTA: Provided the right type of person is allowed to eat it.

DR. P. SUBBARAYAN: The right type of person is getting it. That is what I am asserting and, therefore, we have got half of the loaf. Let us have it and fight for the full loaf when the time comes.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI S. MAHANTY: At this stage of the final passage of this Bill to the Statute Book I had no intention of inflicting another speech, nor have I anything new to add. But I will

[Shri S. Mahanty.] only close with one request to the hon. Minister for Legal Affairs that he will examine the position, the possibility of giving immunity to the Members of Parliament for their speeches delivered in this House and in the other House if it is published in a separate form torn from the context of other speeches made in the Parliament. Sir, the hon. mover stated that under the British practice this is not so. I do not know which British practice he was referring to. But even in India today if I reproduce the speech from the official proceedings of the House when it is printed, then no action can lie. If I reproduce the proceedings from the newspapers which have already been reported, no action can lie against me. Therefore, it is quite specious to say that giving this kind of immunity will be giving immunity to defamation. The hon. mover was speaking with levity, not with seriousness. I once again urge that the hon. Minister should take this fact into consideration, and give immunity to Members of Parliament for their speeches delivered in Parliament if it is published in the form of brochures.

SHRI JASWANT SINGH: Sir, in regard to the other Bill, about the interests of the Press in the States, I do hope that the hon. Minister will bring the Bill as soon as possible, because, as I stated, they are in need of protection more than at the Centre.

SHRI H. V. PATASKAR: May I say one word with regard to the request made by my hon. friend, Shri Mahanty? As a matter of fact, the point is this. Supposing an hon. Member makes a speech here. Our proceedings are published. And not only that, our rules prevent any defamatory speech being made. And if any speech which is part of the proceedings is again published, I think he incurs no liability. That is how I understand the position. What is the difficulty?

MR. DEPUTY CHAIRMAN: He fears that if his speech or if any other Member's speech is separately published in a book form and there is some defamatory statement, then he is liable.

SHRI BHUPESH GUPTA: That is a matter for the law to decide. We need not go into this.

MR. DEPUTY CHAIRMAN: No reply?

DR P. SUBBARAYAN: No, Sir.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY CHAIRMAN: Dr. Raghubir Sinh.

SEVERAL HON. MEMBERS: He is not here.

MR. DEPUTY CHAIRMAN: There are three messages.

MESSAGES FROM THE LOK SABHA

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I. THE MANIPUR STATE HILL PEOPLES (ADMINISTRATION) REGULATION (AMENDMENT) BILL, 1954.

II. NOMINATION TO PUBLIC ACCOUNTS COMMITTEE

III. THIRTY-FIFTH REPORT OF THE BUSINESS ADVISORY COMMITTEE OF THE LOK SABHA

SECRETARY: Sir, I have to report to the House the following messages received from the Lok Sabha signed by the Secretary of the Lok Sabha:

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"I am directed to inform Rajya Sabha that Lok Sabha at its sitting held on Monday, the 30th April,