

Parliament Must Define Its Privileges

C V H

The recent Blitz case has, once again, focussed attention on the question of legislative privileges.

The present method of dealing with cases of breach of privilege is inconsistent not only with the basic democratic principle that the people constitute the political sovereign but also with the equally vital principle that a prosecutor should not himself be the judge also.

Parliament must define its privileges so that in a case of breach of privilege, the person involved can appeal to a court of law against the verdict of the legislature.

This will be entirely in accord with our democratic 'Constitution.

IT is about time that parliamentary and legislative privilege, which was the focus of attention recently in connection with the *Blitz* case, is precisely and legally defined. The *Blitz* case was exceptional because the issues raised by the critique of Acharya Kripalani's speech in Parliament printed by the paper were complicated by what was published subsequently and by the statement of the Editor to the Privileges Committee, in his defence which served to aggravate rather than extenuate the offence. It is, however, a matter of opinion whether the extraordinary procedure of calling the Editor to the Bar of the House, to receive a reprimand was warranted or necessary.

It so happens that in a majority of the cases of breach of privilege since Independence the Press has been involved. In dealing with these cases legislators, sitting as members of the Privileges Committees, seem, generally speaking, to regard themselves as a class separate from the rest of the community, highly conscious of their rights and privileges, one of which presumably is immunity from press criticism. Persons who are elected representatives of the people and are expected to be the guardians of civil liberty which includes the freedom of the Press, begin to regard themselves as only Members of Parliament or of the legislatures. who enjoy special privileges larger than those that other citizen? enjoy or can claim.

This attitude is inconsistent not only with the basic democratic principle that the people constitute the political sovereign, but also with the equally vital principle that a prosecutor should not also be the judge. Unfortunately, in cases of breach of privilege, the legislature functions as both. What is worse, — this is

inevitable in the case of political institutions like the Parliament or the State Legislature — the judgment becomes basically a political judgment by the party which has a majority in the privileges committee.

In this context the observations made by Shri C Subramaniam, State Finance Minister and leader of the Madras Assemblh. while presenting the report of the Privileges Committee of the Assembly on the breach of privilege charge against a Madras newspaper, are like a breath of fresh air in an otherwise befouled atmosphere. Shri Subramaniam made the pertinent point that the Press has a vital function in a parliamentary democracy and that to enable it to discharge that function the freedom of the Press must be respected. Legislators must, of course, be protected against unfair or tendentious criticism in the Press over what they say in the legislature and against being forced by violent attacks in the Press into positions in which they cannot courageously or honestly discharge their duties. Hut, as Shri Subramaniam pointed out, any criticism of what a Member says in the House should not be regarded as *ipso facto* unfair. There should be no particular sanctity attached to statements in the Assembly or Parliament.

Individual Liberty Vs Parliamentary Privilege

With reference to the particular point involved in the Madras Assembly incident — namely, commenting on the proceedings of the House without taking into account exactly what different members had said, which was the charge against the Madras newspaper and the subject of investigation by the Privileges Committee — Shri Subramaniam was not sure whether it would be possible for any editor to read the proceedings of the Assembly pub-

lished in all newspapers and perhaps go through the official reports, before commenting on them editorially. Obviously, this is impossible: as long as the criticism is not *mala fide* and does not exceed the limits of fair comment, the Editor would have to be given the benefit of doubt. Shri Subramaniam adumbrated the sound principle in this connection that legislators should not be "too sensitive to press criticism" particularly since, as things stand today, there can be no appeal against the judgment of Parliament or the legislature to any other authority.

What Shri Subramaniam said about the absence of a reviewing or appellate authority over the verdict of privileges committees raises the very valid and relevant question of how the freedom of the Press and of the individual, guaranteed in the Constitution, can be protected against the exercise of the right by the legislatures to punish contempt or breach of privilege, Shri Subramaniam commended the convention that where publication in newspapers of reports or editorial comments on speeches in the legislatures do not offend against decency or exceed the limits of fair criticism, no proceedings for contempt should be taken. If this convention is accepted and followed by our legislatures, it would be a considerable improvement on the existing position. But it cannot be an effective substitute for a precise and legal definition of the scope and extent of the privileges of the legislatures and consequently is no guarantee that a conflict, implied if not explicit, between the freedom of the Press and the privileges of the legislatures would not persist, resulting, even if occasionally, in a mere technical breach being magnified into an offence against the dignity of the legislature.

The only satisfactory and adequate remedy, therefore, is for Parliament to act in terms of the provision laid down in Article 105 of the Constitution and enact legislation at the earliest possible moment clearly defining its privileges and specifying what constitutes contempt of Parliament and the legislatures. This would help the Press to know where it stands in respect of reports and comments on the proceedings of the legislatures and the conduct of Members. A vague and undefined set of rights, approximating to those enjoyed by the British Parliament at the time of the promulgation of our Constitution, which are not in consonance with the Fundamental Rights embodied in that Constitution, can be a continuous, if latent source of friction and irritation to both parties. It should be done away with as early as possible. We have by now enough case law on the subject to facilitate the formulation of suitable legislation.

Pertinent Questions

An important advantage in defining parliamentary privileges by law will be that where the aggrieved party feels that he is being unjustly penalised for a mere technical offence or that his fundamental rights — or, in the case of newspapers, the freedom of the Press — is infringed by the legislature, he can appeal to a court of law and secure a judicial verdict on the validity of the legislature's action. It will be entirely in accord with the democratic basis and written form of our Constitution.

The question has been asked in this connection whether the walk-out staged by the Communist party in Parliament when the Blitz editor was receiving his reprimand, did not itself constitute a contempt of Parliament. More generally, do not the frequent walk-outs by different parties and groups for various reasons, including disagreement with the rulings of the Speaker, offend against the dignity of Parliament? Can they not be considered to constitute breach of privilege and contempt? These questions are pertinent because the Very groups who frequently report to this method of protest are also the most demonstrative and vocal in alleging breach of privilege by others.

Technical Education

THE requirement of engineers and technicians at three levels — graduates, diploma holders and skilled craftsmen — rapidly increased during the last two Plan periods. Nearly 29,000 additional engineering graduates were required for the Second Plan period alone for industrial plants, teaching and research.

To cope with the demand for technical personnel, 51 new degree colleges and 110 polytechnics were opened during the last decade. The total intake of students increased from 10,000 in 1950-51 to 39,400 in 1960-61. The number of en-

gineering colleges increased from 65 to 100 and the annual admissions went up from 5,890 to 13,860 during the Second Plan. Also, during this period the number of polytechnics offering diploma courses rose from 114 to 196 and the annual admissions increased from 10,480 to 25,570.

Beside expansion of educational facilities, technical training facilities were initiated or enlarged in a number of industrial establishments in the public sector, particularly in the steel and electrical plants. Special training facilities were provided for small scale industries.

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