

11.01 hrs.

MESSAGES FROM RAJYA SABHA

SECRETARY-GENERAL: Sir, I have to report the following messages received from the Secretary-General of Rajya Sabha:—

(i) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 1st September, 1976, passed, in accordance with the provisions of article 368 of the Constitution of India, without any amendment, the Constitution (Forty-third Amendment) Bill, 1976, which was passed by the Lok Sabha at its sitting held on the 30th August, 1976."

(ii) "In accordance with the provisions of rule 127 of the Rules of procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 1st September, 1976, agreed without any amendment to the Fifth Schedule to the Constitution (Amendment) Bill, 1976, which was passed by the Lok Sabha at its sitting held on the 30th August, 1976."

(iii) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 1st September, 1976, agreed without any amendment to the Kerala Legislative Assembly (Extension of Duration) Second Amendment Bill, 1976, which was passed by the Lok Sabha at its sitting held on the 31st August, 1976."

MR. SPEAKER: Now, Shri Dinen Bhattacharyya...

RE. STATEMENT OF BONUS

SHRI S. M. BANERJEE (Kanpur): Sir, about Bonus Bill let me make a submission. This is the last day of the session.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): I was under the impression that Finance Minister is concerned with it. But now I am told that it is the Labour Minister who is concerned with it. He is now in the Rajya Sabha. I am now going there and I will come back and tell you about it.

SHRI S. M. BANERJEE: Let me make a submission in one minute. Let the Minister know what we want.

SHRI K. RAGHU RAMAIAH: I have got papers from the Secretary-General. I know what you want.

SHRI S. M. BANERJEE: Allow me to make a submission in one minute.

MR. SPEAKER: Let me know what news he brings. Let us wait.

Now, Shri Dinen Bhattacharyya.

11.04 hrs.

MOTIONS RE. SEVENTEENTH REPORT OF COMMITTEE OF PRIVILEGES

SHRI DINEN BHATTACHARYYA (Serampore): Mr. Speaker, I beg to move the following with your permission:—

"That this House do consider the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976."

There is no controversy on this. So, let this motion be passed without any discussion.

MR. SPEAKER: Is there any comment on this? Let me first put this motion. The question is:

"That this House do consider the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976."

The motion was adopted.

MR. SPEAKER: I shall now take up the Contingent Notices of Motions. Mr. Bhattacharyya.

SHRI DINEN BHATTACHARYYA: I beg to move:

"That this House agrees with the findings and recommendations contained in the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976, and resolves that Shri Krishna Kant Dutta be sentenced to imprisonment till the prorogation of the Lok Sabha for the breach of privilege and contempt of the House committed by him."

MR. SPEAKER: Let Shri Raghu Ramaiah also move his motion.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): I beg to move:

"That having considered the Seventeenth Report of the Committee of Privileges, this House resolves that with reference to para 50 of the Report, the matter be dropped."

MR. SPEAKER: Motions moved:

"That this House agrees with the findings and recommendations contained in the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976, and resolves that Shri Krishna Kant Dutta be sentenced to imprisonment till the prorogation of the Lok Sabha for the breach of privilege and contempt of the House committed by him."

"That having considered the Seventeenth Report of the Committee of Privileges, this House resolves that with reference to para 50 of the Report, the matter be dropped".

SHRI DINEN BHATTACHARYYA: Sir, I am amazed that although I had tabled this motion a long time back in the last session, it has taken so long to come up before the House. I find that one of our veteran and lawyer colleagues, Shri Daga, had originally tabled a motion countering my contention. But, then, suddenly, Shri Raghu Ramaiah comes in the scene. I do not know why should he move this motion negating the recommendations of the Committee of Privileges appointed by the Speaker and nobody else? This is a Parliamentary Committee. I do not know how Shri Raghu Ramaiah who has got a long record as a Parliamentary Affairs Minister can himself move the motion negating the Committee's decision? What is the recommendation of the Committee? Why have I moved my main motion?

So far as the other persons are concerned, the Committee is satisfied with the departmental action taken. It is regarding the police and the railway officials. Regarding another person:

"The Committee are of the view that checking of the identity card of Shri Ajit Kumar Saha in the waiting room of the Asansol Railway Station was understandable for the first time but the concerned Railway Officers and the Government Railway Police Officers by making repeated checks of his identity card and taking him to the Police Station for interrogation had deliberately caused harassment to Shri Ajit Kumar Saha, M.P. This conduct on the part of the concerned Officers is reprehensible and a breach of privilege and contempt of the House.

"Para 48: The Committee are of the opinion that Shri Krishna Kant Dutta has also committed a breach of privilege and contempt of the House as it was his false complaint to the officials of the Railway and G.R.P.S., Asansol, which led to the harassment and illtreatment of Shri

[Shri Dinen Bhattacharyya]

Ajit Kumar Saha, M.P., while he was on his way to Delhi to attend a sitting of a Parliamentary Committee. Shri Krishna Kanta Dutta has further committed a breach of privilege and contempt of the House by giving false evidence before the Committee when he denied before the Committee having made the impugned written complaint against Shri Ajit Kumar Saha, M.P., as entered in the General Diary of the Government Railway Police, Asansol, on 29 June 1972".

The recommendation of the Committee is:

"The Committee express their displeasure on the conduct of the concerned railway and police officers and recommend that suitable departmental action be taken by the Government against them and reported to the House as early as possible".

I have nothing to add to this. But in paragraph 50, the Committee have stated:

"In regard to Shri Krishna Kanta Dutta, the Committee are of the view that they need not recommend any specific punishment for him, but leave it to the House to award suitable punishment to him".

Here is a case of a person who deliberately makes a false statement in writing there in the Asansol Railway station before the police as well as railway officers and coming here before the privileges Committee and denying that he had made a written complaint. Subsequently, from the facts of the case and the statements and documents, it is evident that he did make a written complaint, though he denied it here. So coming over here as a witness before the Privileges Committee, he has made a false statement. The Committee have taken serious exception to this.

Imagine the situation. You, the Speaker, are travelling to Delhi. You are waiting in the waiting room for

first class passengers. Some gentleman comes there. Then the police and railway officers come. They check your identity not once, not twice, but thrice. They repeatedly check. The MP repeatedly stated, 'I am an MP coming from Bankura, changing train here for Delhi to attend a meeting'. He showed his identity card in the first instance. Then that man went to the police and on his insistence and also with some motive, he brought the police again to the waiting room and harassed the MP in this way. When he was summoned here to give evidence before the Privileges Committee, he poses as an innocent person and says that he did not make any written complaint, which is a deliberate falsehood, which was nothing but misleading the Committee and, therefore, is a contempt of the Committee as well as of the Parliament. The most funny thing, you will notice Mr. Speaker with astonishment, is that this man is of such a character that the written complaint which he made to the police was missing from the file dealing with this case in the court.

So, Sir, as far as his conduct—I am not concerned with his conduct outside—so far as Parliament is concerned, so far as the honour of an MP is concerned, so far as the harassment to an MP is concerned, this is a question of a serious matter and a question of privilege and that is why, Mr. Speaker, the previous Speaker referred the matter after getting the report from the Railway officials as well as the Government of West Bengal and the House also was of the unanimous opinion that the matter should be referred to the Privileges Committee. That is why the long proceeding is there and in the sittings of the Privileges Committee, so many witnesses were summoned not once but twice and documents were produced and after that, the Committee came to the finding that so far as the railway officials and the police officers are concerned, they have committed a breach of privilege and that depart-

mental action should be taken. Regarding this, Shri K. K. Dutta, who is the root for such an ignominious and motivated harassment to an hon. Member of Parliament who was proceeding to Delhi to perform his duty as a Member of a particular Committee, he was detained there, he was harassed there and the Committee still gave opportunity and scope to this person, K. K. Dutta, to come over here and tell the truth and an honest statement. The other persons apologised but this man intentionally, deliberately and with a motive concealed the facts from the committee and gave false evidence. So, I will say there are hon. Members who have got enough experience and they will further elaborate on this matter. I will appeal through you, Mr. Speaker, to Mr. Raghu Ramaiah to kindly not to try to save in this way a criminal, I will say, criminal because he has deliberately committed a contempt of the House as well as the Privileges Committee and also the hon. Members of the House. So, why are you saving him? Now if you do this in the case of Shri Ajit Saha, I remind the House and other hon. Members that the same thing may happen to any other hon. Member....

SHRI SAMAR MUKHERJEE (Howrah): And also to Shri Raghu Ramaiah.

SHRI DINEN BHATTACHARYYA: We do not move in the country with the tag that so and so is travelling. That is given to the Government officials. We go as ordinary people and to that extent, he may challenge my identity. But what is this? Even after producing the identity card, under the provocation of this K. K. Dutta, the railway officials harassed the MP and this man—I would not say that he is a gentleman—came here and deliberately distorted and concealed the facts. It is a breach of privilege and I will humbly request Mr. Raghu Ramaiah not to give him protection in this way. This is nothing but giving protection to a criminal and I will

humbly say that he may not pursue and ask the House to take up his motion and he may withdraw it.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): As my motion is being discussed, I would like to say a few words.

SHRI S. M. BANERJEE (Kanpur): One is a positive one and another is a negative one. Let us speak on both and then he may reply..

SHRI K. HANUMANTHAIYA (Bangalore): So far as this motion is concerned, you have appointed the Chairman of the Privileges Committee. We have every respect for the decision that they have arrived at. We mean no disrespect to any Member or any dissenting note. The fact is that the Committee itself has recommended that the House may impose any punishment that it deems fit. Therefore, they have not taken any decision in the matter of punishment. Looking into the facts of the case, I should feel that an august body like Parliament should use its discretion in the matter of punishment and when the individual concerned is almost an insignificant person, I do not think it is in keeping with the dignity of the House to punish such a man; it is like an elephant treading upon an ant. Therefore, what I propose is that since the committee itself has not deemed it fit to determine the punishment and left it to the discretion of the House, let us exercise that discretion in a judicious and magnanimous manner and drop the proceedings. The police officers, as you know, have been proceeded against departmentally and this Dutta has been declared not guilty in the criminal court on this particular charge on a police complaint. Those two circumstances also weigh with this House to treat this case as closed and no punishment need be imposed. .

SHRI S. M. BANERJEE (Kanpur): I was surprised to hear my hon. friend Shri Hanumanthaiya who is supposed to be one of the pillars of parliamentary democracy in this country. I have read the motion of Shri Dinan Bhattacharyya and also of Shri Raghuramaiah. I do not want the House to demand a pound of flesh from everyone taking advantage of its privileges. In this case what are the recommendations of the committee on page 30: they say, the committee have carefully considered the question whether they may find him guilty of breach of privilege when he has been acquitted by a court on a criminal charge. Based on the facts involved in this case the committee are of the view that this decision by a court in respect of a criminal offence is no bar to the jurisdiction of the House to punish the offender if those facts constitute breach of privilege or contempt of the House. The mere fact that some papers were said to be missing did not enable the magistrate to punish him properly; that is how he got acquitted. The committee have given their clear finding. This gentleman K. K. Dutta has misled people and it constitutes a breach of privilege of the House. Shri Raghu Ramasiah may say that the Committee has not recommended specifically what should be the punishment; let us rely on the wisdom of the committee of which Shri Salve was the chairman. If you say or specify no specific punishment, if you leave it open, that does not mean that you recommend no punishment; it does not mean that the committee did not want to punish this person. They left it to the House to decide what should be the proper punishment, keeping in view the gravity of the offence committed by him.

There is only one instance in this country when a motion was moved for punishment, saying what has been done already is not sufficient. You remember the case of the Steel Controller, Shri S. P. Mukherjee, who was reprimanded by the Speaker. It

is not that he was left scot-free. Shri S. P. Mukherjee, a Class I Officer, a Government servant, he was reprimanded by the Speaker, though the case was not fully proved. Then, a subsequent motion was moved by Shri Madhu Limaye that he should be imprisoned. Then the late Shri Mohan Kumaramangalam came to his rescue, who said that a man should not be punished twice for the same offence. That was the argument which was advanced in support of Shri Mukherjee against the imposition of a particular punishment. But the fact remains that Shri Mukherjee was reprimanded.

In this case, I would like to know from those hon. Members who would like to support Shri Raghu Ramaiah, whether a man who has committed a breach of privilege, a contempt of this House, should be allowed to go scot-free, merely because Shri Raghu Ramaiah in his wisdom thinks that he should not be punished? What punishment has been given to him? Has he been reprimanded or censured by the Speaker? Or, has he been given imprisonment till the rising of the court? I am not after the blood of Shri Krishna Kanta Dutta. He may or may not be punished, but let Shri Raghu Ramaiah, the Minister of Parliamentary Affairs, the custodian of parliamentary democracy in this country, not become a Portia in this case. It is not that we want our pound of flesh. But, let him realise that he is also a Member of this House. While I wish him to continue in his Ministership to the last day of his life, suppose he leaves the Ministry one day, he will meet with the same fate. Therefore, I would appeal to your sense of impartiality and sense of justice.

Sir, we must remember that when any privilege motion is discussed, this House is converted into a House of Judges, and you are the Chief Justice. You must realise that you have to protect the prestige and privilege of this House. If you are unable to accept our suggestion, let this

gentleman be brought to the dock of this House and reprimanded by you. That would be a sufficient punishment. Why should we show any leniency? I hope Shri Raghu Ramaiiah remembers how Shri Karanjia was dealt with. When Shri Hanumanthaiya was speaking, he said that we should not become touchy.

SHRI K. HANUMANTHAIYA: I did not use the word 'touchy'.

SHRI S. M. BANERJEE: He gave the comparison of an elephant and an ant. He said: let us forgive the ant. But if the ant does not live in its proper place, it should be shown its proper place.

Sir, you must uphold the dignity of this House. I would request the hon. Members to suggest some suitable punishment to Shri Dutta. Let him realise that he cannot go scot-free.

MR. SPEAKER: There are a large number of members wanting to speak on this. It is not possible to accommodate them within one hour. Then, we will have to extend the time. The other alternative is that members should be brief.

SHRI B. K. DASCHOWDHURY (Cooch-Bihar): Sir, this motion is very peculiar. It is true that the Committee has made certain observations, but in the last para the Committee did not make any recommendation on the course of action to be taken in the matter. It has left it open to the House. If one takes the trouble of going through the entire records and proceedings of the Committee in this regard, it will be observed that: the very basis, the first report, which is the nexus to the charge that Shri Dutta had submitted a false allegation against an hon. Member of this House, that was missing. Who should be believed and who should not be believed, that is the first question. Are only police officials to be believed? Is there adequate evidence for that according to

the law of evidence that we are following in this country? The person says that he did not find all these papers, and whatever he signed, he signed after the occurrence, and nothing more. An allegation is made against one Mr. K. K. Dutta on the basis that he did file a complaint against an hon. Member of the House. What is the whole story? The allegation is that harassment was made, that there was occasion for breach of privilege, it was done by the railway authorities and the police officials, and not by this person. The question arose why they acted in such a rash and atrocious manner in order to humiliate a Member of Parliament which is really reprehensible. In order to save their own skin, they took the plea that one Mr. K. K. Dutta, whose identity was not even known to the police officials or the railway authorities, had made a statement. They also stated in their evidence they never knew of this man, neither was he readily available to ask further questions. What is more interesting is that within two or three minutes of the starting of the investigation, the police officials from downstairs went upstairs and humiliated and harassed the hon. Member of Parliament and so the Committee recommended that it was an act of breach of privilege and that they should be suitably punished, and the respective authorities punished them as mentioned in the Action Taken Report, the 19th Report.

The original report is missing, or it could not be found anywhere, on the basis of which this particular person, Shri K. K. Dutta could be found guilty of breach of privilege. What is more, in the absence of proper norms, the matter has already been sent up to the High Court to decide as to what further steps should be taken. It is now under the consideration of the High Court at Calcutta. Further, while action was taken under section 182 against K. K. Dutta, after going through all these processes, he was completely discharged under section 245 of the

[Shri B. K. Daschowdhury]

Criminal Procedure Code. What does it mean? It means that nowhere in this entire episode has he been found guilty.

In the light of these facts I fully believe that the falsity of the statement of K. K. Dutta is yet to be proved. Unless it is proved satisfactorily, I do not think it will be proper on the part of this august House simply to summon someone and reprimand him. Therefore, I oppose the motion of Shri Dinen Bhattacharyya.

MR. SPEAKER: I propose to call the Minister at 10 minutes to 12. If hon. Members confine themselves to 5 minutes each, I can accommodate four, two from this side and from the other side.

SHRI H. N. MUKERJEE (Calcutta—North-East): Having been a Member of the Committee of Privileges at certain relevant periods and re-collecting vividly something of the demeanour of this particular person, K. K. Dutta, who appeared before the Committee and gave evidence when he was called upon to do so, I feel I must support the motion made by my hon. friend Shri Dinen Bhattacharyya.

This is a case in which, as my hon. friend Shri Banerjee has pointed out, there are certain principles involved, and not that we want to punish a person for punishment's sake. The finding of the Committee of Privileges is very clear. Obviously they were dissatisfied with the way in which the facts were presented before them by the officials who were involved in this business.

Something egregious had happened. A Member of Parliament carrying his Identity Card, being challenged by a railway officer, showing his Card and providing his *bona fides* and yet being dragged to a police outpost in the railway station, humiliated in the presence of hundreds of people who

were assembled at a very busy centre, like, Asansol. This egregious treatment was meted out to a Member of Parliament who did not succeed, like, some of us who apparently do succeed in throwing their weight about and intimidating people. Sometimes, we do it in a manner which I personally reprobate. But because he was a decent Member who did not want to throw his weight about, he was challenged in this fashion and humiliated.

Then, the story came out that there must have been a motivated effort, a *mala fide* effort, to malign this particular person. And God knows what complications of political intrigue are behind this episode. But I remember very distinctly not only the behaviour of this particular person, Shri Krishna Kanta Dutta whom the Committee of Privileges themselves want the House to punish, I remember also how in regard to the matter relative to the disappearance or to the non-production—I do not exactly remember—of certain documents, a Deputy Secretary or a Joint Secretary to the Government of West Bengal giving evidence had to admit that there was a *hocus-pocus* in the whole matter and things were being attempted to be hidden from the view of the court. Therefore, after a long cogitation extending over a couple of years or so or, perhaps, more even, the Committee have come to their finding which is very positive.

I cannot imagine how Parliament can treat the Report of the Committee with disrespect. To adopt a motion moved by my hon. friend, Shri Raghuramaiah, the Minister of Parliamentary Affairs would be showing disrespect to the views of the Committee. The Committee have made the recommendation in these words:

"That Committee express their displeasure on the conduct of the concerned railway and police officers and recommend that suitable departmental action be taken by the

Government against them and reported to the House as early as possible."

The Committee is very clear that something very bad has been done and those officers of railway and police have to be done something to.

In regard to Shri Krishna Kanta Dutta who was the villain of the piece, who started the whole chain of incidents, the Committee are of the view that they "need not recommend any specific punishment for him but leave it to the House to award suitable punishment to him." The Committee do not say that on the basis of the facts before them, they find that the case is not proved against him and, therefore, the case might be dropped. The Committee might very well have recommended that the case against Shri Krishna Kanta Dutta be dropped. But the Committee did not choose to do so.

The Committee, as all of us know, tries to act with great dignity. It never wishes to give an impression of vindictiveness to the citizens of the country, whether in Government or outside who might come to some kind of brush with Members of Parliament. The Committee always try to formulate its recommendations after a long cogitation and careful consideration and, therefore, when the Committee tells the House to meet out some punishment, it is for us to do so. Mr. Dinen Bhattacharyya has spelt out the kind of punishment which could be given to him. At least, he could be brought to the Bar of the House and reprimanded. It could be done.

My hon. friend, Mr. S. M. Banerjee, has reminded us how in regard to a Government officer who was the Deputy Controller of Iron and Steel had been treated in a fashion which does not redound very well in so far as our work is concerned. We have shown such scrupulous regard for even a literal pursuit of whatever is said by the Committee of Privileges. Therefore, in regard to this matter, when the

Committee of Privileges is positive in its recommendation to the House, that some punishment whatever it is should be meted out to Shri Krishna Kanta Dutta, we should take up the job and meet out that punishment to him. Mr. Bhattacharyya has spelt out the punishment or, at least, he might be brought to the Bar of the House at an appropriate time and reprimanded.

The Minister of Parliamentary Affairs' motion just cannot pass muster because that goes against the grain of parliamentary activity. It repudiates the recommendation of the Committee of Privileges. I have heard nothing at least from Mr. Daschowdhury at any rate to justify that proposition.

SHRI DINESH CHANDRA GO-SWAMI (Gauhati): Mr. Bhattacharyya, while putting the case before the House, accused Mr. Raghu Ramaiah of trying to save Mr. K. K. Dutta. If I have understood Mr. Raghu Ramaiah's motion correctly, he is not trying to save Mr. K. K. Dutta. The whole question is whether it will enhance the dignity and prestige of this House and of the hon. Members by inflicting some punishment on this person or by taking the other view of dropping the matter.

We, on this side of the House also, take a very serious view of the question of privilege of Members because privilege of a Member is privilege of a Member irrespective of the Party to which he may belong. But the question is whether we will really enhance the prestige of the House by inflicting some punishment on him, taking into consideration the entire facts and circumstances of this case. It cannot also be forgotten that, whenever a decision of this nature is taken by the House, it gets a lot of publicity and thereby it gives a certain amount of importance to the individual concerned. After all, the Committee has expressed its view regarding the officers concerned, and we are one with it. But the question is whether, taking

[Shri Dinesh Chandra Goswami]
into consideration the entire circumstances, we should inflict a punishment on an insignificant person like Mr. K. K. Dutta, because, there are certain aspects one must consider before inflicting a punishment. The Committee's report is, undoubtedly, to be given the highest respect and we do give it the highest respect. But if we want to give punishment to an individual, the House, in spite of the report of the Committee, shall have to go into the entire case afresh and come to its conclusion. As Mr. Daschowdhury has pointed out, there are certain facts in this case which we cannot ignore. Here is a case where Mr. Dutta did, in very categorical terms, deny that he made certain statements, on the basis of which punishment is sought to be inflicted on him. One piece of evidence by which his statement can be corroborated is the original document or the original entry. Unfortunately, the original entry is missing. If this document is missing, we can hold only that person guilty in whose custody it was, and we cannot draw an adverse inference against Dutta because at no point of time, the document was in his custody. He has come before this Committee and said that he has not made this statement. Here is a statement on his part.

The only piece of evidence by which the statement could have been contradicted or corroborated is the original entry the original document, which we do not have before this House. Added to it is the fact that he has also been acquitted by a criminal court. I do not deny for a moment that, spite of an acquittal by a criminal court, this House or the Privileges Committee has the authority to punish him. But the question is whether it will be proper, in such a case where the most important evidence is missing, where a criminal court has come to the conclusion that there was no *mens rea* on his part, to inflict a punishment on a person. Insignificant as the

is, and to give undue importance to him-and may be, undue importance and publicity. I have tried to go through the records on privileges; it is only in exceptional cases that this House has taken the extraordinary step of punishing a person on a question of privilege because, we want to reserve it for exceptional cases and for persons who really count. If this House starts giving punishment to insignificant persons, in all cases of slightly doubtful nature, this potent weapon which we have before us in this House will lose much of its importance.

Therefore, instead of going into the merits of the whole case again, instead of examining afresh the entire report of the Privileges Committee—because we cannot punish a person without going through the report and without examining the case afresh—and also considering the fact that there is a dissenting note by an hon. Member, taking into consideration all these aspects, my submission will be this. When a recommendation is made by a Committee that they leave it to the House to punish, the inherent power is there to punish or not to punish. When somebody is asked to do something, the inherent power is automatically given to him to do something or not to do something. Therefore, the best course, in my opinion, will be that we do accept the report, we do not challenge the report we do not say that he is not guilty, but at the present moment taking into account the entire case, we say that, in this matter, no further punishment is necessary because, after all, he has suffered the pangs of prosecution. That also one has to admit. So we may recommend that no further punishment is necessary and that the matter may be dropped. While doing so, I do not think that we will save K. K. Dutta or we will show any disrespect to the House. We will only enhance the prestige and dignity of this House.

प्रो० एस० एल० सक्सेना (गोरखपुर) : यह कहा जा रहा है कि क्रिमिनल कोर्ट ने उस को रिहा कर दिया। इसका मतलब यह है कि प्रिविलेज कमेटी की जो फाइंडिंग है वे गलत हैं और क्रिमिनल कोर्ट की फाइंडिंग नहीं है। प्रिविलेज कमेटी कुछ भी नहीं है, जो कुछ है क्रिमिनल कोर्ट है। इसको अगर मान लिया जाय तो इसका अर्थ यह होगा कि हमारी कमेटी का दर्जा नीचा है और क्रिमिनल कोर्ट का दर्जा उस से ऊपर है। इस केस में जानबूझ कर मੈम्बर को बेइज्जत किया गया। इस वास्ते जिसन ऐसा किया है उसको छोड़ देना गलत होगा। इससे जो अधिकारी लॉग हैं उनकी हिम्मत बढ जायेगी और मੈम्बरों का खतरा पैदा हो जायगा और उनको जैसे भी हो बेइज्जत किया जा सकेगा। मैं चाहता हूँ कि भले ही उस को हम केवल रेप्रिमांड करें लेकिन उस को सजा जरूर मिलनी चाहिये।

SHRI C. M. STEPHEN (Muvattu-puzha): Now, Sir, I am afraid that the spirit behind the motion of Shri Raghu Ramaiah has not been properly appreciated as was emphasized by my friend, Mr. Goswami. The stand taken by Mr. Raghu Ramaiah in his motion is one of rejection of the committee's report. Sir, the report has two parts, one, a finding to the effect that a breach of privilege has been committed and another, a recommendation to the effect that a suitable punishment be awarded by this House.

The law of privilege knows two types of punishment, a specific punishment inflicted on the person concerned and the other is to treat the alleged contempt with contempt. That is to say, the punishment to be meted out in the circumstances is to ignore it. That is the position taken in different cases. Precedents can be quoted. Therefore, accepting the finding of the Privileges Committee that there is a breach of privilege, we, the House,

have been asked by Mr. Raghu Ramaiah to consider whether this is a case in which the House must invoke its extra-ordinary jurisdiction and magnify the whole thing, call the man to the Bar of the House, arrest him and magnify the matter in such a manner. Therefore, the suggestion is punishing without punishing. If I may say so, it may sound contradictory. But that is also a sort of punishment known to the law of privilege, punishing him by treating him with contempt or you may say, ignoring him. This is the best thing to be done for the Lok Sabha, for the Parliament of India, to do with respect to this. That is one aspect of the matter. That is the spirit in which the motion has been moved.

I do not want to comment on the Privileges Committee's report. It is a highly respected committee. When they make a report, we accept it, rather than go behind the finding. But there is one difficulty, if I may say so. There are two types of people who have committed the breach of privilege, treated the MP with contempt, arrested the MP and did all sorts of things. The comment by the Committee about those things is very bitter and very harsh and I do not want to read the whole thing. Each officer is mentioned, each officer has been commented on and the Committee says that they have committed gross contempt, and gross breach of privilege they have committed. With respect to them the Committee has recommended, "The Committee express their displeasure on the conduct of the railway officials and recommend that suitable departmental action be taken by the government against them and reported to the House as early as possible." Another finding is: 'The Committee finds that there is a breach of privilege, no punishment is recommended and we leave it to the House to punish.' Well, Sir, this is not fair. After all, this person's letter initiated certain action on the part of the officers. I do not want to go into the question as to whether lodging a complaint against an MP would

[Shri C. M. Stephen]

amount to a breach of privilege. I do not want to go into that question. Now they have found it so.

There are two type of people. *Prima facie* they commit breach of privilege, they harass and M.P., inflict all sorts of things, brandish their revolver at an M.P. Such sorts of people are there. They are left to the Department and the House is not to deal with them. It is not recommended to the House saying you impose the punishment. Well, Sir, the important thing is not the quantum but do inflicts the punishment. Is a contempt of a Member of Parliament, is a breach of privilege, something to be punished by the department, or is it something to be punished by this House. We must get an opportunity to punish the real culprit who must be punished by this House. If it is left to the department we do not know what will happen. They may give a reprimand. But the reprimand by the House and reprimand by the Department are not the same thing. A warning by the House and a warning by the Department are not the same thing. A punishment by the House and a punishment by the department are not the same thing. Therefore, if those officers are not to be punished by this House, then, Mr. Raghu Ramaiah has recommended that no specific punishment be imposed on them. That is to say, punish them without punishing them, punish them by treating them with contempt. This is the procedure which is known to the Parliament. That will be sufficient punishment. We find him guilty but we don't find him important enough to deserve punishment at our hands. That spirit behind the motion may be appreciated and let the motion be accepted. Let the Privilege Committee be treated with respect and fairness be done and the scales be held even. I support the motion moved by Mr. Raghu Ramaiah.

THE MINISTER OF WORKS AND
HOUSING AND PARLIAMENTARY
AFFAIRS (SHRI K. RAGHU-

RAMAIAH): Sir, I am grateful to my colleagues on this side, to senior colleagues like Shri Hanumanthaiya and others who have supported by motion. I am sorry Mr. Banerjee who reminded me of Portia is not here; I wanted to return the compliment to him, the same Shakesperian expression. His speech reminds me of the action of Shylock. Let me at the outset make it clear that neither I nor any member on this side of the House has any less respect for the Privilege Committee headed at the moment by our esteemed colleague Mr. Salve. We have great respect for every committee of the House.

Having said that, I would like to add that notwithstanding that, the House is supreme. The supremacy of the House is as vital and important as the importance of the Committee's functioning. Therefore, there is nothing wrong if we happen to take a different view technically. But we are not taking that view in this case, as far as the substance of the matter is concerned, as has been explained by Mr. Stephen. But we are not disputing the fact that the committee has found Mr. K. K. Dutta guilty of breach of privilege of the House. We are not disputing that, although, I am bound to point out certain circumstances which have made me bring this motion before the House. Legal Members of the House are aware of what is called contributory negligence. There is privilege and there is contributory privilege. I call it so because, between the complaint of that man and the actual breach of privilege committed by the official, there is this fact that they need not have acted on the complaint, but I am not going into it.

Another extra-ordinary thing in this case is the complaint which he is supposed to have made originally that a Member, posing himself as a Member, sitting in the First-class Compartment, is missing. God knows what has happened to it? That complaint is not there and Shri Krishna Kanta Dutta comes before the privi-

leges Committee and denies having made that and says that, after the incident, he only said that the identity card was asked for and that was not produced. Anyhow whether he is telling the truth here or there, it is not for us to judge because the Committee has gone into it thoroughly and I do not want to comment on that.

There is also the fact pointed out by one of my colleagues that the criminal court went into—substantially the same allegation that he made a false complaint against a Member of Parliament. And, according to the report of the Committee the learned Magistrate, while acquitting Shri K. K. Dutta of the charge against him, has stated in his judgment:—

“Learned A.P.P. has very frankly and fairly conceded that the accused Krishna Kanta Dutta had no motive and there is no evidence against him in this respect—Prosecution has also failed to prove that the allegations made by the accused in G. D. entry were false to his knowledge or at any rate, he did not believe them to be true at the time when he made these allegation.”

This is one of the factors which we have to take into consideration. Then, there is also this point that the Privilege in this House is a great right which this House has. Now, as pointed out by Shri Hanumanthaiah, I do not mind borrowing this expression which, I think, is an apt expression, that this is like using an elephant to curb the ant. Here is an individual who, I believe, is sufficiently punished already because we are not disputing the findings of this Committee that he is guilty of breach of privilege and that itself is a slur on him for the rest of his life. We are accepting that finding. In the circumstances, I beg of the House to bear this in mind and agree with me that this finding is sufficient and that we need not give

him greater importance by bringing him to the Bar of this august House. After all, as pointed out by Shri Stephen, this is left to us to punish or not to punish. In the circumstances of the case, I submit that my motion be adopted.

MR. SPEAKER: Mr. Dinan Babu, do you want to press your motion?

SHRI DINEN BHATTACHARYYA: I would not only like to press my motion but I want to say a few things. It is not understandable why this precedent is being created here. It is stated here that the Committee is not giving any specific punishment but it leaves that to the House to give a suitable punishment. The word punishment is there. Shri Stephen, a veteran lawyer and Shri Raghu Ramaiah who is also a lawyer...

MR. SPEAKER: I think he was a barrister.

SHRI DINEN BHATTACHARYYA: Why should he say ‘punish or not to punish or guilty or not guilty’? Why is he pleading like that? Is it a court of law or Parliament? Here is a Member’s privilege involved and the privilege Committee has come to a definite conclusion. I am not going into it. The only thing is that he made a false statement to the Committee. Is it correct or not? If it is so, then it is a question of privilege. I am unable to understand why we should go by vote on this?

MR. SPEAKER: You should have done that much earlier.

SHRI DINEN BHATTACHARYYA: Mr. Speaker, Sir, I told him that it would be better that, he, as the Minister of Parliamentary Affairs, should have brought forward this Motion and not by me. It was the duty of the Minister and it is not such a thing that he should ignore it.

12.00 hrs.

SHRI H. N. MUKHERJEE: Is it not proper at least to send it back to the Committee of Privileges to decide

[Shri H. N. Mukherjee]

on the quantum of punishment that they want to decide upon? The trouble is that here in this House, you cannot perhaps always determine the quantum of punishment. The idea of punishment being due is made in the Committee's Report and unless we are ready to throw it into the wastepaper basket, we cannot pass the Motion of Shri Raghu Ramaiah. Either you send it back to the Committee or you accept Shri Bhattacharya's Motion.

MR. SPEAKER: It is for the House to decide now.

SHRI VASANT SATHE (Akola): I request that this matter be not decided by vote. I have also been a member of the Privileges Committee. Up till now we have had a salutary convention. In the entire history of the Privileges Committee, you will not find an occasion when this House has voted against it. Therefore, let us not have a precedent. I would plead with Shri Bhattacharyya not to press his motion. You have got the essence of it conceded. The guilt is maintained. There is this feeling, as Shri Raghu Ramaiah has pointed out, that he is censured enough. Censure itself is a punishment.

SHRI DINEN BHATTACHARYYA: No.

SHRI VASANT SATHE: We say that we have found him guilty. But I am requesting him: do not press the motion to a vote. You know the consensus, the feeling of the House. As I said, justice also must be tempered with mercy. Therefore, do not let us press it. Our dignity is much higher. Let us not equate it with punishing a small man, by getting on with this vote. I think that will be in consonance with our dignity. I beg of him to consider it.

SHRI S. M. BANERJEE *rose*—

MR. SPEAKER: No second round. I allowed Shri Sathe because he was appealing for unanimity.

SHRI S. M. BANERJEE: Let me make this suggestion. I have heard Shri Sathe. He feels sore about this. We also want that the dignity of the House should be maintained. Is it necessary that we pass either this motion or that? Let it be held in abeyance. Let us think it over. Or instead of Shri Raghu Ramaiah saying in his Motion 'the matter be dropped', let us say that 'we pardon this man'. Let the word 'pardon' be there. We will vote for that.

SHRI K. RAGHU RAMAIAH: Keeping it pending will be like Portia.

MR. SPEAKER: Since there is no unanimity, I have no option but to put it to vote. The question is that the motion moved by Shri Dinan Bhattacharyya....

SHRI DINEN BHATTACHARYYA: I have full confidence in you. There is a clear finding. But I want to say in the spirit that Shri Banerjee made his suggestion, let Shri Raghu Ramaiah come forward with an amendment to his motion and let it be put this way: 'that the man was found guilty of breach of privilege, but still the House pardons him'. Let it be amended that way. Why not? Everybody is agreed that he was guilty.

SHRI VASANT SATHE: We decide to show mercy.

SHRI DINEN BHATTACHARYYA: All right. At least make a mention of it, that the House agrees with the view of the Committee that it was a breach of privilege, but still we do not want to punish him in any other way; we pardon him. Let it be there.

MR. SPEAKER: Para 50 of the report is the same thing; that is what you are saying.

SHRI DINEN BHATTACHARYYA: No, Sir. They have left it to the House to decide. At least I agree that he committed a breach of privilege.... *(Interruptions).*

SHRI K. RAGHU RAMAIAH: I am quite prepared to amend my resolution this way: That this House agrees with the Privileges Committee that Shri K. K. Dutta is guilty of breach of privilege of the House but resolves not to pursue the matter further. Sir, I move:

"That this House agrees with the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976 that Shri Krishna Kanta Dutta has committed a breach of privilege and contempt of the House but resolves not to pursue the matter further."

MR. SPEAKER: I think Shri Dinan Bhattacharyya does not press his motion for a vote. The question is:

"That this House agrees with the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976 that Shri Krishna Kanta Dutta has committed a breach of privilege and contempt of the House but resolves not to pursue the matter further."

The motion was adopted.

12.06 hrs.

RE. STATEMENT ON BONUS—contd.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): Sir, I think the point raised by Shri S. M. Banerjee relates to the alleged discontent among the workers in various industries in the country because of non declaration of

bonus by the employers to be paid before Id, Diwali, Onam and steps taken by the government. He wanted a statement. I consulted the Labour Minister who is busy in Rajya Sabha. He has told me to submit to the House through you, Sir, that the matter is being taken up with the state governments and at this stage it would not be in public interest to make any statement.

SHRI INDRAJIT GUPTA (Alipore): What about the public sector undertakings? They have nothing to do with the State Governments? The Indian Oil Corporation declared 20 per cent bonus. What about the other public sector undertakings? *(Interruption)*

SHRI S. M. BANERJEE (Kanpur): Sir, I am not talking only of the private sector, where the textile, jute and engineering industries have not declared anything. In the case of public sector undertakings, the IOC has declared a bonus of 20 per cent. But, in the case of the Shipping Corporation, which has earned the maximum profit, it is unable to pay any bonus in the absence of a definite Government order. So, I would request you to ask the Labour Minister to make some statement, to allay the fear in the minds of the workers that they are being deprived of their legitimate bonus.

SHRI PRIYA RANJAN DAS MUNSI (Calcutta-South): I come from a State which is going to celebrate the *pūja* in the beginning of next month. You know very well that at the time of the *pūja* the working class need money for the celebrations. The Labour Minister says that no statement can be made on this subject in the public interest. Such a statement is likely to create some doubts in the mind of the working class, particularly in the public sector. Because of this I am facing a difficult situation. The working class have accepted the emergency and defended