

apply with such variations and modifications as the Chairman may make ;

- that the Committee shall make a report to this House by the first day of the last week of the Seventy-seventh Session of the Rajya Sabha ;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of Members to be appointed by the Lok Sabha to the Joint Committee.”

- (ii) “In accordance with the provisions of sub-rule (6) of rule 186 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to return herewith the Appropriation (Railways) No. 4 Bill, 1970, which was passed by the Lok Sabha at its sitting held on the 10th December, 1970, and transmitted to the Rajya Sabha for its recommendations and to state that this House has no recommendations to make to the Lok Sabha in regard to the said Bill.”

- (iii) “In accordance with the provisions of sub-rule (6) of rule 186 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to return herewith the Appropriation (Railways) No. 5 Bill, 1970, which was passed by the Lok Sabha at its sitting held on the 10th December, 1970, and transmitted to the Rajya Sabha for its recommendations and to state that this House has no recommendations to make to the Lok Sabha in regard to the said Bill.”

telegram, dated the 16th December, 1970, from the Station House Officer, Police Station, Nagda, Madhya Pradesh :—

“Shri Hukam Chand Kachwai, Member, Lok Sabha, arrested at Nagda, today at 19.30 hours, for violation of prohibitory orders under Sections 144 and 151, Criminal Procedure Code and sent to judicial custody.”

12.45 hrs.

PROCEDURE FOR DEALING WITH ALLEGATIONS AGAINST OUTSIDERS

MR. SPEAKER : On the 11th December, 1970 after Sarvashri Morarji Desai and Shashi Bhushan made statement in connection with certain allegations made by Shri Shashi Bhushan in the House on the 26th November, 1970 I observed that I had to decide this question : When the names of citizens or officers of Government are brought and allegations made against them on the floor of the House what procedure should be adopted to enable them to defend themselves.

Under article 105 of the Constitution, Members have complete freedom of speech in the House and no action, civil or criminal can be taken against a Member for anything said by him in the House. This freedom of speech is subject to the other provisions of the Constitutions and to the Rules and Standing Orders of the House. Thus it is left to the House to check the misuse of this privilege.

Rule 353 of the Rules of Procedure reads as under :

“No allegation of a defamatory or incriminatory nature shall be made by a member against any person unless the member has given previous intimation to the Speaker and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply :

Provided that the Speaker may at any time prohibit any member from making any such allegation if he is of opinion

12.44 hrs.

ARREST OF MEMBER

(SHRI HUKAM CHAND KACHWAI)

MR. SPEAKER : I have to inform the House that I have received the following

[Mr. Speaker]

that such allegation is derogatory to the dignity of the House or that no public interest is served by making such allegation.'

The Rules Committee while considering this rule at its sitting held on the 22nd December, 1953, observed *inter alia* that

“\* \* \* The House should not be made a forum where the conduct and character of persons should be brought into disrepute as the person against whom allegations were made had no remedy against a speech made on the floor of the House which was privileged. In order to safeguard the honour of the people generally it was imperative that the members applied voluntary restraint and resorted to making allegations in cases of extreme necessity where there was an element of public interest. Even in such cases, it was necessary that reasonable opportunity should be given to the Minister concerned to investigate into the matter and to produce if necessary defence on behalf of the person concerned. \* \* \*

While a member should be given absolute right to bring to the notice of the House any matter which on proper investigation he feels should be ventilated even though it involves the character or reputation of any person he should in the interest of public morality and high parliamentary decorum inform the Speaker before-hand of his intention to do so and also the Minister concerned. The Minister will then have an opportunity to look into the matter before-hand and to come prepared with a reply also. \* \* \*

The point as to what procedure should be followed when allegations are made against individuals who are not members of this House and represent to the Speaker that the allegations are false, has been discussed in the House in the past also. On the 15th February, 1968, Shri R. Umanath raised a question of privilege against one Shri Ram Krishna Bajaj. At that time the sense of the House was that the individual had a

right to clarify his position through a letter to the Speaker or through the Press but he should do so in temperate and proper language. The Speaker on receipt of a proper representation from the aggrieved individual may refer it to the Committee on Petitions for examination and report.

In this connection I may mention an earlier case in 1963 when certain allegations, on the basis of a photostat copy of a letter were made in the House by a Member (Shri Homi F. Daji) against two outsiders. The Speaker referred to the Committee on Petitions the representations from the persons concerned. The Committee considered the matter and made a report to the House.

The aggrieved person can also write to the Minister and request that he may explain the position to the House and the Minister may after such investigation as he thinks fit and after satisfying himself make a statement in the House.

Formally, letters, representations, petitions etc. relating to the proceedings of the House are not admitted as petitions to the House but in appropriate cases where these petition or representations are supported by documentary evidence or an affidavit and the Speaker is satisfied *prima facie* that the matter requires to be looked into, he may direct that the representation together with the adduced evidence may be forwarded to the Government for enquiry or placed before the Committee on Petitions for their consideration.

The position of Government officers against whom allegations are made on the floor of the House is somewhat different. These officers are bound by their service rules and they cannot go directly to the Press or Parliament to refute the allegations. A public servant who feels aggrieved by anything said in the House may through proper channel bring to the notice of the Minister concerned (*i.e.*, the Minister in charge of the Ministry under which the officer is working) whatever he has to say in that regard. Thereafter, if the Minister considers it necessary, he may, with the previous permission of the Speaker, make a statement in the House.

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To sum up the following procedure shall be followed in dealing with allegations against outsiders :—

- (1) \* No member shall be allowed to make an allegation against an outsider unless he has obtained the prior permission of the Speaker after giving advance notice thereof to the Speaker and the Minister concerned. Such notice shall give the name of the person concerned, the allegation against him and some evidence to show that there is a *prima facie* case.
- (2) Where a member makes an allegation in the House against an outsider with obtaining the prior permission of the Speaker, the same will not form part of the record of the House.
- (3) In the case of allegations made against Government officers, it will be for the Minister concerned to make a statement in the House if he so wishes.
- (4) Where a representation from an outsider is substantiated by documentary evidence, the Speaker may in his discretion refer the matter to the Government or Committee on Petitions for enquiry and report.

श्री अटल बिहारी वाजपेयी (वलरामपुर) : अध्यक्ष महोदय, मैं आपकी राजाजत से कुछ निवेदन करना चाहता हूँ। आपने जो रूलिंग दे दी है वह हमको स्वीकार करनी है लेकिन अच्छा होता कि इस रूलिंग को देने से पहले आप सभी विरोधी दलों के नेताओं और सरकारी पक्ष के नेताओं को बुला लें और चर्चा कर लें।

MR. SPEAKER : I have just reiterated what we have already been following.

श्री अटल बिहारी वाजपेयी : जो कुछ हो रहा है वह इससे भिन्न है। आपने स्पष्ट

नहीं किया कि कितनी एडवॉन्स नोटिस जरूरी है। मान लीजिए हम सदन में आ रहे हैं और हमें कोई सूचना मिली जिसके बारे में पहले से नोटिस नहीं दे सकते लेकिन बहस चल रही है...

MR. SPEAKER : This situation will be seen when it arises.

SHRI ATAL BIHARI VAJPAYEE : They arise every day.

आपकी रूलिंग सर माथे पर है लेकिन सभी को बुलाकर एक बात कर लीजिए। ... (व्यवधान) ...

श्री कमल नयन बजाज (वर्धा) : अध्यक्ष महोदय, मैं एक कंटेरिफिकेशन चाहता हूँ। एक बात छूट गई है उसको मैं आपके सामने रखना चाहता हूँ... (व्यवधान) ...

MR. SPEAKER : I have just reiterated what is already provided in the rules of the House. I have just brought it to the notice of the House, and made the position very clear. (Interruption). I am not allowing any Member. Nothing will form part of the proceedings. (Interruptions).\*\*

12.52 hrs.

COMMITTEE ON ABSENCE OF MEMBERS FROM THE SITTINGS OF THE HOUSE

SIXTEENTH REPORT

SHRI G. C. NAIK (Keonjhar) : I beg to present the Sixteenth Report of the Committee on Absence of Members from the Sittings of the House.

\*\*Not recorded.