

PARLIAMENT OF INDIA

COMMITTEES OF PRIVILEGES OF LOK SABHA AND COUNCIL OF STATES

(Report of Joint Sitting, Minutes and Appendices)



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

August, 1954.

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**MEMBERS OF THE COMMITTEE OF PRIVILEGES OF THE
LOK SABHA**

1. Dr. Kailas Nath Katju—*Chairman*
2. Shri Satya Narayan Sinha
3. Shri A. K. Gopalan
4. Shrimati Sucheta Kripalani
5. Shri Sarangadhar Das
6. Shri B. Shiva Rao
7. Shri R. Venkataraman
8. Dr. Syed Mahmud
9. Shri Radhelal Vyas
10. Vacant.

**MEMBERS OF THE COMMITTEE OF PRIVILEGES OF THE
COUNCIL OF STATES**

1. Shri C. C. Biswas—*Chairman*
2. Shri V. S. Sarwate
3. Shri K. P. Madhavan Nair
4. Shri Akhtar Husain
5. Diwan Chaman Lall
6. Dr. B. R. Ambedkar
7. Shri B. C. Ghose
8. Shri Bhupesh Gupta
9. Shri Surendra Mahanty
10. Shri Amolakh Chand.

REPORT

(v)

1, the Chairman of the joint sitting of the Committees of Privileges of the Lok Sabha and the Council of States, having been authorised to present the report on their behalf, present this report.

2. In connection with the point of privilege raised by Shri N. C. Chatterjee in the Lok Sabha, the Speaker observed in the House on the 14th May, 1954, that the Privileges Committees of both the Houses might examine the procedure that should be followed in cases where a breach of privilege or contempt of the House was alleged to have been committed by a member of the other House. The Chairman of the Council of States, to whom the Speaker forwarded a copy of the relevant proceedings of the House, concurred in this view at the sitting of the Council of States held on the 15th May, 1954.

3. Accordingly, three joint sittings of the two Privileges Committees were held on the 15th, 18th and 21st May, 1954 and the whole question was examined in all its aspects.

4. The Prime Minister was good enough to record a note (*vide* Appendix I) for the use of the Committees. The Committees have given due consideration to the views expressed therein. The Committees are anxious that whatever procedure is decided upon it should be such as would lead to mutual understanding, harmony and goodwill between the two Houses. The procedure should be so devised that a possible conflict or friction between the two Houses is avoided and at the same time the independence of, and respect due to, each House is fully secured.

5. The Committees have considered carefully the procedure followed in the Parliament of the United Kingdom in such cases. An extract from May's Parliamentary Practice is given at Appendix II. The Committees observe that the British procedure falls in two parts—one dealing with initiation of case and conducting of enquiries to be completed by the House in which a complaint is made; and the other relating to taking proper measures for reaching findings and conclusions and deciding as to the nature of punishment (if any) to be dealt with by the House to which the offending member belongs. The Committees note that this procedure is based on some ancient cases and in modern times there has been no case in the U.K. in which this procedure has actually been followed.

6. Article 105(3) of our Constitution provides as follows:—

“(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.”

The Committees consider that this Article equates only the privileges of our Houses of Parliament with those obtaining in the House of Commons in the United Kingdom and does not make it obligatory on our Parliament to follow the same procedure as obtains in the United Kingdom. The Committees feel that we are completely free to prescribe our own procedure

and by consent form conventions which would be suitable to our requirements or circumstances.

7. Having fully considered all these matters, including the views expressed in the Prime Minister's note referred to in paragraph 4 above, the Committees are of the opinion that the following procedure should be followed in a case where a member or officer or servant of one House is alleged to have committed a breach of privilege or contempt of the other House:—

- (i) When a question of breach of privilege is raised in any House in which a member, officer or servant of the other House is involved, the Presiding Officer shall refer the case to the Presiding Officer of the other House, unless on hearing the member who raises the question or perusing any document, where the complaint is based on a document, he is satisfied that no breach of privilege has been committed or the matter is too trivial to be taken notice of, in which case he may disallow the motion for breach of privilege.
- (ii) Upon the case being so referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a case of breach of privilege of that House or of a member thereof.
- (iii) The Presiding Officer shall thereafter communicate to the Presiding Officer of the House where the question of privilege was originally raised a report about the enquiry, if any, and the action taken on the reference.

8. It is the intention of the Committees that if the offending member, officer or servant tenders an apology to the Presiding Officer of the House in which the question of privilege is raised or the Presiding Officer of the other House to which the reference is made, no further action in the matter may be taken after such apology is tendered.

9. The Committees suggest that if the recommendations contained in paragraphs 7 and 8 above are accepted, then rules on the subject in identical terms may be framed and incorporated in the Rules of Procedure of each House.

K. N. KATJU.

NEW DELHI;

The 22nd May, 1954

MINUTES

I

FIRST SITTING

New Delhi: Saturday, the 15th May, 1954.

The Committees met from 5 P.M. to 6-35 P.M.

2. The following were present:

MEMBERS

Lok Sabha

1. Dr. Kailas Nath Katju—*Chairman*
2. Shri Satya Narayan Sinha
3. Shri Sarangadhar Das
4. Shri R. Venkataraman
5. Dr. Syed Mahmud
6. Shri Radhelal Vyas

Council of States

7. Shri C. C. Biswas
8. Shri K. P. Madhavan Nair
9. Diwan Chaman Lall
10. Shri B. C. Ghose
11. Shri Bhupesh Gupta
12. Shri Surendra Mahanty
13. Shri Amolakh Chand.

Shri S. N. Mukerjee—*Secretary, Council of States.*

SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary, Lok Sabha.*

3. Shri Satya Narayan Sinha read out a note recorded by the Prime Minister (Appendix I) suggesting the procedure which might be adopted for the disposal of a question of privilege raised in one House in which a member of the other House was involved.

4. The Committees deliberated and arrived at a tentative procedure which should be adopted in these matters.

The Committees then adjourned till five of the Clock on Tuesday, the 18th May, 1954 to consider the draft report.

II

SECOND SITTING

New Delhi: Tuesday, the 18th May, 1954.

The Committees met from 5 P.M. to 6-5 P.M.

2. The following were present:

MEMBERS

Lok Sabha

1. Dr. Kailas Nath Katju—*Chairman*
2. Shri R. Venkataraman
3. Shri Radhelal Vyas

Council of States

4. Shri C. C. Biswas
5. Shri K. P. Madhavan Nair
6. Shri Akhtar Husain
7. Diwan Chaman Lall
8. Shri B. C. Ghose
9. Shri Surendra Mahanty.

Shri S. N. Mukerjee—*Secretary, Council of States.*

SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary, Lok Sabha.*

3. The Committees considered the draft report proposed by the Chairman of the Joint Sitting of the Committees, and a note by Shri B. C. Ghose (Appendix III).

4. Shri C. C. Biswas proposed that he would place before the Committees his draft report for consideration.

The Committees then adjourned sine die.

III

THIRD SITTING

New Delhi: Friday, the 21st May, 1954.

The Committees met from 3-30 P.M. to 4 P.M.

2. The following were present:

MEMBERS

Lok Sabha

1. Dr. Kailas Nath Katju—*Chairman*
2. Shri Sarangadhar Das
3. Shri R. Venkataraman
4. Shri Radhelal Vyas

Council of States

5. Shri C. C. Biswas
6. Shri V. S. Sarwate
7. Shri K. P. Madhavan Nair
8. Shri Akhtar Husain
9. Diwan Chaman Lall
10. Shri Amolakh Chand.

Shri S. N. Mukerjee—*Secretary, Council of States.*

SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary, Lok Sabha.*

3. The Committees considered a note by the Chairman of the Joint Sitting (Appendix IV) suggesting the procedure in regard to these matters. *

4. The Committees deliberated and agreed to the procedure for dealing with a question of privilege raised in one House in which a member, officer or servant of the other House was involved.

The Committees then adjourned sine die.

APPENDICES

APPENDIX I

Note dated the 14th May, 1954 by the Prime Minister

In view of the announcement made by the Speaker of the House of the People and the Chairman of the Council of States concurring in it, a joint meeting of the Committees of Privileges of the two Houses should be held as early as possible. This joint meeting will consider and lay down the procedure to be adopted when a motion is made affecting the privilege of the Houses.

2. If a motion has no reference to the other House or to any member of the other House, then it will naturally be considered by the Committee of Privileges of the House concerned. The procedure to be laid down is when such a motion made in one House affects in any way the other House or any members of the other House.

3. If such a motion is made, let us say in the House of the People, and it affects the Council of States, in any way or a member of the Council of States, then the Speaker will first consider whether there is *prima facie* any justification for that motion. If he does not think that there is any justification for it, he will reject it right at the start. If, however, he thinks that *prima facie* there might be some justification, he will refer the matter to the Chairman of the Council of States for a preliminary enquiry about the facts, where such is necessary.

4. The same procedure will be adopted if the original motion is made in the Council of States and affects the House of the People or any member thereof.

5. When such a reference is made by the Speaker or the Chairman to the other, that other person, that is, either the Chairman or the Speaker, will make this preliminary enquiry from the member concerned about the facts. If, as a result of this enquiry, it appears to him that there is no breach of privilege, then he will record his opinion and convey it to the head of the other House. There the matter will end. Also if a member concerned expresses his regret and the head of the House conducting this preliminary enquiry is satisfied that this expression of regret is adequate for the purpose, there the matter will end.

6. If, however, the head of the House concerned, to whom this reference has been made, considers that a further enquiry is necessary, then he will refer this to his own Committee of Privileges.

7. Where there is any indication of conflict on this point between the two Houses, the matter might be referred to a joint meeting of the two Committees of Privileges.

APPENDIX II

Extract from May's Parliamentary Practice, 15th Edition, p. 145

"COMPLAINTS AGAINST MEMBERS OR OFFICERS OF THE OTHER HOUSE

The leading principle which appears to pervade all the proceedings between the Houses of Parliament is that there shall subsist a perfect equality between them, and that they shall be, in every respect, totally independent one of the other. Hence it is that neither House can claim, much less exercise, any authority over a member of the other. Neither House of Parliament can take upon itself to punish any breach of privilege or contempt offered to it by any member of the other House. If any complaint is made against any individual Member or against any of the officers of the other House the usual mode of proceeding is to examine into the fact and then lay a statement of that evidence before the House of which the person complained of is a Member or officer.

When a member, officer, or servant of either House has been guilty of any offence either against the other House or against its members, which would be punishable by the latter if committed by one of its own members, officers, or servants, it is the duty of the House to which such offender belongs, upon being apprised of the fact, to take proper measures to inquire into and punish the offence in a proper manner."

APPENDIX III

Note by Shri B. C. Ghose

If any complaint regarding a breach of privilege of either House of Parliament is made against any individual member of the other House, the Chairman or the Speaker, as the case may be, of the House in which the complaint is made, shall first conduct such enquiries as he may deem fit to ascertain whether there is a *prima facie* case against the member, and if he is satisfied that there is such a case he shall refer the complaint to the Privileges Committee of that House. The Privileges Committee of that House shall thereupon investigate into the matter and prepare a statement of the evidence collected by it. The statement of the evidence shall thereafter be forwarded to the other House to which the member complained of belongs for such action as that House may consider appropriate to take against that member.

2. Any enquiries which the Chairman or the Speaker, as the case may be, may desire to make of the member complained of either at the preliminary stage or at the stage of subsequent proceeding in the Privileges Committee of the House in which the complaint is made, shall be made through the Speaker or the Chairman of the House to which that member belongs. If the presence of the member in person for the ascertainment of any fact is considered necessary by the Chairman or the Speaker, as the case may be, or by such Committee, a request for such presence will be communicated to the member through the Speaker or the Chairman of the House to which that member belongs.

APPENDIX IV

Note dated the 20th May, 1954 by Dr. K. N. Katju

When a question of breach of privilege is raised in any House in which a Member of the other House is involved, the Presiding Officer will refer the case straightaway to the Presiding Officer of the other House, unless on hearing the member who raises the question or perusing any document, where the complaint is based on a document, he is satisfied that no breach of privilege has been committed or the matter is too trivial to be taken notice of, in which case he will reject the motion for breach of privilege.

Upon the case being so referred, the Presiding Officer of the other House will deal with the matter in the same way as if it were a case of breach of privilege of that House or of any Member of it. The Presiding Officer will thereafter communicate to the Presiding Officer of the House where the question of privilege was raised a report about the enquiry and the action taken.
